

**CASE NO.**

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**IN THE  
SUPREME COURT OF NEVADA**

Electronically Filed  
Feb 05 2021 03:23 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**MOTI PARTNERS, LLC; MOTI PARTNERS 16, LLC; LLTQ  
ENTERPRISES, LLC; LLTQ ENTERPRISES 16, LLC; TPOV  
ENTERPRISES, LLC; TPOV ENTERPRISES 16, LLC; FERG, LLC;  
FERG 16, LLC; AND R SQUARED GLOBAL SOLUTIONS, LLC,  
DERIVATIVELY ON BEHALF OF DNT ACQUISITION LLC,**

*Petitioners,*

**vs.**

**EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE  
TIMOTHY C. WILLIAMS, DISTRICT JUDGE,**

*Respondents,*

**-and-**

**DESERT PALACE, INC.; PARIS LAS VEGAS OPERATING  
COMPANY, LLC; PHWLTV, LLC, AND BOARDWALK REGENCY  
CORPORATION,**

*Real Parties in Interest.*

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**DISTRICT COURT CASE NO. A-17-751759-B  
CONSOLIDATED WITH A-17-760537-B**

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**PETITIONERS' APPENDIX TO  
PETITION FOR EXTRAORDINARY WRIT RELIEF**

**VOLUME 4 OF 9**

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**APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF**

**VOLUME 4 of 9**

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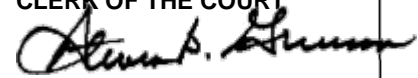
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**TAB 47**



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PHWLTV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B  
Dept. No.: XVI

Consolidated with A-17-760537-B

**CAESARS' MOTION FOR LEAVE TO  
FILE FIRST AMENDED COMPLAINT;  
AND EX PARTE APPLICATION FOR  
ORDER SHORTENING TIME**

**[HEARING REQUESTED]**

DEPARTMENT XVI  
NOTICE OF HEARING  
DATE 1/8/20 TIME 9:00 AM  
APPROVED BY CG

1 Plaintiffs Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating  
2 Company, LLC ("Paris"), PHWLV, LLC ("Planet Hollywood") and Boardwalk Regency  
3 Corporation d/b/a Caesars Atlantic City ("CAC") (collectively, "Plaintiffs" or "Caesars") are  
4 taken aback by the scope of Rowen Seibel's ("Seibel") misconduct that they have recently  
5 uncovered. As this Court knows, Caesars initiated this action against Seibel and his related  
6 entities, TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ  
7 Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"),  
8 FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), and MOTI Partners 16, LLC  
9 ("MOTI 16")<sup>1</sup> seeking declaratory relief from this Court related to Seibel's concealment of his  
10 criminal conviction which made him an unsuitable person. That conduct alone was egregious  
11 enough in nature to require the termination of various contracts between the Seibel-Affiliated  
12 Entities and Caesars. As discovery has progressed, however, Caesars has discovered that Seibel  
13 was engaged in further criminal activity that not only renders him further unsuitable, but also  
14 raises into question his entire course of dealing with Caesars and his other business partners.

15 Specifically, in discovery, Caesars has uncovered that Seibel and his friend and purported  
16 new manager of the Seibel-Affiliated Entities, Craig Green ("Green") engaged in commercial  
17 bribery by soliciting and accepting kickbacks from Caesars' vendors and resorted to extortion  
18 when vendors were unwilling to play their game. In light of these findings, Caesars requests  
19 leave to amend its Complaint to name Craig Green as a defendant and add additional claims for  
20 civil conspiracy, breach of the implied covenant of good faith and fair dealing, unjust  
21 enrichment, intentional interference with contractual relations, and fraudulent concealment.

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28 <sup>1</sup> Collectively, TPOV, TPOV 16, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, and MOTI 16  
are the "Seibel-Affiliated Entities."

1 This Motion is based on NRCP 15(a), 16(b), and is supported by the following  
2 Memorandum of Points and Authorities, the exhibits attached hereto, including the proposed  
3 First Amended Complaint, the pleadings and papers on file in this action, and any and all oral  
4 argument allowed by this Court at the time of hearing on this matter.

5 DATED this <sup>11</sup> day of December 2019.

6 PISANELLI BICE PLLC

7 By: 

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22 *Paris Las Vegas Operating Company, LLC;*  
23 *PHWLTV, LLC; and Boardwalk Regency*  
24 *Corporation d/b/a Caesars Atlantic City*  
25  
26  
27  
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ORDER SHORTENING TIME

It appearing to the satisfaction of the Court, and good cause appearing therefor, IT IS  
HEREBY ORDERED that CAESARS' MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT shall be heard on shortened time on the 8<sup>th</sup> day of  
Jan., <sup>2020</sup>2019, at the hour of 9:00, a.m., in Department XVI of the Eighth Judicial  
District Court.

DATED this 11<sup>th</sup> day of December 2019.

  
THE HONORABLE TIMOTHY WILLIAMS  
DISTRICT COURT JUDGE

Respectfully submitted:

PISANELLI BICE PLLC

By: 

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Corporation d/b/a Caesars Atlantic City*

**DECLARATION OF M. MAGALI MERCERA IN SUPPORT OF CAESARS' MOTION  
FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; EX-PARTE APPLICATION  
FOR ORDER SHORTENING TIME**

I, M. Magali Mercera, Esq., declare as follows:

1. I am a resident of the State of Nevada and an attorney with the law firm PISANELLI BICE PLLC, counsel for Plaintiffs Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), PHWLTV, LLC ("Planet Hollywood") and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC") (collectively, "Plaintiffs" or "Caesars") in the above-captioned action.

2. I make this Declaration in support of Caesars' Motion for Leave to File First Amended Complaint; and *Ex-Parte* Application for Order Shortening Time (the "Motion").

3. Good cause exists for this Court to hear the Motion on shortened time.

4. As explained in detail in the Motion, as discovery has progressed in this matter, Caesars has discovered that Seibel, the Seibel-Affiliated Entities, and Craig Green were secretly and wrongfully soliciting and accepting kickbacks from Caesars' vendors.

5. In particular, through the course of the depositions taken in this matter, Caesars has discovered instances where Seibel, Green, and the Seibel-Affiliated Entities improperly obtained kickbacks from at least two vendors.

6. The deadline to amend pleadings expired on February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-Trial Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.) However, at the time the deadline to amend pleadings expired, the depositions in this matter had not yet commenced and Caesars was unaware of Seibel's, Green's, and the Seibel-Affiliated Entities' actions which give rise to additional claims.

7. Since discovery of this issue, however, the parties have engaged in discovery about the underlying facts of the kickback scheme. Indeed, to date, Caesars has served discovery requests, subpoenas, and inquired about this issue at the depositions of Craig Green, Rowen Seibel, and other witnesses.

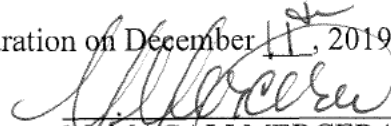
8. Caesars now moves to amend its complaint to assert additional claims against Seibel and the Seibel-Affiliated Entities and add Green as a defendant.

1           9.     Although the parties have contemplated an extension to certain discovery  
2 deadlines to accommodate remaining depositions, presently the fact discovery deadline is set to  
3 close in this matter on January 15, 2020.

4           10.    Therefore, Caesars respectfully requests that this Court hear this motion on  
5 shortened time and, in any event, on or before December 23, 2019, to allow sufficient time for  
6 the parties to respond before the close of fact discovery.

7           11.    This Motion is made in good faith and is not intended to vex or harass the  
8 opposing parties or their counsel or to unreasonably delay these proceedings.

9           I declare under penalty of perjury under the laws of the State of Nevada that the foregoing  
10 is true and correct and that I executed this declaration on December 11, 2019.



M. MAGALI MERCERA, ESQ.



## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

At the heart of this dispute is the issue of Seibel's unsuitability to do business with Caesars, a gaming licensee, as a result of his felony conviction. As if his felony convictions were not Caesars has learned that Seibel's secret behavior was more insidious than it ever knew. Specifically, Caesars has learned that Seibel and Green solicited and accepted kickbacks from Caesars vendors without Caesars' (or their other business partners') knowledge. The kickback scheme was only recently discovered through document productions and depositions and continues to unravel. Based on this recent discovery, Caesars seeks to amend its Complaint<sup>2</sup> to name Green as a defendant in this action and add claims for civil conspiracy, breach of the implied covenant of good faith and fair dealing, unjust enrichment, intentional interference with contractual relations, and fraudulent concealment.

### II. RELEVANT FACTUAL BACKGROUND

#### a. Caesars Terminates Its Relationships with Seibel and the Seibel-Affiliated Entities Based on Seibel's Unsuitability.

As this Court will recall, these consolidated disputes concern six agreements between Caesars and entities owned by, managed by, and/or affiliated with Seibel. (Compl. ¶ 1.) These agreements, which Caesars began entering into in 2009, related to the operation of Caesars restaurants (the "Seibel Agreements").<sup>3</sup> (*Id.*) Because of the highly-regulated nature of Caesars' business, each of these agreements contained representations, warranties, and conditions to ensure that Caesars was not entering into a business relationship with an individual or entity that would

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<sup>2</sup> In accordance with EDCR 2.30(a), a copy of Caesars' proposed First Amended Complaint is attached hereto as Ex. 1.

<sup>3</sup> The six Seibel Agreements are as follows: 1) Development, Operation, and License Agreement among DNT Acquisition, LLC, The Original Homestead Restaurant, Inc., and Desert Palace, Inc. ("DNT Agreement"); 2) Development and Operation Agreement between TPOV Enterprises, LLC and Paris Las Vegas Operating Company, LLC ("TPOV Agreement"); 3) Development and Operation Agreement between LLTQ Enterprises, LLC and Desert Palace, Inc. ("LLTQ Agreement"); 4) Development, Operation and License Agreement Among Gordon Ramsay, GR BURGR, LLC and PHW Manager, LLC on behalf of PHW Las Vegas, LLC DBA Planet Hollywood ("GRB Agreement"); 5) Consulting Agreement between FERG, LLC and Boardwalk Regency Corporation DBA Caesars Atlantic City ("FERG Agreement"); and 6) Development, Operation, and License Agreement (the "MOTI Agreement").

1 jeopardize its good standing with gaming regulators. (*Id.*) To ensure that Caesars was not doing  
2 business with an Unsuitable Person, Seibel was required to complete certain suitability  
3 disclosures and confirm there was nothing "that would prevent him from being licensed by a  
4 gaming authority." (*Id.*)

5 Unbeknownst to Caesars, Seibel was unsuitable from the time the parties began entering  
6 into the Seibel-Agreements. (*Id.* ¶ 2.) Seibel began using foreign bank accounts to defraud the  
7 IRS in 2004. (*Id.*) In April 2016, Seibel was charged with defrauding the IRS and pleaded guilty  
8 to a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue  
9 Laws, 26 U.S.C. § 7212, a Class E Felony. (*Id.* ¶ 3.) Seibel was subsequently served time in a  
10 federal penitentiary. (*Id.*) Seibel never informed Caesars that he was engaged in criminal  
11 activity, being investigated for it, or that he was convicted of it. (*Id.* ¶ 4.) Instead, Caesars found  
12 out that Seibel was convicted of a felony through news reports. (*Id.* ¶ 5.) Accordingly, as  
13 expressly permitted by the Seibel Agreements, Caesars terminated the agreements due to Seibel's  
14 unsuitability and failure to disclose. (*Id.*)

15 b. **Seibel and the Seibel-Affiliated Entities Engage in Bad Faith Discovery and**  
16 **Attempt to Avoid Facing a Nevada Court.**

17 Caesars filed its Complaint on August 25, 2017. (Compl., Aug. 25, 2017, on file.) In an  
18 effort to avoid facing a Nevada court on an issue of supreme importance to Nevada – namely, a  
19 gaming licensee's obligation to self-police and avoid doing business with unsuitable individuals  
20 – Defendants LLTQ, FERG, and MOTI unsuccessfully attempted to remove some, but not all  
21 claims to bankruptcy court. *Desert Palace, Inc. v. MOTI Partners, LLC*, Case No. 17 01237  
22 (Bankr. D. Nev.); *Desert Palace, Inc. v. LLTQ Enters., LLC*, Case No. 17 01238 (Bankr. D.  
23 Nev.) As this Court will recall, those efforts were flatly rejected by both the Nevada Bankruptcy  
24 Court and the Ninth Circuit Bankruptcy Appellate Panel. Next, Seibel and the Seibel-Affiliated  
25 Entities filed motions to dismiss or alternatively stay claims asserted against certain Defendants,  
26 which this Court denied in their entirety and entered extensive findings. (*See* Order, June 1,  
27 2018, on file.) Undeterred, Seibel and the Seibel-Affiliated Entities sought relief from the  
28 Nevada Supreme Court. These efforts were similarly futile. (Ex. 2, Order Denying Petition for

1 Writ of Mandamus or Prohibition, June 7, 2019.) Even after all their attempts failed, Seibel and  
2 the Seibel-Affiliated Entities refused to file responsive pleadings until Caesars was forced to file  
3 notices of intent to take default. (*See, e.g.*, Notice of Intent to Take Default, June 25, 2018, on  
4 file.)

5 Almost a year later and after these numerous delay tactics, Seibel and certain Seibel-  
6 Affiliated Entities finally answered the Complaint in July 2018.<sup>4</sup> Thereafter, the Court held a  
7 Rule 16 conference and issued a scheduling order setting the deadline to amend pleadings or add  
8 parties on February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-  
9 Trial Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.). Although the deadline to add  
10 parties or amend pleadings expired in February, Seibel and his Affiliated Entities did not produce  
11 any documents pursuant to NRCP 16.1 until on or around April 30, 2019. (Ex. 3, Email from M.  
12 Magali Mercera to Nicole Milone, Apr. 26, 2019.) Importantly, even that production was  
13 deficient as it did not comply with the Stipulated Protocol Governing Production of  
14 Electronically Stored Information entered in this action on March 12, 2019 (the "ESI Protocol")  
15 and, instead of producing a meaningful production of documents, Seibel and the Seibel-  
16 Affiliated Entities produced only a sampling of pleadings and/or discovery served in the  
17 bankruptcy action. (Ex. 4, Email from M. Magali Mercera to Nicole Milone, Apr. 30, 2019.)

18 Months after the deadline to amend pleadings expired and before complying with their  
19 discovery obligations, Caesars was again left waiting for Seibel and the Seibel-Affiliated Entities  
20 to participate in good faith in this litigation because their counsel withdrew from this action.  
21 (Order Granting Motions to Withdraw as Counsel of Record, May 31, 2019, on file.) It was not  
22 until July 30, 2019 – nearly two full years after the action was commenced – that Seibel and the  
23 Seibel-Affiliated Entities served a meaningful production of documents.<sup>5</sup> (Ex. 5, Email from  
24 Steve Bennett, Esq. to Counsel, July 30, 2019.)

25  
26  
27 <sup>4</sup> J. Jeffrey Frederick was a defendant in this action and answered the Complaint on  
September 29, 2017. Mr. Frederick has since been dismissed from this action.

28 <sup>5</sup> This production is appropriately characterized as a document dump with thousands of  
documents produced without an index.

1 Once the Seibel and the Seibel-Affiliated Entities produced documents, the parties began  
2 scheduling and taking depositions. In the course of these depositions, Caesars uncovered Seibel's  
3 previously concealed nefarious conduct: kickbacks, commercial bribery, and extortion.

4 **c. Caesars Discovers That Seibel, Green, and the Seibel-Affiliated Entities Were**  
5 **Engaged in a Kickback Scheme.**

6 In preparing for the depositions for the Green, Seibel, and certain Seibel-Affiliated  
7 Entities, Caesars discovered emails that appeared to indicate that Seibel and Green were engaged  
8 in a scheme to solicit kickbacks from Caesars. (Ex. 6, Email from Craig Green to Rowen Seibel,  
9 Nov. 9, 2012.) Initially, under questioning, Green feigned ignorance of the kickback scheme:

10 Q. Do you have any reason to believe you did not send this email?

11 A. No.

12 Q. I want you to go down to about two-thirds of the way down. It  
13 says [REDACTED] Do you see that?

14 A. I do.

15 Q. What is that referring to?

16 A. I don't remember. It looks like a percentage fee to RS, Rowen  
17 Seibel.

18 Q. It says below that, [REDACTED] which, I assume, is Rowen  
19 Seibel, as well?

20 A. I believe so, yes.

21 Q. Per LaFrieda, [REDACTED]. Do you see that?

22 A. Where is that? I don't see -- oh, [REDACTED], okay. Yes.

23 Q. Okay. Why was LaFrieda -- why did LaFrieda owe Rowen Seibel  
24 this amount, which appears to be coming from GR Steak?

25 A. I don't know. I don't know. You'll have to ask Mr. Seibel.

26 (Ex. 7, TPOV 16 Dep. Tr., Sept. 6, 2019, at 187:12-188:9.) However, Seibel brazenly admitted to  
27 the kickback scheme, claiming it was "marketing":

28 Q. My question is to you. Explain it to us. How is a vendor of meat  
to restaurants and projects you have with Gordon Ramsay and  
Caesars paying you personally so much money?

...

- 1 A. If that was the deal we made, they have a responsibility to pay it.
- 2 Q. Okay. You made secret deals with vendors to pay you a
- 3 percentage of what your companies with Caesars was paying
- 4 them?
- 5 ...
- 6 Q. Rather than give a discount on the cost of the goods that would
- 7 benefit the restaurant, you had them pay a higher price and pay the
- 8 kickback to you. That was the arrangement, correct?
- 9 ...
- 10 A. I don't think so.
- 11 Q. All right. Tell me where I went wrong in that statement. What's
- 12 not true about that?
- 13 A. I don't know if they would have received a discount. They were
- 14 very happy with the pricing. They wanted LaFrieda. We
- 15 coordinated the entire effort to get the meat across country. They
- 16 wanted the branding. It worked well for everybody, and Caesars
- 17 was all for it. And I'm almost sure -- I'm sure that they knew that
- 18 we were representing them in marketing and getting paid for it.

(Ex. 8, Rowen Seibel Dep. Tr., Sept. 24, 2019, at 240:16-241:24.)<sup>6</sup> Seibel's description crumbled under further scrutiny as email communications from Green showed that Seibel would pressure vendors to provide kickbacks for product that Caesars already acquired. (Ex. 9, Email Exchange from Dan Deluca to Craig Green, June 6, 2013.)

Although he claimed ignorance, in fact, Green developed a "script" that he would use to get Caesars' vendors to agree to pay a kickback to Seibel. (Ex. 10, Email from Craig Green to J. Jeffrey Frederick, Sept. 20, 2014.) Egregiously, Green encouraged threats against vendors who did not want to pay any kickbacks:

<sup>6</sup> The law presumes that Caesars was in fact harmed by Seibel's receipt of kickbacks. *Morse Diesel Int'l, Inc. v. United States*, 66 Fed. Cl. 788, 800 (2005) ("Congress built on the Acme Process *malum prohibitum* characterization of economic harm caused by kickbacks, by utilizing specific language in the Anti-Kickback Act to create a presumption that any kickback was included in the price of an affected federal contract or subcontract and therefore increased costs to the Government.") (citations omitted)

1 Q. Then you wrote: [REDACTED] *Do you*  
2 *remember writing that?*

3 A. Yes.

4 Q. What do you mean by that?

5 A. I guess I was saying that if they don't want to create a relationship,  
6 then perhaps it would be best to find somebody else to create a  
relationship with.

7 (Ex. 11, LLTQ Dep. Tr., Nov. 12, 2019, at 355:21-356:5; *see also* Ex. 12, Email from Craig  
8 Green to Danielle Abraham, Dec, 13, 2013.) Indeed, Green and Seibel set out to fully capitalize  
9 on the kickback scheme, as indicated by an email from Seibel to Green, asking [REDACTED]  
10 [REDACTED] (See Ex. 13, Email from Craig Green to Rowen Seibel, Mar. 25, 2015.)

11 Unsurprisingly, Seibel did not inform Caesars or any of his business partners that he was  
12 actively soliciting and obtaining kickbacks from vendors:

13 Q. Were you -- did you know that Mr. Seibel received a payment  
14 from LaFrieda based upon the percentage of gross sales to the Las  
Vegas restaurants?

15 ...

16 A: At the time, I had no idea he was doing those back-handing deals.  
17 I certainly -- it's been brought to my attention recently.

18 Q. So if Mr. Seibel testified he spoke to you about these kickbacks or  
payments, that would not be true; is that correct?

19 A. I am in my eighth year now working with Caesars. I've never  
20 gambled once, and I have never ever received or been party to that  
back-handing situation.

21 Q. You anticipated my next question. You never shared in any  
22 kickback or fees that Mr. Seibel may have received?

23 A. Nothing of the sort, madam.

24 Q. Did you ever agree that Rowen could create something called a  
25 preferred vendor list where he would receive, either personally or  
through his entities, a percentage of gross sales?

26 A. No, not in the slightest.

27 (Ex. 14, Ramsay Dep. Tr., Sept. 30, 2019, at 231:6- 232:7; *see also* Ex. 15, Marc Sherry Dep.  
28 Tr., Oct. 29, 2019, at 42:15-21 "Q. Were you aware in 2012 that Mr. Seibel was receiving

1 amounts for products sold by Pat LaFrieda to Old Homestead? A. "No.") Indeed, just like  
2 Caesars, Seibel's other business partners were shocked that Seibel was engaging in this illegal  
3 activity:

4 Q. Did you become aware, prior to this litigation, that Mr. Rowen --  
5 that Mr. Seibel, excuse me, was receiving a percentage from a  
6 meat vendor --

7 A. No.

8 Q. -- to Old Homestead Las Vegas?

9 A. No. I did not.

10 Q. Is that something you would have authorized?

11 A. I would have turned him in for this.

12 Q. What do you mean, "turned him in"?

13 A. This is illegal. This is graft.

14 Q. This is what?

15 A. Graph. It's a kickback. Which inflated the prices of the meat,  
16 which cost me money and Caesars Palace money.

17 Q. Why do you say that it cost you and Caesars Palace money?

18 A. Because the only way a guy is going to give somebody 5 percent is  
19 he raises the prices on you.

20 Q. Is this a practice you engage in in any of your restaurants?

21 A. No, not at all. It's illegal

22 (Ex. 16, Greg Sherry Dep. Tr., Oct. 30, 2019, at 81:6-82:3.)

### 23 III. DISCUSSION

#### 24 A. Standard for Allowing Amendment of Pleadings.

25 A motion for leave to amend "is addressed to the sound discretion of the trial court."  
26 *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000). Where parties seek leave to amend  
27 a pleading after the deadline to amend has expired, "such motions implicate NRCP 16(b) in  
28 addition to NRCP 15(a) . . . ." and the two provisions must be balanced against each other.  
*Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 970-71 (Nev. App. 2015).  
NRCP 16(b)'s purpose "is to offer a measure of certainty in pretrial proceedings" and limits

1 amendment to a showing of good cause. *Id.*, 357 P.3d at 971. Under NRCP 15(a)(2)'s liberal leave  
2 standard, "[t]he court should freely give leave when justice so requires."

3 Here, the standards are not at odds; good cause and justice direct that leave to amend be  
4 granted. None of the established reasons to deny leave are at issue. No "undue delay, bad faith or  
5 dilatory motives on the part of [Caesars]," exist. *See Kantor*, 116 Nev. at 891, 8 P.3d at 828  
6 ("Sufficient reasons to deny a motion to amend a pleading include undue delay, bad faith or  
7 dilatory motives on the part of the movant."); *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 23, 62  
8 P.3d 720, 735 (2003) (concluding that failure to allow leave to amend was inappropriate where  
9 factual allegations supported the proposed claims and there was an absence of undue delay, bad  
10 faith, or dilatory motive).

11 **B. Good Cause Exists to Allow Caesars Leave to Amend its Complaint.**

12 Caesars seeks to file a First Amended Complaint because facts uncovered in discovery –  
13 after the deadline to amend expired – demonstrate that new claims exist against, Seibel, the Seibel  
14 Defendants and Green. *See Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 292, 357 P.3d 966, 975  
15 (Nev. App. 2015) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962) ("If the underlying facts or  
16 circumstances relied upon by a party may be the proper subject of relief, he ought to be afforded  
17 an opportunity to test his claim on the merits.")).

18 As discussed above, the kickback scheme involved multiple Seibel and Green soliciting  
19 and obtaining kickbacks from vendors servicing Caesars' restaurants under contract with  
20 Defendants. During discovery, Caesars learned that Green and Seibel conspired to receive a  
21 negotiated amount based on the total amount of goods sold to Caesars without Caesars' (or any of  
22 their other business partners') knowledge. [REDACTED]

23 [REDACTED]  
24 [REDACTED] at the direction and for the benefit of  
25 Seibel and Green. Caesars has not delayed in bringing these claims because it brought them soon  
26 after the factual bases for them were discovered. After Defendants produced documents and  
27 depositions commenced, Caesars began investigating the recently uncovered facts and promptly  
28 brought this Motion to Amend its Complaint.



1           **C. Leave to Amend Should be Granted Because Justice Requires it.**

2           Justice requires leave to amend in the most literal sense: Caesars discovered that Green,  
3           Seibel, and the Seibel-Affiliated Entities were engaged in commercial bribery and extortion and  
4           Caesars was the target. Pursuant to NRS 207.295:

5                     Any person who, with corrupt intent:

6                     1. Offers, confers or agrees to confer any benefit upon any  
7                     employee, agent or fiduciary without the consent of the employer  
8                     or principal of that employee, agent or fiduciary in order to  
                      influence adversely that person's conduct in relation to the  
                      commercial affairs of his or her employer or principal; or

9                     2. While an employee, agent or fiduciary, solicits, accepts or  
10                    agrees to accept any benefit from another person upon an  
11                    agreement or understanding that the benefit will influence  
                      adversely his or her conduct in relation to the commercial affairs of  
                      his or her employer or principal,

12                    commits commercial bribery and is guilty of a misdemeanor.

13           Green, Seibel, and Defendants used their positions as parties contracting with Caesars for  
14           their own gain while harming Caesars and without disclosing it to Caesars. Caesars has a right to  
15           be made whole as a result of the economic loss caused by Green and Seibel, and justice requires  
16           that the Seibel Parties be held accountable.

17           **D. Defendants Will Not Be Prejudiced Because Granting Leave to Amend Does Not**  
18           **Require the Court to Change Its Scheduling Order.**

19           The Seibel Parties will not be prejudiced by the proposed amendment. Caesars does not  
20           dispute that the deadline to amend pleadings passed on February 4, 2019. (Business Court  
21           Scheduling Order Setting Civil Jury Trial & Pre-Trial Conference Calendar Call, Oct. 31, 2018,  
22           on file, at 2:3.) However, at the time the deadline to amend pleadings expired, the depositions in  
23           this matter had not yet commenced and Caesars was unaware of Seibel's, Green's, and the Seibel-  
24           Affiliated Entities' actions giving rise to additional claims. Since discovery of this issue,  
25           however, the parties have engaged in discovery about the underlying facts of the kickback  
26           scheme. Indeed, to date, Caesars has served discovery requests, subpoenas, and inquired at the  
27           depositions of both Craig Green, Rowen Seibel, and other witnesses. Fact discovery has not yet  
28

1 closed, and the parties have already engaged in and continue to engage in discovery concerning  
2 the kickback scheme. Accordingly, there is no prejudice.

