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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TPOV ENTERPRISES 16, LLC,

Plaintiff,

vs.

PARIS LAS VEGAS OPERATING COMPANY,
LLC,

Defendant.

2:17-cv-00346-JCM-VCF

ORDER

MOTION TO ISSUE LETTERS ROGATORY [ECF No. 92], AND MOTION TO SEAL [ECF No. 94]

And all related matters.

Before the Court are Plaintiff TPOV Enterprise 16, LLC's ("TPOV 16") Motion for the Issuance of Letters Rogatory (ECF No. 92) and Motion to Seal Exhibits in Support of Plaintiff's Motion for the Issuance of Letters Rogatory (ECF No. 94). For the reasons discussed below, TPOV 16's motions are granted.

This case involves two related contracts TPOV 16 entered into in November 2011. (ECF No. 92 at 2). TPOV 16 asserts that Defendant Paris Las Vegas Operating Company's ("Paris") breached one of these contracts. (Id. at 3). "Important to Plaintiff's claims is taking discovery of the facts and circumstances underlying the formation" of the two contracts, including the deposition of Trevor James, who "was an active participant in the discussions and negotiations surrounding the formation of the" two contracts. (Id.).

TPOV 16 now moves to issue letters rogatory to England, where Trevor James is believed to be located, to compel his deposition. (Id. at 4). TPOV 16 also moves to seal certain exhibits to its motion to issue letters rogatory according to the parties' stipulated protective order. (ECF No. 94). Paris does not oppose the motion to issue letters rogatory, and asserts that the exhibits TPOV 16 moves to seal contain

1 confidential business information that could result in injury to the parties if it became public. (ECF No.
2 95).

3 **MOTION TO SEAL**

4 “Courts have recognized a general right to inspect and copy public records and documents,
5 including judicial records and documents.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172,
6 1178 (9th Cir. 2006) (internal citations and quotations omitted). However, the public’s right to access is
7 “not absolute.” *Id.* Federal Rule of Civil Procedure 26(c) allows the Court to issue a protective order to
8 govern discovery, as necessary to protect a party from “annoyance, embarrassment, oppression, or undue
9 burden or expense.”

10 The parties seek to seal ECF Nos. 93, 93-1, and 93-2. (ECF No. 94). Paris asserts that these
11 documents contain “confidential, non-public business information.” (ECF No. 95 at 3). After reviewing
12 ECF Nos. 93, 93-1, and 93-2, the Court agrees that they include confidential, non-public communications
13 regarding contract negotiations. Therefore, the Court will allow ECF Nos. 93, 93-1, and 93-2 to remain
14 under seal.

15 **MOTIONS TO ISSUE LETTERS ROGATORY**

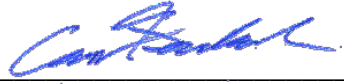
16 A deposition may be taken in a foreign country “under a letter of request,” such as a letter rogatory.
17 Fed. R. Civ. P. 28(b)(1)(B). “A letter of request...may be issued: (A) on appropriate terms after an
18 application and notice of it; and (B) without a showing that taking the deposition in another manner is
19 impracticable or inconvenient.” Fed. R. Civ. P. 28(b)(2).

20 The Court finds that issuing a letter rogatory is justified in this case. TPOV 16 has made a showing
21 that Trevor James has relevant information in this case. The proposed Request for International Judicial
22 Assistance (Letter Rogatory) contains the necessary and appropriate terms. In addition, by filing a non-
23 opposition to the motion, Paris has consented to the motion. LR 7-2(d).

24 ACCORDINGLY, and for good cause shown,
25

1 IT IS ORDERED that TPOV 16's Motion for the Issuance of Letters Rogatory (ECF No. 92) and
2 Motion to Seal Exhibits in Support of Plaintiff's Motion for the Issuance of Letters Rogatory (ECF No.
3 94) are GRANTED. Attached to this Order is the proposed Request for International Judicial Assistance
4 (Letter Rogatory) signed by Magistrate Judge Ferenbach.

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6 DATED this 8th day of April, 2019.

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9 CAM FERENBACH
10 UNITED STATES MAGISTRATE JUDGE
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TPOV ENTERPRISES 16, LLC, a
Delaware Limited Liability Company,

Plaintiff,

vs.

PARIS LAS VEGAS OPERATING
COMPANY, LLC, a Nevada limited
liability company,

Defendant.

PARIS LAS VEGAS OPERATING
COMPANY, LLC, a Nevada limited
liability company,

Counterclaimant.

vs.

TPOV ENTERPRISES, LLC, a Delaware
Limited Liability Company, TPOV
ENTERPRISES 16, LLC, a Delaware
Limited Liability Company, ROWEN
SEIBEL, an individual.

Counter-defendants.

CASE NO. 2:17-cv-00346-JCM-VCF

**REQUEST FOR INTERNATIONAL
JUDICIAL ASSISTANCE
(Letter Rogatory)**

To the Appropriate Judicial Authority of the United Kingdom:

The United States District Court of Nevada presents its compliments to the appropriate judicial authority of the United Kingdom, and requests international judicial assistance to obtain evidence through oral testimony to be used in a civil proceeding before this court in the above captioned matter. A trial on this matter is not yet scheduled.

