

CASE NO.

IN THE SUPREME COURT OF NEVADA

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

Electronically Filed
Nov 05 2021 09:00 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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;
PHWLV, 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 17

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

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

Attorneys for Petitioners

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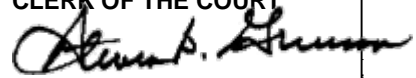
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The Development Entities, Rowen Seibel, and Craig Green's Motion to Compel the Return, Destruction, or Sequestering of the Court's August 19, 2021 Minute Order Containing Privileged Attorney-Client Communications, filed August 30, 2021	5	83	PA001103 - PA001118
The Development Parties' Notice of Submission of Competing Order Concerning Supplemental Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege Pursuant to the Crime Fraud Exception, filed on October 28, 2021	6	91	PA001299 - PA001319
Verified Complaint and Demand for Jury Trial, filed February 28, 2017	1	1	PA000001 - PA000036

TAB 25



1 James J. Pisanelli, Esq., Bar No. 4027
jpp@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*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
9 KIRKLAND & ELLIS LLP
300 North LaSalle
10 Chicago, IL 60654
Telephone: 312.862.2000

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

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

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

18 Plaintiff,

19 v.

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

22 Defendants,

23 and

24 GR BURGR LLC, a Delaware limited liability
company,

25 Nominal Plaintiff.

26
27 AND ALL RELATED MATTERS
28

Case No.: A-17-751759-B

Dept. No.: XV

Consolidated with A-17-760537-B

**ORDER DENYING, WITHOUT
PREJUDICE, (1) DEFENDANT ROWEN
SEIBEL'S MOTION TO DISMISS
PLAINTIFFS' CLAIMS; (2)
DEFENDANTS TPOV ENTERPRISES
AND TPOV ENTERPRISES 16'S MOTION
TO DISMISS PLAINTIFFS CLAIMS; (3)
MOTION TO DISMISS OR, IN THE
ALTERNATIVE, TO STAY CLAIMS
ASSERTED AGAINST DEFENDANT DNT
ACQUISITION, LLC; (4) AMENDED
MOTION TO DISMISS OR, IN THE
ALTERNATIVE, TO STAY CLAIMS
ASSERTED AGAINST LLTQ/FERG
DEFENDANTS; AND (5) AMENDED
MOTION TO DISMISS OR, IN THE
ALTERNATIVE, TO STAY CLAIMS
ASSERTED AGAINST MOTI
DEFENDANTS**

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

1 The following motions came before the Court on May 1, 2018:

- 2 1. Defendant Rowen Seibel's Motion to Dismiss Plaintiffs Claims ("Seibel's Motion
3 to Dismiss");
- 4 2. Defendants TPOV Enterprises and TPOV Enterprises 16's Motion to Dismiss
5 Plaintiffs Claims ("TPOV & TPOV 16's Motion to Dismiss");
- 6 3. Motion to Dismiss or, in the Alternative, to Stay Claims Asserted Against
7 Defendant DNT Acquisition, LLC ("DNT's Motion to Dismiss");
- 8 4. Amended Motion to Dismiss or, in the Alternative, to Stay Claims Asserted
9 Against LLTQ/FERG Defendants ("LLTQ, LLTQ 16, FERG, & FERG 16's
10 Motion to Dismiss"); and
- 11 5. Amended Motion to Dismiss or, in the Alternative, to Stay Claims Asserted
12 Against MOTI Defendants ("MOTI & MOTI 16's Motion to Dismiss").

13 James J. Pisanelli, Esq., M. Magali Mercera, Esq., and Brittnie Watkins, Esq., of
14 PISANELLI BICE PLLC, and Jeffrey J. Zeiger, Esq., of KIRKLAND & ELLIS, LLP, appeared on behalf
15 of Desert Palace, Inc., Paris Las Vegas Operating Company, LLC, PHWLV, LLC, and Boardwalk
16 Regency Corporation d/b/a Caesars Atlantic City (collectively the "Caesars Parties"). Dan
17 McNutt, Esq. and Matt Wolf, Esq., of McNUTT LAW FIRM, appeared on behalf of TPOV
18 Enterprises, LLC ("TPOV") and TPOV Enterprises 16, LLC ("TPOV 16"). Paul Sweeney, Esq.,
19 of CERTILMAN BALIN ADLER & HYMAN, LLP, appeared on behalf of TPOV, TPOV 16, Rowen
20 Seibel ("Seibel"), DNT Acquisition, LLC ("DNT"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ
21 Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI
22 Partners, LLC ("MOTI"), and MOTI Partners 16, LLC ("MOTI 16"). Nathan Rugg, Esq., of
23 BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG LLP, appeared on behalf of LLTQ, LLTQ 16,
24 FERG, FERG 16, MOTI, and MOTI 16. Allen Wilt, Esq., of FENNEMORE CRAIG, PC, appeared
25 on behalf of Gordon Ramsay.

26 The Court having considered the above-referenced motions and related briefings, as well
27 as argument of counsel presented at the hearing, and good cause appearing therefor,
28

1 THE COURT FINDS that the first-to-file doctrine is a doctrine of discretion. Under the
2 totality of circumstances before the Court, the Court finds that it should exercise its discretion
3 and not defer to the first-to-file doctrine;

4 THE COURT FURTHER FINDS that in ruling upon a motion to dismiss, the Court must
5 treat all factual allegations in the complaint as true and draw all inferences in favor of the
6 Caesars Parties. See *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 228, 181 P.3d
7 670, 672 (2008). Further, "[a]s a general rule, the court may not consider matters outside the
8 pleading being attacked. However, the court may take into account matters of public record,
9 orders, items present in the record of the case, and any exhibits attached to the complaint when
10 ruling on a motion to dismiss for failure to state a claim upon which relief can be granted.
11 *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993). Thus,
12 here the Court considered the subject contracts that were either referred to, attached to or
13 incorporated in the pleadings.

14 THE COURT FURTHER FINDS that the subject contracts have nearly identical
15 suitability provisions, which supports denial of the Motions. This Court agrees that this action
16 involves issues of suitability pertaining to Mr. Seibel and, thus, there exists a great potential for
17 inconsistent rulings amongst the various actions. Denying the Motions will help alleviate if not
18 resolve the potential of inconsistent rulings on suitability amongst all of the various actions.
19 Therefore, the Court finds, pursuant to its discretion, the totality of the circumstances, and to
20 avoid inconsistent rulings, that it would be most efficient to resolve the suitability issues in one
21 forum. This is the most comprehensive action in which to make a determination on this key
22 issue.

23 THE COURT FURTHER FINDS that comity supports denial of the Motions. In
24 reaching its conclusion on the Motions and determining that these matters should be proceeding
25 before this Court, the Court agrees with Judge Davis' Findings of Fact and Conclusions of Law
26 ("FFCL") related to MOTI, MOTI 16, LLTQ, LLTQ 16, FERG, & FERG 16's Motions to
27 Transfer Venue and the Caesars Parties' Motions to Remand. Judge Davis' FFCL are attached
28

1 hereto as Exhibits 1 and 2, and the Court hereby incorporates Judge Davis' reasoning as set forth
2 therein.

3 THE COURT FURTHER FINDS that a stay is inappropriate and denies this request,
4 without prejudice.

5 THE COURT FURTHER FINDS that issues related to discovery taken in other actions
6 can be addressed, as appropriate, in the future by this Court.

7 THE COURT FURTHER FINDS that FERG is in a unique position in light of sections
8 14.10(b)-(c) of the subject contract which would ordinarily require that actions, not just
9 arbitration matters, be litigated in New Jersey. However, the parties are already involved in
10 litigation in a forum other than New Jersey, namely the United State Bankruptcy Court in
11 Illinois, which along with the other circumstances discussed above supports denial of LLTQ,
12 LLTQ 16, FERG, & FERG 16's Motion to Dismiss, without prejudice.

13 THE COURT FURTHER FINDS that while other courts have made comments regarding
14 aspects of the litigation, those courts have made clear that such comments are not determinations
15 on the merits of any matter and, in fact, determination on the merits have not been reached in the
16 other actions.

17 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

- 18 1. Seibel's Motion to Dismiss is hereby DENIED, without prejudice;
- 19 2. TPOV & TPOV 16's Motion to Dismiss is hereby DENIED, without prejudice;
- 20 3. DNT's Motion to Dismiss is hereby DENIED, without prejudice;
- 21 4. LLTQ, LLTQ 16, FERG, & FERG 16's Motion to Dismiss is hereby DENIED,
22 without prejudice; and

23 ///

24 ///

25 ///

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27

28

1 5. MOTI & MOTI 16's Motion to Dismiss is hereby DENIED, without prejudice.

2 IT IS SO ORDERED.

3 DATED this 1st day of June 2018.

4 
5 THE HONORABLE JOE HARDY
6 EIGHTH JUDICIAL DISTRICT COURT

7 Respectfully submitted by:

8 PISANELLI BICE PLLC

9 By: 

10 James Pisanelli, Esq., Bar No. 4027
11 Debra Spinelli, Esq., Bar No. 9695
12 M. Magali Mercera, Esq., Bar No. 11742
13 Brittanie Watkins, Esq., Bar No. 13612
14 400 South 7th Street, Suite 300
15 Las Vegas, NV 89101

16 and

17 KIRKLAND & ELLIS LLP
18 Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
19 William E. Arnault, IV, Esq. (admitted *pro hac vice*)
20 300 North LaSalle
21 Chicago, IL 60654
22 Telephone: 312.862.2000

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

27 Approved as to form and content:

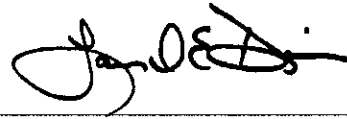
28 FENNEMORE CRAIG, P.C.

By: /s/ Allen J. Wilt

Allen Wilt, Esq., Bar No. 4798
John Tennert, Esq., Bar No. 11728
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

EXHIBIT 1



Honorable Laurel E. Davis
United States Bankruptcy Judge



1
2
3

Entered on Docket
December 14, 2017

4

5

6

UNITED STATES BANKRUPTCY COURT

7

DISTRICT OF NEVADA

8

* * * * *

9

DESERT PALACE, INC.; PARIS LAS VEGAS)
OPERATING COMPANY, LLC; PHWLV,
10 LLC; BOARDWALK REGENCY)
CORPORATION dba CAESARS ATLANTIC)
11 CITY,

Adv. Proceeding No.: 17-01237-LED

12

Plaintiffs,

13

vs.

Date: December 4, 2017
Time: 1:30 p.m.

14

MOTI PARTNERS, LLC; MOTI PARTNER)
16, LLC; J. JEFFREY FREDERICK; ROWEN)
15 SEIBEL; LLTQ ENTERPRISES, LLC; LLTQ)
ENTERPRISES 16, LLC; FERG, LLC; FERG)
16 16 LLC; TPOV ENTERPRISES, LLC; TPOV)
ENTERPRISES 16, LLC; DNT)
17 ACQUISITION, LLC; GR BURGR, LLC,

18

Defendants.

19

20

FINDINGS OF FACT AND CONCLUSIONS OF LAW¹

21

On December 4, 2017, the court held a combined hearing on the "Motion to Transfer

22

Venue for Claims against MOTI Defendants" (AECF No. 9) (the "Motion to Transfer Venue")

23

24

¹ All references to "AECF No." are to the numbers assigned to the documents filed in the above-captioned adversary proceeding as they appear on the docket maintained by the Clerk of Court. All references to "ECF No." are to the numbers assigned to the documents filed in the bankruptcy proceeding as they appear on the docket maintained by the Clerk of Court of the United States Bankruptcy Court for the Northern District of Illinois in Case No. 15-01145. All references to "FRBP" are to the Federal Rules of Bankruptcy Procedure. All references to "FRCP" are to the Federal Rules of Civil Procedure.

25

26

1 and “Plaintiffs’ Amended Motion to Remand” (AECF No. 34) (the “Amended Motion to
2 Remand”). Appearances were noted on the record.

3 The court has considered the pleadings, arguments of counsel, the case law and
4 statutes applicable to this matter, and the court takes judicial notice of the pleadings filed in
5 the Caesars Bankruptcy Case (defined below) pursuant to Federal Rules of Evidence
6 201(b). In accordance with FRCP 52, made applicable to adversary proceedings by FRBP
7 7052, the court makes the following findings of fact and conclusions of law. Any finding of
8 fact that should be a conclusion of law is deemed a conclusion of law; any conclusion of
9 law that should be a finding of fact is deemed a finding of fact.

10 **FINDINGS OF FACT**

11 1. In 2009, Desert Palace, Inc. (“Desert Palace”) and MOTI Partners, LLC
12 entered into an agreement relating to the development and operation of a Las Vegas
13 restaurant (the “MOTI Agreement”). (AECF No. 1 at ¶ 2; see also AECF No. 1-1 at ¶ 14).

14 2. On January 15, 2015, Desert Palace filed a voluntary chapter 11 petition with
15 the Bankruptcy Court for the Northern District of Illinois (the “Illinois Bankruptcy Court”)
16 as Case No. 15-01167. On that same day, the Illinois Bankruptcy Court entered an order
17 directing joint administration of Desert Palace’s chapter 11 case, among others, with the
18 lead chapter 11 case filed by Caesars Entertainment Operating Company, Inc. as Case No.
19 15-01145 (the “Caesars Bankruptcy Case”). (ECF No. 43).

20 3. On September 2, 2016, Desert Palace sent MOTI Partners, LLC a letter
21 terminating the MOTI Agreement. (AECF No. 1 at ¶ 6; AECF No. 1-1 at ¶ 110).

22 4. On November 30, 2016, MOTI Partners, LLC and MOTI Partners, 16, LLC
23 (collectively, “MOTI”) filed a “Request for Payment of Administrative Expense” in the
24 Caesars Bankruptcy Case relating to the termination of the MOTI Agreement (the “MOTI
25 Administrative Expense Claim”). (ECF No. 5862). The MOTI Administrative Expense
26 Claim remains pending before the Illinois Bankruptcy Court.

1 5. On January 17, 2017, the Illinois Bankruptcy Court entered an order (the
2 “Confirmation Order”) in the Caesars Bankruptcy Case confirming the Third Amended
3 Joint Plan of Reorganization (the “Confirmed Plan”). (ECF No. 6334).

4 6. On August 25, 2017, Desert Palace, Paris Las Vegas Operating Company,
5 LLC, PHWLV, LLC, and Boardwalk Regency Corporation d/b/a Caesars Atlantic City
6 (collectively, the “Plaintiffs”) filed a Complaint in the District Court for Clark County,
7 Nevada (the “State Court”) as Case No. A-17-760537-B (the “State Court Case”) against
8 Rowen Seibel, J. Jeffrey Frederick, LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC
9 (together with LLTQ Enterprises, LLC, “LLTQ”), FERG, LLC, FERG 16, LLC (together
10 with FERG, LLC, “FERG”), MOTI, TPOV Enterprises, LLC, TPOV Enterprises 16, LLC
11 (together with TPOV Enterprises, LLC, “TPOV”), DNT Acquisition, LLC (“DNT”), and
12 GR Burgr, LLC (“GRB,” and collectively with Rowen Seibel, J. Jeffrey Frederick, LLTQ,
13 FERG, MOTI, TPOV, and DNT, the “Defendants”). (AECF No. 1 at Ex. A).

14 7. The Complaint alleges three causes of action (the “Removed Claims”)
15 seeking declaratory judgments relating to contracts, including the MOTI Agreement
16 (collectively, the “Seibel Agreements”),² entered into by and among Plaintiffs and the
17 Defendants.

18 8. Count I of the Complaint seeks a “Declaratory Judgment Against All
19 Defendants Declaring That Caesars Properly Terminated All of the Seibel Agreements.”

20 9. Count II of the Complaint seeks a “Declaratory Judgment Against All
21 Defendants Declaring That Caesars Does Not Have Any Current or Future Obligations to
22 Defendants Under the Seibel Agreements.”

23
24
25
26 ² The Complaint defines the contracts as the “Seibel Agreements.”

1 10. Count III of the Complaint seeks a “Declaratory Judgment Against All
2 Defendants Declaring that the Seibel Agreements Do Not Prohibit or Limit Existing or
3 Future Restaurant Ventures Between Caesars and Gordon Ramsay.”

4 11. On September 27, 2017,³ MOTI removed the State Court Case to this court
5 pursuant to 28 U.S.C. §§ 1452(a) and 1334(b) and FRBP 9027.⁴ (AECF No. 1). MOTI
6 argues that the issues made the subject of the Removed Claims are subsumed within the
7 MOTI Administrative Expense Claim currently pending in the Caesars Bankruptcy Case.

8 12. On October 2, 2017, MOTI filed a Motion to Transfer Venue, pursuant to
9 which MOTI seeks to transfer the Removed Claims to the Illinois Bankruptcy Court.

10 13. On October 6, 2017, the effective date of the Confirmed Plan occurred. (ECF
11 No. 7482).

12 14. On October 23, 2017, Plaintiffs filed an objection to the Motion to Transfer
13 Venue (AECF No. 29)⁵ and a Motion to Remand (AECF No. 30), pursuant to which
14 Plaintiffs seek to remand the Removed Claims back to the State Court.

15 15. On October 24, 2017, Plaintiffs filed their Amended Motion to Remand.

16 16. On October 24, 2017, the Plaintiffs and some of the Defendants, including
17 MOTI, filed a Stipulation to remand certain parties and claims back to the State Court (the
18 “Stipulation”). (AECF No. 35).

21 ³ On September 27, 2017, LLTQ and FERG filed a second Notice of Removal with this
22 court as Case No. 17-01238-LED. The court will address similar motions for removal and/or
23 transfer filed in that adversary proceeding by separate findings of fact and conclusions of law
entered therein.

24 ⁴ Plaintiffs have not contested the timeliness of MOTI’s removal.

25 ⁵ On October 18, 2017, J. Jeffrey Frederick also filed a limited objection to the Motion to
26 Transfer Venue (AECF No. 28), which has since been resolved and is not currently before the
court.

1 17. On November 1, 2017, MOTI filed a reply in support of its Motion to
2 Transfer Venue. (AECF No. 38).

3 18. On November 2, 2017, the court entered an “Order Approving Stipulation to
4 Remand Certain Claims,” pursuant to which the court remanded back to the State Court
5 “[a]ll claims and counts asserted against TPOV, DNT, GRB, Rowen Seibel, and J. Jeffrey
6 Frederick; and the claims asserted against LLTQ and FERG in Count I.” (AECF No. 39 at
7 p. 2, ¶ 1). At the December 4 hearing, MOTI’s counsel clarified that the Count I claim as to
8 MOTI was not remanded and remains with this court.⁶

9 19. On November 7, 2017, LLTQ, FERG, and MOTI (collectively, the
10 “Objectors”)⁷ filed a joint objection to the Amended Motion to Remand. (AECF No. 47).

11 20. On November 17, 2017, Plaintiffs filed their reply in support of the Amended
12 Motion to Remand. (AECF No. 58).

13 21. At the court’s request, on November 28, 2017, the Objectors filed a
14 “Supplemental Brief in Support of Motions to Transfer” (AECF No. 64), and on November
15 30, 2017, the Plaintiffs filed a “Supplemental Brief Regarding Removal of Claims” (AECF
16 No. 65).

17 CONCLUSIONS OF LAW

18 Jurisdiction

19 A. The court has jurisdiction to enter final orders on the Amended Motion to
20 Remand and Motion to Transfer Venue pursuant to 28 U.S.C. §§ 1412, 1447 and 1452 and
21 FRBP 7087 and 9027. Neither party has argued to the contrary. See Citicorp Sav. of Ill. v.
22 Chapman (In re Chapman), 132 B.R. 153, 160-61 (Bankr. N.D. Ill. 1991) (recognizing the
23

24 ⁶ Counts II and III are asserted against, among other parties, LLTQ and FERG, and not
25 MOTI.

26 ⁷ The Objectors filed a joint objection because “[t]he Remand Motions filed in these two
adversary proceedings are identical to one another” (AECF No. 47 at p. 2, n.1).

1 split in the case law but concluding that the bankruptcy court had authority to enter a final
2 order on a motion to remand).

3 B. “[A] bankruptcy court’s post-confirmation ‘related to’ jurisdiction is
4 substantially more limited than its pre-confirmation jurisdiction” Montana v. Goldin
5 (In re Pegasus Gold Corp.), 394 F.3d 1189, 1191 (9th Cir. 2005). “[T]he essential inquiry
6 appears to be whether there is a close nexus to the bankruptcy plan or proceeding sufficient
7 to uphold bankruptcy court jurisdiction over the matter[,]” and “matters affecting ‘the
8 interpretation, implementation, consummation, execution, or administration of the
9 confirmed plan will typically have the requisite close nexus.” Id. at 1194 (quoting Binder
10 v. Price Waterhouse & Co., LLP (In re Resorts Int’l, Inc.), 372 F.3d 154, 166-67 (3d Cir.
11 2004)).

12 C. Count I seeks a declaration regarding Desert Palace’s right to terminate the
13 MOTI Agreement based upon Nevada state law, a fact that MOTI concedes. MOTI
14 nevertheless argues that the “unique circumstances” of the Caesars Bankruptcy Case require
15 some different conclusion. (See AECF No. 47 at p. 6). The court disagrees.

