

IN THE SUPREME COURT OF THE
STATE OF NEVADA

ROWEN SEIBEL, an individual, and GR
BURGR LLC, a Delaware limited liability
company,

Appellants,

vs.

PHWLTV, LLC, a Nevada limited liability
company; and GORDON RAMSAY, an
individual,

Respondents.

Supreme Court Case No. 84934
District Court Case No.
A-17-751759-B

Electronically Filed
Jul 19 2022 02:12 p.m.
DOCKETING STATEMENT
CIVIL APPEALS Elizabeth A. Brown
Clerk of Supreme Court

Pursuant to Nevada Rule of Appellate Procedure 14(a), Rowen Seibel (“Mr. Seibel”) and GR Burger, LLC (“GRB”, and together with Mr. Seibel, “Appellants”), by and through their counsel, hereby submit the following Docketing Statement.

1. Judicial District: Eighth
County: Clark

Department: XVI
Judges: The Honorable Timothy
C. Williams, and The Honorable
Joseph Hardy¹

District Court Case No:

A-17-751759-B

2. Attorney(s) filing this docketing statement:

Attorney(s):

Telephone: 702.562.8820

John R. Bailey (NV Bar No. 0137)

Dennis L. Kennedy (NV Bar No. 1462)

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Paul C. Williams (NV Bar No. 125245)

Firm: **BAILEY ❖ KENNEDY**

Address: 8984 Spanish Ridge Ave.
Las Vegas, Nevada 89148-1302

Clients: Mr. Seibel and GRB.

¹ This case was initially before Judge Hardy and then transferred to Judge Williams.

3. Attorney(s) representing Respondent(s):

Attorney(s): Telephone: 702.214.2100
James J. Pisanelli (NV Bar No. 4027)
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Firm: **PISANELLI BICE PLLC** Address: 400 South 7th Street, Ste. 300
Las Vegas, Nevada 89101

Client: PHWLTV, LLC ("PHWLTV").

Attorney(s): Telephone: 702.788.2200
John D. Tennert (NV Bar No. 11728)
Geenamarie Carucci (NV Bar No. 15393)
Wade Beavers (NV Bar No. 13451)

Firm: **FENNEMORE CRAIG, P.C.** Address: 7800 Rancharra Pkwy.
Reno, Nevada 89511

Client: Gordon Ramsay ("Mr. Ramsay").

4. Nature of disposition below (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of Jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a |
| <input type="checkbox"/> Default judgment | claim |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input checked="" type="checkbox"/> Failure to prosecute |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Divorce Decree: |

☐ Review of agency determination

☐ Original ☐ Modification

☐ Other Disposition

(specify):

5. Does this appeal raise issues concerning any of the following?

N/A

☐ Child Custody

☐ Venue

☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

- (a) Petition for Extraordinary Writ Relief, Case No. 76118, filed by
Petitioners 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; and R
Squared Global Solutions, LLC, Derivatively on Behalf of DNT
Acquisition LLC;
- (b) Petition for Extraordinary Writ Relief, Case No. 82448, filed by
Petitioners Moti Partners, LLC; Moti Partners 16, LLC; LLTQ
Enterprises, LLC; LLTQ Enterprises 16, LLC, TPOV Enterprises, LLC;
TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; and R

Squared Global Solutions, LLC, Derivatively on Behalf of DNT
Acquisition LLC;

- (c) Petition for Extraordinary Writ Relief, Case No. 83071, filed by
Petitioners 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 Burger, LLC; and Craig Green; and
- (d) Petition for Extraordinary Writ Relief, Case No. 83723, filed by
Petitioners 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 Burger, LLC; and Craig Green.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g. bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

- (a) Desert Palace, Inc., et al. v. Rowen Seibel, et al.

Case No.: A-17-760537-B

Eighth Judicial District Court, Clark County, Nevada

Date of Disposition: Ongoing

- (b) TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC

Case No.: 2:17-cv-00346-JCM-VCF

United States District Court, District of Nevada

Date of Disposition: Ongoing

- (c) In re: GR BURGR, LLC

C.A. No. 12825-VCS

Court of Chancery, State of Delaware

Date of Disposition: November 5, 2021

- (d) In re: Caesars Entertainment Operating Company, Inc., et al.,

Case No. 15-01145 (ABG),

United States Bankruptcy Court, Northern District of Illinois, Eastern Division.

