

CASE NO.

IN THE SUPREME COURT OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ROWEN SEIBEL; 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; R SQUARED GLOBAL SOLUTIONS, LLC, DERIVATIVELY ON BEHALF OF DNT ACQUISITION LLC; GR BURGR, LLC; AND CRAIG GREEN

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.

District Court Case No. A-17-751759-B, consolidated with A-17-760537-B

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

VOLUME 2 OF 16

JOHN R. BAILEY
Nevada Bar No. 0137

DENNIS L. KENNEDY
Nevada Bar No. 1462

JOSHUA P. GILMORE
Nevada Bar No. 11576

PAUL C. WILLIAMS
Nevada Bar No. 12524

STEPHANIE J. GLANTZ
Nevada Bar No. 14878

BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: (702) 562-8820
Facsimile: (702) 562-8821
jbailey@baileykennedy.com
dkennedy@baileykennedy.com
jgilmore@baileykennedy.com
pwilliams@baileykennedy.com
sglantz@baileykennedy.com

Attorneys for Petitioners

**PETITIONER’S APPENDIX TO PETITION FOR EXTRAORDINARY
WRIT RELIEF**

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WRIT RELIEF**

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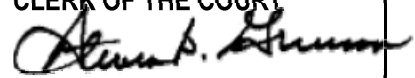
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TAB 24



ANS

DANIEL R. MCNUTT (SBN 7815)
MATTHEW C. WOLF (SBN 10801)
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, Nevada 89101
Tel. (702) 384-1170 / Fax. (702) 384-5529
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

NATHAN Q. RUGG*
BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG LLP
200 W. MADISON ST., SUITE 3900
CHICAGO, IL 60606
Tel. (312) 984-3127 / Fax. (312) 984-3150
Nathan.Rugg@bfkn.com

STEVEN B. CHAIKEN*
ADELMAN & GETTLEMAN, LTD.
53 West Jackson Boulevard, Suite 1050
Chicago, IL 60604
Tel. (312) 435-1050 / Fax. (312) 435-1059
sbc@ag-ltd.com

*Admitted Pro Hac Vice
*Attorneys for MOTI Partners, LLC
and MOTI Partners 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.: 11

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

**MOTI DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFFS' COMPLAINT**

This document applies to:
A-17-760537-B

Defendants MOTI PARTNERS, LLC, and MOTI PARTNERS 16, LLC (collectively, the
"MOTI Defendants") hereby answer the claims asserted by Plaintiffs in the above-captioned matter as
follows:

PRELIMINARY STATEMENT

1
2 1. The MOTI Defendants deny the allegations contained in paragraph 1, except admit that
3 Caesars entered into multiple agreements with entities previously owned by, managed by or affiliated
4 with Rowen Seibel, and that Caesars requested and received “Business Information Forms” from Mr.
5 Seibel in connection with the MOTI and DNT business relationships. The contents of the agreements
6 and “Business Information Forms” speak for themselves, and MOTI Defendants respectfully refer to
7 those documents for the full and complete contents thereof.

8 2. The MOTI Defendants deny the allegations contained in paragraph 2.

9 3. The MOTI Defendants deny the allegations contained in paragraph 3, except admit that
10 on April 18, 2016, Rowen Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede
11 the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony
12 and served one month in prison.

13 4. The MOTI Defendants deny the allegations contained in paragraph 4.

14 5. The MOTI Defendants deny the allegations contained in paragraph 5, except admit that
15 Caesars wrongfully purported to terminate the agreements and state that the contents of the certain
16 agreements referenced in paragraph 5 speak for themselves, and respectfully refer to the
17 aforementioned agreements for the full and complete contents thereof.

18 6. The MOTI Defendants deny the allegations contained in paragraph 6, except admit that
19 Caesars wrongfully attempted to terminate their agreements, that Caesars cannot continue to operate
20 the restaurants subject to such agreements absent providing compensation to the MOTI Defendants,
21 that the MOTI Defendants and certain of the Plaintiffs are parties to litigation commenced in the
22 jointly-administered chapter 11 bankruptcy cases of Caesars Palace in the United States Bankruptcy
23 Court, Northern District of Illinois, Eastern Division, Case No. 15-01145 (“Bankruptcy Actions”), and
24 that Caesars commenced the present action by a complaint that speaks for itself, and MOTI Defendants
25 respectfully refer to the complaint for the full and complete contents thereof.

26 7. The MOTI Defendants deny the allegations contained in paragraph 7, except admit that
27 certain defendants are seeking monetary relief from Caesars in different courts across the country
28 related to the agreements, and that Caesars commenced the present action by a complaint that speaks

1 for itself, and MOTI Defendants respectfully refer to the complaint for the full and complete contents
2 thereof.

3 8. The MOTI Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 8, except admit that Caesars commenced the
5 present action by a complaint that speaks for itself, and MOTI Defendants respectfully refer to the
6 complaint for the full and complete contents thereof.

7 **PARTIES, JURISDICTION, AND VENUE**

8 9. The MOTI Defendants admit the allegations contained in paragraph 9.

9 10. The MOTI Defendants admit the allegations contained in paragraph 10.

10 11. The MOTI Defendants admit the allegations contained in paragraph 11.

11 12. The MOTI Defendants admit the allegations contained in paragraph 12.

12 13. The MOTI Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 13.

14 14. The MOTI Defendants deny the allegations contained in paragraph 14 except admit
15 that Moti Partners, LLC is a New York limited liability company, and the Moti Agreement was entered
16 into in or about March 2009 in connection with a restaurant in the Caesars Palace casino known as
17 “Serendipity 3”, the contents of which speak for themselves, and respectfully refer to the MOTI
18 Agreement for the full and complete contents thereof.

19 15. The MOTI Defendants deny the allegations contained in paragraph 15 except admit
20 that MOTI Partners 16, LLC is a Delaware limited liability company, and that a letter was sent
21 informing Caesars of the assignment.

22 16. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 16.

24 17. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 17.

26 18. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 18.

28 19. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 19.

2 20. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 20.

4 21. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the allegations contained in paragraph 21.

6 22. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the allegations contained in paragraph 22.

8 23. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the allegations contained in paragraph 23.

10 24. The MOTI Defendants admit that Seibel assigned his duties and obligations under the
11 MOTI Agreement to Mr. Frederick, to the extent any duties existed. The MOTI Defendants deny
12 knowledge and information sufficient to form a belief as to the truth of the balance of the allegations
13 contained in paragraph 24.

14 25. The MOTI Defendants deny the allegations contained in paragraph 25.

15 **STATEMENT OF FACTS**

16 26. The MOTI Defendants deny knowledge and information sufficient to form a belief as
17 to the allegations contained in paragraph 26.

18 27. The MOTI Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of whether, “In reliance on those representations (among other things), Caesars Palace and
20 MOTI entered into the MOTI Agreement.” The MOTI Defendants deny the balance of the allegations
21 contained in paragraph 27 except admit that to the extent that a “Business Information Form” is
22 referenced in paragraph 27, the contents of said “Business Information Form” speak for themselves,
23 and respectfully refer to the “Business Information Form” for the full and complete contents thereof.

24 28. The MOTI Defendants deny the allegations contained in paragraph 28 except admit the
25 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
26 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
27 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

28 29. The MOTI Defendants deny the allegations contained in paragraph 29 except admit the

1 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
2 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
3 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

4 30. The MOTI Defendants deny the allegations contained in paragraph 30 except admit the
5 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
6 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
7 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

8 31. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 31 except admit that to the extent a “Business
10 Information Form” is referenced in paragraph 31, the contents of said “Business Information Form”
11 speak for themselves, and respectfully refer to the “Business Information Form” for the full and
12 complete contents thereof.

13 32. The MOTI Defendants deny the allegations contained in paragraph 32 except admit the
14 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
15 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
16 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

17 33. The MOTI Defendants deny the allegations contained in paragraph 33 except admit the
18 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
19 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
20 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

21 34. The MOTI Defendants deny the allegations contained in paragraph 34 except admit the
22 MOTI Agreement was entered into in or about March 2009 in connection with a restaurant in the
23 Caesars Palace casino known as “Serendipity 3”, the contents of which speak for themselves, and
24 respectfully refer to the MOTI Agreement for the full and complete contents thereof.

25 35. The MOTI Defendants deny the allegations contained in paragraph 35.

26 36. The MOTI Defendants deny the allegations contained in paragraph 36, except admit
27 that Caesars entered into multiple agreements with entities previously owned by, managed by or
28 affiliated with Rowen Seibel, the contents of which speak for themselves, and respectfully refer to the

1 aforementioned agreements for the full and complete contents thereof.

2 37. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 37.

4 38. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 38 except admit that the contents of said
6 “Business Information Form” speak for themselves, and respectfully refer to the “Business
7 Information Form” for the full and complete contents thereof.

8 39. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 39.

10 40. The MOTI Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 40.

12 41. The MOTI Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 41.

14 42. The MOTI Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 42.

16 43. The MOTI Defendants deny knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in paragraph 43.

18 44. The MOTI Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 44.

20 45. The MOTI Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 45.

22 46. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 46.

24 47. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 47.

26 48. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 48.

28 49. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 49.

2 50. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 50.

4 51. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 51.

6 52. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 52.

8 53. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 53.

10 54. The MOTI Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 54.

12 55. The MOTI Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 55.

14 56. The MOTI Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 56.

16 57. The MOTI Defendants deny knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in paragraph 57.

18 58. The MOTI Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 58.

20 59. The MOTI Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 59.

22 60. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 60.

24 61. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 61.

26 62. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 62.

28 63. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 63.

2 64. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 64.

4 65. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 65.

6 66. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 66.

8 67. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 67.

10 68. The MOTI Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 68.

12 69. The MOTI Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 69.

14 70. The MOTI Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 70.

16 71. The MOTI Defendants deny knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in paragraph 71.

18 72. The MOTI Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 72.

20 73. The MOTI Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 73.

22 74. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 74.

24 75. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 75.

26 76. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 76.

28 77. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 77.

2 78. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 78.

4 79. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 79.

6 80. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 80.

8 81. The MOTI Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 81.

10 82. The MOTI Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 82.

12 83. The MOTI Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 83.

14 84. The MOTI Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 84.

16 85. The MOTI Defendants deny knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in paragraph 85.

18 86. The MOTI Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 86.

20 87. The MOTI Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 87.

22 88. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 88.

24 89. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 89.

26 90. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 90.

28 91. The MOTI Defendants deny the allegations contained in paragraph 91.

1 92. The MOTI Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 92.

3 93. The MOTI Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 93.

5 94. The MOTI Defendants deny knowledge and information sufficient to form a belief as
6 to the truth of the allegations contained in paragraph 94.

7 95. The MOTI Defendants deny knowledge and information sufficient to form a belief as
8 to the truth of the allegations contained in paragraph 95.

9 96. The MOTI Defendants deny knowledge and information sufficient to form a belief as
10 to the truth of the allegations contained in paragraph 96.

11 97. The MOTI Defendants deny knowledge and information sufficient to form a belief as
12 to the truth of the allegations contained in paragraph 97.

13 98. The MOTI Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 98.

15 99. The MOTI Defendants deny knowledge and information sufficient to form a belief as
16 to the truth of the allegations contained in paragraph 99.

17 100. The MOTI Defendants aver that paragraph 100 contains conclusions of law to which
18 no responsive pleading is required. To the extent a response is required, the MOTI Defendants deny
19 knowledge and information sufficient to form a belief as to the truth of the allegations contained in
20 paragraph 100.

21 101. The MOTI Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 101.

23 102. The MOTI Defendants deny knowledge and information sufficient to form a belief as
24 to the truth of the allegations contained in paragraph 102.

25 103. The MOTI Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 103.

27 104. The MOTI Defendants deny knowledge and information sufficient to form a belief as
28 to the truth of the allegations contained in paragraph 104.

1 105. The MOTI Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 105.

3 106. The MOTI Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 106 except admit that on April 18, 2016, Rowen
5 Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due administration of
6 the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony.

7 107. The MOTI Defendants deny knowledge and information sufficient to form a belief as
8 to the truth of the allegations contained in paragraph 107 except admit that on August 19, 2016, the
9 Southern District of New York sentenced Rowen Seibel to serve one month in prison, six months in
10 home detention, and 300 hours of community service.

11 108. The MOTI Defendants deny the allegations contained in paragraph 108 except admit
12 that the letter referenced in paragraph 108 was sent on or about April 8, 2016, the contents of which
13 speak for themselves, and respectfully refers to the aforementioned letter for the full and complete
14 contents thereof.

15 109. The MOTI Defendants deny the allegations contained in paragraph 109, except admit
16 that Caesars wrongfully purported to terminate all of its agreements with entities that were associated
17 or had been associated with Rowen Seibel.

18 110. The MOTI Defendants deny the allegations contained in paragraph 110 except admit
19 that the aforementioned letter from Caesars Palace to MOTI was dated September 2, 2016, the contents
20 of which speak for themselves, and respectfully refer to the aforementioned letter for the full and
21 complete contents thereof.

22 111. The MOTI Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 111.

24 112. The MOTI Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 112.

26 113. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 113.

28 114. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 114.

2 115. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 115.

4 116. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 116.

6 117. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 117.

8 118. The MOTI Defendants deny the allegations contained in paragraph 118 except admit
9 certain referenced letters were sent to Caesars, which speak for themselves, and respectfully refer to
10 the aforementioned letters for the full and complete contents thereof.

11 119. The MOTI Defendants deny the allegations contained in paragraph 119 except admit
12 that the aforementioned letter from Caesars Palace was dated September 12, 2016, the contents of
13 which speak for themselves, and respectfully refer to the aforementioned letter for the full and
14 complete contents thereof.

15 120. The MOTI Defendants admit the allegations contained in paragraph 120.

16 121. The MOTI Defendants deny the allegations contained in paragraph 121 except admit
17 that Caesars Palace filed the motion to reject and that LLTQ and FERG objected to the motion.

18 122. The MOTI Defendants deny the allegations contained in paragraph 122 except admit
19 that LLTQ and FERG filed the administrative expense request and that Caesars Palace and CAC
20 objected to the request.

21 123. The MOTI Defendants deny the allegations contained in paragraph 123 except admit
22 that MOTI filed the administrative expense request and that Caesars Palace objected to the request.

23 124. The MOTI Defendants admit the allegations contained in paragraph 124 except deny
24 the defenses and contentions made by Caesars Palace and CAC.

25 125. The MOTI Defendants deny the allegations contained in paragraph 125.

26 126. The MOTI Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 126.

28 127. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 127.

2 128. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 128.

4 129. The MOTI Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 129.

6 130. The MOTI Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 130.

8 **COUNT I**

9 131. The MOTI Defendants hereby repeat and reallege each and every one of the MOTI
10 Defendants' responses in paragraphs 1-130 above as if fully set forth herein.

11 132. The MOTI Defendants state that the referenced statute speaks for itself.

12 133. The MOTI Defendants admit that the parties dispute whether Caesar properly
13 terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the
14 parties.

15 134. The MOTI Defendants deny the allegations contained in paragraph 134, except admit
16 that Caesars seeks declaratory relief in the present action.

17 135. The MOTI Defendants deny the allegations set forth in paragraph 135, except admit
18 that the complaint filed in the present action seeks certain relief, that the complaint that speaks for
19 itself, and MOTI Defendants respectfully refer to the complaint for the full and complete contents
20 thereof.

21 **COUNT II**

22 136. The MOTI Defendants hereby repeat and reallege each and every one of the MOTI
23 Defendants' responses to the above paragraphs as if fully set forth herein.

24 137. The MOTI Defendants state that the referenced statute speaks for itself.

25 138. The MOTI Defendants admit that the parties dispute whether Caesar properly
26 terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the
27 parties.

28 139. The MOTI Defendants deny the allegations set forth in paragraph 139.

140. The MOTI Defendants deny the allegations contained in paragraph 140, except admit that the agreements speak for themselves, and MOTI Defendants respectfully refer to those documents for the full and complete contents thereof.

141. The MOTI Defendants deny the allegations contained in paragraph 141, except admit that the agreements speak for themselves, and MOTI Defendants respectfully refer to those documents for the full and complete contents thereof.

142. The MOTI Defendants deny the allegations contained in paragraph 142.

143. The MOTI Defendants deny the allegations contained in paragraph 143.

144. The MOTI Defendants deny the allegations contained in paragraph 144.

145. The MOTI Defendants deny the allegations contained in paragraph 145, except admit that Caesars seeks declaratory relief in the present action.

146. The MOTI Defendants deny the allegations set forth in paragraph 146, except admit that the complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and MOTI Defendants respectfully refer to the complaint for the full and complete contents thereof.

COUNT III

147. The MOTI Defendants hereby repeat and reallege each and every one of the MOTI Defendants' responses to the above paragraphs as if fully set forth herein.

148. The MOTI Defendants state that the referenced statute speaks for itself.

149. The MOTI Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 149.

150. The MOTI Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 150.

151. The MOTI Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 151.

152. The MOTI Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 152.

153. The MOTI Defendants deny knowledge and information sufficient to form a belief as

1 to the truth of the allegations contained in paragraph 153.

2 154. The MOTI Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 154.

4 155. The MOTI Defendants admit that Caesars seeks declaratory relief in the present action.
5 The MOTI Defendants deny knowledge and information sufficient to form a belief as to the truth of
6 the remaining allegations contained in paragraph 155.

7 156. The MOTI Defendants deny the allegations set forth in paragraph 156, except admit
8 that the complaint filed in the present action seeks certain relief, that the complaint that speaks for
9 itself, and MOTI Defendants respectfully refer to the complaint for the full and complete contents
10 thereof.

11 **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

12 157. The Complaint fails to state a claim upon which relief can be granted.

13 **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

14 158. The MOTI Defendants expressly incorporate herein as affirmative defenses their
15 allegations and claims in the contested matters between the MOTI Defendants and Caesars Palace in
16 the Bankruptcy Actions and all related matters and proceedings.

17 **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

18 159. The MOTI Defendants expressly incorporate herein as affirmative defenses their
19 arguments in their motion to dismiss this action.

20 **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

21 160. Plaintiff's claims warrant dismissal under the first-to-file rule and due to forum
22 shopping.

23 **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

24 161. By paying money to MOTI 16 under the MOTI Agreement, Plaintiffs consented to and
25 ratified the assignments from MOTI to MOTI 16 and from Seibel to Frederick.

26 **AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

27 162. Plaintiffs are precluded from obtaining the relief they seek because, based on
28 information and belief, they do or have done business with persons who have criminal records or are

1 actually or potentially unsuitable.

2 **AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

3 163. Plaintiffs are precluded from obtaining the relief they seek because they owe money to
4 MOTI Defendants.

5 **AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

6 164. Plaintiffs are precluded under the applicable contracts from continuing to operate the
7 Serendipity 3 restaurant and use the licensed materials after termination without compensation to the
8 MOTI Defendants.

9 **AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

10 165. Plaintiffs breached the applicable contracts with MOTI Defendants and therefore are
11 precluded from pursuing their claims.

12 **AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

13 166. Plaintiffs' claims are barred by the statute of limitations or statute of repose.

14 **AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

15 167. Plaintiffs' claims are barred, in whole or in part, by the doctrines of acquiescence,
16 estoppel, laches, ratification, unclean hands, unjust enrichment, or waiver, as well as all other
17 applicable equitable doctrines.

18 **AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

19 168. Plaintiffs' claims are barred, in whole or in part, by their own conduct, including but
20 not limited to their failure to mitigate their damages.

21 **AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

22 169. The alleged unsuitability of Seibel is immaterial and irrelevant because, inter alia, he
23 assigned his interests, if any, in MOTI Defendants or the contracts.

24 **AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

25 170. This Court lacks jurisdiction over the allegations, claims, and theories alleged by
26 Plaintiffs that already are pending in the Bankruptcy Actions and all related matters and proceedings.

27 **AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

28 171. All possible affirmative defenses may not have been alleged herein insofar as sufficient

1 facts were not available after reasonable inquiry upon the filing of MOTI Defendants' answer.
2 Therefore, Defendants reserve the right to amend their answer to allege additional affirmative defenses
3 if subsequent investigation so warrants. Defendants reserve the right to (a) rely upon such other
4 affirmative defenses as may be supported by the facts to be determined through full and complete
5 discovery, and (b) voluntarily withdraw any affirmative defense.

6 **RESERVATION OF RIGHTS**

7 Pursuant to Rule 13 of the Nevada Rules of Civil Procedure, MOTI Defendants are not
8 intending to bring and are not bringing at this time any claims that existed at the time this matter was
9 commenced and which were already (and remain) the subject of the pending matters between the parties
10 before the United States Bankruptcy Court for the Northern District of Illinois. MOTI Defendants
11 reserve the right to pursue any such claims before this court in the event the Bankruptcy Court either
12 stays or abstains from hearing any such claims.

13 In addition, the complaint is subject to a Petition for Writ of Mandamus or Prohibition in
14 connection with certain defendants' motion to dismiss or stay, and an appeal of the remand of certain
15 counts of the complaint ordered by the United States Bankruptcy Court, District of Nevada
16 (collectively, the "Pending Appeals"). Based on the Pending Appeals, the MOTI Defendants do not
17 concede that this Court should be proceeding with this matter at this time. Accordingly, the MOTI
18 Defendants reserve their right to further amend, withdraw, or modify this Answer and Affirmative
19 Defenses, and to bring counterclaims in connection with the complaint pending a final determination
20 of the Pending Appeals.

21 DATED July 6, 2018.

22 MCNUTT LAW FIRM, P.C.

23
24 /s/ Dan McNutt

25 DANIEL R. MCNUTT (SBN 7815)
26 MATTHEW C. WOLF (SBN 10801)
27 625 South Eighth Street
28 Las Vegas, Nevada 89101
*Attorneys for MOTI Partners, LLC
and MOTI Partners 16, LLC*

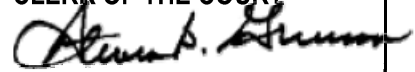
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James Pisanelli, Esq. (SBN 4027)
Debra Spinelli, Esq. (SBN 9695)
Brittnie Watkins, Esq. (SBN 13612)
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
jjp@pisanellibice.com
dls@pisanellibice.com
btw@pisanellibice.com
Attorneys for Defendant
PHWLV, LLC

Robert E. Atkinson, Esq. (SBN 9958)
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
Robert@nv-lawfirm.com
Attorney for Defendant J. Jeffrey Frederick

25
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28

TAB 25



ANS

DANIEL R. MCNUTT (SBN 7815)
MATTHEW C. WOLF (SBN 10801)
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, Nevada 89101
Tel. (702) 384-1170 / Fax. (702) 384-5529
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

PAUL SWEENEY*
CERTILMAN BALIN ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, New York 11554
Tel. (516) 296-7032/ Fax. (516) 296-7111
psweeney@certilmanbalin.com
*Admitted Pro Hac Vice
Attorneys for Defendants
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.: 11

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

**DEFENDANTS TPOV ENTERPRISES, LLC
AND TPOV ENTERPRISES 16, LLC'S
ANSWER TO PLAINTIFFS' COMPLAINT**

This document applies to:
A-17-760537-B

Defendants TPOV Enterprises, LLC ("TPOV") and TPOV Enterprises 16, LLC ("TPOV 16")
(collectively, the "TPOV Defendants") hereby answer the claims asserted by Plaintiffs in the above-
captioned matter as follows:

PRELIMINARY STATEMENT

1. The TPOV Defendants deny the allegations contained in paragraph 1, except admit that
Caesars entered into multiple agreements with entities previously owned by, managed by or affiliated

1 with Rowen Seibel, and that Caesars requested and received "Business Information Forms" from Mr.
2 Seibel at the outset of the MOTI and DNT business relationships. The contents of the agreements and
3 "Business Information Forms" speak for themselves, and TPOV Defendants respectfully refer to those
4 documents for the full and complete contents thereof.

5 2. The TPOV Defendants deny the allegations contained in paragraph 2.

6 3. The TPOV Defendants deny the allegations contained in paragraph 3, except admit that
7 on April 18, 2016, Rowen Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede
8 the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony
9 and served one month in prison.

10 4. The TPOV Defendants deny the allegations contained in paragraph 4.

11 5. The TPOV Defendants deny the allegations contained in paragraph 5, except admit that
12 Caesars wrongfully purported to terminate the agreements and state that the contents of the certain
13 agreements referenced in paragraph 5 speak for themselves, and respectfully refer to the
14 aforementioned agreements for the full and complete contents thereof.

15 6. The TPOV Defendants deny the allegations contained in paragraph 6, except admit that
16 Caesars wrongfully attempted to terminate their agreements, that Caesars cannot continue to operate
17 the restaurants subject to such agreements absent providing compensation to the TPOV Defendants,
18 that TPOV 16 commenced litigation against Caesars in February 2017 in the United States District
19 Court, District of Nevada ("TPOV Federal Action"), and that Caesars commenced the present action
20 by a complaint that speaks for itself, and TPOV Defendants respectfully refer to the complaint for the
21 full and complete contents thereof.

22 7. The TPOV Defendants deny the allegations contained in paragraph 7, except admit that
23 certain defendants are seeking monetary relief from Caesars in different courts across the country
24 related to the agreements, and that Caesars commenced the present action by a complaint that speaks
25 for itself, and TPOV Defendants respectfully refer to the complaint for the full and complete contents
26 thereof.

27 8. The TPOV Defendants deny knowledge and information sufficient to form a belief as
28 to the truth of the allegations contained in paragraph 8, except admit that Caesars commenced the

1 present action by a complaint that speaks for itself, and TPOV Defendants respectfully refer to the
2 complaint for the full and complete contents thereof.

3 **PARTIES, JURISDICTION, AND VENUE**

4 9. The TPOV Defendants admit the allegations contained in paragraph 9.

5 10. The TPOV Defendants admit the allegations contained in paragraph 10.

6 11. The TPOV Defendants admit the allegations contained in paragraph 11.

7 12. The TPOV Defendants admit the allegations contained in paragraph 12.

8 13. The TPOV Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 13.

10 14. The TPOV Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 14.

12 15. The TPOV Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 15.

14 16. The TPOV Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 16.

16 17. The TPOV Defendants deny the allegations contained in paragraph 17 except TPOV
17 admits that TPOV Enterprises, LLC is a New York limited liability company, and that the TPOV
18 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
19 and respectfully refer to the TPOV Agreement for the full and complete contents thereof.

20 18. The TPOV Defendants admit the allegations contained in paragraph 18.

21 19. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the location and corporate status of LLTQ Enterprises, LLC. The TPOV Defendants deny the
23 remaining allegations contained in paragraph 19 except admit that the LLTQ Agreement was entered
24 into on or about April 4, 2012, the contents of which speak for themselves, and respectfully refer to
25 the LLTQ Agreement for the full and complete contents thereof.

26 20. The TPOV Defendants deny knowledge and information sufficient to form a belief as
27 to the allegations contained in paragraph 20.

28 21. The TPOV Defendants deny knowledge and information sufficient to form a belief as

1 to the allegations contained in paragraph 21.

2 22. The TPOV Defendants deny knowledge and information sufficient to form a belief as
3 to the allegations contained in paragraph 22.

4 23. The TPOV Defendants deny knowledge and information sufficient to form a belief as
5 to the allegations contained in paragraph 23.

6 24. The TPOV Defendants admit that Seibel assigned his duties and obligations under the
7 TPOV Agreement to Mr. Frederick. The TPOV Defendants deny knowledge and information
8 sufficient to form a belief as to the truth of the balance of the allegations contained in paragraph 24.

9 25. The TPOV Defendants deny the allegations contained in paragraph 25.

10 **STATEMENT OF FACTS**

11 26. The TPOV Defendants deny knowledge and information sufficient to form a belief as
12 to the allegations contained in paragraph 26.

13 27. The TPOV Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of whether, “In reliance on those representations (among other things), Caesars Palace and
15 MOTI entered into the MOTI Agreement.” The TPOV Defendants deny the balance of the allegations
16 contained in paragraph 27 except admit that to the extent that a “Business Information Form” is
17 referenced in paragraph 27, the contents of said “Business Information Form” speak for themselves,
18 and respectfully refer to the “Business Information Form” for the full and complete contents thereof.

19 28. The TPOV Defendants deny knowledge and information sufficient to form a belief as
20 to the truth of the allegations contained in paragraph 28.

21 29. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 29.

23 30. The TPOV Defendants deny knowledge and information sufficient to form a belief as
24 to the truth of the allegations contained in paragraph 30.

25 31. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 31 except admit that to the extent a “Business
27 Information Form” is referenced in paragraph 31, the contents of said “Business Information Form”
28 speak for themselves, and respectfully refer to the “Business Information Form” for the full and

1 complete contents thereof.

2 32. The TPOV Defendants deny knowledge and information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 32.

4 33. The TPOV Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 33.

6 34. The TPOV Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 34.

8 35. The TPOV Defendants deny the allegations in paragraph 35.

9 36. The TPOV Defendants deny the allegations contained in paragraph 36, except admit
10 that Caesars entered into multiple agreements with entities previously owned by, managed by or
11 affiliated with Rowen Seibel, the contents of which speak for themselves, and respectfully refer to the
12 aforementioned agreements for the full and complete contents thereof.

13 37. The TPOV Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 37.

15 38. The TPOV Defendants deny knowledge and information sufficient to form a belief as
16 to the truth of the allegations contained in paragraph 38 except admit that the contents of said
17 “Business Information Form” speak for themselves, and respectfully refer to the “Business
18 Information Form” for the full and complete contents thereof.

19 39. The TPOV Defendants deny knowledge and information sufficient to form a belief as
20 to the truth of the allegations contained in paragraph 39.

21 40. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 40.

23 41. The TPOV Defendants deny knowledge and information sufficient to form a belief as
24 to the truth of the allegations contained in paragraph 41.

25 42. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 42.

27 43. The TPOV Defendants deny knowledge and information sufficient to form a belief as
28 to the truth of the allegations contained in paragraph 43.

1 44. The TPOV Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 44.

3 45. The TPOV Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 45.

5 46. The TPOV Defendants deny the allegations contained in paragraph 46.

6 47. The TPOV Defendants deny the allegations contained in paragraph 47 except admit
7 that the TPOV Agreement was entered into in or about November 2011 in connection with a restaurant
8 in the Paris casino known as “Gordon Ramsay Steak”, the contents of which speak for themselves,
9 and respectfully refer to the TPOV Agreement for the full and complete contents thereof.

10 48. The TPOV Defendants deny the allegations contained in paragraph 48 except admit
11 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
12 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
13 thereof.

14 49. The TPOV Defendants deny the allegations contained in paragraph 49 except admit
15 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
16 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
17 thereof.

18 50. The TPOV Defendants deny the allegations contained in paragraph 50 except admit
19 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
20 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
21 thereof.

22 51. The TPOV Defendants deny the allegations contained in paragraph 51 except admit
23 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
24 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
25 thereof.

26 52. The TPOV Defendants deny the allegations contained in paragraph 52 except admit
27 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
28 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents

1 thereof.

2 53. The TPOV Defendants deny the allegations contained in paragraph 53 except admit
3 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
4 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
5 thereof.

6 54. The TPOV Defendants deny the allegations contained in paragraph 54 except admit
7 that the TPOV Agreement was entered into in or about November 2011, the contents of which speak
8 for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
9 thereof.

10 55. The TPOV Defendants deny the allegations contained in paragraph 55.

11 56. The TPOV Defendants deny the allegations contained in paragraph 56.

12 57. The TPOV Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 57 except admit that the LLTQ Agreement was
14 entered into on or about April 4, 2012 in connection with a restaurant in the Caesars Palace casino
15 known as the Gordon Ramsay Pub, the contents of which speak for themselves, and respectfully refer
16 to the LLTQ Agreement for the full and complete contents thereof.

17 58. The TPOV Defendants deny knowledge and information sufficient to form a belief as
18 to the truth of the allegations contained in paragraph 58 except admit that the LLTQ Agreement was
19 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
20 refer to the LLTQ Agreement for the full and complete contents thereof.

21 59. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 59 except admit that the LLTQ Agreement was
23 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
24 refer to the LLTQ Agreement for the full and complete contents thereof.

25 60. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 60 except admit that the LLTQ Agreement was
27 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
28 refer to the LLTQ Agreement for the full and complete contents thereof.

1 61. The TPOV Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 61 except admit that the LLTQ Agreement was
3 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
4 refer to the LLTQ Agreement for the full and complete contents thereof.

5 62. The TPOV Defendants deny knowledge and information sufficient to form a belief as
6 to the truth of the allegations contained in paragraph 62 except admit that the LLTQ Agreement was
7 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
8 refer to the LLTQ Agreement for the full and complete contents thereof.

9 63. The TPOV Defendants deny knowledge and information sufficient to form a belief as
10 to the truth of the allegations contained in paragraph 63 except admit that the LLTQ Agreement was
11 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
12 refer to the LLTQ Agreement for the full and complete contents thereof.

13 64. The TPOV Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 64 except admit that the LLTQ Agreement was
15 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
16 refer to the LLTQ Agreement for the full and complete contents thereof.

17 65. The TPOV Defendants deny knowledge and information sufficient to form a belief as
18 to the truth of the allegations contained in paragraph 65 except admit that the LLTQ Agreement was
19 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
20 refer to the LLTQ Agreement for the full and complete contents thereof.

21 66. The TPOV Defendants deny the allegations contained in paragraph 66.

22 67. The TPOV Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 67 except admit that the LLTQ Agreement was
24 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
25 refer to the LLTQ Agreement for the full and complete contents thereof.

26 68. The TPOV Defendants deny knowledge and information sufficient to form a belief as
27 to the truth of the allegations contained in paragraph 68, except admit that the LLTQ Agreement was
28 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully

1 refer to the LLTQ Agreement for the full and complete contents thereof, and admit the allegations
2 contained in the first sentence of paragraph 68 and that the LLTQ/FERG Defendants assert that Section
3 13.22 is enforceable.

4 69. The TPOV Defendants deny knowledge and information sufficient to form a belief as
5 to the truth of the allegations contained in paragraph 69.

6 70. The TPOV Defendants deny knowledge and information sufficient to form a belief as
7 to the truth of the allegations contained in paragraph 70.

8 71. The TPOV Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 71.

10 72. The TPOV Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 72.

12 73. The TPOV Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 73.

14 74. The TPOV Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 74.

16 75. The TPOV Defendants deny knowledge and information sufficient to form a belief as
17 to the truth of the allegations contained in paragraph 75.

18 76. The TPOV Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 76.

20 77. The TPOV Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 77.

22 78. The TPOV Defendants deny the allegations contained in paragraph 78.

23 79. The TPOV Defendants deny knowledge and information sufficient to form a belief as
24 to the truth of the allegations contained in paragraph 79.

25 80. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 80.

27 81. The TPOV Defendants deny knowledge and information sufficient to form a belief as
28 to the truth of the allegations contained in paragraph 81.

1 82. The TPOV Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 82.

3 83. The TPOV Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 83.

5 84. The TPOV Defendants deny knowledge and information sufficient to form a belief as
6 to the truth of the allegations contained in paragraph 84.

7 85. The TPOV Defendants deny knowledge and information sufficient to form a belief as
8 to the truth of the allegations contained in paragraph 85.

9 86. The TPOV Defendants deny knowledge and information sufficient to form a belief as
10 to the truth of the allegations contained in paragraph 86.

11 87. The TPOV Defendants deny knowledge and information sufficient to form a belief as
12 to the truth of the allegations contained in paragraph 87.

13 88. The TPOV Defendants deny the allegations contained in paragraph 88.

14 89. The TPOV Defendants deny knowledge and information sufficient to form a belief as
15 to the truth of the allegations contained in paragraph 89.

16 90. The TPOV Defendants deny knowledge and information sufficient to form a belief as
17 to the the truth of allegations contained in paragraph 90.

18 91. The TPOV Defendants deny the allegations contained in paragraph 91.

19 92. The TPOV Defendants deny knowledge and information sufficient to form a belief as
20 to the truth of the allegations contained in paragraph 92.

21 93. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 93.

23 94. The TPOV Defendants deny knowledge and information sufficient to form a belief as
24 to the truth of the allegations contained in paragraph 94.

25 95. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 95.

27 96. The TPOV Defendants deny knowledge and information sufficient to form a belief as
28 to the truth of the allegations contained in paragraph 96.

1 97. The TPOV Defendants deny knowledge and information sufficient to form a belief as
2 to the truth of the allegations contained in paragraph 97.

3 98. The TPOV Defendants deny knowledge and information sufficient to form a belief as
4 to the truth of the allegations contained in paragraph 98.

5 99. The TPOV Defendants deny knowledge and information sufficient to form a belief as
6 to the truth of the allegations contained in paragraph 99.

7 100. The TPOV Defendants aver that paragraph 100 contains conclusions of law to which
8 no responsive pleading is required. To the extent a response is required, the TPOV Defendants deny
9 knowledge and information sufficient to form a belief as to the truth of the allegations contained in
10 paragraph 100.

11 101. The TPOV Defendants deny knowledge and information sufficient to form a belief as
12 to the truth of the allegations contained in paragraph 101.

13 102. The TPOV Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 102.

15 103. The TPOV Defendants deny knowledge and information sufficient to form a belief as
16 to the truth of the allegations contained in paragraph 103.

17 104. The TPOV Defendants deny knowledge and information sufficient to form a belief as
18 to the truth of the allegations contained in paragraph 104.

19 105. The TPOV Defendants deny knowledge and information sufficient to form a belief as
20 to the truth of the allegations contained in paragraph 105.

21 106. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 106 except admit that on April 18, 2016, Rowen
23 Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due administration of
24 the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony.

25 107. The TPOV Defendants deny knowledge and information sufficient to form a belief as
26 to the truth of the allegations contained in paragraph 107 except admit that on August 19, 2016, the
27 Southern District of New York sentenced Rowen Seibel to serve one month in prison, six months in
28 home detention, and 300 hours of community service.

1 108. The TPOV Defendants deny the allegations contained in paragraph 108 except admit
2 that the letter referenced in paragraph 108 was sent on or about April 8, 2016, the contents of which
3 speak for themselves, and respectfully refers to the aforementioned letter for the full and complete
4 contents thereof.

5 109. The TPOV Defendants deny the allegations contained in paragraph 109, except admit
6 that Caesars wrongfully purported to terminate all of its agreements with entities that were associated
7 or had been associated with Rowen Seibel.

8 110. The TPOV Defendants deny knowledge and information sufficient to form a belief as
9 to the truth of the allegations contained in paragraph 110.

10 111. The TPOV Defendants deny knowledge and information sufficient to form a belief as
11 to the truth of the allegations contained in paragraph 111.

