

Margaritaville Battle Back On

By NEIL HARTNELL

Margaritaville's Bahamian franchisee has not given up on its bid to block the brand's tie-up with the \$250m Pointe project, refiling its lawsuit in Florida state courts.

The US attorneys for Boss Investments, whose principals are Peter Maury and Mike Grandonico, confirmed in a statement to Tribune Business that the action over Margaritaville's "clear breach of contract" had been filed in the 15th judicial circuit court for Palm Beach County within 48 hours of its dismissal by a US federal judge.

Todd A Levine and Adam J Steinberg said Judge William Dimitrouleas had dismissed the federal court action over a procedural matter or legal technicality, but this did not exhaust all the legal options open to Boss Investments.

"Our client, Boss Investments, was excited to partner with Jimmy Buffet's Margaritaville to bring the Jimmy Buffet lifestyle brand to The Bahamas," the duo said. "In exchange for Boss paving the way for Margaritaville to finally enter The Bahamas market, Margaritaville entered into an exclusive agreement with Boss for the use of the Margaritaville and Jimmy Buffet trademarks in The Bahamas.

"Margaritaville has acknowledged this exclusivity in prior dealings. After Boss's Paradise Island location opened to great reception and success, Margaritaville reneged on its agreement with Boss and partnered with another company to develop a massive Margaritaville resort located just a few miles away from our client's location.

"This is a clear breach of contract by Margaritaville, and Boss is fully protecting and enforcing its contractual rights by filing its lawsuit in Palm Beach County, Florida state court, in light of a procedural, non-dispositive federal court ruling."

The US federal court did not rule on the merits of Boss Investments' case, instead throwing its action out on the basis that it had no jurisdiction to hear the case. The action will now be subject to Florida state law, with two of the three Margaritaville entities named as defendants said to be based - or have offices - in Palm Beach County.

The state court lawsuit appears virtually identical to the earlier federal action, which was dismissed last Wednesday. It is alleging that Margaritaville's tie-up with China Construction America's (CCA) downtown Nassau resort development, adjacent to the British Colonial Hilton, violates its own exclusive right to use the brand's trademarks and intellectual property within Bahamian territory.

Boos Investments is also claiming that Margaritaville executives deterred it from opening a second restaurant location near Nassau's cruise port to protect their "grand plans" at The Pointe.

Accusing Margaritaville, the lifestyle brand founded by US singer, Jimmy Buffett, of "deceitful" conduct by concealing its partnership with China Construction America (CCA), the Bahamian franchisee expressed fears that the larger, resort-centred location will "obliterate" its current cruise passenger customer base and "destroy" its business.

Boss Investments and its principals said their expansion plans have been "completely shattered" as a result, with staff morale undermined because "they "now believe their jobs are in jeopardy" due to the competitive threat posed by The Pointe's Margaritaville brand.

"The development of Margaritaville at the Pointe, which contains the same word, 'Margaritaville', in the exact same recognisable font, as the name of Boss's first venue (and proposed second venue) will directly impact, cause confusion with customers, and compete with Boss's first venue, as the new complex is being developed less than two miles away from the first venue in downtown Nassau, immediately adjacent to the port where millions of cruise passengers embark and disembark annually," Boss Investments' new lawsuit alleges.

" As defendants know, Boss relies on cruise line passenger business to support its business..... The development of Margaritaville at the Pointe prevented Boss from opening its second venue due to defendants' deceitful actions in instructing Boss to 'slow play' its proposed Port location for the second venue because Margaritaville purportedly had a better location.

"This blatant misrepresentation resulted in Boss losing the opportunity to lease the property it had been considering at the port [of Nassau] for its second venue. Furthermore, Boss cannot be reasonably expected to open a second venue in the port area, as it had planned from the outset, due to the massive Margaritaville complex being built approximately a football field away."