

CASE NO. 84934

IN THE SUPREME COURT OF NEVADA

ROWEN SEIBEL AND GR BURGR, LLC,

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Elizabeth A. Brown
Clerk of Supreme Court

Appellants,

vs.

PHWLTV, LLC, AND GORDON RAMSAY,

Respondents,

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

APPENDIX TO APPELLANTS' OPENING BRIEF

VOLUME 8 OF 34

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APPENDIX OF EXHIBITS TO APPELLANTS' OPENING BRIEF

VOLUME 8 OF 34

TABLE OF CONTENTS

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Defendant Gordon Ramsay's Amended Opposition to Plaintiff's Motion for Partial Summary Judgment Concerning (1) The Payment of the License Fee Through March 31, 2017, and (2) The Breach of § 14.21 of the Development Agreement, filed October 6, 2017	8	33	AA01512- AA01574
Reply in Support of Plaintiff's Motion for Partial Summary Judgment Concerning (1) The Payment of the License fee Through March 31, 2017 and (2) The Breach of § 14.21 of the Development Agreement, filed October 17, 2017	8	34	AA01575- AA01590
Minute Order Re: Motion for Partial Summary Judgment, filed November 7, 2017	8	35	AA01591- AA01592
Minute Order Re: Status Check, filed December 5, 2017	8	36	AA01593
Minute Order Re: Status Check, filed January 9, 2018	8	37	AA01594
Minute Order Re: Status Check, filed February 6, 2018	8	38	AA01595
Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 9, 2018	8	39	AA01596- AA01599

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 13, 2018	8	40	AA01600-AA01606
Order Vacating Plaintiff's Motion for Partial Summary Judgment, filed March 7, 2018	8	41	AA01607-AA01609
Notice of Entry of Order Vacating Plaintiff's Motion for Partial Summary Judgment, filed March 8, 2018	8	42	AA01610-AA01615
Business Court Order, filed August 16, 2018	8	43	AA01616-AA01621
Business Court Scheduling Order Setting Civil Jury Trial and Pre-Trial Conference/Calendar Call, filed October 31, 2018	8	44	AA01622-AA01627
Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	8	45	AA01628-AA01649
Notice of Entry of Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	8	46	AA01650-AA01674
Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call, filed March 13, 2019	8	47	AA01675-AA01679
2 nd Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed August 19, 2019	8	48	AA01680-AA01685

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
3 rd Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed October 15, 2019	8	49	AA01686-AA01691
4 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed January 10, 2020	8	50	AA01692-AA01697
5 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed April 17, 2020	8	51	AA01698-AA01703
Minute Order Re: Status Check, filed April 29, 2020	8	52	AA01704
6 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed June 18, 2020	8	53	AA01705-AA01710
7 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed October 15, 2020	8	54	AA01711-AA01714
Caesars' Motion for Summary Judgment No. 2, filed February 25, 2021- FILED UNDER SEAL	8	55	AA01715-AA01740

INDEX

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
2 nd Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed August 19, 2019	8	48	AA01680- AA01685
3 rd Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed October 15, 2019	8	49	AA01686- AA01691
4 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed January 10, 2020	8	50	AA01692- AA01697
5 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed April 17, 2020	8	51	AA01698- AA01703
6 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed June 18, 2020	8	53	AA01705- AA01710
7 th Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order Call, filed October 15, 2020	8	54	AA01711- AA01714
Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call, filed March 13, 2019	8	47	AA01675- AA01679

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Answer to First Amended Complaint and Counterclaim, filed July 21, 2017	6	24	AA01237- AA01261
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 1 of 5, filed February 25, 2021- FILED UNDER SEAL	9	56	AA01741- AA01907
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 2 of 5, filed February 25, 2021- FILED UNDER SEAL	10	57	AA01908- AA02109
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 3 of 5, filed February 25, 2021- FILED UNDER SEAL	11	58	AA02110- AA02346
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 4 of 5, filed February 25, 2021- Part 1 of 2 - FILED UNDER SEAL	12	59	AA02347- AA02579
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 4 of 5, filed February 25, 2021 - Part 2 of 2 - FILED UNDER SEAL	13	59	AA02580- AA02817
Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment – Volume 5 of 5, filed February 25, 2021- Part 1 of 2 - FILED UNDER SEAL	14	60	AA02818- AA03060

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits in Support of Caesars’ Motions for Summary Judgment – Volume 5 of 5, filed February 25, 2021- Part 2 of 2 - FILED UNDER SEAL	15	60	AA03061-AA03075
Appendix of Exhibits in Support of Caesars’ Replies in Support of its Motions for Summary Judgment, filed November 30, 2021 – Part 1 of 2 - FILED UNDER SEAL	30	83	AA06213-AA06403
Appendix of Exhibits in Support of Caesars’ Replies in Support of its Motions for Summary Judgment, filed November 30, 2021 – Part 2 of 2 - FILED UNDER SEAL	31	83	AA06404-AA06528
Appendix of Exhibits in Support of Motion for Preliminary Injunction, filed March 6, 2017	1	3	AA00060-AA00246
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel’s Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars’ Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay’s Motion for Summary Judgment, filed March 30, 2021 – Volume 1 of 9	20	71	AA03907-AA04111
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel’s Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars’ Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay’s Motion for Summary Judgment, filed March 30, 2021 – Volume 2 of 9 - Part 1 of 2 FILED UNDER SEAL	21	72	AA04112-AA04334

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 2 of 9 - Part 2 of 2 FILED UNDER SEAL	22	72	AA04335-AA04368
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 3 of 9 - Part 1 of 2 FILED UNDER SEAL	22	73	AA04369-AA04576
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 3 of 9 - Part 2 of 2 FILED UNDER SEAL	23	73	AA04577-AA04629

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 4 of 9 – Part 1 of 2 FILED UNDER SEAL	23	74	AA04630-AA04824
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 4 of 9 – Part 2 of 2 FILED UNDER SEAL	24	74	AA04825-AA04889
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 5 of 9 – Part 1 of 2 - FILED UNDER SEAL	24	75	AA04890-AA05037

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 5 of 9 – Part 2 of 2 - FILED UNDER SEAL	25	75	AA05038-AA05161
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 6 of 9 – Part 1 of 2 - FILED UNDER SEAL	25	76	AA05162-AA05282
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 6 of 9 – Part 1 of 2 - FILED UNDER SEAL	26	76	AA05283-AA05422

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 7 of 9 – FILED UNDER SEAL	27	77	AA05423-AA05670
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 8 of 9 – Part 1 of 2 - FILED UNDER SEAL	28	78	AA05671-AA05905
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 8 of 9 – Part 2 of 2 - FILED UNDER SEAL	29	78	AA05906-AA05927

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix of Exhibits to (1) The Development Entities and Rowen Seibel's Opposition to Caesars Motion for Summary Judgment No. 1; (2) Opposition to Caesars' Motion for Summary Judgment No. 2; and (3) Opposition to Gordon Ramsay's Motion for Summary Judgment, filed March 30, 2021 – Volume 9 of 9 – FILED UNDER SEAL	29	79	AA05928-AA06156
Appendix of Exhibits to Defendant Gordon Ramsay's Opposition to Plaintiff's Motion for Preliminary Injunction, filed March 20, 2017 – Part 1 of 2	3	9	AA00455-AA00673
Appendix of Exhibits to Defendant Gordon Ramsay's Opposition to Plaintiff's Motion for Preliminary Injunction, filed March 20, 2017 – Part 2 of 2	4	9	AA00674-AA00863
Appendix to Defendant Gordon Ramsay's Motion for Summary Judgment, Volume I of II, filed February 26, 2021 - Part 1 of 2 - FILED UNDER SEAL	16	64	AA03126-AA03369
Appendix to Defendant Gordon Ramsay's Motion for Summary Judgment, Volume I of II, filed February 26, 2021 - Part 2 of 2 - FILED UNDER SEAL	17	64	AA03370-AA03452
Appendix to Defendant Gordon Ramsay's Motion for Summary Judgment, Volume II of II, filed February 26, 2021 - Part 1 of 2 - FILED UNDER SEAL	18	65	AA03453-AA03686

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Appendix to Defendant Gordon Ramsay's Motion for Summary Judgment, Volume II of II, filed February 26, 2021 - Part 2 of 2 - FILED UNDER SEAL	19	65	AA03687-AA03791
Business Court Order, filed August 16, 2018	8	43	AA01616-AA01621
Business Court Order, filed July 28, 2017	6	25	AA01262-AA01266
Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Conference Call, filed September 1, 2017	6	27	AA01273-AA01276
Business Court Scheduling Order Setting Civil Jury Trial and Pre-Trial Conference/Calendar Call, filed October 31, 2018	8	44	AA01622-AA01627
Caesars' Motion for Summary Judgment No. 2, filed February 25, 2021- FILED UNDER SEAL	8	55	AA01715-AA01740
Caesars' Reply in Support of Motion for Summary Judgment No. 2, filed November 30, 2021 – FILED UNDER SEAL	30	82	AA06190-AA06212
Caesars' Reply to the Development Parties' Omnibus Supplement to Their Oppositions to Motions for Summary Judgment filed by Caesars and Ramsay, filed January 13, 2022 – FILED UNDER SEAL	32	93	AA06749-AA06758
Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment, filed November 30, 2021 – FILED UNDER SEAL	31	86	AA06545-AA06555

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Declaration of M. Magali Mercera, Esq. in Support of Appendix of Exhibits in Support of Caesars' Replies in Support of its Motions for Summary Judgment, filed November 30, 2021	31	84	AA06529-AA06536
Declaration of M. Magali Mercera, Esq. in Support of Caesars' Motions for Summary Judgment, filed February 25, 2021	15	61	AA03076-AA03089
Defendant Gordon Ramsay's Amended Opposition to Plaintiff's Motion for Partial Summary Judgment Concerning (1) The Payment of the License Fee Through March 31, 2017, and (2) The Breach of § 14.21 of the Development Agreement, filed October 6, 2017	8	33	AA01512-AA01574
Defendant Gordon Ramsay's Answer and Affirmative Defenses to First Amended Verified Complaint, filed July 21, 2017	6	23	AA01215-AA01236
Defendant Gordon Ramsay's Joinder to PHWLTV, LLC's Motion to Dismiss Plaintiff's Claims, filed April 7, 2017	5	13	AA01050-AA01053
Defendant Gordon Ramsay's Opposition to Motion for Preliminary Injunction, filed March 17, 2017	2	5	AA00343-AA00371
Defendant Gordon Ramsay's Opposition to Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement, filed October 6, 2017	7	32	AA01450-AA01511

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Defendant Gordon Ramsay’s Reply in Support of Joinder to PHWLVC LLC’s Motion to Dismiss Plaintiff’s Claims, filed May 10, 2017	6	18	AA01138-AA01145
Errata to Plaintiff’s Motion for Preliminary Injunction, filed March 7, 2017	2	4	AA00247-AA00342
Findings of Fact, Conclusions of Law, and Order Granting Caesars’ Motion for Summary Judgment No. 2, filed May 31, 2022	33	103	AA06913-AA06932
Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay’s Motion for Summary Judgment, filed May 25, 2022	33	102	AA06886-AA06912
First Amended Verified Complaint, filed June 28, 2017	6	22	AA01180-AA01214
Gordon Ramsay’s Motion for Summary Judgment, filed February 26, 2021 – FILED UNDER SEAL	15	63	AA03094-AA03125
Gordon Ramsay’s Reply in Support of His Motion for Summary Judgment, filed November 29, 2021– FILED UNDER SEAL	30	81	AA06169-AA06189
Gordon Ramsay’s Reply to the Development Parties’ Omnibus Supplement to Their Oppositions to Motions for Summary Judgment filed by Caesars and Ramsay, filed January 13, 2022	32	95	AA06763-AA06767
Gordon Ramsay’s Request for Judicial Notice, filed February 26, 2021	19	66	AA03792-AA03795

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Gordon Ramsay’s Response to Rowen Seibel and GR Burgr, LLC’s Objections to Evidence Offered by Gordon Ramsay in Support of His Motion for Summary Judgment, filed November 29, 2021 – FILED UNDER SEAL	30	80	AA06157-AA06168
Initial Appearance Fee Disclosure (PHWLV, LLC), filed March 20, 2017	2	8	AA00454
Initial Appearance Fee Disclosure (Ramsay), filed March 17, 2017	2	7	AA00451-AA00453
Minute Order Re: Motion for Partial Summary Judgment, filed November 7, 2017	8	35	AA01591-AA01592
Minute Order Re: Sealing Motions, filed March 9, 2022	33	101	AA06885
Minute Order Re: Status Check, filed April 29, 2020	8	52	AA01704
Minute Order Re: Status Check, filed December 5, 2017	8	36	AA01593
Minute Order Re: Status Check, filed February 6, 2018	8	38	AA01595
Minute Order Re: Status Check, filed January 9, 2018	8	37	AA01594
Motion for Preliminary Injunction on Order Shortening Time, filed March 6, 2017	1	2	AA00037-AA00059
Notice of Appeal, filed June 28, 2022 – Part 1 of 3	33	106	AA06987-AA07002

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment, filed June 2, 2022	33	104	AA06933-AA06963
Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, filed June 3, 2022	33	105	AA06964-AA06986
Notice of Entry of Order (Omnibus Order Granting the Development Parties' Motions to Seal and Redact), filed February 9, 2022	33	100	AA06873-AA06884
Notice of Entry of Order Denying Plaintiff's Motion for Preliminary Injunction, filed April 13, 2017	5	15	AA01058-AA01063
Notice of Entry of Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss, filed June 16, 2017	6	21	AA01174-AA01179
Notice of Entry of Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66-67, 73, and 76-80 to the Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed January 28, 2022	33	98	AA06857-AA06869
Notice of Entry of Order Granting Motion to Redact Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment, filed July 26, 2022	34	108	AA07012-AA07023

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Order Granting Motion to Redact Replies in Support of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 82, 84-87, 90, 82, 99-100, and 109-112 to the Appendix of Exhibits in Support of Caesars' Replies in Support of its Motions for Summary Judgment, filed January 4, 2022	32	92	AA06736-AA06748
Notice of Entry of Order Granting the Development Parties' Motion for Leave to File a Supplement to Their Opposition to Motions for Summary Judgment, filed December 27, 2021	32	89	AA06701-AA06712
Notice of Entry of Order Vacating Plaintiff's Motion for Partial Summary Judgment, filed March 8, 2018	8	42	AA01610-AA01615
Notice of Entry of Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	8	46	AA01650-AA01674
Notice of Entry of Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 13, 2018	8	40	AA01600-AA01606
Objections to Evidence Offered by Caesars in Support of its Motions for Summary Judgment, filed March 30, 2021	19	68	AA03801-AA03808
Objections to Evidence Offered by Gordon Ramsay in Support of His Motion for Summary Judgment, filed March 30, 2021	19	67	AA03796-AA03800

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Objections to Exhibits Offered in Support of Plaintiffs’ Omnibus Supplement to Their Oppositions to Motions For Summary Judgment, filed January 13, 2022	32	94	AA6759-AA06762
Objections to Exhibits Offered in Support of the Seibel Parties’ Oppositions to Caesars’ Motions for Summary Judgment, filed November 30, 2021	31	85	AA6537-AA06544
Omnibus Order Granting the Development Parties’ Motions to Seal and Redact, filed February 7, 2022	33	99	AA06870-AA06872
Omnibus Reply in Support of Plaintiff’s Motion for Preliminary Injunction, filed March 21, 2017	5	10	AA00864-AA00935
Opposition to Caesars’ Motion for Summary Judgment No. 2, filed March 30, 2021 – FILED UNDER SEAL	19	69	AA03809-AA03860
Opposition to Gordon Ramsay’s Motion for Summary Judgment, filed March 30, 2021 – FILED UNDER SEAL	19	70	AA03861-AA03906
Order Denying Plaintiff’s Motion for Preliminary Injunction, filed April 12, 2017	5	14	AA01054-AA01057
Order Granting in Part and Denying in Part Planet Hollywood’s Motion to Dismiss, filed June 15, 2017	6	20	AA01170-AA01173

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66-67, 73, and 76-80 to the Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed January 28, 2022	33	97	AA06847-AA06856
Order Granting Motion to Redact Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment, filed July 26, 2022	33	107	AA07003-AA07011
Order Granting Motion to Redact Replies in Support of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 82, 84-87, 90, 82, 99-100, and 109-112 to the Appendix of Exhibits in Support of Caesars' Replies in Support of its Motions for Summary Judgment, filed January 3, 2022	32	91	AA06726-AA06735
Order Granting the Development Parties' Motion for Leave to File a Supplement to Their Opposition to Motions for Summary Judgment, filed December 27, 2021	32	88	AA06692-AA06700
Order Vacating Plaintiff's Motion for Partial Summary Judgment, filed March 7, 2018	8	41	AA01607-AA01609

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
PHWLV, LLC's Objection to Evidence Offered in Support of Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement, filed October 5, 2017	7	31	AA01447-AA01449
PHWLV, LLC's Opposition to Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement, filed October 5, 2017	7	29	AA01347-AA01443
Plaintiff's Motion For Partial Summary Judgment Concerning (1) The Payment Of The License Fee Through March 31, 2017, and (2) The Breach of § 14.21 Of The Development Agreement, filed September 18, 2017	7	28	AA01277-AA01346
Plaintiff's Opposition to Planet Hollywood's Partial Motion to Dismiss, filed April 24, 2017	6	16	AA01064-AA01124
Plaintiff's Reply to Defendant PHWLV, LLC's Counterclaims, filed August 25, 2017	6	26	AA01267-AA01272
Planet Hollywood's Motion to Dismiss Plaintiff's Claims, filed April 7, 2017	5	12	AA00985-AA01049
Planet Hollywood's Opposition to Plaintiff's Motion for Preliminary Injunction, filed March 17, 2017	2	6	AA00372-AA00450

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Reply in Support of Plaintiff's Motion for Partial Summary Judgment Concerning (1) The Payment of the License fee Through March 31, 2017 and (2) The Breach of § 14.21 of the Development Agreement, filed October 17, 2017	8	34	AA01575- AA01590
Reply in Support of Planet Hollywood's Motion to Dismiss Plaintiff's Claims, filed May 10, 2017	6	17	AA01125- AA01137
Request for Judicial Notice of Exhibits 39, 59, and 62 in Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed February 25, 2021	15	62	AA03090- AA03093
Request for Judicial Notice, filed October 5, 2017	7	30	AA01444- AA01446
Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	8	45	AA01628- AA01649
Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 9, 2018	8	39	AA01596- AA01599
The Development Parties' Omnibus Supplement to Their Oppositions to Motions for Summary Judgment Filed by Caesars and Ramsay, filed December 30, 2021	32	90	AA06713- AA06725
Transcript of Proceedings, taken December 6, 2021	32	87	AA06556- AA06691
Transcript of Proceedings, taken January 20, 2022	33	96	AA06768- AA06846

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Transcript of Proceedings, taken March 22, 2017	5	11	AA00936- AA00984
Transcript of Proceedings, taken May 17, 2017	6	19	AA01146- AA01169
Verified Complaint and Demand for Jury Trial, filed February 28, 2017	1	1	AA00001- AA00036

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 10th day of March, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by email as agreed by the parties, and addressed to the following at their last known email address:

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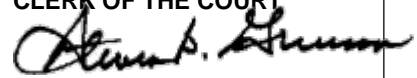
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TAB 33



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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 li-
ability company;

Plaintiff,

vs.

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

Defendant,

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant.

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

**DEFENDANT GORDON RAMSAY'S
AMENDED OPPOSITION TO PLAIN-
TIF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT CONCERN-
ING (1) THE PAYMENT OF THE LI-
CENSE FEE THROUGH MARCH 31,
2017, AND (2) THE BREACH OF
§ 14.21 OF THE DEVELOPMENT
AGREEMENT**

Defendant Gordon Ramsay respectfully submits his amended opposition to Plaintiff's Mo-
tion For Partial Summary Judgment Concerning (1) The Payment of the License Fee Through
March 31, 2017, and (2) the Breach of §14.21 of the Development Agreement filed by Plaintiff
Rowen Seibel, appearing derivatively on behalf of GR BURGR, LLC ("GRB").

INTRODUCTION

In February 2017, Seibel filed this derivative action and immediately moved for a preliminary injunction in a bid to affect the ongoing dissolution proceedings of GRB in Delaware Chancery Court. Seibel attempted to obtain an injunction in this court rescinding PHWLTV, LLC's termination of the GRB development agreement, so he could argue in the dissolution case that GRB was still a viable entity with ongoing business, and need not be dissolved and liquidated. This Court correctly denied Seibel's injunction motion, finding that Seibel is unlikely to succeed on the merits of *any* of his claims brought on behalf of GRB.