This court requests the assistance described herein as necessary in the interests of justice. The assistance requested is that the appropriate judicial authority of the United Kingdom compel the appearance of the below named individual to give evidence through oral testimony.

WITNESS:

TREVOR JAMES
Citizen of United Kingdom
5th Floor, International House
2 – 4 Maddox Street
London, England, W1S 1QP

SCOPE OF EXAMINATION:

- Negotiations, discussions and correspondence relating to the agreement(s) entered into by TPOV Enterprises, LLC and Paris Las Vegas Operating Company, LLC as well as the agreement(s) entered into among Gordon Ramsay, Gordon Ramsay Holdings Limited and Paris Las Vegas Operating Company, LLC
- Discussions and correspondence relating to the formation of the restaurant, Gordon Ramsay Steak, located in Las Vegas, Nevada, USA

FACTS

As set forth in the Complaint (ECF No. 1), Counterclaim Defendant, TPOV Enterprises, LLC (“TPOV”) and Paris Las Vegas Operating Company, LLC (“Paris”) jointly conceived and funded the capital investment in the restaurant, Gordon Ramsay Steak (the “Restaurant”), which utilized the intellectual property owned by celebrity chef Gordon Ramsay (“Ramsay”). In November 2011, TPOV and Paris entered into a Development, Operation and License Agreement (the “TPOV Agreement”). Simultaneously, and as an express condition of entering into the TPOV Agreement, Paris entered into an integrated Development, Operation and License Agreement with Ramsay and Gordon Ramsay Holdings Limited (the “Ramsay Agreement”).

The Restaurant opened in Las Vegas in May 2012 and has been a profitable operation to this day. Despite this success, Paris purported to terminate the TPOV Agreement. The integrated Ramsay Agreement was not terminated, and the Restaurant continues to operate. TPOV Enterprises 16, LLC was assigned TPOV’s interest in the TPOV Agreement in or around April 2016 and commenced this action as a result of Paris’ wrongful termination of the TPOV Agreement alleging breaches of contract, breach

of the implied covenant of good faith and fair dealing, unjust enrichment, and seeking declaratory relief under Nev. Rev. Stat. § 30 and 28 U.S.C. § 2201-2202 and an accounting.

RECIPROCITY

In the furtherance of justice and by the proper and usual process of this court, the United States District Court of Nevada assures the judicial authorities of the United Kingdom that it is willing to provide similar cooperation and assistance to the judicial authorities of the United Kingdom in the event that the United Kingdom requests similar assistance.

REIMBURSEMENT FOR COSTS

Plaintiff is willing to reimburse the judicial authorities of the United Kingdom for its costs incurred in the execution of this Court's Letter Rogatory, up to \$5,000.00 USD. Plaintiff requests to be contacted if the amount to execute this Letter Rogatory will be more than \$5,000.00 USD. The contact information for the party submitting the payment is as follows:

Plaintiff, TPOV Enterprises 16, LLC
c/o Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, New York 11554, USA
Phone: 516-296-7000
nmilone@certilmanbalin.com


NOW THEREFORE, we hereby appoint the appropriate judicial authorities of the United Kingdom, and hereby authorize it to cause **Trevor James** to come before it and in response to oral questions posed by counsel herein to testify orally under oath (or solemn affirmation) as a witness in the above-entitled civil action pending in this Court; and to cause **Trevor James** to come before it and to transcribe or have transcribed verbatim the testimony so obtained and to mark books, papers or other articles as are produced or identified as Plaintiff's exhibits or as Defendants' exhibits in the manner indicated during the proceedings; and to close up the deposition under his hand and to return it to the Clerk of this Court in the manner hereinafter set forth in order that such testimony and exhibits be used

at the trial of this action before this honorable Court.

It is requested that the depositions upon oral examination requested hereby be taken in the manner provided by Rule 30 of the Federal Rules of Civil Procedure, a copy of which is attached hereto as **Exhibit A**, by the counsel of record for Plaintiff herein, Paul B. Sweeney, Esq./Nicole L. Milone, Esq./Joshua Feldman, Esq. of Certilman Balin Adler & Hyman, LLP, 90 Merrick Ave., 9th Floor, East Meadow, New York 11554. Furthermore, a copy of the stipulated confidentiality agreement and protective order entered in the above-entitled action is attached hereto as **Exhibit B**.

When this Request is executed in accordance with the directions given herein, the Request and the transcripts of the depositions and any exhibits are to be enclosed in an envelope bearing the name of this action and the name of the person deposed, and mailed with all convenient speed to the Clerk of the Honorable Judge Cam Ferenbach, United States Magistrate Judge, Lloyd D. George U.S. Courthouse, 333 S. Las Vegas Blvd., Las Vegas, Nevada 89101.

Dated: April 8, 2019



Cam Ferenbach
United States Magistrate Judge