3 **IV. CONCLUSION**

4 Caesars' motion for leave to add Green as a defendant and to bring additional claims is  
5 brought in good faith, as it has only recently become clear that Green and Seibel were engaged in  
6 a kickback scheme at an economic loss to Caesars. Accordingly, Caesars respectfully requests  
7 that this Court grant leave to amend Caesars' Complaint to add claims for civil conspiracy, breach  
8 of the implied covenant of good faith and fair dealing, unjust enrichment, intentional interference  
9 with contractual relations, and fraudulent concealment as set forth in the Proposed First Amended  
10 Complaint, attached hereto as Ex. 1.

11 DATED this 11<sup>th</sup> day of December 2019.

12 PISANELLI BICE PLLC

13 By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12 day of December 2019, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME** to the following:

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**VIA U.S. MAIL (redacted version only)**

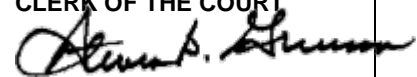
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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWL, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B  
Dept. No.: XVI

Consolidated with A-17-760537-B

**HEARING NOT REQUESTED**

**MOTION TO REDACT PORTIONS OF  
CAESARS' MOTION FOR LEAVE TO  
FILE FIRST AMENDED COMPLAINT;  
AND *EX PARTE* APPLICATION FOR  
ORDER SHORTENING TIME, AND  
SEAL EXHIBITS 1, 6, 7, 9, 10, 11, 12, 13, 15  
AND 16 THERETO**

PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") by and through their attorneys of record, PISANELLI BICE PLLC, hereby move this Court for an order redacting Caesars' Motion for Leave to File First Amended Complaint; and *Ex Parte* Application for Order Shortening Time, filed concurrently herewith, (the "Motion to Amend") and sealing Exhibits 1, 6, 7, 9, 10, 11, 12, 13, 15 and 16 thereto. Portions of the Motion to Amend and Exhibits 1, 6, 7, 9, 10, 11, 12, 13, 15 and 16 include confidential, non-public information designated Confidential and/or Highly Confidential under the Order regarding the Stipulated Confidentiality Agreement and Protective Order ("Protective Order"), entered on March 12, 2019. To protect the confidentiality of the parties' sensitive, non-public information, Caesars seeks an order from the Court permitting the redaction of portions of the Motion to Amend, and permitting the filing of exhibits 1, 6, 7, 9, 10, 11, 12, 13, 15 and 16 under seal. A proposed version of the redacted Motion to Amend is attached hereto as Exhibit 1.

///

1 This Motion is made and based on Rule 3(1) of the Nevada Supreme Court's Rules  
2 Governing Sealing and Redacting Court Records, the attached Memorandum of Points and  
3 Authorities, the pleadings and papers on file herein, and any argument this Honorable Court allows  
4 at any hearing of this manner.

5 DATED this 12th day of December 2019.

6 PISANELLI BICE PLLC

7  
8 By: /s/ M. Magali Mercera

9 James J. Pisanelli, Esq., Bar No. 4027

10 Debra L. Spinelli, Esq., Bar No. 9695

11 M. Magali Mercera, Esq., Bar No. 11742

12 Brittanie T. Watkins, Esq., Bar No. 13612

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19 300 North LaSalle

20 Chicago, Illinois 60654

21 *Attorneys for Desert Palace, Inc.;*

22 *Paris Las Vegas Operating Company, LLC;*

23 *PHWLTV, LLC; and Boardwalk Regency*

24 *Corporation d/b/a Caesars Atlantic City*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL STANDARD**

The Nevada Supreme Court enacted specific rules governing the sealing and redacting of court records. Pursuant to Rule 3(1) of the Nevada Supreme Court's Rules Governing Sealing and Redacting of Records ("SRCR"), "[a]ny person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion . . . ." The Court may order the records redacted or sealed provided that "the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interest that outweigh the public interest in access to the court record," which includes findings that "[t]hat sealing or redaction furthers . . . a protective order entered under NRCP 26(c) . . . ." SCRC 3(4).

Section 14 of the Protective Order provides that "[a]ny Party seeking to file or disclose materials designated as Confidential Information or Highly Confidential Information with the Court in this action . . . must seek to file such Confidential or Highly Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and Redacting Court records . . . ." Section 5 defines the following information as Confidential: "all information and information that constitutes, reflects, or discloses nonpublic information, trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential business, marketing, regulatory, or strategic information (regarding business plans or strategies, technical data, and nonpublic designs), the disclosure of which the Producing Party believes in good faith might reasonably result in economic or competitive, or business injury to the Producing Party (or its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from an inspection of publicly available sources, documents, material, or devices."

**II. ANALYSIS**

Here, Caesars requests leave of this Court to redact portions of the Motion to Amend and seal exhibits 1, 6, 7, 9, 10, 11, 12, 13, 15 and 16 thereto as they include confidential, non-public information designated Confidential and/or Highly Confidential under the Protective Order. In particular, Exhibit 1 is Caesars' proposed First Amended Complaint, which discloses information



1 designated as Confidential or Highly Confidential by Caesars pursuant to the Protective Order.  
2 Exhibits 6, 9, 10, 12, and 13 are documents designated Confidential by the Seibel Parties.

3 Exhibits 7, 15, and 16 are excerpts from depositions taken on September 6, 2019, October  
4 29, 2019, and October 30, 2019. Although the deposition excerpts cited by Caesars have not been  
5 designated as Confidential and/or Highly Confidential under the terms of the Protective Order, the  
6 testimony quotes language from documents that have been designated Confidential or Highly  
7 Confidential under the Protective Order. Accordingly, out of an abundance of caution, Caesars  
8 respectfully requests that they be sealed. Exhibit 11 consists of transcript excerpts of a deposition  
9 taken on November 12, 2019 which remains Highly Confidential pursuant to Section 11 of the  
10 Protective Order, providing that "deposition transcripts are considered Highly Confidential  
11 information for 30 days following receipt of the transcript to allow the parties time to make specific  
12 page and line designations for Confidential Information."

13 Based on the foregoing and good cause showing, Caesars respectfully requests that this  
14 Court allow it to redact its Motion to Amend and file Exhibits 1, 6, 7, 9, 10, 11, 12, 13, 15 and 16  
15 thereto under seal. Caesars further requests that that such information remain sealed until further  
16 order of the Court.

17 DATED this 12th day of December 2019.

18 PISANELLI BICE PLLC

19 By: /s/ M. Magali Mercera

20 James J. Pisanelli, Esq., Bar No. 4027

21 Debra L. Spinelli, Esq., Bar No. 9695

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27 *Paris Las Vegas Operating Company, LLC;*

*PHWLTV, LLC; and Boardwalk Regency*

28 *Corporation d/b/a Caesars Atlantic City*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12th day of December 2019, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **MOTION TO REDACT PORTIONS OF CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; AND *EX PARTE* APPLICATION FOR ORDER SHORTENING TIME, AND SEAL EXHIBITS 1, 6, 7, 9, 10, 11, 12, 13, 15 AND 16 THERETO** to the following:

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LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,  
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,  
FERG, LLC, and FERG 16, LLC*

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**VIA U.S. MAIL (pleading only)**  
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*Trustee for GR Burgr LLC*

/s/ Cinda Towne  
An employee of PISANELLI BICE PLLC

# EXHIBIT 1

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Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

Case No.: A-17-751759-B  
Dept. No.: XVI

Consolidated with A-17-760537-B

**CAESARS' MOTION FOR LEAVE TO  
FILE FIRST AMENDED COMPLAINT;  
AND EX PARTE APPLICATION FOR  
ORDER SHORTENING TIME**

**[HEARING REQUESTED]**

DEPARTMENT XVI  
NOTICE OF HEARING  
DATE 1/8/20 TIME 9:00 AM  
APPROVED BY CG

AND ALL RELATED MATTERS

1 Plaintiffs Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating  
2 Company, LLC ("Paris"), PHWLV, LLC ("Planet Hollywood") and Boardwalk Regency  
3 Corporation d/b/a Caesars Atlantic City ("CAC") (collectively, "Plaintiffs" or "Caesars") are  
4 taken aback by the scope of Rowen Seibel's ("Seibel") misconduct that they have recently  
5 uncovered. As this Court knows, Caesars initiated this action against Seibel and his related  
6 entities, TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ  
7 Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"),  
8 FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), and MOTI Partners 16, LLC  
9 ("MOTI 16")<sup>1</sup> seeking declaratory relief from this Court related to Seibel's concealment of his  
10 criminal conviction which made him an unsuitable person. That conduct alone was egregious  
11 enough in nature to require the termination of various contracts between the Seibel-Affiliated  
12 Entities and Caesars. As discovery has progressed, however, Caesars has discovered that Seibel  
13 was engaged in further criminal activity that not only renders him further unsuitable, but also  
14 raises into question his entire course of dealing with Caesars and his other business partners.

15 Specifically, in discovery, Caesars has uncovered that Seibel and his friend and purported  
16 new manager of the Seibel-Affiliated Entities, Craig Green ("Green") engaged in commercial  
17 bribery by soliciting and accepting kickbacks from Caesars' vendors and resorted to extortion  
18 when vendors were unwilling to play their game. In light of these findings, Caesars requests  
19 leave to amend its Complaint to name Craig Green as a defendant and add additional claims for  
20 civil conspiracy, breach of the implied covenant of good faith and fair dealing, unjust  
21 enrichment, intentional interference with contractual relations, and fraudulent concealment.

22 ///

23  
24  
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27  
28 <sup>1</sup> Collectively, TPOV, TPOV 16, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, and MOTI 16  
are the "Seibel-Affiliated Entities."

1 This Motion is based on NRCP 15(a), 16(b), and is supported by the following  
2 Memorandum of Points and Authorities, the exhibits attached hereto, including the proposed  
3 First Amended Complaint, the pleadings and papers on file in this action, and any and all oral  
4 argument allowed by this Court at the time of hearing on this matter.

5 DATED this 11<sup>th</sup> day of December 2019.

6 PISANELLI BICE PLLC

7  
8 By: 

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Debra L. Spinelli, Esq., #9695  
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16 *Paris Las Vegas Operating Company, LLC;*  
17 *PHWLTV, LLC; and Boardwalk Regency*  
18 *Corporation d/b/a Caesars Atlantic City*  
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**ORDER SHORTENING TIME**

It appearing to the satisfaction of the Court, and good cause appearing therefor, IT IS  
HEREBY ORDERED that CAESARS' MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT shall be heard on shortened time on the 8<sup>th</sup> day of  
Jan., <sup>2020</sup>2019, at the hour of 9:00, a.m., in Department XVI of the Eighth Judicial  
District Court.

DATED this 11<sup>th</sup> day of December 2019.

  
THE HONORABLE TIMOTHY WILLIAMS  
DISTRICT COURT JUDGE

Respectfully submitted:

PISANELLI BICE PLLC

By: 

James J. Pisanelli, Esq., #4027  
Debra L. Spinelli, Esq., #9695  
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*Attorneys for Desert Palace, Inc.;  
Paris Las Vegas Operating Company, LLC;  
PHWL, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**DECLARATION OF M. MAGALI MERCERA IN SUPPORT OF CAESARS' MOTION  
FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; EX-PARTE APPLICATION  
FOR ORDER SHORTENING TIME**

I, M. Magali Mercera, Esq., declare as follows:

1. I am a resident of the State of Nevada and an attorney with the law firm PISANELLI BICE PLLC, counsel for Plaintiffs Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), PHWLTV, LLC ("Planet Hollywood") and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC") (collectively, "Plaintiffs" or "Caesars") in the above-captioned action.

2. I make this Declaration in support of Caesars' Motion for Leave to File First Amended Complaint; and *Ex-Parte* Application for Order Shortening Time (the "Motion").

3. Good cause exists for this Court to hear the Motion on shortened time.

4. As explained in detail in the Motion, as discovery has progressed in this matter, Caesars has discovered that Seibel, the Seibel-Affiliated Entities, and Craig Green were secretly and wrongfully soliciting and accepting kickbacks from Caesars' vendors.

5. In particular, through the course of the depositions taken in this matter, Caesars has discovered instances where Seibel, Green, and the Seibel-Affiliated Entities improperly obtained kickbacks from at least two vendors.

6. The deadline to amend pleadings expired on February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-Trial Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.) However, at the time the deadline to amend pleadings expired, the depositions in this matter had not yet commenced and Caesars was unaware of Seibel's, Green's, and the Seibel-Affiliated Entities' actions which give rise to additional claims.

7. Since discovery of this issue, however, the parties have engaged in discovery about the underlying facts of the kickback scheme. Indeed, to date, Caesars has served discovery requests, subpoenas, and inquired about this issue at the depositions of Craig Green, Rowen Seibel, and other witnesses.

8. Caesars now moves to amend its complaint to assert additional claims against Seibel and the Seibel-Affiliated Entities and add Green as a defendant.

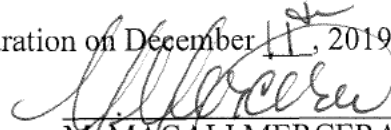


1           9.     Although the parties have contemplated an extension to certain discovery  
2 deadlines to accommodate remaining depositions, presently the fact discovery deadline is set to  
3 close in this matter on January 15, 2020.

4           10.    Therefore, Caesars respectfully requests that this Court hear this motion on  
5 shortened time and, in any event, on or before December 23, 2019, to allow sufficient time for  
6 the parties to respond before the close of fact discovery.

7           11.    This Motion is made in good faith and is not intended to vex or harass the  
8 opposing parties or their counsel or to unreasonably delay these proceedings.

9           I declare under penalty of perjury under the laws of the State of Nevada that the foregoing  
10 is true and correct and that I executed this declaration on December 11, 2019.

11   
12 \_\_\_\_\_  
13 M. MAGALI MERCERA, ESQ.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

At the heart of this dispute is the issue of Seibel's unsuitability to do business with Caesars, a gaming licensee, as a result of his felony conviction. As if his felony convictions were not Caesars has learned that Seibel's secret behavior was more insidious than it ever knew. Specifically, Caesars has learned that Seibel and Green solicited and accepted kickbacks from Caesars vendors without Caesars' (or their other business partners') knowledge. The kickback scheme was only recently discovered through document productions and depositions and continues to unravel. Based on this recent discovery, Caesars seeks to amend its Complaint<sup>2</sup> to name Green as a defendant in this action and add claims for civil conspiracy, breach of the implied covenant of good faith and fair dealing, unjust enrichment, intentional interference with contractual relations, and fraudulent concealment.

### II. RELEVANT FACTUAL BACKGROUND

#### a. Caesars Terminates Its Relationships with Seibel and the Seibel-Affiliated Entities Based on Seibel's Unsuitability.

As this Court will recall, these consolidated disputes concern six agreements between Caesars and entities owned by, managed by, and/or affiliated with Seibel. (Compl. ¶ 1.) These agreements, which Caesars began entering into in 2009, related to the operation of Caesars restaurants (the "Seibel Agreements").<sup>3</sup> (*Id.*) Because of the highly-regulated nature of Caesars' business, each of these agreements contained representations, warranties, and conditions to ensure that Caesars was not entering into a business relationship with an individual or entity that would

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<sup>2</sup> In accordance with EDCR 2.30(a), a copy of Caesars' proposed First Amended Complaint is attached hereto as Ex. 1.

<sup>3</sup> The six Seibel Agreements are as follows: 1) Development, Operation, and License Agreement among DNT Acquisition, LLC, The Original Homestead Restaurant, Inc., and Desert Palace, Inc. ("DNT Agreement"); 2) Development and Operation Agreement between TPOV Enterprises, LLC and Paris Las Vegas Operating Company, LLC ("TPOV Agreement"); 3) Development and Operation Agreement between LLTQ Enterprises, LLC and Desert Palace, Inc. ("LLTQ Agreement"); 4) Development, Operation and License Agreement Among Gordon Ramsay, GR BURGR, LLC and PHW Manager, LLC on behalf of PHW Las Vegas, LLC DBA Planet Hollywood ("GRB Agreement"); 5) Consulting Agreement between FERG, LLC and Boardwalk Regency Corporation DBA Caesars Atlantic City ("FERG Agreement"); and 6) Development, Operation, and License Agreement (the "MOTI Agreement").

1 jeopardize its good standing with gaming regulators. (*Id.*) To ensure that Caesars was not doing  
2 business with an Unsuitable Person, Seibel was required to complete certain suitability  
3 disclosures and confirm there was nothing "that would prevent him from being licensed by a  
4 gaming authority." (*Id.*)

5 Unbeknownst to Caesars, Seibel was unsuitable from the time the parties began entering  
6 into the Seibel-Agreements. (*Id.* ¶ 2.) Seibel began using foreign bank accounts to defraud the  
7 IRS in 2004. (*Id.*) In April 2016, Seibel was charged with defrauding the IRS and pleaded guilty  
8 to a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue  
9 Laws, 26 U.S.C. § 7212, a Class E Felony. (*Id.* ¶ 3.) Seibel was subsequently served time in a  
10 federal penitentiary. (*Id.*) Seibel never informed Caesars that he was engaged in criminal  
11 activity, being investigated for it, or that he was convicted of it. (*Id.* ¶ 4.) Instead, Caesars found  
12 out that Seibel was convicted of a felony through news reports. (*Id.* ¶ 5.) Accordingly, as  
13 expressly permitted by the Seibel Agreements, Caesars terminated the agreements due to Seibel's  
14 unsuitability and failure to disclose. (*Id.*)

15 b. **Seibel and the Seibel-Affiliated Entities Engage in Bad Faith Discovery and**  
16 **Attempt to Avoid Facing a Nevada Court.**

17 Caesars filed its Complaint on August 25, 2017. (Compl., Aug. 25, 2017, on file.) In an  
18 effort to avoid facing a Nevada court on an issue of supreme importance to Nevada – namely, a  
19 gaming licensee's obligation to self-police and avoid doing business with unsuitable individuals  
20 – Defendants LLTQ, FERG, and MOTI unsuccessfully attempted to remove some, but not all  
21 claims to bankruptcy court. *Desert Palace, Inc. v. MOTI Partners, LLC*, Case No. 17 01237  
22 (Bankr. D. Nev.); *Desert Palace, Inc. v. LLTQ Enters., LLC*, Case No. 17 01238 (Bankr. D.  
23 Nev.) As this Court will recall, those efforts were flatly rejected by both the Nevada Bankruptcy  
24 Court and the Ninth Circuit Bankruptcy Appellate Panel. Next, Seibel and the Seibel-Affiliated  
25 Entities filed motions to dismiss or alternatively stay claims asserted against certain Defendants,  
26 which this Court denied in their entirety and entered extensive findings. (*See* Order, June 1,  
27 2018, on file.) Undeterred, Seibel and the Seibel-Affiliated Entities sought relief from the  
28 Nevada Supreme Court. These efforts were similarly futile. (Ex. 2, Order Denying Petition for

1 Writ of Mandamus or Prohibition, June 7, 2019.) Even after all their attempts failed, Seibel and  
2 the Seibel-Affiliated Entities refused to file responsive pleadings until Caesars was forced to file  
3 notices of intent to take default. (*See, e.g.*, Notice of Intent to Take Default, June 25, 2018, on  
4 file.)

5 Almost a year later and after these numerous delay tactics, Seibel and certain Seibel-  
6 Affiliated Entities finally answered the Complaint in July 2018.<sup>4</sup> Thereafter, the Court held a  
7 Rule 16 conference and issued a scheduling order setting the deadline to amend pleadings or add  
8 parties on February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-  
9 Trial Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.). Although the deadline to add  
10 parties or amend pleadings expired in February, Seibel and his Affiliated Entities did not produce  
11 any documents pursuant to NRCP 16.1 until on or around April 30, 2019. (Ex. 3, Email from M.  
12 Magali Mercera to Nicole Milone, Apr. 26, 2019.) Importantly, even that production was  
13 deficient as it did not comply with the Stipulated Protocol Governing Production of  
14 Electronically Stored Information entered in this action on March 12, 2019 (the "ESI Protocol")  
15 and, instead of producing a meaningful production of documents, Seibel and the Seibel-  
16 Affiliated Entities produced only a sampling of pleadings and/or discovery served in the  
17 bankruptcy action. (Ex. 4, Email from M. Magali Mercera to Nicole Milone, Apr. 30, 2019.)

18 Months after the deadline to amend pleadings expired and before complying with their  
19 discovery obligations, Caesars was again left waiting for Seibel and the Seibel-Affiliated Entities  
20 to participate in good faith in this litigation because their counsel withdrew from this action.  
21 (Order Granting Motions to Withdraw as Counsel of Record, May 31, 2019, on file.) It was not  
22 until July 30, 2019 – nearly two full years after the action was commenced – that Seibel and the  
23 Seibel-Affiliated Entities served a meaningful production of documents.<sup>5</sup> (Ex. 5, Email from  
24 Steve Bennett, Esq. to Counsel, July 30, 2019.)

25  
26  
27 <sup>4</sup> J. Jeffrey Frederick was a defendant in this action and answered the Complaint on  
September 29, 2017. Mr. Frederick has since been dismissed from this action.

28 <sup>5</sup> This production is appropriately characterized as a document dump with thousands of  
documents produced without an index.

1 Once the Seibel and the Seibel-Affiliated Entities produced documents, the parties began  
2 scheduling and taking depositions. In the course of these depositions, Caesars uncovered Seibel's  
3 previously concealed nefarious conduct: kickbacks, commercial bribery, and extortion.

4 **c. Caesars Discovers That Seibel, Green, and the Seibel-Affiliated Entities Were**  
5 **Engaged in a Kickback Scheme.**

6 In preparing for the depositions for the Green, Seibel, and certain Seibel-Affiliated  
7 Entities, Caesars discovered emails that appeared to indicate that Seibel and Green were engaged  
8 in a scheme to solicit kickbacks from Caesars. (Ex. 6, Email from Craig Green to Rowen Seibel,  
9 Nov. 9, 2012.) Initially, under questioning, Green feigned ignorance of the kickback scheme:

10 Q. Do you have any reason to believe you did not send this email?

11 A. No.

12 Q. I want you to go down to about two-thirds of the way down. It  
13 says [REDACTED] Do you see that?

14 A. I do.

15 Q. What is that referring to?

16 A. I don't remember. It looks like a percentage fee to RS, Rowen  
17 Seibel.

18 Q. It says below that, [REDACTED] which, I assume, is Rowen  
19 Seibel, as well?

20 A. I believe so, yes.

21 Q. Per LaFrieda, [REDACTED]. Do you see that?

22 A. Where is that? I don't see -- oh, [REDACTED], okay. Yes.

23 Q. Okay. Why was LaFrieda -- why did LaFrieda owe Rowen Seibel  
24 this amount, which appears to be coming from GR Steak?

25 A. I don't know. I don't know. You'll have to ask Mr. Seibel.

26 (Ex. 7, TPOV 16 Dep. Tr., Sept. 6, 2019, at 187:12-188:9.) However, Seibel brazenly admitted to  
27 the kickback scheme, claiming it was "marketing":

28 Q. My question is to you. Explain it to us. How is a vendor of meat  
to restaurants and projects you have with Gordon Ramsay and  
Caesars paying you personally so much money?

...

- 1 A. If that was the deal we made, they have a responsibility to pay it.
- 2 Q. Okay. You made secret deals with vendors to pay you a
- 3 percentage of what your companies with Caesars was paying
- 4 them?
- 5 ...
- 6 Q. Rather than give a discount on the cost of the goods that would
- 7 benefit the restaurant, you had them pay a higher price and pay the
- 8 kickback to you. That was the arrangement, correct?
- 9 ...
- 10 A. I don't think so.
- 11 Q. All right. Tell me where I went wrong in that statement. What's
- 12 not true about that?
- 13 A. I don't know if they would have received a discount. They were
- 14 very happy with the pricing. They wanted LaFrieda. We
- 15 coordinated the entire effort to get the meat across country. They
- 16 wanted the branding. It worked well for everybody, and Caesars
- 17 was all for it. And I'm almost sure -- I'm sure that they knew that
- 18 we were representing them in marketing and getting paid for it.

(Ex. 8, Rowen Seibel Dep. Tr., Sept. 24, 2019, at 240:16-241:24.)<sup>6</sup> Seibel's description crumbled under further scrutiny as email communications from Green showed that Seibel would pressure vendors to provide kickbacks for product that Caesars already acquired. (Ex. 9, Email Exchange from Dan Deluca to Craig Green, June 6, 2013.)

Although he claimed ignorance, in fact, Green developed a "script" that he would use to get Caesars' vendors to agree to pay a kickback to Seibel. (Ex. 10, Email from Craig Green to J. Jeffrey Frederick, Sept. 20, 2014.) Egregiously, Green encouraged threats against vendors who did not want to pay any kickbacks:

<sup>6</sup> The law presumes that Caesars was in fact harmed by Seibel's receipt of kickbacks. *Morse Diesel Int'l, Inc. v. United States*, 66 Fed. Cl. 788, 800 (2005) ("Congress built on the Acme Process *malum prohibitum* characterization of economic harm caused by kickbacks, by utilizing specific language in the Anti-Kickback Act to create a presumption that any kickback was included in the price of an affected federal contract or subcontract and therefore increased costs to the Government.") (citations omitted)

1 Q. Then you wrote: [REDACTED] *Do you*  
2 *remember writing that?*

3 A. Yes.

4 Q. What do you mean by that?

5 A. I guess I was saying that if they don't want to create a relationship,  
6 then perhaps it would be best to find somebody else to create a  
relationship with.

7 (Ex. 11, LLTQ Dep. Tr., Nov. 12, 2019, at 355:21-356:5; *see also* Ex. 12, Email from Craig  
8 Green to Danielle Abraham, Dec, 13, 2013.) Indeed, Green and Seibel set out to fully capitalize  
9 on the kickback scheme, as indicated by an email from Seibel to Green, asking [REDACTED]

10 [REDACTED] (*See* Ex. 13, Email from Craig Green to Rowen Seibel, Mar. 25, 2015.)

11 Unsurprisingly, Seibel did not inform Caesars or any of his business partners that he was  
12 actively soliciting and obtaining kickbacks from vendors:

13 Q. Were you -- did you know that Mr. Seibel received a payment  
14 from LaFrieda based upon the percentage of gross sales to the Las  
Vegas restaurants?

15 ...

16 A: At the time, I had no idea he was doing those back-handing deals.  
17 I certainly -- it's been brought to my attention recently.

18 Q. So if Mr. Seibel testified he spoke to you about these kickbacks or  
payments, that would not be true; is that correct?

19 A. I am in my eighth year now working with Caesars. I've never  
20 gambled once, and I have never ever received or been party to that  
back-handing situation.

21 Q. You anticipated my next question. You never shared in any  
22 kickback or fees that Mr. Seibel may have received?

23 A. Nothing of the sort, madam.

24 Q. Did you ever agree that Rowen could create something called a  
25 preferred vendor list where he would receive, either personally or  
through his entities, a percentage of gross sales?