On August 25, 2017, the Delaware Court entered its Memorandum Opinion directing the judicial dissolution of GRB, over Seibel's objection, and stating the Court's intention to appoint a Liquidating Trustee who will, "in addition to those powers granted under 6 *Del. C.* § 18-803(b), assess the counterclaims pending here *and the claims in the Nevada Action* in determining whether any action should be taken on behalf of GRB in connection with such claims." *In re: GR BURGR, LLC*, CV 12825-VCS, 2017 WL 3669511, at *11 (Del. Ch. Aug. 25, 2017)(emphasis added).¹ On October 5, 2017, The Delaware Court entered its Order Dissolving GR Burgr, LLC and Appointing Liquidating Trustee.² That order appoints a Liquidating Trustee for GR Burgr, LLC, Kurt Heyman, Esq., sets forth the trustee's powers pursuant to the Memorandum Opinion and 6 *Del. C.* § 18-803(b), and gives the trustee "full control and dominion over the dissolution and liquidation of GRB." *See* Ex. A-2 at p. 4. The order grants the trustee the "sole and exclusive authority to act through and in the name of GRB as necessary (a) to carry out all duties hereunder; (b) to identify and marshal the assets of GRB and liquidate those assets, including the . . . Nevada Claims, in the manner the Liquidating Trustee determines is in the best interests of GRB; (c) to prosecute and defend any litigation by or on behalf of GRB; (d) to wind up the affairs of GRB in accordance with the terms of the Act and the LLC Agreement; and (e) to execute and/or deliver, or cause to be exe-

¹ A copy of the Delaware Court's Memorandum Opinion is attached as Exhibit 1 to the Declaration of Jacqueline A. Rogers, which is Exhibit A hereto.

² A copy of the Delaware Court's Order Dissolving GR Burgr, LLC and Appointing Liquidating Trustee is attached as Exhibit 2 to the Declaration of Jacqueline A. Rogers.

1 cuted or delivered, all assignments, instruments, pleadings, and documents necessary to carry out
2 the Liquidating Trustee's duties as outlined in this Order." *Id.*³

3 As a result of the appointment and the Delaware order, Seibel no longer has standing to
4 prosecute this case on behalf of GRB. It will be up to the Liquidating Trustee to decide whether to
5 prosecute, settle, or abandon this action, and indeed whether to seek partial summary judgment on
6 the company's behalf. This Court should not entertain Seibel's attempt to sneak in before he was
7 divested of any standing he may have had to sue on behalf of the company with his hastily-
8 prepared motion, but should rather defer consideration of the motion until the Trustee can deter-
9 mine whether he wishes to pursue the motion, and indeed this case, or not. If this court neverthe-
10 less wishes to entertain the motion, it should be denied.

11 STATEMENT OF FACTS

12 The material facts related to (1) the creation of GRB and its relationship with PHWLTV,
13 LLC ("PH"); (2) the relevant gaming commission regulations and their impact on the Develop-
14 ment Agreement; (3) the deteriorating relationship between Ramsay and Seibel and the resulting
15 deadlock at GRB; and (4) Seibel's felony conviction and termination of the Development Agree-
16 ment are set forth at length in the "Factual Background" section of Ramsay's Opposition to Plain-
17 tiff's Motion for Preliminary Injunction filed on March 17, 2017 at pages 4-11, and supported by
18 appropriate declarations and exhibits. Rather than restate those facts here, Ramsay cites to and in-
19 corporates the "Factual Background" from his earlier opposition by reference, including the sup-
20 porting exhibits and declarations attached thereto.

21 The only new material fact to have developed since the Court denied Seibel's motion for
22 preliminary injunction is the Delaware Court's dissolution of GRB and appointment of the Liqui-
23 dating Trustee. In rejecting Seibel's appeal to equitable principles to avoid dissolution, the Dela-
24 ware Court concluded: "Seibel cannot reasonably expect that this court would indefinitely lock
25 Ramsay in a failed joint venture and thereby preclude him from ever engaging in a business that
26 bears resemblance to GRB—a restaurant business that exploits Ramsay's celebrity to sell one of
27

28 ³ The Order was just entered yesterday, so at the time of this filing it is not known whether Mr.
Heyman has or will accept the appointment.

1 the most popular and beloved food preparations in all of history.” Ex. A-1 at p. 29. Nor should this
2 court credit Seibel’s plain misreading of the Development Agreement to accomplish the same
3 goal- to lock PH or Ramsay to GRB despite the disrepute Seibel has brought to that entity.

4 LEGAL STANDARD

5 A party moving for summary judgment must “demonstrate both the absence of genuinely
6 contested material facts as well as a prima facie entitlement to judgment as a matter of law based
7 upon undisputed evidence that would be admissible at trial.” *Nutton v. Sunset Station, Inc.*, 131
8 Nev. Adv. Op. 34, 357 P.3d 966, 974 (Nev. App. 2015). “Only after both showings have been
9 made does the burden shift to the opposing party to prove the existence of genuinely disputed ma-
10 terial facts.” *Id.*; NRCP 56(e). Evidence in support of summary judgment must be evidence that
11 would be admissible at trial and viewed in a light most favorable to the nonmoving party. *See*
12 *Wood v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005). Unless and until all of
13 these “highly specific evidentiary and procedural requirements” are satisfied summary judgment
14 cannot be granted. *Nutton*, 131 Nev. Adv. Op. 34, 357 P.3d at 975.

15 ARGUMENT

16 **I. The Court Should Not Consider Seibel’s Motion as the Delaware Court** 17 **Stripped Seibel of Standing.**

18 As stated above, Seibel lacks standing to pursue derivative claims on behalf of GRB, as the
19 Delaware Court has now appointed a Liquidating Trustee and conferred upon that trustee the ex-
20 clusive power to act for GRB and to litigate claims in its name. This Court should defer ruling on
21 Seibel’s motion until the trustee has had a chance to assess this action and determine how he will
22 proceed in this case. If the court is inclined to rule on the motion, however, it should be denied.

23 **II. Seibel’s Claim Related to GRB’s Entitlement to the License Fee Through** 24 **March 31, 2017 Misstates Critical Facts.**

25 Seibel first argues that GRB should be awarded summary judgment on the issue of the
26 company’s entitlement to be paid the License Fee by PH pursuant to the Development Agreement
27 for the period from termination of the Development Agreement in September 2016 through March
28 31, 2017. (*See* Mot. at 5.) This claim is not asserted against Ramsay, so Ramsay need not respond

1 to the motion on this ground, except to correct the following misrepresentation contained in the
2 motion: “It should also be noted that although it has refused to pay the License Fee to GRB follow-
3 ing the termination of the Agreement in September 2016, PH has continued to pay 50% of the Li-
4 cense Fee directly to GRUS, as it also admits in its injunction opposition.” (*Id.*)

5 It is simply not true that PH has continued to pay 50% of the License Fee to GRUS follow-
6 ing the termination date. It has not. Prior to March 8, 2016, and covering the period through termi-
7 nation of the Development Agreement on September 21, 2016, all payments of the License Fee
8 were made to GRB and divided equally between Seibel and GRUS. (*See* Ex. B, First Decl. of Da-
9 vid Kerr at ¶ 3.) After March 8, 2016 and through termination of the Development Agreement,
10 those payments were made 50% to GRUS and 50% to GRB for benefit of Rowen Seibel. (*Id.*)
11 GRUS has received no payments of the license fee for the period following termination, except for
12 an erroneous payment in January, 2017, which was immediately returned. (*Id.* at ¶ 4.)

13 Nor is it true that PH “admitted” as much in its opposition to the motion for preliminary in-
14 junction. Seibel cites PH’s opposition to the motion for preliminary injunction at page 18 as sup-
15 port for this claimed admission. (*See* Mot. at 5, n.11.) What that opposition and the Declaration of
16 Boris Petkov supporting that discussion actually establish, however, is that PH paid the license fee
17 “up to and until the termination, when it began accruing the fees.” (*See* Petkov Dec. at ¶ 6.)⁴ Nei-
18 ther PH’s prior opposition nor the Petkov declaration admits that PH paid anyone the License Fees
19 for the period following the termination, and Seibel’s claim to the contrary is both false and un-
20 supported by even a shred of admissible evidence.

21 **III. Neither PH Nor Ramsay Breached § 14.21 of the Development Agreement.**

22 Seibel claims that PH and Ramsay breached § 14.21 of the Development Agreement per-
23 taining to “Additional Restaurants” by opening a restaurant named Gordon Ramsay Burger with-
24 out entering into a contractual agreement with GRB. (*See* Mot. at 5-7.) This claim, which is de-
25 feated by simply reading the plain language of the provision it is based on, was raised as one of the
26 bases for Seibel’s motion for preliminary injunction in this case. (*See* Pl’s Mot. for Preliminary
27

28 ⁴ That declaration is attached as an exhibit to PH’s opposition to the motion for preliminary in-
junction.

1 Injunction at 17-18 (March 7, 2017).) This Court denied that motion, finding that Seibel had
2 shown no reasonable likelihood of success as to any of those claims. (*See* Order Denying Prelimi-
3 nary Injunction (April 4, 2017).) Now, without the benefit of any discovery or additional evidence,
4 Seibel asserts he is entitled to judgment as a matter of law on that same claim, based on that same
5 provision. But Seibel was wrong before, and is wrong now.

6 The very reason the parties are before this court is because Seibel violated U.S. tax laws,
7 concealed that violation from Gordon Ramsay and Planet Hollywood, then concealed the fact that
8 he had pled guilty to that felony charge and was sentenced to a term of federal imprisonment. (*See*
9 Ramsay’s Oppn to Pl’s Motion for Preliminary Injunction at 4-11 (March 17, 2017).) When Planet
10 Hollywood learned of Seibel’s conduct, plea, and sentencing, it notified GRB that PH would ter-
11 minate the Development Agreement unless Seibel was permanently disassociated from GRB. (*See*
12 *id.*) Because Seibel declined to separate himself from the entity, PH determined, as is was entitled
13 to do under the agreement, that Seibel, and therefore GRB, were unsuitable persons, which PH
14 could not and would not continue to do business with without jeopardizing its valuable gaming
15 and liquor licenses. (*See id.*)

16 Now, Seibel argues that he is entitled to judgment as a matter of law under § 14.21 of the
17 Development Agreement because the new restaurant PH opened—after it was forced *by Seibel’s*
18 *conduct* to close the successful BurGR Gordon Ramsay—was not also contracted with GRB. But
19 GRB was the *same entity* PH just determined could jeopardize its very existence as a gaming com-
20 pany. Seibel’s argument that PH is forever barred from opening a burger centric restaurant at its
21 property without doing so with the same “unsuitable” entity GRB is meritless.

22 **A. Section 14.21 Does Not Prohibit PH and Ramsay From Operating a**
23 **Burger Restaurant.**

24 In interpreting a contract, “the court shall effectuate the intent of the parties, which may be
25 determined in light of the surrounding circumstances if not clear from the contract itself.” *Anvui,*
26 *LLC v. G.L. Dragon, LLC*, 123 Nev. 213, 215, 163 P.3d 405, 407 (2007) (quotation omitted.) In
27 this case, the language of the section of the Development Agreement cited by Seibel is clear and
28 unambiguous. It should therefore be enforced as written. *Washoe Cty. Sch. Dist. v. White*, 133

1 Nev. Adv. Rep. 43, 396 P.3d 834, 838 (2017). Plainly read, Section 14.21 does not “prohibit” PH
2 or Ramsay from doing anything. The court need only read the provision to dispose of this argu-
3 ment. Section 14.21 governs “Additional Restaurant Projects” and states: “If PH elects to pursue
4 any venture similar to the Restaurant (i.e. any venture generally in the nature of a burger centric or
5 burger themed restaurant), **GRB shall**, or shall cause an Affiliate to, execute a development, oper-
6 ating and license agreement generally on the same terms and conditions as this Agreement. . . .”
7 (See Ex. [xx], Development Agreement at 34, §14.21 (emphasis added).) The unambiguous text of
8 Section 14.21 represents an obligation of GRB—not PH. And it certainly does not describe an ob-
9 ligation of Ramsay; **Ramsay is not even mentioned in §14.21.** (See *id.*) Because Ramsay had no
10 contractual obligations under that section, he could not have breached those (nonexistent) obliga-
11 tions. On this basis alone, Seibel’s breach of contract claim as to Ramsay fails.

12 Seibel’s claim that §14.21 obligates PH or Ramsay to partner with GRB to operate a burg-
13 er related venture at PH’s property is an outright mischaracterization of that Section. Section 14.21
14 provides that if, and only if, PH elects to pursue an additional burger-themed restaurant, then GRB,
15 or its affiliate(s), will be obligated to enter into a similar agreement with PH. PH has made clear
16 that it will not, nor can it, pursue additional restaurants with GRB. Neither PH nor Ramsay can be
17 liable for breach of §14.21 as it does not obligate either party to enter into an agreement with GRB.
18 Accordingly, Seibel’s claim premised on a breach of § 14.21 fails as a matter of law.⁵

19 Even if this court were to determine that §14.21 is ambiguous, and the parties could have
20 intended it to create some obligation on the part of PH, then summary judgment on this ground
21 would still be inappropriate. A contract is ambiguous when it is subject to more than one reasona-
22 ble interpretation. *Anvui, LLC*, 123 Nev. at 215, 163 P.3d at 407. The parties’ intentions regarding
23

24 ⁵ Seibel references improperly authenticated exhibits that he claims support the fact that Gordon
25 Ramsay Burger restaurant offers burgers on its menu. (See Mot. at 6.) He even notes the hot dog-
26 to-burger ratio on the menu as a basis to support his contention that the restaurant is “burger-
27 centric.” (See *id.*) Because Seibel cannot establish that GRB entitled to judgment as a matter of
28 law for breach of the Section 14.21, even if the restaurant is indeed “burger-centric” or burger
related, the burden under NRCP 56 does not shift to Ramsay to offer contrary facts. See *Cuzze v.*
Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 602–03, 172 P.3d 131, 134 (2007) (moving par-
ty must make initial showing of both an absence of genuinely disputed material facts as well as
entitlement to judgment as a matter of law before burden shifts to opposing party).

1 a contractual provision present a question of fact. *Id.* at 216, 163 P.3d at 407. Seibel has pointed to
2 no admissible evidence tending to show the intention of the parties as to this provision, and has
3 therefore not established that there is no genuine issue of material fact as to the parties' intent.
4 Even if the provision were ambiguous, then, summary judgment prior to any discovery in the case
5 would be inappropriate.

6 **B. PH Entered Into an Agreement with an "Affiliate" of GRB.**

7 Even if §14.21 were construed to be bilateral (contrary to its plain language), and to reflect
8 the plain intention of the parties that it be applied bilaterally (which it does not), PH actually *did*
9 enter into an agreement on substantially the same terms with an "affiliate" of GRB. It therefore
10 could not have breached that provision. PHWLTV, LLC and RB Restaurant Ventures, LLC
11 ("RBR") have entered into a license agreement to operate the restaurant known as "Gordon Ram-
12 say Burger" at Planet Hollywood. (*See* Ex. C, Second Decl. of Kerr at ¶ 3.) That agreement recites
13 generally the same terms and conditions as the Development Agreement between GRB and PH.
14 (*Id.*) Both Ramsay and RBR are "Affiliates" of GRB.

15 The Development Agreement defines the term "Affiliate" to mean "with respect to a speci-
16 fied Person, any other Person who or which is directly or indirectly controlling, controlled by or
17 under common control with the specified Person, or any member, stockholder or comparable prin-
18 cipal of, the specified Person or such other Person. For purposes of this definition, "control", "con-
19 trolling", "controlled" mean the right to exercise, directly or indirectly, at least five percent (5%)
20 of the voting power of the stockholders, members or owners and, with respect to any individual,
21 partnership, trust or other entity or association, the possession, directly or indirectly, of the power
22 to direct or cause the direction of the management or policies of the controlled Person." (*See* Ex. 1
23 to Plaintiff's Motion for Preliminary Injunction, Development Agreement, at 1.)

24 **1. Ramsay is an "Affiliate" of GRB.**

25 First, Ramsay is an "Affiliate" of GRB because he directly or indirectly controls at least
26 five percent of the voting power of GRB. GRB is a Delaware limited liability company, formed by
27 Ramsay, through GRUS and Seibel. (*See* Ex. 3 to Plaintiff's Motion for Preliminary Injunction, at
28 1, GRB Operating Agreement.) GRUS and Seibel each owns a 50% member interest in GRB. (*See*

1 *id.* at 8, § 7.2.) GRUS is a Delaware limited partnership consisting of Kavalake Ltd., Ramsay, and
2 GR US General Partner LLC. (Ex. B to Ramsay’s Opposition to Mot. for Preliminary Injunction,
3 Kerr Decl at 1, ¶ 5). Kavalake Ltd., is a United Kingdom limited company owned by Ramsay and
4 his wife. (*Id.* at 1, ¶ 4 & Exs. 1, 2 thereto) GR US General Partner LLC is a Delaware limited lia-
5 bility company whose sole member is Kavalake Ltd. (*Id.* at 1, ¶ 5.) Accordingly, Ramsay controls
6 GRUS, which in turn controls 50% of GRB. Because Ramsay indirectly controls more than five
7 percent of GRB, Ramsay is an Affiliate of GRB.

8 **2. RBR is an “Affiliate” of GRB.**

9 RBR is an “Affiliate” of GRB within the meaning of the Development Agreement because
10 it is under common control with GRB. As noted above, Ramsay indirectly controls 50% of the vot-
11 ing power of GRB through GRUS. Ramsay also indirectly controls RBR. RBR is a Nevada LLC,
12 formed by Ramsay, through GR US Topco LLC. (*See* Ex. C, Second Decl. of Kerr ¶ 4.) GR US
13 Topco LLC owns 100% of RBR. (*See id.*) GR US Topco LLC is wholly-owned and controlled by
14 Kavalake Ltd., the UK limited company owned by Ramsay and his wife. (*See id.*) Through Ka-
15 valake Ltd. and GR Us Topco LLC, Ramsay controls 100% of the voting power of RBR. Because
16 Ramsay and Kavalake both commonly control both of RBR and GRB, RBR is an “Affiliate” of
17 GRB as that term is defined under the Development Agreement. PHW therefore did enter into an
18 agreement with an “affiliate” of GRB for the operation of the new restaurant Gordon Ramsay
19 Burger.⁶

20 **CONCLUSION**

21 Section 14.21 of the Development Agreement does not require PH or Ramsay to contract
22 with GRB to operate any “burger-centric” restaurant on its property. Nor does it prohibit PH and
23 Ramsay from operating Gordon Ramsay Burger. If the agreement is ambiguous as to the parties’
24 intent in that regard, the matter of their intent presents a question of material fact, and thus sum-

25
26 ⁶ Seibel’s mention in passing that it was not GRB that “caused” its affiliate to enter into an agree-
27 ment with PH is of no moment. His whole argument on this ground is premised on the fiction
28 that §14.21 imposes some obligation on PH to enter into an agreement with GRB, PH cannot
logically be found to have breached an agreement because the complaining party’s own perfor-
mance was initiated by its affiliate.

1 mary judgment would be inappropriate. For the foregoing reasons, Seibel's motion for partial
2 summary judgment should be denied.

3 Dated: October 6, 2017

FENNEMORE CRAIG, P.C.

/s/ Allen J. Wilt

ALLEN J. WILT

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Attorneys for Gordon Ramsay

CERTIFICATE OF SERVICE

I certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, pursuant to FRCP 5(b), I am serving a true and correct copy of the attached DEFENDANT GORDON RAMSAY'S AMENDED OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE PAYMENT OF THE LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE DEVELOPMENT AGREEMENT on the parties set forth below by:

 X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices

 Certified Mail, Return Receipt Requested

 Via Facsimile (Fax)

 Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

 Federal Express (or other overnight delivery)

 X E-service effected by CM/ECF

addressed as follows:

Daniel R. McNutt
Matthew C. Wolf
CARBAJAL & MCNUTT, LLP
625 South Eighth Street
Las Vegas, NV 89101

Paul B. Sweeney (*Admitted Pro Hac Vice*)
Certilman Balin Adler & Hyman, LLP
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Attorneys for Plaintiff

Dated: October 6, 2017

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Attorneys for PHWLVL LLC

/s/ Meg Byrd
An employee of FENNEMORE CRAIG, P.C.

