BRABIZON GROUP AB, et al.	*	IN THE
Plaintiffs,	*	CIRCUIT COURT FOR
v.	*	BALTIMORE CITY
MARRIOTT INTERNATIONAL, INC.	*	Case No. 24-C-05-009298
Defendant.	*	

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MEMORANDUM OPINION

Brabizon Group AB and World Connection Marketing filed a Complaint against Marriott International, Inc. alleging claims that arise from the circumstances surrounding Marriott's failure to renew Plaintiffs' General Sales Agency (GSA) Contract in November, 2001, the subsequent departure of Plaintiffs' employees ("Marriott Account Representatives") to form a competing GSA and Marriott's contract with the GSA formed by the departing employees. After this Court's ruling on the first Complaint, Plaintiffs filed an Amended Complaint alleging claims of civil conspiracy, aiding and abetting breach of fiduciary duties, fraud, and tortious interference with employment and agency relations under Maryland law, and violation of Council Directive 86/653/EEC of 18 December 1986, and tortious interference with employment and agency relations under Swedish law.

Plaintiffs also filed a Memorandum of Law in Support of Applying Swedish Law to the narrow issue of whether Marriott's employees and agents breached their fiduciary duties to Plaintiffs. Defendant filed a Motion to Dismiss the Amended Complaint and a Response to Plaintiffs' Memorandum Regarding Choice of Law. Plaintiffs filed a Response to the Motion to Dismiss, and Defendant filed a Memorandum in Further

Support. Both parties have also submitted Affidavits of respective Swedish counsel as to the proper application of Swedish law.

"When moving to dismiss, a defendant is asserting that, even if the allegations of the complaint are true, the plaintiff is not entitled to relief as a matter of law." *Hrehorovich v. Harbor Hosp. Ctr.*, 93 Md. App. 772, 784 (1992). "Thus, in considering a motion to dismiss for failure to state a claim, the circuit court examines only the sufficiency of the pleading." *Id.* "The complaint should not be dismissed unless it appears that no set of facts can be proven in support of the claim set forth therein." *Bennett Heating & Air Condition, Inc. v. NationsBank of Maryland*, 103 Md. App. at 749 (1995).

A hearing was held on September 27, 2006. For the reasons set forth below, this Court issued an Order granting the Motion to Dismiss as to Counts I (Tortious Interference with Employment and Agency Relations), II (Civil Conspiracy), III (Aiding and Abetting Breach of Fiduciary Duties), IV (Fraud), and Count V (Violation of Council Directive 86/653/EEC of 18 December 1986) and denying the Motion to Dismiss as to Count VI (Tortious Interference with Employment and Agency Relations Under Swedish Law).

BECAUSE THE INJURY OCCURRED IN SWEDEN, SWEDISH LAW GOVERNS.

Plaintiffs contend that Maryland law applies because "the acts committed by Marriott (a Maryland citizen) giving rise to the claims took place, in significant part, in Maryland."[1] Defendant argues that Maryland courts follow the rule of *lex loci delecti* in

[1] When ruling on the Motion to Dismiss the original Complaint, this Court held that there is no breach of fiduciary duty tort in Maryland. Plaintiffs argued then, and in its initial memorandum filed in connection with the Amended Complaint, that while Maryland law applies, a hybrid

determining choice of law for issues sounding in tort, and because the injury occurred in Sweden, Swedish law governs, and all the counts alleging a Maryland tort must be dismissed for that reason. Defendant is correct.

Under *lex loci delecti*, "when an accident occurs in another state, substantive rights of the parties, even though they are domiciled in Maryland, are to be determined by the law of the state in which the alleged tort took place." *Phillip Morris v. Angeletti*, 358 Md. 689, 745 (2000), *quoting White v. King*, 244 Md. 348, 352 (1966). Maryland consistently relies upon the First Restatement of Conflict of Laws for guidance because it also adopted the doctrine of *lex loci delecti.*

> Because Maryland is among the few states that continue to adhere to the traditional conflict of laws principle of *lex loci delicti*, the First Restatement of Conflict of Laws, while of merely historical interest elsewhere, continues to provide guidance for the determination of *lex loci delicti* questions in Maryland.