Date of Disposition: Ongoing.

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is a civil action related to a restaurant at the Planet Hollywood Las Vegas Resort & Casino (“Planet Hollywood”) known as Gordon Ramsay Burger f/k/a BurGR Gordon Ramsay (the “Burger Restaurant”). In December 2012, GRB entered into a Development, Operation, and License Agreement with PHWLTV, the operator of the Planet Hollywood, and Mr. Ramsay, a television personality and celebrity chef,

related to the Burger Restaurant (the “Agreement”), in which GRB granted certain rights to PHWLV to utilize intellectual property for a casual, gourmet, burger-centric restaurant in exchange for a percentage of gross sales of the Burger Restaurant. The Burger Restaurant quickly proved to be a success.

In September 2016, PHWLV terminated the Agreement prior to the end of its term upon finding that Mr. Seibel, a 50% member and Manager of GRB, was unsuitable as a result of an unrelated felony conviction. PHWLV purported to “rebrand” the Restaurant and continues to operate it alongside Mr. Ramsay and an entity owned by and/or affiliated with Mr. Ramsay.

In February 2017, Mr. Seibel initiated this action, derivatively on behalf of GRB, by filing a Verified Complaint against PHWLV and Mr. Ramsay, asserting claims for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, unjust enrichment, and civil conspiracy. Mr. Seibel requested damages and other forms of relief arising out of and relating to PHWLV’s termination of the Agreement and continued operation of the Burger Restaurant.

In April 2017, the District Court entered an order denying a motion filed by Mr. Seibel on behalf of GRB, seeking to enjoin PHWLV from terminating the Agreement or, in the alternative, from continuing to utilize GRB’s intellectual property as part of operating the Burger Restaurant.

In June 2017, the District Court entered an order granting, in part, and denying, in part, PHWLV’s motion to dismiss, finding that certain aspects of GRB’s breach of

contract claim were barred by the Agreement. That same month, Mr. Seibel, on behalf of GRB, filed his First Amended Verified Complaint.

In July 2017, PHWLV and Mr. Ramsay filed their Answers to the First Amended Verified Complaint. PHWLV also filed Counterclaims against Mr. Seibel for fraudulent concealment and civil conspiracy. PHWLV requested damages related to rebranding the Burger Restaurant.

In August 2017, while this matter, Case No. A-17-751759-B (the “First Case”), was pending, PHWLV, alongside Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC,” and together with PHWLV, Caesars Palace, and Paris, “Caesars”), initiated a separate civil action, Case No. A-17-760537-B (the “Second Case”), against Mr. Seibel, GRB, J. Jeffrey Frederick (“Mr. Frederick”), and the following entities: Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); and DNT Acquisition LLC (“DNT”).² Caesars asserted three claims for declaratory relief, including with respect to the

² Moti, Moti 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT, together with GRB, are collectively referred to as the “Development Entities.”

Agreement.³ In February 2018, the Second Case was consolidated with the First Case (together, the “State Cases”).

During discovery, the District Court made certain rulings on discovery motions related to the First Case that were erroneous and constituted an abuse of discretion.

While the State Cases were pending, Mr. Ramsay, through an entity known as GR US Licensing, LP (“GRUS”), the other 50% member of GRB, initiated a proceeding in Delaware Chancery Court, seeking to dissolve GRB. A liquidating trustee was appointed to handle GRB’s affairs. In March 2021, an order was entered by the Delaware Chancery Court, assigning to Mr. Seibel those claims for damages asserted by GRB against PHWLTV and Mr. Ramsay in the First Case.