12 112. The TPOV Defendants deny knowledge and information sufficient to form a belief as
13 to the truth of the allegations contained in paragraph 112.

14 113. The TPOV Defendants deny the allegations contained in paragraph 113 except admit
15 that the aforementioned letter from Caesars Palace to TPOV was dated September 2, 2016, the contents
16 of which speak for themselves, and respectfully refer to the aforementioned letter for the full and
17 complete contents thereof.

18 114. The TPOV Defendants deny knowledge and information sufficient to form a belief as
19 to the truth of the allegations contained in paragraph 114.

20 115. The TPOV Defendants deny knowledge and information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 115.

22 116. The TPOV Defendants deny knowledge and information sufficient to form a belief as
23 to the truth of the allegations contained in paragraph 116.

24 117. The TPOV Defendants deny knowledge and information sufficient to form a belief as
25 to the truth of the allegations contained in paragraph 117.

26 118. The TPOV Defendants deny the allegations contained in paragraph 118 except admit
27 certain referenced letters were sent to Caesars, which speak for themselves, and respectfully refer to
28 the aforementioned letters for the full and complete contents thereof.

1 119. The TPOV Defendants deny the allegations contained in paragraph 119 except admit
2 that the aforementioned letter from Caesars Palace was dated September 12, 2016, the contents of
3 which speak for themselves, and respectfully refer to the aforementioned letter for the full and
4 complete contents thereof.

5 120. The TPOV Defendants deny knowledge and information sufficient to form a belief as
6 to the truth of the allegations contained in paragraph 120.

7 121. The TPOV Defendants deny knowledge and information sufficient to form a belief as
8 to the truth of the allegations contained in paragraph 121.

9 122. The TPOV Defendants deny knowledge and information sufficient to form a belief as
10 to the truth of the allegations contained in paragraph 122.

11 123. The TPOV Defendants deny knowledge and information sufficient to form a belief as
12 to the truth of the allegations contained in paragraph 123.

13 124. The TPOV Defendants deny knowledge and information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 124.

15 125. The TPOV Defendants deny knowledge and information sufficient to form a belief as
16 to the truth of the allegations contained in paragraph 125.

17 126. The TPOV Defendants deny knowledge and information sufficient to form a belief as
18 to the truth of the allegations contained in paragraph 126.

19 127. The TPOV Defendants deny knowledge and information sufficient to form a belief as
20 to the truth of the allegations contained in paragraph 127.

21 128. The TPOV Defendants deny knowledge and information sufficient to form a belief as
22 to the truth of the allegations contained in paragraph 128.

23 129. The TPOV Defendants deny the allegations contained in paragraph 129 except admit
24 that the referenced documents filed in the TPOV Federal Action and the court docket for that Action
25 speak for themselves and respectfully refer to the aforementioned documents and court docket for the
26 full and complete contents thereof.

27 130. The TPOV Defendants deny the allegations contained in paragraph 130 except admit
28 that the referenced documents filed in the TPOV Federal Action and the court docket for that Action

1 speak for themselves and respectfully refer to the aforementioned documents and court docket for the
2 full and complete contents thereof.

3 **COUNT I**

4 131. The TPOV Defendants hereby repeat and reallege each and every one of the TPOV
5 Defendants's responses in paragraphs 1-130 above as if fully set forth herein.

6 132. The TPOV Defendants state that the referenced statute speaks for itself.

7 133. The TPOV Defendants admit that the parties dispute whether Caesars properly
8 terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the
9 parties.

10 134. The TPOV Defendants deny the allegations contained in paragraph 134, except admit
11 that Caesars seeks declaratory relief in the present action.

12 135. The TPOV Defendants deny the allegations set forth in paragraph 135, except admit
13 that the complaint filed in the present action seeks certain relief, that the complaint that speaks for
14 itself, and TPOV Defendants respectfully refer to the complaint for the full and complete contents
15 thereof.

16 **COUNT II**

17 136. The TPOV Defendants hereby repeat and reallege each and every one of the TPOV
18 Defendants's responses to the above paragraphs as if fully set forth herein.

19 137. The TPOV Defendants state that the referenced statute speaks for itself.

20 138. The TPOV Defendants admit that the parties dispute whether Caesars properly
21 terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the
22 parties.

23 139. The TPOV Defendants deny the allegations set forth in paragraph 139.

24 140. The TPOV Defendants deny the allegations contained in paragraph 140, except admit
25 that the agreements speak for themselves, and TPOV Defendants respectfully refer to those documents
26 for the full and complete contents thereof.

27 141. The TPOV Defendants deny the allegations contained in paragraph 141, except admit
28 that the agreements speak for themselves, and TPOV Defendants respectfully refer to those documents

1 for the full and complete contents thereof.

2 142. The TPOV Defendants deny the allegations contained in paragraph 142.

3 143. The TPOV Defendants deny the allegations contained in paragraph 143.

4 144. The TPOV Defendants deny the allegations contained in paragraph 144.

5 145. The TPOV Defendants deny the allegations contained in paragraph 145, except admit
6 that Caesars seeks declaratory relief in the present action.

7 146. The TPOV Defendants deny the allegations set forth in paragraph 146, except admit
8 that the complaint filed in the present action seeks certain relief, that the complaint that speaks for
9 itself, and TPOV Defendants respectfully refer to the complaint for the full and complete contents
10 thereof.

11 **COUNT III**

12 147. The TPOV Defendants hereby repeat and reallege each and every one of the TPOV
13 Defendants's responses to the above paragraphs as if fully set forth herein.

14 148. The TPOV Defendants state that the referenced statute speaks for itself.

15 149. The TPOV Defendants admit that the parties dispute whether the referenced section of
16 the agreements are enforceable, but deny there is a justiciable controversy ripe for adjudication among
17 the parties.

18 150. The TPOV Defendants deny the allegations contained in paragraph 150.

19 151. The TPOV Defendants deny the allegations contained in paragraph 151.

20 152. The TPOV Defendants deny the allegations contained in paragraph 152.

21 153. The TPOV Defendants deny the allegations contained in paragraph 153.

22 154. The TPOV Defendants deny the allegations contained in paragraph 154.

23 155. The TPOV Defendants deny the allegations contained in paragraph 155, except admit
24 that Caesars seeks declaratory relief in the present action.

25 156. The TPOV Defendants deny the allegations set forth in paragraph 156, except admit
26 that the complaint filed in the present action seeks certain relief, that the complaint that speaks for
27 itself, and TPOV Defendants respectfully refer to the complaint for the full and complete contents
28 thereof.

1 **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

2 157. The Complaint fails to state a claim upon which relief can be granted.

3 **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

4 158. The TPOV Defendants expressly incorporate herein as affirmative defenses their
5 allegations and claims in *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*,
6 Case 2:17-cv-00346-JCM-VCF in District of Nevada and all related matters and proceedings.

7 **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

8 159. The TPOV Defendants expressly incorporate herein as affirmative defenses their
9 argument in their motion to dismiss this action.

10 **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

11 160. Plaintiff's claims warrant dismissal under the first-to-file rule and due to forum
12 shopping.

13 **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

14 161. By paying money to TPOV 16 under the TPOV Agreement, Plaintiffs consented to and
15 ratified the assignments from TPOV to TPOV 16 and from Seibel to Frederick.

16 **AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

17 162. Plaintiffs are precluded from obtaining the relief they seek because, based on
18 information and belief, they do or have done business with persons who have criminal records or are
19 actually or potentially unsuitable.

20 **AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

21 163. Plaintiffs are precluded from obtaining the relief they seek because they owe money to
22 Defendants.

23 **AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

24 164. Plaintiffs are precluded under the applicable contracts from continuing to operate the
25 restaurants, use the licensed materials, and do business with Ramsay.

26 **AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

27 165. Plaintiffs breached the applicable contracts with Defendants and therefore are
28 precluded from pursuing their claims.

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AS AND FOR A TENTH AFFIRMATIVE DEFENSE

166. Plaintiffs’ claims are barred by the statute of limitations or statute of repose.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

167. Plaintiffs’ claims are barred, in whole or in part, by the doctrines of acquiescence, estoppel, laches, ratification, unclean hands, unjust enrichment, or waiver, as well as all other applicable equitable doctrines.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

168. Plaintiffs’ claims are barred, in whole or in part, by their own conduct, including but not limited to their failure to mitigate their damages.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

169. The alleged unsuitability of Seibel is immaterial and irrelevant because, inter alia, he assigned his interests, if any, in Defendants or the contracts.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

170. The claims related to the TPOV Agreement are barred by the voluntary payment doctrine on account of the payment of money under that agreement to TPOV 16.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

171. This Court lacks jurisdiction over the allegations, claims, and theories alleged by Plaintiffs that already are pending before the United States District Court for the District of Nevada in *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, case no. Case 2:17-cv-00346-JCM-VCF and all related matters and proceedings.

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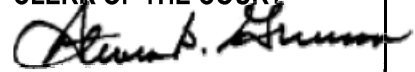
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James Pisanelli, Esq. (SBN 4027)
Debra Spinelli, Esq. (SBN 9695)
Brittnie Watkins, Esq. (SBN 13612)
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
jjp@pisanellibice.com
dls@pisanellibice.com
btw@pisanellibice.com
Attorneys for Defendant
PHWLV, LLC

Robert E. Atkinson, Esq. (SBN 9958)
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
Robert@nv-lawfirm.com
Attorney for Defendant J. Jeffrey Frederick

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TAB 26



AACC

DANIEL R. MCNUTT (SBN 7815)
MATTHEW C. WOLF (SBN 10801)
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, Nevada 89101
Tel. (702) 384-1170 / Fax. (702) 384-5529
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

PAUL SWEENEY*
CERTILMAN BALIN ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, New York 11554
Tel. (516) 296-7032/ Fax. (516) 296-7111
psweeney@certilmanbalin.com
*Admitted Pro Hac Vice
*Attorneys for R Squared Global
Solutions, LLC, appearing derivatively
On behalf of Defendant DNT ACQUISITION 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.: 11

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

**DEFENDANT DNT ACQUISITION, LLC'S
ANSWER TO PLAINTIFFS' COMPLAINT
AND COUNTERCLAIMS**

This document applies to:
A-17-760537-B

Defendant DNT Acquisition, LLC, appearing derivatively by one of its two members, R Squared Global Solutions, LLC ("DNT"), hereby answers the claims asserted by Plaintiffs in the above-captioned matter as follows:

PRELIMINARY STATEMENT

1. DNT denies the allegations contained in paragraph 1, except admits that Caesars

1 entered into multiple agreements with entities previously owned by, managed by or affiliated with
2 Rowen Seibel, and that Caesars requested and received “Business Information Forms” from Mr. Seibel
3 at the outset of the MOTI and DNT business relationships. The contents of the agreements and
4 “Business Information Forms” speak for themselves, and DNT respectfully refers to those documents
5 for the full and complete contents thereof.

6 2. DNT denies the allegations contained in paragraph 2.

7 3. DNT denies the allegations contained in paragraph 3, except admits that on April 18,
8 2016, Rowen Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due
9 administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony and
10 served one month in prison.

11 4. DNT denies the allegations contained in paragraph 4.

12 5. DNT denies the allegations contained in paragraph 5, except admits that Caesars
13 wrongfully purported to terminate the agreements and state that the contents of the certain agreements
14 referenced in paragraph 5 speak for themselves, and respectfully refers to the aforementioned
15 agreements for the full and complete contents thereof.

16 6. DNT denies the allegations contained in paragraph 6, except admits that Caesars
17 wrongfully attempted to terminate their agreements, that Caesars cannot continue to operate the
18 restaurants subject to such agreements absent providing compensation to DNT, and that Caesars
19 commenced the present action by a complaint that speaks for itself, and DNT respectfully refers to the
20 complaint for the full and complete contents thereof.

21 7. DNT denies the allegations contained in paragraph 7, except admits that certain
22 defendants are seeking monetary relief from Caesars in different courts across the country related to
23 the agreements, and that Caesars commenced the present action by a complaint that speaks for itself,
24 and DNT respectfully refers to the complaint for the full and complete contents thereof.

25 8. DNT denies knowledge and information sufficient to form a belief as to the truth of the
26 allegations contained in paragraph 8, except admits that Caesars commenced the present action by a
27 complaint that speaks for itself, and DNT respectfully refers to the complaint for the full and complete
28 contents thereof.

PARTIES, JURISDICTION, AND VENUE

9. DNT admits the allegations contained in paragraph 9.

10. DNT admits the allegations contained in paragraph 10.

11. DNT admits the allegations contained in paragraph 11.

12. DNT admits admit the allegations contained in paragraph 12.

13. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 13.

14. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 14.

15. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 15.

16. DNT denies the allegations contained in paragraph 16 except admits that DNT Acquisition, LLC is a Delaware limited liability company, and that the DNT Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves, and respectfully refers to the DNT Agreement for the full and complete contents thereof.

17. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 17.

18. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 18.

19. DNT denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 19.

20. DNT denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 20.

21. DNT denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 21.

22. DNT denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 22.

23. DNT denies knowledge and information sufficient to form a belief as to the allegations

1 contained in paragraph 23.

2 24. DNT denies knowledge and information sufficient to form a belief as to the truth of the
3 allegations contained in paragraph 24.

4 25. DNT denies the allegations contained in paragraph 25.

5 **STATEMENT OF FACTS**

6 26. DNT denies knowledge and information sufficient to form a belief as to the allegations
7 contained in paragraph 26.

8 27. DNT denies knowledge and information sufficient to form a belief as to the truth of
9 whether, “In reliance on those representations (among other things), Caesars Palace and MOTI entered
10 into the MOTI Agreement.” DNT denies the balance of the allegations contained in paragraph 27
11 except admits that to the extent that a “Business Information Form” is referenced in paragraph 27, the
12 contents of said “Business Information Form” speak for themselves, and respectfully refers to the
13 “Business Information Form” for the full and complete contents thereof.

14 28. DNT denies knowledge and information sufficient to form a belief as to the truth of the
15 allegations contained in paragraph 28.

16 29. DNT denies knowledge and information sufficient to form a belief as to the truth of the
17 allegations contained in paragraph 29.

18 30. DNT denies knowledge and information sufficient to form a belief as to the truth of the
19 allegations contained in paragraph 30.

20 31. DNT denies knowledge and information sufficient to form a belief as to the truth of the
21 allegations contained in paragraph 31 except admits that to the extent a “Business Information Form”
22 is referenced in paragraph 31, the contents of said “Business Information Form” speak for themselves,
23 and respectfully refers to the “Business Information Form” for the full and complete contents thereof.

24 32. DNT denies knowledge and information sufficient to form a belief as to the truth of the
25 allegations contained in paragraph 32.

26 33. DNT denies knowledge and information sufficient to form a belief as to the truth of the
27 allegations contained in paragraph 33.

28 34. DNT denies knowledge and information sufficient to form a belief as to the truth of the

1 allegations contained in paragraph 34.

2 35. DNT denies the allegations in paragraph 35.

3 36. DNT denies the allegations contained in paragraph 36, except admits that Caesars
4 entered into multiple agreements with entities previously owned by, managed by or affiliated with
5 Rowen Seibel, the contents of which speak for themselves, and respectfully refers to the
6 aforementioned agreements for the full and complete contents thereof.

7 37. DNT denies the allegations contained in paragraph 37 except admits that the DNT
8 Agreement was entered into on or about June 21, 2011 in connection with a restaurant in the Caesars
9 Palace casino known as “Old Homestead Steakhouse”, the contents of which speak for themselves,
10 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

11 38. DNT denies the allegations contained in paragraph 38 except admits that the contents
12 of said “Business Information Form” speak for themselves, and respectfully refers to the “Business
13 Information Form” for the full and complete contents thereof, and admits that the DNT Agreement
14 was entered into on or about June 21, 2011, the contents of which speak for themselves, and
15 respectfully refers to the DNT Agreement for the full and complete contents thereof.

16 39. DNT denies the allegations contained in paragraph 39 except admits that the DNT
17 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
18 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

19 40. DNT denies the allegations contained in paragraph 40 except admits that the DNT
20 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
21 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

22 41. DNT denies the allegations contained in paragraph 41 except admits that the DNT
23 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
24 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

25 42. DNT denies the allegations contained in paragraph 42 except admits that the DNT
26 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
27 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

28 43. DNT denies the allegations contained in paragraph 43 except admits that the DNT

1 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
2 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

3 44. DNT denies the allegations contained in paragraph 44 except admits that the DNT
4 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
5 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

6 45. DNT denies the allegations contained in paragraph 45 except admits that the DNT
7 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
8 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

9 46. DNT denies the allegations contained in paragraph 46.

10 47. DNT denies knowledge and information sufficient to form a belief as to the truth of the
11 allegations contained in paragraph 47.

12 48. DNT denies knowledge and information sufficient to form a belief as to the truth of the
13 allegations contained in paragraph 48.

14 49. DNT denies knowledge and information sufficient to form a belief as to the truth of the
15 allegations contained in paragraph 49.

16 50. DNT denies knowledge and information sufficient to form a belief as to the truth of the
17 allegations contained in paragraph 50.

18 51. DNT denies knowledge and information sufficient to form a belief as to the truth of the
19 allegations contained in paragraph 51.

20 52. DNT denies knowledge and information sufficient to form a belief as to the truth of the
21 allegations contained in paragraph 52.

22 53. DNT denies knowledge and information sufficient to form a belief as to the truth of the
23 allegations contained in paragraph 53.

24 54. DNT denies knowledge and information sufficient to form a belief as to the truth of the
25 allegations contained in paragraph 54.

26 55. DNT denies knowledge and information sufficient to form a belief as to the truth of the
27 allegations contained in paragraph 55.

28 56. DNT denies the allegations contained in paragraph 56.

1 57. DNT denies knowledge and information sufficient to form a belief as to the truth of the
2 allegations contained in paragraph 57.

3 58. DNT denies knowledge and information sufficient to form a belief as to the truth of the
4 allegations contained in paragraph 58.

5 59. DNT denies knowledge and information sufficient to form a belief as to the truth of the
6 allegations contained in paragraph 59.

7 60. DNT denies knowledge and information sufficient to form a belief as to the truth of the
8 allegations contained in paragraph 60.

9 61. DNT denies knowledge and information sufficient to form a belief as to the truth of the
10 allegations contained in paragraph 61.

11 62. DNT denies knowledge and information sufficient to form a belief as to the truth of the
12 allegations contained in paragraph 62.

13 63. DNT denies knowledge and information sufficient to form a belief as to the truth of the
14 allegations contained in paragraph 63.

15 64. DNT denies knowledge and information sufficient to form a belief as to the truth of the
16 allegations contained in paragraph 64.

17 65. DNT denies knowledge and information sufficient to form a belief as to the truth of the
18 allegations contained in paragraph 65.

19 66. DNT denies the allegations contained in paragraph 66.

20 67. DNT denies knowledge and information sufficient to form a belief as to the truth of the
21 allegations contained in paragraph 67.

22 68. DNT denies knowledge and information sufficient to form a belief as to the truth of the
23 allegations contained in paragraph 68.

24 69. DNT denies knowledge and information sufficient to form a belief as to the truth of the
25 allegations contained in paragraph 69.

26 70. DNT denies knowledge and information sufficient to form a belief as to the truth of the
27 allegations contained in paragraph 70.

28 71. DNT denies knowledge and information sufficient to form a belief as to the truth of the

1 allegations contained in paragraph 71.

2 72. DNT denies knowledge and information sufficient to form a belief as to the truth of the
3 allegations contained in paragraph 72.

4 73. DNT denies knowledge and information sufficient to form a belief as to the truth of the
5 allegations contained in paragraph 73.

6 74. DNT denies knowledge and information sufficient to form a belief as to the truth of the
7 allegations contained in paragraph 74.

8 75. DNT denies knowledge and information sufficient to form a belief as to the truth of the
9 allegations contained in paragraph 75.

10 76. DNT denies knowledge and information sufficient to form a belief as to the truth of the
11 allegations contained in paragraph 76.

12 77. DNT denies knowledge and information sufficient to form a belief as to the truth of the
13 allegations contained in paragraph 77.

14 78. DNT denies the allegations contained in paragraph 78.

15 79. DNT denies knowledge and information sufficient to form a belief as to the truth of the
16 allegations contained in paragraph 79.

17 80. DNT denies knowledge and information sufficient to form a belief as to the truth of the
18 allegations contained in paragraph 80.

19 81. DNT denies knowledge and information sufficient to form a belief as to the truth of the
20 allegations contained in paragraph 81.

21 82. DNT denies knowledge and information sufficient to form a belief as to the truth of the
22 allegations contained in paragraph 82.

23 83. DNT denies knowledge and information sufficient to form a belief as to the truth of the
24 allegations contained in paragraph 83.

25 84. DNT denies knowledge and information sufficient to form a belief as to the truth of the
26 allegations contained in paragraph 84.

27 85. DNT denies knowledge and information sufficient to form a belief as to the truth of the
28 allegations contained in paragraph 85.

1 86. DNT denies knowledge and information sufficient to form a belief as to the truth of the
2 allegations contained in paragraph 86.

3 87. DNT denies knowledge and information sufficient to form a belief as to the truth of the
4 allegations contained in paragraph 87.

5 88. DNT denies the allegations contained in paragraph 88.

6 89. DNT denies knowledge and information sufficient to form a belief as to the truth of the
7 allegations contained in paragraph 89.

8 90. DNT denies knowledge and information sufficient to form a belief as to the the truth
9 of allegations contained in paragraph 90.

10 91. DNT denies the allegations contained in paragraph 91.

11 92. DNT denies knowledge and information sufficient to form a belief as to the truth of the
12 allegations contained in paragraph 92.

13 93. DNT denies knowledge and information sufficient to form a belief as to the truth of the
14 allegations contained in paragraph 93.

15 94. DNT denies knowledge and information sufficient to form a belief as to the truth of the
16 allegations contained in paragraph 94.

17 95. DNT denies knowledge and information sufficient to form a belief as to the truth of the
18 allegations contained in paragraph 95.

19 96. DNT denies knowledge and information sufficient to form a belief as to the truth of the
20 allegations contained in paragraph 96.

21 97. DNT denies knowledge and information sufficient to form a belief as to the truth of the
22 allegations contained in paragraph 97.

23 98. DNT denies knowledge and information sufficient to form a belief as to the truth of the
24 allegations contained in paragraph 98.

25 99. DNT denies knowledge and information sufficient to form a belief as to the truth of the
26 allegations contained in paragraph 99.

27 100. DNT avers that paragraph 100 contains conclusions of law to which no responsive
28 pleading is required. To the extent a response is required, DNT denies knowledge and information

1 sufficient to form a belief as to the truth of the allegations contained in paragraph 100.

2 101. DNT denies knowledge and information sufficient to form a belief as to the truth of the
3 allegations contained in paragraph 101.

4 102. DNT denies knowledge and information sufficient to form a belief as to the truth of the
5 allegations contained in paragraph 102.

6 103. DNT denies knowledge and information sufficient to form a belief as to the truth of the
7 allegations contained in paragraph 103.

8 104. DNT denies knowledge and information sufficient to form a belief as to the truth of the
9 allegations contained in paragraph 104.

10 105. DNT denies knowledge and information sufficient to form a belief as to the truth of the
11 allegations contained in paragraph 105.

12 106. DNT denies knowledge and information sufficient to form a belief as to the truth of the
13 allegations contained in paragraph 106 except admits that on April 18, 2016, Rowen Seibel pled guilty
14 to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal
15 Revenue Laws under 26 U.S.C. § 7212, which is a class E felony.

16 107. DNT denies knowledge and information sufficient to form a belief as to the truth of the
17 allegations contained in paragraph 107 except admits that on August 19, 2016, the Southern District
18 of New York sentenced Rowen Seibel to serve one month in prison, six months in home detention,
19 and 300 hours of community service.

20 108. DNT denies the allegations contained in paragraph 108 except admits that the letter
21 referenced in paragraph 108 was sent on or about April 8, 2016, the contents of which speak for
22 themselves, and respectfully refers to the aforementioned letter for the full and complete contents
23 thereof.

24 109. DNT denies the allegations contained in paragraph 109, except admit that Caesars
25 wrongfully purported to terminate all of its agreements with entities that were associated or had been
26 associated with Rowen Seibel.

27 110. DNT denies knowledge and information sufficient to form a belief as to the truth of the
28 allegations contained in paragraph 110.

1 111. DNT denies the allegations contained in paragraph 111 except admit that the
2 aforementioned letter from Caesars Palace to DNT was dated September 2, 2016, the contents of which
3 speak for themselves, and respectfully refers to the aforementioned letter for the full and complete
4 contents thereof.

5 112. DNT denies the allegations contained in paragraph 112 except admits that the DNT
6 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
7 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

8 113. DNT denies knowledge and information sufficient to form a belief as to the truth of the
9 allegations contained in paragraph 113.

10 114. DNT denies knowledge and information sufficient to form a belief as to the truth of the
11 allegations contained in paragraph 114.

12 115. DNT denies knowledge and information sufficient to form a belief as to the truth of the
13 allegations contained in paragraph 115.

14 116. DNT denies knowledge and information sufficient to form a belief as to the truth of the
15 allegations contained in paragraph 116.

16 117. DNT denies knowledge and information sufficient to form a belief as to the truth of the
17 allegations contained in paragraph 117.

18 118. DNT denies the allegations contained in paragraph 118 except admit certain referenced
19 letters were sent to Caesars, which speak for themselves, and respectfully refers to the aforementioned
20 letters for the full and complete contents thereof.

21 119. DNT denies the allegations contained in paragraph 119 except admit that the
22 aforementioned letter from Caesars Palace was dated September 12, 2016, the contents of which speak
23 for themselves, and respectfully refers to the aforementioned letter for the full and complete contents
24 thereof.

25 120. DNT denies knowledge and information sufficient to form a belief as to the truth of the
26 allegations contained in paragraph 120 except admits that Caesars Entertainment Operating Company,
27 Inc. and its subsidiaries and affiliates filed for Chapter 11 bankruptcy protection in the United States
28 Bankruptcy Court, Northern District of Illinois, Eastern Division and that the court docket for that

1 Action speaks for itself and respectfully refers to the aforementioned court docket for the full and
2 complete contents thereof.

3 121. DNT denies knowledge and information sufficient to form a belief as to the truth of the
4 allegations contained in paragraph 121.

5 122. DNT denies knowledge and information sufficient to form a belief as to the truth of the
6 allegations contained in paragraph 122.

7 123. DNT denies knowledge and information sufficient to form a belief as to the truth of the
8 allegations contained in paragraph 123.

9 124. DNT denies knowledge and information sufficient to form a belief as to the truth of the
10 allegations contained in paragraph 124.

11 125. DNT denies knowledge and information sufficient to form a belief as to the truth of the
12 allegations contained in paragraph 125.

13 126. DNT denies knowledge and information sufficient to form a belief as to the truth of the
14 allegations contained in paragraph 126.

15 127. DNT denies knowledge and information sufficient to form a belief as to the truth of the
16 allegations contained in paragraph 127.

17 128. DNT denies knowledge and information sufficient to form a belief as to the truth of the
18 allegations contained in paragraph 128.

19 129. DNT denies knowledge and information sufficient to form a belief as to the truth of the
20 allegations contained in paragraph 129.

21 130. DNT denies knowledge and information sufficient to form a belief as to the truth of the
22 allegations contained in paragraph 130.

23 **COUNT I**

24 131. DNT hereby repeats and realleges each and every one of DNT's responses in
25 paragraphs 1-130 above as if fully set forth herein.

26 132. DNT states that the referenced statute speaks for itself.

27 133. DNT admits that the parties dispute whether Caesars properly terminated the
28 agreements, but denies there is a justiciable controversy ripe for adjudication among the parties.

134. DNT denies the allegations contained in paragraph 134, except admits that Caesars seeks declaratory relief in the present action.

135. DNT denies the allegations set forth in paragraph 135, except admits that the complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and DNT respectfully refers to the complaint for the full and complete contents thereof.

COUNT II

136. DNT hereby repeats and realleges each and every one of DNT's responses to the above paragraphs as if fully set forth herein.

137. DNT states that the referenced statute speaks for itself.

138. DNT admits that the parties dispute whether Caesars properly terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the parties.

139. DNT denies the allegations set forth in paragraph 139.

140. DNT denies the allegations contained in paragraph 140, except admit that the agreements speak for themselves, and DNT respectfully refers to those documents for the full and complete contents thereof.

141. DNT denies the allegations contained in paragraph 141, except admits that the agreements speak for themselves, and DNT respectfully refers to those documents for the full and complete contents thereof.

142. DNT denies the allegations contained in paragraph 142.

143. DNT denies the allegations contained in paragraph 143.

144. DNT denies the allegations contained in paragraph 144.

145. DNT denies the allegations contained in paragraph 145, except admit that Caesars seeks declaratory relief in the present action.

146. DNT denies the allegations set forth in paragraph 146, except admits that the complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and DNT respectfully refers to the complaint for the full and complete contents thereof.

1 **COUNT III**

2 147. DNT hereby repeats and realleges each and every one of DNT's responses to the above
3 paragraphs as if fully set forth herein.

4 148. DNT states that the referenced statute speaks for itself.

5 149. DNT admits that the parties dispute whether the referenced section of the agreements
6 are enforceable, but deny there is a justiciable controversy ripe for adjudication among the parties.

7 150. DNT denies the allegations contained in paragraph 150.

8 151. DNT denies the allegations contained in paragraph 151.

9 152. DNT denies the allegations contained in paragraph 152.

10 153. DNT denies the allegations contained in paragraph 153.

11 154. DNT denies the allegations contained in paragraph 154.

12 155. DNT denies the allegations contained in paragraph 155, except admits that Caesars
13 seeks declaratory relief in the present action.

14 156. DNT denies the allegations set forth in paragraph 156, except admits that the complaint
15 filed in the present action seeks certain relief, that the complaint that speaks for itself, and DNT
16 respectfully refers to the complaint for the full and complete contents thereof.

17 **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

18 157. The Complaint fails to state a claim upon which relief can be granted.

19 **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

20 158. DNT expressly incorporates herein as affirmative defenses its allegations and claims in
21 *In re: Caesars Entertainment Operating Company, Inc., et. al.*, case no. 15-01145 (ABG) in the United
22 States Bankruptcy Court for the Northern District of Illinois (Eastern Division) and all related matters
23 and proceedings.

24 **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

25 159. DNT expressly incorporates herein as affirmative defenses its argument in their motion
26 to dismiss this action.

1 **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

2 160. Plaintiff's claims warrant dismissal under the first-to-file rule and due to forum
3 shopping.

4 **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

5 161. Plaintiffs are precluded from obtaining the relief they seek because, based on
6 information and belief, they do or have done business with persons who have criminal records or are
7 actually or potentially unsuitable.

8 **AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

9 162. Plaintiffs are precluded from obtaining the relief they seek because they owe money to
10 Defendants.

11 **AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

12 163. Plaintiffs are precluded under the applicable contracts from continuing to operate the
13 restaurants and use the licensed materials.

14 **AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

15 164. Plaintiffs breached the applicable contracts with Defendants and therefore are
16 precluded from pursuing their claims.

17 **AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

18 165. Plaintiffs' claims are barred by the statute of limitations or statute of repose.

19 **AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

20 166. Plaintiffs' claims are barred, in whole or in part, by the doctrines of acquiescence,
21 estoppel, laches, ratification, unclean hands, unjust enrichment, or waiver, as well as all other
22 applicable equitable doctrines.

23 **AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

24 167. Plaintiffs' claims are barred, in whole or in part, by their own conduct, including but
25 not limited to their failure to mitigate their damages.

26 **AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

27 168. The alleged unsuitability of Seibel is immaterial and irrelevant because, inter alia, he
28 assigned his interests, if any, in Defendants or the contracts.

1 **AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

2 169. This Court lacks jurisdiction over the allegations, claims, and theories alleged by
3 Plaintiffs that already are pending before the United States Bankruptcy Court for the Northern District
4 of Illinois (Eastern Division) in *In re: Caesars Entertainment Operating Company, Inc., et. al.*, case
5 no. 15-01145 (ABG) and all related matters and proceedings.

6 **AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

7 170. All possible affirmative defenses may not have been alleged herein insofar as sufficient
8 facts were not available after reasonable inquiry upon the filing of Defendants’ answer. Therefore,
9 Defendants reserve the right to amend their answer to allege additional affirmative defenses if
10 subsequent investigation so warrants. Defendants reserve the right to (a) rely upon such other
11 affirmative defenses as may be supported by the facts to be determined through full and complete
12 discovery, and (b) voluntarily withdraw any affirmative defense.

13 **COUNTERCLAIMS**

14 NOW COMES DNT ACQUISITION, LLC (“DNT”), appearing derivatively by one of its two
15 members, R SQUARED GLOBAL SOLUTIONS, LLC (“RSG”)¹, by and through its undersigned
16 counsel, and for its Counterclaims against Desert Palace, Inc. (“Caesars”) alleges as follows:

17 **PARTIES**

- 18 1. DNT is a Delaware limited liability company.
- 19 2. DNT’s two members are RSG and The Original Homestead Restaurant, Inc. (“OHS”),
20 a New York corporation.
- 21 3. Caesars is a Nevada corporation and has a principal place of business of 3570 Las
22 Vegas Boulevard South, Las Vegas, Nevada, which is a resort hotel casino known as “Caesars Palace.”

23 **GENERAL ALLEGATIONS**

24 **The DNT Agreement and Restrictions**

- 25 4. Effective as of June 21, 2011, DNT, OHS, and Caesars entered into an agreement for
26

27 ¹ The bases for R Squared Global Solutions, LLC’s (“RSG”) derivative appearance are set forth
28 in exhibit M to the Appendix of Exhibits in support of the DNT Motion to Dismiss filed in the instant
action.

1 the development, operation, and license with respect to an Old Homestead Steakhouse (the
2 “Restaurant”) in Caesars Palace, Las Vegas, Nevada (the “DNT Agreement”).

3 5. Representatives of Caesars, DNT, and OHS engaged in multiple meetings to negotiate
4 the terms of the design, development, construction, and operation of and the sharing of profits from
5 that certain “Old Homestead Steakhouse” (defined as the “Restaurant” in the DNT Agreement) located
6 at the “Restaurant Premises” (as defined in the DNT Agreement) in a property owned and operated by
7 Caesars in Las Vegas, Nevada.

8 6. Since its opening, the Restaurant has been one of the most profitable restaurants for
9 Caesars at its Las Vegas location.

10 **The Bankruptcy Matters**

11 7. On January 15, 2015 (the “Petition Date”), Caesars, CAC and several of their affiliated
12 entities (collectively, the “Debtors”) each filed voluntary petitions under Chapter 11 of the Bankruptcy
13 Code, thereby commencing the Chapter 11 Cases.

14 8. On April 30, 2015, OHS, one of the members of DNT, filed a proof of claim [Docket
15 No. 1883] asserting a pre-petition debt against Caesars for monies due and owing to DNT under the
16 DNT Agreement as of the Petition Date in the amount of no less than \$204,964.75 (the “OHS Pre-
17 Petition Claim”).

18 9. On May 22, 2015, DNT filed a proof of claim [Docket No. 3346] asserting a pre-
19 petition debt against Caesars for monies due and owing to DNT under the DNT Agreement as of the
20 Petition Date in the amount of no less than \$204,964.75 (the “DNT Pre-Petition Claim”).

21 10. Also on May 22, 2015, RSG filed a proof of claim [Docket No. 3304] asserting a pre-
22 petition debt against Caesars for monies due and owing to RSG under the DNT Agreement as of the
23 Petition Date in the amount of no less than \$91,201.62 (the “RSG Pre-Petition Claim,” and collectively
24 with the OHS Pre-Petition Claim and the DNT Pre-Petition Claim, are referred to herein as the “DNT
25 Claims”).

26 11. The filing of the DNT Claims commenced the action between DNT and the Debtor
27 Plaintiffs in The Illinois Bankruptcy Court.

28

1 12. Additionally, on November 6, 2017, RSG, in its own right, filed a proof of claim
2 asserting rejection damages against Caesars (the “RSG Rejection Damages POC”) and derivatively on
3 behalf of DNT, as a member of DNT (the “DNT Rejection Damages POC,” and collectively with the
4 RSG Rejection Damages POC, the “DNT/RSG Rejection Damages POCs”).

5 13. On June 28, 2016, Caesars filed its proposed Second Amended Joint Plan of
6 Reorganization Pursuant to Chapter 11 of the Bankruptcy Code (the “Proposed Second Amended
7 Plan”) [Dkt. No. 4218].

8 14. On July 18, 2016, filed a Supplement to Debtors’ Second Amended Joint Plan of
9 Reorganization and includes the DNT Agreement on Schedule HH to assume the DNT Agreement
10 under the proposed Second Amended Plan. [Dkt. No. 4389].

11 15. On August 17, 2016, DNT filed a limited preliminary objection to the Cure Schedule
12 asserting that the proper cure amount is no less than \$204,964.75, as reflected in the DNT Claims.
13 [Dkt. No. 4702].

14 16. On January 13, 2017, Caesars filed its Third Amended Joint Plan of Reorganization
15 Pursuant to Chapter 11 of the Bankruptcy Code, dated January 13, 2017 [Dkt. No. 6318]. On January
16 17, 2017, the Illinois Bankruptcy Court entered an order confirming the Third Amended Plan. [Dkt.
17 No. 6334].

18 17. On October 6, 2017 (the “Plan Effective Date”), the Effective Date of the Third
19 Amended Joint Plan occurred and was consummated.

20 17. On November 20, 2017, RSG directly, and derivatively on behalf of DNT as a member
21 of DNT, filed a request for payment of an administrative expense claim [Dkt. No. 7607] (the “DNT
22 Admin Claim”). The DNT Admin Claim challenges Caesars’ termination of the DNT Agreement and
23 asserts, among other things, that even if the DNT Agreement was terminated, the effect of termination
24 provisions in that agreement expressly survive such termination and still bind the parties to the DNT
25 Agreement.

26 18. On December 6, 2017, Debtors objected to the DNT Admin Claim (the “Caesars
27 Objection to DNT Admin Claim”), claiming that Debtors do not owe DNT any payment following
28 termination of the DNT Agreement. [Docket No. 7658].

1 19. Debtors also claimed in their objection to the DNT Admin Claim to have entered into
2 a valid contract with OHS with respect to the operation of the Restaurant. [Docket No. 7658].