Black v. Leatherwood, 92 Md.App. 27, 41, *cert. denied*, 327 Md. 626 (1992). *See also Farwell v. Un*, 902 F.2d 282, 286 (4th Cir. 1990) (recognizing "that Maryland, against what may be the general trend of latter times toward 'significant relationships' analysis, appears rather steadfastly to have adhered to *lex loci* as the ordering principle in tort cases"); RESTATEMENT (FIRST) OF CONFLICT OF LAWS § 377 (1934).

Under *lex loci delecti*, where events giving rise to a suit occur in more than one state, "the place of the tort is considered to be the place of the injury." *Phillip Morris*, 358 Md. at 689. "[T]he place of injury is also referred to as the place where the last act

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approach must be used for the claims for tortious interference with employment and agency relations, civil conspiracy, and aiding and abetting breach of fiduciary duty. According to Plaintiffs, Swedish law applies to the determination of whether the employees violated a fiduciary duty, and Maryland law applies to all other elements of the torts. Because this Court holds that Swedish law applies, this argument is not addressed in this Memorandum Opinion.

required to complete the tort occurred." *Id*. "Place of injury" is the place where the injury was suffered, not where the underlying harmful acts took place. *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 511 (4th Cir. 1986). "[T]he tort is complete only when the harm takes place, for this is the last event necessary to make the actor liable in tort."). *Phillip Morris*, 358 Md. at 747 (*quoting* HERBERT F. GOODRICH, HANDBOOK OF THE CONFLICT OF LAWS § 93, at 263-64 (3d ed. 1949); RESTATEMENT (FIRST) OF CONFLICT OF LAWS § 377 n. 1 & 2 (1934).

Plaintiffs are Swedish limited liability companies alleging severe economic injury and lost profits which "forced them out of business." Plaintiffs' business is registered in Sweden, and the alleged loss occurred in Sweden. Amended Complaint ¶¶ 56, 70, 82, 93. Disregarding Maryland's strict adherence to *lex loci delecti*, Plaintiffs argue that Maryland law is appropriate because the acts *giving rise* to the tort occurred in Maryland. Specifically, Plaintiffs allege that "Marriott's unlawful scheme was done with the knowledge, consent and approval of Marriott's executives at its headquarters in Maryland" and these executives were involved in "negotiating, drafting and entering into the new contract with the competing GSA." Plaintiffs argue that when an alleged wrongful act giving rise to the types of tort claims asserted here occur in one jurisdiction and the loss is felt by plaintiffs in another, "the place of the wrong is the place where the alleged wrongful acts took place; not the jurisdiction where the loss was felt." None of the cases cited by Plaintiffs are persuasive.

Plaintiffs' reliance on *Farwell v. Un*, 902 F.2d 282 (4th Cir. 1990) is misplaced. In *Un*, Delaware substantive law was applied because Maryland's wrongful death statute dictated that where "the wrongful act occurred in another state...a Maryland Court shall

apply the substantive law of that jurisdiction." MD. CODE ANN., CTS. & JUD. PROC. § 3-903(a). In other words, the wrongful death statute "makes specific the 'place-of-wrong's-standard-of-care' exception to the classic *lex loci*, thereby displacing in this context the 'last-act-to-complete-the-tort' aspect of that rule." *Un*, 902 F.2d at 287. Thus, the "common sense exception" to *lex loci delecti* applied:

> the liability-creating character of the actor's conduct depends upon the application of a standard of care, and such standard has been defined in particular situations by statute or judicial decision of the law of the place of the actor's conduct, such application of the standard will be made by the forum.