EXHIBIT A

1 **DECLARATION OF JACQUELINE A. ROGERS, ESQ.**
2 **IN SUPPORT OF DEFENDANT GORDON RAMSAY'S OPPOSITION TO**
3 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

4 I, Jacqueline A. Rogers, declare and say as follows:

5 1. I am duly licensed to practice law in the State of Delaware. I am an attorney with
6 the law firm of Potter Anderson & Corroon LLP and am one of the attorneys representing GR
7 US Licensing LP in a legal proceeding in Delaware Court of Chancery, entitled *In Re: GR Burgr,*
8 *LLC*, C.A. No. 12825-VCS (the "Delaware Dissolution Action"). As such, I have personal
9 knowledge of the matters stated herein.

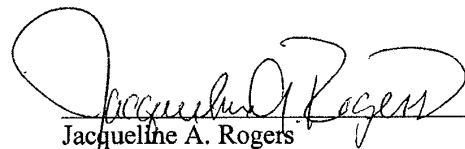
10 2. I make this Declaration in support of Defendant Gordon Ramsay's Opposition to
11 Motion for Partial Summary Judgment.

12 3. Attached hereto as Exhibit 1 is a true and correct copy of the court's
13 Memorandum Opinion filed August 25, 2017 in the Delaware Dissolution Action.

14 4. Attached hereto as Exhibit 2 is a true and correct copy of the court's Order
15 Dissolving GR Burgr, LLC and Appointing Liquidating Trustee, entered October 5, 2017 in the
16 Delaware Dissolution Action.

17 I declare under penalty of perjury under the laws of the State of Nevada that the
18 foregoing is true and correct, except as to those matters stated upon information and belief, and
19 as to those matters, I believe them to be true.

20 Dated: October 5, 2017



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EXHIBIT 1



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: GR BURGR, LLC

GR US LICENSING, LP,

Petitioner,

v.

ROWEN SEIBEL,

Respondent.

ROWEN SEIBEL,

Respondent and
Counterclaim Plaintiff,

v.

GR US LICENSING, LP,

Petitioner and
Counterclaim Defendant,

and

GR BURGR, LLC,

Nominal Defendant.

C.A. No. 12825-VCS

MEMORANDUM OPINION

Date Submitted: June 20, 2017
Date Decided: August 25, 2017

Paul D. Brown, Esquire, Joseph B. Cicero, Esquire and Stephanie S. Habelow, Esquire of Chipman Brown Cicero & Cole LLP, Wilmington, Delaware, and Paul B. Sweeney, Esquire of Certilman Balin Adler & Hyman, LLP, East Meadow, New York, Attorneys for Respondent/Counterclaim Plaintiff Rowen Seibel.

Donald J. Wolfe, Jr., Esquire, Timothy R. Dudderar, Esquire and Jacqueline A. Rogers, Esquire of Potter, Anderson & Corroon LLP, Wilmington, Delaware, and Paul D. Montclare, Esquire and Jacob Albertson, Esquire of Mitchell Silberberg & Knupp LLC, New York, New York, Attorneys for Petitioner/Counterclaim Defendant GR US Licensing LP.

SLIGHTS, Vice Chancellor

Petitioner, GR US Licensing, LP (“GRUS”), has petitioned for judicial dissolution of GR BURGR, LLC (“GRB” or the “Company”) pursuant to 6 *Del. C.* § 18-802 (“Section 18-802”). In 2012, GRUS, an entity affiliated with celebrity chef Gordon Ramsay, partnered with Respondent, Rowen Seibel, to form GRB for the purpose of developing and operating first-class burger-themed restaurants. The only revenue-generating business GRB has launched since its formation is reflected in a Development, Operation and License Agreement (the “Caesars Agreement”) between GRB and an affiliate of Caesars Entertainment Corporation (“Caesars”), pursuant to which GRB licensed and sublicensed certain trademarks and other intellectual property for Caesars’s use in a burger-themed restaurant in the Planet Hollywood Resort & Casino in Las Vegas, Nevada (“Planet Hollywood”).

In 2016, Seibel was convicted of a felony tax-related offense. Upon learning of this conviction, Caesars terminated the Caesars Agreement. According to Caesars, any further business relationship with Seibel, or any business with which he is affiliated, would place Caesars in violation of Nevada gaming regulations. In part based on this development, GRUS (and Ramsay) now seek to dissolve GRB and to disassociate from Seibel in order to avoid any further reputational or other harm he might bring to them.

GRUS has moved for judgment on the pleadings. According to GRUS, the facts as admitted by Seibel demonstrate, as a matter of law, that it is no longer

“reasonably practicable” for GRB to carry on its business in conformity with its operating agreement and, therefore, dissolution of the entity is appropriate under Section 18-802. For the reasons explained below, I agree. The motion for judgment on the pleadings is GRANTED.

I. BACKGROUND

I draw the facts from GRUS’s Verified Petition for Judicial Dissolution and Declaratory Judgment (the “Petition”), Seibel’s Answer to the Petition (the “Answer”), the documents incorporated in these pleadings by reference and facts of which I may take judicial notice.¹

A. The Creation, Governance and Business of GRB

GRB is a Delaware limited liability company formed in December 2012 by Ramsay (through his entity GRUS) and Seibel.² GRUS and Seibel each own a 50% membership interest in GRB.³ Each is entitled to designate one manager of GRB;

¹ *McMillan v. Intercargo Corp.*, 768 A.2d 492, 500, 501 n.40 (Del. Ch. 2000). Without any basis in the Court of Chancery rules or case law, Seibel asserts that I should also accept all facts as pled in his counterclaims as true because GRUS has not answered them. I ruled on January 3, 2017, that I would first address Petitioner’s motion for judgment on the pleadings before addressing Seibel’s counterclaims, and therefore the relevant pleadings for purposes of this motion are GRUS’s Petition and Seibel’s Answer.

² Answer to Verified Pet. for Judicial Dissolution and Declaratory J. (“Answer”) ¶ 5; Verified Pet. for Judicial Dissolution and Declaratory J. (“Pet.”) Ex. 1 (“LLC Agreement”), at Recitals.

³ LLC Agreement, at § 7.2; Answer ¶ 5.

GRUS appointed non-party Stuart Gillies and Seibel designated himself.⁴ The LLC Agreement gives the managers the “full and exclusive right, power and authority to manage all of the business and affairs of the Company.”⁵ All decisions made by the managers require a majority vote—meaning the two managers must act unanimously.⁶ If the two managers cannot reach unanimous agreement, the LLC Agreement offers no mechanism by which to break that deadlock.⁷ The LLC Agreement provides that GRB will be dissolved upon or under the following events or circumstances: “(a) the LLC ceases its business operations on a permanent basis; (b) the sale or transfer of all or substantially all of the assets of the LLC; (a) [sic] the entry of a decree of judicial dissolution; or (b) [sic] as otherwise determined by the Managers.”⁸

⁴ LLC Agreement, at § 8.2; Answer ¶ 6.

⁵ LLC Agreement, at § 8.1.

⁶ *Id.* This is true as to all decisions other than those relating to the License Agreement with GRUS, described below, as to which the LLC Agreement provides: “It is acknowledged that GRUS and the GRUS Manager are interested parties with respect to the License Agreement. Accordingly, so long as the Company is controlled by GRUS and Seibel, or Seibel, and/or their respective affiliates, any decision to be made by the Company with respect to the License Agreement shall be made by the Seibel Manager acting reasonably and in good faith, unless expressly provided otherwise herein.” *Id.* at § 8.11.

⁷ *See generally id.* at § 8.

⁸ *Id.* at § 13.1.

GRB's stated business purpose is to own, develop, operate, and license the development of first-class burger-themed restaurants.⁹ Along with the execution of the LLC Agreement, GRB and GRUS executed an agreement whereby GRUS licensed to GRB the trademark "BURGR Gordon Ramsay" (the "License Agreement").¹⁰ Soon after its formation, GRB developed and is now the sole owner of the trademarks "BURGR" and "GR BURGR."¹¹ It also developed the burger restaurant concept, menu and recipes, which along with the trademarks, the LLC Agreement defines as "Company Rights."¹²

On December 13, 2012, GRB entered into the Caesars Agreement with Caesars, pursuant to which GRB provided to Caesars a sublicense to use the name "BURGR Gordon Ramsay," and a license to use certain recipes, menus and other trade property developed by GRB, for use in the "BURGR Gordon Ramsay" restaurant in Planet Hollywood.¹³ In exchange for the sublicense and license,

⁹ LLC Agreement, at Recitals, § 4.

¹⁰ *Id.* at Recitals; Answer ¶ 5; Transmittal Aff. of Jacqueline A. Rogers in Supp. of Pet'r's Opening Br. in Supp. of its Mot. for J. on the Pleadings ("Rogers Transmittal Aff."), Ex. 1 ("License Agreement").

¹¹ Answer ¶ 5. According to Seibel, shortly after the filing of the Petition, beginning on October 19, 2016, and at various times thereafter, Gordon Ramsay has attempted to secure for himself trademark protection for the name "Gordon Ramsay Burger." Resp't and Countercl. Pl. Rowen Seibel's Req. for Judicial Notice (DI 27) Ex. A–C.

¹² Answer ¶ 5; LLC Agreement, at Recitals.

¹³ Pet. Ex. 2 ("Caesars Agreement"), at Recitals, § 6.

Caesars agreed to pay GRB license fees based on a percentage of gross restaurant sales and gross retail sales.¹⁴ Since its formation, GRB has engaged in no other revenue-generating business aside from the Caesars Agreement and the corresponding BURGR Gordon Ramsay restaurant in Planet Hollywood.¹⁵ According to Seibel, Ramsay and Caesars have colluded to oust Seibel from GRB and, as a part of this scheme, GRUS has prevented GRB from entering into any other revenue-generating business.¹⁶

Caesars's businesses are subject to "privileged licenses," including those issued by the Nevada Gaming Commission.¹⁷ Due to certain requirements associated with these licenses, Caesars conditioned the rights and obligations of each party under the Caesars Agreement upon Caesars's satisfaction that GRB and its members, managers and affiliates are not (and do not become) "Unsuitable

¹⁴ *Id.* at § 8.1.

¹⁵ Answer ¶ 24 ("Seibel avers that the GRUS, through its controller, Ramsay, prevented the Company from engaging in any other business as part of a concerted effort to oust Seibel from the Company and to self-interestedly secure the value of the Company and its assets for the sole benefit of Ramsay."). *See also id.* at ¶¶ 7, 25.

¹⁶ Answer ¶ 24. In addition to this discord at GRB, Seibel, Ramsay and GRUS have been involved in litigation in New York over another restaurant venture since 2014. *See* Rogers Transmittal Aff. Ex. 2–6 (the operative pleadings in the New York action). The pleadings filed in New York are adjudicative facts of which I take judicial notice for purposes of this motion. *See Permenter v. JP Morgan Chase Bank Nat'l Assoc.*, 2015 WL 8528325, at *1 n.1 (Del. Ch. Dec. 8, 2015).

¹⁷ Caesars Agreement, at § 11.2. *See* NEV. REV. STAT. §§ 463.225, 463.310, 463.360; NEV. GAMING COMM'N REG. 5.045(1), 5.045(6)(a).

Person[s].”¹⁸ As defined in the Caesars Agreement, “Unsuitable Person” includes any person “whose affiliation with [Caesars] or its [a]ffiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain” the gaming and alcohol licenses held by Caesars or “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 [a]ffiliates.”¹⁹ The Caesars Agreement further provides that Caesars may make the determination that any person associated with GRB, its members, managers and affiliates is an “Unsuitable Person” in its “sole and exclusive judgment.”²⁰ Upon a determination of unsuitability,

(a) Gordon Ramsay and/or GRB shall terminate any relationship with the [p]erson who is the source of such issue, (b) Gordon Ramsay and/or GRB shall cease the activity or relationship creating the issue to [Caesars’s] satisfaction, in [Caesars’s] 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 [the Caesars Agreement] and its relationship with Gordon Ramsay and GRB.²¹

¹⁸ Caesars Agreement, at § 2.2.

¹⁹ *Id.* at § 1.

²⁰ *Id.* at § 11.2.

²¹ *Id.*

B. Seibel is Convicted of Impeding the Administration of the Internal Revenue Code, Causing Caesars to Terminate the Caesars Agreement

As noted, Seibel pled guilty on April 18, 2016, to a one-count felony criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) after employing an undeclared Swiss bank account and Panamanian shell company to hide taxable income.²² He was sentenced on August 19, 2016, to one month of imprisonment, six months of home detention and 300 hours of community service in addition to restitution.²³

Following the sentencing, on September 2, 2016, Caesars sent a letter to GRB, Seibel and Ramsay stating that Seibel's felony conviction rendered him an "Unsuitable Person," and demanding, therefore, that "GRB, [] within 10 business days of the receipt of this letter, terminate any relationship with Mr. Seibel and provide Caesars with written evidence of such terminated relationship."²⁴ The letter went on to state that "[i]f GRB fails to terminate the relationship with Mr. Seibel,

²² Answer ¶ 10; Rogers Transmittal Aff. Ex. 7, at 15:12–17:19.

²³ Answer ¶ 10; Rogers Transmittal Aff. Ex. 7, at 22:8–21.

²⁴ Pet. Ex. 3 (stating that "Caesars is aware that Rowen Seibel, who is a GR Associate under the [Caesars] Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.").

Caesars will be required to terminate the [Caesars] Agreement pursuant to Section 4.2.5 of the [Caesars] Agreement.”²⁵

Following receipt of the September 2 letter from Caesars, on September 6, 2016, GRUS sent a letter to Seibel’s attorney requesting that Seibel “terminate *any* relationship” with GRB and “sign all necessary documents to confirm such termination.”²⁶ In response, Seibel proposed to transfer his interest in GRB to a family trust. Caesars, however, rejected the proposal on September 12, 2016, after it “determined that because the proposed assignees have direct and/or indirect relationships with Mr. Seibel, the proposed assignees are Unsuitable Persons,” as defined in the Caesars Agreement.²⁷ In a letter dated September 12, 2016, GRUS renewed its demand that Seibel completely disassociate from GRB and “fully comply with Caesars’ requirements within their timeline.”²⁸ Seibel did not do so.²⁹

²⁵ *Id.* Ramsay’s attorney also sent Seibel’s attorney a letter dated September 2, 2016, stating that he was aware of Seibel’s felony conviction and that he expected to receive a notice from Caesars regarding Seibel’s unsuitability under the Caesars Agreement, and seeking full disclosure of relevant facts relating to the conviction. Pet. Ex. 4.

²⁶ Pet. Ex. 5 (emphasis in original).

²⁷ Pet. Ex. 9. Seibel had first proposed to transfer his membership interest in GRB to his family trust on or about April 11, 2016. Answer ¶ 18. *See also* Pet. Ex. 6.

²⁸ Pet. Ex. 7.

²⁹ *See* Pet. Ex. 3–10; Verified Countercls. of Resp’t Rowen Seibel Against Pet’r GR US Licensing, LP (“Countercl.”) Ex. 1–5 (correspondence between the parties, reflecting no response from Seibel to GRUS’s September 12, 2016 letter).

By letter dated September 21, 2016, Caesars terminated the Caesars Agreement because “[a]s of 11:59 p.m. on September 20, 2016, Caesars had not received any evidence that GRB had disassociated with Rowen Seibel, an individual who is an Unsuitable Person, pursuant to the [Caesars] Agreement.”³⁰ Based on the termination of the Caesars Agreement, GRUS sent GRB notice of its termination of the License Agreement on September 22, 2016.³¹

C. Procedural Posture

GRUS filed its Petition on October 13, 2016, seeking the judicial dissolution and winding up of GRB pursuant to the terms of the LLC Agreement and Section 18-802. On November 23, 2016, Seibel filed his Answer and Verified Counterclaims of Respondent Rowen Seibel Against Petitioner GR US Licensing, LP (the “Counterclaims”) in which he asserts: (1) breach of the License Agreement, brought derivatively on behalf of GRB against GRUS; (2) misappropriation and unjust enrichment, brought derivatively on behalf of GRB against GRUS; (3) breach of fiduciary duty, brought directly by Seibel against GRUS; and (4) breach of fiduciary duty, brought derivatively on behalf of GRB against GRUS. These

³⁰ Pet. Ex. 10. Seibel asserts that this purported termination is invalid, *inter alia*, “in that the Caesars Agreement was purported to be terminated by an entity that had assigned all its interests in that Agreement.” Answer ¶ 22. This issue is currently before a Nevada court, and has not been joined here.

³¹ Countercl. Ex. 5.

Counterclaims largely center on Seibel's allegations that Ramsay, through GRUS, has sought to usurp corporate opportunities from GRB and Seibel, primarily via a collusive plot with Caesars to terminate the Caesars Agreement based on the "fiction" that Seibel's conviction renders him an "Unsuitable Person."³²

On December 13, 2016, GRUS moved for judgment on the pleadings on its Petition (the "Motion"). At the same time, GRUS moved to dismiss, or in the alternative, stay or sever Seibel's Counterclaims. In a telephonic scheduling conference on January 3, 2017, the Court ruled that it would decide GRUS's Motion on the dissolution claims before addressing GRUS's motion to dismiss the Counterclaims. The Court also entered an order staying discovery.

On January 17, 2017, GRUS moved to expedite the proceeding with respect to the motion *sub judice* due to the filing of derivative claims by Seibel on behalf of GRB in Nevada (the "Nevada Action") in which Seibel, *inter alia*, challenges the termination of the Caesars Agreement and seeks specific performance of that agreement. The motion to expedite was denied in a telephonic hearing on January 23, 2017. Thereafter, Seibel moved for a preliminary injunction in Nevada to prevent Caesars from taking any action in furtherance of its decision to terminate the Caesars Agreement. That motion was denied without prejudice on March 22,

³² See Countercl. ¶¶ 1–6 (describing the nature of the Counterclaims).

2017.³³ The Nevada court granted a partial motion to dismiss Seibel's claims without prejudice on May 17, 2017,³⁴ and Seibel filed an amended complaint in that action shortly after.³⁵ On June 20, 2017, the parties supplemented the record in connection with the motion *sub judice*, at the Court's request, by submitting orders and transcripts of certain court rulings in the Nevada litigation.

II. ANALYSIS

GRUS's motion for judgment on the pleadings requires the Court to determine whether the uncontested facts as admitted by Seibel in his Answer entitle GRUS to judicial dissolution of GRB as a matter of law. For the reasons that follow, I find that the deadlock between the parties, as evidenced by the undisputed facts, has rendered it no longer reasonably practicable for GRB to operate in accordance with its LLC Agreement. I also find no basis in equity to deny dissolution. I explain these findings below after addressing the standard of review.

³³ Ltr. from Paul D. Brown to Vice Chancellor Joseph R. Slight III in resp. to his ltr. dated June 19, 2017 regarding the Nevada action ("Supplemental Ltr.") (DI 37) Ex. A, B.

³⁴ *Id.* at Ex. C, D.

³⁵ Resp. Rowen Seibel's Ltr. to Vice Chancellor Joseph R. Slight III Regarding Filing of Am. Compl. in Nevada State Ct. Action (DI 38).

A. Standard of Review for Judgment on the Pleadings

Under Court of Chancery Rule 12(c), the Court may grant a motion for judgment on the pleadings if, when viewing the claims in the light most favorable to the nonmoving party, there are no material issues of fact and the movant is entitled to judgment as a matter of law.³⁶ As the Motion was brought by Petitioner, facts admitted in the Answer are deemed true.³⁷

B. Judicial Dissolution of an LLC Pursuant to 6 Del. C. § 18-802

GRB's LLC Agreement allows for dissolution of the Company pursuant to a judicial decree of dissolution under Section 18-802 which, in turn, provides that "[o]n application by or for a member or manager the Court of Chancery may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with a limited liability company agreement."³⁸

³⁶ *Desert Equities, Inc. v. Morgan Stanley Leveraged Equity Fund, II, L.P.*, 624 A.2d 1199, 1205 (Del. 1993). Seibel contends that the present Motion is premature because GRUS filed a motion to dismiss the Counterclaims, leaving them unanswered. I note first that Seibel did not raise (or even preview) this argument during the teleconference on January 3, 2017, where I addressed GRUS's application to proceed with the motion for judgment on the pleadings in summary fashion before turning to the Counterclaims. But more importantly, the relevant pleadings—*i.e.*, those relating to GRUS's dissolution claims—are closed, making it appropriate to rule on the Motion. *Cf. Vale v. Atlantic Coast & Inland Corp.*, 99 A.2d 396, 397–400 (Del. Ch. 1953) (holding that a motion for judgment on the pleadings was premature because the pleadings were not closed where the defendant had moved to strike the complaint rather than answer it, a motion which the court subsequently treated as a motion to dismiss).

³⁷ *Warner Commc'ns Inc. v. Chris-Craft Indus., Inc.*, 583 A.2d 962, 965 (Del. Ch. 1989).