3 20. The Caesars Objection to DNT Admin Claim also contains averments that the
4 Restaurant is still in operation “under the same name, in the same manner, and with the same
5 [intellectual property], menu, and website as [OHS]’s other two restaurants.” [Docket No. 7658].

6 21. The DNT Admin Claim remains pending.

7 **Purported Termination of the DNT Agreement**

8 22. On February 29, 2016, the United States government filed a Notice of Intent to File an
9 Information against Rowen Seibel. A Notice of Intent to File an Information is not a charging
10 instrument.

11 23. On April 8, 2016, the Debtors were notified via letter (the “**Assignment Letter**”) that,
12 among other things, effective as of April 13, 2016, all obligations and duties of DNT and/or Seibel
13 that were specifically designated to be performed by Seibel would be assigned and delegated by DNT
14 and/or Seibel to, and would be performed by, J. Jeffrey Frederick.

15 24. Effective as of April 13, 2016, Mr. Seibel divested himself of any direct or indirect
16 membership interests in DNT by assigning all of his ownership interests in RSG to The Seibel Family
17 2016 Trust, as permitted under the DNT Agreement.

18 25. Five days after Mr. Seibel divested himself of any interests relating to the Restaurant,
19 on April 18, 2016, the United States Attorney’s Office filed an information as to Mr. Seibel in case
20 no. 16-CR-00279, in the U.S. District Court South District of New York (the “Seibel Case”).

21 26. Also on April 18, 2016, Mr. Seibel entered a guilty plea for violation of Title 26, United
22 States Code, Section 7212(a) (the “Seibel Plea”).

23 27. On May 16, 2016, an order was entered in the Seibel Case accepting the Seibel Plea.

24 28. On August 19, 2016, Mr. Seibel was sentenced and a judgment was entered against him
25 in the Seibel Case.

26 29. On or about September 2, 2016, Caesars sent a letter addressed to Seibel, one of the
27 managers of DNT, and to the other managers of DNT warning that if DNT and OHS did not (i)
28 terminate any relationship with Seibel based on Caesars’ determination that Seibel is an “unsuitable

1 person” under the DNT Agreement based on the Seibel’s recent guilty plea to a single count of
2 obstruction of the due administration of tax laws and (ii) provide written evidence of the terminated
3 relationship to Caesars within ten business days, then Caesars would have to terminate the DNT
4 Agreement under Section 4.2.3 of the DNT Agreement.

5 30. By letter dated September 7, 2016, counsel to DNT responded to the September 2
6 Letter, referring to an assignment of interests in April 2016 which resulted in Seibel having no interest
7 in the relevant entities.

8 31. In response, by letter dated September 21, 2016, Caesars advised counsel to DNT that
9 the assignments and assignees are not approved and the DNT Agreement was purportedly terminated.

10 32. Notwithstanding the purported Termination, the Restaurant remains open and, upon
11 information and belief, profitable.

12 33. Caesars has not compensated DNT for the monies due under the DNT Agreement from
13 the period of September 20, 2016 to present.

14 **COUNT I – Breach of the DNT Agreement**

15 (against Caesars)

16 34. All preceding paragraphs are incorporated herein.

17 35. The object of the DNT Agreement is the development, construction, and operation of
18 the Old Homestead Restaurant.

19 36. The Restaurant was developed and constructed, and Caesars has continued to operate
20 the Old Homestead Restaurant since it opened in 2011.

21 37. The Restaurant continues to generate revenues and is profitable.

22 38. Caesars continues to operate the Restaurant in the same manner and fashion as Caesars
23 operated the Restaurant since its opening.

24 39. Caesars intends to continue operating the Restaurant.

25 40. Caesars has not been fined or sanctioned in any manner by any gaming authorities in
26 connection with its continued operations of the Restaurant.

27 41. Caesars has not compensated DNT as required pursuant to the DNT Agreement despite
28 Caesars’ continued operation of the Restaurant.

1 **COUNT II – Accounting**

2 (against Caesars)

3 42. All preceding paragraphs are incorporated herein.

4 43. The DNT Agreement permits DNT to request and conduct an audit concerning the
5 monies owed under the DNT Agreement.

6 44. The laws of equity also allow for DNT to request an accounting of Caesars. Without
7 an accounting, DNT may not have adequate remedies at law because the exact amount of monies owed
8 to it could be unknown.

9 45. The accounts between the parties are of such a complicated nature than an accounting
10 is necessary and warranted.

11 46. DNT has entrusted and relied upon Caesars to maintain accurate and complete records
12 to compute the amount of monies due under the DNT Agreement.

13 47. DNT requests an accounting of the monies owed to it under the DNT Agreement, as
14 well as all further relief found just, fair and equitable.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, DNT Acquisition, LLC, appearing derivatively by one of its two members, R
17 Squared Global Solutions, LLC, respectfully requests the entry of judgment in its favor and against
18 Caesars as follows:

19 A. Monetary damages in excess of \$15,000, including:

20 i) all payments due under the DNT Agreement accruing since the Plan Effective
21 Date of October 6, 2017, through the present and continuing through and
22 including December 22, 2026; and

23 B. Equitable relief;

24 C. Reasonable attorney's fees, costs, and interest associated with the prosecution of this
25 lawsuit; and

26 D. Any additional relief this Court may deem just and proper.

27 **RESERVATION OF RIGHTS**

28 Pursuant to Rule 13 of the Nevada Rules of Civil Procedure, DNT is not intending to bring and

1 is not bringing at this time any claims that existed at the time this matter was commenced and which
2 were already (and remain) the subject of the pending matters between the parties before the United
3 States Bankruptcy Court for the Northern District of Illinois. The foregoing counterclaim is being
4 asserted because of the timing of the filing of the DNT/RSG Rejection Damages POCs as against the
5 commencement of this action. To the extent the DNT/RSG Rejection Damages POCs are deemed or
6 considered to predate the commencement of this action because of any relation-back to the filing of
7 the DNT Claims or Caesar's filing for bankruptcy, notwithstanding being filed with the Bankruptcy
8 Court subsequent to the commencement of this action, then such claims would not be compulsory
9 counterclaims under Rule 13 of the Nevada Rules of Civil Procedure. In any event, regardless of any
10 timing issues implicated by Rule 13 of the Nevada Rules of Civil Procedure, the aforementioned
11 claims sought hereunder will not exceed the amounts sought in the Bankruptcy Court, subject to any
12 rights of amendment to those claims. Regardless, DNT reserves the right to pursue any such claims
13 before this court in the event the Bankruptcy Court either stays or abstains from hearing any such
14 claims.

15 In addition, the complaint is subject to a Petition for Writ of Mandamus or Prohibition in
16 connection with certain defendants' motion to dismiss or stay, and an appeal of the remand of certain
17 counts of the complaint ordered by the United States Bankruptcy Court, District of Nevada
18 (collectively, the "Pending Appeals"). Based on the Pending Appeals, DNT does not concede that
19 this Court should be proceed with this matter at this time. Accordingly, DNT reserves its right to
20 further amend, modify, or withdraw this Answer, Affirmative Defenses and Counterclaims, and to
21 bring additional counterclaims in connection with the complaint pending a final determination of the
22 Pending Appeals.

23 DATED July 2, 2018.

24 MCNUTT LAW FIRM P.C.

25
26 /s/ Dan McNutt
27 DANIEL R. MCNUTT (SBN 7815)
28 MATTHEW C. WOLF (SBN 10801)
625 South Eighth Street
Las Vegas, Nevada 89101
Attorneys for R Squared Global

Solutions, LLC, appearing derivatively
On behalf of Defendant DNT ACQUISITION LLC

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on July 2, 2018 I caused service of the foregoing **DEFENDANT DNT ACQUISITION, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT AND COUNTERCLAIMS** to be made by depositing a true and correct copy of same in the United States Mail, postage fully prepaid, addressed to the following and/or via electronic mail through the Eighth Judicial District Court's E-Filing system to the following at the e-mail address provided in the e-service list:

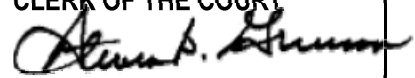
James Pisanelli, Esq. (SBN 4027)
Debra Spinelli, Esq. (SBN 9695)
Brittnie Watkins, Esq. (SBN 13612)
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
jjp@pisanellibice.com
dls@pisanellibice.com
btw@pisanellibice.com
Attorneys for Defendant
PHWLTV, LLC

Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501
awilt@fclaw.com
jtennert@fclaw.com
Attorneys for Defendant
Gordon Ramsay

Robert E. Atkinson, Esq. (SBN 9958)
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
Robert@nv-lawfirm.com
Attorney for Defendant J. Jeffrey Frederick

/s/ Lisa A. Heller
Employee of McNutt Law Firm

TAB 27



AACC

DANIEL R. MCNUTT (SBN 7815)
MATTHEW C. WOLF (SBN 10801)
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, Nevada 89101
Tel. (702) 384-1170 / Fax. (702) 384-5529
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

NATHAN Q. RUGG*
BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG LLP
200 W. MADISON ST., SUITE 3900
CHICAGO, IL 60606
Tel. (312) 984-3127 / Fax. (312) 984-3150
Nathan.Rugg@bfkn.com

STEVEN B. CHAIKEN*
ADELMAN & GETTLEMAN, LTD.
53 West Jackson Boulevard, Suite 1050
Chicago, IL 60604
Tel. (312) 435-1050 / Fax. (312) 435-1059
sbc@ag-ltd.com

*Admitted Pro Hac Vice
Attorneys for LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC; FERG, LLC;
and FERG 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.: 11

Consolidated with:

Case No.: A-17-760537-B

**LLTQ/FERG DEFENDANTS' ANSWER
AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS' COMPLAINT AND
COUNTERCLAIMS**

This document applies to:
A-17-760537-B

Defendants LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC, FERG, LLC, and FERG 16,
LLC (collectively, the "LLTQ/FERG Defendants") hereby answer the claims asserted by Plaintiffs in

1 the above-captioned matter as follows:

2 **PRELIMINARY STATEMENT**

3 1. The LLTQ/FERG Defendants deny the allegations contained in paragraph 1, except
4 admit that Caesars entered into multiple agreements with entities previously owned by, managed by
5 or affiliated with Rowen Seibel, and that Caesars requested and received "Business Information
6 Forms" from Mr. Seibel in connection with the MOTI and DNT business relationships. The contents
7 of the agreements and "Business Information Forms" speak for themselves, and LLTQ/FERG
8 Defendants respectfully refer to those documents for the full and complete contents thereof.

9 2. The LLTQ/FERG Defendants deny the allegations contained in paragraph 2.

10 3. The LLTQ/FERG Defendants deny the allegations contained in paragraph 3, except
11 admit that on April 18, 2016, Rowen Seibel pled guilty to one count of a corrupt endeavor to obstruct
12 and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a
13 class E felony and served one month in prison.

14 4. The LLTQ/FERG Defendants deny the allegations contained in paragraph 4.

15 5. The LLTQ/FERG Defendants deny the allegations contained in paragraph 5, except
16 admit that Caesars wrongfully purported to terminate the agreements and state that the contents of the
17 certain agreements referenced in paragraph 5 speak for themselves, and respectfully refer to the
18 aforementioned agreements for the full and complete contents thereof.

19 6. The LLTQ/FERG Defendants deny the allegations contained in paragraph 6, except
20 admit that Caesars wrongfully attempted to terminate their agreements, that Caesars cannot continue
21 to operate the restaurants subject to such agreements absent providing compensation to the
22 LLTQ/FERG Defendants, that the LLTQ/FERG Defendants and certain of the Plaintiffs are parties to
23 litigation commenced in the jointly-administered chapter 11 bankruptcy cases of Caesars Palace and
24 CAC in the United States Bankruptcy Court, Northern District of Illinois, Eastern Division, Case No.
25 15-01145 ("Bankruptcy Actions"), and that Caesars commenced the present action by a complaint that
26 speaks for itself, and LLTQ/FERG Defendants respectfully refer to the complaint for the full and
27 complete contents thereof.

28 7. The LLTQ/FERG Defendants deny the allegations contained in paragraph 7, except

1 admit that certain defendants are seeking monetary relief from Caesars in different courts across the
2 country related to the agreements, and that Caesars commenced the present action by a complaint that
3 speaks for itself, and LLTQ/FERG Defendants respectfully refer to the complaint for the full and
4 complete contents thereof.

5 8. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
6 belief as to the truth of the allegations contained in paragraph 8, except admit that Caesars commenced
7 the present action by a complaint that speaks for itself, and LLTQ/FERG Defendants respectfully refer
8 to the complaint for the full and complete contents thereof.

9 **PARTIES, JURISDICTION, AND VENUE**

10 9. The LLTQ/FERG Defendants admit the allegations contained in paragraph 9.

11 10. The LLTQ/FERG Defendants admit the allegations contained in paragraph 10.

12 11. The LLTQ/FERG Defendants admit the allegations contained in paragraph 11.

13 12. The LLTQ/FERG Defendants admit the allegations contained in paragraph 12.

14 13. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
15 belief as to the truth of the allegations contained in paragraph 13.

16 14. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 14.

18 15. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
19 belief as to the truth of the allegations contained in paragraph 15.

20 16. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
21 belief as to the truth of the allegations contained in paragraph 16.

22 17. The LLTQ/FERG Defendants deny the allegations contained in paragraph 17 except
23 the LLTQ/FERG Defendants admit that TPOV Enterprises, LLC is a New York limited liability
24 company, and that the TPOV Agreement was entered into in or about November 2011, the contents
25 of which speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete
26 contents thereof.

27 18. The LLTQ/FERG Defendants deny the allegations contained in paragraph 18 except
28 admit that TPOV Enterprises 16, LLC is a Delaware limited liability company, and that a letter was

1 sent informing Caesars of the assignment.

2 19. The LLTQ/FERG Defendants deny the allegations contained in paragraph 19 except
3 admit the location and corporate status of LLTQ Enterprises, LLC, that the LLTQ Agreement was
4 entered into on or about April 4, 2012, the contents of which speak for themselves, and respectfully
5 refer to the LLTQ Agreement for the full and complete contents thereof.

6 20. The LLTQ/FERG Defendants deny the allegations contained in paragraph 20 except
7 admit that LLTQ Enterprises 16, LLC is a Delaware limited liability company, and that a letter was
8 sent informing Caesars of the assignment.

9 21. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
10 belief as to the allegations contained in paragraph 21.

11 22. The LLTQ/FERG Defendants deny the allegations contained in paragraph 22 except
12 admit the location and corporate status of FERG, LLC, that the FERG Agreement was entered into on
13 or about May 16, 2014, the contents of which speak for themselves, and respectfully refer to the FERG
14 Agreement for the full and complete contents thereof.

15 23. The LLTQ/FERG Defendants deny the allegations contained in paragraph 23 except
16 admit that FERG 16, LLC is a Delaware limited liability company, and that a letter was sent informing
17 CAC of the assignment.

18 24. The LLTQ/FERG Defendants admit that Seibel assigned his duties and obligations
19 under the LLTQ Agreement and FERG Agreement to Mr. Frederick, to the extent any duties existed.
20 The LLTQ/FERG Defendants deny knowledge and information sufficient to form a belief as to the
21 truth of the balance of the allegations contained in paragraph 24.

22 25. The LLTQ/FERG Defendants deny the allegations contained in paragraph 25.

23 **STATEMENT OF FACTS**

24 26. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
25 belief as to the allegations contained in paragraph 26.

26 27. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
27 belief as to the truth of whether, "In reliance on those representations (among other things), Caesars
28 Palace and MOTI entered into the MOTI Agreement." The LLTQ/FERG Defendants deny the balance

1 of the allegations contained in paragraph 27 except admit that to the extent that a “Business
2 Information Form” is referenced in paragraph 27, the contents of said “Business Information Form”
3 speak for themselves, and respectfully refer to the “Business Information Form” for the full and
4 complete contents thereof.

5 28. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
6 belief as to the truth of the allegations contained in paragraph 28.

7 29. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
8 belief as to the truth of the allegations contained in paragraph 29.

9 30. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
10 belief as to the truth of the allegations contained in paragraph 30.

11 31. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
12 belief as to the truth of the allegations contained in paragraph 31 except admit that to the extent a
13 “Business Information Form” is referenced in paragraph 31, the contents of said “Business
14 Information Form” speak for themselves, and respectfully refer to the “Business Information Form”
15 for the full and complete contents thereof.

16 32. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 32.

18 33. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
19 belief as to the truth of the allegations contained in paragraph 33.

20 34. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
21 belief as to the truth of the allegations contained in paragraph 34.

22 35. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
23 belief as to the truth of the allegations contained in paragraph 35.

24 36. The LLTQ/FERG Defendants deny the allegations contained in paragraph 36, except
25 admit that Caesars entered into multiple agreements with entities previously owned by, managed by
26 or affiliated with Rowen Seibel, the contents of which speak for themselves, and respectfully refer to
27 the aforementioned agreements for the full and complete contents thereof.

28 37. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a

1 belief as to the truth of the allegations contained in paragraph 37.

2 38. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
3 belief as to the truth of the allegations contained in paragraph 38 except admit that the contents of said
4 “Business Information Form” speak for themselves, and respectfully refer to the “Business
5 Information Form” for the full and complete contents thereof.

6 39. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 39.

8 40. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
9 belief as to the truth of the allegations contained in paragraph 40.

10 41. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 41.

12 42. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
13 belief as to the truth of the allegations contained in paragraph 42.

14 43. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
15 belief as to the truth of the allegations contained in paragraph 43.

16 44. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 44.

18 45. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
19 belief as to the truth of the allegations contained in paragraph 45.

20 46. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
21 belief as to the truth of the allegations contained in paragraph 46.

22 47. The LLTQ/FERG Defendants deny the allegations contained in paragraph 47 except
23 admit that the TPOV Agreement was entered into in or about November 2011 in connection with a
24 restaurant in the Paris casino known as “Gordon Ramsay Steak”, the contents of which speak for
25 themselves, and respectfully refer to the TPOV Agreement for the full and complete contents thereof.

26 48. The LLTQ/FERG Defendants deny the allegations contained in paragraph 48 except
27 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
28 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents

1 thereof.

2 49. The LLTQ/FERG Defendants deny the allegations contained in paragraph 49 except
3 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
4 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
5 thereof.

6 50. The LLTQ/FERG Defendants deny the allegations contained in paragraph 50 except
7 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
8 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
9 thereof.

10 51. The LLTQ/FERG Defendants deny the allegations contained in paragraph 51 except
11 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
12 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
13 thereof.

14 52. The LLTQ/FERG Defendants deny the allegations contained in paragraph 52 except
15 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
16 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
17 thereof.

18 53. The LLTQ/FERG Defendants deny the allegations contained in paragraph 53 except
19 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
20 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
21 thereof.

22 54. The LLTQ/FERG Defendants deny the allegations contained in paragraph 54 except
23 admit that the TPOV Agreement was entered into in or about November 2011, the contents of which
24 speak for themselves, and respectfully refer to the TPOV Agreement for the full and complete contents
25 thereof.

26 55. The LLTQ/FERG Defendants deny the allegations contained in paragraph 55.

27 56. The LLTQ/FERG Defendants deny the allegations contained in paragraph 56.

28 57. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a

1 belief as to the truth of the allegations contained in paragraph 57 except admit that the LLTQ
2 Agreement was entered into on or about April 4, 2012 in connection with a restaurant in the Caesars
3 Palace casino known as the Gordon Ramsay Pub, the contents of which speak for themselves, and
4 respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

5 58. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
6 belief as to the truth of the allegations contained in paragraph 58 except admit that the LLTQ
7 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
8 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

9 59. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
10 belief as to the truth of the allegations contained in paragraph 59 except admit that the LLTQ
11 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
12 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

13 60. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
14 belief as to the truth of the allegations contained in paragraph 60 except admit that the LLTQ
15 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
16 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

17 61. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
18 belief as to the truth of the allegations contained in paragraph 61 except admit that the LLTQ
19 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
20 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

21 62. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
22 belief as to the truth of the allegations contained in paragraph 62 except admit that the LLTQ
23 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
24 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

25 63. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
26 belief as to the truth of the allegations contained in paragraph 63 except admit that the LLTQ
27 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
28 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

1 64. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
2 belief as to the truth of the allegations contained in paragraph 64 except admit that the LLTQ
3 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
4 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

5 65. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
6 belief as to the truth of the allegations contained in paragraph 65 except admit that the LLTQ
7 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
8 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

9 66. The LLTQ/FERG Defendants deny the allegations contained in paragraph 66.

10 67. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 67 except admit that the LLTQ
12 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
13 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof.

14 68. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
15 belief as to the truth of the allegations contained in paragraph 68, except admit that the LLTQ
16 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
17 and respectfully refer to the LLTQ Agreement for the full and complete contents thereof, and admit
18 the allegations contained in the first sentence of paragraph 68 and that the LLTQ/FERG Defendants
19 assert that Section 13.22 is enforceable.

20 69. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
21 belief as to the truth of the allegations contained in paragraph 69.

22 70. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
23 belief as to the truth of the allegations contained in paragraph 70.

24 71. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
25 belief as to the truth of the allegations contained in paragraph 71.

26 72. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
27 belief as to the truth of the allegations contained in paragraph 72.

28 73. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a

1 belief as to the truth of the allegations contained in paragraph 73.

2 74. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
3 belief as to the truth of the allegations contained in paragraph 74.

4 75. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
5 belief as to the truth of the allegations contained in paragraph 75.

6 76. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 76.

8 77. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
9 belief as to the truth of the allegations contained in paragraph 77.

10 78. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 78.

12 79. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
13 belief as to the truth of the allegations contained in paragraph 79 except admit that the FERG
14 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
15 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

16 80. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 80 except admit that the FERG
18 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
19 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

20 81. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
21 belief as to the truth of the allegations contained in paragraph 81 except admit that the FERG
22 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
23 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

24 82. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
25 belief as to the truth of the allegations contained in paragraph 82 except admit that the FERG
26 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
27 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

28 83. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a

1 belief as to the truth of the allegations contained in paragraph 83 except admit that the FERG
2 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
3 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

4 84. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
5 belief as to the truth of the allegations contained in paragraph 84 except admit that the FERG
6 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
7 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

8 85. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
9 belief as to the truth of the allegations contained in paragraph 86 except admit that the FERG
10 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
11 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

12 86. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
13 belief as to the truth of the allegations contained in paragraph 86 except admit that the FERG
14 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
15 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

16 87. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 87 except admit that the FERG
18 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
19 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

20 88. The LLTQ/FERG Defendants deny the allegations contained in paragraph 88.

21 89. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
22 belief as to the truth of the allegations contained in paragraph 89 except admit that the FERG
23 Agreement was entered into on or about May 16, 2014, the contents of which speak for themselves,
24 and respectfully refer to the FERG Agreement for the full and complete contents thereof.

25 90. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
26 belief as to the truth of the allegations contained in paragraph 90, except admit that the FERG
27 Agreement was entered into on or about May 16, 2015, the contents of which speak for themselves,
28 and respectfully refer to the FERG Agreement for the full and complete contents thereof, and admit

1 the allegations contained in the first sentence of paragraph 90 and that the LLTQ/FERG Defendants
2 assert that Section 4.1 is enforceable.

3 91. The LLTQ/FERG Defendants deny the allegations contained in paragraph 91.

4 92. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
5 belief as to the truth of the allegations contained in paragraph 92.

6 93. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 93.

8 94. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
9 belief as to the truth of the allegations contained in paragraph 94.

10 95. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 95.

12 96. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
13 belief as to the truth of the allegations contained in paragraph 96.

14 97. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
15 belief as to the truth of the allegations contained in paragraph 97.

16 98. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
17 belief as to the truth of the allegations contained in paragraph 98.

18 99. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
19 belief as to the truth of the allegations contained in paragraph 99.

20 100. The LLTQ/FERG Defendants aver that paragraph 100 contains conclusions of law to
21 which no responsive pleading is required. To the extent a response is required, the LLTQ/FERG
22 Defendants deny knowledge and information sufficient to form a belief as to the truth of the allegations
23 contained in paragraph 100.

24 101. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
25 belief as to the truth of the allegations contained in paragraph 101.

26 102. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
27 belief as to the truth of the allegations contained in paragraph 102.

28 103. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a

1 belief as to the truth of the allegations contained in paragraph 103.

2 104. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
3 belief as to the truth of the allegations contained in paragraph 104.

4 105. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
5 belief as to the truth of the allegations contained in paragraph 105.

6 106. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 106 except admit that on April 18, 2016,
8 Rowen Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due
9 administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony.

10 107. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 107 except admit that on August 19,
12 2016, the Southern District of New York sentenced Rowen Seibel to serve one month in prison, six
13 months in home detention, and 300 hours of community service.

14 108. The LLTQ/FERG Defendants deny the allegations contained in paragraph 108 except
15 admit that the letter referenced in paragraph 108 was sent on or about April 8, 2016, the contents of
16 which speak for themselves, and respectfully refers to the aforementioned letter for the full and
17 complete contents thereof.

18 109. The LLTQ/FERG Defendants deny the allegations contained in paragraph 109, except
19 admit that Caesars wrongfully purported to terminate all of its agreements with entities that were
20 associated or had been associated with Rowen Seibel.

21 110. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
22 belief as to the truth of the allegations contained in paragraph 110.

23 111. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
24 belief as to the truth of the allegations contained in paragraph 111.

25 112. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
26 belief as to the truth of the allegations contained in paragraph 112.

27 113. The LLTQ/FERG Defendants deny the allegations contained in paragraph 113 except
28 admit that the aforementioned letter from Caesars Palace to TPOV was dated September 2, 2016, the

1 contents of which speak for themselves, and respectfully refer to the aforementioned letter for the full
2 and complete contents thereof.

3 114. The LLTQ/FERG Defendants deny the allegations contained in paragraph 114 except
4 admit that the aforementioned letter from Caesars Palace to LLTQ was dated September 2, 2016, the
5 contents of which speak for themselves, and respectfully refer to the aforementioned letter for the full
6 and complete contents thereof.

7 115. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
8 belief as to the truth of the allegations contained in paragraph 115.

9 116. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
10 belief as to the truth of the allegations contained in paragraph 116.

11 117. The LLTQ/FERG Defendants deny the allegations contained in paragraph 117 except
12 admit that the aforementioned letter from Caesars Palace to FERG was dated September 2, 2016, the
13 contents of which speak for themselves, and respectfully refer to the aforementioned letter for the full
14 and complete contents thereof.

15 118. The LLTQ/FERG Defendants deny the allegations contained in paragraph 118 except
16 admit certain referenced letters were sent to Caesars, which speak for themselves, and respectfully
17 refer to the aforementioned letters for the full and complete contents thereof.

18 119. The LLTQ/FERG Defendants deny the allegations contained in paragraph 119 except
19 admit that the aforementioned letter from Caesars Palace was dated September 12, 2016, the contents
20 of which speak for themselves, and respectfully refer to the aforementioned letter for the full and
21 complete contents thereof.

22 120. The LLTQ/FERG Defendants admit the allegations contained in paragraph 120.

23 121. The LLTQ/FERG Defendants deny the allegations contained in paragraph 121 except
24 admit that Caesars Palace filed the motion to reject and that LLTQ and FERG objected to the motion.

25 122. The LLTQ/FERG Defendants deny the allegations contained in paragraph 122 except
26 admit that LLTQ and FERG filed the administrative expense request and that Caesars Palace and CAC
27 objected to the request.

28 123. The LLTQ/FERG Defendants deny the allegations contained in paragraph 123 except

1 admit that MOTI filed the administrative expense request and that Caesars Palace objected to the
2 request.

3 124. The LLTQ/FERG Defendants admit the allegations contained in paragraph 124 except
4 deny the defenses and contentions made by Caesars Palace and CAC.

5 125. The LLTQ/FERG Defendants deny the allegations contained in paragraph 125.

6 126. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 126.

8 127. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
9 belief as to the truth of the allegations contained in paragraph 127.

10 128. The LLTQ/FERG Defendants deny knowledge and information sufficient to form a
11 belief as to the truth of the allegations contained in paragraph 128.

12 129. The LLTQ/FERG Defendants deny the allegations contained in paragraph 129 except
13 admit that the referenced documents filed in the TPOV Federal Action and the court docket for that
14 Action speak for themselves and respectfully refer to the aforementioned docket for the full and
15 complete contents thereof.

16 130. The LLTQ/FERG Defendants deny the allegations contained in paragraph 130 except
17 admit that the referenced documents filed in the TPOV Federal Action and the court docket for that
18 Action speak for themselves and respectfully refer to the aforementioned docket for the full and
19 complete contents thereof.

20 **COUNT I**

21 131. The LLTQ/FERG Defendants hereby repeat and reallege each and every one of the
22 LLTQ/FERG Defendants' responses in paragraphs 1-130 above as if fully set forth herein.

23 132. The LLTQ/FERG Defendants state that the referenced statute speaks for itself.

24 133. The LLTQ/FERG Defendants admit that the parties dispute whether Caesar properly
25 terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the
26 parties.

27 134. The LLTQ/FERG Defendants deny the allegations contained in paragraph 134, except
28 admit that Caesars seeks declaratory relief in the present action.

135. The LLTQ/FERG Defendants deny the allegations set forth in paragraph 135, except admit that the complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and LLTQ/FERG Defendants respectfully refer to the complaint for the full and complete contents thereof.

COUNT II

136. The LLTQ/FERG Defendants hereby repeat and reallege each and every one of the LLTQ/FERG Defendants' responses to the above paragraphs as if fully set forth herein.

137. The LLTQ/FERG Defendants state that the referenced statute speaks for itself.

138. The LLTQ/FERG Defendants admit that the parties dispute whether Caesar properly terminated the agreements, but deny there is a justiciable controversy ripe for adjudication among the parties.

139. The LLTQ/FERG Defendants deny the allegations set forth in paragraph 139.

140. The LLTQ/FERG Defendants deny the allegations contained in paragraph 140, except admit that the agreements speak for themselves, and LLTQ/FERG Defendants respectfully refer to those documents for the full and complete contents thereof.

141. The LLTQ/FERG Defendants deny the allegations contained in paragraph 141, except admit that the agreements speak for themselves, and LLTQ/FERG Defendants respectfully refer to those documents for the full and complete contents thereof.

142. The LLTQ/FERG Defendants deny the allegations contained in paragraph 142.

143. The LLTQ/FERG Defendants deny the allegations contained in paragraph 143.

144. The LLTQ/FERG Defendants deny the allegations contained in paragraph 144.

145. The LLTQ/FERG Defendants deny the allegations contained in paragraph 145, except admit that Caesars seeks declaratory relief in the present action.

146. The LLTQ/FERG Defendants deny the allegations set forth in paragraph 146, except admit that the complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and LLTQ/FERG Defendants respectfully refer to the complaint for the full and complete contents thereof.

1 **COUNT III**

2 147. The LLTQ/FERG Defendants hereby repeat and reallege each and every one of the
3 LLTQ/FERG Defendants' responses to the above paragraphs as if fully set forth herein.

4 148. The LLTQ/FERG Defendants state that the referenced statute speaks for itself.

5 149. The LLTQ/FERG Defendants admit that the parties dispute whether the referenced
6 sections of the agreements are enforceable, but deny there is a justiciable controversy ripe for
7 adjudication among the parties.

8 150. The LLTQ/FERG Defendants deny the allegations contained in paragraph 150.

9 151. The LLTQ/FERG Defendants deny the allegations contained in paragraph 151.

10 152. The LLTQ/FERG Defendants deny the allegations contained in paragraph 152.

11 153. The LLTQ/FERG Defendants deny the allegations contained in paragraph 153.

12 154. The LLTQ/FERG Defendants deny the allegations contained in paragraph 154.

13 155. The LLTQ/FERG Defendants deny the allegations contained in paragraph 155, except
14 admit that Caesars seeks declaratory relief in the present action.

15 156. The LLTQ/FERG Defendants deny the allegations set forth in paragraph 156, except
16 admit that the complaint filed in the present action seeks certain relief, that the complaint that speaks
17 for itself, and LLTQ/FERG Defendants respectfully refer to the complaint for the full and complete
18 contents thereof.

19 **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

20 157. The Complaint fails to state a claim upon which relief can be granted.

21 **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

22 158. The LLTQ/FERG Defendants expressly incorporate herein as affirmative defenses
23 their allegations and claims in the contested matters between the LLTQ/FERG Defendants, Caesars
24 Palace and CAC filed in the Bankruptcy Actions and all related matters and proceedings.

25 **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

26 159. The LLTQ/FERG Defendants expressly incorporate herein as affirmative defenses
27 their arguments in their motion to dismiss this action.
28

1 **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

2 160. Plaintiff's claims warrant dismissal under the first-to-file rule and due to forum
3 shopping.

4 **AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

5 161. Plaintiffs consented to and ratified the assignments from FERG to FERG 16, from
6 LLTQ Enterprises to LLTQ Enterprises 16, and from Seibel to Frederick.

7 **AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

8 162. Plaintiffs are precluded from obtaining the relief they seek because, based on
9 information and belief, they do or have done business with persons who have criminal records or are
10 actually or potentially unsuitable.

11 **AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

12 163. Plaintiffs are precluded from obtaining the relief they seek because they owe money to
13 LLTQ/FERG Defendants.

14 **AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

15 164. Plaintiffs are precluded under the applicable contracts from continuing to operate the
16 subject restaurants, use the licensed materials, and do business with Ramsay related to the subject
17 restaurants and similar ventures.

18 **AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

19 165. Plaintiffs breached the applicable contracts with LLTQ/FERG Defendants and
20 therefore are precluded from pursuing their claims.

21 **AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

22 166. Plaintiffs' claims are barred by the statute of limitations or statute of repose.

23 **AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

24 167. Plaintiffs' claims are barred, in whole or in part, by the doctrines of acquiescence,
25 estoppel, laches, ratification, unclean hands, unjust enrichment, or waiver, as well as all other
26 applicable equitable doctrines.

27 **AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

28 168. Plaintiffs' claims are barred, in whole or in part, by their own conduct, including but

1 not limited to their failure to mitigate their damages.

2 **AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

3 169. The alleged unsuitability of Seibel is immaterial and irrelevant because, inter alia, he
4 assigned his interests, if any, in LLTQ/FERG Defendants or the contracts.

5 **AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

6 170. This Court lacks jurisdiction over the allegations, claims, and theories alleged by
7 Plaintiffs that already are pending in the Bankruptcy Actions and all related matters and proceedings.

8 **AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

9 171. All possible affirmative defenses may not have been alleged herein insofar as sufficient
10 facts were not available after reasonable inquiry upon the filing of LLTQ/FERG Defendants' answer.
11 Therefore, Defendants reserve the right to amend their answer to allege additional affirmative defenses
12 if subsequent investigation so warrants. Defendants reserve the right to (a) rely upon such other
13 affirmative defenses as may be supported by the facts to be determined through full and complete
14 discovery, and (b) voluntarily withdraw any affirmative defense.

15 **COUNTERCLAIMS**

16 NOW COMES LLTQ ENTERPRISES, LLC ("LLTQ"), LLTQ ENTERPRISES 16, LLC
17 ("LLTQ 16"), FERG, LLC ("FERG") and FERG 16, LLC ("FERG 16"), by and through their
18 undersigned counsel, and for their Counterclaims against Desert Palace, Inc. ("Caesars") and
19 Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC"), allege as follows:

20 **PARTIES**

- 21 1. LLTQ is a Delaware limited liability company.
- 22 2. FERG is a Delaware limited liability company and an affiliate of LLTQ.
- 23 3. LLTQ 16 is a Delaware limited liability company and successor in interest to LLTQ.
- 24 4. FERG 16 is a Delaware limited liability company and successor in interest to FERG.
- 25 5. Caesars is a Nevada corporation and has a principal place of business of 3570 Las Vegas
26 Boulevard South, Las Vegas, Nevada, which is a resort hotel casino known as "Caesars Palace."
- 27 6. CAC is a Delaware limited liability company, an affiliate of Caesars, and has a principal
28 place of business of 2100 Pacific Avenue, Atlantic City, New Jersey.

GENERAL ALLEGATIONS

The LLTQ Agreement and Restrictions

7. LLTQ and Caesars entered into that certain Development and Operation Agreement with an effective date of April 12, 2012 (the “**LLTQ Agreement**”).

8. In connection with entering into the LLTQ Agreement, Caesars did not require LLTQ nor its Associated Persons (as that term is defined in the LLTQ Agreement to provide information concerning LLTQ’s “suitability” or complete a business information form.

9. Contemporaneously with entering into the LLTQ Agreement, Caesars entered into that certain Development, Operation and License Agreement (the “**Ramsay LV Agreement**”) with Gordon Ramsay and his affiliate business, Gordon Ramsay Holdings Limited (collectively, “**Ramsay**”).

10. The LLTQ Agreement and the Ramsay LV Agreement were negotiated contemporaneously with among the parties. Mr. Rowen Seibel on behalf of LLTQ assisted in the negotiations of the Ramsay LV Agreement.

11. Representatives of Caesars, LLTQ and Ramsay engaged in multiple meetings to negotiate the terms of the design, development, construction, and operation of and the sharing of profits from that certain “**Gordon Ramsay Pub**” (defined as the “Restaurant” in the LLTQ Agreement) located at the “Restaurant Premises” (as defined in the LLTQ Agreement) in a property owned and operated by Caesars in Las Vegas, Nevada.

12. Both Caesars and LLTQ contributed an amount not less than \$1,000,000 of the costs required to develop the Gordon Ramsay Pub.

13. The LLTQ Agreement and the Ramsay LV Agreement are integrated and, together, establish a single transaction and agreement among LLTQ, Caesars and Ramsay to design, develop, construct, and operate the Gordon Ramsay Pub and share the profits therefrom.

14. Both the LLTQ Agreement and the Ramsay LV Agreement were (a) executed and effective as of the same day, (b) concern the same subject matter, and (c) refer to each other. Caesars is a party to both contracts, which contain the same choice of law, dispute resolution, and other provisions.

15. For the consideration received under the LLTQ Agreement, including a \$1,000,000 development contribution provided by LLTQ, Caesars agreed that it and its affiliates would not pursue

1 a venture similar to, among other ventures, the Gordon Ramsay Pub without entering into an agreement
2 with LLTQ (or its affiliates) similar to the LLTQ Agreement.

