

JERSEY / JUDGMENT

Tech Holdings BV [2008]

JRC 072 (06 May 2008)

[2008] JRC 072

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

judgment

the deputy bailiff: 1. This is an application by the Representors for leave to use documents disclosed in certain proceedings in Jersey for the purposes of litigation now being brought in the United States. 2. On the 9 th March, 2004, the Representors, with others, issued an Order of Justice against European Technology Services Limited (ETS). The Order of Justice contained ex parte Mareva injunctions with accompanying disclosure orders relating to the assets of ETS in Jersey. 3. On 18 th March, 2004, a second Order of Justice was issued by the same plaintiffs against Dolejsova Partners. Again a Mareva injunction was granted with accompanying disclosure orders relating to the assets of Dolejsova Partners in Jersey. 4. Both Jersey proceedings were brought in support of proceedings in England which related to the alleged fraudulent activities of a Mr Thompson and others. Subsequently, the English claim was referred to arbitration and the evidence before us is to the effect that that arbitration was, from the Representors' point of view, essentially successful. 5. The Representors have now begun proceedings in New York against a company called Spherion Corporation, but these apparently arise out of the same activities of Mr Thompson. The New York Court has ordered the Representors to give discovery of all the documents which they obtained in the English proceedings, in the English arbitration, and also in the two sets of proceedings in Jersey. 6. In respect of both sets of Jersey proceedings the Representors gave an undertaking in standard form, which was not to use any of the information obtained pursuant to the disclosure orders for any purposes other than the Jersey proceedings and the English proceedings, including the arbitration. The documents obtained were in fact used and disclosed in the English proceedings including the arbitration. 7. The Representors now apply to disclose the documents and the information obtained in Jersey in the US proceedings so as to comply with the order of the US Court. The test in such cases is well established. As was said in *Grupo Torras SA v Royal Bank of Scotland International Jersey* unreported [2001/9], the Court will allow the use of information which has been obtained compulsorily in civil proceedings where it is satisfied that the interests of justice in this respect outweigh the need to protect privacy and confidential information so as not to deter litigants from making full discovery and disclosure in civil proceedings. 8. When the matter first came before the Court it was on an ex parte application. In respect of the order sought in respect of the ETS proceedings we granted it ex parte because ETS had been struck off the Register and therefore no longer existed. However

in relation to Dolejsova Partners we felt it would not be right to make an order ex parte and we adjourned the proceedings in order that they could be served on Mr Thompson, who is the person concerned with Dolejsova Partners. 9. Mr Thompson was served by post and it is thought he would have received the papers on the 26 th April at the latest. However, he did not make any contact with Advocate Nicolle for the plaintiff until last Friday, that is the 2 nd May, and then during the evening of that day. Advocate Nicolle asked him to put any request for an adjournment, which he mentioned, in writing. However Mr Thompson did not do this until yesterday, Monday 5 th May at 7.30 p.m. (that is the Bank Holiday). Accordingly, it was only available to Miss Nicolle this morning. 10. In that email, which Miss Nicolle has supplied to us, Mr Thompson makes a number of points. In particular, he asks that the Representors should be ordered to pay the costs which would enable him to appear on this application. That is not a matter which we think we should do at this stage, or indeed it is a question of whether we have the jurisdiction to make such an order at this stage. 11. He then puts forward various other reasons as to why this matter should be adjourned. He says, in particular, that he wants to persuade the New York Court to vary the order which it has made. Clearly if the New York order is varied then, even if we grant authority to the Representors, the papers in fact will not be disclosed because they clearly should only be disclosed pursuant to an existing order. But we have considered the matter and we are quite satisfied that this is a case where the interests of justice in disclosure outweigh the need to protect confidentiality as we have described. 12. We think it perfectly reasonable to allow disclosure for the purposes of enabling the Representors to pursue their claims in the United States which arise out of much the same factual background as the Jersey and English proceedings, where the documents have already been disclosed. We do not think it right, in view of the lateness of Mr Thompson's communication, to agree to adjourn this matter further. 13. Accordingly, we make the order requested which is to allow the Representors to use the documents obtained in the Dolejsova proceedings for the purposes, and for the purposes only of, complying with the order of the New York court. There will be no order as to costs. Authorities Grupo Torras SA v Royal Bank of Scotland International Jersey unreported [2001/9]. Page Last Updated: 22 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bailii.org/je/cases/UR/2008/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/tech-holdings-bv-2008-jrc-072-06-may-2008>

Prepared on 25 October 2026 · Esheria