



29/12/2021

**Registration Number:**

Dear Mr & Mrs

Following your recent telephone conversation with the consultant from the Owners Association notifying you that our Lawyers have now got carriage of your file; we are very pleased to inform you that all is in order and we shall try our utmost to litigate a consumer complaint on your behalf.

As you are now probably aware, in recent years, the majority of registered consumer complaints filed to the E.C.A *European Complaints Authority* have been timeshare related and the number of formal complaints registered concerning Holiday Ownership has increased dramatically over the past five years. However, on a positive note, consumers have never been better protected by law since the introduction of many new Spanish Laws forbidding certain practices which were previously used by most Timeshare companies.

Following the European Timeshare Directives (94/47/EC), 2008/122/EC & 2011/83/EU 42/1998 (15<sup>th</sup> of December 1998) & 4/2012 (6<sup>th</sup> of July 2012) in accordance with the Spanish laws, the Spanish authorities recently started taking the matter seriously and launched numerous investigations into various irregular holiday operations throughout Spain and the Canaries and in most cases; frozen bank accounts and seized assets, are facilitating the lodgments of compensation claims and Lawyers can now assist owners and legal process in relation to such matters has become a lot easier.

So even if your purchase was made on foreign soil, you now have a statutory right to take proceedings against these companies to be recompensed for your losses.

Our firm and several others are currently working in conjunction with the Spanish Authorities to administer various illegal issues regarding several holiday companies.

Our Company noted as **A3 Abogados 24 Horas** was established in Barcelona and consists of a consortium of experienced and well respected Lawyers, consultants and administrators, overseeing all aspects of civil and criminal law, tribunals and compensation claims. We are officially recognised by the High Courts of Barcelona, Madrid, Malaga and Santa Cruz de Tenerife but our lawyers are also authorised to operate in any First instance or Instruction Court of Law in Spain.

Amongst other services we provide, this division was founded to aid and assists dissatisfied British timeshare and holiday club owners and specialises in assisting them with various grievances they are experiencing with their ownership.

Furthermore we have put in place for your convenience; a team of English speaking legal representatives to assist unsatisfied British timeshare and holiday club owners with various grievances they are experiencing with their ownership.

We purely contact owners to explain their legal rights to recover monies paid towards misrepresented or fraudulent products. This can be anything from blatant mis-selling, misrepresentation to simply exercising their right of relinquishing their ownership (legally exiting from their perpetuity contract). The majority of complaints successfully dealt with by ourselves in the past have been settled using tried and tested legal precedents and are now recorded as "completed and settled cases" .

The Spanish Courts are now finally aware that every year thousands of holiday makers are duped into buying products, which do not live up to the expectations promised at the point of sale and for many; the salesman's promise of a lifetime of affordable, exotic holidays is now just a faded memory.

The Courts have now established that when consumers like you first had signed up for their ownership, the maintenance fees were very much lower than they are today and that if fees had at all been mentioned at the time, the salespeople were brushing aside any questions on them incrementing, with earnest promises about minimal increases. Sadly the truth has turned out to be very different, as fees have consistently risen much faster than inflation and frequently jumped up a level as timeshare resorts & schemes have naturally fallen under new management or unnaturally changed the company name they trade under.

On a more specific note; our lawyers have spotted the opportunity and risen to it and are in the process of filing a group compensation claim against Petchey Leisure Group S.L & MGM S.L particularly as following the ground-breaking ruling against them a few years ago; on Wednesday 14<sup>th</sup> March 2018, one of the directors Mr (name redacted) had no choice but to plead guilty to the indictment of the Spanish civil code since the Public Prosecutor was asking for a custodial sentence for the defendant and his Lawyers advised him to plead guilty as by having no previous criminal records with the Spanish Courts; he managed to escape the prison sentence. However by pleading guilty; the Courts of Arona in Tenerife, automatically declared clients' contracts NULL AND VOID and ordered that the monies paid were to be returned in full to all clients.