16 D. The disclosure statement approved in the Caesars Bankruptcy Case listed an
17 estimated 1,800 administrative claims that are provided for by either payment in full or
18 other resolution during the post-confirmation period. (ECF No. 4220-1 at p. 105). Any
19 state law issue arising in Count I is distinct from the MOTI Administrative Expense Claim.
20 And, MOTI’s counsel conceded during the December 4 hearing that Count I is a nullity
21 because Desert Palace had the right to terminate the MOTI Agreement for any reason.
22 Consequently, the determination of Count I in the State Court Case will not affect the
23 interpretation, implementation, consummation, execution, or administration of the
24 Confirmed Plan.

25 E. Language in the Confirmed Plan providing for the Illinois Bankruptcy Court’s
26 retention of jurisdiction over administrative claims does not alter this conclusion, as the

1 court's subject matter jurisdiction may not be conferred by the parties' consent with respect
2 to state law contract claims that do not satisfy the "close nexus" test regarding post-
3 confirmation jurisdiction. Go Global, Inc. v. Rogich (In re Go Global, Inc.), 2016 WL
4 6901265, at *7 (B.A.P. 9th Cir. Nov. 22, 2016) (citing In re Resorts Int'l, Inc., 372 F.3d at
5 161) ("[T]o the extent the plan could be construed as reserving jurisdiction to the
6 bankruptcy court to adjudicate that claim, such a reservation would be, by itself,
7 ineffective.").

8 F. Because this court finds and concludes that there is a not a sufficiently "close
9 nexus" between Count I and the Caesars Bankruptcy Case, the court does not reach the
10 question of supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

11 G. For all of these reasons, the court lacks jurisdiction over Count I, which shall
12 be remanded back to the State Court.

13 **Remand of Claims**

14 H. Even if the court has jurisdiction over Count I, the court exercises its
15 discretion to remand Count I back to the State Court. See Pac. Inv. Mgmt. Co., LLC v.
16 OCP Opportunities Fund III, L.P. (In re Enron Corp.), 296 B.R. 505, 508 (C.D. Cal. 2003)
17 (citing 28 U.S.C. § 1452(b)) ("Bankruptcy courts have broad discretion to remand cases
18 over which they otherwise have jurisdiction on any equitable ground.").

19 I. Pursuant to 28 U.S.C. § 1452(a), a party is authorized to "remove any claim
20 or cause of action in a civil action . . . to the district court for the district where such civil
21 action is pending, if such district court has jurisdiction of such claim or cause of action
22 under section 1334 of this title."

23 J. Pursuant to 28 U.S.C. § 1452(b), "[t]he court to which such claim or cause of
24 action is removed may remand such claim or cause of action on any equitable ground."

25 K. "This 'any equitable ground' remand standard is an unusually broad grant of
26 authority. It subsumes and reaches beyond all of the reasons for remand under

1 nonbankruptcy removal statutes.” McCarthy v. Prince (In re McCarthy), 230 B.R. 414, 417
2 (B.A.P. 9th Cir. 1999). “At bottom, the question is committed to the sound discretion of the
3 bankruptcy judge.” Id.

4 L. The court may consider 14 non-exclusive factors during its discretionary
5 analysis. See Wood v. Bank of N.Y. (In re Wood), 2011 WL 7145617, at *8-9 (B.A.P. 9th
6 Cir. Dec. 12, 2011). “[A]ny one of the relevant factors may provide a sufficient basis for
7 equitable remand” Fenicle v. Boise Cascade Co., 2015 WL 5948168, at *6 (N.D. Cal.
8 Oct. 13, 2015) (quotations and citations omitted).

9 M. The first factor involves “the effect or lack thereof on the efficient
10 administration of the estate if the Court recommends [remand]” In re Wood, 2011 WL
11 7145617, at *8. The court finds and concludes that remand will not affect the efficient
12 administration of the Caesars Bankruptcy Case because any state law issue involving Count
13 I is distinct from the MOTI Administrative Expense Claim, which is only one of an
14 estimated 1,800 such claims that are provided for by the Confirmed Plan. Furthermore,
15 MOTI’s counsel conceded during the December 4 hearing that Count I is a nullity because
16 Desert Palace had the right to terminate the MOTI Agreement for any reason. See
17 Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.), 912 F.2d 1162, 1169 (9th
18 Cir. 1990) (finding that issues involving state law interpretation of a restrictive covenant’s
19 reach “are distinct from the administration of the bankruptcy estate.”); In re Go Global, Inc.,
20 2016 WL 6901265, at *7 (holding that the court lacked post-confirmation jurisdiction to
21 decide a cause of action that was not discussed in the disclosure statement or confirmed
22 plan); Machine Zone, Inc. v. Peak Web LLC (In re Peak Web LLC), 559 B.R. 738, 741-42
23 (Bankr. D. Or. 2016) (finding that the first factor weighed in favor of remand because
24 “reorganization is not dependent on resolution of the [removed] claims.”). See also RG
25 Adding L.L.C. v. Carrier Mid-Atlantic HQ (In re Fedders N. Am., Inc.), 2009 WL 2151245,
26 at *1-2 (Bankr. D. Del. July 17, 2009) (abstaining from deciding an action to collect a

1 receivable purchased during the bankruptcy case because, among other things, state law
2 predominates and resolution of this action “will have no effect on the administration of the
3 estate because the Debtor’s plan has been confirmed”); Sun Healthcare Group, Inc. v.
4 Levin (In re Sun Healthcare Group, Inc.), 267 B.R. 673, 679 (Bankr. D. Del. 2000)
5 (abstaining from hearing the debtor’s adversary proceeding involving breach of contract
6 and tortious interference with business relations’ claims because, among other things, “there
7 is no impact on the administration of the bankruptcy estate”).

8 N. The second factor involves the “extent to which state law issues predominate
9 over bankruptcy issues” In re Wood, 2011 WL 7145617, at *9. As MOTI has
10 acknowledged, the court finds and concludes that this factor strongly weighs in favor of
11 remand because Count I involves a state law contract issue. See AECF No. 47 at p. 6
12 (stating that the Removed Claims involve a “state law contract dispute”); see also In re
13 Peak Web LLC, 559 B.R. at 742 (finding that the second factor weighed in favor of remand
14 because state law issues predominate and “no bankruptcy issues . . . need to be determined
15 before the case can be tried.”).

16 O. The third factor involves whether there are “difficult or unsettled [issues] of
17 applicable law” In re Wood, 2011 WL 7145617, at *9. Although the parties did not
18 argue this factor, MOTI’s counsel conceded that Desert Palace had the right to terminate the
19 MOTI Agreement for any reason. In light of this concession, the court finds and concludes
20 that this factor weighs in favor of remand.

21 P. The fourth factor involves the “presence of a related proceeding commenced
22 in state court or other nonbankruptcy proceeding” Id. The State Court Case
23 constitutes a related proceeding to which this court has already remanded certain claims and
24 parties pursuant to the Stipulation. See Maya, LLC v. Cytodyn of N. Mexico, Inc. (In re
25 Cytodyn of N. Mexico, Inc.), 374 B.R. 733, 739 (Bankr. C.D. Cal. 2007) (finding this factor
26 weighed in favor of remand even though the state court case may have technically been

1 “extinguished” upon removal). Furthermore, after considering the pleadings and counsels’
2 arguments, the court is convinced that similar issues involving Nevada law permeate all of
3 the Removed Claims, as well as the claims that have already been remanded back to the
4 State Court. Indeed, Plaintiffs’ counsel represented to the court that all parties have agreed
5 that if the Removed Claims are remanded back to the State Court, then the State Court Case
6 will be consolidated with another related Nevada state court matter pending before Judge
7 Joe Hardy as Case No. A-17-751759-B.⁸ For all of these reasons, the court finds and
8 concludes that this factor weighs in favor of remand.

9 Q. The fifth factor involves the “jurisdictional basis, if any, other than § 1334 . . .
10 .” In re Wood, 2011 WL 7145617, at *9. MOTI does not argue that any jurisdictional basis
11 exists other than 28 U.S.C. § 1334. Therefore, the court finds and concludes that this factor
12 weighs in favor of remand.

13 R. The sixth factor involves the “degree of relatedness or remoteness of [the]
14 proceeding to [the] main bankruptcy case” Id. MOTI argues that overlapping facts
15 exist in the Caesars Bankruptcy Case relating to the MOTI Administrative Expense Claim.
16 Plaintiffs indirectly refute this, arguing, among other things, that Count I is not “related to”
17 the interpretation or enforcement of the Confirmed Plan in the Caesars Bankruptcy Case.
18 The court agrees. Claims objections routinely require a bankruptcy court’s interpretation of
19 state law issues, and the existence of overlapping facts does not, standing alone, convert
20 purely state law claims to a bankruptcy matter that must be decided by a bankruptcy court.
21 See Butner v. U.S., 440 U.S. 48, 54 (1979) (“Congress has generally left the determination
22 of property rights in the assets of a bankruptcy’s estate to state law.”). Consequently, the
23 court finds and concludes that this factor weighs in favor of remand.

24
25 ⁸ Also raising similar issues is a case pending in the U.S. District Court for the District of
26 Nevada, entitled *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Co., LLC, et al.*, Case
No. 2:17-CV-00346-JCM-VCF.

1 S. The seventh factor involves “the substance rather than the form of an asserted
2 core proceeding.” In re Wood, 2011 WL 7145617, at *9. MOTI argues that Count I is a
3 core proceeding under 28 U.S.C. §§ 157(b)(2)(A) or 28 U.S.C. § 157(b)(2)(O) because it is
4 “inextricably bound” with the MOTI Administrative Claim Expense Claim. See Honigman,
5 Miller, Schwartz & Cohn v. Weitzman (In re Delorean Motor Co.), 155 B.R. 521, 525
6 (B.A.P. 9th Cir. 1993) (“[A] proceeding will not be considered a core matter, even if it falls
7 within the literal language of sections 157(b)(2)(A) or 157(b)(2)(O), if it is a state law claim
8 that could exist outside of bankruptcy and is not inextricably bound to the claims allowance
9 process or a right created by the Bankruptcy Code.”). Pursuant to the MOTI Administrative
10 Expense Claim, MOTI seeks damages based on post-termination events. However, the only
11 issue involved in Count I is Desert Palace’s right to terminate the MOTI Agreement under
12 Nevada state law, an issue that MOTI’s counsel has conceded is no longer in dispute.
13 Consequently, Count 1 is not “inextricably bound” to the administrative claims process
14 pending before the Illinois Bankruptcy Court. Therefore, the court finds and concludes that
15 this factor weighs in favor of remand.

16 T. The eighth factor relates to “the feasibility of severing state law claims from
17 core bankruptcy matters to allow judgments to be entered in state court with enforcement
18 left to the bankruptcy court” In re Wood, 2011 WL 7145617, at *9. The court finds
19 and concludes that this factor weighs in favor of remand because any findings made by the
20 State Court on Count I may, to the extent applicable, be utilized by the Illinois Bankruptcy
21 Court with respect to the matters pending before it.

22 U. The ninth factor involves “the burden on the bankruptcy court’s docket”
23 Id. Plaintiffs cite to a transcript from the Caesars Bankruptcy Case in which U.S.
24 Bankruptcy Judge A. Benjamin Goldgar stated regarding another matter his preference for a
25 state court to determine a state law issue. See Amended Motion to Remand at p. 14 and Ex.
26 C. The parties also cite other statements by Judge Goldgar to the effect that particular

1 issues should be decided by the bankruptcy court. These comments by Judge Goldgar are
2 not consistent and therefore do not provide a basis upon which to make findings and
3 conclusions regarding this factor. As a result, the court finds and concludes that this factor
4 is neutral.

5 V. The tenth factor involves “the likelihood that the commencement of the
6 proceeding in bankruptcy court involves forum shopping by one of the parties” In re
7 Wood, 2011 WL 7145617, at *9. MOTI argues that Plaintiffs engaged in forum shopping
8 by filing the State Court Case after receiving unfavorable comments from Judge Goldgar.
9 This contention is not relevant to the tenth factor, which “addresses forum shopping in
10 connection with the initiation of the bankruptcy court proceeding” Kamana O’Kala,
11 LLC v. Lite Solar, LLC, 2017 WL 1100568, at *7 (D. Or. Feb. 13, 2017). Even if it was
12 relevant, the “court determines that the evidence does not indicate that any party chose . . .
13 its respective forum in an attempt to abuse or manipulate the judicial process.” Torres v.
14 NE Opco, Inc. (In re NE Opco, Inc.), 2014 WL 4346080, at *3 (Bankr. C.D. Cal. Aug. 28,
15 2014). For these reasons, the court finds and concludes that this factor is neutral.

16 W. The eleventh factor involves “the existence of a right to a jury trial” In
17 re Wood, 2011 WL 7145617, at *9. MOTI states that no jury trial has been demanded, see
18 AECF No. 47 at p. 9. Plaintiffs do not refute this claim. For this reason, the court finds and
19 concludes that this factor weighs slightly against remand.

20 X. The twelfth factor involves “the presence in the proceeding of nondebtor
21 parties” In re Wood, 2011 WL 7145617, at *9. Desert Palace, as a reorganized
22 debtor, is a separate legal entity from the debtor that was involved in the Caesars
23 Bankruptcy Case. See Confirmed Plan at p. 71, Art. IV, § AA. Furthermore, two of the
24 plaintiffs and all the defendants in the State Court Case are non-debtors. As a result, the
25 court finds and concludes that this factor weighs in favor of remand.
26

1 Y. The thirteenth factor involves “comity” In re Wood, 2011 WL
2 7145617, at *9. “Comity dictates that [Nevada] courts should have the right to adjudicate
3 the exclusively state law claims involving [Nevada]-centric plaintiffs⁹ and [Nevada]-centric
4 transactions.” Pac. Inv. Mgmt. Co., LLC v. OCP Opportunities Fund III, L.P. (In re Enron
5 Corp.), 296 B.R. 505, 509 (C.D. Cal. 2003). See also Kamana O’Kala, LLC, 2017 WL
6 1100568, at *7 (finding the thirteenth factor weighed “heavily” in favor of remand “because
7 Kamana’s claims arise out of Oregon law, and because Kamana selected the [applicable
8 state] court as the forum for litigation of its claims.”); In re NE Opco, Inc., 2014 WL
9 4346080, at *3 (finding the same “because California courts have an interest in adjudicating
10 Plaintiff’s California state law claims.”); Brincko v. Rio Props., Inc. (In re Nat’l Consumer
11 Mortg.), 2010 WL 2384217, at *4 (C.D. Cal. June 10, 2010) (transferring venue from the
12 California bankruptcy court to Nevada because, among other reasons, “Nevada has an
13 interest in having the controversy decided within its borders.”). For these reasons, the court
14 finds and concludes that this factor weighs strongly in favor of remand.

15 Z. The fourteenth factor involves “the possibility of prejudice to other parties in
16 the action” In re Wood, 2011 WL 7145617, at *9. Plaintiffs’ counsel argued that
17 overlapping facts exist regarding “suitability” provisions in the Seibel Agreements and the
18 scope of restrictive covenants. Absent a single forum to decide these issues, Plaintiffs
19 contend that the risk of inconsistent decisions by different courts constitutes prejudice. The
20 court agrees. See W. Helicopters, Inc. v. Hiller Aviation, Inc., 97 B.R. 1, 7 (E.D. Cal.
21 1988) (“In addition to the unnecessary expense and expenditure of duplicative judicial
22 resources, bifurcating this civil claim creates the real danger of inconsistent results. Such a
23 risk should be avoided if there are no countervailing benefits.”). Finally, the State Court
24

25 ⁹ According to the Complaint, Boardwalk Regency Corporation d/b/a Caesars Atlantic City
26 LLC is the only Plaintiff that is not incorporated in Nevada. (See AECF No. 1-1 at ¶¶ 9-12).

1 Case involves two non-debtor plaintiffs and 12 non-debtor defendants. For these reasons,
2 the court finds and concludes that this factor strongly weighs in favor of remand.

3 AA. In summation, factors 1-8 and 12-14 weigh in favor of remand, factor 11
4 weighs slightly against remand, and factors 9-10 are neutral. The court finds and concludes
5 that the 11 factors in favor of remand substantially outweigh the one factor weighing
6 slightly against remand. The court therefore grants the Amended Motion to Remand and
7 remands Count I back to the State Court. The Motion to Transfer is therefore denied as
8 moot.

9 **CONCLUSION**

10 Pursuant to FRBP 9021, the court will enter separate orders and judgments
11 consistent with these Findings of Fact and Conclusions of Law.

12 IT IS SO ORDERED.

13 Copies sent via BNC to:

14 STEVEN B CHAIKEN on behalf of Defendant MOTI PARTNER 16, LLC
15 ADELMAN & GETTLEMAN, LTD
16 53 W JACKSON BLVD, SUITE 1050
CHICAGO, IL 60604

17 STEVEN B CHAIKEN on behalf of Defendant MOTI PARTNERS, LLC
18 ADELMAN & GETTLEMAN, LTD
53 W JACKSON BLVD, SUITE 1050
CHICAGO, IL 60604

19 DAN MCNUTT on behalf of Defendant MOTI PARTNER 16, LLC
20 CARBAJAL & MCNUTT, LLP
21 625 S. EIGHTH STREET
LAS VEGAS, NV 89101

22 DAN MCNUTT on behalf of Defendant MOTI PARTNERS, LLC
23 CARBAJAL & MCNUTT, LLP
625 S. EIGHTH STREET
LAS VEGAS, NV 89101

24 M. MAGALI MERCERA on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
25 PISANELLI BICE PLLC
26 400 SO 7TH ST, STE 300
LAS VEGAS, NV 89101

1 M. MAGALI MERCERA on behalf of Plaintiff DESERT PALACE, INC.
2 PISANELLI BICE PLLC
3 400 SO 7TH ST, STE 300
4 LAS VEGAS, NV 89101

4 M. MAGALI MERCERA on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY,
5 LLC
6 PISANELLI BICE PLLC
7 400 SO 7TH ST, STE 300
8 LAS VEGAS, NV 89101

7 M. MAGALI MERCERA on behalf of Plaintiff PHWLV, LLC
8 PISANELLI BICE PLLC
9 400 SO 7TH ST, STE 300
10 LAS VEGAS, NV 89101

10 NATHAN Q RUGG on behalf of Defendant MOTI PARTNER 16, LLC
11 ADELMAN & GETTLEMAN, LTD
12 53 W JACKSON BLVD, SUITE 1050
13 CHICAGO, IL 60604

12 NATHAN Q RUGG on behalf of Defendant MOTI PARTNERS, LLC
13 ADELMAN & GETTLEMAN, LTD
14 53 W JACKSON BLVD, SUITE 1050
15 CHICAGO, IL 60604

15 BRITTNIE WATKINS on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
16 PISANELLI BICE PLLC
17 400 SOTH 7TH ST, STE 300
18 LAS VEGAS, NV 89101

17 BRITTNIE WATKINS on behalf of Plaintiff DESERT PALACE, INC.
18 PISANELLI BICE PLLC
19 400 SOTH 7TH ST, STE 300
20 LAS VEGAS, NV 89101

20 BRITTNIE WATKINS on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY, LLC
21 PISANELLI BICE PLLC
22 400 SOTH 7TH ST, STE 300
23 LAS VEGAS, NV 89101

22 BRITTNIE WATKINS on behalf of Plaintiff PHWLV, LLC
23 PISANELLI BICE PLLC
24 400 SOTH 7TH ST, STE 300
25 LAS VEGAS, NV 89101

25 JEFFREY JOHN ZEIGER on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
26 KIRKLAND & ELLIS, LLP
300 N. LASALLE STREET

1 CHICAGO, IL 60654

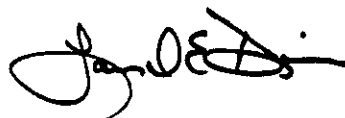
2 JEFFREY JOHN ZEIGER on behalf of Plaintiff DESERT PALACE, INC.
3 KIRKLAND & ELLIS, LLP
300 N. LASALLE STREET
4 CHICAGO, IL 60654

5 JEFFREY JOHN ZEIGER on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY,
6 LLC
KIRKLAND & ELLIS, LLP
7 300 N. LASALLE STREET
8 CHICAGO, IL 60654

9 JEFFREY JOHN ZEIGER on behalf of Plaintiff PHWLTV, LLC
10 KIRKLAND & ELLIS, LLP
11 300 N. LASALLE STREET
12 CHICAGO, IL 60654

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EXHIBIT 2



Honorable Laurel E. Davis
United States Bankruptcy Judge



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2
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Entered on Docket
December 14, 2017

4

5

6

UNITED STATES BANKRUPTCY COURT

7

DISTRICT OF NEVADA

8

9

DESERT PALACE, INC.; PARIS LAS VEGAS)
OPERATING COMPANY, LLC; PHWLV,
10 LLC; BOARDWALK REGENCY)
CORPORATION dba CAESARS ATLANTIC)
11 CITY,

Adv. Proceeding No.: 17-01238-LED

12

Plaintiffs,

13

vs.

Date: December 4, 2017
Time: 1:30 p.m.

14

MOTI PARTNERS, LLC; MOTI PARTNER)
16, LLC; J. JEFFREY FREDERICK; ROWEN)
15 SEIBEL; LLTQ ENTERPRISES, LLC; LLTQ)
ENTERPRISES 16, LLC; FERG, LLC; FERG)
16 16 LLC; TPOV ENTERPRISES, LLC; TPOV)
ENTERPRISES 16, LLC; DNT)
17 ACQUISITION, LLC; GR BURGR, LLC,

18

Defendants.