3 16. Specifically, Section 13.22 of the LLTQ Agreement provides:

4 If Caesars elects under this Agreement to pursue any venture similar to
5 (i) the Restaurant (i.e., any venture generally in the nature of a pub, bar,
6 café or tavern) or (ii) the “Restaurant” as defined in the development
7 and operation agreement entered into December 5, 2011 between
8 TPOV Enterprises, LLC (an affiliate of LLTQ), on the one hand, and
9 Paris Las Vegas Operating Company, LLC, on the other hand (i.e., any
10 venture generally in the nature of a steak restaurant, fine dining
11 steakhouse or chop house) [each a “**Restricted Restaurant Venture**,”
12 and, collectively, the “**Restricted Restaurant Ventures**”], Caesars
13 and LLTQ shall, or shall cause an Affiliate to, execute a development
14 and operation agreement on the same terms and conditions as this
15 Agreement, subject only to revisions proposed by Caesars or its
16 Affiliate as are necessary to reflect the difference in location between
17 the Restaurant and such other venture (including, for the avoidance of
18 doubt, the Baseline Amount, permitted Operating Expenses and
19 necessary Project Costs).

20 17. Section 13.22 of the LLTQ Agreement survives both expiration and termination of the
21 LLTQ Agreement.

22 18. Section 10.2 of the LLTQ Agreements provides Caesars the right to terminate for
23 unsuitability. Section 4.2.5 indicates Caesars can terminate the contract based on suitability per section
24 10.2. Section 4.3.2. states that after termination Caesars maintains its rights in the Restaurant Premises,
25 the furniture and equipment and its marks, and that Caesars can only operate “a restaurant in the
26 Restaurant Premises.”

27 19. Section 4.3.1 of the LLTQ Agreement expressly provides:

28 The provisions of this Section 4.3 and Section 2.3(b), the last sentence of
Section 11.2.2 and Articles 12 and 13 (other than Section 13.16) shall survive
any termination or expiration of this Agreement.

20. Since its opening, the Gordon Ramsay Pub has been one of the most profitable restaurants
for Caesars at its Las Vegas location.

The First Restricted Restaurant Venture

21. Due in part to the restrictions contained in Section 13.22 of the LLTQ Agreement and a
developing falling out between Rowen Seibel, the former principal of LLTQ, and Ramsay, in December

1 2013, Caesars made clear to representatives of both LLTQ and Ramsay that both LLTQ and Ramsay
2 were required for Caesars (or its affiliate) to proceed with a restaurant similar to the Gordon Ramsay
3 Pub to be located at a property owned and operated by CAC, in Atlantic City, New Jersey.

4 22. In an email to representatives for both LLTQ and Ramsay, Jeffrey Frederick (Caesars'
5 then Regional Vice President Food & Beverage and one of its representatives heavily involved in the
6 negotiations of the LLTQ Agreement and the Ramsay LV Agreement), stated that "we [Caesars] are not
7 able to proceed" with a Ramsay Pub without both Mr. Seibel and Gordon Ramsay "agreeing to do so."

8 23. Mr. Frederick's email goes on to state: "I want to be clear. I've confirmed with Tom
9 [Jenkin – Global President of Caesars Entertainment Operating Company, Inc.] and our [Caesars'] legal
10 counsel we are not able to proceed with GR Steak or GR P&G [Gordon Ramsay Pub and Grill] without
11 both you and Rowen agreeing to do so, nor a concept similar in the Steakhouse, Chophouse, Bar & Grill,
12 Pub or Tavern Categories."

13 24. Representatives of Caesars, FERG, and Ramsay engaged in multiple meetings to
14 negotiate the terms of the design, development, construction, and operation of and the sharing of profits
15 of a restaurant similar to the Gordon Ramsay Pub to be located at a property owned and operated by
16 CAC, in Atlantic City, New Jersey.

17 25. FERG and CAC entered into that certain Consulting Agreement concerning the Atlantic
18 City venture with an effective date of May 16, 2014 (the "**FERG Agreement**").

19 26. Contemporaneously with entering into the FERG Agreement, CAC entered into that
20 certain Development, Operation and License Agreement concerning the Atlantic City venture (the
21 "**Ramsay AC Agreement**") with Ramsay.

22 27. The FERG Agreement and the Ramsay AC Agreement were negotiated
23 contemporaneously with one another between the parties.

24 28. The FERG Agreement and the Ramsay AC Agreement are integrated and, together,
25 establish a single transaction and agreement among FERG, CAC and Gordon Ramsay to design,
26 develop, construct, and operate the "**Gordon Ramsay Pub and Grill**" (defined as the "Restaurant" in
27 the FERG Agreement) located at the "Restaurant Premises" (as defined in the FERG Agreement) in
28 CAC's location in Atlantic City.

1 29. Both the FERG Agreement and the Ramsay AC Agreement were (a) executed and
2 effective as of the same day, (b) concern the same subject matter, and (c) the FERG Agreement
3 references the Ramsay AC Agreement in numerous provisions. CAC is a party to both contracts, which
4 contain the same choice of law, dispute resolution, and other provisions.

5 30. Section 4.1 of the FERG Agreement states: “In the event a new agreement is executed
6 between CAC and/or its Affiliate and Gordon Ramsay and/or his Affiliate relative to the [Gordon
7 Ramsay Pub and Grill] or the [Gordon Ramsay Pub and Grill] Premises, this Agreement shall be in
8 effect an binding on the parties during the term thereof.”

9 31. Section 4.2(a) and (b) of the FERG Agreement provide certain termination rights of the
10 FERG Agreement only “if CAC simultaneously terminates the [Ramsay AC Agreement] and no
11 different or amended agreement is entered into with Gordon Ramsay and/or his Affiliate(s) relative to
12 the” Gordon Ramsay Pub and Grill or its premises.

13 32. Section 4.2(c) of the FERG Agreement provides that the FERG Agreement may be
14 terminated upon no less than ninety (90) days written notice “if the [Ramsay AC Agreement] is
15 terminated and no different or amended agreement is entered into with Gordon Ramsay and/or his
16 Affiliate(s) relative to the” Gordon Ramsay Pub and Grill or its premises.

17 33. Section 11.2 of the FERG Agreements provides CAC the right to terminate for
18 unsuitability. Section 4.2(e) indicates CAC can terminate the contract based on suitability per section
19 11.2. Section 4.3(b) states that after termination CAC maintains its rights in the Restaurant Premises,
20 the furniture and equipment and its marks, and that CAC can only operate “a restaurant in the Restaurant
21 Premises.”

22 34. Since its opening, the Gordon Ramsay Pub and Grill has been one of the most profitable
23 restaurants for CAC at its Atlantic City location.

24 **The Bankruptcy Matters**

25 35. On January 15, 2015 (the “**Petition Date**”), Caesars, CAC and several of their affiliated
26 entities (collectively, the “**Debtors**”) each filed voluntary petitions under Chapter 11 of the Bankruptcy
27 Code, thereby commencing the Chapter 11 Cases.

28

1 36. On June 8, 2015, the Debtors filed that certain *Fourth Omnibus Motion for the Entry of*
2 *an Order Authorizing the Debtors to Reject Certain Executory Contracts Nunc Pro Tunc to June 11,*
3 *2015* [Docket No. 1755] (the “**Rejection Motion**”). In the Rejection Motion the Debtors seek to reject
4 the LLTQ Agreement and the FERG Agreement pursuant to section 365 of the Bankruptcy Code.

5 37. LLTQ and FERG objected to the relief sought in the Rejection Motion asserting, among
6 other things, that Section 13.22 of the LLTQ Agreement is an enforceable restrictive covenant.

7 38. The Rejection Motion is contested and remains pending.

8 39. On November 4, 2015, LLTQ and FERG filed that certain *Request for Payment of*
9 *Administrative Expense* [Docket No. 2531] (the “**Admin Request**”) seeking payments to which LLTQ
10 and FERG claim they are owed under the LLTQ Agreement and FERG Agreement (collectively, the
11 “**Pub Agreements**”) as a result of the Debtors’ continued operations of the Gordon Ramsay Pub in Las
12 Vegas and the Gordon Ramsay Pub and Grill in Atlantic City (collectively, the “**Ramsay Pubs**”).

13 40. The Debtors objected to the relief sought in the Admin Request asserting, among other
14 things, that the Pub Agreements may not be valid, enforceable agreements and, instead, may be void,
15 voidable or void *ab initio*.

16 41. The Admin Request is contested and remains pending.

17 42. On January 14, 2016, the Debtors filed that certain *Motion for the Entry of an Order*
18 *Authorizing the Debtors to (A) Reject Certain Existing Restaurant Agreements and (B) Enter Into New*
19 *Restaurant Agreements* [Docket No. 3000] (the “**Ramsay Rejection Motion**”). In the Ramsay Rejection
20 Motion the Debtors seek to reject the Ramsay LV Agreement and the Ramsay AC Agreement (the
21 “**Original Ramsay Agreements**”) and simultaneously enter into new agreements with Ramsay to
22 continue operating the Ramsay Pubs (the “**New Ramsay Agreements**”). The Debtors only seek
23 rejection of Original Ramsay Agreements if the Illinois Bankruptcy Court approves the Debtors’ entry
24 into the New Ramsay Agreements.

25 43. LLTQ and FERG objected to the relief sought in the Ramsay Rejection Motion asserting,
26 among other things, that Section 13.22 of the LLTQ Agreement and Sections 4.1 and 4.2 of the FERG
27 Agreement are enforceable restrictive covenants.

28 44. The Ramsay Rejection Motion is contested and remains pending.

1 45. On October 5, 2016, the Debtors filed their Sixteenth Amended Plan of Reorganization.
2 46. On January 17, 2017, the Bankruptcy Court entered an order confirming the Plan.
3 47. On October 6, 2017 (the “**Plan Effective Date**”), the Effective Date of the Plan occurred,
4 and the Plan was consummated.

5 **Purported Termination of the LLTQ Agreement and FERG Agreement**

6 48. On February 29, 2016, the United States government filed a Notice of Intent to File an
7 Information against Rowen Seibel. A Notice of Intent to File an Information is not a charging instrument.

8 49. On April 8, 2016, the Debtors were notified via letters (the “**Assignment Letters**”) that,
9 among other things, effective as of April 13, 2016: (i) the membership interests in LLTQ and FERG,
10 previously owned, directly or indirectly, by Mr. Seibel were being transferred to The Seibel Family 2016
11 Trust (the “**Trust**”); and (ii) the LLTQ Agreement and the FERG Agreement were being assigned to
12 new entities (LLTQ 16 and FERG 16) in which Mr. Seibel was not a manager and did not hold any
13 membership interests, directly or indirectly.

14 50. Effective as of April 13, 2016, Mr. Seibel divested himself of any direct or indirect
15 membership interests in LLTQ and in FERG.

16 51. Effective as of April 13, 2016, LLTQ assigned the LLTQ Agreement to LLTQ 16, an
17 entity in which Mr. Seibel never directly or indirectly held any ownership or management interest.

18 52. Effective as of April 13, 2016, FERG assigned the FERG Agreement to FERG 16, an
19 entity in which Mr. Seibel never directly or indirectly held any ownership or management interest.

20 53. Five days after Mr. Seibel divested himself of any interests relating to the Ramsay Pubs,
21 on April 18, 2016, the United States Attorney’s Office filed an information as to Mr. Seibel in case no.
22 16-CR-00279, in the U.S. District Court South District of New York (the “**Seibel Case**”).

23 54. Also on April 18, 2016, Mr. Seibel entered a guilty plea for violation of Title 26, United
24 States Code, Section 7212(a) (the “**Seibel Plea**”).

25 55. On May 16, 2016, an order was entered in the Seibel Case accepting the Seibel Plea.

26 56. On August 19, 2016, Mr. Seibel was sentenced and a judgment was entered against him
27 in the Seibel Case.
28

1 57. On September 2, 2016, Caesars and CAC issued notices of termination of the LLTQ
2 Agreement and the FERG Agreement “effective immediately” (the “**Termination**”). The asserted basis
3 for the Termination provided was allegations that Mr. Seibel fraudulently induced the Debtors into
4 entering into and breached the Pub Agreements by failing to disclose certain material facts alleged in
5 the Information or otherwise relating to the Seibel Case.

6 58. The Debtors were informed that Mr. Seibel had no relationship with the Trust, but if the
7 assignees could be found to jeopardize the Debtors’ gaming licenses, LLTQ, FERG (or their successors
8 and assigns) would work with the Debtors to agree upon different assignees that would not jeopardize
9 any gaming licenses.

10 59. The Debtors were informed that the Trust expressly provides protections to avoid any
11 possible issues concerning “unsuitable” persons.

12 60. Notwithstanding the purported Termination, both Ramsay Pubs remain open and, upon
13 information and belief, profitable.

14 **New Restricted Restaurant Ventures**

15 61. In October 2014, Flamingo Las Vegas Operating Company, LLC (“**Flamingo**”) entered
16 into an agreement (the “**Fish & Chips Agreement**”) with Gordon Ramsay Holdings Limited and
17 Gordon Ramsay for the development and operation of a restaurant (“**Fish & Chips**”) to be located in
18 Las Vegas at certain premises located at the retail center known as The Linq (the “**Linq**”). Flamingo is
19 an affiliate of Caesars.

20 62. At no time prior to entering into the Fish & Chips Agreement did Caesars or any of its
21 affiliates inform LLTQ or any of its affiliates of the Debtors’ pursuit of Fish & Chips.

22 63. On or about October 7, 2016, Fish & Chips opened at the Linq. At no time, whether prior
23 to opening Fish & Chips or anytime thereafter, did Caesars or any of its affiliates seek to enter into an
24 agreement with LLTQ, LLTQ 16 or any of their respective affiliates in connection with Fish & Chips.

25 64. Caesars has not caused Flamingo to enter into any agreement with LLTQ, LLTQ 16 or
26 an affiliate of LLTQ or LLTQ 16 in connection with Fish & Chips.

27 65. Fish & Chips is a Restricted Restaurant Venture.

28 66. Horseshoe Baltimore Casino is an affiliate of Caesars.

1 67. Horseshoe Baltimore Casino, Gordon Ramsay Holdings Limited and Gordon Ramsay
2 entered into a license agreement for a Gordon Ramsay Steak restaurant to be located in Baltimore,
3 Maryland (“**GR Steak Baltimore**”).

4 68. GR Steak Baltimore is a venture similar to the Gordon Ramsay Steak restaurant at the
5 Paris hotel in Las Vegas and which is the subject of the development and operation agreement entered
6 into December 5, 2011 between TPOV Enterprises, LLC (an affiliate of LLTQ), on the one hand, and
7 Paris Las Vegas Operating Company, LLC, on the other hand.

8 69. Caesars has not caused Horseshoe Baltimore Casino to enter into any agreement with
9 LLTQ, LLTQ 16 or an affiliate of LLTQ or LLTQ 16 in connection with GR Steak Baltimore.

10 70. GR Steak Baltimore is a Restricted Restaurant Venture.

11 71. Upon and information and belief, Ramsay intends to open additional restaurants in the
12 United States and one or more of such restaurant ventures is: (a) between Ramsay and Caesars or one of
13 its affiliates; and (b) qualifies as a Restricted Restaurant Venture.

14 72. On September 26, 2017, LLTQ, among others, sent a letter to Caesars requesting Caesars
15 comply with Section 13.22 of the LLTQ Agreement and provide a proposed development and operation
16 agreement in connection with GR Steak Baltimore along with any proposed changes from the LLTQ
17 Agreement.

18 73. In November 2017, GR Steak Baltimore opened. At no time, whether prior to opening
19 GR Steak Baltimore or anytime thereafter, did Caesars or any of its affiliates seek to enter into an
20 agreement with LLTQ, LLTQ 16 or any of their respective affiliates in connection with GR Steak
21 Baltimore.

22 **COUNT I – Breach of the LLTQ Agreement**
23 (against Caesars)

24 74. All preceding paragraphs are incorporated herein.

25 75. The object of the LLTQ Agreement is the development, construction, and operation of
26 the Gordon Ramsay Pub.

27 76. The Gordon Ramsay Pub was developed and constructed, and Caesars has continued to
28 operate the Gordon Ramsay Pub since it opened in December 2012.

 77. The Gordon Ramsay Pub continues to generate revenues and is profitable.

1 78. Caesars continues to operate the Gordon Ramsay Pub in the same manner and fashion as
2 Caesars operated the Gordon Ramsay Pub since its opening.

3 79. Caesars intends to continue operating the Gordon Ramsay Pub.

4 80. Caesars has not been fined or sanctioned in any manner by any gaming authorities in
5 connection with its continued operations of the Gordon Ramsay Pub.

6 81. Caesars has not compensated LLTQ, LLTQ 16 or any of their respective affiliates as
7 required pursuant to the LLTQ Agreement despite Caesars' continued operation of the Gordon Ramsay
8 Pub, Fish & Chips, and GR Steak Baltimore.

9 **COUNT II – Breach of the FERG Agreement**
10 (against CAC)

11 82. All preceding paragraphs are incorporated herein.

12 83. The object of the FERG Agreement is the development and operation of the Gordon
13 Ramsay Pub and Grill.

14 84. The Gordon Ramsay Pub and Grill was developed and CAC has continued to operate
15 Gordon Ramsay Pub and Grill since it opened in 2015.

16 85. The Gordon Ramsay Pub and Grill continues to generate revenues and is profitable.

17 86. CAC continues to operate the Gordon Ramsay Pub and Grill in the same manner and
18 fashion as CAC operated the Gordon Ramsay Pub and Grill since its opening.

19 87. CAC intends to continue operating the Gordon Ramsay Pub and Grill.

20 88. CAC has not been fined or sanctioned in any manner by any gaming authorities in
21 connection with its continued operations of the Gordon Ramsay Pub and Grill.

22 89. CAC has not compensated FERG, FERG 16 or any of their respective affiliates as
23 required pursuant to the FERG Agreement despite Caesars' continued operation of the Gordon Ramsay
24 Pub and Grill.

25 **COUNT III – Accounting**
26 (against Caesars)

27 90. All preceding paragraphs are incorporated herein.

28 91. The LLTQ Agreement permits LLTQ and LLTQ 16 to request and conduct an audit
concerning the monies owed under the LLTQ Agreement.

92. The laws of equity also allow for LLTQ and LLTQ 16 to request an accounting of Caesars. Without an accounting, LLTQ and LLTQ 16 may not have adequate remedies at law because the exact amount of monies owed to it could be unknown.

93. The accounts between the parties are of such a complicated nature than an accounting is necessary and warranted.

94. LLTQ and LLTQ 16 has entrusted and relied upon Caesars to maintain accurate and complete records to compute the amount of monies due under the LLTQ Agreement.

95. LLTQ and LLTQ 16 request an accounting of the monies owed to it under the LLTQ Agreement, as well as all further relief found just, fair and equitable.

COUNT IV – Accounting
(against CAC)

96. All preceding paragraphs are incorporated herein.

97. The FERG Agreement permits FERG and FERG 16 to request and conduct an audit concerning the monies owed under the FERG Agreement.

98. The laws of equity also allow for FERG and FERG 16 to request an accounting of CAC. Without an accounting, FERG and FERG 16 may not have adequate remedies at law because the exact amount of monies owed to it could be unknown.

99. The accounts between the parties are of such a complicated nature than an accounting is necessary and warranted.

100. FERG and FERG 16 has entrusted and relied upon CAC to maintain accurate and complete records to compute the amount of monies due under the FERG Agreement.

101. FERG and FERG 16 request an accounting of the monies owed to it under the FERG Agreement, as well as all further relief found just, fair and equitable

PRAAYER FOR RELIEF

WHEREFORE, LLTQ ENTERPRISES, LLC, LLTQ Enterprises 16, LLC, FERG, LLC and FERG 16, LLC respectfully request the entry of judgment in their favor and against Caesars and CAC as follows:

A. Monetary damages in excess of \$15,000, including:

1 and Counterclaims, and to bring additional counterclaims in connection with the complaint pending a
2 final determination of the Pending Appeals.

3 DATED July 2, 2018.

4 MCNUTT LAW FIRM, P.C.

5
6 /s/ Dan McNutt

DANIEL R. MCNUTT (SBN 7815)

MATTHEW C. WOLF (SBN 10801)

625 South Eighth Street

Las Vegas, Nevada 89101

Attorneys for LLTQ Enterprises, LLC;

LLTQ Enterprises 16, LLC; FERG, LLC;

and FERG 16, LLC

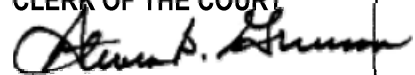
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James Pisanelli, Esq. (SBN 4027)
Debra Spinelli, Esq. (SBN 9695)
Brittnie Watkins, Esq. (SBN 13612)
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
jjp@pisanellibice.com
dls@pisanellibice.com
btw@pisanellibice.com
Attorneys for Defendant
PHWLTV, LLC

Robert E. Atkinson, Esq. (SBN 9958)
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
Robert@nv-lawfirm.com
Attorney for Defendant J. Jeffrey Frederick

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TAB 28



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

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

**REPLY TO DNT ACQUISITION, LLC'S
COUNTERCLAIMS**

Desert Palace, Inc. ("Desert Palace"), by and through its undersigned counsel, hereby responds to the allegations set forth in the Counterclaims (the "Counterclaim") filed by DNT Acquisition, LLC ("DNT"), purporting to appear derivatively through one of its members, R Squared Global Solutions, LLC ("RSG"), as follows:

PARTIES

1. Desert Palace is informed and believes, and thereon admits that DNT is a Delaware limited liability company.

2. Upon information and belief, Desert Palace admits that DNT's two members are RSG and The Original Homestead Restaurant, Inc. ("OHS"). Desert Palace is informed and believes, and thereon admits that OHS is a New York corporation.

3. Desert Palace admits that it is a Nevada corporation and has its principal place of business at 3570 Las Vegas Boulevard South, Las Vegas, Nevada. Desert Palace denies that it is a resort hotel casino known as Caesars Palace. Desert Palace operates the Caesars Palace resort, hotel, and casino.

GENERAL ALLEGATIONS

The DNT Agreement and Restrictions

4. Desert Palace admits that DNT, OHS, and Desert Palace entered into a Development, Operation and License Agreement (the "DNT Agreement") effective as of June 21, 2011 for the development, operation, and license of an Old Homestead Steakhouse in Caesars Palace, Las Vegas, Nevada.

5. Desert Palace admits that representatives of Caesars, DNT, and OHS engaged in multiple meetings to negotiate the terms of the design, development, construction, and operation of and the sharing of profits from that certain "Old Homestead Steakhouse" (defined as the "Restaurant" in the DNT Agreement) located at the "Restaurant Premised" (as defined in the DNT Agreement) in a property owned and operated by Caesars in Las Vegas, Nevada.

6. Desert Palace admits that since its opening the Old Homestead Restaurant has been a profitable restaurant at its Las Vegas location, and denies all other allegations in Paragraph 6 of the Counterclaim.

The Bankruptcy Matters

7. Desert Palace admits that, on January 15, 2015, Desert Palace, CAC and several of their affiliated entities (collectively, the "Reorganized Debtors") each filed voluntary petitions under Chapter 11 of the Bankruptcy Code, thereby commencing the Chapter 11 cases.

8. Desert Palace admits that OHS is one of the members of DNT. Desert Palace admits that OHS filed a Proof of Claim (the "OHS Pre-Petition Claim") on April 30, 2015. The OHS Pre-Petition Claim is Claim No. 1883, not Docket No. 1883 as DNT has alleged, and Desert Palace refers to that document for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 8.

9. Desert Palace admits that DNT filed a Proof of Claim (the "DNT Pre-Petition Claim") on May 22, 2015. The DNT Pre-Petition Claim is Claim No. 3346, not Docket No. 3346 as DNT has alleged, and Desert Palace refers to that document for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 9.

10. Desert Palace admits that RSG filed a Proof of Claim (the "RSG Pre-Petition Claim") on May 22, 2015. The RSG Pre-Petition Claim is Claim No. 3304, not Docket No. 3304 as DNT has alleged, and Desert Palace refers to that document for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 10.

11. Desert Palace states that the allegations in Paragraph 11 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 11.

12. Desert Palace admits that RSG filed two Proofs of Claim on November 6, 2017, one on behalf of itself and the other purportedly on behalf of DNT (together, the "DNT/RSG Rejection Damages POCs") and refers to that document for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 12.

13. Desert Palace admits that the Reorganized Debtors filed their Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code on June 28, 2016. Desert Palace denies all other allegations contained in Paragraph 13.

1 14. Desert Palace admits that the Reorganized Debtors filed their Supplement to their
2 Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code on
3 July 18, 2016 and included the DNT Agreement on Exhibit HH indicating that it would be assumed
4 under the proposed Second Amended Plan. Desert Palace denies all other allegations contained in
5 Paragraph 14.

6 15. Desert Palace admits that DNT filed a Limited Objection to Proposed Cure Amount
7 for Assumption of Contract between Debtors and DNT Acquisition, LLC (the "Limited Objection")
8 on August 17, 2016 and refers to that document for an accurate recitation of its contents. Desert
9 Palace denies all other allegations contained in Paragraph 15.

10 16. Desert Palace admits that the Reorganized Debtors filed a Third Amended Joint Plan
11 of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code on January 13, 2017.
12 Desert Palace admits that the United States Bankruptcy Court for the Northern District of Illinois
13 entered an Order Confirming Debtors' Third Amended Joint Plan of Reorganization Pursuant to
14 Chapter 11 of the Bankruptcy Code (the "Plan") on January 17, 2017. Desert Palace denies all
15 other allegations contained in Paragraph 16.

16 17. Desert Palace admits that the "Effective Date" of the Plan (as defined in the Plan)
17 occurred on October 6, 2017 and the Plan was consummated.

18 17. [sic]¹ Desert Palace admits that RSG, on its own behalf and purportedly derivatively
19 on behalf of DNT, filed a Motion for Request for Payment of Administrative Expenses (the "DNT
20 Admin Claim") on November 20, 2017, and refers to that document for an accurate recitation of its
21 contents. Desert Palace denies all other allegations contained in [the second] Paragraph 17.

22 18. Desert Palace admits that the Reorganized Debtors filed a Preliminary Objection to
23 Request for Payment of Administrative Expense (the "Caesars Objection to DNT Admin Claim")
24 on December 6, 2017, and refers to that document for an accurate recitation of its contents. Desert
25 Palace denies all other allegations contained in Paragraph 18.

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¹ DNT's Counterclaim contains 2 paragraphs identified as number 17.

1 19. In answering Paragraph 19, Desert Palace admits to the existence of the Caesars
2 Objection to DNT Admin Claim and refers to that document for an accurate recitation of its
3 contents. Desert Palace denies all other allegations contained in Paragraph 19.

4 20. In answering Paragraph 20, Desert Palace admits to the existence of the Caesars
5 Objection to DNT Admin Claim and refers to that document for an accurate recitation of its
6 contents. Desert Palace denies all other allegations contained in Paragraph 20.

7 21. Desert Palace admits that the DNT Admin Claim remains pending.

8 **Purported Termination of the DNT Agreement**

9 22. Desert Palace admits that the United States government filed a Notice of Intent to
10 File an Information against Rowen Seibel on February 29, 2016. Desert Palace states that the
11 allegations in the second sentence of Paragraph 22 are legal conclusions to which no responsive
12 pleading is required. To the extent a response is required to the second sentence of Paragraph 22,
13 Desert Palace is without knowledge or information sufficient to form a belief as to the truth or
14 falsity of those allegations.

15 23. In answering Paragraph 23, which purports to restate the terms of certain letters
16 dated April 8, 2016 that were sent to the Debtors, Desert Palace admits the existence of those letters
17 and refers to those letters for an accurate recitation of their contents. Desert Palace denies all other
18 allegations contained in Paragraph 23.

19 24. Desert Palace states that the allegations in Paragraph 24 are legal conclusions to
20 which no response is required. To the extent a response is required, Desert Palace denies the
21 allegations in Paragraph 24.

22 25. Desert Palace states that the allegation that "Mr. Seibel divested himself of any
23 interests relating to the Restaurant" is a legal conclusion to which no response is required. To the
24 extent a response is required, Desert Palace denies these allegations in Paragraph 25. Desert Palace
25 admits that, on April 18, 2016, the United States Attorney's Office filed an Information charging
26 Rowen Seibel in Case No. 16 CR 279 in the United States District Court for the Southern District
27 of New York.

28

26. Desert Palace admits that Rowen Seibel pleaded guilty for violation of 28 U.S.C. § 7212(a) on April 18, 2016.

27. Desert Palace admits that the United States District Court for the Southern District of New York entered an Order accepting Rowen Seibel's guilty plea on May 16, 2016.

28. Desert Palace admits that Rowen Seibel was sentenced for a violation of 28 U.S.C. § 7212(a) and a judgment was entered against him on August 19, 2016.

29. In answering Paragraph 29, which purports to restate the terms of a letter from Desert Palace on September 2, 2016, Desert Palace admits the existence of that letter and refers to that letter for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 29.

30. In answering Paragraph 30, which purports to restate the terms of a letter from counsel for DNT on September 7, 2016, Desert Palace admits the existence of that letter and refers to that letter for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 30.

31. In answering Paragraph 31, which purports to restate the terms of a letter from Desert Palace on September 21, 2016, Desert Palace admits the existence of that letter and refers to that letter for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 31.

32. Desert Palace admits that the Old Homestead Steakhouse remains open and profitable.

33. Desert Palace states that the allegations in Paragraph 33 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 33.

COUNT I – Breach of the DNT Agreement
(against Caesars)

34. Desert Palace repeats and realleges each and every response to the preceding Paragraphs as if set forth fully herein.

1 35. In answering Paragraph 35, Desert Palace admits the existence of the DNT
2 Agreement, and refers to that document for an accurate recitation of its contents. Desert Palace
3 denies all other allegations contained in Paragraph 35.

4 36. Desert Palace admits that the Restaurant has been developed and constructed.
5 Desert Palace admits that the Restaurant opened in 2011 and Desert Palace has operated it since
6 that time.

7 37. Desert Palace admits that the Restaurant has generated revenue since 2011 and is
8 profitable.

9 38. Desert Palace states that the terms "same manner and fashion" are vague and
10 ambiguous. Desert Palace admits that it continues to operate the Old Homestead Steakhouse.
11 Desert Palace denies all other allegations contained in Paragraph 38.

12 39. Desert Palace admits that, as of the date of this Answer, it intends to continue
13 operating the Old Homestead Steakhouse.

14 40. Desert Palace admits that it has not been fined or sanctioned in any manner by any
15 gaming authorities in connection with its continued operations of the Old Homestead Steakhouse.

16 41. Desert Palace states that the allegations in Paragraph 41 are legal conclusions to
17 which no responsive pleading is required. To the extent a response is required, Desert Palace denies
18 the allegations in Paragraph 41.

19 **COUNT II – Accounting**
20 (b against Caesars)

21 42. Desert Palace repeats and realleges each and every response to the preceding
22 Paragraphs as if set forth fully herein.

23 43. Desert Palace states that the allegations in Paragraph 43 are legal conclusions to
24 which no responsive pleading is required. In addition, Desert Palace admits to the existence of the
25 DNT Agreement, refers to that agreement for an accurate recitation of its contents, and denies all
26 remaining allegations in Paragraph 43.

1 44. Desert Palace states that the allegations in Paragraph 44 are legal conclusions to
2 which no response is required. To the extent a response is required, Desert Palace denies the
3 allegations in Paragraph 44.

4 45. Desert Palace denies the allegations in Paragraph 45.

5 46. Desert Palace lacks knowledge or information sufficient to form a belief as to the
6 truth or falsity of the allegations of Paragraph 46 and therefore denies the same.

7 47. Desert Palace admits that DNT seeks the relief requested in Paragraph 47 as part of
8 its Counterclaim and denies all remaining allegations therein.

9 **GENERAL DENIAL**

10 All allegations in the Counterclaim that have not been expressly admitted, denied, or
11 otherwise responded to, are denied.

12 **AFFIRMATIVE DEFENSES**

13 Desert Palace asserts the following affirmative defenses and reserves the right to assert other
14 defenses and claims, including, without limitation, counterclaims, crossclaims, and third-party
15 claims, as and when appropriate and/or available in this or any other action. The statement of any
16 defense herein does not assume the burden of proof for any issue as to which applicable law
17 otherwise places the burden of proof on Desert Palace.

18 **FIRST AFFIRMATIVE DEFENSE**

19 The Counterclaim fails to state a claim upon which relief can be granted.

20 **SECOND AFFIRMATIVE DEFENSE**

21 DNT's claims are barred, in whole or in part, by its own conduct, including its failure to
22 mitigate damages.

23 **THIRD AFFIRMATIVE DEFENSE**

24 DNT's claims are barred, in whole or in part, by the doctrines of waiver, estoppel, laches,
25 acquiescence, unclean hands, unjust enrichment, and/or ratification, as well as other applicable
26 equitable doctrines.

27 **FOURTH AFFIRMATIVE DEFENSE**

28 DNT's damages or harm, if any, were not caused by any conduct of Desert Palace.

FIFTH AFFIRMATIVE DEFENSE

Insofar as any alleged breach of contract is concerned, DNT failed to give Desert Palace timely notice thereof.

SIXTH AFFIRMATIVE DEFENSE

DNT breached the DNT Agreement, which excuses any failure to perform by Desert Palace.

SEVENTH AFFIRMATIVE DEFENSE

DNT is not entitled to any recovery because they failed to fulfill the terms of the DNT Agreement.

EIGHTH AFFIRMATIVE DEFENSE

DNT engaged in fraudulent and deceitful conduct as set forth in Count II of the Complaint, which bars its right to recovery, if any, upon the Counterclaim on file herein. Specifically, Rowen Seibel and DNT fraudulently induced Desert Palace to enter into the DNT Agreement on June 21, 2011 when they failed to disclose Mr. Seibel's illegal activities at any time before the DNT Agreement was executed. Mr. Seibel and/or DNT represented—through the January 5, 2009 Business Information Form for the agreement with Moti Partners, LLC ("MOTI") and the June 3, 2011 DNT Business Information Form—that he had not been a party to any felony in the past ten years and there was nothing in Mr. Seibel's past that would prevent him from being licensed by a gaming authority. To the extent the MOTI suitability disclosures became inaccurate, they had to be updated without Desert Palace making a request. Desert Palace therefore reasonably relied on Mr. Seibel's contemporaneous and prior representations to satisfy itself that Mr. Seibel remained a suitable person when entering into the DNT Agreement.

In addition, Desert Palace also relied on the representations in Sections 10.2, 11.1, and 11.2 of the DNT Agreement when deciding to enter into the DNT Agreement. Mr. Seibel and DNT knew that these representations were false when made.

1 **NINTH AFFIRMATIVE DEFENSE**

2 The injuries to DNT, if any, as alleged in the Counterclaim, were provoked and brought
3 about by DNT, and any actions taken by Desert Palace in response to DNT's conduct were justified
4 and privileged under the circumstances.

5 **TENTH AFFIRMATIVE DEFENSE**

6 All possible affirmative defenses may not have been alleged herein insofar as sufficient
7 facts were not available after reasonable inquiry upon the filing of Desert Palace's Answer to the
8 Counterclaim and therefore, Desert Palace reserves the right to amend its Answer to allege
9 additional affirmative defenses if subsequent investigation so warrants.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 Desert Palace reserves the right to (a) rely upon such other affirmative defenses as may be
12 supported by the facts to be determined through full and complete discovery, and (b) voluntarily
13 withdraw any affirmative defense.

14 ///

1 WHEREFORE, Desert Palace prays as follows:

- 2 (1) DNT takes nothing by its Counterclaim;
3 (2) For judgment in favor of Desert Palace;
4 (3) For Desert Palace's costs; and,
5 (4) For such other and further relief as the Court deems proper.

6 DATED this 25th day of July 2018.

7 PISANELLI BICE PLLC

8 By: 

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
13 400 South 7th Street, Suite 300
14 Las Vegas, Nevada 89101

15 and

16 Jeffrey J. Zeiger, P.C., Esq.
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, IL 60654

23 *Attorneys for Desert Palace, Inc.;*
24 *Paris Las Vegas Operating Company, LLC;*
25 *PHWLTV, 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 25th day of July 2018, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **REPLY TO DNT ACQUISITION, LLC'S COUNTERCLAIMS** to the following:

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, NV 89101

Nathan O. Rugg, Esq.
BARACK FERRAZZANO KIRSCHBAUM &
NAGELBERG LLP
200 W. Madison St., Suite 3900
Chicago, IL 60606

Paul Sweeney
CERTILMAN BALIN
ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, NY 11554

Steven B. Chaiken, Esq.
ADELMAN & GETTLEMAN, LTD.
53 W. Jackson blvd., Suite 1050
Chicago, IL 60604

*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*

*Attorneys for LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC, FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
and MOTI Partners 16, LLC*

Allen J. Wilt, Esq.
John D. Tennert III, Esq.
300 East Second Street, Suite 1510
Reno, NV 89501

Robert E. Atkinson
ATKINSON LAW ASSOCIATES LTD.
8965 S. Eastern Ave., Suite 260
Las Vegas, NV 89123

Attorneys for Gordon Ramsay

Attorneys for J. Jeffrey Frederick

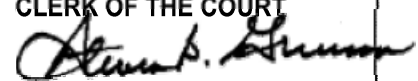
VIA U.S. MAIL

Kurt Heyman, Esq.
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Trustee for GR Burgr, LLC


An employee of PISANELLI BICE PLLC

TAB 29



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

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

**REPLY TO LLTQ/FERG DEFENDANTS'
COUNTERCLAIMS**

Defendants Desert Palace, Inc. ("Desert Palace") and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC"), by and through their undersigned counsel, hereby respond to the counterclaims (the "Counterclaim") of Defendants LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), and FERG 16, LLC ("FERG 16") dated July 6, 2018, as follows:

PARTIES

1. Desert Palace and CAC are informed and believe, and thereon admit that LLTQ is a Delaware limited liability company.

2. Desert Palace and CAC are informed and believe, and thereon admit that FERG is a Delaware limited liability company. Desert Palace and CAC state that the allegation that FERG is an "affiliate" of LLTQ is a legal conclusion to which no response is required. Desert Palace and CAC also state that the term "affiliate" is vague and ambiguous. To the extent a response is required, Desert Palace and CAC state that, as the term "Affiliate" is defined in the LLTQ Agreement and the FERG Agreement, FERG is an "affiliate" of LLTQ.