FIRST RESTATEMENT OF CONFLICT OF LAWS § 380(2) (1934). Here the applicable standard of care is not governed by a statute.

Plaintiffs next cite *Banca Cremi v. Alex.Brown*, 955 F.Supp. 499, 522-24 (D.Md. 1997) as evidence that Maryland applies the law of the place where the wrongdoing, not where the injury, occurred. Unfortunately for Plaintiffs, *Cremi* relies on *Farwell v. Un* to conclude that the place of injury is determinative without recognizing that *Farwell* was decided under a *lex loci* exception**.** *Id*.at 523 ("[I]n a wrongful death action, the Fourth Circuit, applying Maryland's choice of law rules, has determined that it is the law of the place of injury, not that of the place of death (loss) which governs. *See Farwell v. Un*, 902 F.2d 282, 286-87 (4th Cir.1990).). This Court is not bound by a federal court's misapplication of Maryland law.

Nor does *Sacra v. Sacra*, 48 Md. App. 163 (Md. App. 1981) dictate a different result. *Sacra* involved an automobile accident which began with allegedly negligent actions of a driver in Delaware and ended when that driver collided with a utility pole after skidding across the Maryland state line. *Id*. at 166. The Court held that the alleged tort was "a single, integrated accident" which occurred in Delaware, and thus applied

Delaware law. *Id.* In other words, the Court concluded that the wrongful conduct and the injury were both part of one event because they occurred mere seconds and feet from each other. The Court of Special Appeals was not suggesting that Maryland has abandoned its long-standing adherence to the rule of *lex loci delecti*.

Finally, *Motor City Bagels, L.L.C. v. The American Bagel Company*, 50 F.Supp.2d 460, 472 (D.Md. 1999) and *McDonald v. Friedman*, 2004 WL 3397805 (D. Md. 2004) do not support a different result. In neither of those cases did the court determine the appropriate substantive law, instead the choice of law was by the agreement of the parties.

For all these reasons, the substantive law of Sweden governs all the claims in this case because the alleged injuries occurred in Sweden. Therefore, Counts I, II, III, and IV of the Amended Complaint were dismissed.[2]

COUNT V: VIOLATION OF COUNCIL DIRECTIVE 86/653/EEC OF 18 DECEMBER 1986 FAILS TO STATE A CAUSE OF ACTION BECAUSE THE AMENDED COMPLAINT DOES NOT ALLEGE A SALE OF GOODS; ADDITIONALLY THE DIRECTIVE.

In their Amended Complaint, Plaintiffs assert a claim against Defendant for violation of European Union Council Directive 86/653/EEC of 18 December 1986 ("the Directive").[3] As Defendant points out the Directive is not law, but directs members of the ECC to pass legislation that comports with the directive and to that end, Sweden passed the Commercial Agents Act. However, consistent with the Amended Complaint, the Court will refer to the claim as an alleged violation of the Directive. The Directive regulates commercial agency contracts, including the duties of commercial agents and principles after the termination of their relationship. Under Article 17 of the

[2] Plaintiffs clarified at oral argument that these counts are made only under Maryland law.

[3]Both parties provided affidavits from experts on Swedish law. Plaintiffs' expert was Jan Kleineman and Defendant's expert was Krister Azelius.

Directive, a commercial agent may be entitled to indemnity and compensation as a result of the termination and Plaintiffs seek indemnity and compensation for damages resulting from termination of their agency relationship with Defendant. Defendant argues that this Directive does not apply for several reasons.

Defendant's argument that the Directive applies only to goods and that goods means chattels, which are movable objects, is dispositive. Under the Swedish Act implemented pursuant to the Directive:

> "commercial agent" means a person who, in the course of conducting a business, contracts with another, the principal, to independently and on a permanent basis act on behalf of the principal **in the sale or purchase of goods** through the receipt of offers made to the principal, or through the conclusion of contracts in the name of the principal.