³⁸ 6 Del. C. § 18-802.

The “not reasonably practicable” standard does not require a petitioner to “show that the purpose of the limited liability company has been ‘completely frustrated.’”³⁹ Rather, “[t]he standard is whether it is reasonably practicable for [the company] to continue to operate its business in conformity with its LLC Agreement.”⁴⁰ Our law provides no blueprint for determining whether it is “not reasonably practicable” for an LLC to continue, but “several convincing factual circumstances have pervaded the case law: (1) the members’ vote is deadlocked at the Board level; (2) the operating agreement gives no means of navigating around the deadlock; and (3) due to the financial condition of the company, there is effectively no business to operate.”⁴¹ None of these factors are “individually dispositive; nor must they all exist for a court to find it no longer reasonably practicable for a business to continue operating.”⁴² While judicial dissolution of an LLC is a “discretionary remedy” that is “granted sparingly,” “it has been granted ‘in situations where there was ‘deadlock’

³⁹ *Fisk Ventures, LLC v. Segal*, 2009 WL 73957, at *4 (Del Ch. Jan. 13), *aff’d*, 984 A.2d 124 (Del. 2009). See also *PC Tower Ctr., Inc. v. Tower Ctr. Dev. Assocs. Ltd. P’ship*, 1989 WL 63901, at *6 (Del. Ch. June 8, 1989) (noting that the “not reasonably practicable” standard “is one of reasonable practicality, not impossibility”).

⁴⁰ *Fisk*, 2009 WL 73957, at *4.

⁴¹ *Id.*

⁴² *Id.*

that prevented the [entity] from operating and where the defined purpose of the entity was . . . impossible to carry out.”⁴³

In setting up his argument that dissolution should not be ordered in this case, Seibel relies on this court’s opinion in *In re Arrow Investment Advisors, LLC*,⁴⁴ and argues that “[i]n applying only the undisputed facts to the law, the Court should also bear in mind that dissolution is an ‘extreme’ remedy of ‘last resort’ and that the Court’s statutory power to order dissolution is ‘limited.’”⁴⁵ In doing so, he has only partially set the table because, while he quotes *Arrow Investment* correctly, he has not quoted it completely. After discussing the “limited” nature of the court’s power to dissolve a Delaware entity, the court went on to explain the impact of management dysfunction and deadlock on the dissolution analysis:

The court will not dissolve an LLC merely because the LLC has not experienced a smooth glide to profitability or because events have not turned out exactly as the LLC’s owners originally envisioned; such events are, of course, common in the risk-laden process of birthing new entities in the hope that they will become mature, profitable ventures. In part because a hair-trigger dissolution standard would ignore this market reality and thwart the expectations of reasonable investors that entities will not be judicially terminated simply because of some market turbulence, *dissolution is reserved for situations in which the LLC’s management has become so dysfunctional or its business purpose so*

⁴³ *Meyer Natural Foods LLC v. Duff*, 2015 WL 3746283, at *3 (Del. Ch. June 4, 2014) (quoting *In re Seneca Invs. LLC*, 970 A.2d 259, 262–63 (Del. Ch. 2008)).

⁴⁴ 2009 WL 1101682 (Del. Ch. Apr. 23, 2009).

⁴⁵ Resp’t’s Answering Br. in Opp’n to Mot. for J. on the Pleadings (“Resp’t’s Answering Br.”) 17 (quoting *Arrow Inv. Advisors*, 2009 WL 1101682, at *2, 5).

*thwarted that it is no longer practicable to operate the business, such as in the case of a voting deadlock or where the defined purpose of the entity has become impossible to fulfill.*⁴⁶

As discussed below, Seibel has failed to account for the fact that he and Ramsay no longer speak and no longer make decisions for GRB. This dysfunction and voting deadlock has left the Company in a petrified state with no means in the LLC Agreement to break free.

Seibel also argues that equity should step in to prevent the dissolution of GRB even if the Court finds that it is “not reasonably practicable” for the Company to carry on its business in conformity with the LLC Agreement because “where one LLC member pursues dissolution to usurp a business opportunity or where he seeks to disenfranchise other LLC members for his personal and sole benefit, the requested dissolution should be denied.”⁴⁷ Seibel’s appeal to equity to prevent a dissolution of GRB rings hollow, however, because the circumstance that has created the deadlock and the resulting need for dissolution is of his own making.

C. Insurmountable Deadlock at GRB Justifies Judicial Dissolution

GRUS’s “primary legal argument supporting [its] request for judicial dissolution of GRB . . . is that the two 50% owners of GRB—GRUS and Seibel—

⁴⁶ *Arrow Inv. Advisors*, 2009 WL 1101682, at *2 (emphasis added).

⁴⁷ Resp’t’s Answering Br. 19 (citing *Xpress Mgmt. v. Hot Wings Int’l, Inc.*, 2007 WL 1660741, at *6 (Del. Ch. May 30, 2007)).

are deadlocked as to the management of the Company and the Company's LLC Agreement provides no means for resolving that deadlock."⁴⁸ In the context of judicial dissolution, "[d]eadlock refers to the inability to make decisions and take action, such as when an LLC agreement requires an unattainable voting threshold."⁴⁹

Where there are two 50% owners of a company, an unbreakable deadlock can form a basis for dissolution even if the company is still engaged in marginal operations.⁵⁰ In this regard, the decision in *Haley v. Talcott*⁵¹ is instructive. There, on a motion for summary judgment, the court ordered judicial dissolution of a LLC pursuant to Section 18-802 upon concluding that there was "deadlock between the parties about the business strategy and future of the LLC"⁵² with no reasonable exit mechanism, rendering the LLC unable to "function[] as provided for in the LLC Agreement."⁵³ The company's only asset was a piece of real estate leased to a restaurant, and the parties could not agree about what to do with that land—one

⁴⁸ Pet'r's Reply Br. in Supp. of its Mot. for J. on the Pleadings ("Pet'r's Reply Br.") 5.

⁴⁹ *Meyer*, 2015 WL 3746283, at *3.

⁵⁰ See *Phillips v. Hove*, 2011 WL 4404034 (Del. Ch. Sept. 22, 2011); *Vila v. BVWebTies LLC*, 2010 WL 3866098 (Del. Ch. Oct. 1, 2010); *Haley v. Talcott*, 864 A.2d 86 (Del. Ch. 2004).

⁵¹ 864 A.2d 86 (Del. Ch. 2004).

⁵² *Id.* at 95

⁵³ *Id.* at 89.

wanted to continue the lease with the restaurant and the other wanted to end the lease and sell the property.⁵⁴ The two members had not interacted since a falling out and were engaged in other litigation relating to the LLC.⁵⁵

In analyzing the dispute, the court drew parallels between Section 18-802 and 8 *Del. C.* § 273 (“Section 273”), which governs the dissolution of joint venture corporations with two 50% owners.⁵⁶ Section 273 “sets forth three pre-requisites for a judicial order of dissolution: 1) the corporation must have two 50% stockholders, 2) those stockholders must be engaged in a joint venture, and 3) they must be unable to agree upon whether to discontinue the business or how to dispose of its assets.”⁵⁷ The court found, by analogy, that all three of these pre-requisites were met where

⁵⁴ *Id.* at 95.

⁵⁵ *Id.* at 96.

⁵⁶ *Id.* at 93–96. The court has, on other occasions, analogized the judicial dissolution of an LLC with two 50% owners under Section 18-802 to the 50/50 deadlock scenario addressed by Section 273, noting that “[t]he reason that the § 273 analysis is useful in the LLC context is obvious: when an LLC agreement requires that there be agreement between two managers for business decisions to be made, those two managers are deadlocked over serious issues, and the LLC agreement provides no alternative basis for resolving the deadlock, it is not ‘reasonably practicable’ to continue to carry on the LLC business ‘in conformity with [its] limited liability company agreement.’” *Vila*, 2010 WL 3866098, at *7 (quoting 6 *Del. C.* § 18-802) (emphasis in original). *See also id.* at *8 (ordering dissolution after a trial where the two 50% owners were deadlocked, noting that “a deadlock would not necessarily justify a dissolution if the LLC Agreement provided a means to resolve it equitably” but the LLC agreement did not contain means to break a deadlock and, instead, provided that the members could seek judicial dissolution).

⁵⁷ *Haley*, 864 A.2d at 94 (citing *In re Coffee Assocs., Inc.*, 1993 WL 512505, at *3 (Del. Ch. Dec. 3, 1993)).

the parties were 50% members of the LLC, the parties intended to be and were engaged in a joint venture and the parties were at an impasse regarding how best to manage the LLC's lone asset.⁵⁸ In so holding, the court noted that while the business was "technically functioning, this operation is purely a residual inertial status quo," and further noted that it was "not credible that the LLC could, if necessary, take any important action that required a vote of the members."⁵⁹ Therefore, after determining that the exit provision in the LLC agreement was not an adequate remedy in lieu of judicial dissolution, the court granted dissolution pursuant to Section 18-802 because it was "not reasonably practicable for the LLC to continue to carry on business in conformity with the LLC Agreement."⁶⁰

Here, GRUS and Seibel are both 50% owners of GRB,⁶¹ each is entitled to appoint one manager,⁶² all decisions of the managers must be unanimous besides those relating to the License Agreement,⁶³ and the LLC Agreement does not provide

⁵⁸ *Id.* at 94–95.

⁵⁹ *Id.* at 95. Specifically, the court found that "[w]ith strident disagreement between the parties regarding the appropriate deployment of the asset of the LLC, and open hostility as evidenced by the related suit in this matter, it is not credible that the LLC could, if necessary, take any important action that required a vote of the members." *Id.*

⁶⁰ *Id.* at 98.

⁶¹ LLC Agreement, at § 7.2.

⁶² *Id.* at § 8.1.

⁶³ *Id.* at §§ 8.1, 8.11. Seibel argues that the LLC Agreement gives him "exclusive authority" to make decisions "with respect to the License Agreement." Resp't's Answering

any mechanism to break a voting deadlock. The undisputed facts reveal that the relationship between GRUS and Seibel is, at best, acrimonious, as evidenced by the Counterclaims here, the Nevada Action and the litigation proceedings in New York stemming back to 2014.⁶⁴ While the working relationship between the parties arguably had broken down prior to Seibel's felony conviction in 2016, the facts as admitted in the pleadings show clearly that whatever deadlock may have arisen prior to Seibel's conviction solidified to igneous rock thereafter.

Seibel was convicted and sentenced for impeding the administration of the Internal Revenue Code. Then, Caesars declared Seibel an "Unsuitable Person" and ordered GRB and GRUS to disassociate from him. When GRUS sought to comply with Caesars's direction by having Seibel voluntarily separate from GRB, Seibel refused. When Seibel proposed, as a compromise, that he would transfer his interest

Br. 32 (quoting LLC Agreement, at § 8.11). His argument follows that "[d]eadlock most decidedly cannot exist where the LLC Agreement grants one managing member exclusive authority." *Id.* (citing *Meyer*, 2015 WL 3746283, at *4). GRUS disputes Seibel's interpretation of the LLC Agreement and whether it gives him all the power over the License Agreement that Seibel claims it does. Pet'r's Reply Br. 9–10. It is unnecessary to resolve this dispute, however, because regardless of whether Seibel has the authority to make decisions regarding the License Agreement alone, there are myriad other decisions that would need to be made in running the business that would require unanimity and, as discussed below, "it is not credible that [GRB] could, if necessary, take any important action that required a vote of the members." *Haley*, 864 A.2d at 96.

⁶⁴ The New York proceedings center around another joint restaurant venture between Seibel and Ramsay in Los Angeles called Fat Cow. *See* Rogers Transmittal Aff. Ex. 2–6. There, both Seibel and Ramsay allege breach of contract and fiduciary duty on the part of the other, and Ramsay additionally alleges that Seibel has engaged in fraud. *Id.*

in GRB to a family trust, GRUS and Caesars both indicated that this was inadequate to cure the “Unsuitable Person” problem. When Caesars learned that Seibel remained at GRB after its disassociation deadline passed, it terminated the Caesars Agreement. It is difficult to imagine how GRB could be any more dysfunctional or deadlocked.⁶⁵

Given these undisputed facts, the notion that the deadlock might somehow be broken in the future is simply not reasonably conceivable. Ramsay, and his entity GRUS, no longer want to be associated with Seibel due to his felony tax-related conviction and the reputational damage that will flow from their continued connection with him. This circumstance will not change as future events unfold. It also distinguishes this case from the legion Delaware authority cited by Seibel to the effect that a party cannot seek dissolution simply to extricate himself from what he considers to a “bad deal.”⁶⁶ Here, GRUS and Seibel elected to do business together in the form of GRB, each presuming that the other was an honorable actor. This

⁶⁵ See *Haley*, 864 A.2d at 96 (finding deadlock where there was “strident” disagreement over how to manage the asset of the LLC and open hostility between two 50% members of an LLC).

⁶⁶ See, e.g., *Lola Cars Int’l Ltd. v. Krohn Racing, LLC*, 2010 WL 3314484, at *24 (Del. Ch. Aug. 2, 2010) (citing cases and holding that dissolution was not warranted where the petitioner’s “frustration amounts to little more than disappointment with how [the company] is structured and managed” because “[u]nfortunately for [the petitioner], it agreed to this arrangement,” and “emphasizing that a party to a limited liability company agreement may not seek judicial dissolution simply as a means of freeing itself from what it considers a bad deal”).

presumption was shattered when Seibel was convicted of a felony, especially one involving dishonesty. Tax fraud is not a Las Vegas moment.⁶⁷ It should come as no surprise to Seibel that his conduct leading to that conviction will have consequences (here, as relates to GRB) that extend beyond his conviction and sentencing. This is especially so given that GRB's only revenue-generating business was in a casino, an enterprise that GRUS, Seibel and GRB knew was highly regulated.⁶⁸

Whether right or wrong, Caesars has determined in its "sole judgment" that Seibel is an "Unsuitable Person," a consequence from GRUS and GRB's perspective that is entirely of Seibel's own doing. GRUS finds itself in a lifeless joint venture that does not resemble the one it bargained for.⁶⁹ The undisputed facts reveal that the parties will remain deadlocked without a mechanism in the LLC Agreement to

⁶⁷ "What happens in Vegas stays in Vegas" (The Las Vegas Convention and Visitors Authority 2003).

⁶⁸ See Caesars Agreement, at § 11.2.

⁶⁹ In attempting to dissolve GRB, GRUS (and Ramsay) are not simply trying to walk away from a "bad deal"; they are attempting to disassociate from a person who has engaged in post-formation conduct that could bring them reputational and other harm. Trust between the joint venturers is shattered; they cannot agree on anything; and it is time for them to separate.

break through.⁷⁰ It is, therefore, “not reasonably practicable” for GRUS and Seibel to carry on GRB “in conformity with [the] limited liability company agreement.”⁷¹

⁷⁰ The facts relating to the parties’ hopeless deadlock following Seibel’s felony conviction are undisputed and admitted by Seibel in his Answer. Answer ¶¶ 10, 16–22. There is, therefore, no need for discovery relating to these facts and, of course, no need for a trial to resolve material factual disputes.

⁷¹ 6 *Del. C.* § 18-802. *See Fisk*, 2009 WL 73957, at *4 (holding that dissolution under Section 18-802 was warranted on petitioner’s motion for judgment on the pleadings where “deadlock prevents the limited liability company from operating or furthering its stated business purpose, [meaning that] it is not reasonably practicable for the company to carry on its business”). While I have found that the undisputed deadlock present at GRB justifies judicial dissolution of GRB as a matter of law, I note that GRUS also argues that dissolution is appropriate because the business is unable to continue. According to GRUS, GRB has ceased to do business because the only revenue-generating business it had, the Caesars Agreement, was terminated by Caesars. *See* Pet’r’s Opening Br. 24. Seibel cites to several open issues that he argues preclude a judgment on the pleadings on this ground, including his allegation that the BURGR Restaurant in Planet Hollywood “continues to operate, under a virtually identical concept, with virtually identical menus and look, and thereby generates significant profit utilizing GRB’s intellectual property, but without remitting any license fees or other profits to GRB,” and that, under the Caesars Agreement, GRB should have the right to license fees from that new restaurant. Resp’t’s Answering Br. 29–30 (citing to the Counterclaims). Claims also remain in the Nevada Action for breach of the Caesars Agreement, including a prayer for specific performance of that contract. *See* Supplemental Ltr. Ex. A–D. I agree with Seibel that questions of fact remain regarding whether GRB might be able to engage in some form of business in the future that preclude a ruling at this stage that dissolution is appropriate because GRB is no longer in business. This, of course, does not preclude a judgment of dissolution on the alternative ground that it is no longer reasonably practicable to carry on the business of GRB given the intractable deadlock of its members. *See Haley*, 864 A.3d at 96 (holding that irreconcilable deadlock between two 50/50 members of an LLC was sufficient to warrant dissolution pursuant to Section 18-802 even where the LLC had remaining residual business operations).

D. Equitable Principles do not Override the fact that Judicial Dissolution is Warranted

Seibel argues that even if GRUS has satisfied the “not reasonably practicable” standard for dissolution, the Court should decline to order dissolution at this pleadings stage as a matter of equity. He correctly points out that Section 18-802 provides that the court “may” grant dissolution where it is no longer reasonably practicable for the company to continue to operate in accordance with its operating agreement; the General Assembly appears deliberately to have chosen not to mandate that result.⁷² According to Seibel, the Court should invoke equity to deny the Petition because the dissolution is “being exploited tactically for an ulterior and inequitable purpose . . . [because GRUS is] pursu[ing] dissolution to usurp a business opportunity . . . [and] seeks to disenfranchise [the] other LLC member[] for [Ramsay’s] personal and sole benefit.”⁷³ Specifically, Seibel alleges that:

Ramsay’s currently undisputed plan, which includes dissolution of GRB, is expressly designed to usurp GRB’s entire BURGR Restaurant business by interfering with GRB’s ability to pursue its business purpose. . . . Ramsay and Petitioner refused to consider additional corporate opportunities for GRB, or to meet with Seibel to discuss the potential opportunities, beginning in 2013. Ramsay then attempted to

⁷² See 6 Del. C. § 18-802. See also *In re Mobilactive Media, LLC*, 2013 WL 297950, at *33 (Del. Ch. Jan. 25, 2013) (“Yet, even in cases where the standard for dissolution has been met, the Court of Chancery, in the exercise of its equitable powers, *may* decide whether it should issue a decree of dissolution.”); *Lola Cars*, 2010 WL 3314484, at *22 (“[A]s the statute makes clear, even if the standard of ‘not reasonably practicable’ is met, the decision to enter a decree of dissolution nonetheless rests with the discretion of the Court.”).

⁷³ Resp’t’s Answering Br. 19 (citing *Xpress Mgmt.*, 2007 WL 1660741, at *6).

solidify his ability to continue the burger restaurant concept for himself by attempting to register the ‘BURGR’ trademark in one of his other entities, despite the LLC Agreement and the License Agreement Petitioner signed acknowledging that the BURGR name was owned by GRB. Then, on April 7, 2016, Ramsay instructed [Caesars] to remit monies due under the [Caesars Agreement] directly to Petitioner, as opposed to the GRB, in contravention of the [Caesars Agreement] and the LLC Agreement.

Ramsay then colluded with [Caesars] to terminate the [Caesars Agreement], which then permitted Ramsay to terminate the License Agreement, thereby depriving GRB of two of its three principal assets: the [Caesars Agreement] under which the BURGR Restaurant operated in the Planet Hollywood hotel, and the License Agreement under which the BURGR Restaurant was marketed under the Gordon Ramsay name. Viewed in the light most favorable to Seibel, and prior to any discovery, the pleadings establish that Ramsay and [Caesars] decided to enable Ramsay to obtain the full profits of the BURGR Restaurant by contriving an unsubstantiated finding that Seibel was an ‘unsuitable’ person. Ramsay and [Caesars] then rejected all efforts by Seibel to ameliorate and cure any perceived basis for an unsuitable person finding. And then based upon the contrived unsuitable person determination, the [Caesars Agreement] and, in turn, the License [Agreement] were terminated. GRB was deprived of these valuable assets without remuneration, but without depriving Ramsay or [Caesars] from continuing to market and operate the BURGR Restaurant in the Planet Hollywood hotel—which they have done and which has remained profitable.⁷⁴

Given this history, Seibel maintains that “[e]quity ‘should not stand idle’ . . . where the purpose of the dissolution is to aid the Petitioner in exploiting GRB’s entire

⁷⁴ Resp’t’s Answering Br. 22–23 (citations omitted). Notably, the citations that Seibel provides for these facts all lead to his Counterclaims, not the pleadings relevant to the Petition for dissolution. I will consider these facts, nevertheless, in order to address Seibel’s equitable argument on the merits.

business for itself (or for its principal), and thus dissolution should be denied at this stage of the proceedings.”⁷⁵

Seibel relies primarily upon this court’s decisions in *In re Mobilactive Media, LLC*⁷⁶ and *Xpress Management v. Hot Wings International, Inc.*⁷⁷ as support for the proposition that “equity” should step in to prevent the dissolution of GRB. In *Mobilactive Media*, the court rendered a post-trial decision finding the defendant liable for breach of fiduciary duties. The court then addressed defendant’s petition for dissolution and summarily denied it upon concluding that the defendant was proffering the consequences of its own breach of fiduciary duty (the usurpation of corporate opportunities) as the primary basis for its argument that the business could no longer fulfill its designated purpose.⁷⁸ Specifically, the court held that the defendant “should not be permitted to use its inequitable conduct to extricate itself from what it has long considered to be a bad deal with [plaintiff] and [the company] and simultaneously hinder [plaintiff] from recovering the damages he is due.”⁷⁹ Importantly, the court was concerned that the defendant was seeking to dissolve the

⁷⁵ *Id.* at 24

⁷⁶ 2013 WL 297950 (Del. Ch. Jan. 25, 2013).