19

20

FINDINGS OF FACT AND CONCLUSIONS OF LAW¹

21

On December 4, 2017, the court held a combined hearing on the "Motion to Transfer

22

Venue of Claims against LLTQ/FERG Defendants" (AECF No. 8) (the "Motion to Transfer

23

24

¹ All references to "AECF No." are to the numbers assigned to the documents filed in the above-captioned adversary proceeding as they appear on the docket maintained by the Clerk of Court. All references to "ECF No." are to the numbers assigned to the documents filed in the bankruptcy proceeding as they appear on the docket maintained by the Clerk of Court of the United States Bankruptcy Court for the Northern District of Illinois in Case No. 15-01145. All references to "FRBP" are to the Federal Rules of Bankruptcy Procedure. All references to "FRCP" are to the Federal Rules of Civil Procedure.

25

26

1 Venue”) and “Plaintiffs’ Amended Motion to Remand” (AECF No. 43) (the “Amended
2 Motion to Remand”). Appearances were noted on the record.

3 The court has considered the pleadings, arguments of counsel, the case law and
4 statutes applicable to this matter, and the court takes judicial notice of the pleadings filed in
5 the Caesars Bankruptcy Case (defined below) pursuant to Federal Rules of Evidence
6 201(b). In accordance with FRCP 52, made applicable to adversary proceedings by FRBP
7 7052, the court makes the following findings of fact and conclusions of law. Any finding of
8 fact that should be a conclusion of law is deemed a conclusion of law; any conclusion of
9 law that should be a finding of fact is deemed a finding of fact.

10 FINDINGS OF FACT

11 1. In April 2012, Desert Palace, Inc. (“Desert Palace”) and LLTQ Enterprises,
12 LLC entered into a Development and Operation Agreement (the “LLTQ Agreement”). (See
13 ECF No. 1755 at p. 4; ECF No. 1774 at p. 1, ¶ 1).

14 2. On May 16, 2014, Boardwalk Regency Corporation d/b/a Caesars Atlantic
15 City (“Boardwalk”) and FERG, LLC entered into a Consulting Agreement (the “FERG
16 Agreement” and together with the LLTQ Agreement, the “LLTQ/FERG Agreements”). *Id.*

17 3. On January 15, 2015, Desert Palace and Boardwalk filed separate voluntary
18 chapter 11 petitions with the U.S. Bankruptcy Court for the Northern District of Illinois (the
19 “Illinois Bankruptcy Court”) as Case Nos. 15-01167 and 15-01151, respectively. On that
20 same day, the Illinois Bankruptcy Court entered an order directing joint administration of
21 the Removed Parties’ chapter 11 cases, among others, with the lead chapter 11 case filed by
22 Caesars Entertainment Operating Company, Inc. as Case No. 15-01145 (the “Caesars
23 Bankruptcy Case”). (ECF No. 43).

24 4. On June 8, 2015, the jointly administered debtors (the “Debtors”) filed
25 “Debtors’ Fourth Omnibus Motion for the Entry of an Order Authorizing the Debtors to
26 Reject Certain Executory Contracts Nunc Pro Tunc to June 11, 2015” in the Caesars

1 Bankruptcy Case, pursuant to which the Debtors requested rejection of, in pertinent part, the
2 LLTQ/FERG Agreements (the “First Rejection Motion”). (ECF No. 1755) (emphasis in
3 original). The First Rejection Motion remains pending before the Illinois Bankruptcy
4 Court.

5 5. On November 4, 2015, LLTQ and FERG filed a “Request for Payment of
6 Administrative Expense” in the Caesars Bankruptcy Case relating to alleged post-petition
7 amounts owed by the Removed Parties under the LLTQ/FERG Agreements (the
8 “LLTQ/FERG Administrative Expense Claim”). (ECF No. 2531). The LLTQ/FERG
9 Administrative Expense Claim remains pending before the Illinois Bankruptcy Court.

10 6. On January 14, 2016, the Debtors filed “Debtors’ Motion for the Entry of an
11 Order Authorizing the Debtors to (A) Reject Certain Existing Restaurant Agreements and
12 (B) Enter into New Restaurant Agreements” in the Caesars Bankruptcy Case, pursuant to
13 which the Debtors seek to reject certain agreements entered into with celebrity chef Gordon
14 Ramsay and Gordon Ramsay Holdings Limited regarding, among other things, the
15 operation of Gordon Ramsay Pub & Grill restaurants at Caesars’ properties (the “Second
16 Rejection Motion” and together with the First Rejection Motion, the “Rejection Motions”).
17 (ECF No. 3000). In the Second Rejection Motion, the Debtors state that they “entered into
18 separate agreements with restaurateur Rowen Seibel and his affiliates, FERG, LLC and
19 LLTQ Enterprises, LLC . . . to obtain consulting services regarding employee staffing and
20 training, marketing, and various operational matters for the Ramsay Restaurants . . .” Id.
21 at p. 3, ¶ 3. The Debtors subsequently deemed the LLTQ/FERG Agreements no longer
22 beneficial to their business operations and seek, by the Second Rejection Motion, to reject
23 these affiliated agreements with Gordon Ramsay and enter into a new business relationship
24 with him without LLTQ’s and FERG’s involvement. The Second Rejection Motion
25 remains pending before the Illinois Bankruptcy Court.

26

1 7. On January 17, 2017, the Illinois Bankruptcy Court entered an order (the
2 “Confirmation Order”) in the Caesars Bankruptcy Case confirming the Third Amended
3 Joint Plan of Reorganization (the “Confirmed Plan”). (ECF No. 6334).

4 8. On August 25, 2017, Desert Palace, Paris Las Vegas Operating Company,
5 LLC, PHWLIV, LLC, and Boardwalk (collectively, the “Plaintiffs”) filed a Complaint in the
6 District Court for Clark County, Nevada (the “State Court”) as Case No. A-17-760537-B
7 (the “State Court Case”) against Rowen Seibel, J. Jeffrey Frederick, LLTQ Enterprises,
8 LLC, LLTQ Enterprises 16, LLC (together with LLTQ Enterprises, LLC, “LLTQ”),
9 FERG, LLC, FERG 16, LLC (together with FERG, LLC, “FERG”), MOTI Partners, LLC,
10 MOTI Partners 16, LLC (together with MOTI Partners, LLC, “MOTI”), TPOV Enterprises,
11 LLC, TPOV Enterprises 16, LLC (together with TPOV Enterprises, LLC, “TPOV”), DNT
12 Acquisition, LLC (“DNT”), and GR Burgr, LLC (“GRB,” and collectively with Rowen
13 Seibel, J. Jeffrey Frederick, LLTQ, FERG, MOTI, TPOV, and DNT, the “Defendants”).
14 (AECF No. 1 at Ex. A).

15 9. The Complaint alleges three causes of action (the “Removed Claims”)
16 seeking declaratory judgments relating to contracts, including the LLTQ/FERG Agreements
17 (collectively, the “Seibel Agreements”),² entered into by and among Plaintiffs and the
18 Defendants.

19 10. Count I of the Complaint seeks a “Declaratory Judgment Against All
20 Defendants Declaring That Caesars Properly Terminated All of the Seibel Agreements.”

21 11. Count II of the Complaint seeks a “Declaratory Judgment Against All
22 Defendants Declaring That Caesars Does Not Have Any Current or Future Obligations to
23 Defendants Under the Seibel Agreements.”

24
25
26 ² The Complaint defines the contracts as the “Seibel Agreements.”

1 12. Count III of the Complaint seeks a “Declaratory Judgment Against All
2 Defendants Declaring that the Seibel Agreements Do Not Prohibit or Limit Existing or
3 Future Restaurant Ventures Between Caesars and Gordon Ramsay.”

4 13. On September 27, 2017,³ LLTQ and FERG removed the State Court Case to
5 this court pursuant to 28 U.S.C. §§ 1452(a) and 1334(b) and FRBP 9027.⁴ (AECF No. 1).
6 LLTQ and FERG argue that the issues made the subject of the Removed Claims are
7 subsumed within the Rejection Motions and the LLTQ/FERG Administrative Expense
8 Claim currently pending in the Caesars Bankruptcy Case.

9 14. On October 2, 2017, LLTQ and FERG filed a Motion to Transfer Venue,
10 pursuant to which they seek to transfer the Removed Claims to the Illinois Bankruptcy
11 Court.

12 15. On October 6, 2017, the effective date of the Confirmed Plan occurred. (ECF
13 No. 7482).

14 16. On October 23, 2017, Plaintiffs filed an objection to the Motion to Transfer
15 Venue (AECF No. 37)⁵ and a Motion to Remand (AECF No. 38), pursuant to which
16 Plaintiffs seek to remand the Removed Claims back to the State Court.

17 17. On October 24, 2017, Plaintiffs filed an amended objection to the Motion to
18 Transfer Venue (AECF No. 42) and the Amended Motion to Remand.

19 18. On November 1, 2017, LLTQ and FERG filed a reply in support of their
20 Motion to Transfer Venue. (AECF No. 48).

21
22 ³ On September 27, 2017, MOTI filed a Notice of Removal with this court as Case No. 17-
23 01237-LED. The court will address similar motions for removal and/or transfer filed in that
adversary proceeding by separate findings of fact and conclusions of law entered therein.

24 ⁴ Plaintiffs have not contested the timeliness of the removal.

25 ⁵ On October 18, 2017, J. Jeffrey Frederick also filed a limited objection to the Motion to
26 Transfer Venue (AECF No. 36), which has since been resolved and is not currently before the
court.

1 19. On November 7, 2017, LLTQ, FERG, and MOTI (collectively, the
2 “Objectors”)⁶ filed a joint objection to the Amended Motion to Remand. (AECF No. 55).

3 20. On November 17, 2017, Plaintiffs filed their reply in support of the Amended
4 Motion to Remand. (AECF No. 60).

5 21. On November 21, 2017, the Plaintiffs and certain of the Defendants, including
6 LLTQ and FERG, filed a Stipulation to remand certain parties and claims back to the State
7 Court (the “Stipulation”). (AECF No. 61). On that same day, the court entered an “Order
8 Approving Stipulation to Remand Certain Claims,” pursuant to which the court remanded
9 back to the State Court “[a]ll claims and counts asserted against TPOV, DNT, GRB, Rowen
10 Seibel, and J. Jeffrey Frederick; and the claims asserted against LLTQ and FERG in Count
11 I.” (AECF No. 62 at p. 2, ¶ 2). Pursuant to the court-approved Stipulation, only Counts II
12 and III as to LLTQ and FERG remain pending before this court.

13 22. At the court’s request, on November 28, 2017, the Objectors filed a
14 “Supplemental Brief in Support of Motions to Transfer” (AECF No. 66), and on November
15 30, 2017, the Plaintiffs filed a “Supplemental Brief Regarding Removal of Claims” (AECF
16 No. 67).

17 CONCLUSIONS OF LAW

18 Jurisdiction

19 A. The court has jurisdiction to enter final orders on the Amended Motion to
20 Remand and Motion to Transfer Venue pursuant to 28 U.S.C. §§ 1412, 1447 and 1452 and
21 FRBP 7087 and 9027. Neither party has argued to the contrary. See Citicorp Sav. of Ill. v.
22 Chapman (In re Chapman), 132 B.R. 153, 160-61 (Bankr. N.D. Ill. 1991) (recognizing the
23
24

25 ⁶ Objectors filed a joint objection because “[t]he Remand Motions filed in these two
26 adversary proceedings are identical to one another” (AECF No. 55 at p. 2, n.1).

1 split in the case law but concluding that the bankruptcy court had authority to enter a final
2 order on a motion to remand).

3 B. “[A] bankruptcy court’s post-confirmation ‘related to’ jurisdiction is
4 substantially more limited than its pre-confirmation jurisdiction . . .” Montana v. Goldin
5 (In re Pegasus Gold Corp.), 394 F.3d 1189, 1191 (9th Cir. 2005). “[T]he essential inquiry
6 appears to be whether there is a close nexus to the bankruptcy plan or proceeding sufficient
7 to uphold bankruptcy court jurisdiction over the matter[,]” and “matters affecting ‘the
8 interpretation, implementation, consummation, execution, or administration of the
9 confirmed plan will typically have the requisite close nexus.” Id. at 1194 (quoting Binder
10 v. Price Waterhouse & Co., LLP (In re Resorts Int’l, Inc.), 372 F.3d 154, 166-67 (3d Cir.
11 2004)).

12 C. Counts II and III seek a declaration regarding the Plaintiff’s right to terminate
13 the LLTQ/FERG Agreements under state law, a fact that LLTQ and FERG concede.
14 LLTQ/FERG nevertheless argue that the “unique circumstances” of the Caesars Bankruptcy
15 Case require a different conclusion. (See AECF No. 55 at p. 6). The court disagrees.

16 D. The disclosure statement approved in the Caesars Bankruptcy Case listed an
17 estimated 1,800 administrative claims that are provided for by either payment in full or
18 other resolution during the post-confirmation period. (ECF No. 4220-1 at p. 105). Any
19 state law issue arising in Counts II and III is distinct from the LLTQ/FERG Administrative
20 Expense Claim. Plaintiffs’ counsel further stated at the hearing that the Confirmed Plan
21 provides for a reserve of funds to pay any rejection claims. Consequently, the
22 determination of Counts II and III in the State Court Case will not affect the interpretation,
23 implementation, consummation, execution, or administration of the Confirmed Plan.

24 E. Language in the Confirmed Plan providing for the Illinois Bankruptcy Court’s
25 retention of jurisdiction over administrative claims and rejection motions does not alter this
26 conclusion, as the court’s subject matter jurisdiction may not be conferred by the parties’

1 consent with respect to state law contract claims that do not satisfy the “close nexus” test
2 regarding post-confirmation jurisdiction. Go Global, Inc. v. Rogich (In re Go Global, Inc.),
3 2016 WL 6901265, at *7 (B.A.P. 9th Cir. Nov. 22, 2016) (citing In re Resorts Int’l, Inc.,
4 372 F.3d at 161) (“[T]o the extent the plan could be construed as reserving jurisdiction to
5 the bankruptcy court to adjudicate that claim, such a reservation would be, by itself,
6 ineffective.”).

7 F. Because this court concludes that there is a not a sufficiently “close nexus”
8 between Counts II and III and the Caesars Bankruptcy Case, the court does not reach the
9 question of supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

10 G. For all of these reasons, the court lacks jurisdiction over Counts II and III, and
11 both counts shall be remanded back to the State Court.

12 **Remand of Claims**

13 H. Even if the court has jurisdiction, it exercises its discretion to remand Counts
14 II and III back to the State Court. See Pac. Inv. Mgmt. Co., LLC v. OCP Opportunities
15 Fund III, L.P. (In re Enron Corp.), 296 B.R. 505, 508 (C.D. Cal. 2003) (citing 28 U.S.C. §
16 1452(b)) (“Bankruptcy courts have broad discretion to remand cases over which they
17 otherwise have jurisdiction on any equitable ground.”).

18 I. Pursuant to 28 U.S.C. § 1452(a), a party is authorized to “remove any claim
19 or cause of action in a civil action . . . to the district court for the district where such civil
20 action is pending, if such district court has jurisdiction of such claim or cause of action
21 under section 1334 of this title.”

22 J. Pursuant to 28 U.S.C. § 1452(b), “[t]he court to which such claim or cause of
23 action is removed may remand such claim or cause of action on any equitable ground.”

24 K. “This ‘any equitable ground’ remand standard is an unusually broad grant of
25 authority. It subsumes and reaches beyond all of the reasons for remand under
26 nonbankruptcy removal statutes.” McCarthy v. Prince (In re McCarthy), 230 B.R. 414, 417

1 (B.A.P. 9th Cir. 1999). “At bottom, the question is committed to the sound discretion of the
2 bankruptcy judge.” Id.

3 L. The court may consider fourteen non-exclusive factors during its
4 discretionary analysis. See Wood v. Bank of N.Y. (In re Wood), 2011 WL 7145617, at *8-
5 9 (B.A.P. 9th Cir. Dec. 12, 2011). “[A]ny one of the relevant factors may provide a
6 sufficient basis for equitable remand” Fenicle v. Boise Cascade Co., 2015 WL
7 5948168, at *6 (N.D. Cal. Oct. 13, 2015) (quotations and citations omitted).

8 M. The first factor involves “the effect or lack thereof on the efficient
9 administration of the estate if the Court recommends [remand]” In re Wood, 2011 WL
10 7145617, at *8. The court finds and concludes that remand will not affect the efficient
11 administration of the Caesars Bankruptcy Case because any state law issue arising in
12 Counts II and III is distinct from the LLTQ/FERG Administrative Expense Claim, which is
13 only one of an estimated 1,800 such claims that are provided for by the Confirmed Plan, as
14 well as any rejection claim that is likewise provided for by the Confirmed Plan. See
15 Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.), 912 F.2d 1162, 1169 (9th
16 Cir. 1990) (finding that issues involving state law interpretation of a restrictive covenant’s
17 reach “are distinct from the administration of the bankruptcy estate.”); In re Go Global, Inc.,
18 2016 WL 6901265, at *7 (holding that the court lacked post-confirmation jurisdiction to
19 decide a cause of action that was not discussed in the disclosure statement or confirmed
20 plan); Machine Zone, Inc. v. Peak Web LLC (In re Peak Web LLC), 559 B.R. 738, 741-42
21 (Bankr. D. Or. 2016) (finding that the first factor weighed in favor of remand because
22 “reorganization is not dependent on resolution of the [removed] claims.”). See also RG
23 Adding L.L.C. v. Carrier Mid-Atlantic HQ (In re Fedders N. Am., Inc.), 2009 WL 2151245,
24 at *1-2 (Bankr. D. Del. July 17, 2009) (abstaining from deciding an action to collect a
25 receivable purchased during the bankruptcy case because, among other things, state law
26 predominates and resolution of this action “will have no effect on the administration of the

1 estate because the Debtor’s plan has been confirmed”); Sun Healthcare Group, Inc. v.
2 Levin (In re Sun Healthcare Group, Inc.), 267 B.R. 673, 679 (Bankr. D. Del. 2000)
3 (abstaining from hearing the debtor’s adversary proceeding involving breach of contract
4 and tortious interference with business relations’ claims because, among other things, “there
5 is no impact on the administration of the bankruptcy estate”).

6 N. The second factor involves the “extent to which state law issues predominate
7 over bankruptcy issues” In re Wood, 2011 WL 7145617, at *9. As LLTQ and FERG
8 have acknowledged, the court finds and concludes that this factor strongly weighs in favor
9 of remand because Counts II and III involve state law contract issues. See AECF No. 55 at
10 p. 6 (stating that the Removed Claims involve a “state law contract dispute”); see also
11 In re Peak Web LLC, 559 B.R. at 742 (finding that the second factor weighed in favor of
12 remand because state law issues predominate and “no bankruptcy issues . . . need to be
13 determined before the case can be tried.”).

14 O. The third factor involves whether there are “difficult or unsettled [issues] of
15 applicable law” In re Wood, 2011 WL 7145617, at *9. Because the parties did not
16 discuss this factor, the court finds and concludes that it is neutral.

17 P. The fourth factor involves the “presence of a related proceeding commenced
18 in state court or other nonbankruptcy proceeding” Id. The State Court Case
19 constitutes a related proceeding to which this court has already remanded certain claims and
20 parties pursuant to the Stipulation. See Maya, LLC v. Cytodyn of N. Mexico, Inc. (In re
21 Cytodyn of N. Mexico, Inc.), 374 B.R. 733, 739 (Bankr. C.D. Cal. 2007) (finding this factor
22 weighed in favor of remand even though the state court case may have technically been
23 “extinguished” upon removal). Furthermore, after considering the pleadings and counsels’
24 arguments, the court is convinced that similar issues involving Nevada law permeate all of
25 the Removed Claims, as well as the claims that have already been remanded back to the
26 State Court. Indeed, Plaintiffs’ counsel represented to the court that all parties have agreed

1 that if the Removed Claims are remanded back to the State Court, then the State Court Case
2 will be consolidated with another related Nevada state court matter pending before Judge
3 Joe Hardy as Case No. A-17-751759-B.⁷ For all of these reasons, the court finds and
4 concludes that this factor weighs in favor of remand.

5 Q. The fifth factor involves the “jurisdictional basis, if any, other than § 1334 . . .
6 .” In re Wood, 2011 WL 7145617, at *9. LLTQ and FERG do not argue that any
7 jurisdictional basis exists other than 28 U.S.C. § 1334. Therefore, the court finds and
8 concludes that this factor weighs in favor of remand.

9 R. The sixth factor involves the “degree of relatedness or remoteness of [the]
10 proceeding to [the] main bankruptcy case” Id. LLTQ and FERG argue that
11 overlapping facts exist in the Caesars Bankruptcy Case relating to the Rejection Motions
12 and the LLTQ/FERG Administrative Expense Claim. Plaintiffs indirectly refute this,
13 arguing, among other things, that Counts II and III are not “related to” the interpretation or
14 enforcement of the Confirmed Plan in the Bankruptcy Case. The court agrees. Claims
15 objections and contract rejections routinely require a bankruptcy court’s interpretation of
16 state law issues, and the existence of overlapping facts does not, standing alone, convert
17 purely state law claims to bankruptcy matters that must be decided by a bankruptcy court.
18 See Butner v. U.S., 440 U.S. 48, 54 (1979) (“Congress has generally left the determination
19 of property rights in the assets of a bankruptcy’s estate to state law.”). Consequently, the
20 court finds and concludes that this factor weighs in favor of remand.