In May 2022, the District Court entered orders granting motions for summary judgment filed by PHWLTV and Mr. Ramsay in the First Case. Specifically, the District Court entered summary judgment in favor of PHWLTV and Mr. Ramsay on all four claims for damages asserted by Mr. Seibel, on behalf of GRB, against PHWLTV and Mr. Ramsay. The District Court also entered summary judgment in favor of

³ In July 2018, DNT, LLTQ, LLTQ 16, FERG, and FERG 16 asserted counterclaims against Caesars for breach of contract and accountings. In October 2018, The Original Homestead Restaurant, Inc. (“OHR”) intervened in the Second Case and asserted a claim for declaratory relief against Caesars Palace related to a different restaurant in which OHR was partners with R Squared through DNT.

In March 2020, Caesars amended its Complaint in the Second Case to add coercive claims for relief against Mr. Seibel, the Development Entities, and Craig Green (“Mr. Green”).

PHWLV on its two counterclaims asserted against Mr. Seibel. In doing so, the District Court finally resolved all claims and counterclaims in the First Case.

The Second Case remains pending.⁴

9. Issues on appeal. State concisely the principal issue(s) in this appeal

(attach separate sheets as necessary):

Beginning with the Summary Judgment Orders:⁵

- Did the District Court err by making credibility determinations, weighing the evidence, drawing inferences in favor of the moving parties, and ignoring admissible evidence submitted by the non-moving parties; resolving disputed factual issues; making findings that are not supported by the record or are contradicted by the record; and misstating and misapplying the law?;
- Did the District Court err by relying on portions of the liquidating trustee's report and proposed liquidation plan for GRB that favored PHWLV and Mr.

⁴ Summary judgment has been entered in the Second Case in favor of Caesars against the Development Entities with respect to (i) Caesars' claims for declaratory relief and (ii) DNT's, LLTQ's, LLTQ 16's, FERG's, and FERG 16's counterclaims for breach of contract and accountings. Caesars' claims for coercive relief against Messrs. Seibel and Green and the Development Entities remain pending; the claims between Caesars and Mr. Frederick, and between OHR and Desert Palace, have been resolved.

⁵ "Summary Judgment Orders" refers to (a) Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment; and (b) Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2.

Ramsay while ignoring other portions that favored Mr. Seibel and GRB and otherwise finding that the report and proposed liquidation plan contained binding judicial admissions?;

- Did the District Court err by considering inadmissible evidence, including hearsay, documents not timely disclosed in discovery by PHWLTV, documents for which the moving parties failed to lay a proper foundation, documents for which judicial notice was not proper, irrelevant information, and information that was highly prejudicial?;
- Did the District Court err by finding a lack of a genuine dispute as to any material fact and entering summary judgment in favor of PHWLTV and Mr. Ramsay against Mr. Seibel and GRB related to the claims asserted against PHWLTV and Mr. Ramsay for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, unjust enrichment, and civil conspiracy?; and
- Did the District Court err by finding a lack of a genuine dispute as to any material fact and entering summary judgment in favor of PHWLTV against Mr. Seibel related to the claims asserted against Mr. Seibel for fraudulent concealment and civil conspiracy?; and
- Did the District Court err by finding that GRB had failed to timely prosecute its claims?

Turning to the Crime-Fraud Orders:⁶

- Did the District Court abuse its discretion in concluding that PHWL V met its burden of proof in seeking to compel the disclosure of Mr. Seibel's privileged communications pursuant to NRS 49.115(1)?;
- Did the District Court misapply the law in finding that Mr. Seibel's privileged communications were substantially related to and made in furtherance of an alleged fraud, before reviewing those communications, in camera, as part of the second step of the crime-fraud analysis?;
- Did the District Court abuse its discretion in finding that Mr. Seibel's privileged communications were made in furtherance of an alleged fraud?;
- Did the District Court abuse its discretion in disclosing Mr. Seibel's privileged communications to all the parties involved in the First Case (and the Second Case) without first affording Mr. Seibel and GRB an opportunity to seek appellate review?; and

⁶ "Crime-Fraud Orders" refers to (a) Order Granting in Part, and Denying in Part, 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; (b) 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; and (c) 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.

- Did the District Court abuse its discretion in refusing to claw back Seibel's privileged communications?