Petchey Leisure Group S.L, one week later tried to no avail claim bankruptcy as the authorities acted a lot quicker than what their Lawyers expected and only 48 hours after the hearing; on Friday the 16<sup>th</sup> of March; the Arona Instruction Court number 3 very much surprised them and passed the case to the supreme court in Barcelona with a motion for an instant "*levantamiento del velo societario*" meaning that the corporate veil was to be lifted.

In Spain, the jurisprudential doctrine *lifting the corporate veil* was established by the Madrid Supreme Court in 1984. Since then, its use has been adopted regularly, at first very restrictively but now more common and significantly less selective.

As a clear anti-fraud mechanism, its main objective is to identify companies that may be fraudulently used and prevent their infringement of the rights and interests of third parties as lifting the veil legally allows sanctioning the Directors of the company themselves.

Usually, Spanish companies have their own legal personality and are responsible for their obligations only as a company. The lifting of the veil penetrates the “*substratum*” and waives consideration of the legal personality of the company, instantly attributing the debts and liabilities of the company to the directors.

The Supreme Court immediately served a sentence placing a **Restitution Embargo** on all personal assets of Mr (name redacted)

9 Supreme Court Judges presided over the case files and the director very shortly after, received personal summons and had to attend the Court within 7 working days to give full details in relation to his assets including cars, boats, private pensions, insurance policies, bank and mortgage accounts and also questioned on oath regarding any monetary involvement with other companies or entities and other income, insurance/investment policies or possible future income he may have.

The Courts also placed a “*Medida Precautelar*”, a precautionary measure obtaining all business and individual account details linked to the defendant from the “*Banco de España*”; (the Spanish Central Bank) and placed an instant levy on those accounts as well.

A prejudgment attachment known as Garnishee Order was also implemented. A Garnishee Order is a third party debt order levy to recover the settlement amount from the debtor's bank account or even credit facilities.

A Charging Order was also put into practice; a Charging Order registers an instant caution against the debtor's and directors' properties if they even happen to be in the process of sale. The solicitors dealing with the sale must legally settle the debt from the proceeds.

A Writ of Control was also put into action, authorising an “*Alguacil*”, the equivalent of a Bailiff or a HCEO, High Court Enforcement Officer to enter all the Debtor's premises peaceably and take control of assets and goods to cover the debt.

Last but not least any declared or undeclared assets abroad; the “*Acuerdo Bilateral*” known in the UK as a Bilateral Treaty or the Recast Brussels Regulation (EU) No. 1215/2012 which reformed Regulation (EC) No. 44/2001 (Brussels I. Regulation), will allow them a speedy and simplified enforcement of judgments obtained in the courts of one EU/EEA member state in all other member states.

That Recast Regulation came into force on the 10<sup>th</sup> of January 2015 and applies to any case brought on or after that date and applies to orders of courts and tribunals of any nature in civil and commercial matters where an enforceable judgment issued in one Union Member State, will also be notified to the enforcement authorities in other Member States.

With the exception of Denmark and Hungary, the Spanish Courts have now obtained a cross border all over Europe, “*Embargo de haberes de la Unión Europea*”, meaning European Community Garnishment, commonly known as freezing assets, where the debtor's assets and Bank accounts are immediately seized in other European countries without any intermediary procedure being required.

With assets, both tangible property and intangible property as any form of intellectual property, franchise or brand reputation are seized. With bank accounts, the country hosting the account/s must repatriate the funds to Spain immediately.

These audacious unprecedented and unprejudiced actions by the Courts will undoubtedly send a significant shockwave through the Timeshare Industry and needless to say, we are delighted with this outcome as this hugely significant ruling will now have an enormous, positive impact on all future claims as the previous case has now set an important precedent that has now paved the way for yourselves and further claimants to come forward and seek compensation from the seized assets.

The best news however is that now post Brexit this transaction will be rather swift and straight forward as where prior to Brexit, the legal framework that governed the Spanish Courts in accordance with European Court regulatory and the CJEU (The Court of Justice of the European Union) in relation to all British Claims were a lot more complex and required adhering to certain legalities and protocols.

Ironically as a result of the jurisprudence created by Brexit; our lawyers can now unreservedly and directly with the Spanish Courts lodge a claim on your behalf and expedite your claim as British citizens as opposed to EU members without going through the lengthy and protracted and rather bureaucratic EU regulatory and supervisory regimes.

