UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:20-cv-20078-RNS

MARIA DOLORES CANTO MARTI, as personal representative of the Estates of Dolores Marti Mercade and Fernando Canto Bory,

Plaintiff,

v.

IBEROSTAR HOTELES Y APARTAMENTOS, S.L., a Spanish limited liability company,

Defendant.

_____/

DEFENDANT'S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S COMPLAINT

Pursuant to Rules 6(b)(1) and 12(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Defendant IBEROSTAR HOTELES Y APARTAMENTOS, S.L. ("Iberostar"), by and through undersigned counsel, submits[1] this Motion for Enlargement of Time, until July 8, 2020, to answer, respond or otherwise move to dismiss the summons and complaint filed in the above-titled action. In support thereof, Defendant states as follows:

1. On January 8, 2020, Plaintiff filed this action against Iberostar, asserting a claim under Title III of the Cuban Liberty and Democratic Solidarity (Libertad) Act (the "Helms-Burton Act" or the "Act"). (*See generally* Compl., ECF No. 1.) Plaintiff appears as personal representative of the Estates of Dolores Martí Mercadé and Fernando Canto Bory. (*Id.*, ¶ 2.) Plaintiff alleges that Defendant knowingly and intentionally traffics in confiscated property in Cuba in violation of the Act. (*Id.*, ¶¶ 34, 40, 42, 57, 62.)

[1] By filing this Motion for Enlargement of Time, Iberostar does not waive any of its defenses under Rule 12(b)(6) of the Federal Rules of Civil Procedure, including but not limited to insufficient service of process, lack of personal jurisdiction or any other defense it may be able to raise.

2. On March 19, 2020, a Complaint and a Summons was delivered to Iberostar at a corporate office in Palma de Mallorca, Spain. It was not addressed to any specific individual.

3. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Iberostar's response to the Plaintiff's Complaint is currently due on or before April 9, 2020.

4. Defendant respectfully requests an enlargement of time until July 8, 2020, to respond or otherwise move as to Plaintiff's Complaint based on the current crisis affecting Spain, the hotel industries and the complex issues raised by Plaintiff's complaint.

5. As explained below, pursuant to Fed. R. Civ. P. 6(b)(1), good cause exists for this relief.

6. Iberostar is a Spanish hotel company headquartered in Palma de Mallorca, Spain. At the time of filing this motion, Spain has suffered the highest impact from the coronavirus pandemic in the world.[2] Despite having less population than Italy (Spain's population is 46.75 million and Italy's population is 60.48 million), on April 3, 2020, Spain surpassed Italy in the number of coronavirus cases.[3] Spain is also close to surpassing Italy in number of deaths, and has sustained 1,000 more deaths from the coronavirus than the U.S. has right now[4] (despite the U.S. population being seven times larger than Spain).

7. On March 14, 2020, the Spanish government formally declared a state of emergency due to the coronavirus, placing the country in complete lockdown and ordering the Spanish population to stay at home.[5] For the past three weeks, Spaniards have not been able to leave their homes unless it is to perform essential activities and, unlike the U.S., these activities do *not* include exercising, walking, biking, jogging, visiting family or friends, or attending religious activities.[6] Police and other law enforcement officials are strictly enforcing the lockdown by stopping people or vehicles on the streets and imposing fines to those who do not have a certification showing they fall under one of the essential-activity exceptions. Despite the lockdown, more than 60,000 people have been hospitalized in Spain for coronavirus-related

---

[2] *See* https://www.bloomberg.com/news/articles/2020-03-25/spanish-doctors-forced-to-choose-who-to-let-die-from-coronavirus (last accessed Apr. 7, 2020).
[3] *See* https://www.reuters.com/article/us-health-coronavirus-spain/spain-overtakes-italy-in-coronavirus-cases-death-rate-slows-idUSKBN21L1DE (last accessed Apr. 7, 2020).
[4] *See* https://coronavirus.jhu.edu/map.html (last accessed Apr. 7, 2020).
[5] *See* https://www.reuters.com/article/us-health-coronavirus-spain-factbox/factbox-spains-coronavirus-state-of-emergency-measures-idUSKBN21117W (last accessed Apr. 7, 2020).
[6] *Id.*

causes, 7,000 of them in intensive care units.[7] Approximately, 700 people have been dying each day as a result of the coronavirus.[8] The number of cases keeps rising: 5,478 new cases were registered on April 6, 2020.[9]