(emphasis added.) Although the Act itself does not define "goods," the legislative history of the Act does discuss its meaning. The legislative history states

> The term "goods" refers to what in the legal language usually are categorized as "chattel." This term is narrower than the term "personal property", which include [sic] all property except real estate. **Goods are physical objects or things**. The term does not comprise for example a building on non-freehold property, securities and various rights such as tenant-owners right and site leasehold right.

(emphasis added.) Prop 1990/91:63, p. 52. As one Swedish treatise further emphasizes,

> ...the new Act provides that the operations must relate to goods. "Goods" means, as previously, chattels. The concept is not coextensive with "personal property" but, rather, is somewhat narrower. By "chattel" it is usually meant such personal property as does not consist of cash, securities, various types of rights, buildings on non-freehold land, cooperative apartment rights, and site leasehold rights.

Herbert Soderlund, Agency Law - Comments to the Commercial Agents Act etc., 21 (1994).

Plaintiffs argued that the reservation and booking of hotel rooms fall under the definition of "goods" but cite nothing to suggest that the reservation and booking of hotel rooms is "goods," or that questions the accuracy of the above-recounted legislative history and treatise. Thus, Count V must be dismissed for this reason alone.

Defendant also argues that the Directive does not apply because the Directive was adopted by European Community Council and only applies to members of the Council and that *Ingmar v. Eaton Leonard Technologies*, European Court of Justice, Case C-391/98 (9 November 2000) cited in the Amended Complaint does not require a different result. Plaintiffs read *Ingmar* as concluding that the Directive applies where "a commercial agent carries on activities in a member state even though its principal is established in a non-member country." Defendant argues that *Ingmar* is not binding on a Maryland court and that all it held was that "a directive adopted by the EC applies to an agent's activities carried on in a member state even when its principal is established in a non-member country **when the case is adjudicated under the laws of a member state and in the court of a member state**." (emphasis added.)

In *Ingmar*, a commercial agent in the United Kingdom sought compensation for commissions and damages suffered after the termination of his contract with his American principal. *Ingmar* ¶ 10-11. The American principal argued that the choice of American law provision in the contract should control, and the Directive should not apply. The court acknowledged that

> the freedom of contracting parties to choose the system of law by which they wish their contractual relations to be governed is a basic tenet of private international law and that. . . freedom is removed only by rules that are mandatory.

Ingmar ¶ 15. Nevertheless, the *Ingmar* court concluded that the purpose of the Directive is to protect commercial agents after termination of their contracts, and is therefore mandatory and cannot be avoided through a choice of law provision. The court concluded that the Directive "must be applied where the commercial agent carried on his activity in a Member State although the principal is established in a non-member country and a clause of the contract stipulates that the contract is to be governed by the law of that country." *Ingmar* ¶ 26.

Plaintiffs argue that nothing in *Ingmar* suggests that it is limited to suits brought in courts of a member state; Marriott agreed to do business in the European Union so it is not absurd that the Directive applies; and the US Department of Commerce has advised American companies that the Directive applies and that the "protections afforded to commercial agents pursuant to the Council Directive take precedence over the laws of the country or state from which the principal is operating." The advice to United States companies from the Department of Commerce does not support Plaintiffs' argument. The advice is:

> When it comes to the Commercial Agents Directive, yes. [*Ingmar*] set a precedent regarding the relationship between a U.S. principal and European agent. The court ruled that where an agent operates within the EU and is employed by a principal outside the European Union, the principal is not able to avoid the regulations governing commercial agent relationships by inserting a clause referring to the applicability of third country, or state law. *** **EU courts** will invalidate clauses in the agency agreement stipulating that disputes will be under a jurisdiction outside the EU if the change of jurisdiction is viewed as detrimental to the agent compared to the protections provided in the applicable Member State regulations.

(Emphasis added). Because *Ingmar* was decided in the United Kingdom, an EU member state, there was no reason for the court to discuss whether a different result would be mandated in a non-member state.