3. Desert Palace and CAC are informed and believe, and thereon admit that LLTQ 16 is a Delaware limited liability company. Desert Palace and CAC state that the allegation that LLTQ 16 is a "successor in interest to LLTQ" is a legal conclusion to which no response is required. Desert Palace and CAC also state that the term "successor is interest" is vague and ambiguous. To the extent a response is required, Desert Palace and CAC deny that LLTQ 16 is a successor in interest to LLTQ.

4. Desert Palace and CAC are informed and believe, and thereon admit that FERG 16 is a Delaware limited liability company. Desert Palace and CAC state that the allegation that FERG 16 is a "successor in interest to FERG" is a legal conclusion to which no response is required. Desert Palace and CAC also state that the term "successor is interest" is vague and ambiguous. To the extent a response is required, Desert Palace and CAC deny that FERG 16 is a successor in interest to FERG.

5. Desert Palace and CAC admit that Desert Palace is a Nevada corporation and has its principal place of business at 3570 Las Vegas Boulevard South, Las Vegas, Nevada. Desert Palace

1 and CAC deny that Desert Palace is a resort hotel casino known as Caesars Palace. Desert Palace
2 operates the Caesars Palace casino.

3 6. Desert Palace and CAC admit that CAC is a Delaware limited liability company and
4 has its principal place of business at 2100 Pacific Avenue, Atlantic City, New Jersey. Desert Palace
5 and CAC state that the allegation that CAC is an "affiliate" of Caesars is a legal conclusion to which
6 no response is required. Desert Palace and CAC also state that the term "affiliate" is vague and
7 ambiguous. To the extent a response is required, Desert Palace and CAC state that, as the term
8 "Affiliate" is defined in the LLTQ Agreement and the FERG Agreement, CAC is an "affiliate" of
9 Desert Palace.

10 **GENERAL ALLEGATIONS**

11 **The LLTQ Agreement and Restrictions**

12 7. Desert Palace admits that it and LLTQ entered into a Development and Operation
13 Agreement (the "LLTQ Agreement") with an effective date of April 4, 2012, not April 12, 2012 as
14 alleged by LLTQ and FERG.

15 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
16 the allegations of Paragraph 7 and therefore denies the same.

17 8. Desert Palace denies that it did not require LLTQ or its "Affiliates" (as that term is
18 defined in the LLTQ Agreement) to provide new information concerning "suitability" as to LLTQ
19 and its "Affiliates" in connection with entering into the LLTQ Agreement or complete a business
20 information form in connection with entering into the LLTQ Agreement because Caesars relied on
21 the prior representations in the business information forms with Moti Partners, LLC ("MOTI") and
22 DNT Acquisition, LLC ("DNT"). Desert Palace denies all remaining allegations in Paragraph 8 of
23 the Counterclaim.

24 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
25 the allegations of Paragraph 8 and therefore denies the same.

26 9. Desert Palace states that the term "contemporaneously" is vague and ambiguous.
27 Desert Palace takes the phrase "contemporaneously" to mean "around the same time," and, subject
28 to that clarification, admits that Caesars entered into the LLTQ Agreement around the same time

1 as Desert Palace entered into a Development, Operation and License Agreement (the "Ramsay LV
2 Agreement") with Gordon Ramsay and Gordon Ramsay Holdings Limited.

3 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
4 the allegations of Paragraph 9 and therefore denies the same.

5 10. Desert Palace states that the term "contemporaneously" is vague and ambiguous.
6 Desert Palace takes the phrase "contemporaneously" to mean "around the same time," and, subject
7 to that clarification, admits that the LLTQ Agreement and the Ramsay LV Agreement were
8 negotiated around the same time among the parties. Desert Palace further admits that Rowen Seibel
9 on behalf of LLTQ assisted in the negotiations of the Ramsay LV Agreement.

10 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
11 the allegations of Paragraph 10 and therefore denies the same.

12 11. Desert Palace admits that representatives of Desert Palace, LLTQ, and Ramsay
13 engaged in multiple meetings to negotiate the terms of the design, development, construction, and
14 operation of and the sharing of profits of the "Restaurant" (as defined in the LLTQ Agreement) that
15 was located at the "Restaurant Premises" (as defined in the LLTQ Agreement) at a property owned
16 and operated by Desert Palace in Las Vegas, Nevada.

17 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
18 the allegations of Paragraph 11 and therefore denies the same.

19 12. Desert Palace admits that it and LLTQ paid for Project Costs (as defined in the
20 LLTQ Agreement) of \$1,000,000 for the design and construction of the Gordon Ramsay Pub.
21 Desert Palace denies all other allegations contained in Paragraph 12.

22 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
23 the allegations of Paragraph 12 and therefore denies the same.

24 13. Desert Palace states that the allegations in Paragraph 13 are legal conclusions to
25 which no response is required. To the extent a response is required, Desert Palace denies the
26 allegations in Paragraph 13. Moreover, Desert Palace admits the existence of the LLTQ Agreement
27 and the Ramsay LV Agreement referenced in Paragraph 13 of the Counterclaim, refers to such
28

1 agreements for a complete and accurate statement of the terms thereof, and otherwise denies the
2 allegations.

3 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
4 the allegations of Paragraph 13 and therefore denies the same.

5 14. Desert Palace admits that the LLTQ Agreement and the Ramsay LV Agreement
6 were executed and became effective as of the same day. Desert Palace denies that the LLTQ
7 Agreement and the Ramsay LV Agreement concern the same subject matter. Desert Palace admits
8 that the LLTQ Agreement and the Ramsay LV Agreement contain references to each other and
9 Desert Palace is a party to both contracts. Desert Palace denies that the LLTQ Agreement and the
10 Ramsay LV Agreement contain the "same choice of law, dispute resolution, and other provisions."
11 Desert Palace refers to the agreements for a complete and accurate statement of the terms thereof,
12 and otherwise denies the allegations.

13 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
14 the allegations of Paragraph 14 and therefore denies the same.

15 15. In responding to Paragraph 15, Desert Palace admits the existence of the LLTQ
16 Agreement referenced therein and refers to the agreement for a complete and accurate statement of
17 the terms thereof. Moreover, Desert Palace states that the allegations in Paragraph 15 are legal
18 conclusions to which no responsive pleading is required. To the extent a response is required,
19 Desert Palace denies the allegations contained in Paragraph 15.

20 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
21 the allegations of Paragraph 15 and therefore denies the same.

22 16. In responding to Paragraph 16, Desert Palace admits the existence of the LLTQ
23 Agreement referenced therein and admits that the language quoted in Paragraph 16 of the
24 Counterclaim appears in that agreement. Desert Palace refers to the agreement for a complete and
25 accurate statement of the terms thereof, and denies any remaining allegations contained in
26 Paragraph 16.

27 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
28 the allegations of Paragraph 16 and therefore denies the same.

1 17. In responding to Paragraph 17, Desert Palace admits the existence of the LLTQ
2 Agreement referenced therein and refers to the agreement for a complete and accurate statement of
3 the terms thereof. Moreover, Desert Palace states that the allegations in Paragraph 17 are legal
4 conclusions to which no responsive pleading is required. To the extent a response is required,
5 Desert Palace denies the allegations contained in Paragraph 17.

6 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
7 the allegations of Paragraph 17 and therefore denies the same.

8 18. In responding to Paragraph 18, Desert Palace admits the existence of the LLTQ
9 Agreement referenced therein and refers to the agreement for a complete and accurate statement of
10 the terms thereof. Moreover, Desert Palace states that the allegations in Paragraph 18 are legal
11 conclusions to which no responsive pleading is required. To the extent a response is required,
12 Desert Palace denies the allegations contained in Paragraph 18.

13 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
14 the allegations of Paragraph 18 and therefore denies the same.

15 19. In responding to Paragraph 19, Desert Palace admits the existence of the LLTQ
16 Agreement referenced therein and admits that the language quoted in Paragraph 19 of the
17 Counterclaim appears in that agreement. Desert Palace refers to the agreement for a complete and
18 accurate statement of the terms thereof, and denies any remaining allegations contained in
19 Paragraph 19.

20 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
21 the allegations of Paragraph 19 and therefore denies the same.

22 20. Desert Palace admits that, since its opening, the Gordon Ramsay Pub has been a
23 profitable restaurant for Desert Palace at its Las Vegas location, and denies all other allegations in
24 Paragraph 20 of the Counterclaim.

25 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
26 the allegations of Paragraph 20 and therefore denies the same.

27
28

The First Restricted Restaurant Venture

21. To the extent Paragraph 21 purports to restate the terms of communications from Desert Palace to representatives of LLTQ and Gordon Ramsay, Desert Palace refers to those documents for a complete and accurate recitation of their contents and no further response is required. Desert Palace denies all other allegations contained in Paragraph 21.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 21 and therefore denies the same.

22. Desert Palace admits that J. Jeffrey Frederick was the former Regional Vice President of Food and Beverage and a participant in the negotiations of the LLTQ Agreement and the Ramsay LV Agreement. To the extent Paragraph 22 purports to restate an email from Mr. Frederick, Desert Palace admits the existence of that email, refers to that email for a complete and accurate recitation of its contents, and no further response is required. Desert Palace denies all other allegations contained in Paragraph 22.

CAC also admits that Mr. Frederick was the former Regional Vice President of Food and Beverage. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of all other allegations of Paragraph 22 and therefore denies the same.

23. To the extent Paragraph 23 purports to restate an email from J. Jeffrey Frederick, Desert Palace admits the existence of that email, refers to that email for a complete and accurate recitation of its contents, and no further response is required. Desert Palace denies all other allegations contained in Paragraph 23.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 23 and therefore denies the same.

24. Desert Palace denies that representatives of Desert Palace, FERG, and Ramsay engaged in multiple meetings to negotiate the terms of the design, development, construction, and operation of and the sharing of profits of a restaurant similar to the Gordon Ramsay Pub to be located at a property owned and operated by CAC, in Atlantic City, New Jersey.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 24 and therefore denies the same.

1 25. CAC admits that it and FERG entered into a Consulting Agreement (the "FERG
2 Agreement") with an effective date of May 16, 2014 and that related to a restaurant that would be
3 located in CAC's Atlantic City hotel. CAC denies all other allegations contained in Paragraph 25.

4 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
5 falsity of the allegations of Paragraph 25 and therefore denies the same.

6 26. CAC states that the term "contemporaneously" is vague and ambiguous. CAC takes
7 the phrase "contemporaneously" to mean "around the same time," and, subject to that clarification,
8 admits that CAC entered into the FERG Agreement around the same time as CAC entered into a
9 Development, Operation and License Agreement (the "Ramsay LV Agreement") with Gordon
10 Ramsay and Gordon Ramsay Holdings Limited related to a restaurant that would be locate in CAC's
11 Atlantic City hotel. CAC refers to the agreements for a complete and accurate statement of the
12 terms thereof, and otherwise denies the allegations contained in Paragraph 26.

13 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
14 falsity of the allegations of Paragraph 26 and therefore denies the same.

15 27. CAC states that the term contemporaneously is vague and ambiguous. CAC takes
16 the phrase "contemporaneously" to mean "around the same time," and, subject to that clarification,
17 admits that the FERG Agreement and the Ramsay AC Agreement were negotiated around the same
18 time between the parties.

19 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
20 falsity of the allegations of Paragraph 27 and therefore denies the same.

21 28. CAC states that the allegations in Paragraph 28 are legal conclusions to which no
22 responsive pleading is required. Moreover, CAC admits the existence of the FERG Agreement and
23 the Ramsay AC Agreement referenced in Paragraph 28 of the Counterclaim, refers to such
24 agreements for a complete and accurate statement of the terms thereof, and otherwise denies the
25 allegations in Paragraph 28.

26 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
27 falsity of the allegations of Paragraph 28 and therefore denies the same.

28

1 29. CAC admits that the FERG Agreement and the Ramsay AC Agreement were
2 executed and became effective as of the same day. CAC denies that the FERG Agreement and the
3 Ramsay AC Agreement concern the same subject matter. CAC denies that the FERG Agreement
4 and the Ramsay AC Agreement contain references to each other. CAC admits that it is a party to
5 both contracts. CAC denies that the FERG Agreement and the Ramsay AC Agreement contain the
6 "same choice of law, dispute resolution, and other provisions." CAC refers to the agreements for a
7 complete and accurate statement of the terms thereof, and otherwise denies the allegations.

8 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
9 falsity of the allegations of Paragraph 29 and therefore denies the same.

10 30. In responding to Paragraph 30, CAC admits the existence of the FERG Agreement
11 referenced therein and admits that the language quoted in Paragraph 30 of the Counterclaim appears
12 in that agreement. CAC refers to the agreement for a complete and accurate statement of the terms
13 thereof, and denies all other allegations contained in Paragraph 30.

14 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
15 falsity of the allegations of Paragraph 30 and therefore denies the same.

16 31. In responding to Paragraph 31, CAC admits the existence of the FERG Agreement
17 referenced therein and admits that the language quoted in Paragraph 31 of the Counterclaim appears
18 in that agreement. CAC refers to the agreement for a complete and accurate statement of the terms
19 thereof. Moreover, CAC states that the allegations in Paragraph 31 are legal conclusions to which
20 no responsive pleading is required. To the extent a response is required, CAC denies the allegations
21 contained in Paragraph 31.

22 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
23 falsity of the allegations of Paragraph 31 and therefore denies the same.

24 32. In responding to Paragraph 32, CAC admits the existence of the FERG Agreement
25 referenced therein and admits that the language quoted in Paragraph 32 of the Counterclaim appears
26 in that agreement. CAC refers to the agreement for a complete and accurate statement of the terms
27 thereof, and denies all other allegations contained in Paragraph 32.

28

Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 32 and therefore denies the same.

33. In responding to Paragraph 33, CAC admits the existence of the FERG Agreement referenced therein and refers to the agreement for a complete and accurate statement of the terms thereof. Moreover, CAC states that the allegations in Paragraph 33 are legal conclusions to which no responsive pleading is required. To the extent a response is required, CAC denies the allegations contained in Paragraph 33.

Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 33 and therefore denies the same.

34. CAC admits that since its opening, the Gordon Ramsay Pub & Grill has been a profitable restaurant for CAC at its Atlantic City location.

Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 34 and therefore denies the same.

The Bankruptcy Matters

35. Desert Palace and CAC admit that, on January 15, 2015, Desert Palace, CAC and several of their affiliated entities (collectively, the "Reorganized Debtors") each filed voluntary petitions under Chapter 11 of the Bankruptcy Code, thereby commencing the Chapter 11 cases.

36. Desert Palace and CAC admit that the Reorganized Debtors filed a Fourth Omnibus Motion for the Entry of an Order Authorizing the Debtors to Reject Certain Executory Contracts Nunc Pro Tunc to June 11, 2015 (the "Rejection Motion") on June 11, 2015, and refer to that document for an accurate recitation of its contents. Desert Palace and CAC deny all other allegations contained in Paragraph 36.

37. In answering Paragraph 37, Desert Palace and CAC admit to the existence of the LLTQ's and FERG's objection to the Rejection Motion and refer to the document for an accurate recitation of its contents. Desert Palace and CAC deny all other allegations contained in Paragraph 37.

38. Desert Palace and CAC admit that the Rejection Motion constitutes a contested matter and remains pending.

1 39. Desert Palace and CAC admit that LLTQ and FERG filed a Notice of Motion and
2 Request for Payment of Administrative Expense (the "Admin Request") on November 4, 2015, and
3 refer to that document for an accurate recitation of its contents. Desert Palace and CAC deny all
4 other allegations contained in Paragraph 39.

5 40. In answering Paragraph 40, Desert Palace and CAC admit the existence of the
6 Reorganized Debtors' objection to the Admin Request and refer to that document for an accurate
7 recitation of its contents. Desert Palace and CAC deny all other allegations contained in Paragraph
8 40.

9 41. Desert Palace and CAC admit that the Admin Request constitutes a contested matter
10 and remains pending.

11 42. Desert Palace and CAC admit that the Reorganized Debtors filed a Motion for the
12 Entry of an Order Authorizing the Debtors to (A) Reject Certain Existing Restaurant Agreements
13 and (B) Enter Into New Restaurant Agreement (the "Ramsay Rejection Motion") on January 14,
14 2016, and refer to that document for an accurate recitation of its contents. Desert Palace and CAC
15 deny all other allegations contained in Paragraph 42.

16 43. In answering Paragraph 43, Desert Palace and CAC admit the existence of LLTQ's
17 and FERG's objection to the Ramsay Rejecting Motion and refer to that document for an accurate
18 recitation of its contents. Desert Palace and CAC deny all other allegations contained in Paragraph
19 43.

20 44. Desert Palace and CAC admit that the Ramsay Rejection Motion constitutes a
21 contested matter and remains pending.

22 45. Desert Palace and CAC deny the allegations contained in Paragraph 45.

23 46. Desert Palace and CAC admit that the United States Bankruptcy Court for the
24 Northern District of Illinois entered an Order Confirming Debtors' Third Amended Joint Plan of
25 Reorganization Pursuant to Chapter 11 of the Bankruptcy Code (the "Plan") on January 17, 2017.

26 47. Desert Palace and CAC admit that the "Effective Date" of the Plan (as defined in the
27 Plan) occurred on October 6, 2017, and the Plan was consummated.
28

Purported Termination of the LLTQ Agreement and FERG Agreement

48. Desert Palace and CAC admit that the United States government filed a Notice of Intent to File an Information against Rowen Seibel on February 29, 2016. Desert Palace and CAC state that the allegations in the second sentence of Paragraph 48 are legal conclusions to which no responsive pleading is required. To the extent a response is required to the second sentence of Paragraph 48, Desert Palace and CAC are without knowledge or information sufficient to form a belief as to the truth or falsity of those allegations.

49. To the extent Paragraph 49 purports to restate the terms of certain letters dated April 8, 2016 that were sent to certain of the Reorganized Debtors, Desert Palace and CAC each admit the existence of just those letters sent to them and refer to their respective letters for an accurate recitation of their contents. Desert Palace and CAC each lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 49 to the extent they regard letters received by others and therefore each denies the same. Desert Palace and CAC deny all other allegations contained in Paragraph 49.

50. Desert Palace and CAC state that the allegations in Paragraph 50 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace denies that "Mr. Seibel divested himself of any direct or indirect membership interests in LLTQ" and lacks knowledge or information sufficient to form a belief as to the truth or falsity of whether "Mr. Seibel divested himself of any direct or indirect membership interests ... in FERG" and therefore denies the same. To the extent a response is required, CAC denies that "Mr. Seibel divested himself of any direct or indirect membership interests ... in FERG" and lacks knowledge or information sufficient to form a belief as to the truth or falsity of whether "Mr. Seibel divested himself of any direct or indirect membership interests in LLTQ" and therefore denies the same.

51. Desert Palace states that the allegations in Paragraph 51 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 51.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 51 and therefore denies the same.

1 52. CAC states that the allegations in Paragraph 52 are legal conclusions to which no
2 responsive pleading is required. To the extent a response is required, CAC denies the allegations
3 in Paragraph 52.

4 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
5 falsity of the allegations of Paragraph 52 and therefore denies the same.

6 53. Desert Palace and CAC state that the allegation that "Mr. Seibel divested himself of
7 any interests relating to the Ramsay Pubs" is a legal conclusion to which no responsive pleading is
8 required. To the extent a response is required, Desert Palace and CAC deny these allegations in
9 Paragraph 53. Desert Palace and CAC admit that, on April 18, 2016, the United States Attorney's
10 Office filed an Information charging Rowen Seibel in Case No. 16 CR 279 in the United States
11 District Court for the Southern District of New York.

12 54. Desert Palace and CAC admit that Rowen Seibel pleaded guilty for a violation of
13 28 U.S.C. § 7212(a) on April 18, 2016.

14 55. Desert Palace and CAC admit that the United States District Court for the Southern
15 District of New York entered an order accepting Rowen Seibel's guilty plea on May 16, 2016.

16 56. Desert Palace and CAC admit that Rowen Seibel was sentenced for a violation of
17 28 U.S.C. § 7212(a) and a judgment was entered against him on August 19, 2016.

18 57. In answering Paragraph 57, Desert Palace and CAC admit the existence of their
19 respective notices of termination issued by each of them on September 2, 2016, and refer to those
20 notices for an accurate recitation of their contents. Desert Palace and CAC each lack knowledge or
21 information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 57 to
22 the extent they regard letters sent by others and therefore each denies the same. Desert Palace and
23 CAC deny all other allegations contained in Paragraph 57.

24 58. In answering Paragraph 58, which purports to restate the terms of written
25 communications with the Reorganized Debtors, Desert Palace and CAC refer to that
26 correspondence for an accurate recitation of their contents. Desert Palace and CAC deny all other
27 allegations contained in Paragraph 58.

28

1 59. In answering Paragraph 59, which purports to restate the terms of communications
2 with the Reorganized Debtors, Desert Palace and CAC refer to that correspondence for an accurate
3 recitation of their contents. Desert Palace and CAC deny all other allegations contained in
4 Paragraph 59.

5 60. Desert Palace admits that the Gordon Ramsay Pub in Las Vegas is open and
6 profitable, and CAC admits that the Gordon Ramsay Pub & Grill in Atlantic City is open and
7 profitable. Desert Palace lacks knowledge or information sufficient to form a belief as to whether
8 Gordon Ramsay Pub & Grill in Atlantic City is profitable and therefore denies the same, and CAC
9 lacks knowledge or information sufficient to form a belief as to whether Gordon Ramsay Pub in
10 Las Vegas is profitable and therefore denies the same. Desert Palace and CAC deny the remaining
11 allegations contained in Paragraph 60.

12 **New Restricted Restaurant Ventures**

13 61. Desert Palace and CAC admit that Flamingo, Gordon Ramsay Holdings Limited,
14 and Gordon Ramsay (to the limited extent provided in the agreement) entered into a development,
15 operation, and license agreement in October 2014 relating to the development and operation of a
16 restaurant located in Las Vegas in premises that are part of the retail center known as The LINQ.
17 Desert Palace and CAC refer to that agreement for an accurate recitation of its contents. Desert
18 Palace and CAC admit that Flamingo is an affiliate of Desert Palace (as the term "Affiliate" is
19 defined in the LLTQ Agreement). Desert Palace and CAC deny all other allegations contained in
20 Paragraph 61.

21 62. Desert Palace and CAC admit that at no time prior to entering into the Fish & Chips
22 Agreement did Caesars or any of its affiliates have any communications with LLTQ or any of its
23 affiliates with respect to any proposed terms for LLTQ or its affiliates to participate in
24 Gordon Ramsay Fish & Chips.

25 63. Desert Palace and CAC admit that Fish & Chips opened at The LINQ on or about
26 October 7, 2016. Desert Palace and CAC admit that at no time did Desert Palace or its affiliates
27 seek to enter into an agreement with LLTQ, LLTQ 16 or any of their respective affiliates in
28 connection with Fish & Chips.

1 64. Desert Palace and CAC state that the term "cause" as used in Paragraph 64 is vague
2 and ambiguous. Desert Palace and CAC take the phrase "cause" to mean "compel as a matter of
3 legal right," and, subject to that clarification, admit that Desert Palace could not cause and has not
4 caused Flamingo to enter into an agreement with LLTQ, LLTQ 16 or their respective affiliates in
5 connection with Fish & Chips.

6 65. Desert Palace and CAC state that the allegations in Paragraph 65 are legal
7 conclusions to which no response is required. To the extent a response is required, Desert Palace
8 and CAC deny the allegations in Paragraph 65.

9 66. Desert Palace and CAC admit that Horseshoe Baltimore Casino is an affiliate of
10 Desert Palace (as the term "Affiliate" is defined in the LLTQ Agreement).

11 67. Desert Palace and CAC admit that Horseshoe Baltimore Casino, Gordon Ramsay
12 Holdings Limited, and Gordon Ramsay (to the limited extent provided in the agreement) entered
13 into an agreement for a Gordon Ramsay steak restaurant to be located in Baltimore, Maryland.

14 68. Desert Palace and CAC deny that GR Steak Baltimore is similar to the
15 Gordon Ramsay Steak restaurant in Las Vegas but admit that both serve steak. Desert Palace and
16 CAC also admit that the Gordon Ramsay Steak restaurant in the Paris hotel in Las Vegas is the
17 restaurant referenced in the development and operation agreement entered into December 5, 2011
18 between TPOV Enterprises, LLC (an affiliate of LLTQ) and Paris Las Vegas Operating Company,
19 LLC. Desert Palace and CAC deny all other allegations contained in Paragraph 68.

20 69. Desert Palace and CAC state that the term "cause" as used in Paragraph 69 is vague
21 and ambiguous. Desert Palace and CAC take the phrase "cause" to mean "compel as a matter of
22 legal right," and, subject to that clarification, admit that Desert Palace could not cause and has not
23 caused Horseshoe Baltimore Casino to enter into an agreement with LLTQ, LLTQ 16 or their
24 respective affiliates in connection with GR Steak Baltimore.

25 70. Desert Palace and CAC state that the allegations in Paragraph 70 are
26 legal conclusions to which no response is required. To the extent a response is required, Desert
27 Palace and CAC deny the allegations in Paragraph 70.

28

71. Desert Palace and CAC are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 71 that Ramsay intends to open additional restaurants in the United States. Desert Palace and CAC further state that the allegations in Paragraph 71 are legal conclusions to which no response is required. To the extent a response is required, Desert Palace and CAC deny the allegations in Paragraph 71.

72. In answering Paragraph 72, which purports to restate the terms of a September 26, 2017 letter from LLTQ and others, Desert Palace and CAC refer to that letter for an accurate recitation of its contents, and deny all other allegations contained therein.

73. Desert Palace and CAC admit that GR Steak Baltimore opened in November 2017. Desert Palace and CAC admit that Desert Palace and its affiliates did not seek to enter into an agreement with LLTQ, LLTQ 16 or their respective affiliates in connection with GR Steak Baltimore.

COUNT I – Breach of the LLTQ Agreement
(against Caesars)

74. Desert Palace and CAC repeat and reallege each and every response to the preceding Paragraphs as if set forth fully herein.

75. In answering Paragraph 75, Desert Palace admits the existence of the LLTQ Agreement, and refers to that document for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 75.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 75 and therefore denies the same.

76. Desert Palace admits that the Gordon Ramsay Pub has been developed and constructed. Desert Palace admits that the Gordon Ramsay Pub opened in December 2012 and Desert Palace has operated it since that time.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 76 and therefore denies the same.

77. Desert Palace admits the Gordon that the Gordon Ramsay Pub has generated revenue since December 2012 and is profitable.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 77 and therefore denies the same.

78. Desert Palace states that the terms "same manner and fashion" are vague and ambiguous. Desert Palace admits that it continues to operate the Gordon Ramsay Pub. Desert Palace denies all other allegations contained herein.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 79 and therefore denies the same.

79. Desert Palace admits that, as of the date of this Answer, it intends to continue operating the Gordon Ramsay Pub.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 80 and therefore denies the same.

80. Desert Palace admits that it has not been fined or sanctions in any manner by any gaming authorities in connection with its continued operations of the Gordon Ramsay Pub.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 80 and therefore denies the same.

81. Desert Palace states that the allegations in Paragraph 81 are legal conclusions to which no response is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 81.

CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 81 and therefore denies the same.

COUNT II – Breach of the FERG Agreement
(against CAC)

82. Desert Palace and CAC repeat and reallege each and every response to the preceding Paragraphs as if set forth fully herein.

83. In answering Paragraph 83, CAC admits to the existence of the FERG Agreement, and refers to that document for an accurate recitation of its contents. CAC denies all other allegations contained in Paragraph 83.

1 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
2 falsity of the allegations of Paragraph 83 and therefore denies the same.

3 84. CAC admits that the Gordon Ramsay Pub and Grill has been developed. CAC
4 admits that it opened the Gordon Ramsay Pub and Grill in 2015 and has operated the
5 Gordon Ramsay Pub and Grill since that time.

6 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
7 falsity of the allegations of Paragraph 84 and therefore denies the same.

8 85. CAC admits the Gordon Ramsay Pub and Grill has generated revenue since 2015
9 and is profitable.

10 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
11 falsity of the allegations of Paragraph 85 and therefore denies the same.

12 86. CAC states that the terms "same manner and fashion" are vague and ambiguous.
13 CAC admits that it continues to operate the Gordon Ramsay Pub and Grill. CAC denies all other
14 allegations contained herein.

15 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
16 falsity of the allegations of Paragraph 86 and therefore denies the same.

17 87. CAC admits that, as of the date of this Answer, it intends to continue operating the
18 Gordon Ramsay Pub and Grill.

19 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
20 falsity of the allegations of Paragraph 87 and therefore denies the same.

21 88. CAC admits that it has not been fined or sanctioned in any manner by any gaming
22 authorities in connection with its continued operations of the Gordon Ramsay Pub and Grill.

23 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
24 falsity of the allegations of Paragraph 88 and therefore denies the same.

25 89. CAC states that the allegations in Paragraph 89 are legal conclusions to which no
26 response is required. To the extent a response is required, CAC denies the allegations in
27 Paragraph 89.

28

Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 89 and therefore denies the same.

COUNT III – Accounting
(against Caesars)

90. Desert Palace and CAC repeat and reallege each and every response to the preceding Paragraphs as if set forth fully herein.

91. In answering Paragraph 91, Desert Palace admits the existence of the LLTQ Agreement, and refers to that document for an accurate recitation of its contents. Moreover, Desert Palace states that the allegations in Paragraph 91 are legal conclusions to which no response is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 91. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 91 and therefore denies the same.

92. Desert Palace states that the allegations in Paragraph 92 are legal conclusions to which no response is required. To the extent a response is required, Desert Palace denies the allegations in Paragraph 92. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 92 and therefore denies the same.

93. Desert Palace denies the allegations in Paragraph 93. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 93 and therefore denies the same.

94. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 94 and therefore denies the same. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 94 and therefore denies the same.

95. Desert Palace admits that LLTQ and LLTQ 16 as part of their Counterclaim seek the relief requested in Paragraph 95 and denies all remaining allegations therein. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 95 and therefore denies the same.

COUNT IV – Accounting
(against CAC)

96. Desert Palace and CAC repeat and reallege each and every response to the preceding Paragraphs as if set forth fully herein.

97. In answering Paragraph 97, CAC admits to the existence of the LLTQ Agreement, and refers to that document for an accurate recitation of its contents. In addition, CAC states that the allegations in Paragraph 97 are legal conclusions to which no responsive pleading is required. To the extent a response is required, CAC denies the allegations in Paragraph 97. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 97 and therefore denies the same.

98. CAC states that the allegations in Paragraph 98 are legal conclusions to which no response is required. To the extent a response is required, CAC denies the allegations in Paragraph 98. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 98 and therefore denies the same.

99. CAC states that the allegations in Paragraph 99 are legal conclusions to which no response is required. To the extent a response is required, CAC denies the allegations in Paragraph 99. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 99 and therefore denies the same.

100. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 100 and therefore denies the same. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 100 and therefore denies the same.

101. CAC admits that LLTQ and LLTQ 16 as part of their Counterclaim seek the relief requested in Paragraph 101 and denies all remaining allegations therein. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 101 and therefore denies the same.

GENERAL DENIAL

All allegations in the Counterclaim that have not been expressly admitted, denied, or otherwise responded to, are denied.

AFFIRMATIVE DEFENSES

Desert Palace and CAC assert the following affirmative defenses and reserve the right to assert other defenses and claims, including without limitation counterclaims, cross-claims, and third-party claims, as and when appropriate and/or available in this or any other action. The statement of any defense herein does not assume the burden of proof for any issue as to which applicable law otherwise places the burden of proof on Desert Palace and CAC.

FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

LLTQ's and FERG's claims are barred, in whole or in part, by their own conduct, including their failure to mitigate damages.

THIRD AFFIRMATIVE DEFENSE

LLTQ's and FERG's claims are barred, in whole or in part, by the doctrines of waiver, estoppel, laches, acquiescence, unclean hands, unjust enrichment, and/or ratification, as well as other applicable equitable doctrines.

FOURTH AFFIRMATIVE DEFENSE

LLTQ's and FERG's damages or harm, if any, were not caused by any conduct of Desert Palace or CAC, respectively.

FIFTH AFFIRMATIVE DEFENSE

Insofar as any alleged breach of contract is concerned, LLTQ and FERG failed to give Desert Palace and CAC, respectively, timely notice thereof.

SIXTH AFFIRMATIVE DEFENSE

LLTQ and FERG breached the LLTQ Agreement and the FERG Agreement, respectively, which excuses any failure to perform by Desert Palace and CAC, respectively.

SEVENTH AFFIRMATIVE DEFENSE

LLTQ and FERG are not entitled to any recovery because they failed to fulfill the terms of the LLTQ and the FERG Agreement, respectively.

EIGHTH AFFIRMATIVE DEFENSE

LLTQ and FERG engaged in fraudulent and deceitful conduct as set forth in Count II of the Complaint, which bars their right to recovery, if any, upon the Counterclaim on file herein. Specifically, Rowen Seibel, LLTQ, and FERG fraudulently induced Desert Palace and CAC to enter into the LLTQ Agreement on April 4, 2012 and the FERG Agreement on May 16, 2014, respectively, when they failed to disclose Mr. Seibel's illegal activities at any time before the LLTQ Agreement and the FERG Agreement were executed. Mr. Seibel represented—through the January 5, 2009 MOTI Business Information Form and the June 3, 2011 DNT Business Information Form—that he had not been a party to any felony in the past ten years and there was nothing in Mr. Seibel's past that would prevent him from being licensed by a gaming authority. Although Caesars had the right to request information from each entity to satisfy itself that Mr. Seibel was suitable from a regulatory perspective, it had received such assurances in the MOTI and DNT Business Information Forms. To the extent the MOTI and DNT suitability disclosures became inaccurate, they had to be updated without Desert Palace and CAC making a request. Desert Palace and CAC therefore reasonably relied on Mr. Seibel's prior representations to satisfy itself that Mr. Seibel remained a suitable person when entering into the LLTQ Agreement and the FERG Agreement, respectively.

In addition, Desert Palace relied on the representations in Sections 9.2, 10.1, and 10.2 of the LLTQ Agreement when deciding to enter into the LLTQ Agreement, and CAC relied on the representations in Sections 10.2, 11.1, and 11.2 of the FERG Agreement when deciding to enter into the FERG Agreement. Mr. Seibel, LLTQ, and FERG knew that their respective representations were false when made.

NINTH AFFIRMATIVE DEFENSE

The injuries to LLTQ and FERG, if any, as alleged in the Counterclaim, were provoked and brought about by LLTQ and FERG, and any actions taken by Desert Palace and CAC in response to LLTQ's and FERG's conduct were justified and privileged under the circumstances.

1 **TENTH AFFIRMATIVE DEFENSE**

2 All possible affirmative defenses may not have been alleged herein insofar as sufficient facts
3 were not available after reasonable inquiry upon the filing of Desert Palace's and CAC's Answer to
4 the Counterclaim and therefore, Desert Palace and CAC reserve the right to amend their Answer to
5 allege additional affirmative defenses if subsequent investigation so warrants.

6 **ELEVENTH AFFIRMATIVE DEFENSE**

7 Desert Palace and CAC reserve the right to (a) rely upon such other affirmative defenses as
8 may be supported by the facts to be determined through full and complete discovery, and
9 (b) voluntarily withdraw any affirmative defense.

10 WHEREFORE, Desert Palace and CAC pray as follows:

- 11 (1) LLTQ and FERG take nothing by their Counterclaim;
12 (2) For judgment in favor of Desert Palace and CAC;
13 (3) For Desert Palace and CAC's costs; and,
14 (4) For such other and further relief as the Court deems proper.

15 DATED this 25th day of July 2018.

16 PISANELLI BICE PLLC

17 By: 

18 James J. Pisanelli, Esq., Bar No. 4027
19 Debra L. Spinelli, Esq., Bar No. 9695
20 M. Magali Mercera, Esq. Bar No. 11742
21 Brittanie T. Watkins, Esq., Bar No. 13612
22 400 South 7th Street, Suite 300
23 Las Vegas, Nevada 89101

24 and

25 Jeffrey J. Zeiger, P.C., Esq.
26 (admitted *pro hac vice*)
27 William E. Arnault, IV, Esq.
28 (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Desert Palace, Inc.;
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 25th day of July 2018, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **REPLY TO LLTQ/FERG DEFENDANTS' COUNTERCLAIMS** to the following:

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, NV 89101

Nathan O. Rugg, Esq.
BARACK FERRAZZANO KIRSCHBAUM &
NAGELBERG LLP
200 W. Madison St., Suite 3900
Chicago, IL 60606

Paul Sweeney
CERTILMAN BALIN
ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, NY 11554

Steven B. Chaiken, Esq.
ADELMAN & GETTLEMAN, LTD.
53 W. Jackson blvd., Suite 1050
Chicago, IL 60604

*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*

*Attorneys for LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC, FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
and MOTI Partners 16, LLC*

Allen J. Wilt, Esq.
John D. Tennert III, Esq.
300 East Second Street, Suite 1510
Reno, NV 89501

Robert E. Atkinson
ATKINSON LAW ASSOCIATES LTD.
8965 S. Eastern Ave., Suite 260
Las Vegas, NV 89123

Attorneys for Gordon Ramsay

Attorneys for J. Jeffrey Frederick

VIA U.S. MAIL

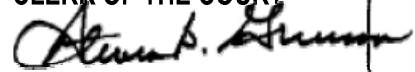
Kurt Heyman, Esq.
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Trustee for GR Burgr, LLC



An employee of PISANELLI BICE PLLC

TAB 30



BCO

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING)
COMPANY, LLC; PHWLTV, LLC; and)
ROWEN SEIBEL, an individual and citizen of New)
York, derivatively on behalf of Real Party of)
Interest GR BURGR LLC, a Delaware limited) CASE NO.: A-17-751759-B
liability company,) DEPT. NO.: XVI

Plaintiff,

Hearing Date: **September 11, 2018**

Hearing Time: **10:30 am**

v.

PHWLTV, LLC, a Nevada limited liability company;)
GORDON RAMSAY, an individual; DOES I) Consolidated With
through X; ROE CORPORATIONS I through X,)
Case No.: A-17-760537-B

Defendants

AND ALL RELATED MATTERS.

BUSINESS COURT ORDER

This Business Court Order ("Order") is entered to reduce the costs of litigation, to assist the parties in resolving their disputes if possible and, if not, to reduce the costs and difficulties of discovery and trial. This case is deemed complex and is automatically exempt from arbitration. This Order may be amended or modified by the Court upon good cause shown, and is made subject to any Orders that have heretofore been entered herein.