26 A. No, not in the slightest.

27 (Ex. 14, Ramsay Dep. Tr., Sept. 30, 2019, at 231:6- 232:7; *see also* Ex. 15, Marc Sherry Dep.  
28 Tr., Oct. 29, 2019, at 42:15-21 "Q. Were you aware in 2012 that Mr. Seibel was receiving

1 amounts for products sold by Pat LaFrieda to Old Homestead? A. "No.") Indeed, just like  
2 Caesars, Seibel's other business partners were shocked that Seibel was engaging in this illegal  
3 activity:

4 Q. Did you become aware, prior to this litigation, that Mr. Rowen --  
5 that Mr. Seibel, excuse me, was receiving a percentage from a  
6 meat vendor --

7 A. No.

8 Q. -- to Old Homestead Las Vegas?

9 A. No. I did not.

10 Q. Is that something you would have authorized?

11 A. I would have turned him in for this.

12 Q. What do you mean, "turned him in"?

13 A. This is illegal. This is graft.

14 Q. This is what?

15 A. Graph. It's a kickback. Which inflated the prices of the meat,  
16 which cost me money and Caesars Palace money.

17 Q. Why do you say that it cost you and Caesars Palace money?

18 A. Because the only way a guy is going to give somebody 5 percent is  
19 he raises the prices on you.

20 Q. Is this a practice you engage in in any of your restaurants?

21 A. No, not at all. It's illegal

22 (Ex. 16, Greg Sherry Dep. Tr., Oct. 30, 2019, at 81:6-82:3.)

### 23 III. DISCUSSION

#### 24 A. Standard for Allowing Amendment of Pleadings.

25 A motion for leave to amend "is addressed to the sound discretion of the trial court."  
26 *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000). Where parties seek leave to amend  
27 a pleading after the deadline to amend has expired, "such motions implicate NRCP 16(b) in  
28 addition to NRCP 15(a) . . . ." and the two provisions must be balanced against each other.  
*Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 970-71 (Nev. App. 2015).  
NRCP 16(b)'s purpose "is to offer a measure of certainty in pretrial proceedings" and limits



1 amendment to a showing of good case. *Id.*, 357 P.3d at 971. Under NRCP 15(a)(2)'s liberal leave  
2 standard, "[t]he court should freely give leave when justice so requires."

3 Here, the standards are not at odds; good cause and justice direct that leave to amend be  
4 granted. None of the established reasons to deny leave are at issue. No "undue delay, bad faith or  
5 dilatory motives on the part of [Caesars]," exist. *See Kantor*, 116 Nev. at 891, 8 P.3d at 828  
6 ("Sufficient reasons to deny a motion to amend a pleading include undue delay, bad faith or  
7 dilatory motives on the part of the movant."); *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 23, 62  
8 P.3d 720, 735 (2003) (concluding that failure to allow leave to amend was inappropriate where  
9 factual allegations supported the proposed claims and there was an absence of undue delay, bad  
10 faith, or dilatory motive).

11 **B. Good Cause Exists to Allow Caesars Leave to Amend its Complaint.**

12 Caesars seeks to file a First Amended Complaint because facts uncovered in discovery –  
13 after the deadline to amend expired – demonstrate that new claims exist against, Seibel, the Seibel  
14 Defendants and Green. *See Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 292, 357 P.3d 966, 975  
15 (Nev. App. 2015) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962) ("If the underlying facts or  
16 circumstances relied upon by a party may be the proper subject of relief, he ought to be afforded  
17 an opportunity to test his claim on the merits.")).

18 As discussed above, the kickback scheme involved multiple Seibel and Green soliciting  
19 and obtaining kickbacks from vendors servicing Caesars' restaurants under contract with  
20 Defendants. During discovery, Caesars learned that Green and Seibel conspired to receive a  
21 negotiated amount based on the total amount of goods sold to Caesars without Caesars' (or any of  
22 their other business partners') knowledge. [REDACTED]

23 [REDACTED]  
24 [REDACTED] at the direction and for the benefit of  
25 Seibel and Green. Caesars has not delayed in bringing these claims because it brought them soon  
26 after the factual bases for them were discovered. After Defendants produced documents and  
27 depositions commenced, Caesars began investigating the recently uncovered facts and promptly  
28 brought this Motion to Amend its Complaint.

1           **C. Leave to Amend Should be Granted Because Justice Requires it.**

2           Justice requires leave to amend in the most literal sense: Caesars discovered that Green,  
3           Seibel, and the Seibel-Affiliated Entities were engaged in commercial bribery and extortion and  
4           Caesars was the target. Pursuant to NRS 207.295:

5                     Any person who, with corrupt intent:

6                     1. Offers, confers or agrees to confer any benefit upon any  
7                     employee, agent or fiduciary without the consent of the employer  
8                     or principal of that employee, agent or fiduciary in order to  
                      influence adversely that person's conduct in relation to the  
                      commercial affairs of his or her employer or principal; or

9                     2. While an employee, agent or fiduciary, solicits, accepts or  
10                    agrees to accept any benefit from another person upon an  
11                    agreement or understanding that the benefit will influence  
                      adversely his or her conduct in relation to the commercial affairs of  
                      his or her employer or principal,

12                    commits commercial bribery and is guilty of a misdemeanor.

13           Green, Seibel, and Defendants used their positions as parties contracting with Caesars for  
14           their own gain while harming Caesars and without disclosing it to Caesars. Caesars has a right to  
15           be made whole as a result of the economic loss caused by Green and Seibel, and justice requires  
16           that the Seibel Parties be held accountable.

17           **D. Defendants Will Not Be Prejudiced Because Granting Leave to Amend Does Not**  
18           **Require the Court to Change Its Scheduling Order.**

19           The Seibel Parties will not be prejudiced by the proposed amendment. Caesars does not  
20           dispute that the deadline to amend pleadings passed on February 4, 2019. (Business Court  
21           Scheduling Order Setting Civil Jury Trial & Pre-Trial Conference Calendar Call, Oct. 31, 2018,  
22           on file, at 2:3.) However, at the time the deadline to amend pleadings expired, the depositions in  
23           this matter had not yet commenced and Caesars was unaware of Seibel's, Green's, and the Seibel-  
24           Affiliated Entities' actions giving rise to additional claims. Since discovery of this issue,  
25           however, the parties have engaged in discovery about the underlying facts of the kickback  
26           scheme. Indeed, to date, Caesars has served discovery requests, subpoenas, and inquired at the  
27           depositions of both Craig Green, Rowen Seibel, and other witnesses. Fact discovery has not yet  
28

1 closed, and the parties have already engaged in and continue to engage in discovery concerning  
2 the kickback scheme. Accordingly, there is no prejudice.

3 **IV. CONCLUSION**

4 Caesars' motion for leave to add Green as a defendant and to bring additional claims is  
5 brought in good faith, as it has only recently become clear that Green and Seibel were engaged in  
6 a kickback scheme at an economic loss to Caesars. Accordingly, Caesars respectfully requests  
7 that this Court grant leave to amend Caesars' Complaint to add claims for civil conspiracy, breach  
8 of the implied covenant of good faith and fair dealing, unjust enrichment, intentional interference  
9 with contractual relations, and fraudulent concealment as set forth in the Proposed First Amended  
10 Complaint, attached hereto as Ex. 1.

11 DATED this 11<sup>th</sup> day of December 2019.

12 PISANELLI BICE PLLC

13 By: 

14 James J. Pisanelli, Esq., #4027  
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26 Chicago, Illinois 60654

27 *Attorneys for Desert Palace, Inc.;*  
28 *Paris Las Vegas Operating Company, LLC;*  
*PHWL, LLC; and Boardwalk Regency*  
*Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12 day of December 2019, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME** to the following:

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TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,  
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**VIA U.S. MAIL (redacted version only)**

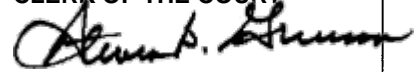
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TAB 49



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PHWL, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWL, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**APPENDIX IN SUPPORT OF CAESARS'  
MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT; AND EX  
PARTE APPLICATION FOR ORDER  
SHORTENING TIME**

Exhibit No.	Description	Date
1.	[Proposed] First Amended Complaint	n/a
2.	Order Denying Petition for Writ of Mandamus or Prohibition	06/07/2019
3.	M. Magali Mercera, Esq. email to Nicole L. Milone, Esq., et al.	04/26/2019
4.	M. Magali Mercera, Esq. email to Nicole Milone, Esq., et al.	04/30/2019
5.	Steven C. Bennett, Esq. email to M. Magali Mercera, Esq. et al.	07/30/2019
6.	Craig Green email to Rowen Seibel	11/09/2012
7.	TPOV Enterprises 16, LLC 30(b)(6) (Craig Green) deposition transcript (excerpts)	09/06/2019
8.	Rowen Seibel deposition transcript (excerpts)	09/24/2019
9.	Dan Deluca email to Craig Green	06/06/2013
10.	Craig Green email to Rowen Seibel	09/20/2014
11.	LLTQ Enterprises, LLC 30(b)(6) (Craig Green) deposition transcript (excerpts)	11/12/2019
12.	Craig Green email to Danielle Abraham	12/13/2013
13.	Craig Green email to Rowen Seibel	03/25/2015
14.	Gordon Ramsay deposition transcript (excerpts)	09/30/2019
15.	Marc Sherry deposition transcript (excerpts)	10/29/2019
16.	Greg Sherry deposition transcript (excerpts)	10/30/2019

DATED this 11 day of December 2019.

PISANELLI BICE PLLC

By: 

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PHWLTV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12 day of December 2019, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **APPENDIX IN SUPPORT OF CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME** to the following:

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*Trustee for GR Burgr LLC*

  
An employee of PISANELLI BICE PLLC



# EXHIBIT 1

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROWEN A. SEIBEL; LLTQ  
ENTERPRISES, LLC; LLTQ  
ENTERPRISES 16, LLC; FERG, LLC;  
FERG 16, LLC; MOTI PARTNERS, LLC;  
MOTI PARTNERS 16, LLC; TPOV  
ENTERPRISES, LLC; TPOV 16  
ENTERPRISES, LLC; AND DNT  
ACQUISITION, LLC, APPEARING  
DERIVATIVELY BY ONE OF ITS TWO  
MEMBERS, R SQUARED GLOBAL  
SOLUTIONS, LLC,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JOSEPH HARDY, JR., DISTRICT  
JUDGE,

Respondents,

and

DESERT PALACE, INC.; PARIS LAS  
VEGAS OPERATING COMPANY, LLC;  
PHWLTV, LLC; AND BOARDWALK  
REGENCY CORPORATION, D/B/A  
CAESARS ATLANTIC CITY,  
Real Parties in Interest.

No. 76118

**FILED**

JUN 07 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION*

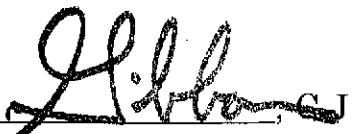
This is an original petition for a writ of mandamus or prohibition challenging the denial of a motion to dismiss in a contract action.

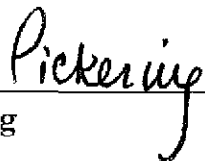
Having considered the petition and supporting documentation, we are not persuaded that our extraordinary and discretionary intervention

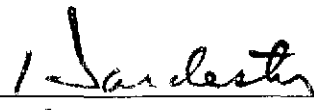


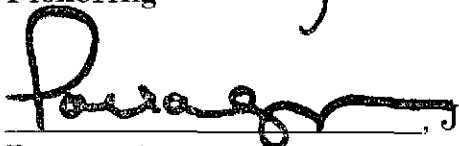
is warranted at this time. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). Accordingly, we


ORDER the petition DENIED.

  
Gibbons


  
Pickering

  
Hardesty

  
Parraguirre

  
Stiglich

  
Cadish

  
Silver

cc: Hon. Joseph Hardy, Jr., District Judge  
Barack Ferrazzano Kirschbaum & Nagelberg  
Certilman Balin Adler & Hyman  
Adelman & Gettleman  
Pisanelli Bice, PLLC  
Eighth Judicial District Court Clerk

# EXHIBIT 3

## Magali Mercera

---

**From:** Magali Mercera  
**Sent:** Friday, April 26, 2019 11:02 AM  
**To:** 'Nicole L. Milone'; Joshua Feldman; PAUL B. SWEENEY; Dan McNutt (drm@mcnuttlawfirm.com); Matt Wolf; Lisa Heller  
**Cc:** James Pisanelli; Debra Spinelli; Brittanie T. Watkins; Robert A. Ryan; Diana Barton; Cinda C. Towne  
**Subject:** Desert Palace/Seibel: 16.1 Disclosures & Deficient Rule 34 Responses

Nicole –

I am following up regarding the Seibel Parties deficient, or rather non-existent, disclosures in the state court matter. As discussed, the Seibel Parties have not produced a single document in the state court action. Not only do the Seibel Parties have an independent obligation to disclose discoverable documents, we served numerous Rule 34 requests and granted extensions for the Seibel Parties to respond to those requests. To date, not only have the Seibel Parties refused to comply with their NRCP 16.1 obligations, they have also failed to provide any documents responsive to the numerous requests served by Plaintiffs even despite the additional time provided to respond.

As you know, there are upcoming deadlines that are being affected by the Seibel Parties' ongoing delay tactics and gamesmanship with respect to discovery in the state court action. We have met and conferred on the issue regarding the Seibel Parties' failure to comply with their Rule 16.1 disclosure obligations and will bring this issue before the Court. Please advise when you are available for a meet and confer regarding the Seibel Parties' deficient responses to the Rule 34 requests as we also intend to bring that issue to the Court for prompt resolution.

Thanks,

**M. Magali Mercera**

PISANELLI BICE, PLLC  
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*Please consider the environment before printing.*

This transaction and any attachment is attorney-client privileged and confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

# EXHIBIT 4



## Magali Mercera

---

**From:** Magali Mercera  
**Sent:** Tuesday, April 30, 2019 7:23 PM  
**To:** 'Lisa Heller'; PAUL B. SWEENEY; Robert Atkinson (Robert@nv-lawfirm.com); bknotices@nv-lawfirm.com; Sutehall, Kevin M.; TENNERT, JOHN; WILT, ALLEN; Dan McNutt; Matt Wolf; BYRD, MARGARET; Loffredo, Doreen; Nathan Rugg; Steven B. Chaiken; Alan Lebensfeld; brett.schwartz@lsandspc.com; mconnot@foxrothschild.com; Joshua Feldman; Nicole L. Milone; LISA A. NICHOLS; christine.gioe@lsandspc.com; Trey Pictum  
**Cc:** James Pisanelli; Debra Spinelli; Diana Barton; Brittne T. Watkins; Cinda C. Towne; Zeiger, Jeffrey J. (jzeiger@kirkland.com); Arnault, Bill; Robert A. Ryan  
**Subject:** RE: Notification of Service for Case: A-17-751759-B, Rowen Seibel, Plaintiff(s) vs. PHWLVC LLC, Defendant(s) for filing Service Only, Envelope Number: 4223800

Nicole –

We are in receipt of the Seibel Parties' first supplemental disclosures. The Seibel Parties' production fails to comply with the Stipulated Protocol Governing Production of Electronically Stored Information entered in this action on March 12, 2019 (the "ESI Protocol"). The production did not provide the required load files (including text files, image files, natives, .dat files, or .opt files, as applicable) nor were the documents produced in the format required by Section 3 of the ESI Protocol. The documents were provided in PDF form, which was only allowable to Mr. Frederick per the parties' stipulation. Please provide a corrected production in compliance with the ESI protocol by close of business Thursday. If you are unable or unwilling to provide a corrected production as requested, please advise of your availability for a meet and confer.

As you know, after many months of delay, this is the first set of documents produced by the Seibel Parties. It appears that these documents consist of only a sampling of pleadings and/or discovery served in the bankruptcy action as opposed to a meaningful and good faith production of documents required to comply with the Seibel Parties' 16.1 obligations. Given the Seibel Parties' ongoing delay, we reserve all rights to bring the Seibel Parties' ongoing discovery failures to the Court for prompt resolution.

Thanks,

**M. Magali Mercera**

PISANELLI BICE, PLLC

Telephone: (702) 214-2100

[mmm@pisanellibice.com](mailto:mmm@pisanellibice.com) | [www.pisanellibice.com](http://www.pisanellibice.com)



*Please consider the environment before printing.*

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

---

**From:** Lisa Heller <lah@mcnuttlawfirm.com>

**Sent:** Tuesday, April 30, 2019 3:31 PM

**To:** Magali Mercera <mmm@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Zeiger, Jeffrey J. (jzeiger@kirkland.com) <jzeiger@kirkland.com>; Arnault, Bill <warnault@kirkland.com>; PAUL B. SWEENEY <PSweeney@certilmanbalin.com>; Robert Atkinson (Robert@nv-lawfirm.com) <Robert@nv-lawfirm.com>; bknotices@nv-lawfirm.com; Sutehall, Kevin M. <KSutehall@foxrothschild.com>

**Cc:** eFilings <lit@pisanellibice.com>; TENNERT, JOHN <jtennert@fclaw.com>; WILT, ALLEN <AWILT@FCLAW.com>;

Brittnie T. Watkins <BTW@pisanellibice.com>; Dan McNutt <drm@mcnuttlawfirm.com>; Debra Spinelli <dls@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Matt Wolf <mcw@mcnuttlawfirm.com>; BYRD, MARGARET <MBYRD@FCLAW.com>; Loffredo, Doreen <dloffredo@foxrothschild.com>; Nathan Rugg <Nathan.Rugg@bfkn.com>; Steven B. Chaiken <sbc@ag-ltd.com>; Alan Lebensfeld <Alan.Lebensfeld@Isandspc.com>; brett.schwartz@Isandspc.com; mconnot@foxrothschild.com; Joshua Feldman <JFeldman@certilmanbalin.com>; Nicole L. Milone <NMilone@certilmanbalin.com>; LISA A. NICHOLS <LNichols@certilmanbalin.com>; christine.gioe@Isandspc.com; Trey Pictum <Trey@mcnuttlawfirm.com>

**Subject:** FW: Notification of Service for Case: A-17-751759-B, Rowen Seibel, Plaintiff(s)vs.PHWLV LLC, Defendant(s) for filing Service Only, Envelope Number: 4223800

The documents referenced in Defendants' First Supplemental Disclosures can be found in the attached sharefile link.

**Lisa Heller**  
**625 South Eighth Street**  
**Las Vegas, Nevada 89101**  
**Tel: (702) 384-1170; Fax: (702) 384-5529**  
[lah@mcnuttlawfirm.com](mailto:lah@mcnuttlawfirm.com)

***CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this information is strictly prohibited and may result in violations of federal or state law. Please immediately reply to the sender of this e-mail if you have received it in error and delete it. Thank you.***

**From:** [efilingmail@tylerhost.net](mailto:efilingmail@tylerhost.net) <[efilingmail@tylerhost.net](mailto:efilingmail@tylerhost.net)>

**Sent:** Tuesday, April 30, 2019 3:26 PM

**To:** Lisa Heller <[lah@mcnuttlawfirm.com](mailto:lah@mcnuttlawfirm.com)>

**Subject:** Notification of Service for Case: A-17-751759-B, Rowen Seibel, Plaintiff(s)vs.PHWLV LLC, Defendant(s) for filing Service Only, Envelope Number: 4223800



## Notification of Service

Case Number: A-17-751759-B  
Case Style: Rowen Seibel, Plaintiff(s)vs.PHWLV  
LLC, Defendant(s)  
Envelope Number: 4223800

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	A-17-751759-B
Case Style	Rowen Seibel, Plaintiff(s)vs.PHWLV LLC, Defendant(s)

<b>Date/Time Submitted</b>	4/30/2019 3:25 PM PST
<b>Filing Type</b>	Service Only
<b>Filing Description</b>	DEFENDANTS' FIRST SUPPLEMENTAL DISCLOSURE OF DOCUMENTS AND WITNESSES
<b>Filed By</b>	Lisa Heller
<b>Service Contacts</b>	<p>PHWLV LLC:</p> <p>Magali Mercera (<a href="mailto:mmm@pisanellibice.com">mmm@pisanellibice.com</a>)</p> <p>Cinda Towne (<a href="mailto:cct@pisanellibice.com">cct@pisanellibice.com</a>)</p> <p>Jeffrey Zeiger (<a href="mailto:jzeiger@kirkland.com">jzeiger@kirkland.com</a>)</p> <p>William Arnault (<a href="mailto:warnault@kirkland.com">warnault@kirkland.com</a>)</p> <p>Rowen Seibel:</p> <p>Paul Sweeney (<a href="mailto:PSweeney@certilmanbalin.com">PSweeney@certilmanbalin.com</a>)</p> <p>J. Jeffrey Frederick:</p> <p>Robert Atkinson (<a href="mailto:robert@nv-lawfirm.com">robert@nv-lawfirm.com</a>)</p> <p>Litigation Paralegal (<a href="mailto:bknotices@nv-lawfirm.com">bknotices@nv-lawfirm.com</a>)</p> <p>Original Homestead Restaurant Inc:</p> <p>Kevin Sutehall (<a href="mailto:ksutehall@foxrothschild.com">ksutehall@foxrothschild.com</a>)</p> <p>Other Service Contacts not associated with a party on the case:</p> <p>"James J. Pisanelli, Esq." . (<a href="mailto:lit@pisanellibice.com">lit@pisanellibice.com</a>)</p> <p>"John Tennert, Esq." . (<a href="mailto:jtennert@fclaw.com">jtennert@fclaw.com</a>)</p> <p>Allen Wilt . (<a href="mailto:awilt@fclaw.com">awilt@fclaw.com</a>)</p> <p>Brittnie T. Watkins . (<a href="mailto:btw@pisanellibice.com">btw@pisanellibice.com</a>)</p> <p>Dan McNutt . (<a href="mailto:drm@cmlawnv.com">drm@cmlawnv.com</a>)</p>

	Debra L. Spinelli . ( <a href="mailto:dls@pisanellibice.com">dls@pisanellibice.com</a> )
	Diana Barton . ( <a href="mailto:db@pisanellibice.com">db@pisanellibice.com</a> )
	Lisa Anne Heller . ( <a href="mailto:lah@cmlawnv.com">lah@cmlawnv.com</a> )
	Matt Wolf . ( <a href="mailto:mcw@cmlawnv.com">mcw@cmlawnv.com</a> )
	Meg Byrd . ( <a href="mailto:mbyrd@fclaw.com">mbyrd@fclaw.com</a> )
	PB Lit . ( <a href="mailto:lit@pisanellibice.com">lit@pisanellibice.com</a> )
	Nathan Rugg ( <a href="mailto:mbyrd@fclaw.com">mbyrd@fclaw.com</a> )
	Steven Chaiken ( <a href="mailto:sbc@ag-ltd.com">sbc@ag-ltd.com</a> )
	Alan Lebensfeld ( <a href="mailto:alan.lebensfeld@lsandspc.com">alan.lebensfeld@lsandspc.com</a> )
	Brett Schwartz ( <a href="mailto:brett.schwartz@lsandspc.com">brett.schwartz@lsandspc.com</a> )
	Daniel McNutt ( <a href="mailto:drm@cmlawnv.com">drm@cmlawnv.com</a> )
	Mark Connot ( <a href="mailto:mconnot@foxrothschild.com">mconnot@foxrothschild.com</a> )
	Joshua Feldman ( <a href="mailto:jfeldman@certilmanbalin.com">jfeldman@certilmanbalin.com</a> )
	Nicole Milone ( <a href="mailto:nmilone@certilmanbalin.com">nmilone@certilmanbalin.com</a> )
	Doreen Loffredo ( <a href="mailto:dloffredo@foxrothschild.com">dloffredo@foxrothschild.com</a> )
	Christine Gioe ( <a href="mailto:christine.gioe@lsandspc.com">christine.gioe@lsandspc.com</a> )
	Trey Pictum ( <a href="mailto:trey@mcnuttlawfirm.com">trey@mcnuttlawfirm.com</a> )

Document Details	
Served Document	<a href="#">Download Document</a>
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# EXHIBIT 5

## Magali Mercera

---

**From:** Steven C. Bennett <steve.bennett@szslaw.com>  
**Sent:** Tuesday, July 30, 2019 12:16 PM  
**To:** Magali Mercera; ropdyke@rrsc-law.com; awilt@fclaw.com; jtennert@fclaw.com; Robert@nv-lawfirm.com; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; alan.lebensfeld@lsandspc.com; James Pisanelli; Debra Spinelli; Brittnie T. Watkins; Cinda C. Towne  
**Cc:** Daniel Brooks; 'David A. Carroll'; Andrew Rotstein  
**Subject:** Seibel / Desert Palace

Counsel:

Following is the hyperlink to additional documents responsive to document requests previously sent to: Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; Ferg, LLC; and Ferg 16, LLC. This production of documents is subject to previous objections and reservation of rights, and the terms of the protective order. Access should not be provided to these documents for anyone who has not agreed to the protective order terms.

: <https://spaces.hightail.com/receive/mQzYU7SEQQ>

The password to access the zip files is: vNkVCRcqN2nxkkMXn6Ub

The link will expire on August 13, 2019. Please upload these documents to your system prior to that date.

Included in this download is a load file that, once loaded to your e-discovery platform, will render the documents subject to search and view. You must download the load file to obtain full use of the documents.

Pursuant to prior agreement, each document was tagged and a field created in the load file titled "Production Bucket" to identify the "category(ies)" of request to which it appears to be responsive:

- Bkt 1 – Agreements with Seibel Entities and Communications
- Bkt 2 – Agreements with Non-Seibel Entities ("16s") and Communications
- Bkt 3 – Funding / Capital
- Bkt 4 – Operating Records / Financials
- Bkt 5 – Suitability
- Bkt 6 – Contract Termination
- Bkt 7 – Continued Operations / Rebranding
- Bkt 8 – Disclosures
- Bkt 9 – Assignment

If you have any technical questions regarding access to the documents, you may email questions to Craig Witmer ([cw@szslaw.com](mailto:cw@szslaw.com)), with copies to myself, Andrew Rotstein and Dan Brooks.

Regards,

Steven C. Bennett

Steven C. Bennett  
Scarola Zubatov Schaffzin PLLC  
1700 Broadway

41<sup>st</sup> Floor  
New York, NY 10019  
(646) 412-3234 (direct)  
(212) 757-0007 (main)  
scb@szslaw.com

# EXHIBIT 6



**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 7

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 8

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual )  
and citizen of New York, )  
derivatively on behalf of )  
Real Party in Interest GR )  
BURGR LLC, a Delaware )  
limited liability company, )

Plaintiffs, )

vs. )

PHWLTV, LLC, a Nevada )  
limited liability company; )  
GORDON RAMSAY, an )  
individual; DOES I through )  
X; ROE CORPORATIONS I )  
through X, )

Defendants. )

and )

GR BURGER LLC, a Delaware )  
limited liability company, )

Nominal Plaintiff. )

AND ALL RELATED MATTERS )

Case No.: A-17-751759-B  
Dept. No.: XVI

Consolidated with

A-17-760537-B

VOLUME I

VIDEOTAPED DEPOSITION OF ROWEN SEIBEL

LAS VEGAS, NEVADA

TUESDAY, SEPTEMBER 24, 2019

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 3458

1 VIDEOTAPED DEPOSITION OF ROWEN SEIBEL, held at  
2 Pisanelli Bice, located at 400 South 7th Street,  
3 Suite 300, Las Vegas, Nevada, on Tuesday, September  
4 24, 2019, at 9:12 a.m., before Monice K. Campbell,  
5 Certified Court Reporter, in and for the State of  
6 Nevada.