It is clear that a contractual provision that seeks to avoid the Directive is against the public policy of the European Union. Courts are loathe to enforce contracts that are against public policy. *Post v. Bregman*, 349 Md. 142, 161 (1998); *State Farm Mut. v. Nationwide Mut.*, 307 Md. 631 (1986). Thus it is not surprising that an EU court would invalidate a contractual provision that seeks to avoid the Directive by applying the law of a non-member state.

However, the contract here provides that all disputes must be submitted to a Maryland court; thus, Plaintiffs had to, and did, file suit in Maryland. Therefore, this Court agrees with Defendant that the same result is not required, nor appropriate, in a Maryland court. The contract explicitly states that Maryland law applies and there is no reason for a Maryland court to refuse to apply Maryland law to avoid going against the public policy of a foreign court. Thus, this Court is not convinced that the Directive applies to this law suit in this Court.[4]

[4] In addition to the arguments addressed by the Court, Defendant argued that this Directive does not apply because (1) it applies only to parties who are in an agency relationship and the contract makes clear that there was no agency relationship between the parties ("nothing in this agreement will . . . constitute GSA as agent in legal terms of Marriott for any purpose whatsoever"); (2) the contract explicitly prohibits the damages that the Directive permits; and (3) the Directive applies to contractual relationship and the contract states it will be governed by Maryland law, so even under Swedish law the claim fails.

PLAINTIFFS HAVE STATED A CLAIM FOR TORTIOUS INTERFERENCE WITH EMPLOYMENT AND AGENCY RELATIONS UNDER SWEDISH LAW

In Count VI, Plaintiffs allege that Defendant is liable for damages under Swedish law for tortious interference with the employment relationship between Plaintiffs and their employees. Plaintiffs allege that Defendant

> intentionally and improperly interfered with [Plaintiffs'] employment and agency relations with the Marriott Account Representatives by, among other things, inducing and causing the Marriott Account Representatives to breach their fiduciary duties and directing the Marriott Account Representatives to violate Swedish law, including directing them to steal, disclose and misappropriate confidential and proprietary information belonging to the Plaintiffs and directing them to destroy data and erase messages from the Plaintiffs' computers.

Both parties agree that generally under Swedish law there must be criminal activity to recover loss where there is no personal injury or property damage and they both acknowledge that the Supreme Court of Sweden recently held that a plaintiff could recover for pure economic loss when there was no underlying criminal activity. *NJA 2005* p. 608 (Supreme Court of Sweden, 12 September 2005).[5] Defendant argues that the facts of *NJA 2005* were unique and that the facts alleged here do not arise to the same level. Plaintiffs argue that the facts of this case are precisely the type of situation covered by *NJA 2005.*[6]

[5] All citations to the Swedish Supreme Court case *NJA 2005* are to the version attached as Ex. 6 to Plaintiffs' Notice of Submission of Evidence of Foreign Laws. Because the version provided is in html and does not contain the original page-breaks from the print version, the Court will hereinafter refer to pages 1 - 3 of the document as it appears in Ex. 6.

[6] Plaintiffs' expert Jan Kleineman, "personally acted as a consultant to the winning party for nearly ten years and issued opinions in all the judicial instances" for *NJA 2005.* Aff. of Jan Kleineman, 22 June 2006.

The relevant facts of *NJA 2005* are as follows: Max owned a hamburger business, and wished to change locations. *Id.* at 2. Pursuant to that objective, Max sought persons to assume his lease at his current location who would not open a competing hamburger business because he desired to retain his old customers. *Id.* Max eventually assigned his lease to Lotsbåten with the stipulation that he not carry on a hamburger business there. *Id.* Under no circumstances would Max have considered leasing the premises to anyone who would be conducting a business that competed with his hamburger stand. *Id.* However, prior to signing the agreement with Max, and unknown to Max, Lotsbåten executed an agreement transferring majority ownership to Frasses, who intended to open a competing hamburger business. *Id.* at 2-3. Lotsbåten knew of Frasses' intentions to open a hamburger business. *Id.* at 3. Frasses opened the business and Max incurred economic losses from a drop in sales, while Lotsbåten and Frasses acquired significant profits. *Id.* As the court summarized, Max was induced to enter into an agreement which he would not have entered into had he known of Lotsbåten's and Frasses' intentions. *Id.*