⁷⁷ 2007 WL 1660741 (Del. Ch. May 30, 2007).

⁷⁸ *Mobilactive Media*, 2013 WL 297950, at *33.

⁷⁹ *Id.*

entity before the defendant had paid the damages to the entity that the court had just ordered the defendant to pay for breaching his fiduciary duty.⁸⁰ Needless to say, no such concern exists here.

In *Xpress Management*, the court granted a motion to stay a dissolution proceeding brought under 8 *Del. C.* § 273 in favor of prior-filed litigation between the parties.⁸¹ While the court acknowledged that pre-existing litigation between parties generally will not prevent a member of a joint venture from seeking dissolution under Section 273, “when the other party can point to uncontested facts which raise a specter of bad faith conduct by the party seeking dissolution, the Court of Chancery’s inherent equitable discretion should not stand idle.”⁸² In this regard, the court found the uncontested facts—that the petitioner repeatedly sought to break up the subject company via litigation in various other fora for improper and self-interested reasons—raised an inference that the petitioner was seeking to exploit future business opportunities rightfully belonging to the venture it was seeking to dissolve.⁸³ As the court explained, “a court should be wary when section 273 is invoked as a statutory panacea by a purported joint venture who, having failed before

⁸⁰ *Id.*

⁸¹ 2007 WL 1660741, at *7.

⁸² *Id.* at *6.

⁸³ *Id.*

in its effort to break up the company and having eschewed the power of this court for so long, suddenly maintains that a rapid and summary dissolution is the appropriate method through which the corporation's best interests will be served.”⁸⁴

Seibel has pointed to nothing that would suggest that GRUS sought to dissolve or walk away from GRB prior to Seibel's conviction for tax fraud and Caesar's subsequent termination of the Caesar's Agreement. Unlike the petition at issue in *Xpress Management*, the Petition at issue here is not the latest act in a long-playing drama where one member of a joint venture gins up any excuse imaginable to separate from the other. The deadlock here is temporally related to a series of events, caused by Seibel, that have rendered GRB no longer able to function.

A case not cited by Seibel, *In re Data Processing Consultants, Ltd.*,⁸⁵ is especially informative in its discussion of the scope and utility of the court's equitable powers in the dissolution context. There, the court acknowledged that Section 273 allows the court to decline to order dissolution on equitable grounds even when the petitioner satisfies the statutory criteria for dissolution, but only in “narrow” circumstances where the petitioner has engaged in demonstrable “bad faith in the seeking of [] dissolution.”⁸⁶ The court emphasized that “such [equitable]

⁸⁴ *Id.* at *7.

⁸⁵ 1987 WL 25360 (Del. Ch. Nov. 25, 1987) (Allen, C.).

⁸⁶ *Id.* at *4 (providing, as an example, that “this court might deny such a petition upon a showing that one joint-venturing shareholder seeks dissolution at a particular time in order

power should be sparingly exercised.”⁸⁷ Citing *Data Processing*, this court has since illustrated the limited reach of the bad faith exception, ordering dissolution and the appointment of a receiver under Section 273 even in the face of allegations that the petitioner had engaged in past instances of usurpation of corporate opportunities because such instances did not adequately portend “specific future” harm that would justify perpetuating a dysfunctional joint venture.⁸⁸

to free himself to exploit a specific future business opportunity personally that would rightfully belong to the company if it should happen to continue to exist as a going concern at that future time”).

⁸⁷ *Id.* See also *id.* (holding that “while proof of prior breach of fiduciary duty would justify the court’s requiring a fiduciary to account, proof of such a breach would not, standing alone, ordinarily permit the court to require that a 50% shareholder remain in a corporate joint venture against his will”). Indeed, this court has noted that dissolution is often accompanied by various other litigation, including breach of fiduciary duty claims, due to its very nature. See *In re Magnolia Clinical Research, Inc.*, 2000 WL 128850, at *2 (Del. Ch. Jan. 3, 2000) (“Section 273 exists to enable deadlocked shareholders to bring closure to what has become an inefficient and unworkable relationship. As dissolution will not generally be sought if all is well with a joint venture, it follows oft-times that the relationship will be rather strained when a shareholder seeks dissolution under § 273. There may well be related litigation—often involving allegations of breach of fiduciary duty—contemporaneous to a § 273 proceeding. It makes little sense to deny dissolution pending resolution of these other actions unless, for instance, special circumstances such as those mentioned in *Data Processing* are involved.”).

⁸⁸ See *Magnolia Clinical Research*, 2000 WL 128850, at *1 (“Respondent also fails to allege sufficiently an attempt by petitioner to exploit personally ‘specific future’ business opportunities. She does allege that petitioner ‘commenced a competing business and began to divert business of [the company] to such competing business,’ and ‘hired and attempted to hire [the company’s] consultants.’ These allegations, even if taken as true, do not, in my opinion, constitute the ‘specific future’ harm mentioned by the *Data Processing* court. Furthermore, these allegations, which are similarly asserted in the federal action [brought by the respondent asserting breach of fiduciary duties and tortious interference with

Here, Seibel has failed to point to any “specific future” business opportunity that GRUS or Ramsay are seeking to exploit or any specific harm that will arise from the dissolution. This is unsurprising since Seibel has admitted that the only revenue-generating business that GRB has ever engaged in—the Caesars Agreement—was initiated in late 2012 when the Company was founded. Beyond referencing an opportunity that has now been terminated by the other party, Seibel has not identified any “specific future business opportunity”⁸⁹ that rightfully belongs to GRB that GRUS is attempting to take for itself through the use of this dissolution proceeding. It is not enough for Seibel merely to state that Ramsay may, at some point in the future, engage in some other burger venture that uses his name and likeness to capitalize on the celebrity and status Ramsay has spent his career building. Seibel cannot reasonably expect that this court would indefinitely lock Ramsay in a failed joint venture and thereby preclude him from ever engaging in a business that bears resemblance to GRB—a restaurant business that exploits Ramsay’s celebrity to sell one of the most popular and beloved food preparations in all of history. Any such result would be the antithesis of equitable.

contract] can be addressed adequately by the federal court, without interfering with the dissolution action in this Court.”).

⁸⁹ *Data Processing*, 1987 WL 25360, at *4.

Even if GRUS, Ramsay and Caesars have engaged in a scheme to usurp corporate opportunities from GRB and Seibel, as Seibel alleges, the scheme has already run its course—Caesars has terminated the Caesars Agreement and GRUS has terminated the License Agreement. Claims relating to these alleged harms can be prosecuted either individually by Seibel or derivatively by a receiver on behalf of GRB as appropriate.⁹⁰ Given that this court will allow a dissolution to proceed even when there are first-filed derivative claims pending, there is no principled basis upon which to conclude that *later-filed* derivative claims alleging past harms should stand in the way of an otherwise properly supported petition for dissolution. Unlike in *Mobilactive*, Seibel has not alleged any facts that would allow a reasonable inference that he would not be able to recover fully any damages he is owed if dissolution is granted. Therefore, because Seibel has failed to allege bad faith in the bringing of the dissolution, but rather points only to prior bad acts that predate the Petition and were allegedly undertaken separate and apart from the Petition, equity will not preclude the entry of an otherwise justified decree of dissolution.

⁹⁰ See *In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *11 (Del. Ch. Aug. 18, 2005) (noting that what remained of the subject business was “possible choses in action” and that “[t]he ability to prosecute those claims does not depend on the continued existence of the LLC, but could, at least in theory, be managed by a court appointed receiver”); *Magnolia Clinical Research*, 2000 WL 128850, at *2 (after ordering dissolution, noting that “[c]ounsel should try to agree upon a proper receiver who will, of course, assess the claims and counterclaims asserted [derivatively] in the federal action in determining how to proceed with the dissolution”).

III. CONCLUSION

For the foregoing reasons, Petitioner's Motion for Judgment on the Pleadings is GRANTED and judicial dissolution is ordered pursuant to 6 *Del. C.* § 18-802. Petitioner shall submit a form of implementing order, on notice to Respondent, within twenty (20) days. In connection with this order, counsel should endeavor to agree upon a proposed liquidating trustee who will, in addition to those powers granted under 6 *Del. C.* § 18-803(b), assess the Counterclaims pending here and the claims in the Nevada Action in determining whether any action should be taken on behalf of GRB in connection with such claims.

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EXHIBIT 2



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In re: GR Burgr, LLC)	
_____)	
ROWEN SEIBEL,)	
)	
Respondent and Counterclaim)	
Plaintiff,)	
)	
v.)	C.A. No. 12825-VCS
)	
GR US LICENSING, LP ,)	
)	
Petitioner and Counterclaim)	
Defendant,)	
)	
and)	
)	
GR BURGR, LLC,)	
)	
Nominal Defendant.)	
_____)	

**ORDER DISSOLVING GR BURGR, LLC AND APPOINTING
LIQUIDATING TRUSTEE**

WHEREAS, on October 13, 2016, GR US Licensing, LP (“GRUS” or “Petitioner”) filed a Verified Petition for Judicial Dissolution of GR Burgr, LLC (the “Petition”), in which Petitioner sought an order of judicial dissolution of GR Burgr, LLC (“GRB”) pursuant to 6 *Del. C.* § 18-802, as well as the appointment of a liquidating trustee for the winding up of GRB pursuant to 6 *Del. C.* § 18-803;

WHEREAS, on November 23, 2016, Rowen Seibel filed an Answer to the Petition, in which he opposed the dissolution of GRB, and Verified Counterclaims Against GRUS on behalf of GRB (the “Delaware Counterclaims”);

WHEREAS, on December 13, 2016, Petitioner moved for judgment on the pleadings on its Petition (the “Motion”), and also moved to dismiss the Delaware Counterclaims and stay the Delaware Counterclaims pending resolution of the Motion;

WHEREAS, on January 3, 2017, the Court ruled that it would decide the Motion before addressing GRUS’s motion to dismiss the Delaware Counterclaims and stayed all other aspects of the case;

WHEREAS, on January 11, 2017, Seibel filed derivative claims on behalf of GRB in Nevada (the “Nevada Claims”); and

WHEREAS, the Court, having considered the merits of the Motion and, for the reasons set forth in its August 25, 2017 memorandum opinion (the “Memorandum Opinion”), and finding good cause for GRB to be dissolved and wound up under the supervision and authority of a liquidating trustee appointed by the Court who shall possess the broadest authority, consistent with the Delaware Limited Liability Company Act (the “Act”) to oversee the dissolution and winding up of GRB.

NOW, THEREFORE, this 5th day of October, 2017, IT IS
HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. The Motion. Having found good cause therefore, the Petitioner's Motion for Judgment on the Pleadings Concerning the Petition is hereby GRANTED.

2. Dissolution and Winding Up. Pursuant to 6 *Del. C.* § 18-802, the Court, having concluded that it is no longer reasonably practicable to carry on the business of GRB, hereby orders that GRB shall be deemed dissolved as of the date of this Order, and GRB's affairs shall be promptly wound up by a liquidating trustee under the direction of this Court and in accordance with the Act and the limited liability company agreement of GRB (the "LLC Agreement").

3. Appointment Of Liquidating Trustee. Pursuant to 6 *Del. C.* § 18-803(a), Kurt Heyman, Esq. is hereby appointed as the liquidating trustee of GRB (the "Liquidating Trustee") with the powers and duties specified in this Order.

4. Acceptance And Term of Appointment Of Liquidating Trustee. The Liquidating Trustee shall file in this Court a written acceptance of the appointment. The Liquidating Trustee shall serve at the pleasure of the Court, and the provisions of this Order shall remain in effect pending further Order of the Court.

5. General Powers Of Liquidating Trustee. The Liquidating Trustee shall have all the powers generally available to a trustee, custodian, or receiver

appointed pursuant to 6 *Del. C.* § 18-803, unless the exercise of any said power would be inconsistent with any specific provision of this Order or any other Order entered by the Court in this action. Upon appointment, the Liquidating Trustee shall have full control and dominion over the dissolution and liquidation of GRB and shall have access to all books and records of GRB.

6. Authority To Act. The Liquidating Trustee is authorized and empowered with the sole and exclusive authority to act through and in the name of GRB as necessary (a) to carry out all duties hereunder; (b) to identify and marshal the assets of GRB and liquidate those assets, including the Delaware Counterclaims (to the extent such claims are derivative) and Nevada Claims, in the manner the Liquidating Trustee determines is in the best interests of GRB; (c) to prosecute and defend any litigation by or on behalf of GRB; (d) to wind up the affairs of GRB in accordance with the terms of the Act and the LLC Agreement; and (e) to execute and/or deliver, or cause to be executed and/or delivered, all assignments, instruments, pleadings, and documents necessary to carry out the Liquidating Trustee's duties as outlined in this Order. The Liquidating Trustee also shall have authority, but shall not be required, to petition this Court for instructions at any time from time to time.

7. Waiver Of Duties. The provisions of Court of Chancery Rules 149-168, which apply to the duties of a receiver and/or liquidating trustee of limited

liability companies, are hereby waived and the Liquidating Trustee shall not be required to post a bond. In lieu of these provisions, the Liquidating Trustee shall provide interim summary reports to the Court every three months following the date of this Order, until the winding up is complete. The Liquidating Trustee will provide these interim reports to the Court via U.S. Mail, with copies to counsel of record for the parties in this action/and the Court will file a copy of each report on the docket upon receipt.

8. Reports To And Consultation With Members. The Liquidating Trustee may, to the extent deemed practical or necessary, consult with the members of GRB (“Members”) and/or their representatives with respect to the Liquidating Trustee’s performance of his various duties under this Order, but shall not be subject to their direction or control, and shall not be required to take any course of action the Members otherwise would or would not take. The Liquidating Trustee may periodically confer with the Members and/or their representatives by teleconference or in person, and, at the Liquidating Trustee’s sole discretion, may meet with the Members and/or their representatives individually or together. At any time, either Member may request assistance or action from the Liquidating Trustee. Such conferences shall occur at such intervals as the Liquidating Trustee deems appropriate, with the agenda for such conferences determined in advance to the extent reasonably possible. The Members, GRB, and their employees and

agents shall cooperate with the Liquidating Trustee and each other to wind up GRB and distribute GRB's assets as required by the LLC Agreement.

9. Presumptions; Good Faith Reliance. All actions taken by the Liquidating Trustee pursuant to this Order in the right of GRB to cause GRB to take action shall be presumed to be taken on an informed basis, in good faith, and in the honest belief that such actions taken were in the best interests of GRB. In causing GRB to take action, the Liquidating Trustee shall be fully protected to the fullest extent permitted by 6 *Del. C.* § 18-406 in relying in good faith upon the records of GRB and upon information, opinions, reports or statements presented by the Members, an officer or employee of GRB, or by any other person as to matters the Liquidating Trustee reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of GRB or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the winding up of GRB.

10. Indemnification/Advancement And Exculpation. The appointment of the Liquidating Trustee hereunder shall be binding upon the officers, managers, employees, directors and Members of GRB. The Liquidating Trustee shall have no liability to GRB, its Members, or any other person for acts taken in good faith

pursuant to this Order, and none of the Members, nor any other person purporting to act as a director, manager, officer, employee, advisor or Member of GRB shall institute any legal proceeding other than in this Court challenging any action, recommendation, or decision by the Liquidating Trustee in performing the duties hereunder. The Liquidating Trustee shall be entitled to all protection, limitation from liability, and immunity available at law or in equity to a Court-appointed Liquidating Trustee including, without limitation, all protection, limitation from liability, and immunity provided by the indemnification provisions of applicable law. Expenses, including attorneys' fees, incurred by the Liquidating Trustee in defending any civil, criminal, administrative or investigative action, suit or proceeding arising by reason of or in connection with the Liquidating Trustee's designation as Liquidating Trustee for GRB, or in the performance of the duties hereunder, shall be paid by GRB, in advance of the final disposition of such action, suit or proceeding subject to the repayment of such amount if it shall be ultimately determined by this Court that the Liquidating Trustee is not entitled to be indemnified under applicable Delaware law.

11. Cancellation. Upon completion of the winding up of GRB and the distribution of the proceeds of dissolution pursuant to the LLC Agreement, the Liquidating Trustee shall execute and file a certificate of cancellation in the Office of the Secretary of State of the State of Delaware.

12. Compensation Of The Liquidating Trustee. The Liquidating Trustee shall be compensated by GRB at his usual hourly rate from the assets of GRB **as determined by the Liquidating Trustee.** Reasonable travel and other expenses incurred by the Liquidating Trustee shall be paid directly to the Liquidating Trustee by GRB from the assets of GRB. The Liquidating Trustee shall petition the Court quarterly, or at such other interval as the Court may direct, for approval of fees and expenses. Any fees and expenses approved by the Court shall be paid promptly by GRB from the assets of GRB.

13. Authority To Retain Advisors. If necessary, the Liquidating Trustee may retain counsel or other advisors to advise the Liquidating Trustee with respect to his or her duties under this Order, the Act, and the LLC Agreement. If the Liquidating Trustee is an attorney, the counsel retained by the Liquidating Trustee may be the law firm of which the Liquidating Trustee is a partner. The fees and expenses of any advisors retained by the Liquidating Trustee shall be paid by GRB from the assets of GRB.

14. Reservation of Jurisdiction. The Court reserves jurisdiction over this matter, including jurisdiction to consider any applications that the Liquidating Trustee may make for the Court's assistance in addressing any problems encountered by the Liquidating Trustee in performing his or her duties hereunder

and any applications by any party arising out of or related to any action or decision of the Liquidating Trustee or any of his or her agents.

SO ORDERED this 5th day of October, 2017.

/s/ Joseph R. Slights III

Vice Chancellor

EXHIBIT B

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 **DECL**

2 ALLEN J. WILT, ESQ.
3 Nevada State Bar No. 4798
4 JOHN TENNERT, ESQ.
5 Nevada State Bar No. 11728
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10 Facsimile: (775) 786-1177
11 Email: awilt@fclaw.com
12 jtennert@fclaw.com

13 *Attorneys for Defendant Gordon Ramsay*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

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

20 Plaintiff,

21 vs.

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

26 Defendant,

27 GR BURGR LLC, a Delaware limited liability
28 company,

Nominal Defendant.

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

**DECLARATION OF DAVID KERR IN
SUPPORT OF DEFENDANT
GORDON RAMSAY'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
CONCERNING (1) THE PAYMENT
OF THE LICENSE FEE THROUGH
MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

29 I, David Kerr, declare and say as follows:

30 1. I am the Finance Director of Kavalake Limited, which is one of three partners of
31 GRUS Licensing, L.P. ("GRUS"), along with Gordon Ramsay and GRUS General Partner, LLC.

32 In that capacity, I have personal knowledge of the matters recited herein.

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 2. I make this declaration in support of Gordon Ramsay's Opposition to Plaintiff's
2 Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through
3 March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement.

4 3. Prior to March 8, 2016, and covering the period through termination of the
5 Development Agreement on September 21, 2016, all payments of the License Fee were made to
6 GR BURGR, LLC and divided equally between Rowen Seibel and GRUS. After March 8, 2016
7 and through termination of the Development Agreement, those payments were made 50% to
8 GRUS and 50% to GR BURGR for benefit of Rowen Seibel.

9 4. GRUS has received no payments of the License Fee for the period following
10 termination of the Development Agreement, except for an erroneous payment in January, 2017,
11 which was immediately returned.

12 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
13 is true and correct, except as to those matters stated upon information and belief, and as to those
14 matters, I believe them to be true.