7  
8 APPEARANCES:

9 For Rowen Seibel; DNT Acquisition LLC; Moti Partners,  
10 LLC, Moti Partners 16, LLC; LLTQ Enterprises, LLC;  
11 LLTQ Enterprises 16, LLC; FERG, LLC; TPOV  
Enterprises, LLC; and TPOV Enterprises 16, LLC:

12 SCAROLA ZUBATOV SCHAFFZIN PLLC  
13 BY: DANIEL J. BROOKS, ESQ.  
14 1700 Broadway, 41st Floor  
15 New York, New York 10019  
217.757.0007  
daniel.brooks@szslaw.com

16 For Desert Palace, Inc; Paris Las Vegas Operating  
17 Company, LLC; PHWLTV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City:

18 PISANELLI BICE PLLC  
19 BY: JAMES J. PISANELLI, ESQ.  
20 BY: M. MAGALI MERCERA, ESQ.  
21 400 South 7th Street, Suite 300  
22 Las Vegas, Nevada 89101  
23 702.214.2100  
24 jjp@pisanellibice.com  
25 mmm@pisanellibice.com

1 For Gordon Ramsay:

2 FENNEMORE CRAIG  
3 BY: ALLEN WILT, ESQ.  
4 300 East Second Street, Suite 1510  
5 Reno, Nevada 89501  
6 775.788.2212  
7 awilt@fclaw.com

8 The Videographer:

9 JARED MAREZ, ENVISION LEGAL SOLUTIONS

10 Also Present:

11 MARC SHERRY (Telephonically)

12 MICHAEL THOMAS

13 CHRISTINE CHANG  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

\* \* \* \* \*

LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 24, 2019

9:12 A.M.

\* \* \* \* \*

THE VIDEOGRAPHER: Today's date is  
September 24th, 2019, and the time is  
approximately 9:12 a.m.

The deponent is Rowen Seibel.

This is Case Number A-17-751759-B, filed  
in District Court, Clark County, Nevada, entitled  
Seibel versus PHWLTV, LLC, et al.

My name is Jared Marez of Envision Legal  
Solutions. I am the videographer. The court  
reporter is Monice Campbell.

The location of this deposition is the  
offices of Pisanelli Bice, PLLC, located at  
400 South 7th Street, Suite 300, Las Vegas, Nevada  
89101.

Will all counsel present please identify  
themselves and the court reporter will administer  
the oath.

MR. PISANELLI: James Pisanelli on behalf  
of the Caesars entities.

MS. MERCERA: Magali Mercera on behalf of  
the Caesars entities.



1 restaurants?

2 MR. BROOKS: Objection to the form.

3 Assumes a fact not in evidence.

4 THE WITNESS: Sorry, I got confused. Can  
5 you repeat that?

6 BY MR. PISANELLI:

7 Q. Sure.

8 You see just below the third line, this  
9 accounting that Mr. Green's talking about how much  
10 you personally are owed in relation to GR Steak and  
11 Old Homestead?

12 MR. BROOKS: Object to the form.

13 THE WITNESS: I don't know where that  
14 says -- it says "Paris Hotel and Caesars."

15 BY MR. PISANELLI:

16 Q. My question is to you. Explain it to us.  
17 How is a vendor of meat to restaurants and projects  
18 you have with Gordon Ramsay and Caesars paying you  
19 personally so much money?

20 MR. BROOKS: Object to the form. Assumes  
21 a fact not in evidence.

22 THE WITNESS: If that was the deal we  
23 made, they have a responsibility to pay it.

24 BY MR. PISANELLI:

25 Q. Okay. You made secret deals with vendors

1 to pay you a percentage of what your companies with  
2 Caesars was paying them?

3 MR. BROOKS: Objection.

4 BY MR. PISANELLI:

5 Q. Rather than give a discount on the cost  
6 of the goods that would benefit the restaurant, you  
7 had them pay a higher price and pay the kickback to  
8 you.

9 That was the arrangement, correct?

10 MR. BROOKS: Objection. Assumes several  
11 facts that are not in evidence.

12 THE WITNESS: I don't think so.

13 BY MR. PISANELLI:

14 Q. All right. Tell me where I went wrong in  
15 that statement. What's not true about that?

16 A. I don't know if they would have received  
17 a discount. They were very happy with the pricing.  
18 They wanted LaFrieda. We coordinated the entire  
19 effort to get the meat across country. They wanted  
20 the branding. It worked well for everybody, and  
21 Caesars was all for it.

22 And I'm almost sure -- I'm sure that they  
23 knew that we were representing them in marketing  
24 and getting paid for it.

25 Q. So we should find some agreement, some

## 1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA )

3 ) SS:

4 COUNTY OF CLARK )

5  
6 I, Monice K. Campbell, a duly  
7 commissioned and licensed court reporter, Clark  
8 County, State of Nevada, do hereby certify: That I  
9 reported the taking of the deposition of the  
10 witness, Rowen Seibel, commencing on Tuesday,  
11 September 24, 2019, at 9:12 a.m.;

12  
13 That prior to being examined, the witness  
14 was, by me, duly sworn to testify to the truth.  
15 That I thereafter transcribed my said shorthand  
16 notes into typewriting and that the typewritten  
17 transcript of said deposition is a complete, true,  
18 and accurate transcription of said shorthand notes.

19  
20 I further certify that I am not a relative or  
21 employee of an attorney or counsel or any of the  
22 parties, nor a relative or employee of an attorney or  
23 counsel involved in said action, nor a person  
24 financially interested in the action; that a request  
25 has been made to review the transcript.

1  
2           IN WITNESS THEREOF, I have hereunto set my hand  
3 in my office in the County of Clark, State of Nevada,  
4 this 29th day of September, 2019.

5 

6 \_\_\_\_\_  
7 Monice K. Campbell, CCR No. 312

# EXHIBIT 9

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 10

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**



# EXHIBIT 11

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 12

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 13

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 14

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual )  
and citizen of New York, )  
derivatively on behalf of )  
Real Party in Interest GR )  
BURGR LLC, a Delaware )  
limited liability company, )

Plaintiffs,

vs.

PHWLTV, LLC, a Nevada )  
limited liability company; )  
GORDON RAMSAY, an )  
individual; DOES I through )  
X; ROE CORPORATIONS I )  
through X,

Defendants.

and

GR BURGR LLC, a Delaware )  
limited liability company, )

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with

A-17-760537-B

VIDEOTAPED DEPOSITION OF GORDON RAMSAY

LOS ANGELES, CALIFORNIA

MONDAY, SEPTEMBER 30, 2019

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 3567

v



1 VIDEOTAPED DEPOSITION OF GORDON RAMSAY, held at  
2 the Law Offices of Mitchell, Silberberg & Krupp,  
3 located at 2049 Century Park East, 18th Floor,  
4 Los Angeles, California, on Monday, September 30,  
5 2019, at 8:08 a.m., before Monice K. Campbell,  
6 Certified Court Reporter, in and for the State of  
7 California.

8  
9 APPEARANCES:

10 For Rowen Seibel; DNT Acquisition LLC; Moti Partners,  
11 LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC;  
12 LLTQ Enterprises 16, LLC; FERG, LLC; TPOV  
Enterprises, LLC; and TPOV Enterprises 16, LLC:

13 SCAROLA ZUBATOV SCHAFFZIN PLLC  
14 BY: STEVEN C. BENNETT, ESQ.  
15 1700 Broadway, 41st Floor  
New York, New York 10019  
217.757.0007  
steve.bennett@szslaw.com

16 For Desert Palace, Inc; Paris Las Vegas Operating  
17 Company, LLC; PHWLTV, LLC; and Boardwalk Regency  
18 Corporation d/b/a Caesars Atlantic City:

19 PISANELLI BICE PLLC  
20 BY: DEBRA L. SPINELLI, ESQ.  
BY: M. MAGALI MERCERA, ESQ.  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101  
702.214.2100  
dls@pisanellibice.com  
22 mmm@pisanellibice.com

23  
24  
25  
v

Gordon Ramsay

September 30, 2019

1 For Gordon Ramsay Holdings and Gordon Ramsay:

2 FENNEMORE CRAIG  
3 BY: JOHN D. TENNERT III, ESQ.  
4 BY: ALLEN C. WILT, ESQ.  
5 300 East Second Street, Suite 1510  
6 Reno, Nevada 89501  
7 775.788.2212  
8 jtennert@fclaw.com  
9 awilt@fclaw.com

10 The Videographer:

11 JARED MAREZ, ENVISION LEGAL SOLUTIONS

12 Also Present:

13 ROWEN SEIBEL

14 MICHAEL THOMAS, SHERIDANS

15 CHRISTINE CHANG (TELEPHONICALLY)

16 DANIEL BROOKS (TELEPHONICALLY)

17  
18  
19  
20  
21  
22  
23  
24  
25  
v

Gordon Ramsay

September 30, 2019

\* \* \* \* \*

LOS ANGELES, CALIFORNIA; MONDAY, SEPTEMBER 30, 2019

8:08 A.M.

\* \* \* \* \*

THE VIDEOGRAPHER: Today's date is  
September 30th, 2019, and the time is  
approximately 8:08 a.m.

The deponent is Gordon Ramsay.

This is Case Number A-17-751759-B, filed  
in District Court, Clark County, Nevada, entitled  
Seibel versus PHWLTV, LLC, et al.

My name is Jared Marez of Envision Legal  
Solutions. I am the videographer. The court  
reporter is Monice Campbell.

The location of this deposition is the  
offices of Mitchell Silberberg & Knupp, located at  
2049 Century Park East, 18th Floor, Las Vegas --  
excuse me, Los Angeles, California 90067.

Will all counsel present please identify  
themselves and the court reporter will administer  
the oath.

MR. BENNETT: Steven Bennett with Scarola  
Zubotov Schaffzin for LLTQ and related entities and  
Mr. Seibel.

MR. WILT: Allen Wilt and John Tennert

v

1 restaurants, Rowen suggested bringing them in from  
2 New York and doing a tasting. My team did a  
3 tasting. The meat was exceptional, and we started  
4 using them. I can't remember exactly when it was,  
5 but it was purely on his recommendation.

6 Q. Were you -- did you know that Mr. Seibel  
7 received a payment from LaFrieda based upon the  
8 percentage of gross sales to the Las Vegas  
9 restaurants?

10 MR. BENNETT: Objection to form. Assumes  
11 facts not in evidence.

12 THE WITNESS: At the time, I had no idea  
13 he was doing those back-handing deals. I  
14 certainly -- it's been brought to my attention  
15 recently.

16 BY MS. SPINELLI:

17 Q. So if Mr. Seibel testified he spoke to  
18 you about these kickbacks or payments, that would  
19 not be true; is that correct?

20 A. I am in my eighth year now working with  
21 Caesars. I've never gambled once, and I have never  
22 ever received or been party to that back-handing  
23 situation.

24 Q. You anticipated my next question.

25 You never shared in any kickback or fees

v

Gordon Ramsay

September 30, 2019

1 that Mr. Seibel may have received?

2 A. Nothing of the sort, madam.

3 Q. Did you ever agree that Rowen could  
4 create something called a preferred vendor list  
5 where he would receive, either personally or  
6 through his entities, a percentage of gross sales?

7 A. No, not in the slightest.

8 Q. Did you ever receive or share in any fee  
9 that Rowen got from an entity called Veera Water?

10 A. Nothing of the sort, madam.

11 Q. The same question with regard to a  
12 company by the name of Newcastle? Did you ever  
13 receive or share in any payment that Mr. Seibel or  
14 an entity related to Mr. Seibel may have received  
15 from Newcastle?

16 A. Nothing at all, madam.

17 Q. Did you ever share or receive any portion  
18 of fees that Mr. Seibel may have received from a  
19 company called Lavazza, I guess associated with  
20 coffee?

21 A. No, madam. Nothing.

22 MS. SPINELLI: I have no further  
23 questions. Thank you very much for your time.

24 THE WITNESS: Thank you, madam.

25

v

Gordon Ramsay

September 30, 2019

CERTIFICATE OF REPORTER

STATE OF NEVADA )

) SS:

COUNTY OF CLARK )

I, Monice K. Campbell, a duly  
commissioned and licensed court reporter, Clark  
County, State of Nevada, do hereby certify: That I  
reported the taking of the deposition of the  
witness, GORDON RAMSAY, commencing on Monday,  
September 30, 2019, at 8:08 a.m.;

That prior to being examined, the witness  
was, by me, duly sworn to testify to the truth.  
That I thereafter transcribed my said shorthand  
notes into typewriting and that the typewritten  
transcript of said deposition is a complete, true,  
and accurate transcription of said shorthand notes.

I further certify that I am not a relative or  
employee of an attorney or counsel or any of the  
parties, nor a relative or employee of an attorney or  
counsel involved in said action, nor a person  
financially interested in the action; that a request  
has been made to review the transcript.

v



# EXHIBIT 15

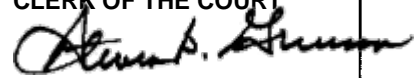


**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

# EXHIBIT 16

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

TAB 50



**OPPS**

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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; and TPOV Enterprises 16, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real  
Party in Interest GR BURGR LLC, a  
Delaware limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B

Dept. No. 16

Consolidated with:

Case No.: A-17-760537-B

**OPPOSITION TO CAESARS'  
MOTION FOR LEAVE TO FILE  
FIRST AMENDED COMPLAINT**

The deadline to amend pleadings in this action was February 4, 2019. Finally bestirring  
itself, on the eve of the expiration of discovery and more than one year after becoming aware of  
facts claimed to support the new allegations in its proposed amended complaint, Caesars belatedly

1 moves to amend (and unduly prolong this case) in order to add new claims and a new party  
2 defendant, seeking to justify its cavalier delay by falsely claiming that it only recently discovered  
3 the alleged facts upon which its new claims are based. In fact, Caesars became fully aware of those  
4 facts as the result of document production on December 7, 2018, but inexcusably failed to move to  
5 amend its complaint prior to the February 4, 2019 deadline and failed even to seek any extension  
6 of that deadline, even when it stipulated to an amended scheduling order on October 8, 2019 (after  
7 the September 6, 2019 and September 24, 2019 depositions during which Caesars claims it first  
8 discovered the supposed fraud which underlies its proposed amended complaint).

9 Caesars' attempt to gloss over its own lassitude is especially breathtaking given the very  
10 recent motion practice in this case, in which this Court, ruling in favor of Caesars, denied a motion  
11 to amend a counterclaim by LLTQ Enterprises 16, LLC and FERG 16, LLC (collectively,  
12 "LLTQ/FERG"), two of the Seibel entities that would be named as defendants in Caesars' proposed  
13 first amended complaint. As this Court explained, the motion to amend the LLTQ/FERG  
14 counterclaim was denied on the grounds that LLTQ/FERG had failed to demonstrate good cause  
15 for an amendment of their counterclaim because they "were aware of the facts they sought to  
16 include in their amended counterclaim before the deadline to amend expired and they delayed  
17 seeking leave to amend their counterclaim." Order Denying Motion to Amend LLTQ/FERG  
18 Defendants' Answer, Affirmative Defenses and Counterclaims, filed November 25, 2019 (Ex. 7  
19 hereto), at 3. The same result should obtain here, *a fortiori*, where Caesars (knowing all of the  
20 relevant facts in December 2018) would now add a new party and embark on extensive additional  
21 discovery, whereas the LLTQ/FERG defendants' motion to amend, which merely sought to add  
22 another restaurant to the list of restricted ventures which could not be opened without their  
23 participation, would only have required Caesars to produce one additional set of profit and loss  
24 statements.

25 ///

26 ///

1 This Opposition is based on the following Memorandum of Points and Authorities, the  
2 exhibits attached hereto, the pleadings and papers on file with Court, and any oral argument that  
3 the Court decides to entertain at any hearing on this matter.

4 DATED the 28<sup>th</sup> day of December 2019.

5 RICE REUTHER SULLIVAN & CARROLL, LLP

6  
7 By: 

8 David A. Carroll, Esq. (NSB #7643)  
9 Anthony J. DiRaimondo, Esq. (NSB #10875)  
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12 1700 Broadway, 41<sup>st</sup> Floor  
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13 *Attorneys for Counter-Defendants*

14  
15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. FACTUAL BACKGROUND**

17 The Caesars motion ("Motion") for leave to file a first amended complaint, which would  
18 add allegations of an alleged "kickback" scheme and would name a new party, Craig Green, is  
19 based on a blatant attempt to mislead this Court as to when Caesars became aware of email  
20 communications between counter-defendant Rowen Seibel ("Seibel"), Green and others involving  
21 payments of rebates from two vendors (Pat LaFrieda and Innis and Gunn) to Seibel or a Seibel-  
22 affiliated entity. Caesars asserts that it only discovered evidence of these payments "recently"  
23 (Motion, at 2, 7); definitely not before the February 4, 2019 deadline for amending pleadings (*id.*  
24 at 9, 14); only after documents were finally produced in this case by the Seibel parties beginning  
25 "on or around April 30, 2019" (*id.* at 9); and really only during the course of depositions, which did  
26 not commence until September 2019 (*id.* at 7, 10, 15; see also supporting declaration of Caesars'  
27 counsel, M. Magali Mercera, ¶ 6). Each of these statements is demonstrably false.

1 Although one would never know it from reading the Motion, the Court will recall that a  
2 related action, entitled *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*,  
3 No. 2:17-cv-00346-JCM-VCF, is pending in the United States District Court for the District of  
4 Nevada (the “Federal Action”). The Federal Action, commenced on February 3, 2017, alleged  
5 that a Caesars affiliate, Paris Las Vegas Operating Company, LLC (“Paris”), breached an  
6 agreement with a Seibel entity (TPOV 16) by wrongfully terminating its contract (the “TPOV  
7 Agreement”) for the development and operation of Gordon Ramsay Steak, a restaurant in the Paris  
8 Hotel & Casino in Las Vegas. *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company,*  
9 *LLC*, No. 2:17-cv-00346-JCM-VCF, 2018 WL 7501299, at \*1 (D. Nev. Oct. 22, 2018). This  
10 action, commenced more than six months later, on August 25, 2017, by Paris and three other  
11 business affiliates of Caesars (collectively, “Caesars”), requested a declaratory judgment that Paris  
12 properly terminated the TPOV Agreement and that Caesars properly terminated other similar  
13 agreements with Seibel-related entities. *Id.*<sup>1</sup>

14 While Caesars claims that document production *in this case* did not commence until April  
15 30, 2019, after the February 4, 2019 deadline to amend pleadings (Motion, at 9), Caesars neglects  
16 to inform this Court that, as the District Judge in the Federal Action found, extensive discovery  
17 had taken place in 2017 and 2018 in the Federal Action, including “the production of over 11,000  
18 documents.” *TPOV Enterprises*, 2018 WL 7501299, at \*2. Included within that document  
19 production were three CDs containing documents produced by TPOV to Caesars on December 7,  
20 2018. The contents of the documents contained on one of those CDs (the “TPOV CD”) is  
21 described in the attached affidavit of Joshua Feldman, Esq., an attorney with Certilman Balin Adler  
22  
23

---

24 <sup>1</sup> Although lacking any relevance to the merits of this motion, Caesars accuses the Seibel  
25 parties of engaging in forum shopping. Motion, at 8-9. Significantly, however, when, “after  
26 approximately 17 months of discovery” in the Federal Action, Paris moved to stay that case in favor  
27 of these state court proceedings, the District Judge denied the motion, noting that “extensive  
28 discovery” had taken place in the Federal Action over that 17-month period and holding: “Here,  
Paris has engaged in forum shopping by filing a ‘reactive declaratory action’ in state court. [Citation  
omitted]. Accordingly, this factor weighs against a stay of proceedings.” *TPOV Enterprises*, 2018  
WL 7501299, at \*2, 3.



1 & Hyman, LLP (the "Certilman Firm"), predecessor counsel for the Seibel parties in this action  
2 and in the Federal Action.

3 As he avers in his affidavit ("Feldman Aff."), a copy of which is attached hereto as Exhibit  
4 1, on December 7, 2018, Mr. Feldman sent the TPOV CD (in response to document requests from  
5 Caesars), by Federal Express, to Caesars' counsel, Pisanelli Bice PLLC, which represents Caesars  
6 and its affiliates both in this action and in the Federal Action. Feldman Aff. ¶¶ 2-3 & Ex. A thereto.  
7 The TPOV CD contained documents Bates stamped TPOV00011666-TPOV00020923. Feldman  
8 Aff. ¶ 3. The TPOV CD was created by the Certilman Firm's I.T. department by downloading the  
9 documents from a link provided by the firm's electronic discovery vendor. *Id.*, ¶ 6. The Certilman  
10 Firm's I.T. department also created a file copy (the "File Copy") of the TPOV CD that was an  
11 exact copy of the TPOV CD that was sent to Caesars' counsel on December 7, 2018. *Id.* Among  
12 the documents which were contained on the TPOV CD which was produced to Caesars on  
13 December 7, 2018 were four emails, or email chains, bearing Bates stamp numbers: (a)  
14 TPOV00012610-TPOV00012612; (b) TPOV00012939-TPOV00012942; (c) TPOV00015726;  
15 and (d) TPOV00018821-TPOV00018824. *Id.*, ¶ 4. Those emails, printed from the File Copy  
16 retained by the Certilman Firm, are attached as exhibits to the Feldman Affidavit. Feldman Aff. ¶  
17 5 & Exs. B, C, D and E thereto. Because the File Copy is a duplicate of the TPOV CD that was  
18 sent to Caesars' counsel by Federal Express on December 7, 2018, Caesars has had possession of  
19 those emails since shortly after December 7, 2018.<sup>2</sup>

20 An examination of these four emails or email chains conclusively dispels Caesars' baseless  
21 claim that it was unaware, prior to the February 4, 2019 deadline for amending pleadings or adding  
22

---

23 <sup>2</sup> On March 14, 2019, three months after the production of the TPOV CD, M. Magali  
24 Mercera, counsel for Caesars, emailed Mr. Feldman requesting the "text files" pertaining to the  
25 TPOV documents contained on the TPOV CD. Feldman Aff. ¶ 7 & Ex. F. In response, on March  
26 19, 2019, Mr. Feldman sent Ms. Mercera a link with the requested text files that was prepared by  
27 the Certilman Firm's electronic discovery vendor. *Id.*, ¶ 7 & Ex. G. Even assuming that the "text  
28 files" were missing from the December 7, 2018 production, it is indisputable that the TPOV CD  
and the File Copy retained by the Certilman Firm both contained completely legible and viewable  
images of the emails which have been printed from the File Copy and which are attached as Exs.  
B, C, D and E, respectively, to the Feldman Affidavit.

1 parties, that Seibel was receiving rebate payments from two vendors: Pat LaFrieda and Innis and  
2 Gunn. The emails Bates stamped TPOV00012610-TPOV00012612 (Feldman Aff. Ex. B) clearly  
3 show that Pat LaFrieda was paying Seibel a 5% rebate on steak sold to two restaurants located in  
4 Caesars properties, but still owed Seibel a portion of that rebate. There is nothing ambiguous about  
5 the meaning of those documents, which were produced on December 7, 2018. Those documents  
6 (Feldman Aff. Ex. B) were marked as deposition exhibit C37 during the deposition of Craig Green,  
7 on September 6, 2019, as the designated Rule 30(b)(6) witness on behalf of TPOV 16. Feldman  
8 Aff. Ex. 2; Motion, at 10 & Ex. 6 thereto. In his deposition on September 24, 2019, Seibel was  
9 asked about the same documents. Motion, at 11. Yet, even though Caesars had possession of  
10 these documents since on or about September 8, 2018, and even though it had taken the depositions  
11 of two witnesses (Green and Seibel) in September 2019 concerning those documents, Caesars  
12 voluntarily entered into a stipulated Third Amended Discovery Scheduling Order, filed on October  
13 15, 2019, which provided that the deadline for motions to amend pleadings or add parties was  
14 "Closed." *See* discovery scheduling order, Ex. 6 hereto. Surely, Caesars realized then that it had  
15 a potential motion to amend its complaint (just as LLTG/FERG had a potential motion to amend  
16 their counterclaims), but chose not to seek an extension of that deadline. Of course, if Caesars had  
17 agreed to extend that deadline, it would have been unable to argue (successfully) that the  
18 LLTQ/FERG motion to amend was too late. Allowing Caesars nevertheless to disregard the  
19 deadline now, after using it to successfully resist the LLTQ/FERG motion to amend, would be to  
20 reward gamesmanship and a deliberate flouting of this Court's orders.

21 A second email chain produced on December 7, 2018, Bates stamped TPOV00012939-  
22 TPOV00012942 (Feldman Aff. Ex. C), was also marked as an exhibit during a deposition, as  
23 Exhibit GR4 at the deposition of Craig Green as the designated Rule 30(b)(6) witness for LLTQ  
24 on November 12, 2019. *See* Ex. 3 hereto. An examination of those documents, which Caesars had  
25 in its possession since on or about December 8, 2018, makes it clear that a Seibel entity was  
26 receiving rebates from Innis and Gunn, another vendor in restaurants located in Caesars properties.

27 A third email produced on December 7, 2018, Bates stamped TPOV00015726, was marked  
28 as deposition exhibit GR6 at the deposition of LLTQ by Craig Green on November 12, 2019. *See*

1 Feldman Aff. Ex. D; Ex. 4 hereto. That document, which has been in Caesars' possession since  
2 December 2018, again shows the 5% rebate from Pat LaFrieda.

3 Finally, the email chain Bates stamped TPOV00018821-TPOV00018824, also produced to  
4 Caesars on December 7, 2018, clearly shows "a rebate back to you of 15%" from Innis and Gunn.  
5 Feldman Aff. Ex.E, at TPOV00018822. Those emails were marked as deposition exhibit GR3 at  
6 the November 12, 2019 deposition of LLTQ by Craig Green. *See* Ex. 5 hereto.

7 Clearly, regardless of the merits of Caesars' proposed amended complaint, Caesars was on  
8 notice of the facts underlying its new claims in December 2018, yet unjustifiably waited without  
9 explanation, failing to move to amend its complaint before the deadline for amending claims or  
10 adding new parties and never even attempting to have that deadline extended even as it was  
11 entering into several stipulated extensions of various discovery deadlines. Simply stated, Caesars  
12 has not shown good cause for its inexcusable delay and has attempted to conceal its indolence by  
13 pretending that it never received substantial document production in the Federal Action, including  
14 documents which are relevant to this very motion.<sup>3</sup>

15 **II. LEGAL ARGUMENT**

16 This Court's Order denying the LLTQ/FERG motion to amend its counterclaims (Ex. 7  
17 hereto) is controlling. The Order denying that motion was submitted by counsel for Caesars and  
18 approved as to form and content by all other counsel. Ex. 7.