As stated by the court, the issue presented in *NJA 2005* was "whether Frasses may be ordered to pay damages to Max for pure economic loss when the parties do not have a contractual relationship with each other and the loss is not a result of a crime." *Id*. at 1. Under Chapter 2, section 2 of the Tort Liability Act (SFS 1972:207), a party is liable for damages for causing an economic loss to another through the commission of a criminal act or in the context of a contractual relationship. *Id.* The *NJA 2005* court noted that the Tort Liability Act did not limit the Swedish courts from expanding liability for pure economic loss beyond those areas.

> In case law, liability in damages has also been imposed outside the areas within the statutory purview in certain

> situations in which pure economic loss was caused tortiously in a manner other than through the commission of a crime. * * * From recent times, mention may be made of a case in which a party who negligently provided erroneous information in an appraisal certificate with respect to real property was found liable in damages to a party other than the principal and a case in which the trustee in bankruptcy was deemed liable in damages for pure economic loss incurred by a third party as a consequence of the trustee's negligent administrative measures.

Id.

The court noted that while it is permissible for companies to take measures which may result in a financial loss to other companies, "not all means may be permitted in the name of competition." *Id*. at 2. The court further noted that "[m]any foreign systems contain rules regarding liability in damages on the part of a person who unfairly interferes with the contractual relationships of other parties and thereby causes one contracting party to incur pure economic loss." *Id.* The court then stated that "at least in particularly serious cases, that there should be liability in damages on the part of a third party who interferes in a particularly unfair way in the contractual relationship of another party such that one contracting party acts contrary to the agreement and the other contracting party incurs a loss." *Id.*

The court found that "Frasses acted in concert with Lotsbåten and Max was deceitfully induced to enter into an agreement which Max would not have entered into had Max known of Lotsbåten'[s] and Frasses' intentions."[7] *Id.* at 3. In concluding that Frasses was liable to Max for damages, the Court stated:

> Nothing has emerged in the case which suggests that competition law considerations would render Frasses' actions defensible. On the contrary, it appears particularly

[7] In a separate case, it was found that the agreement between Lotsbåten and Max was void because Lotsbåten "had acted deceitfully in conjunction with the execution of the agreement."

> unfair; . . . Frasses' actions constitute a clear deviation from what must be demanded of a commercial actor. The case is so egregious that Frasses should be ordered to compensate Max for the loss incurred by Max as a consequence of the action.

Id. at 3. Defendant's expert states that "strictly speaking, the Swedish system does not recognize . . . 'tortious interference with contract or economic relations.'" However, as Plaintiffs' expert points out, regardless of what it is called, Swedish law imposes liability where a party "interferes, in a particularly disloyal manner, with a contractual relationship and contributes to one contracting party committing a breach of contract to the detriment of the other party." *Id*. at 609. Thus whether it is called tortious interference with contract or economic relations or "inducement of breach of contract" or something else, there is liability for interfering with a contractual relationship in some circumstances in Swedish law, even when there is no criminal wrongdoing.

Plaintiffs argue that *NJA 2005* controls because Defendant assisted the Marriott Account Representatives in forming the competing GSA while they were employed and retained by the Plaintiffs, and before Marriott terminated their contract with Plaintiffs. Defendant argues that unlike in *NJA 2005*, the alleged wrongdoing by Marriott was not "particularly unfair." Defendant argues that there are two crucial factual distinctions: (1) the Lotsbåten had contractual control over Frasses at the time that it entered into the contract with Max and Marriott did no have any contractual control over Plaintiffs' employees; and (2) Lotsbåten's actions were a **necessary pre-condition** for Frasses to open the competing hamburger stand while here Plaintiffs' employees *could have* stolen and misappropriated confidential information from Plaintiffs and formed a competing company without any wrongdoing by Marriott.