With respect to the Discovery Order:⁷

- Did the District Court err by denying discovery to Mr. Seibel and GRB related to prior felony convictions of PHWLTV's gaming employees and actions taken, if any, by PHWLTV with respect to such felony convictions;⁸

With respect to the Order Denying Injunctive Relief:⁹

- Did the District Court err by finding that Mr. Seibel did not demonstrate a reasonable likelihood of success on the merits with respect to his claims (asserted on behalf of GRB)?
- Did the District Court err by finding that irreparable harm would not occur absent entry of injunctive relief?;
- Did the District Court err by finding that a balance of the hardships weighed in favor of PHWLTV?; and

⁷ "Discovery Order" refers to Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green.

⁸ Other rulings set forth in the Discovery Order apply to the Second Case and will be the subject of an appeal taken in the Second Case once all claims and counterclaims are fully resolved in that matter.

⁹ "Order Denying Injunctive Relief" refers to Order Denying Plaintiff's Motion for Preliminary Injunction.

- Did the District Court err by finding that public policy did not support entry of injunctive relief?

With respect to the Order Granting in Part PHWLTV's Motion to Dismiss:¹⁰

- Did the District Court err by finding that the plain language of the Agreement barred those aspects of the claim for breach of contract based on (i) PHWLTV's continued business dealings with Mr. Ramsay related to the Burger Restaurant, (ii) PHWLTV's termination of the Agreement absent affording an opportunity to cure to GRB, and (iii) PHWLTV's operation of a rebranded restaurant that embodies the same concept as the Burger Restaurant?

Finally, in light of these errors, Mr. Seibel and GRB respectfully submit that random reassignment of the First Case should occur on remand.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issues raised:

Petition for Extraordinary Writ Relief, Case No. 83723, filed by Messrs. Seibel and Green and the Development Entities. The issues set forth above relative to the Crime-Fraud Orders are the subject of Case No. 83723. The issues raised in Case No.

¹⁰ "Order Granting in Part PHWLTV's Motion to Dismiss" refers to Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss.

83723 impact both the First Case (the subject of this appeal) and the Second Case (which remains pending).

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of a well-settled Nevada precedent (identify the cases(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

Among other issues, this appeal addresses the applicability and scope of the crime-fraud exception to the attorney-client privilege, NRS 49.115(1). Neither the

Supreme Court nor the Court of Appeals has published an opinion addressing NRS 49.115(1).

13. Assignment to the Court of Appeals or retention in the Supreme Court.

Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This appeal is presumptively assigned to the Supreme Court because it raises a question of first impression that is of statewide public importance (i.e., application of the crime-fraud exception to the attorney-client privilege) and the case originated in business court.¹¹ NRAP 17(a)(9), (12).

14. Trial. If this action proceeded to trial, how many days did the trial last?

N/A

Was it a bench or jury trial?

N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No

¹¹ As part of this appeal, Appellants are also appealing from a judgment, exclusive of interest, attorney's fees, and costs, of less than \$250,000, and challenging the denial of injunctive relief—matters that are presumptively assigned to the Court of Appeal. *See* NRAP 17(b)(5), (12).

TIMELINESS OF NOTICE OF APPEAL

16.Date of entry of written judgment or order appealed from:

- (a) Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, filed on May 31, 2021;
- (b) Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment, filed on May 25, 2022;
- (c) Order Granting in Part, and Denying in Part, 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 on November, 3, 2021;
- (d) 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;
- (e) 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 June 8, 2021;
- (f) Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on

Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green, filed on February 4, 2021;

- (g) Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss, filed on June 15, 2017; and
- (h) Order Denying Plaintiff's Motion for Preliminary Injunction, filed on April 12, 2017.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

17. Date written notice of entry of judgment or order was served:

- (a) Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2 occurred on June 3, 2022;
- (b) Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment occurred on June 2, 2022;
- (c) Notice of Entry of Order Granting in Part, and Denying in Part, 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 occurred on November 3, 2021;¹²

- (d) Notice of Entry of 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 occurred on October 28, 2021;¹³
- (e) Notice of Entry of 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 occurred on June 8, 2021;¹⁴
- (f) Notice of Entry of Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green occurred on February 4, 2021;

¹² As noted above, the Crime-Fraud Orders are also the subject of Case No. 83723. The relief sought in Case No. 83723 impacts the claims and counterclaims at issue in both the First Case (from which this appeal arises) and the Second Case (which remains pending).