19 As the Court held, "[w]here a scheduling order has been entered, the lenient standard under  
20 Rule 15(a), which provides leave to amend 'shall be freely given,' must be balanced against the  
21 requirement under Rule 16(b) that the Court's scheduling order 'shall not be modified except upon  
22 a showing of good cause.'" *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 971  
23  
24

---

25 <sup>3</sup> While, given the expiration of the deadline for moving to amend pleadings, the merits of  
26 Caesars' claim are not relevant, it should be noted that its claim that Seibel and others were engaged  
27 in a "secret" scheme which was concealed from Caesars and Seibel's business partners, including  
28 Gordon Ramsay (Motion, at 7, 12-13), is belied by the fact that Ramsay was in possession of, and  
produced in discovery, a document pertaining to a 15% rebate from a vendor. Motion, Ex. 12  
(Bates stamped RAMSAY00005824-RAMSAY00005825).

(Nev. App. 2015) (quoting *Grochowski v. Phoenix Constr.*, 318 F.3d 80, 86 (2d Cir. 2003)).” Ex. 7, at 2.

As the Court continued, the reason for strictly enforcing a scheduling order absent good cause is that “[d]isregard of the [scheduling] order would undermine the court’s ability to control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent and the cavalier.” *Id.* at 285-86, 357 P.3d at 971 (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992)).” *Id.* Unlike the LLTQ/FERG motion to amend, which only sought to add another restaurant to the list of businesses opened by Caesars without the participation of LLTQ or an affiliate and would not have added any new parties or required any new discovery, except for production of a profit and loss statement for that one restaurant, Caesars’ motion would be significantly disruptive, adding a new party and requiring the parties to embark on additional discovery which would be so substantial as to be tantamount to launching and litigating a new lawsuit.

The Court specifically found that the deadline to amend pleadings was February 4, 2019 and that, “[a]ccordingly, the LLTQ/FERG Defendants had to demonstrate that good cause exists to allow the amendment of their counterclaim after the deadline had expired.” *Id.* at 3. Applying that standard, the Court further found that “the LLTQ/FERG Defendants have not met that burden and have not demonstrated that good cause exists to permit amendment of their counterclaim. The LLTQ/FERG Defendants *were aware of the facts they sought to include in their amended counterclaim before the deadline to amend expired and they delayed seeking leave to amend their counterclaim.*” *Id.* at 3 (emphasis supplied).

Accordingly, the Caesars motion to amend should be denied, just as the LLTQ/FERG motion to amend was denied for the same reason.

///

///

///

1 **III. CONCLUSION**

2 For the foregoing reasons, the Court should deny Caesars' motion for leave to file a first  
3 amended complaint in its entirety.

4 DATED this 23<sup>rd</sup> day of December, 2019.

5 **RICE REUTHER SULLIVAN & CARROLL, LLP**

6  
7 By: 

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10 Daniel J. Brooks, Esq. (*pro hac vice*)

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13 New York, New York 10019

14 *Attorneys for Counter-defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Rice Reuther Sullivan & Carroll, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing document entitled **OPPOSITION TO CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to be served via the Court's electronic filing system to all parties listed on the e-service master list on the 23rd day of December, 2019, to the following:

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/s/ Gayle McCrea  
An Employee of Rice Reuther Sullivan & Carroll, LLP

# INDEX TO EXHIBITS

Exhibit No.	Description	Date
Ex. 1	Affidavit of Joshua Feldman, Esq.	12/18/2019
A	Letter dated December 7, 2018 from Joshua Feldman, Esq. to M. Magali Mercera, Esq.	12/7/2018
B	Email dated November 9, 2012 from Craig Green to Rowen Seibel (Bates stamped TPOV00012610 - TPOV00012612)	11/9/2012
C	Email dated June 12, 2013 from Craig Green to Rowen Seibel (Bates stamped TPOV00012939 - TPOV00012942)	6/12/2013
D	Email chain dated October 23, 2012 and October 22, 2012 between Rowen Seibel and Craig Green (Bates stamped TPOV00015726)	10/22/12- 10/23/12
E	Email chain dated May and June 2013 between Dan Deluca, Craig Green and Dougal Sharp (Bates stamped TPOV00018821 - TPOV00018824)	5/2013 - 6/2013
F	Email dated March 14, 2019 from M. Magali Mercera, Esq. to Joshua Feldman, Esq.	3/14/2019
G	Email dated March 19, 2019 from Joshua Feldman, Esq. to M. Magali Mercera, Esq.	3/19/2019
Ex. 2	Deposition Exhibit C37 marked at September 6, 2019 deposition of TPOV16/Craig Green (Bates stamped TPOV00012610 - TPOV00012612)	9/6/2019
Ex. 3	Deposition Exhibit GR4 marked at November 12, 2019 Deposition of LLTQ/Craig Green (Bates stamped TPOV00012939 - TPOV00012942)	11/12/2019
Ex. 4	Deposition Exhibit GR6 marked at November 12, 2019 of LLTQ/Craig Green (Bates stamped TPOV00015726)	11/12/2019
Ex. 5	Deposition Exhibit GR3 marked at November 12, 2019 deposition of LLTQ/Craig Green (Bates stamped TPOV00018821 - TPOV00018824)	11/12/2019
Ex. 6	Third Amended Scheduling Order filed October 15, 2019	10/15/2019
Ex. 7	Order Denying Motion to Amend LLTQ/FERG Counterclaims, filed November 25, 2019	11/25/2019

---

# Exhibit 1

Affidavit of Joshua  
Feldman, Esq.



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21 *Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;*  
22 *FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;*  
23 *TPOV Enterprises, LLC; and TPOV Enterprises 16, LLC*

24 EIGHTH JUDICIAL DISTRICT COURT  
25 CLARK COUNTY, NEVADA

26 ROWEN SEIBEL, an individual and citizen  
27 of New York, derivatively on behalf of Real  
28 Party in Interest GR BURGR LLC, a  
Delaware limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B

Dept. No. 16

Consolidated with:

Case No.: A-17-760537-B

AFFIDAVIT OF JOSHUA FELDMAN

STATE OF NEW YORK )  
COUNTY OF NASSAU )

ss.:

JOSHUA FELDMAN, being duly sworn, deposes and says:

1. I am a member of the Bar of the Courts of the State of New York and am associated with the firm of Certilman Balin Adler & Hyman, LLP (the "Certilman Firm"), formerly counsel in this case to plaintiff/counter-defendant Rowen Seibel ("Seibel"), and LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC, FERG, LLC, FERG 16, LLC, MOTI Partners, LLC, MOTI Partners 16, LLC, TPOV Enterprises, LLC ("TPOV") and TPOV Enterprises 16 ("TPOV16"), LLC (collectively, the "Seibel Entities").

2. The Certilman Firm represented Seibel and the Seibel Entities not only in this action but also in a related case in federal court entitled *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, No. 2:17-cv-00346-JCM-VCF, pending in the United States District Court for the District of Nevada (the "TPOV Action"). The same firm which represents Caesars in this action, Pisanelli Bice PLLC, also represented the Caesars-affiliated defendant in the TPOV Action (referred to herein as "Caesars").

3. On December 7, 2018, in response to document requests from Caesars in the TPOV Action, I sent to Caesars' counsel, via Federal Express, three discs (CDs) containing document production on behalf of TPOV, TPOV16 and Seibel. The second CD referenced in my covering letter (the "TPOV CD") contained documents Bates stamped TPOV00011666-TPOV00020923. A copy of my covering letter, dated December 7, 2018, which enclosed the CDs, is attached hereto as Exhibit A.

4. Among the documents which were contained on the TPOV CD which was produced to Caesars on December 7, 2018, were four emails bearing the following Bates stamp

1 numbers: (a) TPOV00012610-12612; (b) TPOV00012939-12942; (c) TPOV00015726; and (d)  
2 TPOV00018821-18824.

3 5. The four emails identified above, in ¶ 4(a)-(d) of this affidavit, are attached hereto  
4 as Exhibits B, C, D and E, respectively. These emails were obtained from the file copy of the  
5 TPOV CD retained by the Certilman Firm (the "File Copy").

6 6. The TPOV CD was created by the Certilman Firm's I.T. department by  
7 downloading the documents from a link provided to us by our electronic discovery vendor. The  
8 File Copy was created by our I.T. department by creating an exact copy of the TPOV CD sent to  
9 Caesars' counsel.

10 7. On March 14, 2019, three months after we produced the TPOV CD, Magali  
11 Mercera, an attorney for Caesars, emailed me stating that the "text files" were missing for the  
12 TPOV documents (TPOV00011666-TPOV00020923) which we had produced on December 7,  
13 2018. A copy of that email is attached hereto as Exhibit F. In response, on March 19, 2019, I  
14 sent Ms. Mercera a link with the requested "text files" that were prepared by our electronic  
15 discovery vendor. A copy of that email is attached hereto as Exhibit G.

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JOSHUA FELDMAN

Sworn to before me this 18<sup>th</sup> day of  
December, 2019

  
Notary Public

NICOLE L. MILONE  
Notary Public, State of New York  
No. 02MI6304686  
Qualified in Nassau County  
Commission Expires June 2, 2022

# Exhibit 1A

Letter dated December 7, 2018  
from Joshua Feldman, Esq. to  
M. Magali Mercera, Esq.

# CERTILMANBALIN

90 MERRICK AVENUE, 9TH FLOOR  
EAST MEADOW, NY 11554  
PHONE: 516.296.7000 • FAX: 516.296.7111  
www.certilmanbalin.com

JOSHUA FELDMAN  
ASSOCIATE  
DIRECT DIAL 516.296.7081  
jfeldman@certilmanbalin.com

December 7, 2018

VIA FEDERAL EXPRESS

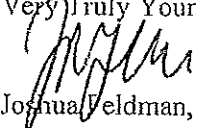
M. Magali Mercera  
Pisanelli Bice, PLLC  
400 S. 7<sup>th</sup> Street, Suite 300  
Las Vegas, NV 89101

Re: *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*  
Case No. 2:17-cv-00346-JCM-VCF

Dear Magali:

Enclosed please find three discs: (1) document production on behalf of TPOV 16, bates stamped 16TPOV00000001-16TPOV00000717; (2) document production on behalf of TPOV, bates stamped TPOV00011666-TPOV00020923; and (3) document production on behalf of Rowen Seibel, bates stamped RS00000001-RS00000322.

Very Truly Yours,

  
Joshua Feldman, Esq.

Encls.

# Exhibit 1B

Email dated November 9, 2012  
from Craig Green to Rowen  
Seibel (Bates stamped TPOV  
00012610 – TPOV00012612)

David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
[adiraimondo@rrsc-law.com](mailto:adiraimondo@rrsc-law.com)  
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[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
**RICE REUTHER SULLIVAN & CARROLL, LLP**  
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[dbrooks@szslaw.com](mailto:dbrooks@szslaw.com)

**SCAROLA ZUBATOV SCHAFFZIN PLLC**  
1700 Broadway, 41<sup>st</sup> Floor  
New York, NY 10019  
Tel: (212) 757-0007  
Fax: (212) 757-0469

*Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWLV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "1B"**

**FILED UNDER SEAL**

# Exhibit 1C

Email dated June 12, 2013 from  
Craig Green to Rowen Seibel  
(Bates stamped TPOV00012939  
- TPOV00012942)



David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
[adiraimondo@rrsc-law.com](mailto:adiraimondo@rrsc-law.com)  
Robert E. Opdyke, Esq. (NSB #12841)  
[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
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Daniel J. Brooks, Esq. (*Admitted Pro Hac Vice*)  
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*Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWL V, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "1C"**

**FILED UNDER SEAL**

# Exhibit 1D

Email chain dated October 23,  
2012 and October 22, 2012  
between Rowen Seibel and  
Craig Green (Bates stamped  
TPOV00015726)

David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
[adiraimondo@rrsc-law.com](mailto:adiraimondo@rrsc-law.com)  
Robert E. Opdyke, Esq. (NSB #12841)  
[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
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Steven C. Bennett, Esq. (*Admitted Pro Hac Vice*)  
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Daniel J. Brooks, Esq. (*Admitted Pro Hac Vice*)  
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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "1D"**

**FILED UNDER SEAL**

# Exhibit 1E

Email chain dated May and  
June 2013 between Dan Deluca,  
Craig Green and Dougal Sharp  
(Bates stamped TPOV00018821  
- TPOV00018824)

David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
[adiraimondo@rrsc-law.com](mailto:adiraimondo@rrsc-law.com)  
Robert E. Opdyke, Esq. (NSB #12841)  
[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
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*Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "1E"**

**FILED UNDER SEAL**

# Exhibit 1F

Email dated March 14, 2019  
from M. Magali Mercera, Esq.  
to Joshua Feldman, Esq.


From: Magali Mercera <mmm@pisanellibice.com> on behalf of Magali Mercera  
Sent: Thursday, March 14, 2019 6:47 PM  
To: JFeldman@certilmanbalin.com; PSweeney@certilmanbalin.com;  
drm@mcnuttlawfirm.com; mcw@mcnuttlawfirm.com  
Cc: jjp@pisanellibice.com; dls@pisanellibice.com; BTW@pisanellibice.com;  
RR@pisanellibice.com; DB@pisanellibice.com  
Subject: RE: TPOV/Paris: Productions

Josh –

We are also missing the text files for the TPOV documents (TPOV00011666-TPOV00020923) from your December 7, 2018. Please provide the text files for that production.

Thanks,

M. Magali Mercera  
PISANELLI BICE, PLLC  
Telephone: (702) 214-2100  
[mmm@pisanellibice.com](mailto:mmm@pisanellibice.com) | [www.pisanellibice.com](http://www.pisanellibice.com)

 Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

---

From: Magali Mercera  
Sent: Wednesday, March 6, 2019 10:50 AM  
To: Joshua Feldman (JFeldman@certilmanbalin.com) <JFeldman@certilmanbalin.com>; PAUL B. SWEENEY (PSweeney@certilmanbalin.com) <PSweeney@certilmanbalin.com>; Dan McNutt (drm@mcnuttlawfirm.com) <drm@mcnuttlawfirm.com>; Matt Wolf (mcw@mcnuttlawfirm.com) <mcw@mcnuttlawfirm.com>  
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>  
Subject: TPOV/Paris: Productions

Josh –

We are finalizing our production and will provide our final production and privilege log this month. We similarly have not received your privilege log, please provide a status update.

Additionally, pursuant to Section 22 and Exhibit A of the ESI Protocol, the parties are required to produce load files with certain criteria. TPOV Enterprises 16's, TPOV's and Rowen Seibel's productions to date are all missing the following information from the load files:

- Attachment Count;
- Confidentiality Branding;
- Duplicate Custodian;
- Has Redactions

Please provide corrected productions in compliance with the ESI protocol.

Thanks,

**M. Magali Mercera**

PISANELLI BICE, PLLC

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Telephone: (702) 214-2100

Fax: (702) 214-2101

[mmm@pisanellibice.com](mailto:mmm@pisanellibice.com) | [www.pisanellibice.com](http://www.pisanellibice.com)



*Please consider the environment before printing.*

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.



# Exhibit 1G

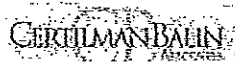
Email dated March 19, 2019  
from Joshua Feldman, Esq. to  
M. Magali Mercera, Esq.

**From:** Joshua Feldman <JFeldman@certilmanbalin.com> on behalf of Joshua Feldman  
**Sent:** Tuesday, March 19, 2019 6:28 PM  
**To:** mmm@pisanellibice.com; jjp@pisanellibice.com; dls@pisanellibice.com;  
BTW@pisanellibice.com; RR@pisanellibice.com; DB@pisanellibice.com  
**Cc:** PSweeney@certilmanbalin.com; NMilone@certilmanbalin.com;  
drm@mcnuttlawfirm.com; mcw@mcnuttlawfirm.com; lah@mcnuttlawfirm.com  
**Subject:** FW: PROD004\_TPOV.zip [IWOV-iManage.FID523885]

Magali:

In response to your March 14 email, below please find the link with the text files for TPOV00011666-TPOV00020923. I will send over the password in a separate email to follow momentarily. Please let me know if you have any issues accessing the data.

Thanks,  
Josh



Joshua Feldman, Esq.  
Certilman Balin Adler & Hyman, LLP  
90 Merrick Avenue, 9th Floor  
East Meadow, NY 11554

☎ Direct 516.296.7081 | 📠 Firm 516.296.7000 | 📠 Fax 516.296.7111

✉ Email: [jfeldman@certilmanbalin.com](mailto:jfeldman@certilmanbalin.com) | [www.certilmanbalin.com](http://www.certilmanbalin.com)

**Confidentiality Notice:** This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete and then destroy all copies of the original message.

---

**From:** Processing Group <delivery@spaces.hightailmail.com>  
**Sent:** Tuesday, March 19, 2019 4:02 PM  
**To:** Joshua Feldman <JFeldman@certilmanbalin.com>  
**Subject:** PROD004\_TPOV.zip



Processing Group

has shared 1 file.



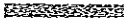
1 file

•  
552.6 MB total

•  
Expires 04/02/2019

PWD to be sent via separate email

---

 ZIP PROD004\_TPOV.zip

552.6 MB

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[Terms](#) | [Privacy](#)

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Powered By Hightail

# Exhibit 2

Deposition Exhibit C37 marked  
at September 6, 2019 deposition  
of TPOV16/Craig Green (Bates  
stamped TPOV00012610 -  
TPOV00012612)

David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
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[scb@szslaw.com](mailto:scb@szslaw.com)  
Daniel J. Brooks, Esq. (*Admitted Pro Hac Vice*)  
[dbrooks@szslaw.com](mailto:dbrooks@szslaw.com)  
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*Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "2"**

**FILED UNDER SEAL**

# Exhibit 3

Deposition Exhibit GR4 marked  
at November 12, 2019

Deposition of LLTQ/Craig  
Green (Bates stamped  
TPOV00012939 -  
TPOV00012942)

David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
[adiraimondo@rrsc-law.com](mailto:adiraimondo@rrsc-law.com)  
Robert E. Opdyke, Esq. (NSB #12841)  
[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
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Steven C. Bennett, Esq. (*Admitted Pro Hac Vice*)  
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[dbrooks@szslaw.com](mailto:dbrooks@szslaw.com)

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*Attorneys for Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWL V, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "3"**

**FILED UNDER SEAL**

# Exhibit 4

Deposition Exhibit GR6 marked  
at November 12, 2019 of  
LLTQ/Craig Green (Bates  
stamped TPOV00015726)



David A. Carroll, Esq. (NSB #7643)  
[dcarroll@rrsc-law.com](mailto:dcarroll@rrsc-law.com)  
Anthony J. DiRaimondo, Esq. (NSB #10875)  
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Robert E. Opdyke, Esq. (NSB #12841)  
[ropdyke@rrsc-law.com](mailto:ropdyke@rrsc-law.com)  
**RICE REUTHER SULLIVAN & CARROLL, LLP**  
3800 Howard Hughes Parkway, Suite 1200  
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Facsimile: (702) 732-7110

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Daniel J. Brooks, Esq. (*Admitted Pro Hac Vice*)  
[dbrooks@szslaw.com](mailto:dbrooks@szslaw.com)  
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1700 Broadway, 41<sup>st</sup> Floor  
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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
derivatively by one of its two members, R Squared Global Solutions, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
citizen of New York, derivatively on  
behalf of Real Party in Interest GR  
BURGR LLC, a Delaware limited liability  
company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B  
Dept. No. 16

Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "4"**

**FILED UNDER SEAL**

# Exhibit 5

Deposition Exhibit GR3 marked  
at November 12, 2019  
deposition of LLTQ/Craig  
Green (Bates stamped  
TPOV00018821 -  
TPOV00018824)

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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing  
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and  
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BURGR LLC, a Delaware limited liability  
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CORPORATIONS I through X,

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AND ALL RELATED MATTERS

Case No. A-17-751759-B  
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Consolidated with:  
Case No.: A-17-760537-B

**OPPOSITION TO CAESARS' MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

**EXHIBIT "5"**

**FILED UNDER SEAL**

# Exhibit 6

Third Amended Scheduling  
Order filed October 15, 2019

*Steven D. Grierson*

1 ARJT

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 ROWEN SEIBEL, an individual and citizen )  
8 of New York, derivatively on behalf of Real )  
9 Party in Interest GR BURGR LLC, a )  
Delaware limited liability company, )  
10 )  
Plaintiff, )

11 -vs-

12 PHWLTV, LLC, a Nevada limited liability )  
13 company; GORDON RAMSAY, an )  
14 individual; DOES I through X; ROE )  
CORPORATIONS I through X, )

15 and Defendants. )  
16 and )

17 GR BURGR LLC, a Delaware limited )  
18 liability company, )

19 Nominal Plaintiff. )  
AND ALL RELATED MATTERS )

Case No. A-17-751759-B  
Dept No. XVI

CONSOLIDATED WITH  
Case No.: A-17-760537-B.

HEARING DATE(S)  
ENTERED IN  
ODYSSEY

20 3<sup>rd</sup> AMENDED ORDER SETTING CIVIL JURY TRIAL,  
21 PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;  
22 AMENDED DISCOVERY SCHEDULING ORDER CALL

23 Pursuant to the Stipulation and Order to Extend Discovery Deadlines and Trial (5<sup>th</sup> Request)  
24 the Discovery Deadlines and Trial dates are hereby amended as follows:

25 IT IS HEREBY ORDERED that the parties will comply with the following deadlines:

26 Motions to amend pleadings or add parties

Closed

27 Close of Fact Discovery

January 15, 2020

1 Designation of experts pursuant to NRCP 16.1(a)(2) February 14, 2020

2 Designation of rebuttal experts pursuant to NRCP 16.1(a)(2) March 16, 2020

3 Discovery Cut Off April 15, 2020

4 Dispositive Motions May 15, 2020

5 Motions in Limine June 12, 2020

6  
7 IT IS HEREBY ORDERED THAT:

8 A. The above entitled case is set to be tried to a jury on a five week stack to begin  
9 July 27, 2020 at 9:30 a.m.

10 B. Pre-Trial Conference/Calendar Call will be held on July 9, 2020 at 10:30 a.m.

11 C. Parties are to appear on May 6, 2020 at 9:00a.m., for a Status Check re Trial  
12 Readiness.

13 D. The Pre-Trial Memorandum must be filed no later than July 10, 2020, with a  
14 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)  
15 MUST comply with ALL REQUIREMENTS of EDCR 2.67, 2.68 and 2.69. Counsel should include  
16 in the Memorandum an identification of orders on all motions in limine or motions for partial  
17 summary judgment previously made; a summary of any anticipated legal issues remaining, a brief  
18 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well  
19 as any objections to the opinion testimony.

20 E. All motions in limine to exclude or admit evidence must be in writing and filed no  
21 later than June 12, 2020. Orders shortening time will not be signed except in extreme  
22 emergencies.

23 F. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.  
24 16.1(a)(3) must be made at least 30 days before trial.  
25  
26  
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28

1           G. All discovery deadlines, and motions to amend the pleadings or add parties are  
2 controlled by the previously issued Scheduling Order and/or any amendments or subsequent  
3 orders.

4           H. All original depositions anticipated to be used in any manner during the trial must be  
5 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is  
6 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions  
7 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days  
8 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of  
9 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial  
10 date. Counsel shall advise the clerk prior to publication.  
11

12           I. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All  
13 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three  
14 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the  
15 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be  
16 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or  
17 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,  
18 demonstrative exhibits are marked for identification but not admitted into evidence.  
19  
20

21           J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be  
22 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or  
23 make specific objections to items to be included in the Jury Notebook.

24           K. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the  
25 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall  
26 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed  
27  
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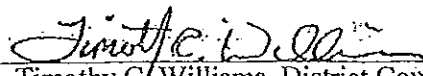
1 set of jury instructions and proposed form of verdict along with any additional proposed jury  
2 instructions with an electronic copy in Word format.

3 Failure of the designated trial attorney or any party appearing in proper person to  
4 appear for any court appearances or to comply with this Order shall result in any of the  
5 following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation  
6 of trial date; and/or any other appropriate remedy or sanction.  
7

8 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if they are*  
9 *going to require daily copies of the transcripts of this trial or real time court reporting. Failure to*  
10 *do so may result in a delay in the production of the transcripts or the availability of real time court*  
11 *reporting.*

12 Counsel is required to advise the Court immediately when the case settles or is otherwise  
13 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate  
14 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A  
15 copy should be given to Chambers.  
16

17 DATED: October 8, 2019.  
18

19   
20 Timothy C. Williams, District Court Judge  
21  
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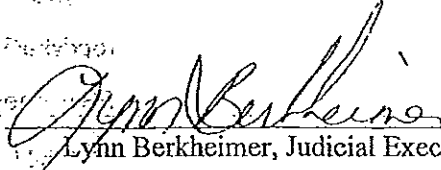


CERTIFICATE OF SERVICE

I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program as follows:

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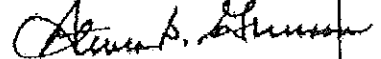
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Lynn Berkheimer, Judicial Executive Assistant

# Exhibit 7

Order Denying Motion to  
Amend LLTQ/FERG  
Counterclaims, filed November  
25, 2019



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12 *Attorneys for Desert Palace, Inc.;*  
*Paris Las Vegas Operating Company, LLC;*  
*PHWLTV, LLC; and Boardwalk Regency*  
13 *Corporation d/b/a Caesars Atlantic City*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
17 in Interest GR BURGR LLC, a Delaware  
limited liability company,

18 Plaintiff,

19 v.

20 PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
21 DOES I through X; ROE CORPORATIONS I  
through X,

22 Defendants,

23 and

24 GR BURGR LLC, a Delaware limited liability  
company,

25 Nominal Plaintiff.  
26

27 AND ALL RELATED MATTERS  
28

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**ORDER DENYING MOTION TO AMEND  
LLTQ/FERG DEFENDANTS' ANSWER,  
AFFIRMATIVE DEFENSES AND  
COUNTERCLAIMS**

Date of Hearing: November 6, 2019

Time of Hearing: 9:00 a.m.

1 Defendants LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"),  
2 FERG LLC ("FERG"), and FERG 16, LLC ("FERG 16") (collectively "LLTQ/FERG  
3 Defendants") Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses, and  
4 Counterclaims (the "Motion to Amend") came before the Court for hearing on November 6, 2019,  
5 at 9:00 a.m. M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared on  
6 behalf of PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las  
7 Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars  
8 Atlantic City ("CAC") and collectively with Caesars Palace, Paris, and Planet Hollywood,  
9 "Caesars"). Anthony DiRaimondo, Esq. of the law firm RICE REUTHER SULIVAN & CARROLLC,  
10 LLP appeared on behalf of the LLTQ/FERG Defendants. Daniel Brooks, Esq., of SCAROLA  
11 ZUBATOV SCHAFFZIN PLLC, appeared telephonically on behalf of the LLTQ/FERG Defendants.  
12 Allen Wilt, Esq., of the law firm FENNEMORE CRAIG, appeared on behalf of Gordon Ramsay.