21 S. The seventh factor involves “the substance rather than the form of an asserted
22 core proceeding.” In re Wood, 2011 WL 7145617, at *9. LLTQ and FERG argue that
23 Counts II and III are core proceedings under 28 U.S.C. §§ 157(b)(2)(A) or 28 U.S.C. §
24

25 ⁷ Also raising similar issues is a case pending in the U.S. District Court for the District of
26 Nevada, entitled *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Co., LLC, et al.*, Case
No. 2:17-CV-00346-JCM-VCF.

1 157(b)(2)(O) because they are “inextricably bound” with the Rejection Motions and the
2 LLTQ/FERG Administrative Claim Expense Claim. See Honigman, Miller, Schwartz &
3 Cohn v. Weitzman (In re Delorean Motor Co.), 155 B.R. 521, 525 (B.A.P. 9th Cir. 1993)
4 (“[A] proceeding will not be considered a core matter, even if it falls within the literal
5 language of sections 157(b)(2)(A) or 157(b)(2)(O), if it is a state law claim that could exist
6 outside of bankruptcy and is not inextricably bound to the claims allowance process or a
7 right created by the Bankruptcy Code.”). Under Count I, Plaintiffs seek a declaratory
8 judgment that they properly terminated the Seibel Agreements, including the LLTQ/FERG
9 Agreements. The Complaint further states, in pertinent part, that because the Seibel
10 Agreements were properly terminated (an issue conceded by MOTI’s counsel), the
11 restrictive covenants in the LLTQ/FERG Agreements are no longer enforceable. (See
12 Complaint at ¶¶ 67-68 and 89-90). These allegations form the gravamen of Counts II and
13 III. By the court-approved Stipulation, however, LLTQ and FERG voluntarily remanded
14 Count I back to the State Court, while inconsistently arguing that Counts II and III are
15 “inextricably bound” with the Rejection Motions and the LLTQ/FERG Administrative
16 Expense Claim. For all of these reasons, the court finds and concludes that this factor
17 weighs in favor of remand because Counts II and III are not core proceedings.

18 T. The eighth factor relates to “the feasibility of severing state law claims from
19 core bankruptcy matters to allow judgments to be entered in state court with enforcement
20 left to the bankruptcy court” In re Wood, 2011 WL 7145617, at *9. The court finds
21 and concludes that this factor weighs in favor of remand because any findings made by the
22 State Court on Counts II and III may, to the extent applicable, be utilized by the Illinois
23 Bankruptcy Court with respect to the matters pending before it.

24 U. The ninth factor involves “the burden on the bankruptcy court’s docket”
25 Id. Plaintiffs cite to a transcript from the Caesars Bankruptcy Case in which U.S.
26 Bankruptcy Judge A. Benjamin Goldgar stated regarding another matter his preference for a

1 state court to determine a state law issue. See Amended Motion to Remand at p. 14 and Ex.
2 C. The parties also cite other statements by Judge Goldgar to the effect that particular
3 issues should be decided by the bankruptcy court. These comments by Judge Goldgar are
4 not consistent and therefore do not provide a basis upon which to make findings and
5 conclusions regarding this factor. As a result, the court finds and concludes that this factor
6 is neutral.

7 V. The tenth factor involves “the likelihood that the commencement of the
8 proceeding in bankruptcy court involves forum shopping by one of the parties” In re
9 Wood, 2011 WL 7145617, at *9. LLTQ and FERG argue that Plaintiffs engaged in forum
10 shopping by filing the State Court Case after receiving unfavorable comments from Judge
11 Goldgar. This contention is not relevant to the tenth factor, which “addresses forum
12 shopping in connection with the initiation of the bankruptcy court proceeding”
13 Kamana O’Kala, LLC v. Lite Solar, LLC, 2017 WL 1100568, at *7 (D. Or. Feb. 13, 2017).
14 Even if it was relevant, the “court determines that the evidence does not indicate that any
15 party chose . . . its respective forum in an attempt to abuse or manipulate the judicial
16 process.” Torres v. NE Opco, Inc. (In re NE Opco, Inc.), 2014 WL 4346080, at *3 (Bankr.
17 C.D. Cal. Aug. 28, 2014). For these reasons, the court finds and concludes that this factor is
18 neutral.

19 W. The eleventh factor involves “the existence of a right to a jury trial” In
20 re Wood, 2011 WL 7145617, at *9. LLTQ and FERG state that no jury trial has been
21 demanded, see AECF No. 55 at p. 9. Plaintiffs do not refute this claim. For this reason, the
22 court finds and concludes that this factor weighs slightly against remand.

23 X. The twelfth factor involves “the presence in the proceeding of nondebtor
24 parties” In re Wood, 2011 WL 7145617, at *9. Desert Palace, as reorganized debtor,
25 is a separate legal entity from the debtor that was involved in the Caesars Bankruptcy Case.
26 See Confirmed Plan at p. 71, Art. IV, § AA. Furthermore, two of the plaintiffs and nine of

1 the defendants in the state court action are non-debtor parties who will separately litigate
2 the Removed Claims in state court. As a result, the court finds and concludes that this
3 factor weighs in favor of remand.

4 Y. The thirteenth factor involves “comity” In re Wood, 2011 WL
5 7145617, at *9. “Comity dictates that [Nevada] courts should have the right to adjudicate
6 the exclusively state law claims involving [Nevada]-centric plaintiffs⁸ and [Nevada]-centric
7 transactions.” Pac. Inv. Mgmt. Co., LLC v. OCP Opportunities Fund III, L.P. (In re Enron
8 Corp.), 296 B.R. 505, 509 (C.D. Cal. 2003). See also Kamana O’Kala, LLC, 2017 WL
9 1100568, at *7 (finding the thirteenth factor weighed “heavily” in favor of remand “because
10 Kamana’s claims arise out of Oregon law, and because Kamana selected the [applicable
11 state] court as the forum for litigation of its claims.”); In re NE Opco, Inc., 2014 WL
12 4346080, at *3 (finding the same “because California courts have an interest in adjudicating
13 Plaintiff’s California state law claims.”); Brincko v. Rio Props., Inc. (In re Nat’l Consumer
14 Mortg.), 2010 WL 2384217, at *4 (C.D. Cal. June 10, 2010) (transferring venue from the
15 California bankruptcy court to Nevada because, among other reasons, “Nevada has an
16 interest in having the controversy decided within its borders.”). For these reasons, the court
17 finds and concludes that this factor weighs strongly in favor of remand.

18 Z. The fourteenth factor involves “the possibility of prejudice to other parties in
19 the action” In re Wood, 2011 WL 7145617, at *9. Pursuant to the Complaint’s
20 allegations, any ruling on Count I, which LLTQ and FERG voluntarily remanded back to
21 the State Court, will inform the determination of Counts II and III. Plaintiffs’ counsel
22 argued that overlapping facts exist regarding “suitability” provisions in the Seibel
23 Agreements and the scope of restrictive covenants. Absent a single forum to decide these
24 issues, Plaintiffs contend that the risk of inconsistent decisions by different courts

25 ⁸ According to the Complaint, Boardwalk is the only Plaintiff that is not incorporated in
26 Nevada. (See AECF No. 1-1 at ¶¶ 9-12).

1 constitutes prejudice. The court agrees. See W. Helicopters, Inc. v. Hiller Aviation, Inc.,
2 97 B.R. 1, 7 (E.D. Cal. 1988) (“In addition to the unnecessary expense and expenditure of
3 duplicative judicial resources, bifurcating this civil claim creates the real danger of
4 inconsistent results. Such a risk should be avoided if there are no countervailing benefits.”).
5 Finally, the State Court Case involves two non-debtor plaintiffs and 12 non-debtor
6 defendants. For these reasons, this factor strongly weighs in favor of remand.

7 AA. In summation, factors 1, 2, 4-8 and 12-14 weigh in favor of remand, factor 11
8 weighs slightly against remand, and factors 3 and 9-10 are neutral. The court finds and
9 concludes that the ten factors in favor of remand substantially outweigh the one factor
10 weighing slightly against remand. The court, therefore, grants the Amended Motion to
11 Remand and remands Counts II and III back to the State Court. The Motion to Transfer is
12 therefore denied as moot.

13 CONCLUSION

14 Pursuant to FRBP 9021, the court will enter separate orders and judgments
15 consistent with these Findings of Fact and Conclusions of Law.

16 IT IS SO ORDERED.

17 Copies sent via BNC to:

18 STEVEN B CHAIKEN on behalf of Defendant MOTI PARTNER 16, LLC
19 ADELMAN & GETTLEMAN, LTD
20 53 W JACKSON BLVD, SUITE 1050
CHICAGO, IL 60604

21 STEVEN B CHAIKEN on behalf of Defendant MOTI PARTNERS, LLC
22 ADELMAN & GETTLEMAN, LTD
53 W JACKSON BLVD, SUITE 1050
CHICAGO, IL 60604

23 DAN MCNUTT on behalf of Defendant MOTI PARTNER 16, LLC
24 CARBAJAL & MCNUTT, LLP
25 625 S. EIGHTH STREET
LAS VEGAS, NV 89101

26 DAN MCNUTT on behalf of Defendant MOTI PARTNERS, LLC

1 CARBAJAL & MCNUTT, LLP
2 625 S. EIGHTH STREET
3 LAS VEGAS, NV 89101

4 M. MAGALI MERCERA on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
5 PISANELLI BICE PLLC
6 400 SO 7TH ST, STE 300
7 LAS VEGAS, NV 89101

8 M. MAGALI MERCERA on behalf of Plaintiff DESERT PALACE, INC.
9 PISANELLI BICE PLLC
10 400 SO 7TH ST, STE 300
11 LAS VEGAS, NV 89101

12 M. MAGALI MERCERA on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY,
13 LLC
14 PISANELLI BICE PLLC
15 400 SO 7TH ST, STE 300
16 LAS VEGAS, NV 89101

17 M. MAGALI MERCERA on behalf of Plaintiff PHWLTV, LLC
18 PISANELLI BICE PLLC
19 400 SO 7TH ST, STE 300
20 LAS VEGAS, NV 89101

21 NATHAN Q RUGG on behalf of Defendant MOTI PARTNER 16, LLC
22 ADELMAN & GETTLEMAN, LTD
23 53 W JACKSON BLVD, SUITE 1050
24 CHICAGO, IL 60604

25 NATHAN Q RUGG on behalf of Defendant MOTI PARTNERS, LLC
26 ADELMAN & GETTLEMAN, LTD
53 W JACKSON BLVD, SUITE 1050
CHICAGO, IL 60604

BRITTNIE WATKINS on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
PISANELLI BICE PLLC
400 SOTH 7TH ST, STE 300
LAS VEGAS, NV 89101

BRITTNIE WATKINS on behalf of Plaintiff DESERT PALACE, INC.
PISANELLI BICE PLLC
400 SOTH 7TH ST, STE 300
LAS VEGAS, NV 89101

BRITTNIE WATKINS on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY, LLC
PISANELLI BICE PLLC
400 SOTH 7TH ST, STE 300
LAS VEGAS, NV 89101

1 BRITTNE WATKINS on behalf of Plaintiff PHWLTV, LLC
PISANELLI BICE PLLC
2 400 SOTH 7TH ST, STE 300
LAS VEGAS, NV 89101

3 JEFFREY JOHN ZEIGER on behalf of Plaintiff BOARDWALK REGENCY CORPORATION
4 KIRKLAND & ELLIS, LLP
300 N. LASALLE STREET
5 CHICAGO, IL 60654

6 JEFFREY JOHN ZEIGER on behalf of Plaintiff DESERT PALACE, INC.
KIRKLAND & ELLIS, LLP
7 300 N. LASALLE STREET
CHICAGO, IL 60654

8 JEFFREY JOHN ZEIGER on behalf of Plaintiff PARIS LAS VEGAS OPERATING COMPANY,
9 LLC
KIRKLAND & ELLIS, LLP
10 300 N. LASALLE STREET
CHICAGO, IL 60654

11 JEFFREY JOHN ZEIGER on behalf of Plaintiff PHWLTV, LLC
12 KIRKLAND & ELLIS, LLP
300 N. LASALLE STREET
13 CHICAGO, IL 60654

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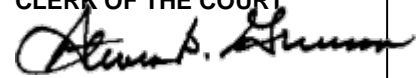
23

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TAB 26



1 ANS

2 DANIEL R. MCNUTT (SBN 7815)
3 MATTHEW C. WOLF (SBN 10801)
4 MCNUTT LAW FIRM, P.C.
5 625 South Eighth Street
6 Las Vegas, Nevada 89101
7 Tel. (702) 384-1170 / Fax. (702) 384-5529
8 drm@mcnuttlawfirm.com
9 mcw@mcnuttlawfirm.com

6 PAUL SWEENEY*
7 CERTILMAN BALIN ADLER & HYMAN, LLP
8 90 Merrick Avenue
9 East Meadow, New York 11554
10 Tel. (516) 296-7032/ Fax. (516) 296-7111
11 psweeney@certilmanbalin.com
12 *Admitted Pro Hac Vice
13 Attorneys for Defendant Rowen Seibel

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

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

15 Plaintiff,

16 v.

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

20 Defendants,

21 AND ALL RELATED MATTERS

Case No.: A-17-751759-B
Dept. No.: 11

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

**DEFENDANT ROWEN SEIBEL'S ANSWER
TO PLAINTIFFS' COMPLAINT**

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

22 Defendant Rowen Seibel ("Seibel") hereby answers the claims asserted by Plaintiffs in the
23 above-captioned matter as follows:

24 **PRELIMINARY STATEMENT**

25 1. Seibel denies the allegations contained in paragraph 1, except admit that Caesars
26 entered into multiple agreements with entities previously owned by, managed by or affiliated with
27 Seibel, and that Caesars requested and received "Business Information Forms" from Seibel at the
28 outset of the MOTI and DNT business relationships. The contents of the agreements and "Business

1 Information Forms” speak for themselves, and Seibel respectfully refers to those documents for the
2 full and complete contents thereof.

3 2. Seibel denies the allegations contained in paragraph 2.

4 3. Seibel denies the allegations contained in paragraph 3, except admits that on April 18,
5 2016, he pled guilty to one count of a corrupt endeavor to obstruct and impede the due administration
6 of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony and served one month
7 in prison.

8 4. Seibel denies the allegations contained in paragraph 4.

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

13 6. Seibel denies the allegations contained in paragraph 6, except admit that Caesars
14 wrongfully attempted to the agreements, that Caesars cannot continue to operate the restaurants subject
15 to such agreements absent providing compensation, that certain defendants have initiated legal
16 proceedings against Caesars relating to the termination of the agreements, and that Caesars
17 commenced the present action against Seibel and other Defendants by a complaint that speaks for
18 itself, and Seibel respectfully refers to the complaint for the full and complete contents thereof.

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

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

27 **PARTIES, JURISDICTION, AND VENUE**

28 9. Seibel admits the allegations contained in paragraph 9.

1 10. Seibel admits the allegations contained in paragraph 10.

2 11. Seibel admits the allegations contained in paragraph 11.

3 12. Seibel admits the allegations contained in paragraph 12.

4 13. Seibel admits that he currently resides in New York and admits that a lawsuit is
5 currently pending in the District Court, Clark County, Nevada styled *Rowen Seibel, derivatively as*
6 *Nominal Plaintiff on behalf of Real Party in Interest GR BURGR, LLC v. PHWLTV, LLC et. al.*, Case
7 No. A-17-751759-B. As to the remaining allegations contained in paragraph 13, deny.

8 14. Seibel denies the allegations contained in paragraph 14 except admits that MOTI
9 Parnters, LLC is a New York limited liability company and that the MOTI Agreement was entered
10 into in or about March 2009, the contents of which speak for themselves, and respectfully refers to the
11 MOTI Agreement for the full and complete contents thereof.

12 15. Seibel denies knowledge and information sufficient to form a belief as to the truth of
13 the allegations contained in the first sentence of paragraph 15. Seibel denies the allegations contained
14 in the second sentence, except admits that the referenced letter was sent in or about April 2016, the
15 contents of which speak for themselves, and respectfully refers to the aforementioned letter for the full
16 and complete contents thereof. Seibel denies the allegations contained in the third sentence.

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

21 17. Seibel denies the allegations contained in paragraph 17 except admits that TPOV
22 Enterprises, LLC is a New York limited liability company and that the TPOV Agreement was entered
23 into in or about November 2011, the contents of which speak for themselves, and respectfully refers
24 to the TPOV Agreement for the full and complete contents thereof.

25 18. Seibel denies knowledge and information sufficient to form a belief as to the truth of
26 the allegations contained in the first sentence of paragraph 18. Seibel denies the allegations contained
27 in the second sentence, except admits that the referenced letter was sent in or about April 2016, the
28 contents of which speak for themselves, and respectfully refers to the aforementioned letter for the full

1 and complete contents thereof. Seibel denies the allegations contained in the third sentence.

2 19. Seibel denies the allegations contained in paragraph 19 except admits that LLTQ
3 Enterprises, LLC is a Delaware limited liability company and that the LLTQ Agreement was entered
4 into on or about April 4, 2012, the contents of which speak for themselves, and respectfully refers to
5 the LLTQ Agreement for the full and complete contents thereof.

6 20. Seibel denies knowledge and information sufficient to form a belief as to the truth of
7 the allegations contained in the first sentence of paragraph 20. Seibel denies the allegations contained
8 in the second sentence, except admits that the referenced letter was sent in or about April 2016, the
9 contents of which speak for themselves, and respectfully refers to the aforementioned letter for the full
10 and complete contents thereof. Seibel denies the allegations contained in the third sentence.

11 21. Seibel denies the allegations contained in paragraph 21 except admits that GR Burgr,
12 LLC is a Delaware limited liability company and that the GRB Agreement was entered into on or
13 about December 13, 2012, the contents of which speak for themselves, and respectfully refers to the
14 GRB Agreement for the full and complete contents thereof.

15 22. Seibel denies the allegations contained in paragraph 22 except admits that FERG, LLC
16 is a Delaware limited liability company and that the FERG Agreement was entered into in or about
17 May 2014, the contents of which speak for themselves, and respectfully refers to the FERG Agreement
18 for the full and complete contents thereof.

19 23. Seibel denies knowledge and information sufficient to form a belief as to the truth of
20 the allegations contained in the first sentence of paragraph 15. Seibel denies the allegations contained
21 in the second sentence, except admits that the referenced letter was sent in or about April 2016, the
22 contents of which speak for themselves, and respectfully refers to the aforementioned letter for the full
23 and complete contents thereof. Seibel denies the allegations contained in the third sentence.

24 24. Seibel admits that he assigned his duties and obligations under the LLTQ, FERG,
25 TPOV, and MOTI Agreements to Mr. Frederick. Seibel denies knowledge and information sufficient
26 to form a belief as to the truth of the balance of the allegations contained in paragraph 24.

27 25. Seibel denies the allegations contained in paragraph 25.

28

1 **STATEMENT OF FACTS**

2 26. Seibel denies the allegations contained in paragraph 26 except admits that Seibel is a
3 restaurateur, that the negotiations for a Serendipity restaurant with Caesars began in or around 2009,
4 and that the MOTI Agreement was entered into in or about March 2009, the contents of which speak
5 for themselves, and respectfully refers to the MOTI Agreement for the full and complete contents
6 thereof.

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

13 28. Seibel denies the allegations contained in paragraph 28 except admits that that the
14 MOTI Agreement was entered into in or about March 2009, the contents of which speak for
15 themselves, and respectfully refers to the MOTI Agreement for the full and complete contents thereof.

16 29. Seibel denies the allegations contained in paragraph 29 except admits that the MOTI
17 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
18 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

19 30. Seibel denies the allegations contained in paragraph 30 except admits that the MOTI
20 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
21 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

22 31. Seibel denies the allegations contained in paragraph 31 except admits that the MOTI
23 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
24 respectfully refers to the MOTI Agreement for the full and complete contents thereof, and admits that
25 Seibel submitted a “Business Information Form”, the contents of the referenced “Business Information
26 Form” speak for themselves, and respectfully refers to the aforementioned “Business Information
27 Form” for the full and complete contents thereof.

28 32. Seibel denies the allegations contained in paragraph 32 except admits that the MOTI

1 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
2 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

3 33. Seibel denies the allegations contained in paragraph 33 except admits that the MOTI
4 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
5 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

6 34. Seibel denies the allegations contained in paragraph 34 except admits that the MOTI
7 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
8 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

9 35. Seibel denies the allegations contained in paragraph 35 except admits that the MOTI
10 Agreement was entered into in or about March 2009, the contents of which speak for themselves, and
11 respectfully refers to the MOTI Agreement for the full and complete contents thereof.

12 36. Seibel denies the allegations contained in paragraph 36, except admits that Caesars
13 entered into multiple agreements with entities previously owned by, managed by or affiliated with
14 Seibel, the contents of which speak for themselves, and respectfully refer to the aforementioned
15 agreements for the full and complete contents thereof.

16 37. Seibel denies the allegations contained in paragraph 37 except admits that the DNT
17 Agreement was entered into on or about June 21, 2011 concerning the Old Homestead Restaurant, the
18 contents of which speak for themselves, and respectfully refers to the DNT Agreement for the full and
19 complete contents thereof.