15 Dated: 9/29/2017

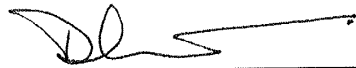
16 
17 _____
18 DAVID KERR

EXHIBIT C

1 **DECL**

2 ALLEN J. WILT, ESQ.
3 Nevada State Bar No. 4798
4 JOHN TENNERT, ESQ.
5 Nevada State Bar No. 11728
6 FENNEMORE CRAIG, P.C.
7 300 E. 2nd Street, Suite 1510
8 Reno, Nevada 89501
9 Telephone: (775) 788-2200
10 Facsimile: (775) 786-1177
11 Email: awilt@fclaw.com
12 jtennert@fclaw.com

13 *Attorneys for Defendant Gordon Ramsay*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

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

20 Plaintiff,

21 vs.

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

26 Defendant,

27 GR BURGR LLC, a Delaware limited liability
28 company,

Nominal Defendant.

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

**SECOND DECLARATION OF DAVID
KERR IN SUPPORT OF DEFENDANT
GORDON RAMSAY'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
CONCERNING (1) THE PAYMENT
OF THE LICENSE FEE THROUGH
MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

29 I, David Kerr, declare and say as follows:

30 I. I am the Finance Director of Kavalake Limited, which is the indirect parent of RB
31 Restaurant Ventures LLC. In that capacity, I have personal knowledge of the matters recited
32 herein.

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 2. I make this second declaration in support of Gordon Ramsay's Opposition to
2 Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee
3 Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement.

4 3. The License Agreement that governs the restaurant Gordon Ramsay Burger is
5 between RB Restaurant Ventures, LLC and PHWLTV, LLC. That agreement recites generally the
6 same terms and conditions as the development agreement between GR BURGR LLC and
7 PHWLTV, LLC.

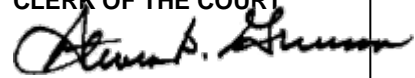
8 4. RB Restaurant Ventures, LLC is a Nevada LLC, which is indirectly controlled by
9 Gordon Ramsay. Gordon Ramsay owns a majority interest in Kavalake Ltd., which owns 100% of
10 GR US Topco LLC, which owns 100% of RB Restaurant Ventures LLC. Kavalake also owns a
11 controlling majority interest in GR US Licensing LP, which owns 50% of GR BURGR LLC. RB
12 Restaurant Ventures LLC is therefore an affiliate of GR BURGR LLC through the common
13 control of both Gordon Ramsay and Kavalake Ltd.

14 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
15 is true and correct, except as to those matters stated upon information and belief, and as to those
16 matters, I believe them to be true.

17 Dated: 10/5/2017

18 
19 _____
20 DAVID KERR
21
22
23
24
25
26
27
28

TAB 34



RPLY

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MATTHEW C. WOLF (SBN 10801)
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: 15

**REPLY IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT CONCERNING (1) THE
PAYMENT OF THE LICENSE FEE
THROUGH MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

**Hearing Date: 10/24/17
Hearing Time: 9:00 a.m.**

On September 18, 2017, Plaintiff Rowen Seibel, a member and manager of “GRB,”¹ appearing derivatively on its behalf, filed a Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement (the “Motion”). On October 5, 2017, PH and Ramsay separately opposed the Motion. Plaintiff respectfully submits this Reply in support of the Motion.

¹ All capitalized terms and phrases bear the same meaning herein as in the Motion.

1 I. INTRODUCTION.

2 A maxim of jurisprudence is that parties must live with their contracts.² If a party is
3 dissatisfied with its contractual obligations, then “the time to say so is at the bargaining table.”³ This
4 case involves a party – PH – that simply refuses to comply with its obligations under the plain, clear,
5 and unambiguous contract freely negotiated and entered by the parties.

6 In plain, clear, and unambiguous terms, the Development Agreement obligates PH to pay the
7 License Fee to GRB for as long as it operates the Restaurant or uses the General GR Materials. The
8 Development Agreement states that this express obligation survives termination. In a declaration it
9 executed earlier this year, PH admitted that it intended to operate the Restaurant and use the General
10 GR Materials until at least March 31, 2017. (Ex. 3 to Mot., T. Bowen March 17, 2017 Decl. ¶¶ 2-5)
11 (admitting that as of mid-March 2017, PH was still operating the Restaurant and using the General
12 GR Materials as it allegedly was attempting to rebrand the Restaurant, and it intended to continue
13 doing so until March 31, 2017.) It is uncontroverted that PH has not paid the License Fee to GRB up
14 to March 31, 2017. Furthermore, § 14.21 of the Development Agreement prohibits PH and Ramsay
15 from pursuing another burger-themed restaurant without entering a separate agreement with GRB or
16 an affiliate. The Rebranded Restaurant is burger-themed. It has the word “burger” in its name and, in
17 fact, has more burger options on its menu than the Restaurant. PH and Ramsay never entered a
18 separate agreement with GRB or an affiliate for the Rebranded Restaurant.

19 Based upon these undisputed facts and the plain, clear, and unambiguous language of the
20 Development Agreement, GRB is entitled to summary judgment on its allegations that (1) PH
21 breached the Development Agreement by failing to pay the License Fee up to March 31, 2017; and
22 (2) PH and Ramsay breached § 14.21 by pursuing a burger-themed restaurant without entering a
23

24 ² See, e.g., *Stanaland v. Jamison*, 268 S.E.2d 578, 579 (S.C. 1980) (when a contract is
25 unambiguous, “the parties must live with the agreement which was made.”); see also *Krauss v. M. L.*
26 *Claster & Sons, Inc.*, 254 A.2d 1, 3 (Pa. 1969) (refusing to relieve the plaintiff from a “harsh”
noncompete clause and stating the plaintiff “must now live with the bargain which he struck . . .”)

27 ³ *U.S. Bank, Nat’l Ass’n v. UBS Real Estate Sec. Inc.*, 205 F. Supp. 3d 386, 412 (S.D.N.Y.
28 2016) (quoting *Eujoy Realty Corp. v. Van Wagner Commc’ns, LLC*, 4 N.E.3d 336, 343 (N.Y. 2013));
see also *Upper Lakes Towing Co. v. ZF Padova SpA*, 2009 WL 4730762, at *5 (W.D. Mich. Dec. 4,
2009) (denying the defendant’s motion to compel arbitration because the defendant freely chose to
draft the arbitration clause to exclude the type of dispute at issue).

1 separate agreement with GRB or an affiliate.⁴

2 II. LEGAL ARGUMENTS.

3 A. PH's Evidentiary Objections Are Meritless.

4 On October 5, 2017, PH filed an objection to exhibits #2 and 4-7. The objection is meritless.
5 As for authenticity, the Motion includes a declaration from Seibel.⁵ It is based upon personal
6 knowledge and states the exhibits are true and correct copies of the matters presented.⁶ This
7 declaration is sufficient to authenticate the exhibits.⁷ Moreover, exhibit #2 is a pre-litigation letter
8 purportedly terminating the Development Agreement. The letter was produced by PH,⁸ and
9 documents are considered authentic when offered against the producing party.⁹ Exhibit #4 features
10 two photographs of the Rebranded Restaurant's tradename. These photographs are self-
11 authenticating.¹⁰

12 As for PH's hearsay objection, exhibit #2 is not being offered for its truth; rather, it is being
13 offered for its legal significance – *i.e.*, PH's alleged termination the Development Agreement.¹¹

14
15 ⁴ In the Motion, Plaintiff also requests an order compelling PH to specifically perform its
16 contractual obligation to pay the License Fee. (Mot. 1:22-24; *see also* Compl. ¶ 97.) Plaintiff hereby
17 voluntarily withdraws that request in the Motion without prejudice because the granting of summary
18 judgment on Plaintiff's breach of contract allegations will provide Plaintiff with the remedy it seeks
19 in the Motion – *i.e.*, the payment of the License Fee through March 31, 2017.

18 ⁵ Ex. 8 to Mot., Seibel Sept. 15, 2017 Decl.

19 ⁶ *Id.* ¶ 4-5.

20 ⁷ NEV. REV. STAT. § 52.012(1) (authentication is accomplished by evidence “that the matter in
21 question is what its proponent claims.”); *see also* NEV. REV. STAT. § 52.025 (testimony is sufficient
22 for authentication “if the witness has personal knowledge that a matter is what it is claimed to be.”)

23 ⁸ Ex. 1, PHWL0000045-46.

24 ⁹ *See, e.g., Prime Ins. Syndicate, Inc. v. Damaso*, 471 F. Supp. 2d 1087, 1093 (D. Nev. 2007)
25 (“[D]ocuments produced by a party in discovery are considered authentic when a party-opponent
26 offers them.”); *see also Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 777 n.20 (9th Cir. 2002); *In re*
27 *Homestore.com, Inc. Sec. Litig.*, 347 F. Supp. 2d 769, 781 (C.D. Cal. 2004).

28 ¹⁰ NEV. REV. STAT. § 52.155 (“Inscriptions, signs, tags or labels purporting to have been affixed
in the course of business and indicating ownership, control or origin are presumed to be authentic.”);
see also Shapiro v. Hasbro, Inc., 2016 WL 9176559, at *7 (C.D. Cal. Aug. 23, 2016) (toys with
commercial inscriptions are self-authenticating).

¹¹ Out-of-court statements that have legal significance independent of their truth – including
contracts and statements related to contracts – are not hearsay. *See, e.g., Kepner-Tregoe, Inc. v.*
Leadership Software, Inc., 12 F.3d 527, 540 (5th Cir. 1994) (quoting Thomas A. Mauet,
Fundamentals of Trial Techniques 180 (1988)) (legal documents “that have independent legal
significance” are not hearsay); *see also Stuart v. UNUM Life Ins. Co. of Am.*, 217 F.3d 1145, 1154
(9th Cir. 2000) (an insurance policy is not hearsay); *Lorraine v. Markel Am. Ins. Co.*, 241 F.R.D. 534,
566 (D. Md. 2007) (statements “that define the terms of a contract, or prove its content, are not

1 Additionally, in its April 7, 2017 motion to dismiss, PH claimed that the letter was sent on its
2 behalf.¹² Statements made on behalf of a party are not hearsay.¹³

3 Exhibit #4 – the two photographs from Facebook of the Rebranded Restaurant’s tradename –
4 are not hearsay because photographs are not statements.¹⁴ One of the photographs is accompanied by
5 a statement from “Jana C,” the person who posted the photograph to Facebook, that “burGR [is] now
6 just Burger.” That statement is not hearsay because it is being offered to show the author’s then-
7 existing state of mind – specifically, that the author thought the Rebranded Restaurant is the same as
8 the Restaurant.¹⁵ In *Conversive, Inc. v. Conversagent, Inc.*, the Central District of California noted
9 that an overwhelming majority of federal circuit courts have admitted statements concerning
10 consumer confusion under the “then-existing state of mind” hearsay exception.¹⁶

11 Exhibit #5 is the menu for the Restaurant, and Exhibits #6 and 7 are the menus for the
12 Rebranded Restaurant. These documents are not hearsay because they are not being offered for their
13 truth; rather, they are being offered to show their similarity, which has legal significance under §
14 14.21 of the Development Agreement. “When the evidence offered has legal significance
15 independent of the truth of any statement contained in it, it is not hearsay.”¹⁷ These documents also
16

17 hearsay”); *New Era Publications Int’l, ApS v. Henry Holt & Co.*, 873 F.2d 576, 592 (2d Cir.
18 1989) (“[W]ords of independent legal significance” are not hearsay); *Creaghe v. Iowa Home Mut.*
19 *Cas. Co.*, 323 F.2d 981, 984 (10th Cir. 1963); *Crompton Greaves, Ltd. v. Shippers Stevedoring Co.*,
20 776 F. Supp. 2d 375, 386 (S.D. Tex. 2011); *Baker’s Carpet Gallery, Inc. v. Mohawk Indus., Inc.*, 942
21 F. Supp. 1464, 1474 (N.D. Ga. 1996).

22 ¹² Ex. 2 to PH’s April 7, 2017 Mot. to Dismiss; *see also* Mot. to Dismiss at 6:22 – 7:1 (claiming
23 this letter was sent on behalf of PH).

24 ¹³ NEV. REV. STAT. § 51.035(3)(a)-(d) (when offered against a party, a statement is not hearsay
25 if it was made by the party or its agent or representative, has been adopted by the party, or was made
26 by the party’s agent or servant concerning a matter within the scope of the agency or employment and
27 before the termination of the relationship).

28 ¹⁴ NEV. REV. STAT. § 51.035 (hearsay means “a statement” offered for its truth); *see also United*
States v. Moskowitz, 581 F.2d 14, 21 (2d Cir. 1978) (a sketch is not hearsay because it is not a
statement); *Crowd In A Box Co. v. Inflatable Crowd Co.*, 2007 WL 4911286, at *6 (C.D. Cal. Oct. 9,
2007) (photographs are not hearsay).

¹⁵ NEV. REV. STAT. § 51.105(1) (exempting from the hearsay rule “[a] statement of the
declarant’s then existing state of mind . . .”)

¹⁶ 433 F. Supp. 2d 1079, 1091 (C.D. Cal. 2006) (citing supporting cases from the second, third,
fourth, and fifth circuits).

¹⁷ *Padilla v. United States*, 58 Fed. Cl. 585, 593 (2003); *see also Schwartz v. Ryan*, 2010 WL
3244916, at *24 (D. Ariz. Apr. 28, 2010), report and recommendation adopted, 2010 WL 3239125
(D. Ariz. Aug. 16, 2010), *aff’d*, 455 F. App’x 736 (9th Cir. 2011) (out-of-court statements were not

are PH and Ramsay’s own menus, and a party’s statements are not hearsay.¹⁸ Accordingly, this Court should overrule PH’s evidentiary objections to the exhibits.

B. Defendants’ Standing Arguments Are Premature.

On October 5, 2017, the Delaware Chancery Court entered an order dissolving GRB and recommending the appointment of a liquidating trustee (the “Dissolution Order”). (See Ex. D to the PH Opp’n.) It requires the proposed liquidating trustee to accept the appointment in writing.¹⁹ Presently, he has not accepted the appointment. The Dissolution Order gives the liquidating trustee the “sole and exclusive authority to act through and in the name of GRB as necessary” to, *inter alia*, “prosecute and defend any litigation by or on behalf of GRB”²⁰

In their Oppositions, PH and Ramsay claim that the Dissolution Order deprives Seibel of standing to prosecute this action derivatively on behalf of GRB. That argument is premature because the proposed liquidating trustee has not yet accepted the appointment. Furthermore, even if he were to accept the appointment, liquidating trustee might elect to continue prosecuting this action on behalf of GRB, as he would be permitted to do under ¶ 6 of the Dissolution Order. Alternatively, the liquidating trustee may elect to have Seibel continue to prosecute this matter derivatively. Accordingly, Defendants’ standing arguments are premature at this time.

C. This Court Should Enter Summary Judgment on the Allegation in ¶ 68(d) of Plaintiff’s Breach of Contract Claim.

In ¶ 68(d) of its Complaint, Plaintiff alleges that GRB breached the Development Agreement by “[f]ailing and refusing to pay the License Fee and other monies to GRB for the period of time it has operated the Restaurant and used the Intellectual Property . . .” Plaintiff seeks summary judgment on this allegation based upon three simple, uncontested facts:

- 1. Fact #1:** PH is obligated to pay the License Fee to GRB for as long as it operates the Restaurant or uses the General GR Materials. (Mot. 3:17 – 4:5.) The Development

hearsay when offered for their similarities to prove they were made by the same speaker); *Ferring Pharm., Inc. v. Braintree Labs., Inc.*, 215 F. Supp. 3d 114, 122 (D. Mass. 2016) (instructions were not hearsay when offered to show they “were given, not for the truth of the matter asserted.”)

¹⁸ NEV. REV. STAT. § 51.035(3)(a) (a statement is not hearsay if it is offered against a party and is the party’s own statement).

¹⁹ Ex. D to the PH Opp’n at Pg. 3, ¶¶ 3-4.

²⁰ *Id.* at Pg. 4, ¶ 6; see also Pg. 2 (defining this action as the “Nevada Claims”).

Agreement states that “during the applicable post-termination period during which PH is operating the Restaurant, PH shall continue to be obligated to pay GRB all amounts due GRB hereunder that accrue during such period in accordance with the terms of this Agreement as if this Agreement had not been terminated[.]”²¹

2. ***Fact #2:*** PH operated the Restaurant and used the General GR Materials until at least March 31, 2017. (Mot. 4:5-11.) PH admitted this fact in the declaration of its representative, Tim Bowen.²² In his declaration, Bowen said that as of mid-March 2017, PH was still attempting to rebrand the Restaurant, meaning it was still operating the Restaurant and using the General GR Materials.²³ He further said PH intended to complete the rebranding by March 31, 2017.²⁴

3. ***Fact #3:*** PH has not paid the License Fee through March 31, 2017. (Mot. 5:1-6.)

In its Opposition, PH does not directly address or dispute these facts. Instead, its sole argument in opposition to Plaintiff’s request for summary judgment is that Plaintiff allegedly breached the Development Agreement, thereby allegedly excusing PH from any obligation to pay the License Fee. This argument is inapposite and even if it were assumed that Plaintiff breached this obligation (which it did not) that breach does not excuse PH from paying the License Fee.

Specifically, PH claims that GRB breached the Development Agreement by failing to supplement its disclosures. (PH Opp’n 8:5 – 10:3.) Its argument is predicated upon § 11.2, which reads as follows, in relevant part:

Prior to the execution of this Agreement and, in any event, prior to the payment of any monies by PH to Gordon Ramsay and/or GRB hereunder, and thereafter on each anniversary of the Opening Date during the Term, (a) each of Gordon Ramsay and GRB shall provide or cause to be provided to PH written disclosure regarding its GR Associates and (b) the Compliance Committee shall have issued approvals of all of the GR Associates. Additionally, during the Term, on ten (10) calendar days written request by PH to Gordon Ramsay and GRB, Gordon Ramsay and GRB shall disclose to PH all GR Associates. To the extent that any prior disclosure becomes inaccurate, Gordon Ramsay and GRB shall, within ten (10) calendar days from that event, update the prior

²¹ Mot. 4, n.7 (quoting Ex. 1 to Mot., Development Agreement § 4.3.2(a), App. Pg. 18-19).

²² Ex. 3 to Mot., T. Bowen March 17, 2017 Decl.

²³ *Id.* ¶ 2-4.

²⁴ *Id.* ¶ 5.

disclosure without PH making any further request.²⁵

PH claims that GRB's alleged breach of § 11.2 excuses it from performing its contractual obligations under the Development Agreement. (*Id.* 8:15-24.) PH's argument fails as a matter of law for two reasons.

First, PH does not – and cannot – identify a single disclosure by GRB that was inaccurate or should have been updated under § 11.2. Indeed, PH conspicuously fails to attach to its Opposition a single disclosure by GRB (obviously, if PH possessed an inaccurate or incomplete disclosure, it would have attached the same to its Opposition). Instead, PH relies upon the declaration of Richard Casto to argue that GRB failed to make or update a disclosure under § 11.2. (PH Opp'n 4:2-20.) The best evidence rule prohibits a party from relying upon testimony to prove the contents of a writing.²⁶ Having failed to produce the specific disclosure by GRB that it contends is inaccurate or should have been updated, PH is prohibited from relying upon a declaration to contest the contents of GRB's disclosures.

Second, the Development Agreement expressly precludes PH from attempting to evade its obligation to pay the License Fee due to an alleged breach of the agreement. Specifically, the Development Agreement states that termination is PH's remedy for a material breach.²⁷ It further states that upon termination, PH is still bound to its obligations under § 4.3:

Upon expiration or termination of this Agreement, there shall be no liability or obligation on the part of any party with respect to this Agreement, other than that such termination or expiration shall not (a) relieve any party of any liabilities resulting from any breach hereof by such party on or prior to the date of such termination or expiration, (b) relieve any party of any payment obligation arising prior to the date of such termination or expiration, or (c) affect any rights arising as a result of such breach or termination or expiration. **The provisions of this Section 4.3 and Sections 2.3.2, 6.2, 6.6, the last sentence of Section 12.2.2 and Articles 13 and 14 (other than Section 14.16) shall survive any termination or expiration of this Agreement.**²⁸

²⁵ Ex. 1 to Mot., Development Agreement § 11.2, App. Pg. 30-31.

²⁶ NEV. REV. STAT. § 52.235; *see also Young v. Nevada Title Co.*, 103 Nev. 436, 440, 744 P.2d 902, 904 (1987) ("The best evidence rule requires production of an original document where the actual contents of that document are at issue and sought to be proved."); *Stephans v. State*, 127 Nev. 712, 719, 262 P.3d 727, 733 (2011) (in a grand larceny case, the rule prohibited the State from relying upon testimony to establish the price of the stolen goods. The rule required the State to admit the price tags.)