13 The Court having considered the Motion to Amend and the opposition thereto, as well as  
14 argument of counsel presented at the hearing, and good cause appearing therefor,

15 THE COURT FINDS THAT, under Nevada law, "[t]he court should freely give leave [to  
16 amend] when justice so requires." NRCP 15(a)(2). However, "[t]his does not . . . mean that a  
17 trial judge may not, in a proper case, deny a motion to amend. If that were the intent, leave of  
18 court would not be required." *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000)  
19 (quoting *Stephens v. So. Nev. Music Co.*, 89 Nev. 104, 105, 507 P.2d 138, 139 (1973)).

20 THE COURT FURTHER FINDS THAT, "[w]here a scheduling order has been entered,  
21 the lenient standard under Rule 15(a), which provides leave to amend 'shall be freely given,' must  
22 be balanced against the requirement under Rule 16(b) that the Court's scheduling order 'shall not  
23 be modified except upon a showing of good cause.'" *Nutton v. Sunset Station, Inc.*, 131 Nev. 279,  
24 285, 357 P.3d 966, 971 (Nev. App. 2015) (quoting *Grochowski v. Phoenix Constr.*, 318 F.3d 80,  
25 86 (2d Cir.2003)). "Disregard of the [scheduling] order would undermine the court's ability to  
26 control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent and the  
27 cavalier." *Id.* at 285-86, 357 P.3d at 971 (quoting *Johnson v. Mammoth Recreations, Inc.*, 975  
28 F.2d 604, 610 (9th Cir.1992)).

1 THE COURT FURTHER FINDS THAT, the deadline to amend pleadings in this action  
2 was February 4, 2019. Accordingly, the LLTQ/FERG Defendants had to demonstrate that good  
3 cause exists to allow the amendment of their counterclaim after the deadline had expired.

4 THE COURT FURTHER FINDS THAT, the LLTQ/FERG Defendants have not met that  
5 burden and have not demonstrated that good cause exists to permit amendment of their  
6 counterclaim. The LLTQ/FERG Defendants were aware of the facts they sought to include in  
7 their amended counterclaim before the deadline to amend expired and they delayed seeking leave  
8 to amend their counterclaim.

9 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to  
10 Amend is DENIED IN ITS ENTIRETY.

11 IT IS SO ORDERED.


12 DATED this 22<sup>nd</sup> day of November 2019.

13   
14 THE HONORABLE TIMOTHY C. WILLIAMS  
EIGHTH JUDICIAL DISTRICT COURT  
15 

16 Respectfully submitted by:

17 DATED November 21, 2019

18 PISANELLI BICE PLLC

19 By:   
James J. Pisanelli, Esq., Bar No. 4027  
Debra L. Spinelli, Esq., Bar No. 9695  
20 M. Magali Mercera, Esq., Bar No. 11742  
Brittanie T. Watkins, Esq., Bar No. 13612  
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Las Vegas, NV 89101

22 and

23 Jeffrey J. Zeiger, P.C., Esq.  
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William E. Arnault, IV, Esq.  
25 (admitted *pro hac vice*)  
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Chicago, IL 60654

27 Attorneys for Plaintiffs Desert Palace, Inc.; Paris Las Vegas Operating  
28 Company, LLC; PHWLV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City

1 Approved as to form and content by:  
2 DATED November 21, 2019  
3 FENNEMORE CRAIG, P.C.

4 By: /s/ Allen Wilt  
5 Allen Wilt, Esq. (SBN 4798)  
6 John Tennert, Esq. (SBN 11728)  
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8 Reno, NV 89501  
9 *Attorneys for Gordon Ramsay*

Approved as to form and content by:  
DATED November 21, 2019  
RICE REUTHER SULIVAN & CARROLLC, LLP

By: /s/ David A. Carroll  
David A. Carroll, Esq.  
Anthony J. DiRaimondo, Esq.  
Robert E. Opdyke, Esq.  
3800 Howard Hughes Pkwy., Suite 1200  
Las Vegas, NV 89169

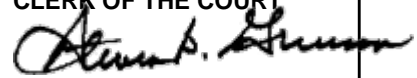
and

Steven C. Bennett, Esq.  
Daniel J. Brooks, Esq.  
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Broadway, 41<sup>st</sup> Floor  
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*Attorneys for Plaintiff Rowen  
Seibel/Defendants Rowen Seibel; LLTQ  
Enterprises, LLC; LLTQ Enterprises 16, LLC;  
FERG, LLC; FERG 16, LLC; MOTI Partners,  
LLC; MOTI Partners 16, LLC; TPOV  
Enterprises, LLC; and TPOV Enterprises 16,  
LLC*

TAB 51





**MSRC**

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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;  
TPOV Enterprises, LLC; and TPOV Enterprises 16, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen  
of New York, derivatively on behalf of Real  
Party in Interest GR BURGR LLC, a  
Delaware limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an  
individual; DOES I through X; ROE  
CORPORATIONS I through X,

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B

Dept. No. 16

Consolidated with:

Case No.: A-17-760537-B

*HEARING REQUESTED*

**MOTION TO SEAL CERTAIN  
EXHIBITS TO OPPOSITION TO  
CAESARS' MOTION FOR LEAVE TO  
FILE FIRST AMENDED COMPLAINT**

**RICE REUTHER SULLIVAN & CARROLL, LLP**  
3800 Howard Hughes Pkwy, Suite 1200  
Las Vegas, Nevada 89169  
(702) 732-9099

**MEMORANDUM OF POINTS AND AUTHORITIES**

Concurrently with this Motion to Seal, Counter-defendants have filed their Opposition to Caesars' Motion for Leave to File First Amended Complaint ("Opposition"), which contains nonpublic and confidential information. Accordingly, Plaintiff hereby seeks an order of this Court permitting Exhibits 1-B, 1-C, 1-D, 1-E, 2, 3, 4, and 5 to be filed under seal and a redacted filing filed with the Court for purposes of the publicly-available record.

Pursuant to the Nevada Rules for Sealing and Redacting Court Records ("SRCR"), the Court may order files and records, or any part thereof, in a civil action to be sealed when it "is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record." SRCR 3(4). The Rules go on to enumerate several situations where privacy or safety interests are deemed to outweigh the public interest in access to court records, including:

(b) The sealing or redaction furthers an order entered under NRCP 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP 26(c)

\*\*\*

(g) The sealing or redaction is necessary to protect . . . property interests . . . ; or

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

*Id.*

As noted above, the Opposition attaches certain exhibits that contains confidential and nonpublic information. Specifically, Counter-defendants believe that the subject exhibits constitute confidential business, commercial, and proprietary information and have been specifically designated as "Confidential" pursuant to the terms of a Stipulated Confidentiality Agreement and Protective Order. Based on such designation, Counter-defendants believe that sealing these exhibits is necessary and appropriate to protect the parties' interests to keep such information confidential in order to avoid any competitive harm or injury that may arise from its public disclosure. N.R.C.P. 26(c)(7).

1 In order to protect compelling privacy interests, which outweigh the public interest in access  
2 to court records, and good cause appearing, the Court should grant this Motion in its entirety,  
3 thereby permitting the sealing of the subject exhibits and permitting the redacted filing filed with  
4 the Court for purposes of the publicly-available record.

5 DATED this 23rd day of December, 2019.

6 RICE REUTHER SULLIVAN & CARROLL, LLP

7  
8 By: 

9 David A. Carroll, Esq. (NSB #7643)  
10 Anthony J. DiRaimondo, Esq. (NSB #10875)  
11 Robert E. Opdyke, Esq. (NSB #12841)  
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13 Las Vegas, Nevada 89169

14 Daniel J. Brooks, Esq. (*Pro Hac Vice*)  
15 SCAROLA ZUBATOV SCHAFFZIN PLLC  
16 1700 Broadway, 41<sup>st</sup> Floor  
17 New York, NY 10019

18 *Attorneys for Counter-defendants*  
19  
20  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Rice Reuther Sullivan & Carroll, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing document entitled **MOTION TO SEAL CERTAIN EXHIBITS TO OPPOSITION TO CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to be submitted via U.S. mail and/or electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 23rd day of December, 2019, to the following:

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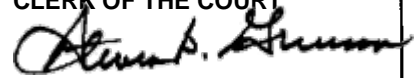
*Attorneys for Plaintiff in Intervention*

*The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse*

/s/ Gayle McCrea

An Employee of Rice Reuther Sullivan & Carroll, LLP

TAB 52



1 ARJT

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 ROWEN SEIBEL, an individual and citizen )  
8 of New York, derivatively on behalf of Real )  
9 Party in Interest GR BURGR LLC, a )  
Delaware limited liability company, )

Case No. A-17-751759-B  
Dept No. XVI

10 Plaintiff, )

11 -vs- )

CONSOLIDATED WITH  
Case No.: A-17-760537-B

12 PHWLTV, LLC, a Nevada limited liability )  
13 company; GORDON RAMSAY, an )  
14 individual; DOES I through X; ROE )  
CORPORATIONS I through X, )

15 Defendants. )

16 and )

17 GR BURGR LLC, a Delaware limited )  
18 liability company, )

19 Nominal Plaintiff. )

AND ALL RELATED MATTERS )

HEARING DATE(S)  
ENTERED IN  
ODYSSEY



20 4<sup>th</sup> AMENDED ORDER SETTING CIVIL JURY TRIAL,  
21 PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;  
22 AMENDED DISCOVERY SCHEDULING ORDER

23 Pursuant to the Stipulation and Order to Extend Discovery Deadlines and Trial (5<sup>th</sup> Request)  
24 the Discovery Deadlines and Trial dates are hereby amended as follows:

25 IT IS HEREBY ORDERED that the parties will comply with the following deadlines:

26 Motions to amend pleadings or add parties

Closed

27 Close of Fact Discovery

May 15, 2020

1	Designation of experts pursuant to NRCP 16.1(a)(2)	June 15, 2020
2	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	July 15, 2020
3	Discovery Cut Off	August 14, 2020
4	Dispositive Motions	September 14, 2020
5	Motions in Limine	September 17, 2020

7 **IT IS HEREBY ORDERED THAT:**

8 A. The above entitled case is set to be tried to a jury on a **five week stack** to begin  
9 **November 9, 2020 at 9:30 a.m.**

10 B. Pre-Trial Conference/Calendar Call will be held on **October 15, 2020 at 10:30 a.m.**

11 C. Parties are to appear on **September 9, 2020 at 9:00a.m.**, for a Status Check re Trial  
12 Readiness.

13 D. The Pre-Trial Memorandum must be filed no later than **November 2, 2020**, with a  
14 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)  
15 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include  
16 in the Memorandum an identification of orders on all motions in limine or motions for partial  
17 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief  
18 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well  
19 as any objections to the opinion testimony.

20 E. All motions in limine to exclude or admit evidence must be in writing and filed no  
21 later than **September 17, 2020. Orders shortening time will not be signed except in extreme**  
22 **emergencies.**

23 F. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.  
24 16.1(a)(3) must be made at least 30 days before trial.

1           G.     All discovery deadlines, and motions to amend the pleadings or add parties are  
2 controlled by the previously issued Scheduling Order and/or any amendments or subsequent  
3 orders.

4           H.     All original depositions anticipated to be used in any manner during the trial must be  
5 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is  
6 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions  
7 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days  
8 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of  
9 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial  
10 date. Counsel shall advise the clerk prior to publication.

11           I.     In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All  
12 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three  
13 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the  
14 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be  
15 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or  
16 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,  
17 demonstrative exhibits are marked for identification but not admitted into evidence.

18           J.     In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be  
19 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or  
20 make specific objections to items to be included in the Jury Notebook.

21           K.     In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the  
22 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall  
23 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed  
24



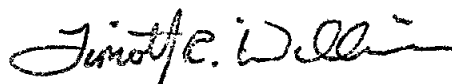
1 set of jury instructions and proposed form of verdict along with any additional proposed jury  
2 instructions with an electronic copy in Word format.

3 **Failure of the designated trial attorney or any party appearing in proper person to**  
4 **appear for any court appearances or to comply with this Order shall result in any of the**  
5 **following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation**  
6 **of trial date; and/or any other appropriate remedy or sanction.**

7  
8 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if they are*  
9 *going to require daily copies of the transcripts of this trial or real time court reporting. Failure to*  
10 *do so may result in a delay in the production of the transcripts or the availability of real time court*  
11 *reporting.*

12  
13 Counsel is required to advise the Court immediately when the case settles or is otherwise  
14 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate  
15 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A  
16 copy should be given to Chambers.

17 DATED: January 7, 2020.

18  
19 

20 Timothy C. Williams, District Court Judge

21  
22  
23  
24  
25 ...

26 ...

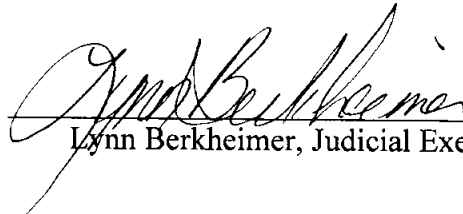
27 ...

1 CERTIFICATE OF SERVICE

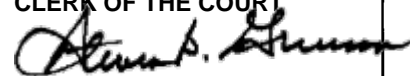
2  
3 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil  
4 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all  
registered parties in the Eighth Judicial District Court Electronic Filing Program as follows:

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Lynn Berkheimer, Judicial Executive Assistant

TAB 53



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Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**CAESARS' REPLY IN SUPPORT OF ITS  
MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

Hearing Date: February 12, 2020

Hearing Time: 9:00 a.m.

1 **I. INTRODUCTION**

2 The Seibel Parties admit they received kickbacks from vendors, but argue that such issues  
3 should not be allowed into this case because Caesars should have caught them in this unlawful  
4 scheme sooner. Specifically, they argue Caesars should have immediately filed this amendment  
5 when the Seibel Parties disclosed four documents in another matter, buried inside a proverbial  
6 haystack of 10,000 pages dumped on Caesars, with no index, no organization, and without even  
7 complying with the orders of the court. But as with every Seibel Party scheme, they ignore the  
8 facts and offer a twisted version of the truth.

9 The facts are simple: the Seibel Parties and Craig Green solicited and accepted kickbacks  
10 from Caesars vendors without Caesars' (or their other business partners') knowledge. During  
11 discovery in this litigation, Caesars diligently inquired about the scheme and determined that it  
12 was necessary to amend its complaint. Those efforts were delayed because of the Seibel Parties'  
13 own delay in complying with their discovery obligations. That's it. With no one to blame but  
14 themselves for dragging out this matter and after admitting to engaging in a kickback scheme,  
15 good cause exists to allow Caesars to amend its complaint. Indeed, justice demands it.

16 **II. ARGUMENT**

17 **A. The Seibel Parties Fail to Comply with Their Discovery Obligations – in All**  
18 **Cases.**

19 The Seibel Parties do not dispute – nor can they – that they did not produce *any*  
20 documents in this action until April 30, 2019, long after the February 4, 2019 deadline to amend  
21 pleadings expired.<sup>1</sup> (*See* Ex. 3 to Mot. Email from M. Magali Mercera, Esq. to Nicole Milone,  
22 Esq., Apr. 26, 2019). Caesars repeatedly pushed for the Seibel Parties to comply with their  
23 obligations and even made clear that any productions in the federal court action did not excuse  
24 production in the state court action. (*Id.*; *see also* Ex. 4, Email from M. Magali Mercera, Esq. to  
25 Nicole Milone, Esq., Apr. 30, 2019.) With no justification for their complete failure to produce  
26 documents in this action, the Seibel Parties attempt to shift focus to their disclosure of documents  
27 in *another* action and claim delay. (*See, e.g.,* Opp'n 4:1-13.) Unfortunately for the Seibel Parties,

28 <sup>1</sup> As explained in Caesars' Motion and as is consistent with the Seibel Parties' obstructionist  
discovery tactics, this production was woefully deficient. (Mot. 9:9-24.)

1 these efforts are futile and only serve to further highlight the Seibel Parties' obstructionist  
2 discovery tactics and demonstrate why Caesars was unaware of the Seibel Parties' kickback  
3 scheme until their production of documents in this case and depositions.

4 As with most large cases involving voluminous electronically stored information ("ESI"),  
5 the parties in the Federal Action entered into a Stipulated Protocol Governing Production of ESI  
6 (the "ESI Protocol"), which was approved as an order by the federal court. (Ex. 17, ESI Protocol,  
7 May 25, 2017.) As part of the ESI Protocol, all documents were required to be produced with,  
8 among other things, text files. (*Id.* ¶ 22(e).) The text files are particularly important in order to  
9 run searches over thousands of documents produced.

10 The Siebel Parties produced approximately 10,000 pages of documents in the matter  
11 pending in federal court, on or about December 7, 2018. (Ex. 18, Letter from Joshua Feldman,  
12 Esq. to M. Magali Mercera, Esq., Dec. 7, 2018.) However, the production was deficient in  
13 several ways. First, the production did not contain the required text files and was missing certain  
14 information from the load files. (Ex. 19, Email from M. Magali Mercera, Esq. to Joshua  
15 Feldman, Esq., Mar. 14, 2019.) Second, despite the voluminous production – which was  
16 purportedly in response to discovery requests served upon the Seibel Parties – the Seibel Parties  
17 failed to identify which documents were responsive to which requests or even provide an index.  
18 This "document dump" practice has routinely been rejected by the courts. *See, e.g., Residential*  
19 *Constructors, LLC v. ACE Prop. & Cas. Ins. Co.*, No. 2:05-CV-01318-BESGWF, 2006 WL  
20 1582122, at \*2 (D. Nev. June 5, 2006) (emphasis added) (internal citations omitted) ("***The Court***  
21 ***does not endorse a method of document production that merely gives the requesting party***  
22 ***access to a 'document dump', with an instruction to the party to 'go fish.'***"); *see also Koninklijke*  
23 *Philips Elecs. N.V. v. KXD Tech., Inc.*, No. 2:05CV01532RLH-GWF, 2007 WL 879683, at \*3 (D.  
24 Nev. Mar. 20, 2007) ("[A] party producing voluminous documents in response to a request for  
25 production should reasonably organize, label or index the produced documents to correspond with  
26 the categories in the request."). Indeed, "***[a] party who produces voluminous documents in no***  
27 ***apparent order does not comply with Rule 34.***" *Id.* (emphasis added) (citations omitted); *see also*  
28 *Stiller v. Arnold*, 167 F.R.D. 68, 71 (N.D. Ind. 1996) (emphasis added) ("Rule 34(b) places the

1 obligation on the responding party to 'organize and label' the documents which are produced for  
2 inspection. *Producing 7,000 pages of documents in no apparent order does not comply with a*  
3 *party's obligation under Rule 34(b)."*) For nearly two years, the Seibel Parties have failed to  
4 comply with their discovery obligations and their cavalier disregard for even the basic rules of  
5 discovery has been the subject of not one, but *two* motions for sanctions in the federal court. (*See*  
6 *Ex. 20, Order, May 6, 2019; see also Ex. 21, Order Setting Hr'g on Mots.*) It was not until shortly  
7 before previous counsel withdrew that the issues with the production were resolved. However,  
8 when the Court allowed prior counsel's withdrawal,<sup>2</sup> this Court also issued a stay that halted  
9 discovery. (Order Granting, in Part, Mot. for a Stay of Disc. On Order Shortening Time, June 4,  
10 2019, on file.)

11 **B. Caesars Pursued its Rights Diligently, Despite the Seibel Parties'**  
12 **Obstructionist Discovery Tactics.**

13 Caesars does not dispute that the Seibel Parties produced some documents in the federal  
14 action that it *now* knows relate to the Seibel Parties' kickback scheme. However, because of the  
15 production issues and the Seibel Parties' failure to comply with their discovery obligations, it is  
16 incorrect that Caesars was aware of the existence of these documents or the impact or meaning of  
17 these documents in advance of the deadline to amend pleadings. As this Court knows, this case  
18 was not about the Seibel Parties' criminal extortion and commercial bribery. Rather, Caesars  
19 commenced this case because of Seibel's felony criminal conviction for tax evasion which he hid  
20 from Caesars. That criminal conviction made Seibel unsuitable to do business with a gaming  
21 licensee and resulted in Caesars terminating all of its agreements with Seibel and the Seibel  
22 Parties. Frankly, Caesars was not expecting to find that Seibel and his affiliates engaged in  
23

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24 <sup>2</sup> In light of recent notices received from Seibel's prior counsel, it appears that although they  
25 requested to withdraw, Seibel's prior counsel may have continued working on this case  
26 surreptitiously. Specifically, at the time they asked this Court to be permitted to withdraw, prior  
27 counsel represented that they were owed "over \$420,000 for legal fees incurred in this action."  
28 (Certilman Balin's Mot. to Withdraw & Mot. for a Stay of Disc. on Order Shortening Time, May  
13, 2019, on file, 5:3-6.) However, on or about January 21, 2020, Certilman Balin served a notice  
of charging lien in the amount of \$1,610,484.06. (Ex. 22, Notice of Attorney's Charging Lien.) It  
is not clear how the Seibel Parties have nearly *quadrupled* the amount of fees owed to their prior  
counsel after that firm allegedly withdrew in May 2019. Unless, of course, Certilman Balin  
continued working on this matter "behind the scenes" without this Court's or any party's  
knowledge and without complying with S.C.R. 42.



1 *further* criminal activity. Thus, when Caesars discovered certain documents produced by the  
2 Seibel Parties that seemed amiss, it prudently asked about them during depositions and confirmed  
3 what it suspected. It would have been premature and improper for Caesars to attempt to amend  
4 any pleadings for allegations surrounding the Seibel Parties' kickback scheme without  
5 information supporting such claims.

6 As detailed in Caesars' original motion, depositions were unable to start until after the  
7 Seibel Parties produced documents in this case.<sup>3</sup> Once depositions commenced, Caesars inquired  
8 about the documents and obtained further information that enabled it to now bring this motion to  
9 amend before the Court. Importantly, given the scheme uncovered, it was important for Caesars  
10 to investigate the details about these kickbacks. Thus, in discovery, Caesars inquired of other  
11 Seibel partners, such as Gordon Ramsay, Marc Sherry, and Greg Sherry, who all confirmed they  
12 were unaware of this scheme and believed it to be illegal. Indeed, to say that his other partners  
13 were similarly shocked and upset with the discovery would be an understatement:

14 Q. Did you become aware, prior to this litigation, that Mr. Rowen --  
15 that Mr. Seibel, excuse me, was receiving a percentage from a  
meat vendor --

16 A. No.

17 Q. -- to Old Homestead Las Vegas?

18 A. No. I did not.

19 Q. Is that something you would have authorized?

20 A. *I would have turned him in for this.*

21 Q. What do you mean, "turned him in"?

22 A. *This is illegal. This is graft.*

23 Q. This is what?

24 A. Graph. It's a kickback. Which inflated the prices of the meat,  
25 which cost me money and Caesars Palace money.

26 Q. Why do you say that it cost you and Caesars Palace money?

---

27 <sup>3</sup> Indeed, it was not until the production of documents in this case, on or about  
28 July 30, 2019, that the picture of the Seibel Parties' extortion and commercial bribery took shape.  
For example, a 1099-MISC showing amounts paid to Seibel from one of Caesars' vendors was  
also not produced until July 30, 2019, well after the deadline to amend had expired. (Ex. 23, RS-  
00091611.)

1 A. Because the only way a guy is going to give somebody 5 percent is  
2 he raises the prices on you.

3 Q. Is this a practice you engage in in any of your restaurants?

4 A. *No, not at all. It's illegal*

5 (Ex. 16, Greg Sherry Dep. Tr., Oct. 30, 2019, at 81:6-82:3 (emphasis added).)

6 C. **Good Cause Exists to Allow Caesars Leave to Amend its Complaint.**

7 As this Court knows, "when a motion seeking leave to amend a pleading is filed after the  
8 expiration of the deadline for Filing such motions, the district court must first determine whether  
9 'good cause' exists . . . before the court can consider the merits of the motion under the standards  
10 of NRCP 15(a)." *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 281, 357 P.3d 966, 968 (Nev. App.  
11 2015). "Unlike Rule 15(a)'s liberal amendment policy, which focuses on undue delay and  
12 prejudice to the other party, Rule 16(b)'s 'good cause' standard centers on the moving party's  
13 diligence." *Hernandez v. Creative Concepts, Inc.*, 295 F.R.D. 500, 505 (D. Nev. 2013) (citation  
14 omitted). "A 'district court may modify the pretrial schedule 'if it cannot reasonably be met  
15 despite the diligence of the party seeking the extension.'" *Id.* (quoting *Johnson v. Mammoth*  
16 *Recreations, Inc.*, 975 F.2d 604, 607-08 (9th Cir. 1992)). "If the moving party is able to satisfy  
17 the good cause standard under Rule 16, then the Court will examine whether amendment also is  
18 proper under Rule 15(a)." *Id.* In accordance with Rule 15(a), "[t]he court should freely give leave  
19 when justice so requires."

20 The Seibel Parties argue that this Court's application of recognized legal standards  
21 mandates the same outcome in response to Caesars' motion to amend as was ordered in response  
22 to the Seibel Parties' motion to amend. (Opp'n 2:9-24, 8:14-23.) However, proper application of  
23 the standard dictates a different outcome. Unlike the Seibel Parties, Caesars was not fully aware  
24 of the facts it now seeks to include in its Amended Complaint before the deadline to amend  
25 expired. Caesars requests to file a First Amended Complaint because new facts *arose in*  
26 *discovery* evidencing commercial bribery and extortion. Caesars promptly did its diligence to  
27 determine whether viable claims existed by, among other things, asking witnesses questions about  
28 the facts of documents they produced. (*See, e.g.*, Mot. 10:10-11-13.) However, because of the

1 Seibel Parties' delay, the depositions in this matter could not start until *months* after the deadline  
2 to amend expired. (Exs. 3-4.) As a result, good cause exists to consider Caesars' motion to amend  
3 even though the deadline has passed.

4 **D. The Seibel Parties' Admissions to Commercial Bribery and Extortion**  
5 **Demonstrate the Merits of Caesars' Claims.**

6 The Seibel Parties seek this Court's protection with unclean hands. Rather than denying  
7 the crimes, or taking responsibility for them, they boldly acknowledge and/or admit to them  
8 throughout their Opposition and then point the finger at Caesars for failing to discover their  
9 crimes sooner. (*See, e.g.*, Opp'n 3:17-22.) Of course, these admissions should not be surprising  
10 given Seibel's bold admissions during his depositions. Nevertheless, shamelessly, the Seibel  
11 Parties ask this Court to disregard the merits of Caesars' claims and protect them from amendment  
12 based on discovery in the federal court action, which they also obstructed. (*See, e.g.*, Ex. 20.) In  
13 a case where the merits of a claim establish criminal activity – and the defendants *admit* engaging  
14 in the activity – denial of amendment would mean denial of justice.