20 38. Seibel denies the allegations contained in paragraph 38 except admits that the DNT
21 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
22 and respectfully refers to the DNT Agreement for the full and complete contents thereof, and admits
23 that Seibel submitted a “Business Information Form”, the contents of the referenced “Business
24 Information Form” speak for themselves, and respectfully refers to the aforementioned “Business
25 Information Form” for the full and complete contents thereof.

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

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

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

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

10 43. Seibel denies the allegations contained in paragraph 43 except admits that the DNT
11 Agreement was entered into on or about June 21, 2011, the contents of which speak for themselves,
12 and respectfully refers to the DNT Agreement for the full and complete contents thereof.

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

16 45. Seibel denies the allegations contained in paragraph 45 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 46. Seibel denies the allegations contained in paragraph 46.

20 47. Seibel denies the allegations contained in paragraph 47 except admits that the TPOV
21 Agreement was entered into in or about November 2011 concerning a restaurant at the Paris casino
22 known as Gordon Ramsay Steak, the contents of which speak for themselves, and respectfully refers
23 to the TPOV Agreement for the full and complete contents thereof.

24 48. Seibel denies the allegations contained in paragraph 48 except admits that the TPOV
25 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
26 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

27 49. Seibel denies the allegations contained in paragraph 49 except admits that the TPOV
28 Agreement was entered into in or about November 2011, the contents of which speak for themselves,

1 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

2 50. Seibel denies the allegations contained in paragraph 50 except admits that the TPOV
3 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
4 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

5 51. Seibel denies the allegations contained in paragraph 51 except admits that the TPOV
6 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
7 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

8 52. Seibel denies the allegations contained in paragraph 52 except admits that the TPOV
9 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
10 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

11 53. Seibel denies the allegations contained in paragraph 53 except admits that the TPOV
12 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
13 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

14 54. Seibel denies the allegations contained in paragraph 54 except admits that the TPOV
15 Agreement was entered into in or about November 2011, the contents of which speak for themselves,
16 and respectfully refers to the TPOV Agreement for the full and complete contents thereof.

17 55. Seibel denies the allegations contained in paragraph 55.

18 56. Seibel denies the allegations contained in paragraph 56.

19 57. Seibel denies the allegations contained in paragraph 57 except admits that the LLTQ
20 Agreement was entered into on or about April 4, 2012 concerning the restaurant at Caesars Palace
21 known as Gordon Ramsay Pub, the contents of which speak for themselves, and respectfully refers to
22 the LLTQ Agreement for the full and complete contents thereof.

23 58. Seibel denies the allegations contained in paragraph 58 except admits that the LLTQ
24 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
25 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

26 59. Seibel denies the allegations contained in paragraph 59 except admits that the LLTQ
27 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
28 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

1 60. Seibel denies the allegations contained in paragraph 60 except admits that the LLTQ
2 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
3 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

4 61. Seibel denies the allegations contained in paragraph 61 except admits that the LLTQ
5 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
6 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

7 62. Seibel denies the allegations contained in paragraph 62 except admits that the LLTQ
8 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
9 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

10 63. Seibel denies the allegations contained in paragraph 63 except admits that the LLTQ
11 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
12 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

13 64. Seibel denies the allegations contained in paragraph 64 except admits that the LLTQ
14 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
15 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

16 65. Seibel denies the allegations contained in paragraph 65.

17 66. Seibel denies the allegations contained in paragraph 66.

18 67. Seibel denies the allegations contained in paragraph 67 except admits that the LLTQ
19 Agreement was entered into on or about April 4, 2012, the contents of which speak for themselves,
20 and respectfully refers to the LLTQ Agreement for the full and complete contents thereof.

21 68. Seibel denies knowledge and information sufficient to form a belief as to the truth of
22 the allegations contained in paragraph 68, except admit that the LLTQ Agreement was entered into on
23 or about April 4, 2012, the contents of which speak for themselves, and respectfully refer to the LLTQ
24 Agreement for the full and complete contents thereof.

25 69. Seibel denies the allegations contained in paragraph 69 except admits that the GRB
26 Agreement was entered into on or about December 13, 2012 concerning a restaurant in Planet
27 Hollywood known as BURGR Gordon Ramsay, the contents of which speak for themselves, and
28 respectfully refers to the GRB Agreement for the full and complete contents thereof.

1 70. Seibel denies the allegations contained in paragraph 70 except admits that the GRB
2 Agreement was entered into on or about December 13, 2012, the contents of which speak for
3 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

4 71. Seibel denies the allegations contained in paragraph 71 except admits that the GRB
5 Agreement was entered into on or about December 13, 2012, the contents of which speak for
6 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

7 72. Seibel denies the allegations contained in paragraph 72 except admits that the GRB
8 Agreement was entered into on or about December 13, 2012, the contents of which speak for
9 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

10 73. Seibel denies the allegations contained in paragraph 73 except admits that the GRB
11 Agreement was entered into on or about December 13, 2012, the contents of which speak for
12 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

13 74. Seibel denies the allegations contained in paragraph 74 except admits that the GRB
14 Agreement was entered into on or about December 13, 2012, the contents of which speak for
15 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

16 75. Seibel denies the allegations contained in paragraph 75 except admits that the GRB
17 Agreement was entered into on or about December 13, 2012, the contents of which speak for
18 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

19 76. Seibel denies the allegations contained in paragraph 76 except admits that the GRB
20 Agreement was entered into on or about December 13, 2012, the contents of which speak for
21 themselves, and respectfully refers to the GRB Agreement for the full and complete contents thereof.

22 77. Seibel denies the allegations contained in paragraph 77.

23 78. Seibel denies the allegations contained in paragraph 78.

24 79. Seibel denies the allegations contained in paragraph 79 except admits that the FERG
25 Agreement was entered into in or about May 2014 concerning a restaurant in Caesars Atlantic City
26 known as Gordon Ramsay Pub& Grill, the contents of which speak for themselves, and respectfully
27 refers to the FERG Agreement for the full and complete contents thereof.

28 80. Seibel denies the allegations contained in paragraph 80 except admits that the FERG

1 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
2 respectfully refers to the FERG Agreement for the full and complete contents thereof.

3 81. Seibel denies the allegations contained in paragraph 81 except admits that the FERG
4 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
5 respectfully refers to the FERG Agreement for the full and complete contents thereof.

6 82. Seibel denies the allegations contained in paragraph 82 except admits that the FERG
7 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
8 respectfully refers to the FERG Agreement for the full and complete contents thereof.

9 83. Seibel denies the allegations contained in paragraph 83 except admits that the FERG
10 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
11 respectfully refers to the FERG Agreement for the full and complete contents thereof.

12 84. Seibel denies the allegations contained in paragraph 84 except admits that the FERG
13 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
14 respectfully refers to the FERG Agreement for the full and complete contents thereof.

15 85. Seibel denies the allegations contained in paragraph 85 except admits that the FERG
16 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
17 respectfully refers to the FERG Agreement for the full and complete contents thereof.

18 86. Seibel denies the allegations contained in paragraph 86 except admits that the FERG
19 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
20 respectfully refers to the FERG Agreement for the full and complete contents thereof.

21 87. Seibel denies the allegations contained in paragraph 87.

22 88. Seibel denies the allegations contained in paragraph 88.

23 89. Seibel denies the allegations contained in paragraph 89 except admits that the FERG
24 Agreement was entered into in or about May 2014, the contents of which speak for themselves, and
25 respectfully refers to the FERG Agreement for the full and complete contents thereof.

26 90. Seibel denies knowledge and information sufficient to form a belief as to the truth of
27 the allegations contained in paragraph 90, except admits except admits that the FERG Agreement was
28 entered into in or about May 2014, the contents of which speak for themselves, and respectfully refers

1 to the FERG Agreement for the full and complete contents thereof.

2 91. Seibel denies the allegations contained in paragraph 91.

3 92. Seibel denies the allegations contained in paragraph 92, except to state that the
4 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
5 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
6 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
7 proceeding for the full and complete recitation of facts.

8 93. Seibel denies the allegations contained in paragraph 93, except to state that the
9 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
10 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
11 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
12 proceeding for the full and complete recitation of facts.

13 94. Seibel denies the allegations contained in paragraph 94, except to state that the
14 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
15 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
16 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
17 proceeding for the full and complete recitation of facts.

18 95. Seibel denies the allegations contained in paragraph 95, except to state that the
19 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
20 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
21 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
22 proceeding for the full and complete recitation of facts.

23 96. Seibel denies the allegations contained in paragraph 96, except to state that the
24 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
25 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
26 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
27 proceeding for the full and complete recitation of facts.

28 97. Seibel denies the allegations contained in paragraph 97, except to state that the

1 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
2 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
3 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
4 proceeding for the full and complete recitation of facts.

5 98. Seibel denies the allegations contained in paragraph 98, except to state that the
6 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
7 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
8 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
9 proceeding for the full and complete recitation of facts.

10 99. Seibel denies the allegations contained in paragraph 99, except to state that the
11 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
12 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
13 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
14 proceeding for the full and complete recitation of facts.

15 100. Seibel denies the allegations contained in paragraph 100, except to state that the
16 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
17 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
18 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
19 proceeding for the full and complete recitation of facts.

20 101. Seibel denies the allegations contained in paragraph 101, Seibel denies the allegations
21 contained in paragraph 99. except to state that the allegations in this paragraph concern matters that
22 were the subject of Seibel's guilty plea to one count of a corrupt endeavor to obstruct and impede the
23 due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, and Seibel respectfully
24 refers to his guilty plea and related documents in that proceeding for the full and complete recitation
25 of facts.

26 102. Seibel deniess the allegations contained in paragraph 102, Seibel denies the allegations
27 contained in paragraph 99. except to state that the allegations in this paragraph concern matters that
28 were the subject of Seibel's guilty plea to one count of a corrupt endeavor to obstruct and impede the

1 due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, and Seibel respectfully
2 refers to his guilty plea and related documents in that proceeding for the full and complete recitation
3 of facts.

4 103. Seibel does not have knowledge and information sufficient to form a belief as to the
5 allegations contained in paragraph 103.

6 104. Seibel denies the allegations contained in paragraph 104, except to state that the
7 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
8 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
9 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
10 proceeding for the full and complete recitation of facts.

11 105. Seibel denies the allegations contained in paragraph 105, except to state that the
12 allegations in this paragraph concern matters that were the subject of Seibel's guilty plea to one count
13 of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws
14 under 26 U.S.C. § 7212, and Seibel respectfully refers to his guilty plea and related documents in that
15 proceeding for the full and complete recitation of facts.

16 106. Seibel denies the allegations contained in paragraph 106 except admits that on April
17 18, 2016, Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due
18 administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony, and
19 refers to the transcript from that plea for the full and complete contents of statements made by Seibel
20 on that date.

21 107. Seibel admits the allegations contained in paragraph 107.

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

26 109. Seibel denies the allegations contained in paragraph 109.

27 110. Seibel denies the allegations contained in paragraph 110 except admits that the letter
28 referenced in paragraph 110 was dated September 2, 2016, the contents of which speak for themselves,

1 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

2 111. Seibel denies the allegations contained in paragraph 111 except admits that the letter
3 referenced in paragraph 111 was dated September 2, 2016, the contents of which speak for themselves,
4 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

5 112. Seibel denies the allegations contained in paragraph 112.

6 113. Seibel denies the allegations contained in paragraph 113 except admits that the letter
7 referenced in paragraph 113 was dated September 2, 2016, the contents of which speak for themselves,
8 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

9 114. Seibel denies the allegations contained in paragraph 114 except admits that the letter
10 referenced in paragraph 114 was dated September 2, 2016, the contents of which speak for themselves,
11 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

12 115. Seibel denies the allegations contained in paragraph 115 except admits that the letter
13 referenced in paragraph 115 was dated September 2, 2016, the contents of which speak for themselves,
14 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

15 116. Seibel denies the allegations contained in paragraph 116.

16 117. Seibel denies the allegations contained in paragraph 117 except admits that the letter
17 referenced in paragraph 117 was dated September 2, 2016, the contents of which speak for themselves,
18 and respectfully refers to the aforementioned letter for the full and complete contents thereof.

19 118. Seibel denies the allegations contained in paragraph 118 except admit that the contents
20 of the certain referenced letters speak for themselves and respectfully refer to the aforementioned
21 letters for the full and complete contents thereof.

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

26 120. Seibel denies the allegations contained in paragraph 120 except admits that the
27 bankruptcy court docket speaks for itself.

28 121. Seibel denies the allegations contained in paragraph 121 except admits that the

1 bankruptcy court docket speaks for itself.

2 122. Seibel denies the allegations contained in paragraph 122 except admits that the
3 bankruptcy court docket speaks for itself.

4 123. Seibel denies the allegations contained in paragraph 123 except admits that the
5 bankruptcy court docket speaks for itself.

6 124. Seibel denies the allegations contained in paragraph 124 except admits that the
7 bankruptcy court docket speaks for itself.

8 125. Seibel denies the allegations contained in paragraph 125 except admits that the
9 bankruptcy court docket speaks for itself.

10 126. Seibel denies the allegations contained in paragraph 126 except admit that the
11 referenced documents filed in the GRB action and the court docket for that action speak for themselves
12 and respectfully refer to the aforementioned documents and court docket for the full and complete
13 contents thereof.

14 127. Seibel denies the allegations contained in paragraph 127 except admits that the
15 referenced state court decision speaks for itself and respectfully refers to the aforementioned decision
16 for the full and complete contents thereof.

17 128. Seibel denies the allegations contained in paragraph 128 except admits that the
18 referenced state court filings and decision speaks for themselves and respectfully refers to the
19 aforementioned documents for the full and complete contents thereof.

20 129. Seibel denies the allegations contained in paragraph 129 except admits that the
21 referenced documents filed in the TPOV Federal Action and the court docket for that Action speak for
22 themselves and respectfully refer to the aforementioned documents and court docket for the full and
23 complete contents thereof.

24 130. Seibel denies the allegations contained in paragraph 130 except admits that the
25 referenced documents filed in the TPOV Federal Action and the court docket for that Action speak for
26 themselves and respectfully refer to the aforementioned documents and court docket for the full and
27 complete contents thereof.

28

1 **COUNT I**

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

4 132. Seibel states that the referenced statute speaks for itself.

5 133. Seibel admits that the parties dispute whether Caesars properly terminated the
6 agreements, but deny there is a justiciable controversy ripe for adjudication among the parties.

7 134. Seibel denies the allegations contained in paragraph 134, except admit that Caesars
8 seeks declaratory relief in the present action.

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

12 **COUNT II**

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

15 137. Seibel states that the referenced statute speaks for itself.

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

18 139. Seibel denies the allegations set forth in paragraph 139.

19 140. Seibel denies the allegations contained in paragraph 140, except admits that the
20 agreements speak for themselves, and respectfully refers to those documents for the full and complete
21 contents thereof.

22 141. Seibel denies the allegations contained in paragraph 141, except admit that the
23 agreements speak for themselves, and respectfully refers to those documents for the full and complete
24 contents thereof.

25 142. Seibel denies the allegations contained in paragraph 142.

26 143. Seibel denies the allegations contained in paragraph 143.

27 144. Seibel denies the allegations contained in paragraph 144.

28 145. Seibel denies the allegations contained in paragraph 145, except admits that Caesars

1 seeks declaratory relief in the present action.

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

5 **COUNT III**

6 147. Seibel hereby repeats and realleges each and every one of Seibel's responses to the
7 above paragraphs as if fully set forth herein.

8 148. Seibel states that the referenced statute speaks for itself.

9 149. Seibel admits that the parties dispute whether the referenced section of the agreements
10 are enforceable, but denies there is a justiciable controversy ripe for adjudication among the parties.

11 150. Seibel denies the allegations contained in paragraph 150.

12 151. Seibel denies the allegations contained in paragraph 151.

13 152. Seibel denies the allegations contained in paragraph 152.

14 153. Seibel denies the allegations contained in paragraph 153.

15 154. Seibel denies the allegations contained in paragraph 154.

16 155. Seibel denies the allegations contained in paragraph 155, except admits that Caesars
17 seeks declaratory relief in the present action.

18 156. Seibel denies the allegations set forth in paragraph 156, except admits that the
19 complaint filed in the present action seeks certain relief, that the complaint that speaks for itself, and
20 respectfully refers to the complaint for the full and complete contents thereof.

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

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

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

24 158. Seibel expressly incorporates herein as affirmative defenses his allegations and claims
25 in (a) *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, case no. Case 2:17-
26 cv-00346-JCM-VCF in District of Nevada; (b) *Seibel v. PHWLTV, LLC, et. al.*, case no. A-17-751759-
27 B in the Eighth Judicial District Court; and (c) *In re: Caesars Entertainment Operating Company,*
28 *Inc., et. al.*, case no. 15-01145 (ABG) in the United States Bankruptcy Court for the Northern District

1 of Illinois (Eastern Division) and all related matters and proceedings.

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

3 159. Seibel expressly incorporates herein as affirmative defenses his argument in his motion
4 to dismiss this action.

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

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

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

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

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

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

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

16 163. Plaintiffs are precluded under the applicable contracts from continuing to operate the
17 restaurants, use the licensed materials, and do business with Ramsay.

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

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

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

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

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

24 166. 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 AN ELEVENTH AFFIRMATIVE DEFENSE**

28 167. 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 TWELFTH AFFIRMATIVE DEFENSE**

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

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

6 169. This court lacks jurisdiction over Seibel as he is not a party to any of the agreements
7 that are the subject of Plaintiffs' claims.

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

9 170. This Court lacks jurisdiction over the allegations, claims, and theories alleged by
10 Plaintiffs that already are pending: (a) before the United States Bankruptcy Court for the Northern
11 District of Illinois (Eastern Division) in *In re: Caesars Entertainment Operating Company, Inc., et*
12 *al.*, case no. 15-01145 (ABG); (b) before the United States District Court for the District of Nevada in
13 *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, case no. Case 2:17-cv-
14 00346-JCM-VCF; and (c) before the Eighth Judicial District Court in *Seibel v. PHWLTV, LLC, et. al.*,
15 case no. A-17-751759-B and all related matters and proceedings.

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

17 171. All possible affirmative defenses may not have been alleged herein insofar as sufficient
18 facts were not available after reasonable inquiry upon the filing of Defendants' answer. Therefore,
19 Defendants reserve the right to amend their answer to allege additional affirmative defenses if
20 subsequent investigation so warrants. Defendants reserve the right to (a) rely upon such other
21 affirmative defenses as may be supported by the facts to be determined through full and complete
22 discovery, and (b) voluntarily withdraw any affirmative defense.

23 DATED July 3, 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 Defendant Rowen Seibel

1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on July 3, 2018 I
3 caused service of the foregoing **DEFENDANT ROWEN SEIBEL'S ANSWER TO PLAINTIFFS'**
4 **COMPLAINT** to be made by depositing a true and correct copy of same in the United States Mail,
5 postage fully prepaid, addressed to the following and/or via electronic mail through the Eighth Judicial
6 District Court's E-Filing system to the following at the e-mail address provided in the e-service list:

7 James Pisanelli, Esq. (SBN 4027)
8 Debra Spinelli, Esq. (SBN 9695)
9 Brittne Watkins, Esq. (SBN 13612)
10 PISANELLI BICE PLLC
11 400 South 7th Street, Suite 300
12 Las Vegas, NV 89101
13 jjp@pisanellibice.com
14 dls@pisanellibice.com
15 btw@pisanellibice.com
16 Attorneys for Defendant
17 *PHWLV, LLC*

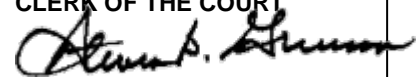
18 Allen Wilt, Esq. (SBN 4798)
19 John Tennert, Esq. (SBN 11728)
20 FENNEMORE CRAIG, P.C.
21 300 East 2nd Street, Suite 1510
22 Reno, NV 89501
23 awilt@fclaw.com
24 jtennert@fclaw.com
25 Attorneys for Defendant
26 *Gordon Ramsay*

27 Robert E. Atkinson, Esq. (SBN 9958)
28 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



ANS

1 DANIEL R. MCNUTT (SBN 7815)
2 MATTHEW C. WOLF (SBN 10801)
3 MCNUTT LAW FIRM, P.C.
4 625 South Eighth Street
5 Las Vegas, Nevada 89101
6 Tel. (702) 384-1170 / Fax. (702) 384-5529
7 drm@mcnuttlawfirm.com
8 mcw@mcnuttlawfirm.com

9 NATHAN Q. RUGG*
10 BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG LLP
11 200 W. MADISON ST., SUITE 3900
12 CHICAGO, IL 60606
13 Tel. (312) 984-3127 / Fax. (312) 984-3150
14 Nathan.Rugg@bfkn.com

15 STEVEN B. CHAIKEN*
16 ADELMAN & GETTLEMAN, LTD.
17 53 West Jackson Boulevard, Suite 1050
18 Chicago, IL 60604
19 Tel. (312) 435-1050 / Fax. (312) 435-1059
20 sbc@ag-ltd.com
21 *Admitted Pro Hac Vice
22 Attorneys for MOTI Partners, LLC
23 and MOTI Partners 16, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

16 ROWEN SEIBEL, an individual and citizen of
17 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
22 company; GORDON RAMSAY, an individual;
23 DOES I through X; ROE CORPORATIONS I
through X,

24 Defendants,

25 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

26 Defendants MOTI PARTNERS, LLC, and MOTI PARTNERS 16, LLC (collectively, the
27 "MOTI Defendants") hereby answer the claims asserted by Plaintiffs in the above-captioned matter as
28 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.