²⁷ Ex. 1 to Mot., Development Agreement § 4.2.7(a), App. Pg. 17.

²⁸ Ex. 1 to Mot., Development Agreement § 4.3.1, App. Pg. 18 (emphasis added).

1 Section 4.3.2(a)(ii) obligates PH to continue paying the License Fee following termination for as long
2 as it operates the Restaurant.²⁹ PH's excuse for maintaining the accrued License Fee "in escrow" out
3 of a "concern" that payment to GRB could "jeopardize[e] its license" fails for the same reason.³⁰ The
4 Development Agreement expressly requires payment of the License Fee *even after termination for*
5 *unsuitability reasons*.³¹ If PH, an experienced gaming licensee, was genuinely "concerned" about
6 making post-termination payments to allegedly unsuitable persons, it should have bargained for the
7 right to avoid such payments instead of entering into a contract that expressly required such
8 payments. Accordingly, per the plain, clear, and unambiguous terms of the Development Agreement,
9 a material breach by GRB would not excuse PH from its contractual obligations under § 4.3; rather,
10 PH would still remain obligated to pay the License Fee. Hence, this Court should enter summary
11 judgment on Plaintiff's allegation in ¶ 68(d) of the Complaint.

12 **D. This Court Should Enter Summary Judgment on the Allegations in ¶¶ 62(d), 68(h),**
13 **and 69(f) of Plaintiff's Breach of Contract Claims.**

14 Section 14.21 states, in relevant part, that "[i]f PH elects to pursue any venture similar to the
15 Restaurant (*i.e.*, any venture generally in the nature of a burger centric or burger themed restaurant),
16 GRB shall, or shall cause an Affiliate to, execute a development, operation and license agreement
17 generally on the same terms and conditions as this Agreement"³²

18 In ¶¶ 62(d), 68(h), and 69(f) of the Complaint, Plaintiff alleges that GRB and Ramsay
19 breached § 14.21 by failing to enter a separate agreement with GRB for the Rebranded Restaurant.
20 Plaintiff is entitled to summary judgment based upon three uncontested facts: (1) § 14.21 obligated
21 PH and Ramsay to enter a separate agreement with GRB for any burger centric or burger themed
22 restaurant (Mot. 5:16 – 6:5); (2) PH and Ramsay are presently operating a burger centric or burger
23 themed restaurant (*i.e.*, the Rebranded Restaurant) without having entered a separate agreement with
24 GRB (*Id.* 6:5 – 7:4); and (3) § 14.21 survives termination of the Development Agreement (*Id.* 7:4-

25 ²⁹ Ex. 1 to Mot., Development Agreement § 4.3.2(a)(ii), App. Pg. 19 ("[D]uring the applicable
26 post-termination period during which PH is operating the Restaurant, PH shall continue to be
27 obligated to pay GRB all amounts due GRB hereunder that accrue during such period in accordance
with the terms of this Agreement as if this Agreement had not been terminated")

28 ³⁰ Ex. F to the PH Opp'n at P. 1, ¶¶ 2-4.

³¹ Ex. 1 to Mot., Development Agreement § 4.3.1, 4.3.2(a).

³² Ex. 1 to Mot., Development Agreement § 14.21, App. Pg. 39.

1 11). In their Oppositions, PH and Ramsay do not contest that § 14.21 survives termination.

2 PH argues that the phrase “If PH elects” in § 14.21 makes a separate agreement discretionary,
3 not mandatory. (PH Opp’n 12:26 – 13:1.) That argument is frivolous because the word “elects”
4 applies to a similar venture, not to a separate agreement. That argument also fails because it is an
5 undisputed fact that PH is operating a burger restaurant. PH also argues that “Seibel presents no
6 admissible evidence to demonstrate that Planet Hollywood is using the ‘Restaurant’s food and
7 beverage menus or recipes’ or ‘any of the GRB Marks.’” (PH Opp’n 13:10-12.) That argument
8 intentionally misconstrues the question at hand. The precise question under § 14.21 is whether the
9 Rebranded Restaurant is burger centric or burger themed. The Motion presents overwhelming
10 evidence that it is, in fact, burger centric or burger themed. (Mot. 6:6 - 7:4.) It has the word “burger”
11 in its name and has more burger options on its menu than the Restaurant. (*Id.* 6:12-17.) PH cannot
12 credibly argue that it is not burger-themed.

13 PH also claims that § 14.21 is an unenforceable covenant not to compete. (PH Opp’n 13:16-
14 26.) Black’s Law Dictionary defines a “covenant not to compete” as a promise “not to engage in the
15 same type of business for a stated time in the same market as the buyer, partner, or employer.”³³
16 Section 14.21 neither prohibits PH from competing with anyone nor forbids it from engaging in a
17 particular profession or trade for a stated time. Rather, Section 14.21 merely requires PH to include
18 GRB in the future endeavors for which GRB’s General Materials are necessary to operate a new
19 restaurant. Accordingly, § 14.21 is not a covenant not to compete.

20 PH also argues that GRB’s alleged breach of § 11.2 excuses PH from its obligations under §
21 14.21. (PH Opp’n 14:1-3.) In addition to the fact that PH has presented no competent, admissible
22 evidence that GRB breached § 11.2, this argument fails because § 14.21 expressly survives
23 termination. PH also argues that § 14.21 cannot be enforced because it allegedly is “legally
24 prohibited” from entering another agreement with GRB. (PH Opp’n 12:24-25.) PH does not identify
25 any codes, regulations, or statutes prohibiting it from entering an agreement with GRB. PH has no
26 ruling from the Nevada Gaming Control Board or Gaming Commission that supports their position.

27
28

³³ *Covenant*, Black’s Law Dictionary (10th ed. 2014).

1 In fact, PH has never sought any type of regulatory review regarding its unilateral actions to terminate
2 the property rights of GRB. PH also argues that the Dissolution Order prevents it from entering a
3 separate agreement with GRB. (*Id.* 12:16-21.) This argument is premature for the same reasons as
4 Defendants’ standing arguments. At this time, it is unknown if the proposed liquidating trustee will
5 accept the appointment and, if so, whether he will elect to continue prosecuting this action.

6 Relying upon the phrase that “GRB shall, or shall cause an Affiliate to, execute” a separate
7 contract, PH and Ramsay both argue that § 14.21 does not impose any contractual obligations upon
8 them. (PH Opp’n 12:25 – 13:5; *see also* Ramsay Opp’n 6:22 - 7:18.) It is clear that in imposing an
9 obligation upon GRB to enter a separate agreement, § 14.21 simultaneously imposes a reciprocal
10 obligation upon PH and Ramsay to enter the same agreement. The Nevada Supreme Court has said
11 “[a] court should not interpret a contract so as to make meaningless its provisions.”³⁴ Accepting PH
12 and Ramsay’s interpretation of § 14.21 would render that section meaningless.

13 Finally, Ramsay argues that § 14.21 has been satisfied because PH allegedly entered a
14 separate agreement for the Rebranded Restaurant with an affiliate of GRB. (Ramsay Opp’n 8:6 –
15 9:19.) This argument is incorrect. The Development Agreement defines the parties’ “affiliates” as a
16 nonparty “who or which is directly or indirectly controlling, controlled by or under common control
17 with the [party to the Development Agreement], or any member, stockholder or comparable principal
18 of, [the party to the Development Agreement] or such other [nonparty].”³⁵ PH supposedly entered a
19 separate agreement with RB Restaurant Ventures, LLC (“RBR”). (Ramsay Opp’n 8:10-12.) RBR is
20 not an affiliate of GRB. It neither controls nor is controlled by GRB. It also is not under common
21 control with GRB because Seibel is an owner of GRB but does not own RBR. Accordingly, PH has
22 not entered a separate agreement for the Rebranded Restaurant with an affiliate of GRB.

23 In summation, it is uncontroverted that the Rebranded Restaurant is a burger-themed
24 restaurant, § 14.21 obligated PH and Ramsay to enter a separate agreement with GRB for any other
25 burger-themed restaurants, and no such agreement was entered. Based upon those facts, Plaintiff is
26

27 ³⁴ *Phillips v. Mercer*, 94 Nev. 279, 282, 579 P.2d 174, 176 (1978); *see also Musser v. Bank of*
28 *Am.*, 114 Nev. 945, 949, 964 P.2d 51, 54 (1998).

³⁵ Ex. 1 to Mot., Development Agreement App. Pg. 6.

1 entitled to summary judgment on the allegations in ¶¶ 62(d), 68(h), and 69(f) of the Complaint.

2 **E. Plaintiff is Entitled to Partial Summary Judgment on His Prayer for Declaratory**
3 **Relief.**

4 In the Complaint, Plaintiff seeks a declaration “[t]hat PH must pay the License Fee and other
5 monies to GRB for the period of time it has operated the Restaurant and used the Intellectual Property
6” (Compl. ¶ 110(d).) In the Motion, he requests summary judgment on this allegation. (Mot.
7 1:22-24.) For the aforementioned reasons, Plaintiff is entitled to summary judgment on this
8 allegation.

9 In its Opposition, PH claims that GRB is not entitled to declaratory relief because Seibel
10 allegedly has unclean hands. (PH Opp’n 11:14-15) (“Plaintiff cannot obtain specific performance or
11 declaratory relief because of his own conduct.”) As PH acknowledges, “[t]he unclean hands doctrine
12 generally bars a party from receiving equitable relief” (*Id.* 11:17-18) (quoting *Ahern*, 182 P.3d
13 764 (Nev. 2008)) (emphasis added.) PH’s “unclean hands” argument is inapplicable as a matter of
14 law because Plaintiff’s request for a declaratory judgment seeks legal, not equitable, relief.

15 In *Transamerica Occidental Life Ins. Co. v. DiGregorio*, the Ninth Circuit explained that “[a]
16 declaratory judgment does not necessarily constitute a form of ‘equitable’ relief. A particular
17 declaratory judgment draws its equitable or legal substance from the nature of the underlying
18 controversy.”³⁶ It concluded a request for a declaration concerning a life insurance policy that arose
19 from a “contractual claim to benefits . . . is clearly a legal” claim.³⁷ Because Plaintiff is seeking a
20 contractual benefit (*i.e.*, the payment of the License Fee through March 31, 2017, under the
21 Development Agreement), his declaratory relief claim seeks legal, not equitable, relief. For that
22 simple reason, PH’s “unclean hands” argument is inapplicable as a matter of law. Accordingly, this
23 Court should grant partial summary judgment on Plaintiff’s declaratory relief claim.

24
25 ³⁶ 811 F.2d 1249, 1251 (9th Cir. 1987) (internal citations omitted).

26 ³⁷ *Id.*; see also *Connecticut Gen. Life Ins. Co. of New York v. Cole*, 821 F. Supp. 193, 197
27 (S.D.N.Y. 1993) (“Since a contractual claim to benefits is a legal claim, the declaratory judgment
28 plaintiffs seek is a form of legal relief, and therefore, plaintiffs’ action is not to obtain equitable
relief.”); *KLLM, Inc. Employee Health Prot. Plan v. Ontario Cmty. Hosp.*, 947 F. Supp. 262, 266
(S.D. Miss. 1996) (when a “claim to benefits is based on [a] contractual relationship,” a related
declaratory relief claim seeks legal, not equitable, relief.)

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DATED October 17, 2017.

/s/ Dan McNutt
 DANIEL R. MCNUTT (SBN 7815)
 MATTHEW C. WOLF (SBN 10801)
 625 South Eighth Street
 Las Vegas, Nevada 89101
Attorneys for Plaintiff

1 **CERTIFICATE OF MAILING**

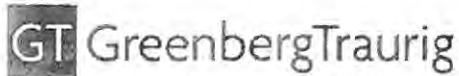
2 I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on October 17,
3 2017 I caused service of the foregoing **REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR**
4 **PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE PAYMENT OF THE**
5 **LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE**
6 **DEVELOPMENT AGREEMENT** to be made by depositing a true and correct copy of same in the
7 United States Mail, postage fully prepaid, addressed to the following and/or via electronic mail
8 through the Eighth Judicial District Court's E-Filing system to the following at the e-mail address
9 provided in the e-service list:

10 James Pisanelli, Esq. (SBN 4027)
11 Debra Spinelli, Esq. (SBN 9695)
12 Brittnie Watkins, Esq. (SBN 13612)
13 PISANELLI BICE PLLC
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15 Las Vegas, NV 89101
16 jjp@pisanellibice.com
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18 btw@pisanellibice.com
19 Attorneys for Defendant
20 *PHWLV, LLC*

Allen Wilt, Esq. (SBN 4798)
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jtennert@fclaw.com
Attorneys for Defendant
Gordon Ramsay

21
22
23
24
25
26
27
28
/s/ Lisa A. Heller
Employee of MCNUTT LAW FIRM, P.C.

Exhibit 1



Mark A. Clayton
Tel 702.792.3773
Fax 702.792.9002
claytonm@gtlaw.com

September 21, 2016

VIA EMAIL AND OVERNIGHT COURIER

Gordon Ramsay
c/o Gordon Ramsay Holdings Limited
539-547 Wandsworth Road
London
SW8 3JD
United Kingdom

GR BURGR, LLC
c/o: Rowen Seibel
200 Central Park South, 19th Floor
New York, NY 10019

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

Michael Thomas
Sheridans
Seventy Six Wardour Street
London
W1F 0UR
United Kingdom

Re: Development, Operation and License Agreement by and among PHW Las Vegas, LLC dba Planet Hollywood by its manager, PHW Manager LLC ("Caesars"), GR BURGR, LLC ("GRB"), and Gordon Ramsay, an individual dated December 13, 2012 ("Agreement")

Gentlemen:

Reference is made to my correspondence, dated September 2, 2016, regarding the Agreement. For purposes of this letter, capitalized terms not defined herein have the meaning set forth in the Agreement.

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MILAN
NEW JERSEY
NEW YORK
NORTH CAROLINA
ORANGE COUNTY
ORLANDO
PHILADELPHIA
PHOENIX
ROME
SACRAMENTO
SAN FRANCISCO
SEOUL
SHANGHAI
SILICON VALLEY
TAIWAN
TAMPA
TOKYO
WASHINGTON, D.C.
WESTCHESTER COUNTY
WEST PALM BEACH
WILMINGTON
YOKOHAMA

AA01589
PHWLV000045

September 21, 2016

Page 2

As of 11:59 p.m. on September 20, 2016, Caesars had not received any evidence that GRB had disassociated with Rowen Seibel, an individual who is an Unsuitable Person, pursuant to the Agreement.

Because GRB failed to disassociate with an Unsuitable Person, Caesars hereby terminates the Agreement pursuant to Section 4.2.5 of the Agreement, effective immediately.

Lastly, Caesars reserves and retains all other rights and remedies available under the Agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark A. Clayton". The signature is fluid and cursive, with the first name "Mark" being more prominent.

Mark A. Clayton
Shareholder

MAC/

TAB 35

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

November 07, 2017

A-17-751759-B	Rowen Seibel, Plaintiff(s) vs. PHWLTV LLC, Defendant(s)
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November 07, 2017	9:00 AM	Motion for Partial Summary Judgment
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HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 03H

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Pisanelli, James J	Attorney for Defendant / Counter Claimant PHWLTV, LLC
	Sweeney, Paul B.	Attorney for Plaintiff / Other Plaintiff GR BURGR, LLC
	Watkins, Brittinee T	Attorney for Defendant / Counter Claimant PHWLTV, LLC
	Wilt, Allen J.	Attorney for Defendant Gordon Ramsay
	Wolf, Matthew C., ESQ	Attorney for Plaintiff / Counter Defendant Rowen Seibel and Plaintiff / Other Plaintiff GR BURGR, LLC

JOURNAL ENTRIES

- The Court noted that it had reviewed the Motion for Partial Summary Judgment, as well as the Opposition and Reply, and requested that the parties address whether the best course of action would be to wait and see what actions the liquidating trustee took. Mr. Sweeney argued in support of the Motion, stating that Plaintiff was seeking the enforcement of section 14.21 of the development agreement. Regarding the Court's concerns pertaining to the liquidating trustee, Mr. Sweeney represented that the liquidating trustee had not yet accepted the appointment, and was hesitant to do so due to the lack of money in the entity. Mr. Wilt stated that it was Defendant's position that the

PRINT DATE: 11/22/2017

Page 1 of 2

Minutes Date: November 07, 2017

AA01591

ruling on the instant Motion be deferred, as the initial order of dissolution expressly provided that the trustee shall have exclusive authority to prosecute or defend. COURT ORDERED the instant Motion was hereby VACATED, FINDING the following: (1) there were concerns regarding Rowan Seibel's ability to prosecute the claims on behalf of GR BURGR, LLC; (2) although the liquidating trustee had been appointed, the trustee had not yet accepted the appointment; and (3) the Court's reading of the Delaware Court's Order was that the trustee was given the authority and ability to review such issues as those raised in the instant Motion, and then had the ability and authority to determine whether to prosecute them or not. Mr. Pisanelli suggested that a status check be set in approximately thirty (30) days, to determine the course of the case. Mr. Sweeney and Mr. Wilt indicated there was no opposition to Pisanelli's suggestion. COURT ORDERED a status check was hereby SET.

12/5/17 9:00 AM STATUS CHECK: STATUS OF CASE / DELAWARE PROCEEDINGS

TAB 36

Other Business Court Matters

COURT MINUTES

December 05, 2017

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

December 05, 2017 09:00 AM Status Check: Status of Case / Delaware Proceedings

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 03H

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

Brittinee T Watkins Attorney for Counter Claimant, Defendant

Daniel R. McNutt Attorney for Counter Defendant, Other
Plaintiff, Plaintiff

Maria Magali Mercera Attorney for Counter Claimant, Defendant

JOURNAL ENTRIES

Present via CourtCall: Paul B. Sweeney, Esq. on behalf of Plaintiff / Other Plaintiff GR BURGR, LLC and Defendant / Counter Claimant PHWLV, LLC; Allen J. Wilt, Esq. on behalf of Gordon Ramsay.

The Court noted that the instant hearing had been set to determine what was taking place in Delaware. Mr. McNutt advised that a liquidating trustee had not yet been appointed, and requested that the status check be continued approximately thirty (30) days. Mr. Wilt represented that the trustee candidate, Mr. Hammond, was hesitant to accept the appointment due to concerns that there were no funds in the GR BURGR, LLC entity with which to compensate him; however, Delaware counsel had recently proposed that both parties contribute funds to the GR BURGR, LLC entity, so that the trustee could accept appointment. Due to the funds being advanced to GR BURGR, LLC, Mr. Hammond had agreed to accept the appointment, and a proposed Order would be signed and circulated within one to two weeks. COURT ORDERED the instant matter was hereby CONTINUED.

CONTINUED TO: 1/9/18 9:00 AM

TAB 37

Other Business Court Matters

COURT MINUTES

January 09, 2018

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

January 09, 2018 09:00 AM Status Check: Status of Case / Delaware Proceedings

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 03H

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

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

Daniel R. McNutt Attorney for Counter Defendant, Other
Plaintiff, Plaintiff

Maria Magali Mercera Attorney for Counter Claimant, Defendant

JOURNAL ENTRIES

Present via CourtCall: Paul B. Sweeney, Esq. on behalf of Plaintiff / Other Plaintiff GRBURGR, LLC and Defendant / Counter Claimant PHWLV, LLC; Allen J. Wilt, Esq. on behalf of Defendant Gordon Ramsay.

The Court noted that the Trustee attempted to appear via CourtCall, but did not set up the service in a timely manner. The COURT DIRECTED counsel to inform the Trustee that he would be permitted to appear via CourtCall, but would need to set that up at least a day prior to whichever hearing he would be appearing for. Mr. McNutt stated that the Liquidating Trustee had been appointed and had accepted the appointment. Mr. McNutt requested a continuance of thirty (30) days to allow the Trustee to review all pertinent information, and to determine whether he wished to move forward with litigation. Ms. Mercera and Mr. Wilt affirmed Mr. McNutt's statements. Mr. Wilt represented that Defendant Siebel's Motion to Certify the Dissolution Order as a Certified Final Judgment had recently been denied by the Delaware Court. COURT ORDERED the instant matter was hereby CONTINUED, noting that the parties could submit a Stipulation and Order if the Trustee required more than thirty (30) days.

Colloquy regarding the consolidation of the instant case with related omnibus case. Ms. Mercera noted that the parties were preparing a Stipulation and Order regarding the consolidation, but would need the approval of the Trustee before it could be submitted to the Court. Mr. McNutt requested that the Court approve the consolidation without the Stipulation and Order. The COURT DIRECTED the parties to submit the Stipulation and Order to the Court, and to file the appropriate Motion if the parties could not reach an agreement.