15 **III. CONCLUSION**

16 Good cause is the standard the Court looks to in determining whether to grant a motion to  
17 amend after the deadline to amend has expired. Caesars' good cause is demonstrated in the merits  
18 of its claims and the Seibel Parties' obstruction. The parties recently agreed to extend fact  
19 discovery until May 15, 2020 and trial is not scheduled until November 9, 2020. With months  
20 left in discovery, the Seibel Parties cannot claim any prejudice as there is sufficient time to  
21 conduct discovery on the new allegations.

22 ///

1 Accordingly, Caesars respectfully requests that this Court grant leave to amend its  
2 Complaint to add claims for civil conspiracy, breach of the implied covenant of good faith and  
3 fair dealing, unjust enrichment, intentional interference with contractual relations, and fraudulent  
4 concealment as set forth in the Proposed First Amended Complaint, attached to the Motion as  
5 Ex. 1.

6 DATED this 5th day of February 2020.

7 PISANELLI BICE PLLC

8 By:   
9 \_\_\_\_\_

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17 (admitted *pro hac vice*)  
18 William E. Arnault, IV, Esq.  
19 (admitted *pro hac vice*)  
20 KIRKLAND & ELLIS LLP  
21 300 North LaSalle  
22 Chicago, Illinois 60654

23 *Attorneys for Desert Palace, Inc.;*  
24 *Paris Las Vegas Operating Company, LLC;*  
25 *PHWL, LLC; and Boardwalk Regency*  
26 *Corporation d/b/a Caesars Atlantic City*  
27  
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 5th day of February 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **CAESARS' REPLY IN SUPPORT OF ITS MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to the following:

David A. Carroll, Esq.  
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*Attorneys for DNT Acquisition LLC*

*Attorneys for Rowen Seibel, DNT Acquisition LLC,  
Moti Partners, LLC, Moti Partner 16s, LLC,  
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,  
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,  
FERG, LLC, and FERG 16, LLC*

Mark J. Connot, Esq.  
Kevin M. Sutehall, Esq.  
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Las Vegas, NV 89135

*Attorneys for Plaintiff in Intervention  
The Original Homestead Restaurant, Inc.*

Allen J. Wilt, Esq.  
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**VIA U.S. MAIL (redacted version only)**

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HEYMAN ENERIO GATTUSO &  
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*Attorneys for Gordon Ramsay*

*Trustee for GR Burgr LLC*



An employee of PISANELLI BICE PLLC

# EXHIBIT 17

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5 PISANELLI BICE PLLC  
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6 Las Vegas, Nevada 89101  
Telephone: 702.214.2100  
7 Facsimile: 702.214.2101

8 *Counsel for Paris Las Vegas Operating Company, LLC*

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 TPOV ENTERPRISES 16, LLC, a Delaware  
Limited Liability Company,

12 Plaintiff,

13 vs.

14 PARIS LAS VEGAS OPERATING  
15 COMPANY, LLC, a Nevada limited liability  
company,

16 Defendant.  
17

CASE NO. 2:17-cv-00346-JCM-VCF

**STIPULATED PROTOCOL GOVERNING  
PRODUCTION OF ELECTRONICALLY  
STORED INFORMATION**

18  
19 COME NOW, TPOV Enterprises 16, LLC ("TPOV 16"), by and through its undersigned  
20 counsel of record, and Defendant Paris Las Vegas Operating Company, LLC ("Paris"), by and  
21 through its undersigned counsel of record, and hereby enter into this Stipulated Protocol  
22 Governing Production of Electronically Stored Information ("Protocol"). In this Stipulation,  
23 TPOV 16 and Paris are collectively referred to as the "Parties" and individually as a "Party."

24 The Parties agree that good cause exists to create a protocol to govern the production of  
25 documents and Electronically Stored Information. Thus, the Parties have agreed and stipulated  
26 to the entry of this Protocol to ensure efficient production of documents during the pendency of  
27 this case.  
28

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It is hereby stipulated and agreed, by and between the Parties hereto, through their respective counsel of record, that the production of ESI shall be governed by the following protocol. The Parties are in possession of ESI that may be produced in this matter and the Court hereby orders as follows regarding the production of ESI:

1. **Definitions:** In this Protocol, the following terms have the following meanings:

- a. "ESI" means Electronically Stored Information, including, but not limited to, email, attachments to email, other electronic documents such as word processing, spreadsheet, PowerPoint, HTML, and text files and any other files stored in an electronic format.
- b. "Metadata" means: (i) information embedded in a Native Format file that is not ordinarily viewable or printable from the application that generated, edited or modified such Native Format file; and (ii) information generated automatically by the operation of a computer or other information technology system when a Native Format file is created, modified, transmitted, deleted or otherwise manipulated by a user of such system. Metadata is a subset of ESI.
- c. "Native Format" means ESI in the electronic format of the application in which such ESI is normally created, viewed, and/or modified.

2. **Scope:** This Protocol shall govern only the actual production of ESI and shall in no way affect the Parties' respective rights and obligations concerning the preservation, collection, and review of ESI. All Parties preserve their attorney-client privileges and other privileges, and there is no intent by this Protocol, or the production of documents pursuant to this Protocol, to in any way waive or weaken these privileges. Nothing in this Protocol shall limit the Parties' respective rights and obligations concerning confidential, proprietary, or private information, with respect to which they may make such agreements or stipulations as they see fit, subject to applicable law. All documents produced pursuant to this Protocol are fully protected and covered by the Parties' confidentiality agreements, and orders of the Court, as well as any clawback agreements, and protective order(s) of the Court effectuating the same.



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1           3.     **ESI Production Format:** ESI shall be produced primarily as single-page,  
2 uniquely and sequentially numbered CCITT Group IV TIFF (black and white) image files not less  
3 than 300 dpi. Only after receiving the advance permission of the receiving Party, the following  
4 additional formats may also be acceptable to represent particular ESI or documents: JPEG,  
5 JPEG2000, GIF, PNG, and BMP. The images shall be accompanied by searchable text files  
6 containing all extracted text on a document basis, or if extracted text is unavailable (e.g., image  
7 PDF files), then searchable text generated using Optical Character Recognition ("OCR") will be  
8 provided. The text files shall be named to match the endorsed number assigned to the image of  
9 the first page of the document. The images and text files shall also be accompanied by a cross-  
10 reference load file. The producing Party shall also provide a data load file ("Data Load File") that  
11 shall contain the agreed-upon coding and/or Metadata, as reasonably available, associated with  
12 each field as specified in Schedule A hereto. Data Load Files will be provided in Concordance  
13 DAT file format, with field name headers and standard Concordance delimiters. The Image Load  
14 File will be provided in the OPT and LFP file formats.

15           4.     **Email Production Format:** Email, together with all attachments, shall be  
16 produced as follows: as single-page TIFF images representing the pages of emails that would  
17 have been viewable in the ordinary course of business prior to collection. Each such TIFF image  
18 will show the endorsed document number and confidentiality status for each such email page.  
19 The parties will provide the Metadata fields available for emails as identified on Schedule A.

20           5.     **Paper Production Format:** Documents stored in paper form in the ordinary  
21 course of business shall be converted to electronic form and produced as single-page, uniquely  
22 and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi resolution to  
23 enable the generation of searchable text using OCR. The images shall be accompanied by text  
24 files containing the OCR-generated searchable text. The text files shall be named to match the  
25 endorsed number assigned to the image of the first page of the document. The images shall also  
26 be accompanied by an image cross-reference load file, providing the beginning and ending  
27 endorsed number of each document and the number of pages it comprises. The producing Party  
28

1 shall also provide a Data Load File corresponding to the CCITT Group IV TIFF image files that  
2 shall contain the Metadata fields defined in Schedule A hereto.

3       6.     **Bates Numbering for TIFF Images:** Each page of a document produced in TIFF  
4 file format shall be endorsed with a legible, unique numeric identifier ("Bates Number") not less  
5 than eight (8) digits (with zero-padding) electronically "burned" onto the image at a place on the  
6 document that does not obscure, conceal, or interfere with any information originally appearing  
7 on the document. The Bates Number for each document shall be created so as to identify the  
8 producing Party or non-party and the unique document number (e.g., "ABC00000001").

9       7.     **Document Unitization:** If a paper document is more than one page, to the extent  
10 possible, the unitization of the document and any attachments and/or affixed notes shall be  
11 maintained as it existed when collected by the Parties. If unitization cannot be maintained, the  
12 original unitization shall be documented in a load file or otherwise electronically tracked. For  
13 ESI, all unitization should be defined within the Data Load File including the designation of  
14 parent/attachments both for email and attachments.

15       8.     **Color Documents:** If the receiving Party believes that a document is not legible  
16 or where the absence of color materially affects the document, the receiving Party may request  
17 that the document be produced in color, and the Parties shall meet and confer as to the possibility  
18 of rendering the document in color format.

19       9.     **Production of ESI in Native Format:** Other than as specifically set forth below,  
20 a producing Party need not produce documents in Native Format. Any Native Format files that  
21 are produced should be produced with a link in the "NativeFile" Metadata field, along with all  
22 extracted text and Metadata fields set forth in Schedule A hereto. No document produced in  
23 Native Format shall be intentionally manipulated to change the appearance or substance of the  
24 document prior to its collection or production. All redactions of ESI will be performed on a  
25 TIFF-imaged version of the document only, and Native Format files and extracted text will not be  
26 provided. Redactions on grounds of attorney-client privilege or attorney work product shall be  
27 logged on a privilege log. Redacted ESI will be OCR'd to include all visible (non-redacted) text.  
28 Any Metadata fields that contain information subject to redaction shall not be produced, however,

1 the remainder of the Metadata fields for that document that are not subject to redaction will be  
2 produced. Notwithstanding the foregoing, the Parties hereby reserve their rights to request  
3 production of documents in Native Format in the future should the need to do so arise. Should  
4 such need arise, the Parties will meet and confer concerning production of any discovery  
5 materials in Native Format. If the Parties are not able to reach agreement concerning the  
6 production of discovery materials in Native Format, they shall promptly bring such matter to the  
7 Court's attention.

8 10. **Spreadsheets**: Subject to the redaction provisions of ¶ 9, spreadsheets (*e.g.*, Excel  
9 and Excel-type files) shall be produced in their Native Format with a link in the NativeFile  
10 Metadata field, along with extracted text. For extracted text, the producing Party may need to  
11 unhide all rows and columns depending on what method is being used to extract text.

12 11. **Media Files**: All non-privileged video, animation, or audio files shall be produced  
13 in their Native Format. All video, animation, or audio files that a producing Party in good faith  
14 believes contains material protected by either the attorney-client privilege or attorney work  
15 product doctrine must be identified on a privilege log in the form agreed to by the Parties.

16 12. **Other File Types**: In some cases it may be necessary to produce documents in  
17 their Native Format because such documents cannot be rendered into TIFF format. In other cases,  
18 it may be necessary to alter a native file to create a format suitable for production purposes (*e.g.*,  
19 Lotus Notes objects, compiled web pages, etc.). If alteration of a Native Format file is necessary  
20 to create a format suitable for production, the Parties will discuss and agree upon an acceptable  
21 format.

22 13. **Specific Requests for Production of ESI in Native Format**: Other than the  
23 specific file types described above, after initial production of ESI in TIFF format, a Party must  
24 make a showing of good cause demonstrating particularized need for production of other ESI in  
25 its Native Format. In the event that a receiving Party requests production of Native Format ESI,  
26 the Parties shall negotiate in good faith about the timing, cost, and method of such production.

27 14. **De-Duplication of Non-Emails**: All non-email documents will be de-duplicated  
28 across Custodians prior to production, with an "AllCustodians" Metadata field identifying all the

1 custodians who possessed copies of the documents. "De-duplicated across Custodians" means  
2 that exact duplicates of documents (where the document family is identical), as identified by MD5  
3 hash value, will not be produced.

4 15. **De-Duplication of Emails:** For emails, in addition to de-duplication across  
5 custodians, thread de-duplication may be applied prior to production. Thread de-duplication  
6 allows emails that are wholly contained in a later, surviving email, with all of the recipients and  
7 attachments contained, to be identified and suppressed from production. An email is only  
8 removed from production if 100% of the message body is contained, all addresses are included,  
9 and all attachments are included in a later email that is produced. When the latest version of an  
10 email thread is considered privileged and withheld from production, the Parties are obligated to  
11 "re-thread" the most complete non-privileged earlier emails in the thread and produce such non-  
12 privileged emails.

13 16. **De-Nisting of ESI:** The Parties may remove operating system files and program  
14 files with the assistance of their respective Information Technology vendors prior to conducting  
15 searches of such data in accordance with the National Software Reference Library De-Nisting  
16 Process.

17 17. **Placeholders:** In the event that any production contains documents that could not  
18 be rendered to TIFF, the producing Party will insert a numbered TIFF format placeholder page as  
19 a replacement for, and to identify, any document that could not be rendered to TIFF or produced  
20 for some other reason. The placeholder page(s) will bear the text "Document Cannot Be  
21 Rendered." Any file produced in its Native Format will be produced with an associated TIFF  
22 format placeholder with the text "Document Produced in Native Format."

23 18. **Production Media:** The Parties will produce document images, Native Format  
24 files, load files, and Metadata as encrypted data on DVD-ROM optical discs for Windows-  
25 compatible personal computers, Windows-compatible external hard drive employing the USB 2.0  
26 interface, or other mutually agreeable media or via an FTP site. The Parties will meet and confer  
27 concerning the appropriate process for doing so.

28

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1           19.    **Original Documents**: Nothing in this Protocol shall eliminate or alter any Party's  
2 obligation to retain Native Format copies, including associated Metadata, of all ESI produced in  
3 this matter and original hard copy documents for all paper documents produced in the matter.

4           20.    **Third-Party Software**: To the extent that documents produced pursuant to this  
5 Protocol cannot be rendered or viewed without the use of proprietary third-party software, the  
6 Parties shall meet and confer to minimize any expense or burden associated with the production  
7 of such documents in an acceptable format, including issues as may arise with respect to  
8 obtaining access to any such software and operating manuals which are the property of a third  
9 party.

10          21.    **Processing Specifications**: The Parties shall use the following specifications  
11 when converting ESI from its Native Format into TIFF image files prior to its production:

- 12                   a. For Excel or other spreadsheet files that must be produced in TIFF image  
13 format for redactions, hidden columns, and rows shall be made visible.  
14                   b. PowerPoint documents must be processed with hidden slides and speaker's  
15 notes unhidden.

16          The foregoing provisions do not in any way limit a producing Party's ability to make any  
17 necessary redactions, whether for privilege, confidentiality, and/or privacy.

18          22.    **Production Specifications**: All documents will be produced according to the  
19 following Production Specifications.

- 20                   a. **Data Load Files**:
- 21                           i. Concordance (DAT, OPT, LFP):
- 22                                   1. Version 10 for Unicode support.
- 23                           ii. DAT file:
- 24                                   1. UTF-8 encoded Unicode to support foreign language.
- 25                           iii. Fields available in the DAT file (with standard Concordance  
26 delimiters):
- 27                                   1. See Schedule A for list of fields.
- 28                           iv. Text files will not be provided within the DAT file.

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b. **TIFF Specifications:**

- i. Black and white.
- ii. Single page.
- iii. CCITT Group IV FAX Compression.
- iv. 300 dots per inch.

c. **Native Format Specifications:** Prior to production, Native Format documents will be renamed with their appropriate Bates Numbers (as assigned to the corresponding placeholder) and confidentiality designation in the filename (e.g., "Bates Number\_confidentiality designation.file extension"), and a corresponding TIFF format placeholder bearing the text "Document Produced in Native Format."

d. **Endorsements:**

- i. Printed with a font size comparable to 10-point Arial.
- ii. Right footer: Bates Number.
- iii. Left Footer: Confidentiality legend.

1. Legend values:

- a. HIGHLY CONFIDENTIAL
- b. CONFIDENTIAL

iv. Redactions: White redactions with a border.

1. Redaction types:

- a. Privilege.
- b. Privacy.
- c. Personnel issues.
- d. Regulatory compliance issues.
- e. Trade secrets and confidential information that would be protected under the Nevada Uniform Trade Secrets Act.
- f. Other.

2. Redaction labels:

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- 1 a. REDACTED – PRIVILEGE
- 2 b. REDACTED – PRIVACY
- 3 c. REDACTED – PERSONNEL
- 4 d. REDACTED – COMPLIANCE
- 5 e. REDACTED – OTHER
- 6 e. **Text Files:**
  - 7 i. One Unicode text file will be provided per document (named according
  - 8 to the beginning Bates Number for each document).
  - 9 ii. Text will be extracted from Native Format files when possible.
  - 10 iii. Text will be provided with scanned documents where such text can be
  - 11 obtained through OCR.
  - 12 iv. Text files will not contain page breaks.
  - 13 v. Placeholders (with the exception of placeholders for files produced in
  - 14 Native Format) will receive a text file matching the placeholder text.
  - 15 vi. Text files for redacted documents will be created from the redacted
  - 16 image.
  - 17 vii. OCR text will be provided for documents where text cannot be
  - 18 extracted.
  - 19 viii. Text files will support foreign characters for upload into Concordance
  - 20 Version 10.
- 21 f. **Sorting:**
  - 22 i. Keep source/attachments (families) together.
- 23 g. **Data Organization:**
  - 24 i. Images: 1000 TIFF files per folder; no more than 1000 subfolders per
  - 25 folder; root folder named "Images."
  - 26 ii. Text files: Will reside in a separate folder named "Full\_Text."
  - 27 iii. Native Format files: Will reside in a separate folder named "Natives."
  - 28 iv. Data Load Files: Will reside in the root folder.

1           23.    **Embedded Objects:** Embedded objects within files will be extracted and  
2 produced as families.

3           24.    **Reservation of Rights:** Nothing contained herein, is intended to create a  
4 precedent for, or to constitute a waiver or relinquishment of, any Party's objections or arguments  
5 pertaining to any potential future ESI production(s). Nothing contained herein constitutes a  
6 waiver of any Party's rights or obligations under any law, including but not limited to laws  
7 regarding any matter or information that is or may be claimed to be privileged, confidential,  
8 proprietary, or otherwise personal or private.

9           25.    **Modification:** Any agreement between the Parties to depart from the requirements  
10 of this Protocol as between those Parties must be memorialized in writing, signed by counsel for  
11 all Parties to the agreement, and promptly furnished to all Parties via email and U.S. mail. Such  
12 agreement does not relieve those Parties of their obligation to other Parties and to the Court  
13 pursuant to this Stipulation.

14           26.    **Procedure for Amending or Obtaining Relief from the ESI Production**  
15 **Protocol:**

16           a.    **Amendment:** The Parties may, by mutual agreement, develop and employ  
17 production protocols which vary from those set forth above. In such an instance,  
18 they shall revise this Protocol and submit the new agreement for the Court's  
19 approval.

20           b.    **Relief:** Any Party may request relief from any obligation set forth in this Protocol.  
21 All such requests shall be in writing and submitted to the Court for consideration,  
22 with a copy of the request served to all Parties. Any Party may oppose any request  
23 for relief by submitting a written opposition to the Court, with a copy of the  
24 opposition served to all Parties, in accordance with LR 7-2.

25    ///  
26  
27  
28



27. **Cost Shifting:** Each Party expressly reserves the right to petition the Court to shift the cost of the production of ESI to the requesting Party.

DATED this 25<sup>th</sup> day of May 2017.

DATED this 25<sup>th</sup> day of May 2017.

PISANELLI BICE PLLC

CARBAJAL & MCNUTT, LLP

By: M. Magali Mercera  
James J. Pisanelli, Esq., Bar No. 4027  
Debra L. Spinelli, Esq., Bar No. 9695  
M. Magali Mercera, Esq., Bar No. 11742  
Brittanie T. Watkins, Esq., Bar No. 13612  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101

By: /s/ Matthew Wolf  
Dan McNutt, Esq., Bar No. 7815  
Matthew Wolf, Esq., Bar No. 10801  
CARBAJAL & MCNUTT, LLP  
625 S. 8th Street  
Las Vegas, Nevada 89101

*Attorneys for Defendant Paris Las Vegas  
Operating Company, LLC*

*Attorneys for Plaintiff TPOV Enterprises 16,  
LLC*

**ORDER**

IT IS SO ORDERED.

  
UNITED STATES MAGISTRATE JUDGE

DATED: 5-25-2017

**Schedule A**

Field Name	Description	Required for
Production Begin Bates	Start Bates	All
Production End Bates	End Bates	All
Production Begin Attach	Family Start Bates	All
Production End Attach	Family End Bates	All
Page Count	Number of Attachments	All
Attachment Count	Number of Attachments	All
Confidentiality Branding	Confidentiality designation	All
Custodian	Custodian	All
Duplicate Custodian	All Custodian	All
Subject	Subject	E-mail only
Author	Author	Attachments/loose files
From	From	E-mail only
To	To	All
CC	CC	All
BCC	BCC	All
DateSent	Date Email Sent	Email only
DateReceived	Date Email Received	Email only
File Name	File Name	Attachments/loose files
File Extensions	File Extensions	Attachments/loose files
File Size	File Size	Attachments/loose files
DateCreated	Date file created	Attachments/loose files
DateModified	Date the file was last modified/saved	Attachments/loose files
Native File	Loading path for any native file	Any documents produced in Native Format
Text Path	Loading path for any text file	
Has Redactions	Can indicate if a document is redacted	Any documents produced with redactions

# EXHIBIT 18

JOSHUA FELDMAN  
ASSOCIATE  
DIRECT DIAL 516.296.7081  
jfeldman@certilmanbalin.com

December 7, 2018

**VIA FEDERAL EXPRESS**

M. Magali Mercera  
Pisanelli Bice, PLLC  
400 S. 7<sup>th</sup> Street, Suite 300  
Las Vegas, NV 89101

Re: *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*  
Case No. 2:17-cv-00346-JCM-VCF

Dear Magali:

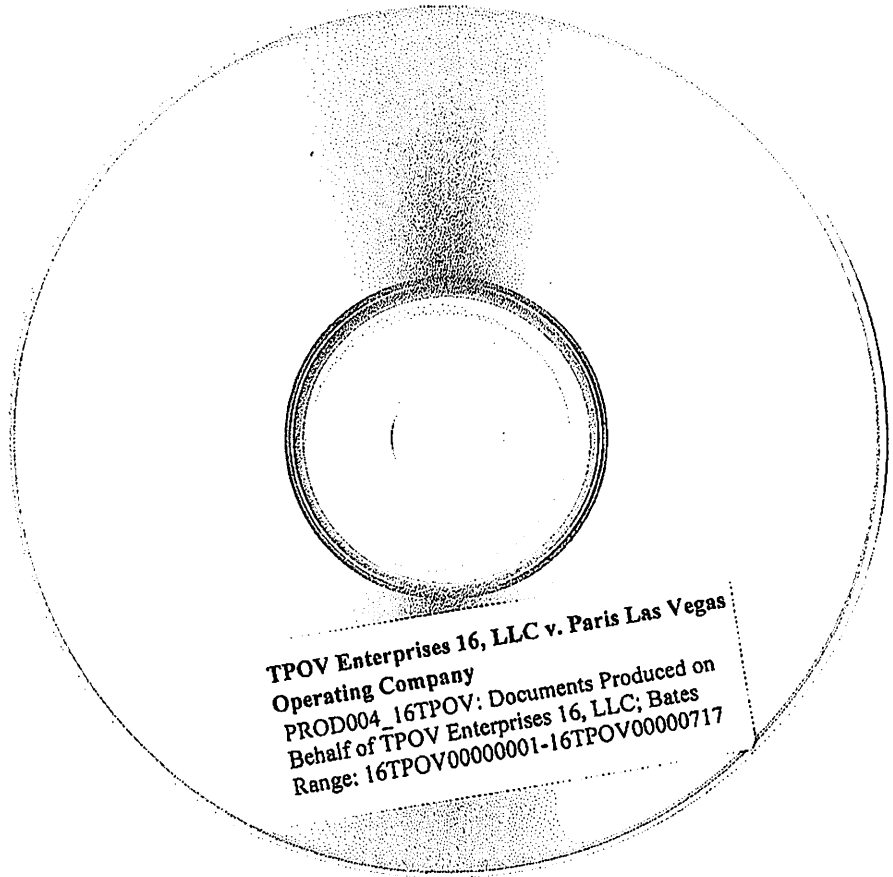
Enclosed please find three discs: (1) document production on behalf of TPOV 16, bates stamped 16TPOV00000001-16TPOV00000717; (2) document production on behalf of TPOV, bates stamped TPOV00011666-TPOV00020923; and (3) document production on behalf of Rowen Seibel, bates stamped RS00000001-RS00000322.

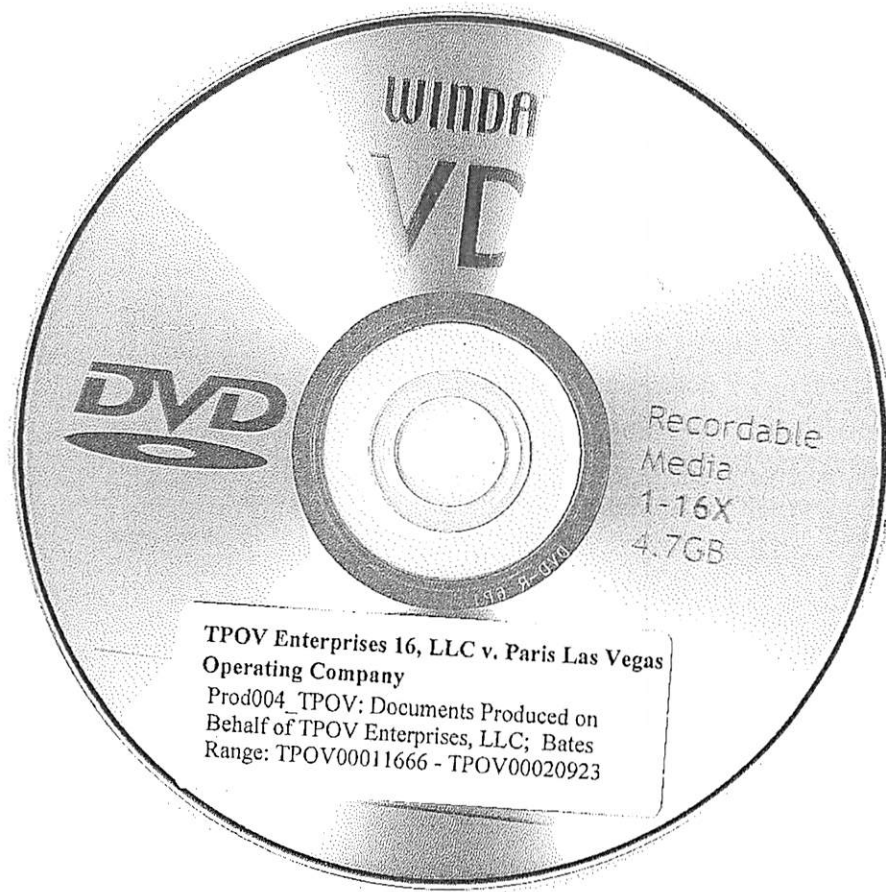
Very Truly Yours,

  
Joshua Feldman, Esq.

Encls.