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

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

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

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

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

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

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

16 **COUNT III**

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

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

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

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

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

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

28 153. 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*

1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on July 6, 2018 I
3 caused service of the foregoing **MOTI DEFENDANTS' ANSWER AND AFFIRMATIVE**
4 **DEFENSES TO PLAINTIFFS' COMPLAINT** to be made by depositing a true and correct copy of
5 same in the United States Mail, postage fully prepaid, addressed to the following and/or via electronic
6 mail through the Eighth Judicial District Court's E-Filing system to the following at the e-mail address
7 provided in the e-service list:

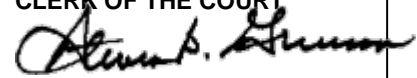
8 James Pisanelli, Esq. (SBN 4027)
9 Debra Spinelli, Esq. (SBN 9695)
10 Brittnie Watkins, Esq. (SBN 13612)
11 PISANELLI BICE PLLC
12 400 South 7th Street, Suite 300
13 Las Vegas, NV 89101
14 jjp@pisanellibice.com
15 dls@pisanellibice.com
16 btw@pisanellibice.com
17 Attorneys for Defendant
18 *PHWLV, LLC*

14 Allen Wilt, Esq. (SBN 4798)
15 John Tennert, Esq. (SBN 11728)
16 FENNEMORE CRAIG, P.C.
17 300 East 2nd Street, Suite 1510
18 Reno, NV 89501
19 awilt@fclaw.com
20 jtennert@fclaw.com
21 Attorneys for Defendant
22 *Gordon Ramsay*

20 Robert E. Atkinson, Esq. (SBN 9958)
21 Atkinson Law Associates Ltd.
22 8965 S. Eastern Ave. Suite 260
23 Las Vegas, NV 89123
24 Robert@nv-lawfirm.com
25 *Attorney for Defendant J. Jeffrey Frederick*

24 */s/ Lisa A. Heller*
25 _____
26 Employee of McNutt Law Firm

TAB 28



ANS

1 DANIEL R. MCNUTT (SBN 7815)
2 MATTHEW C. WOLF (SBN 10801)
3 MCNUTT LAW FIRM, P.C.
4 625 South Eighth Street
5 Las Vegas, Nevada 89101
6 Tel. (702) 384-1170 / Fax. (702) 384-5529
7 drm@mcnuttlawfirm.com
8 mcw@mcnuttlawfirm.com

9 PAUL SWEENEY*
10 CERTILMAN BALIN ADLER & HYMAN, LLP
11 90 Merrick Avenue
12 East Meadow, New York 11554
13 Tel. (516) 296-7032/ Fax. (516) 296-7111
14 psweeney@certilmanbalin.com
15 *Admitted Pro Hac Vice
16 *Attorneys for Defendants*
17 *TPOV Enterprises, LLC and*
18 *TPOV Enterprises 16, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

22 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

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

PRELIMINARY STATEMENT

26 1. The TPOV Defendants deny the allegations contained in paragraph 1, except admit that
27 Caesars entered into multiple agreements with entities previously owned by, managed by or affiliated
28

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.

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AS AND FOR A FIRST AFFIRMATIVE DEFENSE

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

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

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

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

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

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

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

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

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

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

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

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

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

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

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

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

165. Plaintiffs breached the applicable contracts with Defendants and therefore are 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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AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

172. All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants’ answer. Therefore, Defendants reserve the right to amend their answer to allege additional affirmative defenses if subsequent investigation so warrants. Defendants reserve 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.

DATED July 6, 2018.

MCNUTT LAW FIRM, P.C.

/s/ Dan McNutt
DANIEL R. MCNUTT (SBN 7815)
MATTHEW C. WOLF (SBN 10801)
625 South Eighth Street
Las Vegas, Nevada 89101
*Attorneys for Defendants TPOV Enterprises, LLC
and TPOV Enterprises 16, LLC*

1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on July 6, 2018 I
3 caused service of the foregoing **DEFENDANTS TPOV ENTERPRISES, LLC AND TPOV**
4 **ENTERPRISES 16, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT** to be made by
5 depositing a true and correct copy of same in the United States Mail, postage fully prepaid, addressed
6 to the following and/or via electronic mail through the Eighth Judicial District Court's E-Filing system
7 to the following at the e-mail address provided in the e-service list:

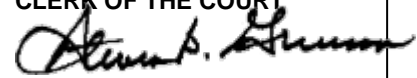
8 James Pisanelli, Esq. (SBN 4027)
9 Debra Spinelli, Esq. (SBN 9695)
10 Brittnie Watkins, Esq. (SBN 13612)
11 PISANELLI BICE PLLC
12 400 South 7th Street, Suite 300
13 Las Vegas, NV 89101
14 jjp@pisanellibice.com
15 dls@pisanellibice.com
16 btw@pisanellibice.com
17 Attorneys for Defendant
18 *PHWLV, LLC*

14 Allen Wilt, Esq. (SBN 4798)
15 John Tennert, Esq. (SBN 11728)
16 FENNEMORE CRAIG, P.C.
17 300 East 2nd Street, Suite 1510
18 Reno, NV 89501
19 awilt@fclaw.com
20 jtennert@fclaw.com
21 Attorneys for Defendant
22 *Gordon Ramsay*

20 Robert E. Atkinson, Esq. (SBN 9958)
21 Atkinson Law Associates Ltd.
22 8965 S. Eastern Ave. Suite 260
23 Las Vegas, NV 89123
24 Robert@nv-lawfirm.com
25 *Attorney for Defendant J. Jeffrey Frederick*

24 */s/ Lisa A. Heller*
25 _____
26 Employee of McNutt Law Firm

TAB 29



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

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- 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.

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

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

6 **COUNT II**

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

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

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

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

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

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

19 142. DNT denies the allegations contained in paragraph 142.

20 143. DNT denies the allegations contained in paragraph 143.

21 144. DNT denies the allegations contained in paragraph 144.

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

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

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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.

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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.

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AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

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

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

170. All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants’ answer. Therefore, Defendants reserve the right to amend their answer to allege additional affirmative defenses if subsequent investigation so warrants. Defendants reserve 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.

COUNTERCLAIMS

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

PARTIES

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

GENERAL ALLEGATIONS

The DNT Agreement and Restrictions

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

¹ The bases for R Squared Global Solutions, LLC’s (“RSG”) derivative appearance are set forth 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 **PRAAYER 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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1 **CERTIFICATE OF MAILING**

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

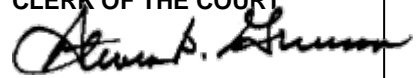
8 James Pisanelli, Esq. (SBN 4027)
9 Debra Spinelli, Esq. (SBN 9695)
10 Brittnie Watkins, Esq. (SBN 13612)
11 PISANELLI BICE PLLC
12 400 South 7th Street, Suite 300
13 Las Vegas, NV 89101
14 jjp@pisanellibice.com
15 dls@pisanellibice.com
16 btw@pisanellibice.com
17 Attorneys for Defendant
18 *PHWLV, LLC*

14 Allen Wilt, Esq. (SBN 4798)
15 John Tennert, Esq. (SBN 11728)
16 FENNEMORE CRAIG, P.C.
17 300 East 2nd Street, Suite 1510
18 Reno, NV 89501
19 awilt@fclaw.com
20 jtennert@fclaw.com
21 Attorneys for Defendant
22 *Gordon Ramsay*

20 Robert E. Atkinson, Esq. (SBN 9958)
21 Atkinson Law Associates Ltd.
22 8965 S. Eastern Ave. Suite 260
23 Las Vegas, NV 89123
24 Robert@nv-lawfirm.com
25 *Attorney for Defendant J. Jeffrey Frederick*

24 */s/ Lisa A. Heller*
25 _____
26 Employee of McNutt Law Firm

TAB 30



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.

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.

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AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

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

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

161. Plaintiffs consented to and ratified the assignments from FERG to FERG 16, from LLTQ Enterprises to LLTQ Enterprises 16, and from Seibel to Frederick.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

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

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

163. Plaintiffs are precluded from obtaining the relief they seek because they owe money to LLTQ/FERG Defendants.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

164. Plaintiffs are precluded under the applicable contracts from continuing to operate the subject restaurants, use the licensed materials, and do business with Ramsay related to the subject restaurants and similar ventures.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

165. Plaintiffs breached the applicable contracts with LLTQ/FERG Defendants and therefore are precluded from pursuing their claims.

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

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.

1 GENERAL ALLEGATIONS

2 The LLTQ Agreement and Restrictions

3 7. LLTQ and Caesars entered into that certain Development and Operation Agreement with
4 an effective date of April 12, 2012 (the “**LLTQ Agreement**”).

5 8. In connection with entering into the LLTQ Agreement, Caesars did not require LLTQ
6 nor its Associated Persons (as that term is defined in the LLTQ Agreement to provide information
7 concerning LLTQ’s “suitability” or complete a business information form.

8 9. Contemporaneously with entering into the LLTQ Agreement, Caesars entered into that
9 certain Development, Operation and License Agreement (the “**Ramsay LV Agreement**”) with Gordon
10 Ramsay and his affiliate business, Gordon Ramsay Holdings Limited (collectively, “**Ramsay**”).

11 10. The LLTQ Agreement and the Ramsay LV Agreement were negotiated
12 contemporaneously with among the parties. Mr. Rowen Seibel on behalf of LLTQ assisted in the
13 negotiations of the Ramsay LV Agreement.

14 11. Representatives of Caesars, LLTQ and Ramsay engaged in multiple meetings to
15 negotiate the terms of the design, development, construction, and operation of and the sharing of profits
16 from that certain “**Gordon Ramsay Pub**” (defined as the “Restaurant” in the LLTQ Agreement) located
17 at the “Restaurant Premises” (as defined in the LLTQ Agreement) in a property owned and operated by
18 Caesars in Las Vegas, Nevada.

19 12. Both Caesars and LLTQ contributed an amount not less than \$1,000,000 of the costs
20 required to develop the Gordon Ramsay Pub.

21 13. The LLTQ Agreement and the Ramsay LV Agreement are integrated and, together,
22 establish a single transaction and agreement among LLTQ, Caesars and Ramsay to design, develop,
23 construct, and operate the Gordon Ramsay Pub and share the profits therefrom.

24 14. Both the LLTQ Agreement and the Ramsay LV Agreement were (a) executed and
25 effective as of the same day, (b) concern the same subject matter, and (c) refer to each other. Caesars is
26 a party to both contracts, which contain the same choice of law, dispute resolution, and other provisions.

27 15. For the consideration received under the LLTQ Agreement, including a \$1,000,000
28 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 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.

- 1 i) all payments due under the LLTQ Agreement accruing since the Plan Effective
- 2 Date of October 6, 2017, through the present and continuing so long as the
- 3 Gordon Ramsay Pub is open;
- 4 ii) all damages and payments due arising out of the pursuit and operation by Caesars
- 5 or its affiliates of any and all Restricted Ramsay Ventures since the Plan
- 6 Effective Date of October 6, 2017; and
- 7 iii) all payments due under the FERG Agreement accruing since the Plan Effective
- 8 Date of October 6, 2017, through the present and continuing so long as the
- 9 Gordon Ramsay Pub and Grill is open;

- 10 B. Equitable relief;
- 11 C. Reasonable attorney’s fees, costs, and interest associated with the prosecution of this
- 12 lawsuit; and
- 13 D. Any additional relief this Court may deem just and proper.

RESERVATION OF RIGHTS

15 Pursuant to Rule 13 of the Nevada Rules of Civil Procedure, LLTQ ENTERPRISES, LLC,

16 LLTQ Enterprises 16, LLC, FERG, LLC and FERG 16, LLC are not intending to bring and are not

17 bringing at this time any claims that existed at the time this matter was commenced and which were

18 already (and remain) the subject of the pending matters between the parties before the United States

19 Bankruptcy Court for the Northern District of Illinois. LLTQ ENTERPRISES, LLC, LLTQ Enterprises

20 16, LLC, FERG, LLC and FERG 16, LLC reserve the right to pursue any such claims before this court

21 in the event the Bankruptcy Court either stays or abstains from hearing any such claims.

22 In addition, the complaint is subject to a Petition for Writ of Mandamus or Prohibition in

23 connection with certain defendants’ motion to dismiss or stay, and an appeal of the remand of certain

24 counts of the complaint ordered by the United States Bankruptcy Court, District of Nevada (collectively,

25 the “Pending Appeals”). Based on the Pending Appeals, the LLTQ/FERG Defendants do not concede

26 that this Court should be proceeding with this matter at this time. Accordingly, the LLTQ/FERG

27 Defendants reserve their right to further amend, modify, or withdraw this Answer, Affirmative Defenses

28

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
7 DANIEL R. MCNUTT (SBN 7815)
8 MATTHEW C. WOLF (SBN 10801)
9 625 South Eighth Street
10 Las Vegas, Nevada 89101
11 Attorneys for LLTQ Enterprises, LLC;
12 LLTQ Enterprises 16, LLC; FERG, LLC;
13 and FERG 16, LLC
14
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1 **CERTIFICATE OF MAILING**

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

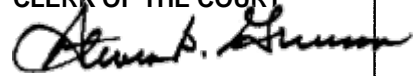
8 James Pisanelli, Esq. (SBN 4027)
9 Debra Spinelli, Esq. (SBN 9695)
10 Brittnie Watkins, Esq. (SBN 13612)
11 PISANELLI BICE PLLC
12 400 South 7th Street, Suite 300
13 Las Vegas, NV 89101
14 jjp@pisanellibice.com
15 dls@pisanellibice.com
16 btw@pisanellibice.com
17 Attorneys for Defendant
18 *PHWLV, LLC*

14 Allen Wilt, Esq. (SBN 4798)
15 John Tennert, Esq. (SBN 11728)
16 FENNEMORE CRAIG, P.C.
17 300 East 2nd Street, Suite 1510
18 Reno, NV 89501
19 awilt@fclaw.com
20 jtennert@fclaw.com
21 Attorneys for Defendant
22 *Gordon Ramsay*

20 Robert E. Atkinson, Esq. (SBN 9958)
21 Atkinson Law Associates Ltd.
22 8965 S. Eastern Ave. Suite 260
23 Las Vegas, NV 89123
24 Robert@nv-lawfirm.com
25 *Attorney for Defendant J. Jeffrey Frederick*

24 */s/ Lisa A. Heller*
25 _____
26 Employee of McNutt Law Firm

TAB 31



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

15 **DISTRICT COURT**

16 **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 PHWLV, 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

**REPLY TO DNT ACQUISITION, LLC'S
COUNTERCLAIMS**

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

1 Desert Palace, Inc. ("Desert Palace"), by and through its undersigned counsel, hereby
2 responds to the allegations set forth in the Counterclaims (the "Counterclaim") filed by
3 DNT Acquisition, LLC ("DNT"), purporting to appear derivatively through one of its members,
4 R Squared Global Solutions, LLC ("RSG"), as follows:

5 **PARTIES**

6 1. Desert Palace is informed and believes, and thereon admits that DNT is a Delaware
7 limited liability company.

8 2. Upon information and belief, Desert Palace admits that DNT's two members are
9 RSG and The Original Homestead Restaurant, Inc. ("OHS"). Desert Palace is informed and
10 believes, and thereon admits that OHS is a New York corporation.

11 3. Desert Palace admits that it is a Nevada corporation and has its principal place of
12 business at 3570 Las Vegas Boulevard South, Las Vegas, Nevada. Desert Palace denies that it is a
13 resort hotel casino known as Caesars Palace. Desert Palace operates the Caesars Palace resort,
14 hotel, and casino.

15 **GENERAL ALLEGATIONS**

16 **The DNT Agreement and Restrictions**

17 4. Desert Palace admits that DNT, OHS, and Desert Palace entered into a
18 Development, Operation and License Agreement (the "DNT Agreement") effective as of June 21,
19 2011 for the development, operation, and license of an Old Homestead Steakhouse in
20 Caesars Palace, Las Vegas, Nevada.

21 5. Desert Palace admits that representatives of Caesars, DNT, and OHS engaged in
22 multiple meetings to negotiate the terms of the design, development, construction, and operation of
23 and the sharing of profits from that certain "Old Homestead Steakhouse" (defined as the
24 "Restaurant" in the DNT Agreement) located at the "Restaurant Premised" (as defined in the
25 DNT Agreement) in a property owned and operated by Caesars in Las Vegas, Nevada.

26 6. Desert Palace admits that since its opening the Old Homestead Restaurant has been
27 a profitable restaurant at its Las Vegas location, and denies all other allegations in Paragraph 6 of
28 the Counterclaim.

1 **The Bankruptcy Matters**

2 7. Desert Palace admits that, on January 15, 2015, Desert Palace, CAC and several of
3 their affiliated entities (collectively, the "Reorganized Debtors") each filed voluntary petitions
4 under Chapter 11 of the Bankruptcy Code, thereby commencing the Chapter 11 cases.

5 8. Desert Palace admits that OHS is one of the members of DNT. Desert Palace admits
6 that OHS filed a Proof of Claim (the "OHS Pre-Petition Claim") on April 30, 2015. The OHS Pre-
7 Petition Claim is Claim No. 1883, not Docket No. 1883 as DNT has alleged, and Desert Palace
8 refers to that document for an accurate recitation of its contents. Desert Palace denies all other
9 allegations contained in Paragraph 8.

10 9. Desert Palace admits that DNT filed a Proof of Claim (the "DNT Pre-Petition
11 Claim") on May 22, 2015. The DNT Pre-Petition Claim is Claim No. 3346, not Docket No. 3346
12 as DNT has alleged, and Desert Palace refers to that document for an accurate recitation of its
13 contents. Desert Palace denies all other allegations contained in Paragraph 9.

14 10. Desert Palace admits that RSG filed a Proof of Claim (the "RSG Pre-Petition
15 Claim") on May 22, 2015. The RSG Pre-Petition Claim is Claim No. 3304, not Docket No. 3304
16 as DNT has alleged, and Desert Palace refers to that document for an accurate recitation of its
17 contents. Desert Palace denies all other allegations contained in Paragraph 10.

18 11. Desert Palace states that the allegations in Paragraph 11 are legal conclusions to
19 which no responsive pleading is required. To the extent a response is required, Desert Palace denies
20 the allegations in Paragraph 11.

21 12. Desert Palace admits that RSG filed two Proofs of Claim on November 6, 2017, one
22 on behalf of itself and the other purportedly on behalf of DNT (together, the "DNT/RSG Rejection
23 Damages POCs") and refers to that document for an accurate recitation of its contents. Desert
24 Palace denies all other allegations contained in Paragraph 12.

25 13. Desert Palace admits that the Reorganized Debtors filed their Second Amended Joint
26 Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code on June 28, 2016.
27 Desert Palace denies all other allegations contained in Paragraph 13.

28

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

1 **FIFTH AFFIRMATIVE DEFENSE**

2 Insofar as any alleged breach of contract is concerned, DNT failed to give Desert Palace
3 timely notice thereof.

4 **SIXTH AFFIRMATIVE DEFENSE**

5 DNT breached the DNT Agreement, which excuses any failure to perform by
6 Desert Palace.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 DNT is not entitled to any recovery because they failed to fulfill the terms of the
9 DNT Agreement.

10 **EIGHTH AFFIRMATIVE DEFENSE**

11 DNT engaged in fraudulent and deceitful conduct as set forth in Count II of the Complaint,
12 which bars its right to recovery, if any, upon the Counterclaim on file herein. Specifically, Rowen
13 Seibel and DNT fraudulently induced Desert Palace to enter into the DNT Agreement on June 21,
14 2011 when they failed to disclose Mr. Seibel's illegal activities at any time before the DNT
15 Agreement was executed. Mr. Seibel and/or DNT represented—through the January 5, 2009
16 Business Information Form for the agreement with Moti Partners, LLC ("MOTI") and the June 3,
17 2011 DNT Business Information Form—that he had not been a party to any felony in the past ten
18 years and there was nothing in Mr. Seibel's past that would prevent him from being licensed by a
19 gaming authority. To the extent the MOTI suitability disclosures became inaccurate, they had to
20 be updated without Desert Palace making a request. Desert Palace therefore reasonably relied on
21 Mr. Seibel's contemporaneous and prior representations to satisfy itself that Mr. Seibel remained a
22 suitable person when entering into the DNT Agreement.

23 In addition, Desert Palace also relied on the representations in Sections 10.2, 11.1, and 11.2
24 of the DNT Agreement when deciding to enter into the DNT Agreement. Mr. Seibel and DNT
25 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.

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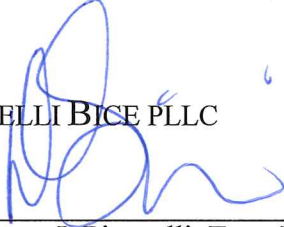
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WHEREFORE, Desert Palace prays as follows:

- (1) DNT takes nothing by its Counterclaim;
- (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 25th day of July 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;
PHWL, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

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

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

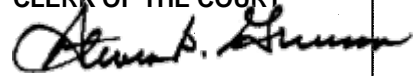
Kurt Heyman, Esq.
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Trustee for GR Burgr, LLC

An employee of PISANELLI BICE PLLC

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TAB 32



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

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

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

20 Plaintiff,

v.