ACCORDINGLY, IT IS HEREBY ORDERED:

I. Mandatory Rule 16 Conference

A. Pursuant to NRCP 16, a mandatory case management conference with the Court and counsel/parties in proper person will be held on **Tuesday, September 11, 2018 at 10:30 a.m.** in Courtroom 3H of the Eighth Judicial District Court, Department XVI, 200 Lewis

1 Avenue, Las Vegas, Nevada 89155, unless before then the record shows that this case is in the
2 Court-Annexed Arbitration Program.

3 B. If the parties hold an Early Case Conference and prepare a Joint Case Conference
4 Report prior to the date and time set for the mandatory case management conference, a
5 courtesy copy of the parties' Joint Case Conference Report shall be submitted directly to the
6 District Court Judge in lieu of the Discovery Commissioner.
7

8 C. The purpose of this case management conference is to expedite settlement or other
9 appropriate disposition of the case. Counsel/parties in proper person must be prepared to
10 discuss the following:

- 11 (1) Status of settlement discussions and a review of possible court assistance;
- 12 (2) Alternative dispute resolution, if any, appropriate to this case;
- 13 (3) Simplification of issues;
- 14 (4) A summary of discovery conducted to date and the nature and timing of all
15 remaining discovery;
- 16 (5) Whether the parties believe an Electronic Filing and Service Order should be
17 entered;
- 18 (6) An estimate of the volume of documents and/or electronic information likely
19 to be the subject of discovery in the case from parties and nonparties and whether there are
20 technological means, including, but not limited to, production of electronic images rather than
21 paper documents and any associated protocol, that may render document discovery more
22 manageable at an acceptable cost;
- 23 (7) Identification of any and all document retention/destruction policies including
24 electronic data, and whether a demand for presentation of electronic data has been made;
- 25 (8) The extent to which electronic discovery may be relevant to the case, to
26
27
28

1 include scope, presentation, collection, review, format, search procedures and privilege;

2 (9) Whether the appointment of a special master or receiver is necessary and/or
3 may aid in the prompt disposition of this action;

4 (10) Any special case management procedures appropriate to this case;

5 (11) Trial setting; and

6 (12) Other matters as may aid in the prompt disposition of this action.

7
8 D. Trial or lead counsel for all parties are required to attend the case management
9 conference unless excused by the Court.

10 E. Parties desiring a settlement conference shall so notify the Court at the setting.

11 F. **Plaintiff is responsible for serving a copy of this Order upon counsel for all**
12 **parties who have not formally appeared in this case as of the date of the filing of this**
13 **order.**

14
15 **II. Pretrial Motions**

16 A. Any requests for injunctive relief must be made with notice to the opposing party
17 unless extraordinary circumstances exist. All parties shall advise the Court in writing if there
18 is an agreement to consolidate the trial on the merits with the preliminary injunction hearing
19 pursuant to NRCP 65(a)(2).

20
21 B. With the exception of motions in limine (see below), any motions which should
22 be addressed prior to trial – including, without limitation, motions for summary judgment –
23 shall be served, filed and scheduled for hearing as set forth in the applicable Trial Order.
24 Except upon a showing of unforeseen extraordinary circumstances, the Court will not shorten
25 time for the hearing of any such motions.

26
27 C. Motions in limine shall be served, filed and scheduled as set forth in the Trial
28 Order. Except upon a showing of unforeseen extraordinary circumstances, the Court will not

1 shorten time for the hearing of any such motions.

2 **III. Discovery**

3 A. Discovery disputes in this matter shall be handled by the District Court Judge
4 rather than the Discovery Commissioner.

5 B. A continuance of trial does not extend the deadline for completing discovery. A
6 request for an extension of the discovery deadline, if needed, must be presented in compliance
7 with EDCR 2.35.

8 C. A party objecting to a written discovery request must, in the original objection,
9 specifically detail the reasons that support the objection, and include affidavits or other
10 evidence for any factual assertions upon which an objection is based.

11 D. Documents produced in compliance with NRCP 16.1 or in a response to a written
12 discovery request, must be consecutively Bates stamped or numbered and accompanied by an
13 index with a reasonably specific description of the documents.

14 E. Any party, whether in compliance with NRCP 16.1 or in a response to a written
15 discovery request not producing all documents in its possession, custody or control, shall:

16 (1) identify any documents withheld with sufficient particularity to support a
17 Motion to Compel; and

18 (2) state the basis for refusing to produce the documents(s).

19 F. If photographs are produced in compliance with NRCP 16.1 or in a response to a
20 written discovery request, the parties are instructed to include one (1) set of color prints (Color
21 laser copies of sufficient clarity are acceptable), accompanied by a front page index, location
22 depicted in the photograph (with reasonable specificity) and the date the photograph was
23 taken. If color laser copies are deposited, any party wishing to view the original photographs
24 shall make a request to do so with the other party.
25
26
27
28

1 When a case is settled, counsel for the plaintiff and each unrepresented plaintiff of record
2 shall notify the District Court Judge in writing within twenty-four (24) hours of the settlement and
3 shall advise the Court of the identity of the party or parties who will prepare and present the
4 judgment, dismissal, or stipulation of dismissal, which shall be presented within twenty (20) days
5 of the notification of settlement.

6 Failure to comply with any provision of this Order may result in the imposition of
7 sanctions.
8

9 DATED: August 16, 2018.

10 
11 TIMOTHY C. WILLIAMS
12 District Court Judge

13 **CERTIFICATE OF SERVICE**

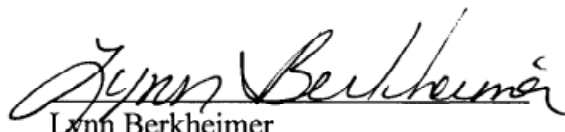
14 I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS**
15 **COURT ORDER** was E-Served to the following parties registered with Odyssey File &
16
17 Serve as follows:

18 William E Arnault	warnault@kirkland.com
19 Magali Mercera	mmm@pisanellibice.com
20 Cinda Towne	cct@pisanellibice.com
21 Jeffrey J Zeiger	jzeiger@kirkland.com
22 Paul Sweeney	PSweeney@certilmanbalin.com
23 Robert Atkinson	robert@nv-lawfirm.com
24 Litigation Paralegal	bknotices@nv-lawfirm.com
25 Kevin M. Sutehall	ksutehall@foxrothschild.com
26 "James J. Pisanelli, Esq."	lit@pisanellibice.com
27 "John Tennert, Esq."	jtennert@fclaw.com
28 Allen Wilt	awilt@fclaw.com

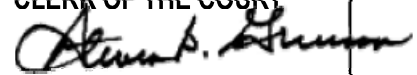
1	Brittnie T. Watkins .	btw@pisanellibice.com
2	Dan McNutt .	drm@cmlawnv.com
3	Debra L. Spinelli .	dls@pisanellibice.com
4	Diana Barton .	db@pisanellibice.com
5	Lisa Anne Heller .	lah@cmlawnv.com
6	Matt Wolf .	mcw@cmlawnv.com
7	Meg Byrd .	mbyrd@fclaw.com
8	PB Lit .	lit@pisanellibice.com
9	Steven Chaiken	sbc@ag-ltd.com
10	Christine Gioe	christine.gioe@lsandspc.com
11	Alan Lebensfeld	alan.lebenfeld@lsandspc.com
12	Doreen Loffredo	dloffredo@foxrothschild.com
13	Daniel McNutt	drm@cmlawnv.com
14	Nathan Rugg	nathan.rugg@bfkn.com
15	Brett Schwartz	brett.schwartz@lsandspc.com

And a copy mailed to:

Mark J. Connot, Esq.
 Fox Rothschild, LLP
 1980 Festival Plaza Drive, #700
 Las Vegas, NV 89135


 Lynn Berkheimer
 Judicial Executive Assistant

TAB 31



MARK J. CONNOT (SBN 10010)
KEVIN M. SUTEHALL (SBN 9437)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135
(702) 699-5924 tel
(702) 597-5503 fax
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

ALAN M. LEBENSFELD (*pro hac vice forthcoming*)
LEBENSFELD SHARON & SCHWARTZ P.C.
140 Broad Street
Red Bank, New Jersey 07701
(732) 530-4600 tel
(732) 530-4601 fax
Alan.lebensfeld@lsandspc.com
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING
COMPANY, LLC; PHWLTV, LLC; and
BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

Plaintiffs,

v.

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, LLC; TPOV
ENTERPRISES 16, LLC; DNT
ACQUISITION, LLC; GR BURGR, LLC;
And J. JEFFREY FREDERICK,

Defendants.

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

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

**ORDER GRANTING PROPOSED
PLAINTIFF IN INTERVENTION THE
ORIGINAL HOMESTEAD
RESTAURANT, INC. D/B/A THE OLD
HOMESTEAD STEAKHOUSE'S
MOTION TO INTERVENE**

//

//

//

1 On August 6, 2018, Proposed Plaintiff in Intervention The Original Homestead Restaurant,
2 Inc. d/b/a The Old Homestead Steakhouse ("OHR") filed its Motion to Intervene. The deadline to
3 file an opposition to the Motion pursuant to EDCR 2.20(e) passed and no oppositions were filed.

4 The Court conducted a hearing on OHR's Motion to Intervene on October 23, 2018 at
5 10:00 a.m. Having considered the papers and pleadings on file, and the argument of counsel for
6 the parties at the hearing, and with good cause appearing,

7 IT IS HEREBY ORDERED that Proposed Plaintiff in Intervention The Original
8 Homestead Restaurant, Inc. d/b/a The Old Homestead Steakhouse's Motion to Intervene is
9 GRANTED.


10 IT IS FURTHER ORDERED that OHR has 10 days from the date of entry of this Order to
11 file their Complaint in Intervention.

12 DATED this 23rd day of October, 2018.

13
14
15 
DISTRICT COURT JUDGE

16 Submitted by:

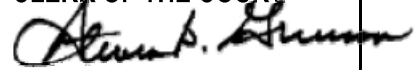
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18 **FOX ROTHSCHILD LLP**

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20 MARK J. CONNOT (SBN 10010)
21 KEVIN M. SUTEHALL (SBN 9437)
22 1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

23 **LEBENSFELD SHARON & SCHWARTZ P.C.**
24 ALAN M. LEBENSFELD (pro hac vice forthcoming)
25 140 Broad Street
26 Red Bank, New Jersey 07701
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

TAB 32



MARK J. CONNOT (SBN 10010)
KEVIN M. SUTEHALL (SBN 9437)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135
(702) 699-5924 tel
(702) 597-5503 fax
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

ALAN M. LEBENSFELD (*Admitted PHV*)
LEBENSFELD SHARON & SCHWARTZ P.C.
140 Broad Street
Red Bank, New Jersey 07701
(732) 530-4600 tel
(732) 530-4601 fax
Alan.lebensfeld@lsandspc.com
Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING
COMPANY, LLC; PHWL, LLC; and
BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

Plaintiffs,

v.

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, LLC; TPOV
ENTERPRISES 16, LLC; DNT
ACQUISITION, LLC; GR BURGR, LLC;
And J. JEFFREY FREDERICK,

Defendants.

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

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

NOTICE OF ENTRY OF ORDER
GRANTING PROPOSED PLAINTIFF
IN INTERVENTION THE ORIGINAL
HOMESTEAD RESTAURANT, INC.
D/B/A THE OLD HOMESTEAD
STEAKHOUSE'S MOTION TO
INTERVENE

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PLEASE TAKE NOTICE that an Order Granting Proposed Plaintiff in Intervention The Original Homestead Restaurant, Inc. d/b/a The Old Homestead Steakhouse's Motion to Intervene, was entered in the above-entitled matter on October 23, 2018, a copy of which is attached hereto.

DATED this 23rd day of October, 2018.

FOX ROTHSCCHILD LLP

/s/ Kevin M. Sutehall

MARK J. CONNOT (SBN 10010)

KEVIN M. SUTEHALL (SBN 9437)

1980 Festival Plaza Drive, #700

Las Vegas, Nevada 89135

LEBENSFELD SHARON & SCHWARTZ P.C.

ALAN M. LEBENSFELD (*Admitted PHV*)

140 Broad Street

Red Bank, New Jersey 07701

Attorneys for Plaintiff in Intervention

The Original Homestead Restaurant, Inc.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on the 23rd day of October, 2018, I caused the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING PROPOSED PLAINTIFF IN INTERVENTION THE ORIGINAL HOMESTEAD RESTAURANT, INC. D/B/A THE OLD HOMESTEAD STEAKHOUSE'S MOTION TO INTERVENE** to be served via electronic service through the Court's Odyssey File and Serve system and/or by U.S. Mail, postage prepaid, addressed as follows:

James J. Pisanelli, Esq.
Debra Spinelli, Esq.
M. Magali Mercera, Esq.
Brittnie Watkins, Esq.
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101

JJP@pisanellibice.com
DLS@pisanellibice.com
MMM@pisanellibice.com
BTW@pisanellibice.com
Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
McNutt Law Firm, PC
625 South Eighth Street
Las Vegas, NV 89101
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

Paul B. Sweeney, Esq.
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554
psweeney@certilmanbalin.com

Nathan Q. Rugg, Esq. (*Admitted PHV*)
Barack Ferrazzano Kirschbaum &
Nagelberg LLP
200 W. Madison Street, Ste. 3900
Chicago, IL 60606
Nathan.rugg@gfkn.com

Steven B. Chaiken, Esq. (*Admitted PHV*)
Adelman & Gettleman, Ltd.
53 West Jackson Blvd., Ste. 1050
Chicago, IL 60604
sbc@ag-ltd.com
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;
and TPOV Enterprises 16, LLC

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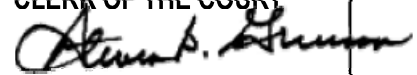
Allen J. Wilt, Esq.
John D. Tennert, Esq.
Fennemore Craig, PC
300 East Second Street, Suite 1510
Reno, NV 89501
awilt@fclaw.com
jtennert@fclaw.com
Attorneys for Gordon Ramsay

Robert E. Atkinson, Esq.
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
robert@nv-lawfirm.com
Attorney for J. Jeffrey Frederick

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 23rd day of October, 2018.

/s/ Doreen Loffredo
An employee of FOX ROTHSCHILD LLP



MARK J. CONNOT (SBN 10010)
KEVIN M. SUTEHALL (SBN 9437)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135
(702) 699-5924 tel
(702) 597-5503 fax
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

ALAN M. LEBENSFELD (*pro hac vice forthcoming*)
LEBENSFELD SHARON & SCHWARTZ P.C.
140 Broad Street
Red Bank, New Jersey 07701
(732) 530-4600 tel
(732) 530-4601 fax
Alan.lebensfeld@lsandspc.com
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING
COMPANY, LLC; PHWLTV, LLC; and
BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

Plaintiffs,

v.

ROWEN SEIBEL; LLTQ
ENTERPRISES, LLC; LLTQ
ENTERPRISES 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI PARTNERS, LLC;
MOTI PARTNERS 16, LLC; TPOV
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ENTERPRISES 16, LLC; DNT
ACQUISITION, LLC; GR BURGR, LLC;
And J. JEFFREY FREDERICK,

Defendants.

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

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

**ORDER GRANTING PROPOSED
PLAINTIFF IN INTERVENTION THE
ORIGINAL HOMESTEAD
RESTAURANT, INC. D/B/A THE OLD
HOMESTEAD STEAKHOUSE'S
MOTION TO INTERVENE**

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1 On August 6, 2018, Proposed Plaintiff in Intervention The Original Homestead Restaurant,
2 Inc. d/b/a The Old Homestead Steakhouse ("OHR") filed its Motion to Intervene. The deadline to
3 file an opposition to the Motion pursuant to EDCR 2.20(e) passed and no oppositions were filed.

4 The Court conducted a hearing on OHR's Motion to Intervene on October 23, 2018 at
5 10:00 a.m. Having considered the papers and pleadings on file, and the argument of counsel for
6 the parties at the hearing, and with good cause appearing,

7 IT IS HEREBY ORDERED that Proposed Plaintiff in Intervention The Original
8 Homestead Restaurant, Inc. d/b/a The Old Homestead Steakhouse's Motion to Intervene is
9 GRANTED.

10 IT IS FURTHER ORDERED that OHR has 10 days from the date of entry of this Order to
11 file their Complaint in Intervention.

12 DATED this 23rd day of October, 2018.

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DISTRICT COURT JUDGE

16 Submitted by:

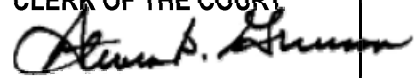
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Las Vegas, Nevada 89135

23 **LEBENSFELD SHARON & SCHWARTZ P.C.**
24 ALAN M. LEBENSFELD (pro hac vice forthcoming)
25 140 Broad Street
26 Red Bank, New Jersey 07701
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

TAB 33



MARK J. CONNOT (SBN 10010)
KEVIN M. SUTEHALL (SBN 9437)

FOX ROTHSCHILD LLP

1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135
(702) 699-5924 tel
(702) 597-5503 fax
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ALAN M. LEBENSFELD (*Admitted PHV*)
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140 Broad Street
Red Bank, New Jersey 07701
(732) 530-4600 tel
(732) 530-4601 fax
Alan.lebensfeld@lsandspc.com
Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING
COMPANY, LLC; PHWL, LLC; and
BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

Plaintiffs,

v.

ROWEN SEIBEL; LLTQ
ENTERPRISES, LLC; LLTQ
ENTERPRISES 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI PARTNERS, LLC;
MOTI PARTNERS 16, LLC; TPOV
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ENTERPRISES 16, LLC; DNT
ACQUISITION, LLC; GR BURGR, LLC;
And J. JEFFREY FREDERICK,

Defendants.

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

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

COMPLAINT IN INTERVENTION

THE ORIGINAL HOMESTEAD
RESTAURANT, INC. d/b/a the OLD
HOMESTEAD STEAKHOUSE,

Plaintiff in intervention,

v.

DESERT PALACE, INC.,

Defendant in intervention.

COMPLAINT IN INTERVENTION

The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse (“**Plaintiff in Intervention**” or “**OHR**”), by and through its attorneys of record Fox Rothschild LLP and Lebensfeld Sharon & Schwartz P.C., and pursuant to Rule 24 of the Nevada Rules of Civil Procedure, files this Complaint in Intervention against Defendant Desert Palace, Inc., (“**Defendant in Intervention**” or “**Caesars**”), and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. OHR is a corporation duly organized and existing under and by virtue of the laws of the State of New York, with its principal offices and place of business located at 56 9th Avenue, New York, New York 10011-4901.

2. Caesars is a Nevada corporation that operates Caesars Palace casino (“**Caesars Palace**”) with its principal place of business located at 3570 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

3. This Court has jurisdiction over this complaint-in-intervention and venue is proper because the agreements, acts, events, occurrences, decisions, transactions, and/or omissions giving rise to this lawsuit occurred or were performed in Clark County, Nevada.

4. This Court has personal jurisdiction over Caesars pursuant to NRS 14.065.

5. This Court has granted Plaintiff’s Motion to Intervene, thereby granting Plaintiff leave to file this complaint-in-intervention pursuant to NRCP 24.

GENERAL ALLEGATIONS

6. OHR is the developer and owner of a distinctive proprietary system for operating steakhouses under the Old Homestead Steakhouse® trade name which includes, without limitation, signature products, unique menus and menu items, ingredients, recipes, methods of preparation, specifications for food products and beverages, methods of inventory, operations control, and equipment and design (collectively, the "**Old Homestead System**").

7. OHR also is the owner of distinctive service marks, trademarks, designs, trade dress, service names, logos, emblems and indicia of origin, including, but not limited to, a registered mark for the Old Homestead Steakhouse® (the "**Old Homestead Marks**").

8. OHR further possesses certain copyrights, works of authorship, programs, techniques, processes, formulas, developmental and experimental work, works in process, methods and trade secrets (the "**Old Homestead Materials**"), which it uses in connection with the Old Homestead System and Old Homestead Marks, and in Old Homestead Steakhouses.®

9. For more than a century, OHR (and/or its predecessors-in-interest) have owned and operated the legendary Old Homestead Steakhouse® located in downtown Manhattan, which is believed to be New York's oldest, continuously operating steakhouse.

10. In addition to operating its legacy New York City restaurant, OHR currently licenses the Old Homestead System, Old Homestead Marks and Old Homestead Materials to: (i) MGM Resorts, which operates an Old Homestead Steakhouse® in the Borgata Hotel, Casino & Spa in Atlantic City; and (ii) Caesars, which operates and manages an Old Homestead Steakhouse® in Caesars Palace.

11. OHR is one of the two Members of DNT Acquisition, LLC ("**DNT**"), holding a fifty (50%) ownership interest therein. At all relevant times herein, R Squared Global Solutions LLC ("**RSG**") held the remaining fifty (50%) percent ownership interest in DNT.

12. At all relevant times, RSG's sole manager and member was, and in fact through this date remains, Rowen Seibel ("**Seibel**").

13. DNT is a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware, with its principal offices and places of business located at 56 9th Avenue, New York, New York 10014, and 200 Central Park South, 19th Floor, New York, New York 10019.

14. Seibel was, and upon information and belief remains, a manager of DNT.

The Licensing Agreement Among Caesars, DNT and OHR

15. As a gaming entity, Caesars is a highly regulated business, existing by virtue of privileged licenses granted to it by governmental authorities, and subject to rigorous regulation by the Nevada Gaming Commission.

16. On June 6, 2011 and in anticipation of entering into a sub-license agreement with Caesars, Seibel completed and submitted to Caesars and OHR a "Business Information Form" ("BIF"), in which Seibel individually and on behalf of DNT represented under oath, among other things, that he had not been a party to a felony in the last ten (10) years, and that there was nothing "that would prevent [him] from being licensed by a gaming authority."

17. In express reliance upon the BIF, on or about June 21, 2011, Caesars entered into a Development, Operation and License Agreement with OHR and DNT (the "DNT Sub-License Agreement"). Pursuant to the DNT Sub-License Agreement, the Old Homestead System, Old Homestead Marks and Old Homestead Materials were licensed to Caesars for its operation and management of an Old Homestead Steakhouse in Caesars Palace.

The Relevant Terms of the DNT Sub-License Agreement

18. In relevant part, the DNT Sub-License Agreement provided as follows:

- B. OH[R] has developed, and owns and operates, a restaurant concept known as the "Old Homestead Steakhouse" which currently has locations at 56 9th Avenue, New York, New York, and in the Borgata Resort Hotel Casino located in Atlantic City, New Jersey;
- C. OH[R] has developed and owns a distinctive proprietary system for operating steakhouses under the "Old Homestead Steakhouse" trade name...;

- 1 E. OH[R] possesses the exclusive right to license the Old Homestead System,
2 the Old Homestead Marks and the Old Homestead Materials ..., and has
3 licensed DNT to utilize the same in connection with, and for the purposes
4 specified in, this Agreement;
- 5 F. DNT, through its members or the principals of its members, Marc Sherry,
6 Greg Sherry and Rowen Seibel (collectively, the "Principals"), possesses
7 certain qualifications, expertise and a reputation in the development and
8 operation of first-class restaurants;
- 9 G. DNT, as a licensee of OH[R], possesses the right to utilize and further
10 sublicense the Old Homestead System, Old Homestead Marks and Old
11 Homestead Materials, as herein below set forth; ...
- 12 I. Caesars desires to obtain a sub-license from DNT to utilize the Old
13 Homestead System, the Old Homestead Marks and the Old Homestead
14 Materials in connection with the Restaurant, and ... to perform certain
15 services and fulfill certain obligations with respect to consultation
16 concerning the design, development, construction and operation of the
17 Restaurant in accordance with the terms hereof

18 §6. **LICENSE.**

19 §6.1. **Marks and Materials.** Each of OH[R], . . . represent and warrant to
20 Caesars that OH[R] is and at all times during the Term will be the sole
21 owner of the Old Homestead Marks, Old Homestead Materials and Old
22 Homestead System

23 §6.2. **Ownership.**

24 §6.2.1. **By OH[R].** Caesars acknowledges and agrees that OH[R] is the owner of
25 the Old Homestead Marks, Old Homestead Materials and Old Homestead
26 System and that all use of the Old Homestead Marks (including, without
27 limitation, any goodwill generated by such use) shall inure to the benefit
28 of OH[R]

§6.3. **Intellectual Property License.** DNT hereby grants to Caesars ... a sub-
license, during the Term (the "License"), to use and employ the Old
Homestead Marks, the Old Homestead System and the Old Homestead
Materials on and in connection with the operation of the Restaurant. ...

§3.4.1. **Menu Development.** DNT shall develop the initial food and beverage
menus of the Restaurant, subject to the ultimate final approval of Caesars,
and the recipes for same, and thereafter, DNT shall revise the food and
beverage menus of the Restaurant, subject to the ultimate final approval of
Caesars, and the recipes for same (the "Menu Development Services"), all
of which recipes shall be owned by OH[R].

§4.1. **Term.** The initial term of this Agreement shall commence on the Effective Date and shall expire on that date that is ten (10) years from the date on which the Restaurant first opens to the general public for business (the "Opening Date"), unless extended by Caesars or unless earlier terminated pursuant to the terms hereof (the "Initial Term"). ...

§4.2. **Termination.**

§4.2.1. **For Convenience.** At any time following the second anniversary of the Opening Date, this Agreement may be terminated by Caesars by written notice to the DNT Parties [¹] specifying the date of termination.

§4.2.2. **Breach of Standards.** This Agreement may be terminated by Caesars upon written notice to the DNT Parties having immediate effect if following a breach of Section 11.1 of this Agreement, Caesars sends written notice of such breach to the DNT Parties and the DNT Parties fail to cure such material breach within thirty (30) days after receipt of such notice.

§11. **STANDARDS; PRIVILEGED LICENSE.**

§11.1. **Standards.** The DNT Parties acknowledge that the Caesars Palace is an exclusive first-class resort hotel casino and that the Restaurant shall be an exclusive first-class restaurant and that the maintenance of Caesars', the Old Homestead Marks', Caesars Palace's and the Restaurant's reputation and the goodwill of all of Caesars', Caesars Palace's and the Restaurant's guests and invitees is absolutely essential to Caesars, and that any impairment thereof whatsoever will cause great damage to Caesars. The DNT Parties therefore covenant and agree that (a) they shall not and they shall cause their Affiliates [²] not to use or license Old Homestead Marks, Old Homestead Materials or Old Homestead System in a manner that is inconsistent with, or take any action that dilutes or denigrates, the current level of quality, integrity and upscale positioning associated with the Old Homestead Marks, Old Homestead Materials and Old Homestead System and (b) they shall, and they shall cause their Affiliates to, conduct themselves in accordance with the highest standards of honesty, integrity,

¹ The agreement defines a "DNT Party" or "DNT Parties" to mean either of DNT or OHR, or both DNT and OHR.

² The agreement defines "Affiliate [to] mea[n], with respect to a specified Person, any other Person who or which is directly or indirectly controlling, controlled by, or under common control with, the specified Person, or any member, stockholder or comparable principal of, the specified Person, or such other Person. For purposes of this definition, "control", "controlling" and/or "Controlled" mean the right to exercise, directly or indirectly, at least five percent (5%) of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of the controlled Person. ..." (bolding added)

quality and courtesy so as to maintain and enhance the reputation and goodwill of Caesars, the Old Homestead Marks, the Old Homestead Materials, the Old Homestead System, the Caesars Palace and the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the operation of an exclusive, first-class resort hotel casino and an exclusive, first-class restaurant. The DNT Parties shall use commercially reasonable efforts to continuously monitor the performance of each of its and its Affiliates' respective agents, employees, servants, contractors and licensees and shall ensure the foregoing standards are consistently maintained by all of them. **Any failure by any of the DNT Parties, their Affiliates or any of their respective agents, employees, servants, contractors or licensees to maintain the standards described in this Section 11.1 shall, in addition to any other rights or remedies Caesars may have, give Caesars the right to terminate this Agreement pursuant to Section 4.2.2 in its sole and absolute discretion.**

§4.2.3. **Unsuitability.** This Agreement may be terminated by Caesars upon written notice to the DNT Parties having immediate effect as contemplated by Section 11.2.

§11.2 **Privileged License.** The DNT Parties acknowledges that Caesars and Caesars' Affiliates are businesses that are or may be subject to and exist because of privileged licenses issued by U.S., state, local and foreign governmental, regulatory and administrative authorities, agencies, boards and officials (the "Gaming Authorities") responsible for or involved in the administration of application of laws, rules and regulations relating to gaming or gaming activities or the sale, distribution and possession of alcoholic beverages. The Gaming Authorities require Caesars, and Caesars deems it advisable, to have a compliance committee (the "Compliance Committee") that does its own background checks on, and issues approvals of Persons involved with Caesars and its Affiliates. Prior to the execution of this Agreement and, in any event, prior to the payment of any monies by Caesars to the DNT Parties hereunder, and thereafter on each anniversary of the Opening Date during the Term, (a) the DNT Parties shall provide to Caesars written disclosure regarding the DNT Associates, and (b) the Compliance Committee shall have issued approvals of the DNT Associates. Additionally, during the Term, on ten (10) calendar days written request by Caesars to the DNT Parties, the DNT Parties shall disclose to Caesars the identity of all DNT Associates. [3] **To** the extent that any prior disclosure becomes inaccurate, the DNT

³ Section 2.2 of the DNT Sub-License Agreement provides, in relevant part, that "the rights and obligations of each party under this Agreement ... is conditioned upon ... (a) submission by the DNT Parties to Caesars of all information requested by Caesars regarding the DNT Parties, their Affiliates and the directors and officers of each as well as the employees, agents, representatives and other associates of the DNT Parties or any of their Affiliates (all of the foregoing, "**DNT Associates**") to ensure that none of the foregoing is an Unsuitable Person; and (b) Caesars being

Parties shall, within ten (10) calendar days from the event, update the prior disclosure without Caesars making any further request. The DNT Parties shall cause all DNT Associates to provide all requested information and apply for and obtain all necessary approvals required or requested by Caesars or the Gaming Authorities. If any DNT Associate fails to satisfy or such requirement, ... or if Caesars shall determine, in Caesars' sole and exclusive judgment, that any DNT Associate is an Unsuitable Person, ..., then, immediately following notice by Caesars to DNT, (a) the DNT Parties shall terminate any relationship with the Person who is the source of such issue, (b) the DNT Parties shall cease the activity or relationship creating the issue to Caesars' satisfaction, in Caesars' sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by Caesars in its sole discretion, Caesars shall, without prejudice to any other rights or remedies of Caesars including at law or in equity, have the right to terminate this Agreement and its relationship with the DNT Parties. ... Any termination by Caesars pursuant to this Section 11.2 shall not be subject to dispute by the DNT Parties.... (italics and emphasis supplied)

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*

"*Unsuitable Person*" is any Person (a) whose association with Caesars or its Affiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by Caesars or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with Caesars or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol to which Caesars or its Affiliates are subject, (c) who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of Caesars or its Affiliates, or (d) who is required to be licensed, registered, qualified or found suitable under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol under which Caesars or any of its Affiliates is licensed, registered, qualified or found suitable, and such Person is not or does not remain so licensed, registered, qualified or found suitable.

§4.3.2. **Certain Rights of Caesars Upon Expiration or Termination.**

- (b) Caesars shall retain all right, title and interest in and to the Restaurant Premises except for the Old Homestead Marks, Old Homestead Materials, and Old Homestead System;

satisfied, in its sole discretion, that no DNT Associate is an Unsuitable Person." (emphasis supplied)

- (c) Caesars shall retain all right, title and interest in and to the furniture, fixtures, equipment, inventory, supplies and other tangible and intangible assets used or held for use in connection with the Restaurant, except as expressly provided in Section 4.3.3;
- (d) Caesars shall retain all right, title and interest in and to Caesars Marks and Materials; and
- (e) Caesars shall have the right, but not the obligation, immediately or at any time after such expiration or termination, to operate a restaurant in the Restaurant Premises; provided, however, such restaurant shall not employ the Restaurant's food and beverage menus or recipes developed by DNT pursuant to Section 3.4 or use any of the Old Homestead Marks, Old Homestead Materials or Old Homestead System.

§8.2 **Timing and Manner of Payment**

. . . Unless otherwise directed in a written instrument signed by OHS, DNT and Rowen Seibel, it is agreed that Caesars shall pay all amounts due to DNT pursuant to this Agreement as follows:

8.2.1 The four percent (4%) License Fee due to DNT pursuant to Section 8.1.1 (a) shall be paid two and one-half percent (2.5%) to OHS and one and one-half percent (1.5%) to Rowen Seibel or his designee.

8.2.2 The eight percent (8%) License Fee (if any) due DNT pursuant to Section 8.1.1(b) shall be paid four percent (4%) to OHS and four percent (4%) to Rowen Seibel or his designee.

8.2.3 The Net Profits (if any) due DNT pursuant to Section 8.1.5 shall be paid fifty percent (50%) to OH[R] and fifty percent (50%) to Rowen Seibel or his designee.

19. As a signatory party and pursuant to Section 8.2 of the DNT Sub-License Agreement, OHR had and still retains the right to receive payment of its share of the License Fees and Net Profits directly from Caesars.

20. From on or about June 21, 2011 until September 21, 2016 and pursuant to the DNT Sub-License Agreement, Caesars operated and managed an Old Homestead Steakhouse in Caesars Palace.

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Caesars Files for Chapter 11 Bankruptcy Protection:

21. On January 15, 2015, Caesars filed a Chapter 11 Petition (“**Petition**”) in the United States Bankruptcy Court for the Northern District of Illinois under Case No. 15-01145 (the “**Caesars Bankruptcy Proceedings**”).

22. At the time of Caesars’ filing of the Petition and pursuant to the terms of the DNT Sub-License Agreement, License Fees in the aggregate amount of \$204,964.75 lawfully were due and owing to DNT (the “**Pre-Petition License Fees**”), with a proportionate share payable directly by Caesars to OHR.

23. On or about April 30, 2015, OHR filed a proof of claim in the Caesars Bankruptcy Proceedings seeking recovery of the Pre-Petition License Fees. Through the date hereof, those fees have not been paid either to OHR or DNT, as explained herein below

24. Subsequent to the filing of its Petition, Caesars proposed to DNT and OHR to assume (as opposed to rejecting) the DNT Sub-License Agreement, albeit on modified financial terms.

25. For several months thereafter, Caesars and DNT, through their respective bankruptcy counsel, engaged in negotiations with respect to the modified DNT Sub-License Agreement to be assumed by Caesars in its eventual Plan of Reorganization.

Seibel Pleads Guilty To A Federal Crime

26. Commencing in or about 2004 and continuing through in or about the first part of 2016, Seibel was engaged in a covert criminal enterprise involving, among other things, rampant tax fraud through the maintenance of Swiss bank accounts not reported to the Internal Revenue Service.

27. On April 18, 2016, as a result of a criminal investigation conducted by, and a plea deal reached with, the United States Attorney’s Office for the Southern District of New York, a criminal information was filed against Seibel, charging him with having corruptly attempted to obstruct or impede the administration of the Internal Revenue laws, in violation of 26 U.S.C. §7212(a). See In United States of America v. Rowen Seibel, U.S.D.C., S.D.N.Y., Case Number 15 CRIM 279.

28. On that same day, April 18, 2016, Seibel pleaded guilty to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212(a), a Class E Felony (the “**Guilty Plea**”).

29. Seibel’s entry of the Guilty Plea represented, among other things, a tacit admission that the BIF he previously had submitted to Caesars, DNT and OHR in June 2011 was intentionally false and misleading.

30. On August 19, 2016, Seibel appeared before United States District Court Judge William H. Pauley III for his sentencing hearing, wherein he was sentenced to thirty (30) days in prison, six (6) months of home confinement and 300 hours of community service.

31. The very next day, i.e., August 20, 2016, multiple news services ran articles across the internet with the headline “Gordon Ramsey’s Business Partner [Seibel] Gets Jail Time for Tax Evasion Scheme,” and stating, in relevant part, as follows:

A wealthy Manhattan restaurateur [Seibel] was sentenced to a month in the slammer for lying to the IRS about more than \$1 million he stashed in Switzerland as part of a years-long tax evasion scheme.

32. At no time prior to August 20, 2016, did Seibel disclose to DNT, OHR or Caesars his submission of the false and misleading BIF, his engagement in felonious conduct, his entry of the Guilty Plea, or his criminal sentencing.

Caesars Terminates The DNT Sub-License Agreement

33. As a result of the foregoing events, on September 2, 2016, Caesars’ counsel forwarded a letter to Seibel and his counsel, stating, in relevant part, as follows:

Pursuant to Section 11.2 of the Agreement, the DNT Parties have acknowledged and agree that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 11.2 provides that Caesars determines, in its sole and absolute judgment, that any DNT Associate is an Unsuitable Person, the DNT Parties shall cease the activity or relationship creating the issue.

Caesars is aware that Rowen Seibel, who is a DNT Associate under the Agreement, has recently pleaded guilty to a one-count criminal

1 information charging him with impeding the administration of the Internal
2 Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and
3 impede the due administration of the Internal Revenue Laws), a Class E
4 Felony. Such felony conviction renders Rowen Seibel an Unsuitable
5 Person.

6 Therefore, the DNT Parties shall, within 10 business days of the receipt of
7 this letter, terminate any relationship with Mr. Seibel and provide Caesars
8 with written evidence of such terminated relationship. If the DNT Parties
9 fails to terminate the relationship with Mr. Seibel, Caesars will be
10 required to terminate the Agreement pursuant to Section 4.2.3 of the
11 Agreement.

12 34. On September 21, 2016, Caesars terminated the DNT Sub-License Agreement
13 based upon, among other things, Seibel's criminal conviction and failure to dissociate himself
14 from DNT, stating in relevant part, as follows:

15 As of 11:59 p.m. on September 20, 2016, Caesars had not received any
16 evidence that DNT and OHS have disassociated with Rowen Seibel an
17 individual who is an Unsuitable Person, pursuant to the Agreement.

18 Because DNT and OHS have failed to disassociate with an Unsuitable
19 Person, Caesars hereby terminates the Agreement pursuant to Section
20 4.2.3 of the Agreement, effective immediately.

