

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' MOTION TO REDACT PETITION FOR EXTRAORDINARY WRIT
RELIEF AND TO SEAL VOLUMES SEVEN TO SEVENTEEN OF THE APPENDIX
THERE TO**

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**PETITIONERS' MOTION TO REDACT PETITION FOR EXTRAORDINARY WRIT
RELIEF AND TO SEAL VOLUMES SEVEN TO SEVENTEEN OF THE
APPENDIX THERETO**

Pursuant to NRAP 27 and Rule 3(1) of the SRCR, Petitioners¹ move this Court (“Motion to Seal and Redact”) to: (i) permit them to redact their Petition for Extraordinary Writ Relief (“Writ Petition”), which is being filed concurrently herewith, at pages 5-10, 26, and 29, and (ii) to allow them to file under seal Volumes Seven to Seventeen of the Appendix to their Writ Petition.

The documents contained in Volumes Seven to Seventeen of the Appendix to the Writ Petition (the “Proposed Sealed Documents”) were filed and have been maintained under seal in the district court because they contain confidential, proprietary, and/or commercially sensitive information related to the parties that is not publicly known. Subject to further Order of this Court, they must remain under seal. SRCR 7. Further, the Writ Petition quotes and summarizes certain portions of the Proposed Sealed Documents. Accordingly, the Petitioners respectfully request that they be allowed to file a redacted copy of their Writ Petition.

¹ “Petitioners” or “Development Parties” refers to Rowen Seibel (“Seibel”), Craig Green (“Green”), and the “Development Entities,” *i.e.*, Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”); and GR Burgr, LLC (“GRB”).

This Motion to Seal is made and based on the record included with the Writ Petition and the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

A. Standard of Decision.

“Any person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion” SRCR 3(1).

“The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record.” SRCR 3(4). “The ... privacy ... interests that outweigh the public interest in open court records include findings that: [t]he sealing or redaction furthers ... a protective order entered under NRCP 26(c)”; or [t]he sealing or redaction is justified or required by another identified compelling circumstance.” SRCR 3(4)(b), (h).

Once a motion to seal or redact is pending, “the information to be sealed or redacted remains confidential for a reasonable period of time until the court rules on the motion.” SRCR 3(2). Further, in the context of an appeal, “[c]ourt records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.” SRCR 7.

B. Good Cause Exists For the Development Parties to File Under Seal the Proposed Sealed Documents and to Redact their Writ Petition.

The Development Parties are concurrently filing their Writ Petition with this Court concerning orders entered by the district court compelling the Development Parties to disclose privileged communications to the opposing parties in this case pursuant to NRS 49.115(1), the crime-fraud exception to the attorney-client privilege codified at NRS 49.095. Included in Volumes Seven to Seventeen of the Appendix to their Writ Petition (the Proposed Sealed Documents) are pertinent filings from the proceedings below. Although redacted copies of these motions, oppositions, and replies were publicly filed with the district court, un-redacted copies were filed under seal because they contain confidential, proprietary, and/or commercially sensitive information related to the parties that is not publicly known. Each time a party filed a motion, opposition, or reply under seal or in redacted form, the party also filed a motion to seal or redact, which was unopposed and which was thereafter granted by the district court.² (*See, e.g.*, 4 PA 863-79, 928-38, 949-60.) All sealing and redaction orders entered by the district court in this case remain in effect to this date.

² The district court previously entered a Stipulated Confidentiality Agreement and Protective Order (the “Protective Order”) governing the use and disclosure of confidential and highly confidential information. (3 PA 459-79.)

Additionally, the Writ Petition quotes and summarizes information from the Proposed Sealed Documents that has been designated as either confidential or highly confidential by the parties pursuant to the Protective Order. (*See* Writ Petition at 5-10, 26, and 29.) As a result, the Development Parties have publicly filed a copy of their Writ Petition with redactions to the quoted or summarized confidential or highly confidential information. An unredacted copy of the Writ Petition has been manually submitted for filing to this Court.

For these reasons, and subject to further Order of this Court, the Development Parties request that this Motion to Seal and Redact be granted, and that this Court maintain the Proposed Sealed Documents under seal and allow the redactions at pages 5-10, 26, and 29 to the publicly-filed version of the Writ Petition.

DATED this 4th day of November, 2021.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 4th day of November, 2021, service of the foregoing was made by electronic service through the Nevada Supreme Court's electronic filing system, electronic service through the Eighth Judicial District Court's electronic filing system, hand delivery, and/or depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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Respondent

/s/ Susan Russo
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