¹³ See *supra* n.12.

¹⁴ See *supra* n.12.

- (g) Notice of Entry of Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss occurred on June 16, 2017; and
- (h) Notice of Entry of Order Denying Plaintiff's Motion for Preliminary Injunction occurred on April 13, 2017.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18.If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59):

N/A

- a. Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing:

☐ NRCP 52(b) Date of filing:

☐ NRCP 59 Date of filing:

Note: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. *See AA Primo Builders v. Washington*, 126 Nev. ___, 245 P.3d 1190 (2010).

- b. Date of entry of written order resolving tolling motion:
- c. Date of written notice of entry of order resolving tolling motion was served:

Was service by:

☐ Delivery

☐ Mail

19.Date notice of appeal filed:

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

June 28, 2022

20.Specify statute or rule governing the time limit for filing the notice of appeal, e.g. NRAP 4(a) or other:

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

21.Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

a.

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify)

b. Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) permits the filing of an appeal “from a final judgment entered in an action commenced in the court in which the judgment is rendered.” This appeal arises from summary judgment orders resolving all claims and counterclaims in the First Case. *See, e.g., Lee v. GNLV Corp.*, 116 Nev. 424, 428, 996 P.2d 416, 418 (2000) (indicating that an appeal may be taken from an order granting summary judgment that resolves all the issues in the case).

Even though the First Case was consolidated with the Second Case, the time for filing an appeal arose in the First Case immediately upon notice of entry of the order resolving the last of the claims and counterclaims in the First Case. *See, e.g., Matter of Estate of Sarge*, 134 Nev. 866, 866, 432 P.3d 718, 720 (2018) (holding that “an order finally resolving a constituent consolidated case is immediately appealable as a final judgment even where the other constituent case or cases remain pending”).

Appellants have also appealed from certain interlocutory orders and decisions entered in the First Case prior to entry of summary judgment in favor of Respondents against Appellants. *See, e.g., Consol. Generator–Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (explaining that interlocutory orders may be challenged when appealing a final judgment).

22. List all parties involved in the action or consolidated actions in the district court:

- a. Parties: 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; Craig Green; R Squared Global Solutions, LLC, Derivatively on Behalf of DNT Acquisition, LLC; GR Burgr, LLC; Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWLTV, LLC; Boardwalk Regency Corporation; Gordon Ramsay; and The Original Homestead Restaurant, Inc.

- b. If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

All parties involved in the First Case are parties to this appeal.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Mr. Seibel asserted the following claims, derivatively on behalf of GRB,¹⁵ against PHWLTV and Mr. Ramsay:

- Breach of Contract;
- Contractual Breach of the Implied Covenant of Good Faith and Fair Dealing;
- Unjust Enrichment; and
- Civil Conspiracy.

¹⁵ As noted above, through GRB's dissolution proceeding in Delaware, Mr. Seibel acquired the right to pursue these claims against PHWLTV and Mr. Ramsay as an assignee of GRB's interests; provided, however, that Mr. Seibel may only recover 50% of the total damages awarded on account of the claims.

PHWLTV asserted the following counterclaims against Mr. Seibel (in his individual capacity):

- Fraudulent Concealment; and
- Civil Conspiracy.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered “No” to question 24, complete the following:

- a. Specify the claims remaining pending below:
- b. Specify the parties remaining below:
- c. Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

- d. Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of the judgment?

☐ Yes

☐ No

26.If you answered “No” to any part of question 25, explain the bases for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

N/A

27.Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not an issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order.

See attached.

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VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Rowen Seibel and GR Burgr, LLC
Name of Appellant(s)

BAILEY ❖ KENNEDY
Counsel of Record

July 19, 2022
Date

By: /s/ Joshua P. Gilmore
Signature of Counsel of Record

Clark County, Nevada
State and county where signed

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 19th day of July, 2022, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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/s/ Susan Russo
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