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At IAS Part 11 of the Supreme Court of the State of New York, held in and for the County of New York at the courthouse, 60⁸⁰ Centre Street, New York, New York on December 6, 2022

PRESENT: Hon. Lyle K. Frank
Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FOOD 2 LEX LLC,

Plaintiff,

-against-

GRAMERCY PARK PARTNERS, LLC and SOLIL
MANAGEMENT, LLC,

Defendants.

Index No. 653756/2022

ORDER TO SHOW CAUSE

MS#2

UPON the reading and filing of the Affirmation of Emergency of Jonathan E. Temchin, dated October 11, 2022 (ECF Dkt. No. 4); the Verified Complaint, dated October 11, 2022, and the exhibit annexed thereto (ECF Dkt. Nos. 1 and 7); and the accompanying memorandum of law, dated October 11, 2022 (ECF Dkt. No. 3); the Affirmation in Support of Extending Preliminary Injunction of Jonathan E. Temchin, dated December 5, 2022; the Affidavit of Joseph Tarasco, sworn to December 5, 2022; the Affidavit of Danny Meyer, sworn to December 5, 2022; and upon all prior pleadings, papers and proceedings on file in this action;

LET Defendants Gramercy Park Partners, LLC and Solil Management, LLC (collectively, by their counsel "Defendants") and all other interested persons, show cause before the Supreme Court of the State of New York, County of New York at IAS Part 11 of this Court at the courthouse located at ⁸⁰~~60~~ Centre Street, New York, New York, on December 20, 2022, at 10:00

a.m., or as soon thereafter as counsel may be heard, why an order should not be made and entered pursuant to New York Civil Practice Law and Rules §§ 6301, 6312 and 2701:

- i. Restraining and enjoining Defendants, and their representatives, consultants, agents, employees and/or attorneys, and all persons in active concert or participation with them, from pledging, assigning, divesting, diverting, selling, disposing of, hypothecating, dissipating, transferring, moving, using or otherwise taking any kind of action with respect to any and all wine, liquor, artwork, kitchen equipment, dining-room and bar room furniture, china, glassware, silverware and other goods, inventory, wares, supplies, trade fixtures and fixtures (collectively, the "Property") from the premises known as the Maialino restaurant;
- ii. Restraining and enjoining Defendants, and their representatives, consultants, agents, employees and/or attorneys, and all persons in active concert or participation with them, from preventing Plaintiff Food 2 Lex LLC ("Plaintiff") from accessing the Maialino restraint and removing the Property; and
- iii. Granting Plaintiff such other and further relief as may be just and proper.

NOW, SUFFICIENT CAUSE HAVING BEEN ALLEGED, it is hereby

ORDERED, that pending the hearing of this motion the preliminary injunction set forth in the Decision and Order on Motion, dated November 4, 2022 (NYSCEF Dkt. No. 30) is hereby extended; and it is further

ORDERED, that service of a copy of this order to show cause, together with copies of the papers upon which it is based, shall be served on Defendants' counsel by NYSCEF on or before December 8, 2022, which shall be deemed good and sufficient service thereof; and it is further

Handwritten initials "JSC" and a signature.

ORDERED, that service of a copy of this order to show cause, together with copies of the papers upon which it is based, shall be served on Plaintiff's landlord, non-party GPH Management LLC, by ~~overnight mail to~~ ^{personal service} 375 Park Avenue, 10th Floor, New York, New York 10152 on or before December 9th, 2022, which shall be deemed good and sufficient service thereof; and it is further

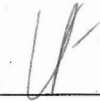
ORDERED, that opposition papers, if any, shall be served on Plaintiff's counsel, Tarter Krinsky & Drogin LLP, via NYSCEF on or before December 18, 2022; and ^{at Noon} it is further

ORDERED, that reply papers, if any, shall be served via NYSCEF on or before _____, 2022.

ENTER:

Oral Argument
Directed

JSC



J.S.C.

HON. LYLE E. FRANK
J.S.C.

Index No. 653756/2022

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FOOD 2 LEX LLC,

Plaintiff,

-against-

GRAMERCY PARK PARTNERS, LLC and SOLIL
MANAGEMENT, LLC,

Defendants.

Index No. 653756/2022

Hon. Lyle E. Frank
(IAS Part 11)**AFFIRMATION IN SUPPORT OF
EXTENDING PRELIMINARY
INJUNCTION**

JONATHAN E. TEMCHIN, an attorney duly admitted to practice law in the Courts of the State of New York, hereby affirms the following subject to the penalties of perjury:

1. I am a partner of the law firm Tarter Krinsky & Drogin LLP, attorneys for Plaintiff Food 2 Lex LLC (“Plaintiff”), and I am fully familiar with the facts and circumstances set forth herein.
2. I submit this affirmation in support of Plaintiff’s motion to extend the existing preliminary injunction issued by the Court as a consequence of the Court’s direction at the time of the issuance of the preliminary injunction to identify property of Plaintiff currently in the Maialino restaurant. This affirmation also is provided to the Court with documents previously filed in connection with this action and Plaintiff’s motion for a preliminary injunction.
3. To the extent identified in the Affidavit of Joseph Tarasco, all furniture, kitchen equipment, and wine and liquor is owned by Plaintiff, Plaintiff’s parent company Union Square Hospitality Group (“USHG”), or an entity owned by USHG, and may be recovered by Plaintiff.
4. To the extent identified in the Affidavit of Danny Meyer, all artwork is owned by the Maialino restaurant or Danny Meyer and may be recovered by Plaintiff.

5. In addition to the Affidavit of Joseph Tarasco and Affidavit of Danny Meyer submitted herewith, Plaintiff relies on its prior submissions to the Court and the Court's decision and order granting Plaintiff's motion for a preliminary injunction, which are indicated below and accessible through hyperlinking:

- i. The Affirmation of Emergency of Jonathan E. Temchin, dated October 11, 2022 ([NYSCEF Dkt. No. 4](#));
 - ii. The Summons and Verified Complaint, dated October 11, 2022 ([NYSCEF Dkt. No. 1](#));
 - iii. Plaintiff's Memorandum of Law in Support of its Motion for a Temporary Restraining Order and Preliminary Injunction, dated October 11, 2022 ([NYSCEF Dkt. No. 3](#)); and
 - iv. The Decision and Order on Motion, dated November 4, 2022 and entered November 7, 2022 (the "Preliminary Injunction Order") ([NYSCEF Dkt. No. 30](#)).
6. As set forth in Plaintiff's prior submissions and recognized by the Court in the Preliminary Injunction Order, Plaintiff will suffer irreparable harm in the absence of a preliminary injunction.

NO PRIOR RELIEF

7. No prior application for the relief sought herein has been made to this Court or to any other court of competent jurisdiction, except as otherwise stated herein.

CERTIFICATION PURSUANT TO UNIFORM RULE 202.7(f)

8. The Court has authorized Plaintiff to file the instant motion in the Preliminary Injunction Order to extend the existing preliminary injunction. Counsel for Defendants will receive notice of this application upon filing via NYSCEF.

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