# EXHIBIT 19



**From:** [Magali Mercera](#)  
**To:** [Joshua Feldman \(JFeldman@certilmanbalin.com\)](#); [PAUL B. SWEENEY \(PSweeney@certilmanbalin.com\)](#); [Dan McNutt \(drm@mcnuttlawfirm.com\)](#); [Matt Wolf \(mcw@mcnuttlawfirm.com\)](#)  
**Cc:** [James Pisanelli](#); [Debra Spinelli](#); [Brittnie T. Watkins](#); [Robert A. Ryan](#); [Diana Barton](#)  
**Subject:** RE: TPOV/Paris: Productions  
**Date:** Thursday, March 14, 2019 3:46:53 PM

---

Josh –

We are also missing the text files for the TPOV documents (TPOV00011666-TPOV00020923) from your December 7, 2018. Please provide the text files for that production.

Thanks,

**M. Magali Mercera**

PISANELLI BICE, PLLC

Telephone: (702) 214-2100

[mmm@pisanellibice.com](mailto:mmm@pisanellibice.com) | [www.pisanellibice.com](http://www.pisanellibice.com)



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---

**From:** Magali Mercera

**Sent:** Wednesday, March 6, 2019 10:50 AM

**To:** Joshua Feldman (JFeldman@certilmanbalin.com) <JFeldman@certilmanbalin.com>; PAUL B. SWEENEY (PSweeney@certilmanbalin.com) <PSweeney@certilmanbalin.com>; Dan McNutt (drm@mcnuttlawfirm.com) <drm@mcnuttlawfirm.com>; Matt Wolf (mcw@mcnuttlawfirm.com) <mcw@mcnuttlawfirm.com>

**Cc:** James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>

**Subject:** TPOV/Paris: Productions

Josh –

We are finalizing our production and will provide our final production and privilege log this month. We similarly have not received your privilege log, please provide a status update.

Additionally, pursuant to Section 22 and Exhibit A of the ESI Protocol, the parties are required to produce load files with certain criteria. TPOV Enterprises 16's, TPOV's and Rowen Seibel's productions to date are all missing the following information from the load files:

- Attachment Count;
- Confidentiality Branding;
- Duplicate Custodian;

- Has Redactions

Please provide corrected productions in compliance with the ESI protocol.

Thanks,

**M. Magali Mercera**

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400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Telephone: (702) 214-2100

Fax: (702) 214-2101

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# EXHIBIT 20

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \*\*\*

4  
5 TPOV ENTERPRISES 16, LLC,

6 Plaintiff,

7 vs.

8 PARIS LAS VEGAS OPERATING COMPANY,  
9 LLC,

10 Defendant.

11 And all related matters.

2:17-cv-00346-JCM-VCF

**ORDER AND SCHEDULING ORDER**

MOTION FOR PROTECTIVE ORDER [ECF No. 99],  
AND COUNTERMOTION TO COMPEL AND FOR  
SANCTIONS [ECF No.110]

12 Before the Court are TPOV Enterprise 16 and TPOV Enterprises' ("TPOV") Motion for a  
13 Protective Order Prohibiting the Deposition of Plaintiff/Counterdefendant on April 24, 2019 and April 25,  
14 2019 (ECF No. 99) and Defendant Paris Las Vegas Operating Company's Countermotion to Compel  
15 Depositions and for Sanctions (ECF No. 110). For the reasons discussed below, TPOV's motion for  
16 protective order is denied and Defendant's countermotion to compel and for sanctions is granted in part.

17 TPOV filed its motion for protective order the day before its designated FRCP 30(b)(6) witness,  
18 Craig Green, was scheduled to be deposed due to "an unavoidable personal conflict regarding a final  
19 interview for a business opportunity." (ECF No. 99 at 3). The Court held a telephonic hearing with the  
20 parties. (ECF No. 100). The Court and parties agreed that the deposition would not go forward as  
21 scheduled, but that there would be consequences.

22 The Court held a hearing on the motion for protective order and countermotion to compel and for  
23 sanctions on June 13, 2019. (ECF No. 124). TPOV represented that Craig Green will be made available  
24 for deposition. (*Id.*). The Court finds that TPOV's failure to provide their FRCP 30(b)(6) deponent at the  
25

1 scheduled deposition was completely unjustified. The Court finds that the following sanctions are  
2 appropriate under Federal Rule of Civil Procedure 37(d)(1)(A)(i):

- 3 1. The depositions of TPOV's FRCP 30(b)(6) witnesses and the personal deposition of Craig  
4 Green must take place in Las Vegas.
- 5 2. The following facts are deemed as established in this case:
  - 6 a. Neither Seibel nor the TPOV Parties informed Paris of Seibel's criminal activities after  
7 entering into the TPOV Agreement.
  - 8 b. TPOV had an obligation in accordance with Section 10.2 of the TPOV Development  
9 Agreement to disclose activities related to Seibel's guilty pleas.
  - 10 c. Seibel did not update his disclosures as required under Section 10.2 of the TPOV  
11 Development Agreement.

12 At the hearing, the parties also discussed an agreed upon discovery schedule for this case. (ECF  
13 No. 124). The Court will enter the discovery schedule as outlined by the parties.

14 ACCORDINGLY, and for good cause shown,

15 IT IS ORDERED that TPOV's Motion for a Protective Order Prohibiting the Deposition of  
16 Plaintiff/Counterdefendant on April 24, 2019 and April 25, 2019 (ECF No. 99) is DENIED.

17 IT IS FURTHER ORDERED that Defendant's Countermotion to Compel Depositions and for  
18 Sanctions (ECF No. 110) is GRANTED IN PART as stated above.

19 IT IS FURTHER ORDERED that the following discovery deadlines apply:

20 A. Discovery Cut-Off Date:

21 Discovery must be completed on or before **January 6, 2020**.

22 B. Fact Discovery Cut-Off Date:

23 Fact discovery must be completed on or before **October 7, 2019**.

1 C. Disclosure of Experts:

2 Initial expert disclosures must be made on or before **November 6, 2019**. Rebuttal expert  
3 disclosures must be made on or before **December 6, 2019**.

4 D. Dispositive Motions:

5 Dispositive motions must be filed and served on or before **February 5, 2020**.

6 E. Joint Pre-Trial Order:

7 The Joint Pre-trial Order must be filed on **March 5, 2020**. In the event dispositive motions are  
8 filed, the date for filing the Joint Pre-trial Order will be suspended until 30 days after the decision on the  
9 dispositive motions or further order of the Court.

10 F. Extension of Discovery Deadlines:

11 Pursuant to LR 26-4, any request to extend the dates set forth in this Discovery Plan and Scheduling  
12 Order must be filed with the Court no later than **21 days prior to expiration of the subject deadline**.

13  
14 DATED this 14th day of June, 2019.

15   
16 CAM FERENBACH  
17 UNITED STATES MAGISTRATE JUDGE  
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# EXHIBIT 21

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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

5 \*\*\*

6 TPOV ENTERPRISES 16, LLC,

7 Plaintiff,

8 vs.

9 PARIS LAS VEGAS OPERATING COMPANY,  
10 LLC,

11 Defendant.

2:17-cv-00346-JCM-VCF

**ORDER**

12 Before the court are the following motions:

- 13 1. Paris Las Vegas Operating Company, LLC's Motion for Terminating Sanctions (ECF NO. 152),  
14 2. Paris Las Vegas Operating Company, LLC's Motion to Seal (ECF NO. 153),  
15 3. Paris Las Vegas Operating Company, LLC's Motion to Redact Portions of Motions for  
16 Terminating Sanctions and Seal Exhibits A-D, J, K, M, P, R, T, and V Thereto (ECF NO. 156),  
17 4. TPOV's Motion to Redact Portions of Opposition to Paris Las Vegas Motion for Terminating  
18 Sanctions and Cross-Motion for Sanctions and Seal Exhibits 1-7 and 10-18 Thereto (ECF NO. 160),  
19 5. Paris Las Vegas Operating Company, LLC's Motion to Redact Portions of Reply in Support of  
20 Motion for Terminating Sanctions and Opposition to Cross-Motion for Sanctions, and Seal Exhibits\_A,  
21 B, J, K and L Thereto (ECF NO. 166),  
22 6. Paris Las Vegas Operating Company, LLC's Motion to Compel Production of Documents  
23 Improperly withheld for Privilege (ECF NO. 170),  
24 7, Counter-Defendant Rowen Seibel's Cross-Motion for Sanctions (ECF NO. 172).



1           Accordingly,

2           IT IS HEREBY ORDERED that a hearing is scheduled for 11:00 AM, January 6, 2020, in  
3 courtroom 3D, on the above referenced motions.

4  
5           DATED this 3rd day of December, 2019.



6           \_\_\_\_\_  
7 CAM FERENBACH  
8 UNITED STATES MAGISTRATE JUDGE  
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# EXHIBIT 22

CERTILMAN BALIN ADLER & HYMAN, LLP  
Paul Sweeney  
90 Merrick Avenue, 9<sup>th</sup> Floor  
East Meadow, New York 11554  
Tel. (516) 296-7000 / Fax. (516) 296-7111  
psweeney@certilmanbalin.com

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen )  
of New York, derivatively on behalf of Real )  
Party in Interest GR BURGR LLC, a )  
Delaware Limited Liability Company, )

Plaintiffs,

v.

PHWLTV, LLC, a Nevada limited liability )  
company; GORDON RAMSAY, an )  
individual; DOES 1 through X; ROE )  
CORPORATIONS 1 through X, )

Defendants.

Case No. A-17-751759-B

Dept. No.: 16

Consolidated with  
Case No.: A-17-760537-B

**CERTILMAN BALIN ADLER &  
HYMAN, LLP'S NOTICE OF  
ATTORNEY'S CHARGING LIEN**

AND ALL RELATED MATTERS

NOTICE IS HEREBY provided that pursuant to Nev. Rev. Stat. 18.015, that Certilman Balin Adler & Hyman, LLP hereby claims a charging lien on any settlement and/or judgment in favor of ROWEN SEIBEL; FERG 16, LLC; FERG, LLC; LLTQ ENTERPRISES 16, LLC; LLTQ ENTERPRISES, LLC; MOTI PARTNERS 16, LLC; MOTI PARTNERS, LLC; TPOV ENTERPRISES, LLC; TPOV 16 ENTERPRISES, LLC, and R SQUARED GLOBAL SOLUTIONS, LLC appearing derivatively on behalf of DNT ACQUISITION, LLC (collectively, "Seibel Parties") in the amount of \$1,610,484.06 which consists of attorneys' fees in the amount of \$1,595,533.04 and costs in the amount of \$14,951.02.

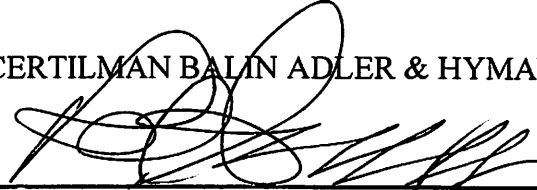
Said charging lien shall attach "upon any claim, demand or cause of action, including any claim for unliquidated damages, which has been placed in the attorney's hands by a client for suit or collection, or upon which a suit or other action has been instituted" pursuant to Nev. Rev. Stat.

1 18.015(1)(a). This charging lien shall attach to any settlement, judgment, or decree entered and to  
2 any money or property which is recovered by any of the Seibel Parties (whether as plaintiff or  
3 defendant) on account of this suit or other action.

4 Pursuant to Nev. Rev. Stat. 18.015(3), this charging lien shall be perfected by serving notice  
5 in writing, in person, or by certified mail, return receipt requested, upon the Seibel Parties, and if  
6 applicable, upon the party against whom the client has a cause of action. Certilman Balin Adler &  
7 Hyman, LLP reserves its right to (a) adjudicate its rights regarding the instant charging lien pursuant  
8 to Nev. Rev. Stat. 18.015(6), and (b) to collect the outstanding fees and costs with, after, or  
9 independently of any other method in addition to this lien pursuant to Nev. Rev. Stat. 18.015(7).

10  
11 DATED January 21, 2020.

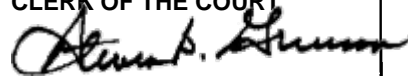
12 CERTILMAN BALIN ADLER & HYMAN, LLP

13   
14 \_\_\_\_\_  
15 PAUL SWEENEY  
16 90 Merrick Avenue, 9<sup>th</sup> Floor  
17 East Meadow, New York 11554  
18  
19  
20  
21  
22  
23  
24  
25

# EXHIBIT 23

**Filed  
Under  
Seal  
Pursuant to  
Motion to Seal or  
Redact Filed  
Concurrently  
Herewith**

TAB 54



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*Attorneys for Desert Palace, Inc.;  
Paris Las Vegas Operating Company, LLC;  
PHWLTV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**HEARING NOT REQUESTED**

**MOTION TO SEAL EXHIBIT 23 TO  
CAESARS' REPLY IN SUPPORT OF ITS  
MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

PISANELLI BICE PLLC  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101



PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") by and through their attorneys of record, PISANELLI BICE PLLC, hereby move this Court for an order sealing Exhibit 23 to Caesars' Reply in Support of its Motion for Leave to File First Amended Complaint; and *Ex Parte* Application for Order Shortening Time (the "Reply"), filed concurrently herewith. Exhibit 23 was designated as Confidential under the Order regarding the Stipulated Confidentiality Agreement and Protective Order ("Protective Order"), entered on March 12, 2019. To protect the confidentiality of the parties' sensitive, non-public information, Caesars seeks an order from the Court permitting Exhibit 23 to be filed under seal.

This Motion is made and based on Rule 3(1) of the Nevada Supreme Court's Rules Governing Sealing and Redacting Court Records, the attached Memorandum of Points and Authorities, the pleadings and papers on file herein, and any argument this Honorable Court allows at any hearing of this matter.

DATED this 5th day of February 2020.

PISANELLI BICE PLLC

By: 

James J. Pisanelli, Esq., Bar No. 4027  
Debra L. Spinelli, Esq., Bar No. 9695  
M. Magali Mercera, Esq., Bar No. 11742  
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*Attorneys for Desert Palace, Inc.;  
Paris Las Vegas Operating Company, LLC;  
PHWLV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL STANDARD**

The Nevada Supreme Court enacted specific rules governing the sealing and redacting of court records. Pursuant to Rule 3(1) of the Nevada Supreme Court's Rules Governing Sealing and Redacting of Records ("SRCR"), "[a]ny person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion . . . ." The Court may order the records redacted or sealed provided that "the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interest that outweigh the public interest in access to the court record," which includes findings that "[t]hat sealing or redaction furthers . . . a protective order entered under NRCP 26(c) . . . ." SCRC 3(4).

Section 14 of the Protective Order provides that "[a]ny Party seeking to file or disclose materials designated as Confidential Information or Highly Confidential Information with the Court in this action . . . must seek to file such Confidential or Highly Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and Redacting Court records . . . ." Section 5 defines the following information as Confidential: "all information and information that constitutes, reflects, or discloses nonpublic information, trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential business, marketing, regulatory, or strategic information (regarding business plans or strategies, technical data, and nonpublic designs), the disclosure of which the Producing Party believes in good faith might reasonably result in economic or competitive, or business injury to the Producing Party (or its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from an inspection of publicly available sources, documents, material, or devices."

**II. ANALYSIS**

Here, Caesars requests leave of this Court to seal Exhibit 23 because it includes confidential, non-public information designated Confidential under the Protective Order. In particular, Exhibit 23 is a document designated Confidential by the Seibel Parties. Based on the foregoing and good cause showing, Caesars respectfully requests that this Court allow it to file Exhibit 23 to the Reply

1 under seal. Caesars further requests that such information remain sealed until further order of the  
2 Court.

3 DATED this 5th day of February 2020.

4 PISANELLI BICE PLLC

5  
6 By: 

James J. Pisanelli, Esq., Bar No. 4027  
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PISANELLI BICE PLLC  
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LAS VEGAS, NEVADA 89101

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 5th day of February 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **MOTION TO SEAL EXHIBIT 23 TO CAESARS' REPLY IN SUPPORT OF ITS MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to the following:

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*Attorneys for Rowen Seibel, DNT Acquisition LLC,  
Moti Partners, LLC, Moti Partner 16s, LLC,  
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,  
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,  
FERG, LLC, and FERG 16, LLC*

Mark J. Connot, Esq.  
Kevin M. Sutehall, Esq.  
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**VIA U.S. MAIL (pleading only)**  
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HEYMAN ENERIO GATTUSO &  
HIRZEL LLP  
300 Delaware Ave., Suite 200  
Wilmington, DE 19801

*Attorneys for Gordon Ramsay*

*Trustee for GR Burger LLC*

  
An employee of PISANELLI BICE PLLC

PISANELLI BICE PLLC  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

TAB 55



A-17-751759-B      Rowen Seibel, Plaintiff(s)  
vs.  
PHWLV LLC, Defendant(s)

---

February 12, 2020      09:00 AM      All Pending Motions

HEARD BY:      Williams, Timothy C.      COURTROOM: RJC Courtroom 03H

COURT CLERK: Darling, Christopher

RECORDER:

REPORTER:      Isom, Peggy

**PARTIES PRESENT:**

Allen J. Wilt      Attorney for Defendant

Brittinee T Watkins      Attorney for Counter Claimant, Counter  
Defendant, Defendant, Other Plaintiff,  
Plaintiff

Daniel J. Brooks      Attorney for Defendant

David A. Carroll      Attorney for Counter Claimant, Counter  
Defendant, Defendant, Plaintiff

James J Pisanelli      Attorney for Counter Claimant, Defendant

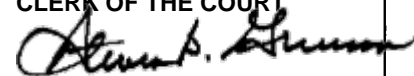
Maria Magali Mercera      Attorney for Counter Claimant, Defendant

**JOURNAL ENTRIES**

CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME...MOTION TO SEAL CERTAIN EXHIBITS TO OPPOSITION TO CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT

Arguments by Mr. Pisanelli and Mr. Brooks. Court reviewed Nutton case factors. Court stated ITS FINDINGS and ORDERED, Motion for Leave GRANTED. Court directed Mr. Pisanelli prepare the order with Nutton factors as discussed. Upon Court's inquiry with respect to sealing, Ms. Mercera advised parties discussed de-designation. Mr. Brooks advised parties discussed withdrawal of confidentiality. COURT FURTHER ORDERED, Motion to Seal GRANTED. Court stated parties may de-designate at their discretion.

TAB 56



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*Attorneys for Desert Palace, Inc.;  
Paris Las Vegas Operating Company, LLC;  
PHWLTV, LLC; and Boardwalk Regency  
Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**ORDER GRANTING CAESARS'  
MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

Date of Hearing: February 12, 2020

Time of Hearing: 9:00 a.m.



PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC") and collectively with Caesars Palace, Paris, and Planet Hollywood, "Caesars") Motion for Leave to File First Amended Complaint (the "Motion to Amend") came before the Court for hearing on February 12, 2020, at 9:00 a.m. James J. Pisanelli, Esq., M. Magali Mercera, Esq., and Brittanie Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared on behalf of Caesars. David Carroll, Esq. of the law firm RICE REUTHER SULLIVAN & CARROLL, LLP, and Daniel Brooks, Esq., of the law firm SCAROLA ZUBATOV appeared on behalf of Rowen Seibel ("Seibel"), TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), and MOTI Partners 16, LLC ("MOTI 16") (collectively the "Seibel Parties"). Allen Wilt, Esq., of the law firm FENNEMORE CRAIG, appeared on behalf of Gordon Ramsay.

The Court having considered the Motion to Amend and the opposition thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor,

THE COURT FINDS THAT, under Nevada law, "[t]he court should freely give leave [to amend] when justice so requires." NRCP 15(a)(2). However, "[w]here a scheduling order has been entered, the lenient standard under Rule 15(a), which provides leave to amend 'shall be freely given,' must be balanced against the requirement under Rule 16(b) that the Court's scheduling order 'shall not be modified except upon a showing of good cause.'" *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 971 (Nev. App. 2015) (quoting *Grochowski v. Phoenix Constr.*, 318 F.3d 80, 86 (2d Cir. 2003)).

THE COURT FURTHER FINDS THAT, "[i]n determining whether 'good cause' exists under Rule 16(b), the basic inquiry for the trial court is whether the filing deadline cannot reasonably be met despite the diligence of the party seeking the amendment." *Id.* at 286-87, 357 P.3d at 971 (citations omitted). Accordingly, the court must weigh the following factors: "(1) the explanation for the untimely conduct, (2) the importance of the requested untimely action, (3) the

1 potential prejudice in allowing the untimely conduct, and (4) the availability of a continuance to  
2 cure such prejudice." *Id.* at 287, 357 P.3d 971-72.

3 THE COURT FURTHER FINDS THAT, the deadline to amend pleadings in this action  
4 was February 4, 2019. Accordingly, Caesars had to demonstrate that good cause exists to allow  
5 the amendment of their complaint after the deadline had expired.

6 THE COURT FURTHER FINDS THAT, Caesars has met its burden and demonstrated  
7 that good cause exists to permit amendment of their complaint. Specifically, under the *Nutton*  
8 factors, Caesars demonstrated good cause because depositions had to be taken in order to  
9 understand the documents produced by the parties. There is no potential prejudice in allowing the  
10 amendment as trial in this matter is currently scheduled to commence on November 9, 2020, and  
11 the amendment does not appear to impact the trial date. In light of the trial date, there is no need  
12 to address the availability of a continuance at this time.

13 ///

14 ///

1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to  
2 Amend is GRANTED.

3 IT IS SO ORDERED.

4 DATED this 9<sup>th</sup> day of March 2020.

5  
6   
7 THE HONORABLE TIMOTHY C. WILLIAMS  
EIGHTH JUDICIAL DISTRICT COURT 

8 Respectfully submitted by:

9 DATED March 10, 2020

10 PISANELLI BICE PLLC

11 By: 

12 James J. Pisanelli, Esq., Bar No. 4027  
13 Debra L. Spinelli, Esq., Bar No. 9695  
14 M. Magali Mercera, Esq., Bar No. 11742  
15 Brittanie T. Watkins, Esq., Bar No. 13612  
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16 and

17 Jeffrey J. Zeiger, P.C., Esq.  
(admitted *pro hac vice*)  
18 William E. Arnault, IV, Esq.  
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19 300 North LaSalle  
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20 *Attorneys for Plaintiffs Desert Palace, Inc.; Paris Las Vegas Operating*  
21 *Company, LLC; PHWLTV, LLC; and Boardwalk Regency*  
22 *Corporation d/b/a Caesars Atlantic City*  
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Approved as to form and content by:

DATED March 6, 2020

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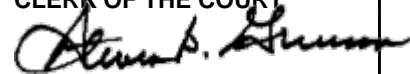
BAILEY ♦ KENNEDY

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TAB 57



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*PHWLTV, LLC; and Boardwalk Regency*  
*Corporation d/b/a Caesars Atlantic City*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF ORDER  
GRANTING CAESARS' MOTION FOR  
LEAVE TO FILE FIRST AMENDED  
COMPLAINT**

PLEASE TAKE NOTICE that an Order Granting Caesars' Motion for Leave to File First Amended Complaint was entered in the above-captioned matter on March 10, 2020, a true and correct copy of which is attached hereto.

DATED this 11th day of March 2020.

PISANELLI BICE PLLC

By: 

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Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 11th day of March 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to the following:

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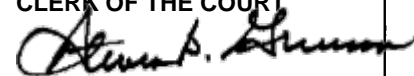
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**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

ROWEN SEIBEL, an individual and citizen of  
New York, derivatively on behalf of Real Party  
in Interest GR BURGR LLC, a Delaware  
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability  
company; GORDON RAMSAY, an individual;  
DOES I through X; ROE CORPORATIONS I  
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**ORDER GRANTING CAESARS'  
MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT**

Date of Hearing: February 12, 2020

Time of Hearing: 9:00 a.m.

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC") and collectively with Caesars Palace, Paris, and Planet Hollywood, "Caesars") Motion for Leave to File First Amended Complaint (the "Motion to Amend") came before the Court for hearing on February 12, 2020, at 9:00 a.m. James J. Pisanelli, Esq., M. Magali Mercera, Esq., and Brittanie Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared on behalf of Caesars. David Carroll, Esq. of the law firm RICE REUTHER SULLIVAN & CARROLL, LLP, and Daniel Brooks, Esq., of the law firm SCAROLA ZUBATOV appeared on behalf of Rowen Seibel ("Seibel"), TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), and MOTI Partners 16, LLC ("MOTI 16") (collectively the "Seibel Parties"). Allen Wilt, Esq., of the law firm FENNEMORE CRAIG, appeared on behalf of Gordon Ramsay.

The Court having considered the Motion to Amend and the opposition thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor,

THE COURT FINDS THAT, under Nevada law, "[t]he court should freely give leave [to amend] when justice so requires." NRCP 15(a)(2). However, "[w]here a scheduling order has been entered, the lenient standard under Rule 15(a), which provides leave to amend 'shall be freely given,' must be balanced against the requirement under Rule 16(b) that the Court's scheduling order 'shall not be modified except upon a showing of good cause.'" *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 971 (Nev. App. 2015) (quoting *Grochowski v. Phoenix Constr.*, 318 F.3d 80, 86 (2d Cir. 2003)).

THE COURT FURTHER FINDS THAT, "[i]n determining whether 'good cause' exists under Rule 16(b), the basic inquiry for the trial court is whether the filing deadline cannot reasonably be met despite the diligence of the party seeking the amendment." *Id.* at 286-87, 357 P.3d at 971 (citations omitted). Accordingly, the court must weigh the following factors: "(1) the explanation for the untimely conduct, (2) the importance of the requested untimely action, (3) the

1 potential prejudice in allowing the untimely conduct, and (4) the availability of a continuance to  
2 cure such prejudice." *Id.* at 287, 357 P.3d 971-72.

3 THE COURT FURTHER FINDS THAT, the deadline to amend pleadings in this action  
4 was February 4, 2019. Accordingly, Caesars had to demonstrate that good cause exists to allow  
5 the amendment of their complaint after the deadline had expired.

6 THE COURT FURTHER FINDS THAT, Caesars has met its burden and demonstrated  
7 that good cause exists to permit amendment of their complaint. Specifically, under the *Nutton*  
8 factors, Caesars demonstrated good cause because depositions had to be taken in order to  
9 understand the documents produced by the parties. There is no potential prejudice in allowing the  
10 amendment as trial in this matter is currently scheduled to commence on November 9, 2020, and  
11 the amendment does not appear to impact the trial date. In light of the trial date, there is no need  
12 to address the availability of a continuance at this time.

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1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to  
2 Amend is GRANTED.

3 IT IS SO ORDERED.

4 DATED this 9<sup>th</sup> day of March 2020.

5  
6   
7 THE HONORABLE TIMOTHY C. WILLIAMS  
EIGHTH JUDICIAL DISTRICT COURT 

8 Respectfully submitted by:

9 DATED March 10, 2020

10 PISANELLI BICE PLLC

11 By: 

12 James J. Pisanelli, Esq., Bar No. 4027  
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21 *Company, LLC; PHWLTV, LLC; and Boardwalk Regency*  
22 *Corporation d/b/a Caesars Atlantic City*  
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