This Court rejects Marriott's argument that *NJA 2005* does not apply because Marriott did not have contractual control over Plaintiff's employees. In *NJA 2005*, the fact that Lotsbaten had contractual control over Frasses was but one factor contributing to the particular unfairness exhibited by Lotsbaten. What was important was that "Max was **deceitfully induced to enter an agreement** which Max would not have entered [into]. . . ." *NJA 2005,* at 3. (emphasis added.) Plaintiffs allege that they were "deceitfully induced to enter into an agreement" with Marriott which they would not have entered into had they known of Marriott's and their employees intentions. Plaintiffs also allege that an essential part of Defendant's alleged scheme was the inducement of Plaintiffs to renew the contract, for the purpose of enabling Plaintiff's employees to "steal, disclose and misappropriate" Plaintiffs' confidential information. According to Plaintiffs while the negotiations for the contract renewal were ongoing, Defendant had already offered the GSA representation to the business covertly established by Plaintiff's employees. Plaintiffs also allege that Marriott added new terms and subtracted other terms in order to facilitate the establishment of the new business. Thus Plaintiffs allege that a provision of automatic renewal was deleted and a provision that required Plaintiffs to maintain six (6) designated sales staff was added. In sum, Plaintiffs allege that while the Defendant was ostensibly negotiating in good faith, Defendant was setting the stage for the implementation of a scheme to have Plaintiffs' employees abandon Plaintiffs and establish a competing company. Plaintiffs also allege that Defendant sabotaged Plaintiffs' professional relationship with Continental Airlines by leaking confidential information in order to further damage Plaintiffs' reputation and secure Continental Airlines as a client of the new business formed by Plaintiff's employees.

Nor is this Court convinced that *NJA 2005* does not apply because Plaintiffs' employees *could have* stolen and misappropriated confidential information from Plaintiffs and formed a competing company without the alleged interference from Defendant. This Court does not read *NJA 2005* as requiring that the tortious interference be a "necessary precondition" to the Plaintiffs employees' actions to rise to the level of "particularly unfair." Assuming *arguendo* that *NJA 2005* requires that the interference of Defendant be a "necessary precondition" to the actions of Plaintiffs' former employees, that is precisely what the Plaintiffs allege occurred. Specifically, without the interference, planning and inducement of Defendant into entering the renewed GSA contract, their employees *could not* have committed the tortious acts without Defendant's participation, because those acts required Defendant's renegotiation and re-drafting of the GSA contract with Plaintiffs, and their commitment to enter into a contract with the new business formed by the Marriott Account Representatives.

For the aforementioned reasons, the Motion to Dismiss shall be DENIED as to Count VI.

Date: November 6, 2006

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JUDGE EVELYN OMEGA CANNON

BRABIZON GROUP AB, et al.	*	IN THE
Plaintiffs,	*	CIRCUIT COURT FOR
v.	*	BALTIMORE CITY
MARRIOTT INTERNATIONAL, INC.	*	Case No. 24-C-05-009298
Defendant.	*	

* * * * * * * * * * * * *

ORDER

For the reasons stated in the accompanying Memorandum Opinion, Defendant's Motion to Dismiss shall be GRANTED as to Counts I (Tortious Interference with Employment and Agency Relations), II (Civil Conspiracy), III (Aiding and Abetting Breach of Fiduciary Duties), IV (Fraud), and Count V (Violation of Council Directive 86/653/EEC of 18 December 1986) and DENIED as to Count VI (Tortious Interference with Employment and Agency Relations Under Swedish Law).

DATE: November 6, 2006

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Judge Evelyn Omega Cannon