UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

ORLANDO DIVISION

DRAGON YACHTS, LLC,

Plaintiff,

v. Case No. 6:25-CV-1089

LONDON MARINE INSURANCE SERVICESLIMITED AND SELECTA INSURANCE AND REINSURANCE COMPANY CARIBBEAN LIMITED,

Defendants.

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO LONDON MARINE INSURANCE SERVICES' MOTION TO STAY

London Marine Insurance Services, Ltd. moves to stay this litigation (ECF No. 48) based on an arbitration clause that is wholly contained within an insurance policy which London Marine Insurance Service itself canceled "with effect from inception." (ECF No. 26), Exhibit C. As a matter of law, that cancelation renders the purported arbitration clause unenforceable. *See, e.g., Henderson v. Coral Springs Nissan, Inc.*, 757 So. 2d 577, 578 (Fla. 4th Dist. Ct. App. 2000) (no enforceable arbitration clause where an automobile dealership rescinded the contract containing an arbitration clause); *Towers v. Clarendon Nat. Ins. Co.*, 927 So. 2d 913, 914 (Fla. 2d Dist. Ct. App. 2006) (insurer voided the contract by rescinding coverage and in doing so, had rendered "all of the contractual provisions, including the arbitration clause,

unenforceable," leaving nothing to arbitrate); *Niven v. G.F.B. Enters., LLC*, 849 So. 2d 1093, 1094 (Fla. 3d Dist. Ct. App. 2003) (reversing trial court's arbitration award, noting if "there is no contract, there can be no arbitration clause of the contract"); *Jones v. TT of Longwood, Inc.*, No. 6:06-cv-651-Orl-19, 2006 WL 2682836, at *2 (M.D. Fla. Sept. 18, 2006) (citing *Towers*, 927 So. 2d at 914; and *Niven*, 849 So. 2d at 1094).

The foregoing case authorities were shared with London Marine Insurance Services in plaintiff's February 5, 2026 memorandum in opposition to the "amended motion to dismiss and/or compel arbitration," (ECF No. 39 at 6—8), but the point that *London Marine Insurance Services itself canceled the insurance policy that contained the arbitration clause* is nowhere addressed in the pending motion to stay. Nor are any of the foregoing case authorities. Failure to address a dispositive argument that London Marine Insurance Services has known about for at least two months constitutes a waiver of this issue. *Cont'l Tech. Servs., Inc. v. Rockwell Int'l Corp.*, 927 F.2d 1198, 1199 (11th Cir. 1991) ("[a]n argument not made is waived, whether based on federal law, the law of the forum state, or the law of a foreign state").

It is correct that plaintiff served an arbitration demand on London Marine Insurance Services and the other defendant, Selecta Insurance and Reinsurance Company Caribbean Limited, and that demand is attached as Exhibit 1 to the motion to stay. With respect to Selecta Insurance, that defendant has been served with this case on December 5, 2025 (ECF No. 32), but has not appeared. Selecta Insurance and Reinsurance Company Caribbean Limited is in technical default. Furthermore, as of the filing of this memorandum, it has not responded to

plaintiff's March 19, 2026 demand for arbitration, and has missed the April 2, 2026 deadline, so the implication that it is participating in any London arbitration is overstated.

With respect to London Marine Insurance Services' reliance on the arbitration demand, it overlooks paragraphs 4 and 6 which provide the demand is made:

> Without prejudice to Owners' contention that the Insurance Contract's arbitration clause is void or not enforceable, and in accordance with the above terms, Owners have appointed Alistair Schaff KC as their party appointed arbitrator . . .
>
> For the avoidance of doubt, this notice is without prejudice to the ongoing proceedings in Florida (Case No. 6:25-CV-1089) and is out of an abundance of caution to ensure that time is protected.

(ECF No. 48-1 at 3 (¶¶ 4 & 6)). This is not the demand London Marine Insurance Services describes. The arbitration demand is precautionary on its face, so plaintiff is not "now actively engaged in the arbitration process to resolve the identical issues raised in this litigation." (ECF No. 48 at 3). Plaintiff is exercising its constitutional right to adjudicate its claims here. As the Eleventh Circuit has noted, "there is a strong federal interest in making sure that plaintiffs who are United States citizens generally get to choose an American forum for bringing suit, rather than having their case relegated to a foreign jurisdiction." *SME Racks, Inc. v. Sistemas Mecánicos para Electrónica, S.A.*, 382 F.3d 1097, 1101—04 (11th Cir. 2004). *See also Touloumes v. Kerzner Int'l Bahamas Ltd.,* No. 13-24053-CIV, 2014 WL 10102248, at *2 (S.D. Fla. Sept. 26, 2014).

For the foregoing reasons, the motion to stay should be denied and default be entered against Selecta Insurance and Reinsurance Company Caribbean Limited.

/s/ Eric L. Hostetler
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 4, 2026, a true and correct copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all attorneys of record.

/s/Eric L. Hostetler, Esq