21 35. Following Caesar's proper termination of the DNT Sub-License Agreement, OHR
22 and Caesars entered into a new License Agreement, pursuant to which OHR directly licensed to
23 Caesars the right and privilege to operate and manage an Old Homestead Steakhouse® in
24 Caesars Palace, utilizing the Old Homestead System, Old Homestead Marks and Old Homestead
25 Materials – OHR's proprietary assets to which RSG and Seibel had forfeited all rights.

26 **Caesars' Refusal to Pay the Pre-Petition License Fees**

27 36. On January 17, 2017, Caesars' Third Amended Plan of Reorganization as
28 modified, dated January 13, 2017 (the "**Bankruptcy Plan**"), was confirmed in the Bankruptcy
Proceedings. The Plan subsequently was declared effective as of October 6, 2017.

37. Pursuant to the Bankruptcy Plan, DNT and OHR are Class M Holders of an
"Allowed Par Recovery Unsecured Claim," and are entitled to "receive recovery in full of [their]

1 Allowed Par Recovery Unsecured Claim, including Post-Petition Interest from [their] Pro Rata
2 share of (but in no event more than payment in full (with Post-Petition interest), as follows:

- 3
- 4 (i) . . . New CEC Convertible Notes, which shall be convertible
5 pursuant to the terms of the New CEC Convertible Notes
6 Indenture in the aggregate for up to 0.167% of new CEC
7 Common Equity on a fully diluted basis; and
- 8 (ii) OpCo Series A Preferred Stock, which shall be exchanged
9 pursuant to the CEOC Merger for 0.52% of the New
10 CEC Common Equity on a fully diluted basis (giving effect
11 to the issuance of the New CEC Convertible Notes),
12 which shall be approximately equivalent to 0.582% of New
13 CEC Common Equity before giving effect to the conversion
14 of the New CEC Convertible Notes. (collectively,
15 the “**Plan Notes/Stock**”)

16 38. The foregoing notwithstanding and despite OHR’s demands therefor, Caesars has
17 refused to issue and deliver to DNT the Plan Notes/Stock (or, alternatively, to issue and deliver
18 to OHR its proportionate share thereof, as is its right), claiming that notwithstanding the clear
19 and unambiguous terms of the Bankruptcy Plan, it was prohibited from doing so pursuant to
20 Nevada gaming regulations; to wit, by reason of Seibel having been determined to be an
21 “unsuitable person” more than one year after the Pre-Petition License Fees lawfully had become
22 due and owing to OHR pursuant to the then extant DNT Sub-License Agreement.

23 39. As a matter of contract and law, OHR lawfully is entitled to be issued and to
24 receive its proportionate share of the Plan Notes/Stock from Caesars pursuant to and in
25 accordance with the relevant terms of the Bankruptcy Plan.

26 40. The foregoing notwithstanding, in its complaint filed herein Caesars has sought a
27 declaratory judgment, adjudicating that it does not have any current or future obligation to DNT
28 (and thus by implication, to OHR) to issue and distribute the Plan Notes/Stock.

41. As a result of the foregoing, there presently exists a justiciable dispute and
controversy by and between OHR and Caesars, if not between Caesars and DNT, as to Caesars’
obligation to issue and deliver to OHR its proportionate share of the Plan Notes/Stock.

FIRST CAUSE OF ACTION
(Declaratory Judgment Against Caesars)

42. Plaintiff repeats and realleges the allegations of the foregoing paragraphs as if fully set forth herein.

43. NRS 30.040(1) provides that "[a]ny person interested under [a written contract] or whose rights, status or other legal relations are affected by a [contract] may have determined any question of construction or validity arising under the [contract] and obtain a declaration of rights, status or other legal relations thereunder."

44. OHR disputes Caesars' determination that it has no current or future obligation to issue and deliver to OHR its proportionate share of the Plan Notes/Stock by reason of Seibel's actions and its *ex post facto* determination that Seibel was an "unsuitable person."

45. OHR therefore seeks a declaration that Caesars is required to issue and deliver to OHR its proportionate share of (or alternatively, to issue and deliver to DNT) the Plan Notes/Stock in accordance with the terms and conditions of the Bankruptcy Plan.

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1 **WHEREFORE**, OHR respectfully prays for judgment as follows:

2 1. Declaratory Relief as requested herein; and

3 2. Awarding to OHR such other and further relief that the Court deems just and
4 proper under the circumstances.

5 DATED this 24th day of October, 2018.

6
7 **FOX ROTHSCHILD LLP**

8
9 /s/ Mark J. Connot

10 MARK J. CONNOT (SBN 10010)
11 KEVIN M. SUTEHALL (SBN 9437)
12 1980 Festival Plaza Drive, #700
13 Las Vegas, Nevada 89135

14 **LEBENSFELD SHARON & SCHWARTZ P.C.**

15 /s/ Alan M. Lebensfeld

16 ALAN M. LEBENSFELD (*Admitted PHV*)
17 140 Broad Street
18 Red Bank, New Jersey 07701
19 Attorneys for Plaintiff in Intervention
20 The Original Homestead Restaurant, Inc.
21
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on the 24th day of October, 2018, I caused the above and foregoing **COMPLAINT IN INTERVENTION** to be served via electronic service through the Court's Odyssey File and Serve system and/or by U.S. Mail, postage prepaid, addressed as follows:

James J. Pisanelli, Esq.
Debra Spinelli, Esq.
M. Magali Mercera, Esq.
Brittnie Watkins, Esq.
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101

JJP@pisanellibice.com
DLS@pisanellibice.com
MMM@pisanellibice.com
BTW@pisanellibice.com
Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
McNutt Law Firm, PC
625 South Eighth Street
Las Vegas, NV 89101
drm@mcnuttlawfirm.com
mcw@mcnuttlawfirm.com

Paul B. Sweeney, Esq.
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554
psweeney@certilmanbalin.com

Nathan Q. Rugg, Esq. (*Admitted PHV*)
Barack Ferrazzano Kirschbaum &
Nagelberg LLP
200 W. Madison Street, Ste. 3900
Chicago, IL 60606
Nathan.rugg@gfkn.com

Steven B. Chaiken, Esq. (*Admitted PHV*)
Adelman & Gettleman, Ltd.
53 West Jackson Blvd., Ste. 1050
Chicago, IL 60604
sbc@ag-ltd.com
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;
and TPOV Enterprises 16, LLC

1 Allen J. Wilt, Esq.
2 John D. Tennert, Esq.
3 Fennemore Craig, PC
4 300 East Second Street, Suite 1510
5 Reno, NV 89501
6 awilt@fclaw.com
7 jtennert@fclaw.com
8 *Attorneys for Gordon Ramsay*

Robert E. Atkinson, Esq.
Atkinson Law Associates Ltd.
8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123
robert@nv-lawfirm.com
Attorney for J. Jeffrey Frederick

9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED this 24th day of October, 2018.

11 /s/ Doreen Loffredo
12 An employee of FOX ROTHSCHILD LLP
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TAB 34

Steven D. Grierson

OSCJC

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, 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 BURGER LLC, a Delaware limited
liability company,

Nominal Plaintiff

AND ALL RELATED CLAIMS

Case No. A-17-751759-B

Dept No. XVI

CONSOLIDATED WITH:

Case No.: A-17-760537-B

ENTERED

BUSINESS COURT SCHEDULING ORDER SETTING

CIVIL JURY TRIAL AND PRE-TRIAL CONFERENCE/CALENDAR CALL

This BUSINESS COURT SCHEDULING ORDER SETTING TRIAL ("Scheduling Order") is entered following the Rule 16 conference conducted on October 23, 2018. Pursuant to NRCP 16.1(f) this case has been deemed complex and all discovery disputes will be resolved by this Court. Based upon the information presented at the conference and the agreement of the parties, EDCR Rule 2.55 is superseded by this Scheduling Order. This

1 Order may be amended or modified by the Court upon good cause shown.

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

3 Motions to amend pleadings or add parties **February 4, 2019**

4 Designation of experts pursuant to NRCP 16.1(a)(2) **February 4, 2019**

5 Designation of rebuttal experts pursuant to NRCP 16.1(a)(2) **March 4, 2019**

6 Discovery Cut Off **May 6, 2019**

7 Motions in Limine or other Dispositive Motions **June 3, 2019**

8
9
10 **IT IS HEREBY ORDERED** that based on the discussions at the Rule 16 Conference, the
11 depositions will have a seven (7) hour limitation, unless the parties stipulate otherwise.

12 **IT IS HEREBY ORDERED** that a Status Check re status of case/Proposed Trial
13 Protocol/Electronically Stored Information has been set for **February 28, 2019 at 9:00 a.m.**

14
15 **IT IS HEREBY ORDERED THAT:**

16 A. The above entitled case is set to be tried to a jury on a five week stack to begin
17 **October 14, 2019 at 9:30 a.m.**

18 B. A calendar call will be held on **October 3, 2019 at 10:30 a.m.** Parties must bring to
19 Calendar Call the following:

- 20 (1) Typed exhibit lists;
21 (2) List of depositions;
22 (3) Courtesy copies of any legal briefs on trial issues.

23 The Final Pretrial Conference may be set at the time of the Calendar Call.

24 C. The Pre-Trial Memorandum must be filed no later than **October 1, 2019** with a
25 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
26 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
27 in the Memorandum an identification of orders on all motions in limine or motions for partial
28

1 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
2 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
3 as any objections to the opinion testimony.

4 D. All motions in limine must be in writing and filed no later than **June 3, 2019**.
5 **Orders shortening time will not be signed except in extreme emergencies.**
6

7 E. All original depositions anticipated to be used in any manner during the trial must be
8 delivered to the clerk prior to the final Pre-Trial Conference. If deposition testimony is anticipated
9 to be used in lieu of live testimony, a designation (by page/line citation) of the portions of the
10 testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days prior to
11 the final Pre-Trial Conference. Any objections or counter-designations (by page/line citation) of
12 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the final Pre-
13 Trial Conference commencement. Counsel shall advise the clerk prior to publication.
14

15 F. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
16 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched and placed in
17 three ring binders along with the exhibit list. The sets must be delivered to the clerk prior to the
18 final Pre-Trial Conference. Any demonstrative exhibits including exemplars anticipated to be used
19 must be disclosed prior to the calendar call. Pursuant to EDCR 2.68, at the final Pre-Trial
20 Conference, counsel shall be prepared to stipulate or make specific objections to individual proposed
21 exhibits. Unless otherwise agreed to by the parties, demonstrative exhibits are marked for
22 identification but not admitted into evidence.
23

24 G. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
25 included in the Jury Notebook. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel
26 shall be prepared to stipulate or make specific objections to items to be included in the Jury
27 Notebook.
28

1 H. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
2 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
3 provide the Court, at the final Pre-Trial Conference, an agreed set of jury instructions and proposed
4 form of verdict along with any additional proposed jury instructions with an electronic copy in Word
5 format.


6
7 I. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two
8 (2) judicial days prior to the final Pre-Trial Conference voir dire proposed to be conducted pursuant
9 to conducted pursuant to EDCR 2.68.

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

14
15 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if*
16 *they are going to require daily copies of the transcripts of this trial or real time court*
17 *reporting. Failure to do so may result in a delay in the production of the transcripts or the*
18 *availability of real time court reporting.*

19
20 Counsel is required to advise the Court immediately when the case settles or is otherwise
21 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
22 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A
23 copy should be given to Chambers.

24
25 DATED: October 31, 2018.

26
27 
28 TIMOTHY C. WILLIAMS
District Court Judge

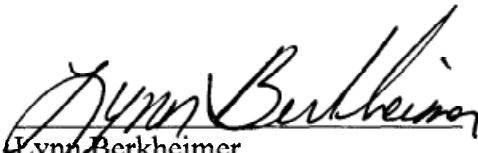
1
2 **CERTIFICATE OF SERVICE**

3
4 I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS**
5 **COURT SCHEDULING ORDER SETTING CIVIL JURY TRIAL AND PRE-TRIAL**
6 **CONFERENCE/CALENDAR CALL** was E-Served, mailed or a copy was placed in the
7 attorney's folder in the Clerk's Office as follows:
8

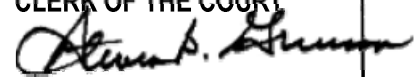
9 William E Arnault	warnault@kirkland.com
10 Magali Mercera	mmm@pisanellibice.com
11 Cinda Towne	cct@pisanellibice.com
12 Jeffrey J Zeiger	jzeiger@kirkland.com
13 Paul Sweeney	PSweeney@certilmanbalin.com
14 Robert Atkinson	robert@nv-lawfirm.com
15 Litigation Paralegal	bknotices@nv-lawfirm.com
16 "James J. Pisanelli, Esq." .	lit@pisanellibice.com
17 "John Tennert, Esq." .	jtennert@fclaw.com
18 Allen Wilt .	awilt@fclaw.com
19 Brittne T. Watkins .	btw@pisanellibice.com
20 Dan McNutt .	drm@cmlawnv.com
21 Debra L. Spinelli .	dls@pisanellibice.com
22 Diana Barton .	db@pisanellibice.com
23 Lisa Anne Heller .	lah@cmlawnv.com
24 Matt Wolf .	mcw@cmlawnv.com
25 Meg Byrd .	mbyrd@fclaw.com
26 PB Lit .	lit@pisanellibice.com
27 Steven Chaiken	sbc@ag-ltd.com
28 Mark Connot	mconnot@foxrothschild.com
	christine.gioe@lsandspc.com

1	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
2	Doreen Loffredo	dloffredo@foxrothschild.com
3	Daniel McNutt	drm@cmlawnv.com
4	Nathan Rugg	nathan.rugg@bfkn.com
5	Brett Schwartz	brett.schwartz@lsandspc.com

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Lynn Berkheimer
Judicial Executive Assistant

TAB 35



1 James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
2 Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
3 M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
4 Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
5 PISANELLI BICE PLLC
400 South 7th Street, Suite 300
6 Las Vegas, Nevada 89101
Telephone: 702.214.2100
7 Facsimile: 702.214.2101

8 Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
9 William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
10 KIRKLAND & ELLIS LLP
300 North LaSalle
11 Chicago, IL 60654
Telephone: 312.862.2000
12
13 *Attorneys for Desert Palace, Inc.;*
14 *Paris Las Vegas Operating Company, LLC;*
15 *PHWLTV, LLC; and Boardwalk Regency*
16 *Corporation d/b/a Caesars Atlantic City*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

19 Plaintiff,

20 v.

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

23 Defendants,

24 and

25 GR BURGR LLC, a Delaware limited liability
company,

26 Nominal Plaintiff.
27

28 AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**ANSWER TO COMPLAINT IN
INTERVENTION**

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

Desert Palace, Inc. ("Desert Palace"), by and through its undersigned counsel, hereby responds to the allegations set forth in the Complaint in Intervention (the "Complaint") filed by The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse ("OHR"), as follows:

PARTIES, JURISDICTION AND VENUE

1. Desert Palace is informed and believes, and thereon admits the allegations in Paragraph 1.

2. Desert Palace admits the allegations in Paragraph 2.

3. Desert Palace states that the allegations in Paragraph 3 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace admits that the venue is proper and denies any and all remaining allegations contained in Paragraph 3.

4. Desert Palace states that the allegations in Paragraph 4 are legal conclusions to which no responsive pleading is required. To the extent a response is required, Desert Palace admits that jurisdiction is proper and denies any and all remaining allegations contained in Paragraph 4.

5. Desert Palace admits the allegations in Paragraph 5.

GENERAL ALLEGATIONS

6. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 6 and therefore denies the same.

7. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 7 and therefore denies the same.

8. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 8 and therefore denies the same.

9. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 9 and therefore denies the same.

10. Desert Palace admits that it operates and manages an Old Homestead Steakhouse in Caesars Palace. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 10 and therefore denies the same.

11. Desert Palace is informed and believes, and thereon admits the allegations in Paragraph 11.

12. Desert Palace is informed and believes, and thereon admits the allegations in Paragraph 12.

13. Desert Palace is informed and believes, and thereon admits that DNT is a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware located at 200 Central Park South, 19th Floor, New York, New York 10019. Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 13 and therefore denies the same.

14. Desert Palace is informed and believes, and thereon admits the allegations in Paragraph 14.

The Licensing Agreement Among Caesars, DNT and OHR

15. Desert Palace admits the allegations in Paragraph 15.

16. Desert Palace admits that on or around June 6, 2011 and in anticipation of entering into an agreement with Desert Palace, Rowen Seibel ("Seibel") completed and submitted to Desert Palace a "Business Information Form" ("BIF"), in which Seibel represented, among other things, that he had not been a party to a felony in the last ten (10) years, and that there was nothing "that would prevent [him] from being licensed by a gaming authority." Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 16 and therefore denies the same.

17. Desert Palace admits that upon reliance upon the BIF, on or about June 21, 2011, Desert Palace entered into a Development, Operation and License Agreement with OHR and DNT (the "DNT Sub-License Agreement").

18. To the extent Paragraph 18 purports to restate the terms of the DNT Sub-License Agreement, Desert Palace admits the existence of the DNT Sub-License Agreement and refers to that agreement for an accurate recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 18.

19. To the extent Paragraph 19 purports to restate the terms of the DNT Sub-License Agreement, Desert Palace admits the existence of the DNT Sub-License Agreement and refers to

1 that agreement for an accurate recitation of its contents. Desert Palace denies all other allegations
2 contained in Paragraph 19.

3 20. Desert Palace admits that it operated and managed an Old Homestead Steakhouse in
4 Caesars Palace pursuant to the DNT Sub-License Agreement. Desert Palace denies all other
5 allegations contained in Paragraph 20.

6 **Caesars Files for Chapter 11 Bankruptcy Protection:**

7 21. Desert Palace admits the allegations in Paragraph 21.

8 22. To the extent Paragraph 22 purports to restate the terms of the DNT Sub-License
9 Agreement, Desert Palace admits the existence of the DNT Sub-License Agreement and refers to
10 that agreement for an accurate recitation of its contents. Desert Palace denies all other allegations
11 contained in Paragraph 22.

12 23. Desert Palace admits the allegations in Paragraph 23.

13 24. Desert Palace admits the allegations in Paragraph 24.

14 25. Desert Palace admits the allegations in Paragraph 23.

15 **Seibel Pleads Guilty to a Federal Crime.**

16 26. Desert Palace is informed and believes, and thereon admits that commencing in or
17 about 2004 Seibel was engaged in tax fraud through the maintenance of Swiss bank accounts not
18 reported to the Internal Revenue Service. Desert Palace lacks knowledge or information sufficient
19 to form a belief as to the truth or falsity of the remaining allegations of Paragraph 26 and therefore
20 denies the same.

21 27. Desert Palace is informed and believes, and thereon admits the allegations in
22 Paragraph 27.

23 28. Desert Palace is informed and believes, and thereon admits the allegations in
24 Paragraph 28.

25 29. Desert Palace states that the allegations in Paragraph 29 are legal conclusions to
26 which no response is required. To the extent a response is required, Desert Palace admits the
27 allegations in Paragraph 29.

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1 30. Desert Palace is informed and believes, and thereon admits the allegations in
2 Paragraph 30.

3 31. Desert Palace is informed and believes, and thereon admits that various news
4 services ran articles regarding Seibel's conviction. Desert Palace lacks knowledge or information
5 sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 31 and
6 therefore denies the same.

7 32. Desert Palace admits the allegations in Paragraph 32.

8 **Caesars Terminates the DNT Sub-License Agreement**

9 33. To the extent Paragraph 33 purports to restate the terms of a letter from Desert Palace
10 on September 2, 2016, Desert Palace admits the existence of that letter and refers to that letter for
11 an accurate recitation of its contents. Desert Palace denies all other allegations contained in
12 Paragraph 33.

13 34. To the extent Paragraph 34 purports to restate the terms of a letter from Desert Palace
14 on September 21, 2016, Desert Palace admits the existence of that letter and refers to that letter for
15 an accurate recitation of its contents. Desert Palace denies all other allegations contained in
16 Paragraph 33.

17 35. Desert Palace admits that following its proper termination of the DNT Sub-License
18 Agreement, OHR and Desert Palace entered into a license agreement. To the extent Paragraph 35
19 purports to restate the terms of that agreement, Desert Palace refers to that agreement for an accurate
20 recitation of its contents. Desert Palace denies all other allegations contained in Paragraph 35.

21 36. Desert Palace admits that the Reorganized Debtors filed a Third Amended Joint Plan
22 of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code on January 13, 2017.
23 Desert Palace admits that the United States Bankruptcy Court for the Northern District of Illinois
24 entered an Order Confirming Debtors' Third Amended Joint Plan of Reorganization Pursuant to
25 Chapter 11 of the Bankruptcy Code (the "Plan") on January 17, 2017. Desert Palace denies all
26 other allegations contained in Paragraph 36.

27 37. To the extent Paragraph 37 purports to restate the terms Debtors' Third Amended
28 Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, Desert Palace admits

1 the existence of that document and refers to that document for an accurate recitation of its contents.

2 Desert Palace denies all other allegations contained in Paragraph 37.

3 38. Desert Palace admits that it has not delivered New CEC Convertible Notes to DNT
4 or OHR and that it determined Seibel was an "unsuitable person." The remaining allegations in
5 Paragraph 38 are legal conclusions to which no response is required. To the extent a response is
6 required, Desert Palace denies the same.

7 39. Desert Palace states that the allegations in Paragraph 39 are legal conclusions to
8 which no response is required. To the extent a response is required, Desert Palace denies the
9 allegations in Paragraph 39.

10 40. To the extent Paragraph 40 purports to restate the terms of the Complaint filed by
11 Desert Palace on or about August 25, 2017, Desert Palace admits the existence of that complaint
12 and refers to that document for an accurate recitation of its contents. Desert Palace denies all other
13 allegations contained in Paragraph 40.

14 41. Desert Palace states that the allegations in Paragraph 41 are legal conclusions to
15 which no response is required. To the extent a response is required, Desert Palace admits there
16 exists a dispute between Desert Palace, OHR, and DNT and denies the remaining allegations in
17 Paragraph 41.

18 **FIRST CAUSE OF ACTION**
19 (Declaratory Judgment Against Caesars)

20 42. Desert Palace repeats and realleges each and every response to the preceding
21 Paragraphs as if set forth fully herein.

22 43. To the extent Paragraph 43 purports to restate NRS 30.040(1), Desert Palace refers
23 to that statute for an accurate recitation of its contents. Desert Palace denies all other allegations
24 contained in Paragraph 43.

25 44. Desert Palace lacks knowledge or information sufficient to form a belief as to the
26 truth or falsity of the allegations of Paragraph 44 and therefore denies the same.

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1 45. Desert Palace states that the allegations in Paragraph 45 are legal conclusions to
2 which no response is required. To the extent a response is required, Desert Palace denies the
3 allegations in Paragraph 45.

4 **GENERAL DENIAL**

5 All allegations in the Complaint that have not been expressly admitted, denied, or otherwise
6 responded to, are denied.

7 **AFFIRMATIVE DEFENSES**

8 Desert Palace asserts the following affirmative defenses and reserves the right to assert other
9 defenses and claims, including, without limitation, counterclaims, crossclaims, and third-party
10 claims, as and when appropriate and/or available in this or any other action. The statement of any
11 defense herein does not assume the burden of proof for any issue as to which applicable law
12 otherwise places the burden of proof on Desert Palace.

13 **FIRST AFFIRMATIVE DEFENSE**

14 The Complaint fails to state a claim upon which relief can be granted.

15 **SECOND AFFIRMATIVE DEFENSE**

16 OHR's damages or harm, if any, were not caused by any conduct of Desert Palace.

17 **THIRD AFFIRMATIVE DEFENSE**

18 The injuries to OHR, if any, as alleged in the Complaint, were provoked and brought about
19 by third party or parties over whom Desert Palace has no control, and any actions taken by Desert
20 Palace were justified and privileged under the circumstances.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 All possible affirmative defenses may not have been alleged herein insofar as sufficient facts
23 were not available after reasonable inquiry upon the filing of Desert Palace's Answer and therefore,
24 Desert Palace reserves the right to amend its Answer to allege additional affirmative defenses if
25 subsequent investigation so warrants.

FIFTH AFFIRMATIVE DEFENSE

Desert Palace reserves the right to (a) rely upon such other affirmative defenses as may be supported by the facts to be determined through full and complete discovery, and (b) voluntarily withdraw any affirmative defense.

WHEREFORE, Desert Palace prays as follows:

- (1) OHR takes nothing by its Complaint;
- (2) For judgment in favor of Desert Palace;
- (3) For Desert Palace's costs; and,
- (4) For such other and further relief as the Court deems proper.

DATED this 27th day of November 2018.

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
Brittnie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

and

Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
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 29 day of November 2018, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **ANSWER TO COMPLAINT IN INTERVENTION** to the following:

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
MCNUTT LAW FIRM, P.C.
625 South Eighth Street
Las Vegas, NV 89101

Nathan O. Rugg, Esq.
BARACK FERRAZZANO KIRSCHBAUM &
NAGELBERG LLP
200 W. Madison St., Suite 3900
Chicago, IL 60606

Paul Sweeney
CERTILMAN BALIN
ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, NY 11554

Steven B. Chaiken, Esq.
ADELMAN & GETTLEMAN, LTD.
53 W. Jackson blvd., Suite 1050
Chicago, IL 60604

*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*

*Attorneys for LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
and MOTI Partners 16, LLC*

Allen J. Wilt, Esq.
John D. Tennert III, Esq.
300 East Second Street, Suite 1510
Reno, NV 89501

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Attorneys for Gordon Ramsay

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

Alan Lebensfeld, Esq.
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Attorneys for DNT Acquisition LLC
Robert E. Atkinson
ATKINSON LAW ASSOCIATES LTD.
8965 S. Eastern Ave., Suite 260
Las Vegas, NV 89123

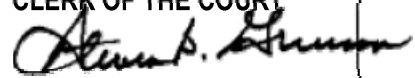
VIA U.S. MAIL
Kurt Heyman, Esq.
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Attorneys for J. Jeffrey Frederick

Trustee for GR Burgr, LLC


An employee of PISANELLI BICE PLLC

TAB 36



James J. Pisanelli, Esq., Bar No. 4027
jjp@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

*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

Dept. No.: XVI

Consolidated with A-17-760537-B

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

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

COME NOW, 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"); Rowen Seibel ("Seibel"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), TPOV Enterprises, LLC ("TPOV"), TPOV 16 Enterprises, LLC ("TPOV 16") and DNT Acquisition, LLC ("DNT") (collectively the "Seibel Entities"); Gordon Ramsay ("Ramsay"), GR Burgr LLC ("GR Burgr"), Jeffrey Frederick ("Frederick") and Old Homestead Restaurant, Inc. ("OHR"); by and through their undersigned counsel of record, hereby enter into this Stipulated Confidentiality Agreement and Protective Order pursuant to NRCP 26(c) and NRCP 29. Planet Hollywood, Caesars Palace, Paris, CAC, Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16, TPOV, TPOV 16, DNT, GR Burgr, Frederick, and OHR are collectively referred to as the "Parties" in this Stipulation and individually as "Party."

Whereas, the Parties desire to produce certain documents or other material which may contain proprietary and/or confidential information, it is hereby stipulated and agreed, by and between the Parties hereto, through their respective counsel of record, that:

1. **Applicability of this Protective Order:** Subject to Section 2 below, this Protective Order does not and will not govern any trial proceedings in this action, but will otherwise be applicable to and govern the handling and production of documents, depositions, deposition exhibits, interrogatory responses, responses to requests for admissions, responses to requests for production of documents, and all other discovery obtained pursuant to Nevada Rules of Civil Procedure or other legal process by or from, or produced on behalf of, a Party or witness in connection with this action. Such information hereinafter shall be referred to as "Discovery Material." Additionally, as used herein, "Producing Party" or "Disclosing Party" shall refer to the Parties and non-parties that give testimony or produce documents or other information in connection with this action; "Receiving Party" shall refer to the Parties in this action that receive such information; and "Authorized Recipient" shall refer to any person or entity authorized by Sections 12 and 13 of this Protective Order to obtain access to Confidential Information, Highly Confidential Information, or the contents

1 of such Discovery Material. Discovery Material produced in accordance with this Stipulation may
2 be used in other actions as permitted by the Global Agreement for the Utilization of Discovery
3 Across Cases entered into between the Parties (the "Global Utilization Agreement").

4 2. **No Waiver.** This Protective Order is entered solely for the purpose of facilitating the
5 exchange of documents and information among the Parties to this action without involving the Court
6 unnecessarily in the process. Nothing in this Protective Order, nor the production of any information
7 or document under the terms of this Protective Order, nor any proceedings pursuant to this Protective
8 Order, shall be deemed to be a waiver of any rights or objections to challenge the authenticity or
9 admissibility of any document, testimony, or other evidence at trial. Additionally, this Protective
10 Order will not prejudice the right of any party or non-party to oppose production of any information
11 on the ground of attorney-client privilege, work product doctrine, or any other privilege or protection
12 provided under the law.

13 3. **Designation of Information:** Any Producing Party may designate Discovery
14 Material that is in its possession, custody, or control produced to a Receiving Party as "Confidential"
15 or "Highly Confidential" under the terms of this Protective Order, but only if the Producing Party in
16 good faith reasonably believes that such Discovery Material contains non-public, confidential
17 information as defined in Sections 5 and 6 below.

18 4. **Exercise of Restraint and Care in Designating Material for Protection:** Each
19 Producing Party that designates information or items for protection under this Protective Order must
20 take care to limit any such designation to specific material that qualifies under the appropriate
21 standards. Indiscriminate designations are prohibited.

22 5. **Confidential Information:** For purposes of this Protective Order, "Confidential
23 Information" means all information that constitutes, reflects, or discloses non-public information,
24 trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential
25 business, marketing, regulatory, or strategic information (regarding business plans or strategies,
26 technical data, and non-public designs), the disclosure of which the Producing Party believes in good
27 faith might reasonably result in economic, competitive or business injury to the Producing Party (or
28 its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from

1 an inspection of publicly available sources, documents, material, or devices. "Confidential
2 Information" shall also include sensitive personal information that is not otherwise publicly
3 available, such as home addresses; social security numbers; dates of birth; employment personnel
4 files; medical information; home telephone records/numbers; employee disciplinary records; court
5 documents sealed by another court or designated Confidential by agreement of the Parties in another
6 matter; wage statements or earnings statements; employee benefits data; tax records; and other
7 similar personal financial information. A Party may also designate as "CONFIDENTIAL"
8 compilations of publicly available discovery materials, which would not be known publicly in a
9 compiled form and the disclosure of which the Producing Party believes in good faith might
10 reasonably result in economic, competitive or business injury to the Producing Party.

11 **6. Highly Confidential Information:** For purposes of this Protective Order, "Highly
12 Confidential Information" is any Confidential Information as defined in Section 5 above that also
13 includes (a) extremely sensitive, highly confidential, non-public information, consisting either of
14 trade secrets or proprietary or other highly confidential business, financial, regulatory, private, or
15 strategic information (including information regarding business plans, technical data, and non-public
16 designs), the disclosure of which would create a substantial risk of competitive, business, or personal
17 injury to the Producing Party, and/or (b) non-public documents or information reflecting the
18 substance of conduct or communications that are the subject of then ongoing state, federal, or foreign
19 government investigations. Certain Confidential Information may compel alternative or additional
20 protections beyond those afforded Highly Confidential Information, in which event the Parties shall
21 meet and confer in good faith, and, if unsuccessful, the Party seeking any greater protection shall
22 move the Court for appropriate relief. A Party may re-designate material originally
23 "CONFIDENTIAL" as "HIGHLY CONFIDENTIAL" by giving notice of such a re-designation to
24 all Parties.

25 **7. Designating Confidential Information or Highly Confidential Information.** If
26 any Party in this action determines in good faith that any information, documents, things, or
27 responses produced in the course of discovery in this action should be designated as Confidential
28 Information or Highly Confidential Information (the "Designating Party"), it shall advise any Party

1 receiving such material of this fact, and all copies of such documents, things, or responses, or
2 portions thereof deemed to be confidential shall be marked "CONFIDENTIAL" or "HIGHLY
3 CONFIDENTIAL" (whether produced in hard copy or electronic form) at the expense of the
4 Designating Party and treated as such by all Parties. A Designating Party may inform another Party
5 that a document is Confidential or Highly Confidential by providing the Bates number of the
6 document in writing. If Confidential or Highly Confidential Information is produced via an
7 electronic form on a computer readable medium (*e.g.*, CD-ROM), other digital storage medium, or
8 via Internet transmission, the Producing Party or Designating Party shall affix in a prominent place
9 on the storage medium or container file on which the information is stored, and on any container(s)
10 for such medium, the legend "Includes CONFIDENTIAL INFORMATION" or "Includes HIGHLY
11 CONFIDENTIAL INFORMATION." Nothing in this section shall extend confidentiality or the
12 protections associated therewith to any information that does not otherwise constitute "Confidential
13 Information" or "Highly Confidential Information" as defined in Sections 5 and 6 herein.

14 **8. Redaction Allowed:** Any Producing Party may redact from the documents or things
15 it produces matter that the Producing Party reasonably claims in good faith is subject to the attorney-
16 client privilege, the work product doctrine, a legal prohibition against disclosure, or any other
17 privilege from disclosure. Any Producing Party also may redact information that is both personal
18 and non-responsive, such as a social security number. A Producing Party may not withhold non-
19 privileged, responsive information solely on the grounds that such information is contained in a
20 document that includes privileged information. The Producing Party shall mark each redaction with
21 a legend stating "REDACTED," and include an annotation indicating the specific reason for the
22 redaction (*e.g.*, "REDACTED—Work Product"). All documents redacted based on attorney client
23 privilege or work product immunity shall be listed in an appropriate log in conformity with Nevada
24 law and Nevada Rule of Civil Procedure 26(b)(5). Where a document consists of more than one
25 page, the page on which information has been redacted shall so be marked. The Producing Party
26 shall preserve an unredacted version of such document.

27 **9. Use of Confidential Information or Highly Confidential Information.** Except as
28 provided herein, Confidential Information and Highly Confidential Information designated or

1 marked shall be maintained in confidence, used solely for the purposes of this action (except as
2 permitted by the Global Utilization Agreement), and to the extent not otherwise prohibited by an
3 Order of the Court, shall be disclosed to no one except those persons identified herein in Sections
4 12 and 13, and shall be handled in such manner until such designation is removed by the Designating
5 Party, or by Order of the Court. Confidential or Highly Confidential information produced by
6 another Party shall not be used by any Receiving Party for any commercial, competitive or personal
7 purpose. Nothing in this Protective Order shall govern or restrict a Producing Party's use of its own
8 Confidential or Highly Confidential Information in any way.

9 10. Once the Court enters this Protective Order, a Party shall have forty-five (45) calendar
10 days to designate as Confidential or Highly Confidential any documents previously produced in this
11 action, which it can do by stamping "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on the
12 document, or informing the other Parties of the Bates numbers of the documents so designated.

13 11. **Use of Confidential Information and Highly Confidential Information in**
14 **Depositions.** Counsel for any Party shall have the right to disclose Confidential or Highly
15 Confidential Information at depositions, provided that such disclosure is consistent with this
16 Protective Order, including Sections 12 and 13 hereof. Any counsel of record may request that all
17 persons not entitled under Sections 12 or 13 of this Protective Order to have access to Confidential
18 Information or Highly Confidential Information, leave the deposition room during the confidential
19 portion of the deposition. Failure of such persons to comply with a request to leave the deposition
20 room shall constitute substantial justification for counsel to advise the witness that the witness need
21 not answer the question where the answer would disclose Confidential Information or Highly
22 Confidential Information. Additionally, at any deposition session: (1) upon inquiry with regard to
23 the content of any discovery material(s) designated or marked as "CONFIDENTIAL" or "HIGHLY
24 CONFIDENTIAL;" (2) whenever counsel for a party deems that the answer to a question may result
25 in the disclosure or revelation of Confidential or Highly Confidential Information; and/or (3)
26 whenever counsel for a Party deems that the answer to any question has resulted in the disclosure or
27 revelation of Confidential or Highly Confidential Information, counsel to any Party may designate
28 those portions of a deposition transcript and/or video of any deposition (or any other testimony) as

1 containing Confidential or Highly Confidential Information in accordance with this Order, either by
2 placing a statement on the record during the deposition, or by notifying all other Parties in writing
3 within thirty (30) calendar days of receiving the transcript or video that it contains Confidential or
4 Highly Confidential Information and designating the specific pages, lines, and/or counter numbers
5 as containing Confidential or Highly Confidential Information. If a designation is made via a
6 statement on the record during a deposition, counsel must follow-up in writing within thirty (30)
7 calendar days of receiving the transcript or video, identifying the specific pages, lines, and/or counter
8 numbers containing the Confidential or Highly Confidential Information. If no confidentiality
9 designations are made within said thirty (30) day period, the entire transcript shall be considered
10 non-confidential. During the thirty (30) day period, the entire transcript and video shall be treated
11 as Highly Confidential Information. All originals and copies of deposition transcripts that contain
12 Confidential Information or Highly Confidential Information shall be prominently marked
13 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL " on the cover thereof and, if and when filed
14 with the Court, the portions of such transcript so designated shall be filed under seal. Counsel must
15 designate portions of a deposition transcript as "CONFIDENTIAL" or "HIGHLY
16 CONFIDENTIAL" within thirty (30) calendar days of receiving the transcript. Any DVD or other
17 digital storage medium containing Confidential or Highly Confidential deposition testimony shall
18 be labeled in accordance with the provisions of Section 7.

19 **12. Persons Authorized to Receive Confidential Information.** Confidential
20 Information produced pursuant to this Protective Order may be disclosed or made available only to
21 the Court, its employees, other court personnel, any discovery referee, mediator or other official who
22 may be appointed by the Court, and to the persons below:

- 23 (a) A Party, or officers, directors, employees, and agents of a Party deemed necessary by counsel
24 to aid in the prosecution, defense, or settlement of this action;
25 (b) Counsel for a Party (including in-house attorneys, outside attorneys associated with a law
26 firm(s) of record, and paralegal, clerical, and secretarial staff employed by such counsel);
27
28

(c) Persons retained by a Party to provide litigation support services (photocopying, videotaping, translating, preparing exhibits or demonstrations, organizing, storing, retrieving data in any form or medium, etc.);

(d) Consultants or expert witnesses (together with their support staff) retained by a Party or its counsel for the prosecution or defense of this litigation, provided that such an expert or consultant is not a current employee of a direct competitor of a Party named in this action;¹

(e) Court reporter(s) and videographers(s) employed in this action;

(f) Any authors or recipients of the Confidential Information;

(g) A witness at any deposition or other proceeding in this action, who shall sign the Confidentiality Agreement attached as "Exhibit A" to this Protective Order before being shown a confidential document; and

(h) Any other person as to whom the Parties in writing agree, or that the Court in these proceedings so designates.