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

24 Defendants,

and

25 GR BURGR LLC, a Delaware limited liability
26 company,

27 Nominal Plaintiff.

28 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**

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

1 Defendants Desert Palace, Inc. ("Desert Palace") and Boardwalk Regency Corporation d/b/a
2 Caesars Atlantic City ("CAC"), by and through their undersigned counsel, hereby respond to the
3 counterclaims (the "Counterclaim") of Defendants LLTQ Enterprises, LLC ("LLTQ"), LLTQ
4 Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), and FERG 16, LLC ("FERG 16") dated
5 July 6, 2018, as follows:

6 **PARTIES**

7 1. Desert Palace and CAC are informed and believe, and thereon admit that LLTQ is a
8 Delaware limited liability company.

9 2. Desert Palace and CAC are informed and believe, and thereon admit that FERG is a
10 Delaware limited liability company. Desert Palace and CAC state that the allegation that FERG is
11 an "affiliate" of LLTQ is a legal conclusion to which no response is required. Desert Palace and
12 CAC also state that the term "affiliate" is vague and ambiguous. To the extent a response is
13 required, Desert Palace and CAC state that, as the term "Affiliate" is defined in the LLTQ
14 Agreement and the FERG Agreement, FERG is an "affiliate" of LLTQ.

15 3. Desert Palace and CAC are informed and believe, and thereon admit that LLTQ 16
16 is a Delaware limited liability company. Desert Palace and CAC state that the allegation that
17 LLTQ 16 is a "successor in interest to LLTQ" is a legal conclusion to which no response is required.
18 Desert Palace and CAC also state that the term "successor is interest" is vague and ambiguous. To
19 the extent a response is required, Desert Palace and CAC deny that LLTQ 16 is a successor in
20 interest to LLTQ.

21 4. Desert Palace and CAC are informed and believe, and thereon admit that FERG 16
22 is a Delaware limited liability company. Desert Palace and CAC state that the allegation that
23 FERG 16 is a "successor in interest to FERG" is a legal conclusion to which no response is required.
24 Desert Palace and CAC also state that the term "successor is interest" is vague and ambiguous. To
25 the extent a response is required, Desert Palace and CAC deny that FERG 16 is a successor in
26 interest to FERG.

27 5. Desert Palace and CAC admit that Desert Palace is a Nevada corporation and has its
28 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

1 **The First Restricted Restaurant Venture**

2 21. To the extent Paragraph 21 purports to restate the terms of communications from
3 Desert Palace to representatives of LLTQ and Gordon Ramsay, Desert Palace refers to those
4 documents for a complete and accurate recitation of their contents and no further response is
5 required. Desert Palace denies all other allegations contained in Paragraph 21.

6 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
7 the allegations of Paragraph 21 and therefore denies the same.

8 22. Desert Palace admits that J. Jeffrey Frederick was the former Regional Vice
9 President of Food and Beverage and a participant in the negotiations of the LLTQ Agreement and
10 the Ramsay LV Agreement. To the extent Paragraph 22 purports to restate an email from
11 Mr. Frederick, Desert Palace admits the existence of that email, refers to that email for a complete
12 and accurate recitation of its contents, and no further response is required. Desert Palace denies all
13 other allegations contained in Paragraph 22.

14 CAC also admits that Mr. Frederick was the former Regional Vice President of Food and
15 Beverage. CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity
16 of all other allegations of Paragraph 22 and therefore denies the same.

17 23. To the extent Paragraph 23 purports to restate an email from J. Jeffrey Frederick,
18 Desert Palace admits the existence of that email, refers to that email for a complete and accurate
19 recitation of its contents, and no further response is required. Desert Palace denies all other
20 allegations contained in Paragraph 23.

21 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
22 the allegations of Paragraph 23 and therefore denies the same.

23 24. Desert Palace denies that representatives of Desert Palace, FERG, and Ramsay
24 engaged in multiple meetings to negotiate the terms of the design, development, construction, and
25 operation of and the sharing of profits of a restaurant similar to the Gordon Ramsay Pub to be
26 located at a property owned and operated by CAC, in Atlantic City, New Jersey.

27 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
28 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

1 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
2 falsity of the allegations of Paragraph 32 and therefore denies the same.

3 33. In responding to Paragraph 33, CAC admits the existence of the FERG Agreement
4 referenced therein and refers to the agreement for a complete and accurate statement of the terms
5 thereof. Moreover, CAC states that the allegations in Paragraph 33 are legal conclusions to which
6 no responsive pleading is required. To the extent a response is required, CAC denies the allegations
7 contained in Paragraph 33.

8 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
9 falsity of the allegations of Paragraph 33 and therefore denies the same.

10 34. CAC admits that since its opening, the Gordon Ramsay Pub & Grill has been a
11 profitable restaurant for CAC at its Atlantic City location.

12 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
13 falsity of the allegations of Paragraph 34 and therefore denies the same.

14 **The Bankruptcy Matters**

15 35. Desert Palace and CAC admit that, on January 15, 2015, Desert Palace, CAC and
16 several of their affiliated entities (collectively, the "Reorganized Debtors") each filed voluntary
17 petitions under Chapter 11 of the Bankruptcy Code, thereby commencing the Chapter 11 cases.

18 36. Desert Palace and CAC admit that the Reorganized Debtors filed a Fourth Omnibus
19 Motion for the Entry of an Order Authorizing the Debtors to Reject Certain Executory Contracts
20 Nunc Pro Tunc to June 11, 2015 (the "Rejection Motion") on June 11, 2015, and refer to that
21 document for an accurate recitation of its contents. Desert Palace and CAC deny all other
22 allegations contained in Paragraph 36.

23 37. In answering Paragraph 37, Desert Palace and CAC admit to the existence of the
24 LLTQ's and FERG's objection to the Rejection Motion and refer to the document for an accurate
25 recitation of its contents. Desert Palace and CAC deny all other allegations contained in Paragraph
26 37.

27 38. Desert Palace and CAC admit that the Rejection Motion constitutes a contested
28 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

1 **Purported Termination of the LLTQ Agreement and FERG Agreement**

2 48. Desert Palace and CAC admit that the United States government filed a Notice of
3 Intent to File an Information against Rowen Seibel on February 29, 2016. Desert Palace and CAC
4 state that the allegations in the second sentence of Paragraph 48 are legal conclusions to which no
5 responsive pleading is required. To the extent a response is required to the second sentence of
6 Paragraph 48, Desert Palace and CAC are without knowledge or information sufficient to form a
7 belief as to the truth or falsity of those allegations.

8 49. To the extent Paragraph 49 purports to restate the terms of certain letters dated
9 April 8, 2016 that were sent to certain of the Reorganized Debtors, Desert Palace and CAC each
10 admit the existence of just those letters sent to them and refer to their respective letters for an
11 accurate recitation of their contents. Desert Palace and CAC each lack knowledge or information
12 sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 49 to the extent
13 they regard letters received by others and therefore each denies the same. Desert Palace and CAC
14 deny all other allegations contained in Paragraph 49.

15 50. Desert Palace and CAC state that the allegations in Paragraph 50 are
16 legal conclusions to which no responsive pleading is required. To the extent a response is required,
17 Desert Palace denies that "Mr. Seibel divested himself of any direct or indirect membership interests
18 in LLTQ" and lacks knowledge or information sufficient to form a belief as to the truth or falsity
19 of whether "Mr. Seibel divested himself of any direct or indirect membership interests ... in FERG"
20 and therefore denies the same. To the extent a response is required, CAC denies that "Mr. Seibel
21 divested himself of any direct or indirect membership interests ... in FERG" and lacks knowledge
22 or information sufficient to form a belief as to the truth or falsity of whether "Mr. Seibel divested
23 himself of any direct or indirect membership interests in LLTQ" and therefore denies the same.

24 51. Desert Palace states that the allegations in Paragraph 51 are legal conclusions to
25 which no responsive pleading is required. To the extent a response is required, Desert Palace denies
26 the allegations in Paragraph 51.

27 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
28 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.

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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.

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1 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
2 the allegations of Paragraph 77 and therefore denies the same.

3 78. Desert Palace states that the terms "same manner and fashion" are vague and
4 ambiguous. Desert Palace admits that it continues to operate the Gordon Ramsay Pub.
5 Desert Palace denies all other allegations contained herein.

6 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
7 the allegations of Paragraph 79 and therefore denies the same.

8 79. Desert Palace admits that, as of the date of this Answer, it intends to continue
9 operating the Gordon Ramsay Pub.

10 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
11 the allegations of Paragraph 80 and therefore denies the same.

12 80. Desert Palace admits that it has not been fined or sanctions in any manner by any
13 gaming authorities in connection with its continued operations of the Gordon Ramsay Pub.

14 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
15 the allegations of Paragraph 80 and therefore denies the same.

16 81. Desert Palace states that the allegations in Paragraph 81 are legal conclusions to
17 which no response is required. To the extent a response is required, Desert Palace denies the
18 allegations in Paragraph 81.

19 CAC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
20 the allegations of Paragraph 81 and therefore denies the same.

21 **COUNT II – Breach of the FERG Agreement**
22 (against CAC)

23 82. Desert Palace and CAC repeat and reallege each and every response to the preceding
24 Paragraphs as if set forth fully herein.

25 83. In answering Paragraph 83, CAC admits to the existence of the FERG Agreement,
26 and refers to that document for an accurate recitation of its contents. CAC denies all other
27 allegations contained in Paragraph 83.

28

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.

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1 Desert Palace lacks knowledge or information sufficient to form a belief as to the truth or
2 falsity of the allegations of Paragraph 89 and therefore denies the same.

3 **COUNT III – Accounting**
4 (against Caesars)

5 90. Desert Palace and CAC repeat and reallege each and every response to the preceding
6 Paragraphs as if set forth fully herein.

7 91. In answering Paragraph 91, Desert Palace admits the existence of the LLTQ
8 Agreement, and refers to that document for an accurate recitation of its contents. Moreover,
9 Desert Palace states that the allegations in Paragraph 91 are legal conclusions to which no response
10 is required. To the extent a response is required, Desert Palace denies the allegations in
11 Paragraph 91. CAC lacks knowledge or information sufficient to form a belief as to the truth or
12 falsity of the allegations of Paragraph 91 and therefore denies the same.

13 92. Desert Palace states that the allegations in Paragraph 92 are legal conclusions to
14 which no response is required. To the extent a response is required, Desert Palace denies the
15 allegations in Paragraph 92. CAC lacks knowledge or information sufficient to form a belief as to
16 the truth or falsity of the allegations of Paragraph 92 and therefore denies the same.

17 93. Desert Palace denies the allegations in Paragraph 93. CAC lacks knowledge or
18 information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 93
19 and therefore denies the same.

20 94. Desert Palace lacks knowledge or information sufficient to form a belief as to the
21 truth or falsity of the allegations of Paragraph 94 and therefore denies the same. CAC lacks
22 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of
23 Paragraph 94 and therefore denies the same.

24 95. Desert Palace admits that LLTQ and LLTQ 16 as part of their Counterclaim seek
25 the relief requested in Paragraph 95 and denies all remaining allegations therein. CAC lacks
26 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of
27 Paragraph 95 and therefore denies the same.

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COUNT IV – Accounting
(against CAC)

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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.

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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.

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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.
(admitted *pro hac vice*)
26 William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
27 KIRKLAND & ELLIS LLP
28 300 North LaSalle
Chicago, IL 60654

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

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

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this
3 25th day of July 2018, I caused to be served via the Court's e-filing/e-service system a true and
4 correct copy of the above and foregoing **REPLY TO LLTQ/FERG DEFENDANTS'**
5 **COUNTERCLAIMS** to the following:

6 Daniel R. McNutt, Esq.
7 Matthew C. Wolf, Esq.
8 MCNUTT LAW FIRM, P.C.
9 625 South Eighth Street
10 Las Vegas, NV 89101

Nathan O. Rugg, Esq.
BARACK FERRAZZANO KIRSCHBAUM &
NAGELBERG LLP
200 W. Madison St., Suite 3900
Chicago, IL 60606

9 Paul Sweeney
10 CERTILMAN BALIN
11 ADLER & HYMAN, LLP
12 90 Merrick Avenue
13 East Meadow, NY 11554

Steven B. Chaiken, Esq.
ADELMAN & GETTLEMAN, LTD.
53 W. Jackson blvd., Suite 1050
Chicago, IL 60604

12 *Attorneys for Rowen Seibel, DNT Acquisition LLC,*
13 *Moti Partners, LLC, Moti Partner 16s, LLC,*
14 *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

15 Allen J. Wilt, Esq.
16 John D. Tennert III, Esq.
17 300 East Second Street, Suite 1510
18 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

18 **VIA U.S. MAIL**

19 Kurt Heyman, Esq.
20 300 Delaware Ave., Suite 200
21 Wilmington, DE 19801

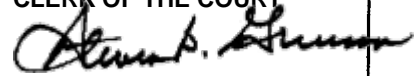
Trustee for GR Burgr, LLC

22
23 

24 An employee of PISANELLI BICE PLLC

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

TAB 33



1 BCO

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 DESERT PALACE, INC.;
5 PARIS LAS VEGAS OPERATING)
6 COMPANY, LLC; PHWLV, LLC; and)
7 ROWEN SEIBEL, an individual and citizen of New)
York, derivatively on behalf of Real Party of)
8 Interest GR BURGR LLC, a Delaware limited)
liability company,)

CASE NO.: A-17-751759-B
DEPT. NO.: XVI

9 Plaintiff,

Hearing Date: **September 11, 2018**
Hearing Time: **10:30 am**

10 v.

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

Consolidated With

13 Defendants)

Case No.: A-17-760537-B

14 AND ALL RELATED MATTERS.

15 **BUSINESS COURT ORDER**

16 This Business Court Order ("Order") is entered to reduce the costs of litigation, to assist
17 the parties in resolving their disputes if possible and, if not, to reduce the costs and difficulties of
18 discovery and trial. This case is deemed complex and is automatically exempt from arbitration.
19 This Order may be amended or modified by the Court upon good cause shown, and is made
20 subject to any Orders that have heretofore been entered herein.

21 **ACCORDINGLY, IT IS HEREBY ORDERED:**

22 **I. Mandatory Rule 16 Conference**

23 A. Pursuant to NRCP 16, a mandatory case management conference with the Court
24 and counsel/parties in proper person will be held on **Tuesday, September 11, 2018 at 10:30**
25 **a.m.** in Courtroom 3H of the Eighth Judicial District Court, Department XVI, 200 Lewis
26
27
28

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
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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

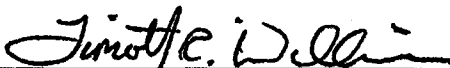
18 (2) state the basis for refusing to produce the documents(s).

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.
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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 
12 TIMOTHY C. WILLIAMS
13 District Court Judge

14 **CERTIFICATE OF SERVICE**

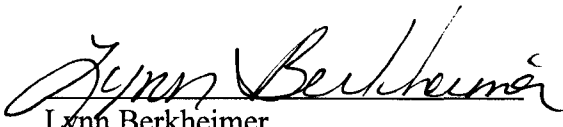
15 I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS**
16 **COURT ORDER** was E-Served to the following parties registered with Odyssey File &
17 Serve as follows:

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

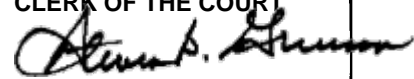
1 Brittnie T. Watkins . btw@pisanellibice.com
2 Dan McNutt . drm@cmlawnv.com
3 Debra L. Spinelli . dls@pisanellibice.com
4 Diana Barton . db@pisanellibice.com
5 Lisa Anne Heller . lah@cmlawnv.com
6 Matt Wolf . mcw@cmlawnv.com
7 Meg Byrd . mbyrd@fclaw.com
8 PB Lit . lit@pisanellibice.com
9 Steven Chaiken 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

16 And a copy mailed to:

17 Mark J. Connot, Esq.
18 Fox Rothschild, LLP
19 1980 Festival Plaza Drive, #700
20 Las Vegas, NV 89135


Lynn Berkheimer
Judicial Executive Assistant

TAB 34



1 MARK J. CONNOT (SBN 10010)
2 KEVIN M. SUTEHALL (SBN 9437)
3 **FOX ROTHSCHILD LLP**
4 1980 Festival Plaza Drive, #700
5 Las Vegas, Nevada 89135
(702) 699-5924 tel
(702) 597-5503 fax
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

6 ALAN M. LEBENSFELD (*pro hac vice forthcoming*)
7 **LEBENSFELD SHARON & SCHWARTZ P.C.**
8 140 Broad Street
9 Red Bank, New Jersey 07701
10 (732) 530-4600 tel
(732) 530-4601 fax
Alan.lebensfeld@lsandspc.com
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DESERT PALACE, INC.;
14 PARIS LAS VEGAS OPERATING
15 COMPANY, LLC; PHWLTV, LLC; and
16 BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

17 Plaintiffs,

18 v.

19 ROWEN SEIBEL; LLTQ
20 ENTERPRISES, LLC; LLTQ
21 ENTERPRISES 16, LLC; FERG, LLC;
22 FERG 16, LLC; MOTI PARTNERS, LLC;
23 MOTI PARTNERS 16, LLC; TPOV
24 ENTERPRISES, LLC; TPOV
25 ENTERPRISES, LLC; TPOV
26 ENTERPRISES 16, LLC; DNT
27 ACQUISITION, LLC; GR BURGR, LLC;
28 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**

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135

//
//
//

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:

17
18 **FOX ROTHSCHILD LLP**

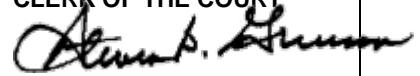
19 
20 _____

21 MARK J. CONNOT (SBN 10010)
22 KEVIN M. SUTEHALL (SBN 9437)
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.

27
28

TAB 35



1 MARK J. CONNOT (SBN 10010)
2 KEVIN M. SUTEHALL (SBN 9437)
3 **FOX ROTHSCHILD LLP**
4 1980 Festival Plaza Drive, #700
5 Las Vegas, Nevada 89135
6 (702) 699-5924 tel
7 (702) 597-5503 fax
8 mconnot@foxrothschild.com
9 ksutehall@foxrothschild.com

6 ALAN M. LEBENSFELD (*Admitted PHV*)
7 **LEBENSFELD SHARON & SCHWARTZ P.C.**
8 140 Broad Street
9 Red Bank, New Jersey 07701
10 (732) 530-4600 tel
11 (732) 530-4601 fax
12 Alan.lebensfeld@lsandspc.com
13 *Attorneys for Plaintiff in Intervention*
14 *The Original Homestead Restaurant, Inc.*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DESERT PALACE, INC.;
14 PARIS LAS VEGAS OPERATING
15 COMPANY, LLC; PHWL, LLC; and
16 BOARDWALK REGENCY
17 CORPORATION d/b/a CAESARS
18 ATLANTIC CITY;

17 Plaintiffs,

18 v.

19 ROWEN SEIBEL; LLTQ
20 ENTERPRISES, LLC; LLTQ
21 ENTERPRISES 16, LLC; FERG, LLC;
22 FERG 16, LLC; MOTI PARTNERS, LLC;
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26 ENTERPRISES 16, LLC; DNT
27 ACQUISITION, LLC; GR BURGR, LLC;
28 And J. JEFFREY FREDERICK,

24 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**

26 //

27 //

28 //

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135

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;
PHWLV, 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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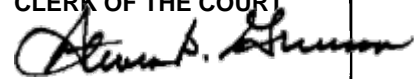
Allen J. Wilt, Esq.
John D. Tennert, Esq.
Fennemore Craig, PC
300 East Second Street, Suite 1510
Reno, NV 89501
awilt@fclaw.com
jtennert@fclaw.com
Attorneys for Gordon Ramsay

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



1 MARK J. CONNOT (SBN 10010)
2 KEVIN M. SUTEHALL (SBN 9437)
3 **FOX ROTHSCHILD LLP**
4 1980 Festival Plaza Drive, #700
5 Las Vegas, Nevada 89135
(702) 699-5924 tel
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Alan.lebensfeld@lsandspc.com
Attorneys for proposed Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DESERT PALACE, INC.;
14 PARIS LAS VEGAS OPERATING
15 COMPANY, LLC; PHWLTV, LLC; and
16 BOARDWALK REGENCY
CORPORATION d/b/a CAESARS
ATLANTIC CITY;

17 Plaintiffs,

18 v.

19 ROWEN SEIBEL; LLTQ
20 ENTERPRISES, LLC; LLTQ
21 ENTERPRISES 16, LLC; FERG, LLC;
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26 ENTERPRISES 16, LLC; DNT
27 ACQUISITION, LLC; GR BURGR, LLC;
28 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**

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135

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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:

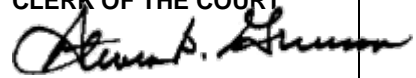
17
18 **FOX ROTHSCHILD LLP**

19 

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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 36



1 MARK J. CONNOT (SBN 10010)
2 KEVIN M. SUTEHALL (SBN 9437)
3 **FOX ROTHSCHILD LLP**
4 1980 Festival Plaza Drive, #700
5 Las Vegas, Nevada 89135
6 (702) 699-5924 tel
7 (702) 597-5503 fax
8 mconnot@foxrothschild.com
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8 140 Broad Street
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12 Alan.lebensfeld@lsandspc.com
13 *Attorneys for Plaintiff in Intervention*
14 *The Original Homestead Restaurant, Inc.*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DESERT PALACE, INC.;
14 PARIS LAS VEGAS OPERATING
15 COMPANY, LLC; PHWLTV, LLC; and
16 BOARDWALK REGENCY
17 CORPORATION d/b/a CAESARS
18 ATLANTIC CITY;

17 Plaintiffs,

18 v.