8. The impact on Iberostar has been severe. On March 14, 2020 (before Iberostar received a copy of the Complaint and a Summons at its offices in Palma de Mallorca), Iberostar's corporate employees transitioned to work from home and Iberostar's headquarters in Palma de Mallorca closed. On March 16, the first Monday after the Spanish declaration of a state of emergency, Iberostar announced it would temporarily close its 38 hotels in Spain.[10] On March 19, the Spanish government provided Iberostar and other Spanish hotel corporations until March 26 to completely shut down their operations in Spain.[11] All Iberostar hotels in Spain and its headquarters have been closed for weeks now. Of 626 corporate employees, Iberostar has laid off 553, reduced the hours of 61, leaving the company with only 5% of its normal staff to run operations. This does not include approximately 22,000 hotel workers who have also been furloughed adding to the significant administrative strain.

9. As a hotel company based in Spain at the height of the coronavirus epidemic, Iberostar is in the midst of an unprecedented crisis. Under the current circumstances, it is extremely difficult for Iberostar to prepare or assist in responding to the Complaint. Iberostar's management is dealing with the multiple challenges that have arisen as a result of the dire situation Spain is going through and the harsh conditions facing its business while segregated at home with limited support and access to documents, employees, data and information necessary to review and investigate the allegations asserted in the Complaint, and to gather the necessary information to prepare its defense, respond to the Complaint and evaluate the matter.

10. Furthermore, this is a complex case involving issues of European law. European Council Regulation (EC) No 2271/96, of 22 November 1996, prohibits its citizens from giving effect to the extra-territorial application of certain legislation adopted by a third country such as is

---

[7] *See* https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Actualizacion_68_COVID-19.pdf (last accessed Apr. 7, 2020).
[8] *See* https://covid19.isciii.es/ (last accessed Apr. 7, 2020).
[9] *Id.*
[10] *See* https://themazatlanpost.com/2020/03/18/iberostar-temporarily-closes-hotels-and-cuts-jobs-due-to-coronavirus/ (last accessed Apr. 7, 2020).
[11] *See* https://www.boe.es/boe/dias/2020/03/19/pdfs/BOE-A-2020-3892.pdf (last accessed Apr. 7, 2020).

the case here. Iberostar needs additional time to evaluate the claims and issues raised under European law.

11. This request will not prejudice Plaintiff. This is Iberostar's first request for an enlargement of time to respond to the Complaint which comes at a critical time in the company's history.

12. The time to answer, respond or otherwise move has not yet expired. Just yesterday, April 6, 2020, United States District Court Judge Martinez of the Southern District of Florida granted American Airlines' request for a stay due to the current conditions caused by the coronavirus. *Lopez Regueiro v. American Airlines Inc., et al*., No. 19-23965-CIV-MARTINEZ (S.D. Fla. Apr. 6, 2020), *Administrative Order Closing Case for Statistical Purposes and Placing Matter in Civil Suspense File,* D.E. 82. Iberostar is facing the same severe conditions under more restrictive measures with a drastically reduced workforce. The requested extension will provide Iberostar the opportunity to prepare during these very difficult times.

13. This motion is not being made for the purpose of delay, but based upon the extraordinary situation Spain and Iberostar are going through and the need for time to prepare a response. It will provide Defendant with a reasonable opportunity given the circumstances to investigate Plaintiff's allegations and respond to the Complaint.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

14. Defendants have conferred with Plaintiff's counsel about the requested extension of time in accordance with Local Rule 7.1(a)(3), and Plaintiff's counsel does not agree to the amount of time requested.

WHEREFORE, Defendant respectfully requests the Court for an order extending the time to file answer, respond or otherwise move up to and including July 8, 2020.

Filed this 7th day of April, 2020.

Respectfully Submitted,

Counsel for Iberostar

HOLLAND & KNIGHT LLP
701 Brickell Avenue
Suite 3300
Miami, Florida 33131
Telephone: (305) 374-8500

Facsimile: (305) 789-7799
Email: adolfo.jimenez@hklaw.com
Email: katharine.menendez@hklaw.com

By: /s/Adolfo E. Jiménez
Adolfo E. Jiménez
Fla. Bar No. 869295

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 7, 2020, a true and correct copy of the foregoing of this MOTION FOR EXTENSION OF TIME and Proposed Order with the Clerk of Court using the CM/ECF system which will send notification of the filing to all counsel and parties of record.

This 7th day of April 2020.

/s/Adolfo E. Jiménez
Adolfo E. Jiménez