Any person to whom Confidential Information is disclosed pursuant to subparts (a) through (h) hereinabove shall be advised that the Confidential Information is being disclosed pursuant to an Order of the Court; that the information may not be disclosed by such person to any person not permitted to have access to the Confidential Information pursuant to this Protective Order; and that any violation of this Protective Order may result in the imposition of such sanctions as the Court deems proper. Any person to whom Confidential Information is disclosed pursuant to subpart (c), (d), (g), or (h) of this section shall also be required to execute a copy of the form Exhibit A. The persons shall agree in writing to be bound by the terms of this Protective Order by executing a copy of Exhibit A (which shall be maintained by the counsel of record for the Party seeking to reveal the Confidential Information) in advance of being shown the Confidential Information. No Party (or its counsel) shall discourage any persons from signing a copy of Exhibit A. If a person refuses to execute a copy of Exhibit A, the Party seeking to reveal the Confidential Information shall seek an

¹ A party may seek leave of court to provide information to a consultant employed by a competitor.

1 Order from the Court directing that the person be bound by this Protective Order. In the event of
2 the filing of such a motion, Confidential Information may not be disclosed to such person until the
3 Court resolves the issue. Proof of each written agreement provided for under this Section shall be
4 maintained by each of the Parties while this action is pending and disclosed to the other Parties upon
5 good cause shown and upon Order of the Court.

6 **13. Persons Authorized to Receive Highly Confidential Information.** "HIGHLY
7 CONFIDENTIAL" documents and information may be used only in connection with this case
8 (except as permitted by the Global Utilization Agreement), and may be disclosed only to the Court
9 and the persons listed in subsections (b) to (e) and (g) to (h) of Section 12 above, but shall not be
10 disclosed to a Party, or an employee of a Party unless otherwise agreed in writing by the Parties or
11 ordered by the Court. With respect to sub-section (f), the parties will consider disclosure of Highly
12 Confidential Information to an author or recipient on a case by case basis. Any person to whom
13 Highly Confidential Information is disclosed pursuant to sub-sections (c), (d), (g) or (h) of Section
14 12 above shall also be required to execute a copy of the form Exhibit A.

15 **14. Filing of Confidential Information or Highly Confidential Information With**
16 **Court.** Any Party seeking to file or disclose materials designated as Confidential Information or
17 Highly Confidential Information with the Court in this action (or with the court in another action as
18 permitted by the Global Utilization Agreement) must seek to file such Confidential or Highly
19 Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and
20 Redacting Court Records (or, if in another action permitted by the Global Utilization Agreement, in
21 accordance with the rules and procedures of that court). The Designating Party will have the burden
22 to provide the Court with any information necessary to support the designation as Confidential or
23 Highly Confidential Information.

24 **15. Notice to Nonparties.** Any Party issuing a subpoena to a non-party shall enclose a
25 copy of this Protective Order and advise the non-party that it may designate any Discovery Material
26 it produces pursuant to the terms of this Protective Order as Confidential Information or Highly
27 Confidential Information, should the non-party wish to do so. This Order shall be binding in favor
28

1 of non-parties to the maximum extent permitted by law. Any non-party invoking the Protective
2 Order shall comply with, and be subject to, all applicable sections of the Protective Order.

3 16. **Knowledge of Unauthorized Use or Possession.** If a Party receiving Confidential
4 Information or Highly Confidential Information learns of any possession, knowledge, use or
5 disclosure of any Confidential Information or Highly Confidential Information in violation of the
6 terms of this Protective Order, the Receiving Party shall immediately notify in writing the Party that
7 produced the Confidential Information or Highly Confidential Information. The Receiving Party
8 shall promptly furnish the Producing Party with the full details of such possession, knowledge, use
9 or disclosure. With respect to such unauthorized possession, knowledge, use or disclosure, the
10 Receiving Party shall assist the Producing Party in remedying the disclosure (*e.g.*, by retrieving the
11 Confidential Information from an unauthorized recipient), and/or by preventing its recurrence.

12 17. **Copies, Summaries or Abstracts.** Any copies, summaries, abstracts or exact
13 duplications of Confidential Information or Highly Confidential Information shall be marked
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," and shall be considered Confidential
15 Information or Highly Confidential Information subject to the terms and conditions of this Protective
16 Order. Attorney-client communications and attorney-work product regarding Confidential
17 Information or Highly Confidential Information, as permitted by this Protective Order, shall not be
18 subject to this section, regardless of whether they summarize, abstract, paraphrase, or otherwise
19 reflect Confidential Information or Highly Confidential Information.

20 18. **Information Not Confidential.** The restrictions set forth in this Protective Order
21 shall not be construed to apply to any information or materials that:

- 22 (a) Were lawfully in the Receiving Party's possession prior to such information being
23 designated as Confidential or Highly Confidential Information in this action, and that
24 the Receiving Party is not otherwise obligated to treat as confidential;
- 25 (b) Were obtained without any benefit or use of Confidential or Highly Confidential
26 Information from a third party having the right to disclose such information to the
27 Receiving Party without restriction or obligation of confidentiality;
28

- 1 (c) Were independently developed after the time of disclosure by persons who did not
- 2 have access to the Producing Party's Confidential or Highly Confidential
- 3 Information;
- 4 (d) Have been or become part of the public domain by publication or otherwise and not
- 5 due to any unauthorized act or omission on the part of a Receiving Party; or
- 6 (e) Under law, have been declared to be in the public domain.

7 19. **Challenges to Designations.** Any Party may object to the designation of
8 Confidential Information or Highly Confidential Information on the ground that such information
9 does not constitute Confidential Information or Highly Confidential Information, by serving written
10 notice upon counsel for the Producing Party within ninety (90) calendar days of the date the item(s)
11 was designated, specifying the item(s) in question and the ground(s) for the objection. The
12 Producing Party shall have thirty (30) calendar days to respond to the challenge of designation. If a
13 Party objects to the designation of any materials as Confidential Information or Highly Confidential
14 Information, the Party challenging the designation shall arrange for a meet and confer to be held
15 within ten (10) court days of service of the response to the designation challenge by the Producing
16 Party, to attempt to informally resolve the dispute. If the Parties cannot resolve the matter, the Party
17 challenging the designation may file a motion with the Court to resolve the dispute. Such motions
18 must be filed within ten (10) court days following the meet and confer. This Protective Order shall
19 not affect the burden of proof on any such motion, or impose any burdens upon any Party that would
20 not exist had the Protective Order not been entered; as a general matter, the burden shall be on the
21 person making the designation to establish the propriety of the designation. Any contested
22 information shall continue to be treated as Confidential Information or Highly Confidential
23 Information and subject to this Protective Order until such time as such motion has been ruled upon.

24 20. **Use in Court.** If any Confidential Information or Highly Confidential Information
25 is used in any pretrial Court proceeding in this action (or used in another action as permitted by the
26 Global Utilization Agreement), it shall not necessarily lose its confidential status through such use,
27 and the party using such information shall take all reasonable steps consistent with the Nevada
28 Supreme Court Rules Governing Sealing and Redacting Court Records (or, if used in another action

1 as permitted by the Global Utilization Agreement, in accordance with the rules and procedures of
2 that court governing sealing and redacting), to maintain its confidentiality during such use.

3 21. **Reservation of Rights.** The Parties each reserve the right to seek or oppose
4 additional or different protection for particular information, documents, materials, items or things,
5 including but not limited to, items which they consider to be attorney's eyes only in nature. This
6 Stipulation shall neither enlarge, nor affect, the proper scope of discovery in this Action. In addition,
7 this Stipulation shall not limit or circumscribe in any manner any rights the Parties (or their
8 respective counsel) may have under common law or pursuant to any state, federal, or foreign statute
9 or regulation, and/or ethical rule.

10 22. **Inadvertent Failure to Designate.** The inadvertent failure to designate information
11 produced in discovery as Confidential or Highly Confidential shall not be deemed, by itself, to be a
12 waiver of the right to so designate such Discovery Materials as Confidential Information or Highly
13 Confidential Information. Within a reasonable time of learning of any such inadvertent failure, the
14 Producing Party shall notify all Receiving Parties of such inadvertent failure and shall take such
15 other steps as necessary to correct such failure after becoming aware of it. Disclosure of such
16 Discovery Materials to any other person prior to later designation of the Discovery Materials in
17 accordance with this section shall not violate the terms of this Protective Order. However,
18 immediately upon being notified of an inadvertent failure to designate, all Parties shall treat such
19 information as though properly designated, and shall take any actions necessary to prevent any future
20 unauthorized disclosure, use, or possession.

21 23. **No Waiver of Privilege:** Disclosure (including production) of information after the
22 Parties' entry of this Protective Order that a Party or non-party later claims was inadvertent and
23 should not have been disclosed because of a privilege, including, but not limited to, the
24 attorney-client privilege or work product doctrine ("Privileged Information"), shall not constitute a
25 waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or other
26 ground for withholding production as to which the Disclosing or Producing Party would be entitled
27 in this action.
28

1 24. **Effect of disclosure of Privileged Information:** The Receiving Party hereby agrees
2 to promptly return, sequester, or destroy any Privileged Information disclosed or produced by a
3 Disclosing or Producing Party upon request by the Disclosing or Producing Party, regardless of
4 whether the Receiving Party disputes the designation of Privileged Information. The Receiving
5 Party may sequester (rather than return or destroy) such Privileged Information only if it contends
6 that the information itself is not privileged or otherwise protected, and it challenges the privilege
7 designation, in which case it may only sequester the information until the claim of privilege or other
8 protection is resolved. If any Party disputes the privilege claim ("Objecting Party"), that Objecting
9 Party shall object in writing by notifying the Producing Party of the dispute and the basis therefore.
10 The Parties thereafter shall meet and confer in good faith regarding the disputed claim within
11 fourteen (14) business days after service of the written objection. In the event that the Parties do not
12 resolve their dispute, the Objecting Party may bring a motion for a determination of whether a
13 privilege applies within fourteen (14) business days following the meet and confer session, but may
14 only contest the asserted privileges on grounds other than the inadvertent production of such
15 document(s). In making such a motion, the Objecting Party shall not disclose the content of the
16 document(s) at issue, but may refer to the information contained on the privilege log. Nothing herein
17 shall relieve counsel from abiding by applicable ethical rules regarding inadvertent disclosure and
18 discovery of inadvertently disclosed privileged or otherwise protected material. The failure of any
19 Party to provide notice or instructions under this section shall not constitute a waiver of, or estoppel
20 as to, any claim of attorney-client privilege, attorney work product, or other ground for withholding
21 production as to which the Disclosing or Producing Party would be entitled in this action.

22 25. **Inadvertent Production of Non-Discoverable Documents.** If a Producing Party
23 inadvertently produces a document that contains no discoverable information, the Producing Party
24 may request in writing that the Receiving Party return the document, and the Receiving Party shall
25 return the document. A Producing Party may not request the return of a document pursuant to this
26 section if the document contains any discoverable information. If a Producing Party inadvertently
27 fails to redact personal information (*e.g.*, a social security number), the Producing Party may provide
28 the Receiving Party a substitute version of the document that redacts the personal information, and

1 the Receiving Party shall return the original, unredacted document to the Producing Party.

2 26. **Return of Information.** Within thirty (30) days after the final disposition of this
3 action (or the final disposition of any other action as permitted by the Global Utilization Agreement),
4 all Discovery Materials containing Confidential Information and/or Highly Confidential Information
5 produced by an opposing Party or non-party (including, without limitation, any copies, extracts or
6 summaries thereof) as part of discovery in this action shall be destroyed by the Parties to whom the
7 Discovery Materials containing Confidential Information and/or Highly Confidential Information
8 was produced, and each counsel shall, by declaration delivered to all counsel for the Producing Party,
9 affirm that all such Discovery Materials containing Confidential Information and/or Highly
10 Confidential Information (including, without limitation, any copies, extracts or summaries thereof)
11 has been destroyed; provided, however, that each counsel shall be entitled to retain pleadings,
12 motions and memoranda in support thereof, declarations or affidavits, deposition transcripts and
13 videotapes, or documents reflecting attorney work product or consultant or expert work product,
14 even if such material contains or refers to Discovery Materials containing Confidential Information
15 and/or Highly Confidential Information, but only to the extent necessary to preserve a litigation file
16 with respect to this action (or another action as permitted by the Global Utilization Agreement).
17 Counsel are not required to destroy or certify destruction of Confidential Information or Highly
18 Confidential Information replicated on automatic archival or data backup systems maintained by
19 Counsel.

20 27. **Attorney's Fees.** Nothing in this Protective Order is intended to either expand or
21 limit a prevailing party's right under the Nevada Rules of Civil Procedure or other applicable state
22 or federal law to pursue costs and attorney's fees incurred related to confidentiality designations or
23 the abuse of the process described herein.

24 28. **Injunctive Relief and Sanctions Available for Unauthorized Disclosure or Use of**
25 **Confidential Information or Highly Confidential Information.** The Parties and/or non-parties
26 shall not utilize any Confidential Information and/or Highly Confidential Information for their own
27 personal and/or business advantage or gain, aside from purpose(s) solely related to the instant
28 litigation (or to other litigations as permitted by the Global Utilization Agreement). The Parties and

1 non-parties acknowledge and agree that the unauthorized use and/or disclosure of Confidential
2 Information and/or Highly Confidential Information beyond this litigation (or beyond other
3 litigations as permitted by the Global Utilization Agreement) shall subject the offending Party or
4 non-party to sanctions contemplated in NRCP 37(b)(2)(A)-(D) (or pursuant to the rules and
5 procedures of the courts in litigations governed by the Global Utilization Agreement), up to and
6 including entry of judgment against the offending Party or non-party in circumstances involving
7 willful disobedience with this Order. Further, the Parties and/or non-parties receiving or being given
8 access to Confidential Information and/or Highly Confidential Information acknowledge that
9 monetary remedies would be inadequate to protect each Party in the case of unauthorized disclosure
10 or use of Confidential Information or Highly Confidential Information that the Receiving Party only
11 received through discovery in this action (or in other actions governed by the Global Utilization
12 Agreement), and that injunctive relief would be necessary and appropriate to protect each Party's
13 rights in the event there is any such unauthorized disclosure or use of Confidential Information or
14 Highly Confidential Information. The availability of injunctive relief to protect against the
15 unauthorized disclosure or use of Confidential Information or Highly Confidential Information shall
16 not be exclusive.

17 **29. Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in another
18 action, investigation, or proceeding, (b) is served with a demand in another action, investigation, or
19 proceeding, or (c) is served with any legal process by one not a Party to this Protective Order, seeking
20 materials which were produced or designated as Confidential or Highly Confidential pursuant to this
21 Protective Order, the Receiving Party shall give prompt actual written notice by electronic
22 transmission to counsel of record for such Producing Party within five (5) business days of receipt
23 of such subpoena, demand or legal process, or such shorter notice as may be required to provide
24 other Parties with the opportunity to object to the immediate production of the requested Discovery
25 Materials to the extent permitted by law. The burden of opposing enforcement of the subpoena shall
26 fall upon the Party or non-party who produced or designated the Discovery Material as Confidential
27 Information or Highly Confidential Information. Unless the Party or non-party who produced or
28 designated the Confidential Information or Highly Confidential Information obtains an Order

1 directing that the subpoena not be complied with, and serves such Order upon the Receiving Party
2 prior to production pursuant to the subpoena, the Receiving Party shall be permitted to produce
3 documents responsive to the subpoena on the subpoena response date. Compliance by the Receiving
4 Party with any Order directing production pursuant to a subpoena of any Confidential Information
5 or Highly Confidential Information shall not constitute a violation of this Protective Order. Nothing
6 in this Protective Order shall be construed as authorizing a Party to disobey a lawful subpoena issued
7 in another action.

8 30. **Execution in Counterparts.** This Protective Order may be signed in counterparts,
9 and a fax or "PDF" signature shall have the same force and effect as an original ink signature.

10 31. **Order Survives Termination.** This Protective Order shall survive the termination
11 of this action (or of the other actions governed by the Global Utilization Agreement), and the Court
12 shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

13 DATED ^{March} February 11, 2019

14 PISANELLI BICE PLLC

15 By: 

16 James J. Pisanelli, Esq., Bar No. 4027
17 Debra L. Spinelli, Esq., Bar No. 9695
18 M. Magali Mercera, Esq., Bar No. 11742
19 Brittnie T. Watkins, Esq., Bar No. 13612
20 400 South 7th Street, Suite 300
21 Las Vegas, NV 89101

22 and

23 Jeffrey J. Zeiger, P.C., Esq.
24 (admitted *pro hac vice*)
25 William E. Arnault, IV, Esq.
26 (admitted *pro hac vice*)
27 KIRKLAND & ELLIS LLP
28 300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

DATED February 16, 2019

MCNUTT LAW FIRM, P.C.

By: 

Daniel R. McNutt, Esq. (SBN 7815)
Matthew C. Wolf, Esq. (SBN 10801)
625 South Eighth Street
Las Vegas, Nevada 89101

and

Paul Sweeney, Esq.,
(admitted *pro hac vice*)
CERTILMAN BALIN ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, NY 11554

*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*

31. **Order Survives Termination.** This Protective Order shall survive the termination of this action (or of the other actions governed by the Global Utilization Agreement), and the Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

DATED February __, 2019

PISANELLI BICE PLLC

By: _____
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
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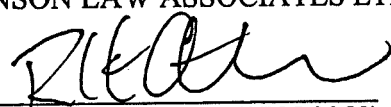
and

Jeffrey J. Zeiger, P.C., Esq.
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William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

DATED February 22, 2019

ATKINSON LAW ASSOCIATES LTD.

By: 
Robert E. Atkinson, Esq. (SBN 9958)
376 E. Warm Springs Road, Suite 130
Las Vegas, NV 89119

*Attorney for Defendant
J. Jeffrey Frederick*

DATED February __, 2019

DATED February __, 2019

MCNUTT LAW FIRM, P.C.

By: _____
Daniel R. McNutt, Esq. (SBN 7815)
Matthew C. Wolf, Esq. (SBN 10801)
625 South Eighth Street
Las Vegas, Nevada 89101

and

Paul Sweeney, Esq.,
(admitted *pro hac vice*)
CERTILMAN BALIN ADLER & HYMAN, LLP
90 Merrick Avenue
East Meadow, NY 11554

*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*

DATED February __, 2019

FENNEMORE CRAIG, P.C.

By: _____
Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

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2 ATKINSON LAW ASSOCIATES LTD.

3 By: _____
4 Robert E. Atkinson, Esq. (SBN 9958)
5 376 E. Warm Springs Road, Suite 130
6 Las Vegas, NV 89119

7 *Attorney for Defendant*
8 *J. Jeffrey Frederick*

9 DATED February __, 2019

10 BARACK FERRAZZANO KIRSCHBAUM &
11 NAGELBERG LLP

12 By: _____
13 Nathan Q. Rugg, Esq.
14 (admitted *pro hac vice*)
15 200 W. Madison St., Suite 3900
16 Chicago, IL 60606

17 and

18 Steven B. Chaiken, Esq.
19 ADELMAN & GETTLEMAN, LTD.
20 53 W. Jackson Blvd., Suite 1050
21 Chicago, IL 60604

22 *Attorneys for Defendants LLTQ Enterprises,*
23 *LLC; LLTQ Enterprises 16, LLC, FERG, LLC;*
24 *FERG 16, LLC; MOTI Partners, LLC; and*
25 *MOTI Partners 16, LLC.*

DATED February ¹⁹__, 2019

FENNEMORE CRAIG, P.C.

By: _____
Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

LEBENSFELD SHARON & SCHWARTZ
P.C., LLP

By: _____
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701
and

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

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

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DATED February __, 2019

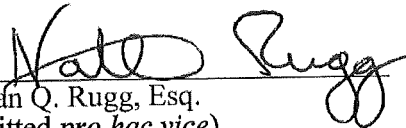
ATKINSON LAW ASSOCIATES LTD.

By: _____
Robert E. Atkinson, Esq. (SBN 9958)
376 E. Warm Springs Road, Suite 130
Las Vegas, NV 89119

*Attorney for Defendant
J. Jeffrey Frederick*

DATED February __, 2019

BARACK FERRAZZANO KIRSCHBAUM &
NAGELBERG LLP

By:  _____
Nathan Q. Rugg, Esq.
(admitted *pro hac vice*)
200 W. Madison St., Suite 3900
Chicago, IL 60606

and

Steven B. Chaiken, Esq.
ADELMAN & GETTLEMAN, LTD.
53 W. Jackson Blvd., Suite 1050
Chicago, IL 60604

*Attorneys for Defendants LLTQ Enterprises,
LLC; LLTQ Enterprises 16, LLC, FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC; and
MOTI Partners 16, LLC.*

DATED February __, 2019

FENNEMORE CRAIG, P.C.

By: _____
Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

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P.C.

By: _____
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701
and

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

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

1 BARACK FERRAZZANO KIRSCHBAUM &
2 NAGELBERG LLP

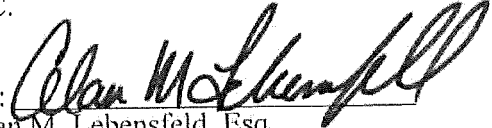
3 By: _____
4 Nathan Q. Rugg, Esq.
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6 200 W. Madison St., Suite 3900
7 Chicago, IL 60606

8 and

9 Steven B. Chaiken, Esq.
10 ADELMAN & GETTLEMAN, LTD.
11 53 W. Jackson Blvd., Suite 1050
12 Chicago, IL 60604

13 *Attorneys for Defendants LLTQ Enterprises,*
14 *LLC; LLTQ Enterprises 16, LLC, FERG,*
15 *LLC; FERG 16, LLC; MOTI Partners, LLC;*
16 *and MOTI Partners 16, LLC.*

LEBENSFELD SHARON & SCHWARTZ
P.C.

By: 
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701
and

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

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

17 DATED February __, 2019

18 HEYMAN ENERIO GATTUSO &
19 HIRZEL LLP

20 By: _____
21 Kurt Heyman, Esq.
22 300 Delaware Ave., Suite 200
23 Wilmington, DE 19801

24 *Trustee for GR Burgr LLC*

ORDER

25 IT IS SO ORDERED.

1 DATED February __, 2019

2 HEYMAN ENERIO GATTUSO &
3 HIRZEL LLP

4 By: _____
5 Kurt Heyman, Esq.
6 300 Delaware Ave., Suite 200
7 Wilmington, DE 19801

8 *Trustee for GR Burgr LLC*

10 **ORDER**

11 IT IS SO ORDERED.

12
13 
14 THE HONORABLE TIMOTHY C. WILLIAMS
15 DISTRICT COURT JUDGE

16 DATED: 3/12/19
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EXHIBIT "A"

CONFIDENTIALITY AGREEMENT

I, _____ do hereby acknowledge and agree, under penalty of perjury, as follows:

1. I have read the Stipulated Confidentiality Agreement and Protective Order ("the Protective Order") entered in *Rowen Seibel v. PHWLTV, LLC, A-17-751759-B, consolidated with Case No. A-17-760537-B* on _____, _____, and I fully understand its contents.

2. I hereby agree and consent to be bound by the terms of the Protective Order and to comply with it in all respects, and to that end, I hereby knowingly and voluntarily submit and subject myself to the personal jurisdiction of the Eighth Judicial District Court, State of Nevada so that the said court shall have the power and authority to enforce the Protective Order and to impose appropriate sanctions upon me for knowingly violating the Protective Order, including punishment for contempt of court for a knowing violation of the Protective Order.

3. I understand that by signing this instrument, I will be eligible to receive "Confidential Information" and/or "Highly Confidential Information" under the terms and conditions of the Protective Order. I further understand and agree that I must treat any "Confidential Information" and/or "Highly Confidential Information" in accordance with the terms and conditions of the Protective Order, and that, if I should knowingly make a disclosure of any such information in a manner unauthorized by the Protective Order, I will have violated a court order, will be in contempt of court, and will be subject to punishment by the court for such conduct.

DATED: _____

(Signature)

(Printed Name)

(Address)

TAB 37

Steven D. Grierson

OJPC

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,)

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

Plaintiff,

-vs-

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY
AD

AMENDED ORDER SETTING CIVIL JURY TRIAL, PRE-TRIAL/CALENDAR CALL

IT IS HEREBY ORDERED THAT:

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

B. A Pre-Trial/Calendar Call with the designated attorney and/or parties in proper
person will be held on **January 9, 2020 at 10:30 a.m.**

1 C. Parties are to appear on **September 25, 2019 at 9:00a.m.**, for a Status Check re Trial
2 Readiness.

3 D. The Pre-Trial Memorandum must be filed no later than **January 8, 2020**, with a
4 courtesy copy delivered to Department XI. All parties, (Attorneys and parties in proper person)
5 **MUST** comply with **All REQUIREMENTS** of E.D.C.R. 2.67, 2.68 and 2.69. Counsel should
6 include the Memorandum an identification of orders on all motions in limine or motions for partial
7 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
8 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
9 as any objections to the opinion testimony.
10

11 E. All motions in limine to exclude or admit evidence must be in writing and filed no
12 later than **November 4, 2019. Orders shortening time will not be signed except in extreme**
13 **emergencies.**
14

15 F. All dispositive motions must be filed no later than **October 4, 2019.**

16 G. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
17 16.1(a)(3) must be made at least 30 days before trial.

18 G. All discovery deadlines, and motions to amend the pleadings or add parties are
19 controlled by the previously issued Scheduling Order and/or any amendments or subsequent
20 orders.
21

22 I. All original depositions anticipated to be used in any manner during the trial must be
23 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is
24 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions
25 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days
26 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of
27
28

1 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial
2 date. Counsel shall advise the clerk prior to publication.

3 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
4 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
5 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
6 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
7 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
8 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
9 demonstrative exhibits are marked for identification but not admitted into evidence.
10

11 K. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
12 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
13 make specific objections to items to be included in the Jury Notebook.
14

15 L. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
16 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
17 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
18 set of jury instructions and proposed form of verdict along with any additional proposed jury
19 instructions with an electronic copy in Word format.
20

21 M. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two
22 (2) judicial days prior to the firm trial date given at Calendar Call, voir dire proposed to be
23 conducted pursuant to conducted pursuant to EDCR 2.68.

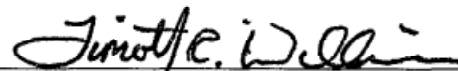
24 **Failure of the designated trial attorney or any party appearing in proper person to**
25 **appear for any court appearances or to comply with this Order shall result in any of the**
26
27
28

1 following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation
2 of trial date; and/or any other appropriate remedy or sanction.

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

7
8 Counsel is required to advise the Court immediately when the case settles or is otherwise
9 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
10 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A
11 copy should be given to Chambers.

12 DATED: March 13, 2019

13
14 
15 Timothy C. Williams, District Court Judge

16
17 **CERTIFICATE OF SERVICE**

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

21 William E Arnault	warnault@kirkland.com
22 Magali Mercera	mmm@pisanellibice.com
23 Cinda Towne	cct@pisanellibice.com
24 Jeffrey J Zeiger	jzeiger@kirkland.com
25 Paul Sweeney	PSweeney@certilmanbalin.com
26 Robert Atkinson	robert@nv-lawfirm.com
27 Litigation Paralegal	bknotices@nv-lawfirm.com
28 Kevin M. Sutehall	ksutehall@foxrothschild.com

1	"James J. Pisanelli, Esq." .	lit@pisanellibice.com
2	"John Tennert, Esq." .	jtennert@fclaw.com
3	Allen Wilt .	awilt@fclaw.com
4	Brittnie T. Watkins .	btw@pisanellibice.com
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9	Matt Wolf .	mcw@cmlawnv.com
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16	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
17	Doreen Loffredo	dloffredo@foxrothschild.com
18	Daniel McNutt	drm@cmlawnv.com
19	Nicole Milone	nmilone@certilmanbalin.com
20	Trey Pictum	trey@mcnuttlawfirm.com
21	Nathan Rugg	nathan.rugg@bfkn.com
22	Brett Schwartz	brett.schwartz@lsandspc.com

Lynn Berkheimer, Judicial Executive Assistant

TAB 38

Steven D. Grierson

ARJT

**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,)

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

Plaintiff,

-vs-

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY
[Signature]

**2nd AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;
AMENDED DISCOVERY SCHEDULING ORDER CALL**

Pursuant to the Stipulation and Order to Extend Discovery Deadlines and Trial (4th Request)
the Discovery Deadlines and Trial dates are hereby amended as follows:

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

Motions to amend pleadings or add parties

Closed

Close of Fact Discovery

October 7, 2019

Designation of experts pursuant to NRCP 16.1(a)(2)	November 6, 2019
Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	December 6, 2019
Discovery Cut Off	January 6, 2020
Dispositive Motions	February 5, 2020
Motions in Limine	February 21, 2020

IT IS HEREBY ORDERED THAT:

- A. The above entitled case is set to be tried to a jury on a **five week stack** to begin **April 6, 2020 at 9:30 a.m.**
- B. Pre-Trial Conference/Calendar Call will be held on **March 19, 2020 at 10:30 a.m.**
- C. Parties are to appear on **January 22, 2020 at 9:00a.m.**, for a Status Check re Trial Readiness.
- D. The Pre-Trial Memorandum must be filed no later than **March 20, 2020**, with a courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person) **MUST** comply with **ALL REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include in the Memorandum an identification of orders on all motions in limine or motions for partial summary judgment previously made, a summary of any anticipated legal issues remaining, a brief summary of the opinions to be offered by any witness to be called to offer opinion testimony as well as any objections to the opinion testimony.
- E. All motions in limine must be in writing and filed no later than **February 2, 2020**. **Orders shortening time will not be signed except in extreme emergencies.**
- F. All motions in limine to exclude or admit evidence must be in writing and filed no later than **February 21, 2020**. **Orders shortening time will not be signed except in extreme emergencies.**

1 G. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
2 16.1(a)(3) must be made at least 30 days before trial.

3 H. All discovery deadlines, and motions to amend the pleadings or add parties are
4 controlled by the previously issued Scheduling Order and/or any amendments or subsequent
5 orders.
6

7 I. All original depositions anticipated to be used in any manner during the trial must be
8 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is
9 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions
10 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days
11 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of
12 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial
13 date. Counsel shall advise the clerk prior to publication.
14

15 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
16 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
17 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
18 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
19 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
20 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
21 demonstrative exhibits are marked for identification but not admitted into evidence.
22

23 K. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
24 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
25 make specific objections to items to be included in the Jury Notebook.
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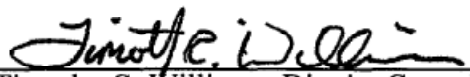
1 L. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
2 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
3 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
4 set of jury instructions and proposed form of verdict along with any additional proposed jury
5 instructions with an electronic copy in Word format.

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

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

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

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21 DATED: August 19, 2019

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23 
24 Timothy C. Williams, District Court Judge

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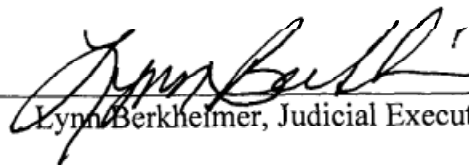
CERTIFICATE OF SERVICE

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:

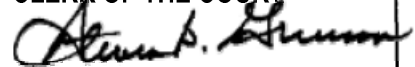
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David A. Carroll	dcarroll@rrsc-law.com
Anthony J DiRaimondo	adiraiondo@rrsc-law.com
Gayle McCrea	gmccrea@rrsc-law.com
Robert Opdyke	ropdyke@rrsc-law.com
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Lynn Berkheimer, Judicial Executive Assistant

TAB 39



1 ARJT

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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.)

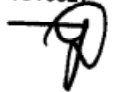
16 and)

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

19 Nominal Plaintiff.)

20 AND ALL RELATED MATTERS)

HEARING DATE(S)
ENTERED IN
ODYSSEY



21 **3rd AMENDED ORDER SETTING CIVIL JURY TRIAL,**
22 **PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;**
AMENDED DISCOVERY SCHEDULING ORDER CALL

23 Pursuant to the Stipulation and Order to Extend Discovery Deadlines and Trial (5th 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

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.

1 G. All discovery deadlines, and motions to amend the pleadings or add parties are
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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.**

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11 *reporting.*

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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: October 8, 2019.

18
19 
20 Timothy C. Williams, District Court Judge

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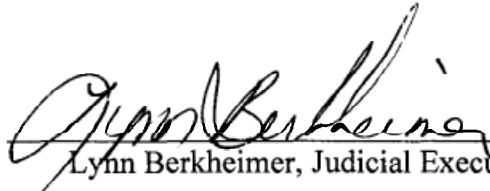
CERTIFICATE OF SERVICE

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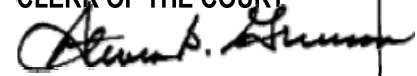
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Lynn Berkheimer, Judicial Executive Assistant

TAB 40



James J. Pisanelli, Esq., Bar No. 4027
jpp@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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 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 22nd day of November 2019.

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

15 Respectfully submitted by:

16 DATED November 21, 2019

17 PISANELLI BICE PLLC

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

23 and

24 Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
25 William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
26 KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

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

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Approved as to form and content by:

DATED November 21, 2019

FENNEMORE CRAIG, P.C.

By: /s/ Allen Wilt
Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

Approved as to form and content by:

DATED November 21, 2019

RICE REUTHER SULIVAN & CARROLL, LLP

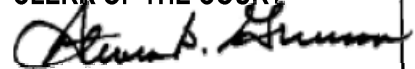
By: /s/ David A. Carroll
David A. Carroll, Esq.
Anthony J. DiRaimondo, Esq.
Robert E. Opdyke, Esq.
3800 Howard Hughes Pkwy., Suite 1200
Las Vegas, NV 89169

and

Steven C. Bennett, Esq.
Daniel J. Brooks, Esq.
SCAROLA ZUBATOV SCHAFFZIN PLLC 1700
Broadway, 41st Floor
New York, NY 10019

*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 41



1 ARJT

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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 4th 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 (5th 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

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

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

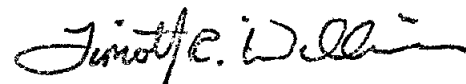
1 set of jury instructions and proposed form of verdict along with any additional proposed jury
2 instructions with an electronic copy in Word format.

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.

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20 Timothy C. Williams, District Court Judge

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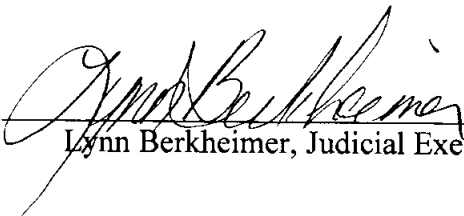
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1 **CERTIFICATE OF SERVICE**

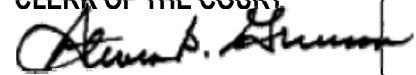
2
3 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil
4 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all
registered parties in the Eighth Judicial District Court Electronic Filing Program as follows:

5 William E Arnault	warnault@kirkland.com
6 Magali Mercera	mmm@pisanellibice.com
7 Cinda Towne	cct@pisanellibice.com
8 Jeffrey J Zeiger	jzeiger@kirkland.com
9 Steven Bennett	scb@szslaw.com
10 Daniel J Brooks	dbrooks@szslaw.com
11 David A. Carroll	dcarroll@rrsc-law.com
12 Anthony J DiRaimondo	adiraimondo@rrsc-law.com
13 Gayle McCrea	gmccrea@rrsc-law.com
14 Robert Opdyke	ropdyke@rrsc-law.com
15 Paul Sweeney	PSweeney@certilmanbalin.com
16 Kevin M. Sutehall	ksutehall@foxrothschild.com
17 "James J. Pisanelli, Esq." .	lit@pisanellibice.com
18 "John Tennert, Esq." .	jtennert@fclaw.com
19 Allen Wilt .	awilt@fclaw.com
20 Brittne T. Watkins .	btw@pisanellibice.com
21 Dan McNutt .	drm@cmlawnv.com
22 Debra L. Spinelli .	dls@pisanellibice.com
23 Diana Barton .	db@pisanellibice.com
24 Lisa Anne Heller .	lah@cmlawnv.com
25 Matt Wolf .	mcw@cmlawnv.com
26 Meg Byrd .	mbyrd@fclaw.com
27 PB Lit .	lit@pisanellibice.com
28 Robert Atkinson	robert@nv-lawfirm.com
Monice Campbell	monice@envision.legal

1	Steven Chaiken	sbc@ag-ltd.com
2	Mark Connot	mconnot@foxrothschild.com
3	Joshua Feldman	jfeldman@certilmanbalin.com
4	Christine Gioe	christine.gioe@lsandspc.com
5	Karen Hippner	karen.hippner@lsandspc.com
6	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
7	Doreen Loffredo	dloffredo@foxrothschild.com
8	Daniel McNutt	drm@cmlawnv.com
9	Nicole Milone	nmilone@certilmanbalin.com
10	Litigation Paralegal	bknotices@nv-lawfirm.com
11	Trey Pictum	trey@mcnuttlawfirm.com
12	Nathan Rugg	nathan.rugg@bfkn.com
13	Brett Schwartz	brett.schwartz@lsandspc.com
14	Lawrence Sharon	lawrence.sharon@lsandspc.com


Lynn Berkheimer, Judicial Executive Assistant

TAB 42



James J. Pisanelli, Esq., Bar No. 4027
jjp@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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 9th 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
Brittnie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, NV 89101

15 and

16 Jeffrey J. Zeiger, P.C., Esq.
17 (admitted *pro hac vice*)
William E. Arnault, IV, Esq.
18 (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
19 300 North LaSalle
Chicago, IL 60654

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

FENNEMORE CRAIG, P.C.

By: /s/ John Tennert
John Tennert, Esq. (SBN 11728)
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

Approved as to form and content by:

DATED March 6, 2020

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
John R. Bailey (SBN 0137)
Dennis L. Kennedy (SBN 1462)
Joshua P. Gilmore (SBN 11576)
Paul C. Williams (SBN 12524)
Stephanie J. Glantz (SBN 14878)

8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

*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; and TPOV Enterprises 16,
LLC*