We are pleased to inform you that our Lawyers shall be working against the clock preparing a Class Action for Punitive Damages against, Petchey Leisure Group S.L, MGM S.L and one of the main Directors; Mr Eugen Kaiser and they have informed us that there are very strong grounds for compensation. Therefore and also due to many previous successful compensation claims achieved by our Lawyers with similar cases; we wish to proceed along this route with you on a no win no fee basis where payments for services rendered will only be invoiced upon receipt of compensation awards or out of court settlements.

We vow to endeavor every possible avenue to obtain maximum compensation on your behalf. Only once compensation has been obtained and received by you safely, we will invoice you for 20% of its total.

A Court hearing has been scheduled at the Barcelona Court First Instance Court number 6 for Thursday 24<sup>th</sup> of February 2022 at 12:20.

To be part of a class action, the lawyer filing for the claim will only need to simply demonstrate that the experiences with all the claimants are similar and consequently not much evidence will be required and every diminutive evidence we furnish the Courts with will be deemed relevant and compelling as the Courts in these kind of cases are very lenient and compassionate towards the claimants with the decisions they make and our Lawyers have informed us that due to the recent precedent and Court Rulings and considering the number of new claims now being submitted to the Courts against the same Defendants; the information gleaned by us in relation to your particular claim can be accepted by the Courts as conjectural evidence and should more than suffice for lodging this claim on your behalf.

Our Lawyers hope to lodge a claim on your behalf on the next official lodgment on Tuesday 08<sup>th</sup> February 2022 including you as claimants in this group compensation claim.

To reiterate, due to our earnings being solely on a no win, no fee arrangement, our Lawyers will assertively pursue all avenues to gain maximum compensation on your behalf and are extremely confident of a successful conclusion.

However please be advised that as confident and optimistic as our Lawyers are that your claim will be lodged; it is yet a decision the Court Procurator makes on the day on whether it is indeed lodged after all.

Here in Spain a Procurator is a legal body that works as an intermediate between the Court Judges and the Lawyers officiating on all matters, any civil matter you here in Spain approach the Courts with; there is always a Procurator authority involved and they are the ultimate decision makers on whether a case is accepted or not.

One of our English speaking legal representatives will contact you a few days after the lodgment to inform you of the Court Procurator's decision and should your case be accepted by them, explain the Court procedures.

As a, fully integrated, global partnership, we pledge to be as proficient and professional as you would expect from a Company of our standing and highly pride ourselves on our approachable way of working so please do not hesitate to contact us for any questions or queries you may have.

Please note that our offices will be shut for holidays until **Friday the 7<sup>th</sup> of January 2022**. So if you wish to participate in this Claim, please at your earliest convenience after the holidays, contact us quoting your official **Registration Number** on the heading of this letter. This will automatically authorise us to collate details of your initial purchase and then proceed in including you as a claimant in this case, on a no win no fee basis.

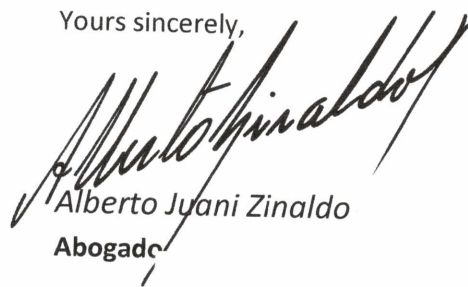
We have as courtesy to the British public, dedicated a **freephone** number **0800 802 1963**, where an English speaking member of staff is on call **Monday to Friday only between the hours of 10:00 to 17:00** and will gladly assist.

In any event an English speaking representative from our Claims Department working front line with the Lawyers will be contacting you shortly to further discuss this good news.

We send you our kind regards and hope that you and your family had a great Christmas and wish you a happy prosperous New Year to come

*N.B: For clients residing in Spain or the Canary Islands or simply calling from a Spanish Mobile; please be advised that you also have the option to contact us on 93 220 7328 and we can attend to your Spanish call.*

Yours sincerely,



Alberto Juani Zinaldo  
Abogado