19 ROWEN SEIBEL; LLTQ
20 ENTERPRISES, LLC; LLTQ
21 ENTERPRISES 16, LLC; FERG, LLC;
22 FERG 16, LLC; MOTI PARTNERS, LLC;
23 MOTI PARTNERS 16, LLC; TPOV
24 ENTERPRISES, LLC; TPOV
25 ENTERPRISES, LLC; TPOV
26 ENTERPRISES 16, LLC; DNT
27 ACQUISITION, LLC; GR BURGR, LLC;
28 And J. JEFFREY FREDERICK,

24 Defendants.

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

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

COMPLAINT IN INTERVENTION

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135

1 THE ORIGINAL HOMESTEAD
2 RESTAURANT, INC. d/b/a the OLD
3 HOMESTEAD STEAKHOUSE,

4 Plaintiff in intervention,

5 v.

6 DESERT PALACE, INC.,

7 Defendant in intervention.
8

9 **COMPLAINT IN INTERVENTION**

10 The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse
11 (“**Plaintiff in Intervention**” or “**OHR**”), by and through its attorneys of record Fox Rothschild
12 LLP and Lebensfeld Sharon & Schwartz P.C., and pursuant to Rule 24 of the Nevada Rules of
13 Civil Procedure, files this Complaint in Intervention against Defendant Desert Palace, Inc.,
14 (“**Defendant in Intervention**” or “**Caesars**”), and alleges as follows:

15 **PARTIES, JURISDICTION AND VENUE**

16 1. OHR is a corporation duly organized and existing under and by virtue of the laws
17 of the State of New York, with its principal offices and place of business located at 56th
18 Avenue, New York, New York 10011-4901.

19 2. Caesars is a Nevada corporation that operates Caesars Palace casino (“**Caesars**
20 **Palace**”) with its principal place of business located at 3570 Las Vegas Boulevard South, Las
21 Vegas, Nevada 89109.

22 3. This Court has jurisdiction over this complaint-in-intervention and venue is
23 proper because the agreements, acts, events, occurrences, decisions, transactions, and/or
24 omissions giving rise to this lawsuit occurred or were performed in Clark County, Nevada.

25 4. This Court has personal jurisdiction over Caesars pursuant to NRS 14.065.

26 5. This Court has granted Plaintiff’s Motion to Intervene, thereby granting Plaintiff
27 leave to file this complaint-in-intervention pursuant to NRCP 24.
28

1 **GENERAL ALLEGATIONS**

2 6. OHR is the developer and owner of a distinctive proprietary system for operating
3 steakhouses under the Old Homestead Steakhouse® trade name which includes, without
4 limitation, signature products, unique menus and menu items, ingredients, recipes, methods of
5 preparation, specifications for food products and beverages, methods of inventory, operations
6 control, and equipment and design (collectively, the "**Old Homestead System**").

7 7. OHR also is the owner of distinctive service marks, trademarks, designs, trade
8 dress, service names, logos, emblems and indicia of origin, including, but not limited to, a
9 registered mark for the Old Homestead Steakhouse® (the "**Old Homestead Marks**").

10 8. OHR further possesses certain copyrights, works of authorship, programs,
11 techniques, processes, formulas, developmental and experimental work, works in process,
12 methods and trade secrets (the "**Old Homestead Materials**"), which it uses in connection with
13 the Old Homestead System and Old Homestead Marks, and in Old Homestead Steakhouses.®

14 9. For more than a century, OHR (and/or its predecessors-in-interest) have owned
15 and operated the legendary Old Homestead Steakhouse® located in downtown Manhattan, which
16 is believed to be New York's oldest, continuously operating steakhouse.

17 10. In addition to operating its legacy New York City restaurant, OHR currently
18 licenses the Old Homestead System, Old Homestead Marks and Old Homestead Materials to: (i)
19 MGM Resorts, which operates an Old Homestead Steakhouse® in the Borgata Hotel, Casino &
20 Spa in Atlantic City; and (ii) Caesars, which operates and manages an Old Homestead
21 Steakhouse® in Caesars Palace.

22 11. OHR is one of the two Members of DNT Acquisition, LLC ("**DNT**"), holding a
23 fifty (50%) ownership interest therein. At all relevant times herein, R Squared Global Solutions
24 LLC ("**RSG**") held the remaining fifty (50%) percent ownership interest in DNT.

25 12. At all relevant times, RSG's sole manager and member was, and in fact through
26 this date remains, Rowen Seibel ("**Seibel**").

1 13. DNT is a limited liability company duly organized and existing under and by
2 virtue of the laws of the State of Delaware, with its principal offices and places of business
3 located at 56 9th Avenue, New York, New York 10014, and 200 Central Park South, 19th Floor,
4 New York, New York 10019.

5 14. Seibel was, and upon information and belief remains, a manager of DNT.

6 **The Licensing Agreement Among Caesars, DNT and OHR**

7 15. As a gaming entity, Caesars is a highly regulated business, existing by virtue of
8 privileged licenses granted to it by governmental authorities, and subject to rigorous regulation
9 by the Nevada Gaming Commission.

10 16. On June 6, 2011 and in anticipation of entering into a sub-license agreement with
11 Caesars, Seibel completed and submitted to Caesars and OHR a "Business Information Form"
12 ("**BIF**"), in which Seibel individually and on behalf of DNT represented under oath, among other
13 things, that he had not been a party to a felony in the last ten (10) years, and that there was
14 nothing "that would prevent [him] from being licensed by a gaming authority."

15 17. In express reliance upon the BIF, on or about June 21, 2011, Caesars entered into
16 a Development, Operation and License Agreement with OHR and DNT (the "**DNT Sub-License**
17 **Agreement**"). Pursuant to the DNT Sub-License Agreement, the Old Homestead System, Old
18 Homestead Marks and Old Homestead Materials were licensed to Caesars for its operation and
19 management of an Old Homestead Steakhouse in Caesars Palace.

20 **The Relevant Terms of the DNT Sub-License Agreement**

21 18. In relevant part, the DNT Sub-License Agreement provided as follows:

22 B. OH[R] has developed, and owns and operates, a restaurant concept known
23 as the "Old Homestead Steakhouse" which currently has locations at 56
24 9th Avenue, New York, New York, and in the Borgata Resort Hotel
Casino located in Atlantic City, New Jersey;

25 C. OH[R] has developed and owns a distinctive proprietary system for
26 operating steakhouses under the "Old Homestead Steakhouse" trade
27 name...;

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- E. OH[R] possesses the exclusive right to license the Old Homestead System, the Old Homestead Marks and the Old Homestead Materials ..., and has licensed DNT to utilize the same in connection with, and for the purposes specified in, this Agreement;
- F. DNT, through its members or the principals of its members, Marc Sherry, Greg Sherry and Rowen Seibel (collectively, the "Principals"), possesses certain qualifications, expertise and a reputation in the development and operation of first-class restaurants;
- G. DNT, as a licensee of OH[R], possesses the right to utilize and further sublicense the Old Homestead System, Old Homestead Marks and Old Homestead Materials, as herein below set forth; ...
- I. Caesars desires to obtain a sub-license from DNT to utilize the Old Homestead System, the Old Homestead Marks and the Old Homestead Materials in connection with the Restaurant, and ... to perform certain services and fulfill certain obligations with respect to consultation concerning the design, development, construction and operation of the Restaurant in accordance with the terms hereof

§6. **LICENSE.**

§6.1. **Marks and Materials.** Each of OH[R], . . . represent and warrant to Caesars that OH[R] is and at all times during the Term will be the sole owner of the Old Homestead Marks, Old Homestead Materials and Old Homestead System

§6.2. **Ownership.**

§6.2.1. **By OH[R].** Caesars acknowledges and agrees that OH[R] is the owner of the Old Homestead Marks, Old Homestead Materials and Old Homestead System and that all use of the Old Homestead Marks (including, without limitation, any goodwill generated by such use) shall inure to the benefit 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].

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§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)

1 quality and courtesy so as to maintain and enhance the reputation and
2 goodwill of Caesars, the Old Homestead Marks, the Old Homestead
3 Materials, the Old Homestead System, the Caesars Palace and the
4 Restaurant and at all times in keeping with and not inconsistent with or
5 detrimental to the operation of an exclusive, first-class resort hotel casino
6 and an exclusive, first-class restaurant. The DNT Parties shall use
7 commercially reasonable efforts to continuously monitor the performance
8 of each of its and its Affiliates' respective agents, employees, servants,
9 contractors and licensees and shall ensure the foregoing standards are
10 consistently maintained by all of them. **Any failure by any of the DNT**
11 **Parties, their Affiliates or any of their respective agents, employees,**
12 **servants, contractors or licensees to maintain the standards described in**
13 **this Section 11.1 shall, in addition to any other rights or remedies**
14 **Caesars may have, give Caesars the right to terminate this Agreement**
15 **pursuant to Section 4.2.2 in its sole and absolute discretion.**

16 §4.2.3. **Unsuitability.** This Agreement may be terminated by Caesars upon
17 written notice to the DNT Parties having immediate effect as contemplated
18 by Section 11.2.

19 §11.2 **Privileged License.** The DNT Parties acknowledges that Caesars and
20 Caesars' Affiliates are businesses that are or may be subject to and exist
21 because of privileged licenses issued by U.S., state, local and foreign
22 governmental, regulatory and administrative authorities, agencies, boards
23 and officials (the "Gaming Authorities") responsible for or involved in the
24 administration of application of laws, rules and regulations relating to
25 gaming or gaming activities or the sale, distribution and possession of
26 alcoholic beverages. The Gaming Authorities require Caesars, and Caesars
27 deems it advisable, to have a compliance committee (the "Compliance
28 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

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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)

* * *

"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)

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- (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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1 **Caesars Files for Chapter 11 Bankruptcy Protection:**

2 21. On January 15, 2015, Caesars filed a Chapter 11 Petition (“**Petition**”) in the
3 United States Bankruptcy Court for the Northern District of Illinois under Case No. 15-01145
4 (the “**Caesars Bankruptcy Proceedings**”).

5 22. At the time of Caesars’ filing of the Petition and pursuant to the terms of the DNT
6 Sub-License Agreement, License Fees in the aggregate amount of \$204,964.75 lawfully were
7 due and owing to DNT (the “**Pre-Petition License Fees**”), with a proportionate share payable
8 directly by Caesars to OHR.

9 23. On or about April 30, 2015, OHR filed a proof of claim in the Caesars
10 Bankruptcy Proceedings seeking recovery of the Pre-Petition License Fees. Through the date
11 hereof, those fees have not been paid either to OHR or DNT, as explained herein below

12 24. Subsequent to the filing of its Petition, Caesars proposed to DNT and OHR to
13 assume (as opposed to rejecting) the DNT Sub-License Agreement, albeit on modified financial
14 terms.

15 25. For several months thereafter, Caesars and DNT, through their respective
16 bankruptcy counsel, engaged in negotiations with respect to the modified DNT Sub-License
17 Agreement to be assumed by Caesars in its eventual Plan of Reorganization.

18 **Seibel Pleads Guilty To A Federal Crime**

19 26. Commencing in or about 2004 and continuing through in or about the first part of
20 2016, Seibel was engaged in a covert criminal enterprise involving, among other things, rampant
21 tax fraud through the maintenance of Swiss bank accounts not reported to the Internal Revenue
22 Service.

23 27. On April 18, 2016, as a result of a criminal investigation conducted by, and a plea
24 deal reached with, the United States Attorney’s Office for the Southern District of New York, a
25 criminal information was filed against Seibel, charging him with having corruptly attempted to
26 obstruct or impede the administration of the Internal Revenue laws, in violation of 26 U.S.C.
27 §7212(a). See In United States of America v. Rowen Seibel, U.S.D.C., S.D.N.Y., Case Number
28 15 CRIM 279.

1 28. On that same day, April 18, 2016, Seibel pleaded guilty to one count of a corrupt
2 endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C.
3 § 7212(a), a Class E Felony (the “**Guilty Plea**”).

4 29. Seibel’s entry of the Guilty Plea represented, among other things, a tacit
5 admission that the BIF he previously had submitted to Caesars, DNT and OHR in June 2011 was
6 intentionally false and misleading.

7 30. On August 19, 2016, Seibel appeared before United States District Court Judge
8 William H. Pauley III for his sentencing hearing, wherein he was sentenced to thirty (30) days in
9 prison, six (6) months of home confinement and 300 hours of community service.

10 31. The very next day, i.e., August 20, 2016, multiple news services ran articles
11 across the internet with the headline “Gordon Ramsey’s Business Partner [Seibel] Gets Jail Time
12 for Tax Evasion Scheme,” and stating, in relevant part, as follows:

13 A wealthy Manhattan restaurateur [Seibel] was sentenced to a month
14 in the slammer for lying to the IRS about more than \$1 million he
15 stashed in Switzerland as part of a years-long tax evasion scheme.

16 32. At no time prior to August 20, 2016, did Seibel disclose to DNT, OHR or Caesars
17 his submission of the false and misleading BIF, his engagement in felonious conduct, his entry of
18 the Guilty Plea, or his criminal sentencing.

19 **Caesars Terminates The DNT Sub-License Agreement**

20 33. As a result of the foregoing events, on September 2, 2016, Caesars’ counsel
21 forwarded a letter to Seibel and his counsel, stating, in relevant part, as follows:

22 Pursuant to Section 11.2 of the Agreement, the DNT Parties have
23 acknowledged and agree that Caesars and/or its affiliates conduct business
24 that are or may be subject to and exist because of privileged licenses
25 issued by governmental authorities. Additionally, Section 11.2 provides
26 that Caesars determines, in its sole and absolute judgment, that any DNT
27 Associate is an Unsuitable Person, the DNT Parties shall cease the activity
28 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.

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.

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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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WHEREFORE, OHR respectfully prays for judgment as follows:

1. Declaratory Relief as requested herein; and
2. Awarding to OHR such other and further relief that the Court deems just and proper under the circumstances.

DATED this 24th day of October, 2018.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot
MARK J. CONNOT (SBN 10010)
KEVIN M. SUTEHALL (SBN 9437)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

LEBENSFELD SHARON & SCHWARTZ P.C.

/s/ Alan M. Lebensfeld
ALAN M. LEBENSFELD (*Admitted PHV*)
140 Broad Street
Red Bank, New Jersey 07701
Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.

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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;
PHWLV, 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

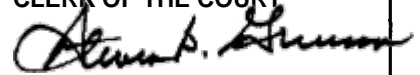
9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED this 24th day of October, 2018.

11 /s/ Doreen Loffredo
12 An employee of FOX ROTHSCHILD LLP

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TAB 37



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



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 NRCPC 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

TIMOTHY C. WILLIAMS
DISTRICT JUDGE

DEPARTMENT SIXTEEN
LAS VEGAS NV 89155

PA000443

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.

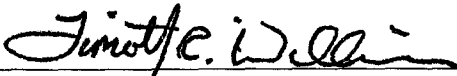
6
7 I. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two
8 (2) judicial days prior to the final Pre-Trial Conference voir dire proposed to be conducted pursuant
9 to conducted pursuant to EDCR 2.68.

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

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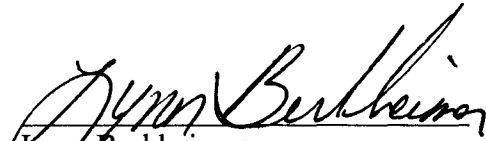
CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS COURT SCHEDULING ORDER SETTING CIVIL JURY TRIAL AND PRE-TRIAL CONFERENCE/CALENDAR CALL** was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

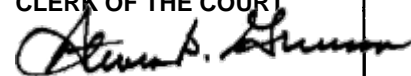
- William E Arnault warnault@kirkland.com
- Magali Mercera mmm@pisanellibice.com
- Cinda Towne cct@pisanellibice.com
- Jeffrey J Zeiger jzeiger@kirkland.com
- Paul Sweeney PSweeney@certilmanbalin.com
- Robert Atkinson robert@nv-lawfirm.com
- Litigation Paralegal bknotices@nv-lawfirm.com
- "James J. Pisanelli, Esq." lit@pisanellibice.com
- "John Tennert, Esq." jtennert@fclaw.com
- Allen Wilt . awilt@fclaw.com
- Brittnie T. Watkins . btw@pisanellibice.com
- Dan McNutt . drm@cmlawnv.com
- Debra L. Spinelli . dls@pisanellibice.com
- Diana Barton . db@pisanellibice.com
- Lisa Anne Heller . lah@cmlawnv.com
- Matt Wolf . mcw@cmlawnv.com
- Meg Byrd . mbyrd@fclaw.com
- PB Lit . lit@pisanellibice.com
- Steven Chaiken sbc@ag-ltd.com
- Mark Connot mconnot@foxrothschild.com
- Christine Gioe christine.gioe@lsandspc.com

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2
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10
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Alan Lebensfeld	alan.lebensfeld@lsandspc.com
Doreen Loffredo	dloffredo@foxrothschild.com
Daniel McNutt	drm@cmlawnv.com
Nathan Rugg	nathan.rugg@bfkn.com
Brett Schwartz	brett.schwartz@lsandspc.com


Lynn Berkheimer
Judicial Executive Assistant

TAB 38



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

15 **DISTRICT COURT**

16 **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 PHWLV, 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

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

1 Desert Palace, Inc. ("Desert Palace"), by and through its undersigned counsel, hereby
2 responds to the allegations set forth in the Complaint in Intervention (the "Complaint") filed by The
3 Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse ("OHR"), as follows:

4 **PARTIES, JURISDICTION AND VENUE**

5 1. Desert Palace is informed and believes, and thereon admits the allegations in
6 Paragraph 1.

7 2. Desert Palace admits the allegations in Paragraph 2.

8 3. Desert Palace states that the allegations in Paragraph 3 are legal conclusions to
9 which no responsive pleading is required. To the extent a response is required, Desert Palace admits
10 that the venue is proper and denies any and all remaining allegations contained in Paragraph 3.

11 4. Desert Palace states that the allegations in Paragraph 4 are legal conclusions to
12 which no responsive pleading is required. To the extent a response is required, Desert Palace admits
13 that jurisdiction is proper and denies any and all remaining allegations contained in Paragraph 4.

14 5. Desert Palace admits the allegations in Paragraph 5.

15 **GENERAL ALLEGATIONS**

16 6. Desert Palace lacks knowledge or information sufficient to form a belief as to the
17 truth or falsity of the allegations of Paragraph 6 and therefore denies the same.

18 7. Desert Palace lacks knowledge or information sufficient to form a belief as to the
19 truth or falsity of the allegations of Paragraph 7 and therefore denies the same.

20 8. Desert Palace lacks knowledge or information sufficient to form a belief as to the
21 truth or falsity of the allegations of Paragraph 8 and therefore denies the same.

22 9. Desert Palace lacks knowledge or information sufficient to form a belief as to the
23 truth or falsity of the allegations of Paragraph 9 and therefore denies the same.

24 10. Desert Palace admits that it operates and manages an Old Homestead Steakhouse in
25 Caesars Palace. Desert Palace lacks knowledge or information sufficient to form a belief as to the
26 truth or falsity of the remaining allegations of Paragraph 10 and therefore denies the same.

27 11. Desert Palace is informed and believes, and thereon admits the allegations in
28 Paragraph 11.

1 12. Desert Palace is informed and believes, and thereon admits the allegations in
2 Paragraph 12.

3 13. Desert Palace is informed and believes, and thereon admits that DNT is a limited
4 liability company duly organized and existing under and by virtue of the laws of the State of
5 Delaware located at 200 Central Park South, 19th Floor, New York, New York 10019. Desert Palace
6 lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
7 allegations of Paragraph 13 and therefore denies the same.

8 14. Desert Palace is informed and believes, and thereon admits the allegations in
9 Paragraph 14.

10 **The Licensing Agreement Among Caesars, DNT and OHR**

11 15. Desert Palace admits the allegations in Paragraph 15.

12 16. Desert Palace admits that on or around June 6, 2011 and in anticipation of entering
13 into an agreement with Desert Palace, Rowen Seibel ("Seibel") completed and submitted to Desert
14 Palace a "Business Information Form" ("BIF"), in which Seibel represented, among other things,
15 that he had not been a party to a felony in the last ten (10) years, and that there was nothing "that
16 would prevent [him] from being licensed by a gaming authority." Desert Palace lacks knowledge
17 or information sufficient to form a belief as to the truth or falsity of the remaining allegations of
18 Paragraph 16 and therefore denies the same.

19 17. Desert Palace admits that upon reliance upon the BIF, on or about June 21, 2011,
20 Desert Palace entered into a Development, Operation and License Agreement with OHR and DNT
21 (the "DNT Sub-License Agreement").

22 18. To the extent Paragraph 18 purports to restate the terms of the DNT Sub-License
23 Agreement, Desert Palace admits the existence of the DNT Sub-License Agreement and refers to
24 that agreement for an accurate recitation of its contents. Desert Palace denies all other allegations
25 contained in Paragraph 18.

26 19. To the extent Paragraph 19 purports to restate the terms of the DNT Sub-License
27 Agreement, Desert Palace admits the existence of the DNT Sub-License Agreement and refers to
28

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.

27
28

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

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

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

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