CONTINUED TO: 2/6/18 9:00 AM

TAB 38

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

February 06, 2018 09:00 AM Status Check: Status of Case / Delaware Proceedings

HEARD BY: Hardy, Joe COURTROOM: RJC Courtroom 03H

COURT CLERK: Duncan, Kristin

RECORDER: Yarbrough, Matt

REPORTER:

PARTIES PRESENT:

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

Daniel R. McNutt Attorney for Counter Defendant, Other
Plaintiff, Plaintiff

Maria Magali Mercera Attorney for Counter Claimant, Defendant

JOURNAL ENTRIES

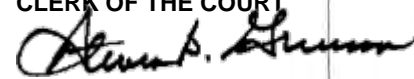
Present via CourtCall: Paul B. Sweeney, Esq. on behalf of Plaintiff / Counter Defendant Rowen Seibel; James Wilt, Esq. on behalf of Defendant Gordon Ramsay; and Kurt Heyman, Liquidating Trustee for GR BURGR, LLC.

Ms. Mercera stated that the parties were attempting to consolidate another case with the instant case; however, one half of a party had not agreed to sign the Stipulation and Order to Consolidate, which the other parties had already signed. Upon Court's inquiry, Ms. Mercera advised that the half of the entity refusing to sign, had not yet filed an Answer, and had only retained New York counsel as of the instant hearing. Upon Court's inquiry, counsel indicated there was no objection to the consolidation. COURT ORDERED the parties to provide it with the Stipulation and Order, including the signatures of all parties who had appeared in the case thus far.

Regarding moving forward with the case, Mr. Heyman represented that he had initial discussions with Caesar's regarding a potential resolution of the case, and would be having similar discussions with counsel for Defendant Ramsay and Plaintiff Seibel. Additionally, Mr. Heyman stated that he had been given an informal extension to February 15, 2018, for the filing of the Report and Recommendations, and to report back to the Delaware Court of Chancery; however, additional time may be required to complete those tasks. Colloquy regarding whether an additional status check should be set. Mr. McNutt advised that Motions to Dismiss would be filed subsequent to the consolidation of the cases, and the scheduling issues could be addressed during those Motion hearings. The Court noted that it appeared, given the circumstances of the case, that the current trial and discovery schedule would not work; however, it would leave the issue to counsel to work through. COURT ORDERED the status check was hereby CONTINUED.

CONTINUED TO: 4/3/18 9:00 AM

TAB 39



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

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;

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant,

Case No.: A-17-751759-B

Dept. No.: 15

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONSOLIDATE
CASE NO. A-17-760537-B WITH AND
INTO CASE NO. A-17-751759-B**

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

Plaintiffs,

v.

ROWEN SEIBEL; LLTQ ENTERPRISES,
LLC; LLTQ ENTERPRISES 16, LLC; FERG,
LLC; FERG 16, LLC; MOTI PARTNERS,
LLC; MOTI PARTNERS 16, LLC; TPOV

Case No.: A-17-⁷⁶⁰⁵³⁷~~751759~~-B
Dept. No.: 27

1 ENTERPRISES, LLC; TPOV 16
2 ENTERPRISES, LLC; DNT ACQUISITION,
3 LLC; GR BURGR, LLC; and J. JEFFREY
4 FREDERICK,

5 Defendants.

6 Parties Rowen Seibel, PHWLTV, LLC, Gordon Ramsay, GR Burgr LLC, Desert Palace, Inc.,
7 Paris Las Vegas Operating Company, LLC, Boardwalk Regency Corporation d/b/a Caesars Atlantic
8 City, LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC, FERG LLC, FERG 16, LLC, MOTI
9 Partners, LLC, MOTI Partners 16, LLC, TPOV Enterprises, LLC, TPOV 16 Enterprises, LLC, and
10 J. Jeffrey Frederick, by and through their undersigned counsel of record, hereby STIPULATE AND
11 AGREE, as follows:

12 1. Rowen Seibel ("Seibel") commenced Case No. A-17-751759-B by filing a complaint
13 on February 28, 2017 (the "First Action"). The First Action is pending in Department XV of the
14 Eighth Judicial District Court, Clark County, Nevada.

15 2. Desert Palace, Inc., Paris Las Vegas Operating Company, LLC, PHWLTV, LLC and
16 Boardwalk Regency Corporation d/b/a Caesars Atlantic City (collectively "Caesars") commenced
17 Case No. A-17-760537-B by filing a complaint on August 25, 2017 (the "Second Action"). The
18 Second Action is pending in Department XXVII of the Eighth Judicial District Court, Clark County,
19 Nevada.

20 3. The First Action and the Second Action involve some common questions of fact and
21 law. Accordingly, pursuant to NRCP 42(1), the Second Action should be consolidated with and into
22 the First Action.¹

23
24
25
26
27 ¹ Caesars provided DNT Acquisition, LLC until February 15, 2018 to respond to the Complaint
28 in the Second Action. As a result, DNT Acquisition, LLC has not yet appeared in the Second Action.
One member of DNT Acquisition, LLC is willing to enter into this Stipulation; one member is not.
Pursuant to this Court's direction at the status check on February 6, 2018, the undersigned parties
hereby submit this stipulation for consolidation.

1 DATED February 8, 2018

2 MCNUTT LAW FIRM, P.C.

3 /s/ Daniel R. McNutt

4 Daniel R. McNutt (SBN 7815)
5 Matthew C. Wolf (SBN 10801)
6 625 South Eighth Street
Las Vegas, Nevada 89101

7 *Attorneys for Plaintiff Rowen Seibel/
8 Defendants Rowen Seibel;
9 LLTQ Enterprises, LLC;
10 LLTQ Enterprises 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
11 MOTI Partners 16, LLC;
12 TPOV Enterprises, LLC;
13 and TPOV Enterprises 16, LLC*

11 DATED February 8, 2018

12 ATKINSON LAW ASSOCIATES LTD.

13 /s/ Robert. E. Atkinson

14 Robert E. Atkinson, Esq. (SBN 9958)
15 8965 S. Eastern Ave. Suite 260
Las Vegas, NV 89123

16 *Attorney for Defendant
17 J. Jeffrey Frederick*

18 DATED February 8, 2018

19 HEYMAN ENERIO GATTUSO &
20 HIRZEL LLP

21 /s/ Kurt Heyman

22 Kurt Heyman, Esq.
23 300 Delaware Ave., Suite 200
Wilmington, DE 19801

24 *Trustee of GR Burgr LLC*
25
26
27
28

DATED February 8, 2018

PISANELLI BICE PLLC

/s/ M. Magali Mercera

James Pisanelli, Esq., Bar No. 4027
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*Attorneys for Defendant PHWL, LLC/
Plaintiffs Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWL, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

DATED February 8, 2018

FENNEMORE CRAIG, P.C.

/s/ Allen Wilt

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Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

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

ORDER

IT IS HEREBY ORDERED that Case No. A-17-760537-B is hereby consolidated with and into Case No. A-17-751759-B.

DATED this 9th day of February, 2018.



THE HONORABLE JOE HARDY
EIGHTH JUDICIAL DISTRICT COURT

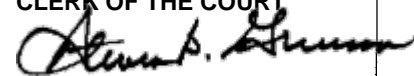
Respectfully submitted by:

PISANELLI BICE PLLC

By: /s/ M. Magali Mercera
James Pisanelli, Esq., Bar No. 4027
Debra Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
Brittnie Watkins, Esq., Bar No. 13612
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*Attorneys for Defendant PHWLTV, LLC/
Plaintiffs Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

TAB 40



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

**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;

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant,

Case No.: A-17-751759-B

Dept. No.: 15

**NOTICE OF ENTRY OF STIPULATION
AND ORDER TO CONSOLIDATE
CASE NO. A-17-760537-B WITH AND
INTO CASE NO. A-17-751759-B**

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

Plaintiffs,

v.

ROWEN SEIBEL; LLTQ ENTERPRISES,
LLC; LLTQ ENTERPRISES 16, LLC; FERG,
LLC; FERG 16, LLC; MOTI PARTNERS,
LLC; MOTI PARTNERS 16, LLC; TPOV

Case No.: A-17-760537-B

Dept. No.: 27

1 ENTERPRISES, LLC; TPOV 16
2 ENTERPRISES, LLC; DNT ACQUISITION,
3 LLC; GR BURGR, LLC; and J. JEFFREY
4 FREDERICK,

5 Defendants.

6 PLEASE TAKE NOTICE that a Stipulation and Order to Consolidate Case No. A-17-
7 760537-B with and into Case No. A-17-751759-B was entered in the above-captioned matters on
8 February 12, 2018, a true and correct copy of which is attached hereto.

9 DATED this 13th day of February 2018

10 PISANELLI BICE PLLC

11 By: 

12 James Pisanelli, Esq., Bar No. 4027
13 Debra Spinelli, Esq., Bar No. 9695
14 M. Magali Mercera, Esq., Bar No. 11742
15 Brittanie Watkins, Esq., Bar No. 13612
16 400 South 7th Street, Suite 300
17 Las Vegas, NV 89101

18 *Attorneys for Desert Palace, Inc.;*
19 *Paris Las Vegas Operating Company, LLC;*
20 *PHWL, LLC; and Boardwalk Regency*
21 *Corporation d/b/a Caesars Atlantic City*
22
23
24
25
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27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 13th day of February 2018, I caused to be served via the Court's electronic filing system and/or via U.S. Mail a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO CONSOLIDATE CASE NO. A-17-760537-B WITH AND INTO CASE NO. A-17-751759-B** to the following:

Daniel R. McNutt, Esq.
Matthew C. Wolf, Esq.
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625 South Eighth Street
Las Vegas, NV 89101
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mcw@mcnuttlawfirm.com

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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*

Attorney for J. Jeffrey Frederick

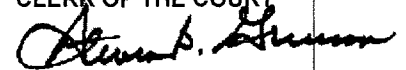
VIA U.S. MAIL:
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kheyman@hegh.law

Trustee of GR Burgr LLC



An employee of PISANELLI BICE PLLC

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Facsimile: 702.214.2101

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

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;

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant,

Case No.: A-17-751759-B

Dept. No.: 15

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONSOLIDATE
CASE NO. A-17-760537-B WITH AND
INTO CASE NO. A-17-751759-B**

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

Plaintiffs,

v.

ROWEN SEIBEL; LLTQ ENTERPRISES,
LLC; LLTQ ENTERPRISES 16, LLC; FERG,
LLC; FERG 16, LLC; MOTI PARTNERS,
LLC; MOTI PARTNERS 16, LLC; TPOV

⁷⁶⁰⁵³⁷
Case No.: A-17-~~751759~~-B
Dept. No.: 27

1 ENTERPRISES, LLC; TPOV 16
2 ENTERPRISES, LLC; DNT ACQUISITION,
3 LLC; GR BURGR, LLC; and J. JEFFREY
4 FREDERICK,

5 Defendants.

6 Parties Rowen Seibel, PHWLV, LLC, Gordon Ramsay, GR Burgr LLC, Desert Palace, Inc.,
7 Paris Las Vegas Operating Company, LLC, Boardwalk Regency Corporation d/b/a Caesars Atlantic
8 City, LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC, FERG LLC, FERG 16, LLC, MOTI
9 Partners, LLC, MOTI Partners 16, LLC, TPOV Enterprises, LLC, TPOV 16 Enterprises, LLC, and
10 J. Jeffrey Frederick, by and through their undersigned counsel of record, hereby STIPULATE AND
11 AGREE, as follows:

12 1. Rowen Seibel ("Seibel") commenced Case No. A-17-751759-B by filing a complaint
13 on February 28, 2017 (the "First Action"). The First Action is pending in Department XV of the
14 Eighth Judicial District Court, Clark County, Nevada.

15 2. Desert Palace, Inc., Paris Las Vegas Operating Company, LLC, PHWLV, LLC and
16 Boardwalk Regency Corporation d/b/a Caesars Atlantic City (collectively "Caesars") commenced
17 Case No. A-17-760537-B by filing a complaint on August 25, 2017 (the "Second Action"). The
18 Second Action is pending in Department XXVII of the Eighth Judicial District Court, Clark County,
19 Nevada.

20 3. The First Action and the Second Action involve some common questions of fact and
21 law. Accordingly, pursuant to NRCP 42(1), the Second Action should be consolidated with and into
22 the First Action.¹

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27 ¹ Caesars provided DNT Acquisition, LLC until February 15, 2018 to respond to the Complaint
28 in the Second Action. As a result, DNT Acquisition, LLC has not yet appeared in the Second Action.
One member of DNT Acquisition, LLC is willing to enter into this Stipulation; one member is not.
Pursuant to this Court's direction at the status check on February 6, 2018, the undersigned parties
hereby submit this stipulation for consolidation.

1 DATED February 8, 2018

2 MCNUTT LAW FIRM, P.C.

3 /s/ Daniel R. McNutt

4 Daniel R. McNutt (SBN 7815)
5 Matthew C. Wolf (SBN 10801)
6 625 South Eighth Street
7 Las Vegas, Nevada 89101

8 *Attorneys for Plaintiff Rowen Seibel/
9 Defendants Rowen Seibel;
10 LLTQ Enterprises, LLC;
11 LLTQ Enterprises 16, LLC; FERG, LLC;
12 FERG 16, LLC; MOTI Partners, LLC;
13 MOTI Partners 16, LLC;
14 TPOV Enterprises, LLC;
15 and TPOV Enterprises 16, LLC*

11 DATED February 8, 2018

12 ATKINSON LAW ASSOCIATES LTD.

13 /s/ Robert. E. Atkinson

14 Robert E. Atkinson, Esq. (SBN 9958)
15 8965 S. Eastern Ave. Suite 260
16 Las Vegas, NV 89123

17 *Attorney for Defendant
18 J. Jeffrey Frederick*

18 DATED February 8, 2018

19 HEYMAN ENERIO GATTUSO &
20 HIRZEL LLP

21 /s/ Kurt Heyman

22 Kurt Heyman, Esq.
23 300 Delaware Ave., Suite 200
24 Wilmington, DE 19801

25 *Trustee of GR Burgr LLC*

DATED February 8, 2018

PISANELLI BICE PLLC

/s/ M. Magali Mercera

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

DATED February 8, 2018

FENNEMORE CRAIG, P.C.

/s/ Allen Wilt

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FENNEMORE CRAIG, P.C.
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Reno, NV 89501


Attorneys for Defendant Gordon Ramsay

PISANELLI BICE PLLC
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LAS VEGAS, NEVADA 89101

ORDER

IT IS HEREBY ORDERED that Case No. A-17-760537-B is hereby consolidated with and into Case No. A-17-751759-B.

DATED this 9th day of February, 2018.



THE HONORABLE JOE HARDY
EIGHTH JUDICIAL DISTRICT COURT

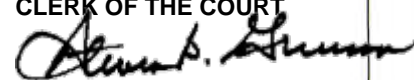
Respectfully submitted by:

PISANELLI BICE PLLC

By: /s/ M. Magali Mercera
James Pisanelli, Esq., Bar No. 4027
Debra Spinelli, Esq., Bar No. 9695
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*Attorneys for Defendant PHWLTV, LLC/
Plaintiffs Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

TAB 41



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Counsel for Defendant PHWLTV, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Case No.: A-17-751759-B

Dept. No.: XV

Plaintiff,

vs.

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

**ORDER VACATING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Defendants,

and

GR BURGR, LLC, a Delaware limited liability
company,

Date of Hearing: November 7, 2017

Time of Hearing: 9:00 a.m.

Nominal Defendant.

Plaintiff Rowen Seibel's ("Seibel") Motion for Partial Summary Judgment Concerning
(1) the Payment of the License Fee Through March 31, 2017, and (2) The Breach of § 14.21 of
the Development Agreement (the "Motion"), dated September 18, 2017, came on before this
Court on November 7, 2017. James J. Pisanelli, Esq. and Brittnie T. Watkins, Esq., of
PISANELLI BICE PLLC, appeared on behalf of Defendant PHWLTV, LLC ("Planet Hollywood").
Allen J. Wilt, Esq. of FENNEMORE CRAIG, PC, appeared on behalf of Defendant Gordon Ramsay
("Ramsay"). Paul B. Sweeney, Esq. of CERTILMAN BALIN ADLER & HYMAN, LLP, and
Matthew C. Wolf, Esq., of McNUTT LAW FIRM, PC appeared on behalf of Seibel.

1 The Court having considered the Motion, Planet Hollywood's Opposition, Ramsay's
2 Opposition, the Reply, and arguments of counsel, continued the hearing due to its concerns with
3 Seibel's ability to pursue claims derivatively on behalf of GR BURGR, LLC. The Court set the
4 matter for a status check on December 5, 2017, at 9:00 a.m.

5 At the December 5, 2017 status check hearing, M. Magali Mercera, Esq. and Brittanie T.
6 Watkins, Esq., of PISANELLI BICE PLLC, appeared on behalf of Planet Hollywood. Allen J.
7 Wilt, Esq. of FENNEMORE CRAIG, PC, appeared telephonically on behalf of Ramsay. Dan
8 McNutt, Esq., of McNUTT LAW FIRM, PC appeared on behalf of Seibel. Paul B. Sweeney, Esq. of
9 CERTILMAN BALIN ADLER & HYMAN, LLP, appeared telephonically on behalf of Seibel.

10 The Court having received status updates from counsel, counsel having represented to the
11 Court that the liquidating trustee verbally accepted appointment, and good cause appearing
12 therefor,

13 THE COURT FINDS that to pursue the Motion, the Motion must be re-filed rather than
14 re-noticed.

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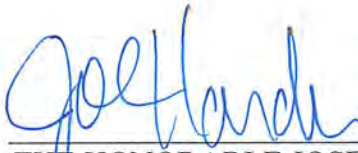
26

27

28

1 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Seibel's
2 Motion is Vacated.

3 DATED this 7th day of March 2018.


THE HONORABLE JOSEPH HARDY
EIGHTH JUDICIAL DISTRICT COURT

6 Respectfully submitted by:

Approved as to form by:

8 DATED: March 6, 2018

DATED March 6, 2018

9 PISANELLI BICE PLLC

MCNUTT LAW FIRM, P.C.

10 By: /s/ Brittanie T. Watkins

By: /s/ Daniel R. McNutt

11 James J. Pisanelli, Esq., #4027
12 Debra L. Spinelli, Esq., #9695
13 M. Magali Mercera, Esq. #11742
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Daniel R. McNutt (SBN 7815)
Matthew C. Wolf (SBN 10801)
625 South Eighth Street
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and

17 *Counsel for Defendant PHWLTV, LLC*

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East Meadow, NY 11554

Attorneys for Plaintiff Rowen Seibel

18 Approved as to form by:

19 DATED March 6, 2018

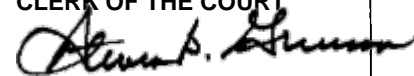
20 FENNEMORE CRAIG, P.C.

21 By: /s/ Allen Wilt

22 Allen Wilt, Esq. (SBN 4798)
23 John Tennert, Esq. (SBN 11728)
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25 Reno, NV 89501

26 *Attorneys for Defendant Gordon Ramsay*

TAB 42



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

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759

Dept. No.: XV

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF ORDER
VACATING PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

AND ALL RELATED MATTERS

///

1 PLEASE TAKE NOTICE that an *Order Vacating Plaintiff's Motion for Partial Summary*
2 *Judgment* was entered in the above-captioned matter on March 7, 2018, a true and correct copy of
3 which is attached hereto.

4 DATED this 8th day of March 2018.

5 PISANELLI BICE PLLC

6
7 By: 

8 James J. Pisanelli, Esq., #4027
9 Debra L. Spinelli, Esq., #9695
10 M. Magali Mercera, Esq., #11742
11 Brittanie T. Watkins, Esq., #13612
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13 Las Vegas, Nevada 89101

14 *Attorneys for Desert Palace, Inc.;*
15 *Paris Las Vegas Operating Company, LLC;*
16 *PHWL, LLC; and Boardwalk Regency*
17 *Corporation d/b/a Caesars Atlantic City*
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PISANELLI BICE
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 8 day of March 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 **NOTICE OF ENTRY OF ORDER VACATING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** to the following:

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625 South Eighth Street
Las Vegas, NV 89101

Paul Sweeney
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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*

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Attorneys for Gordon Ramsay

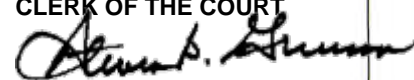
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Las Vegas, NV 89123

Attorneys for J. Jeffrey Frederick

VIA U.S. MAIL
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Wilmington, DE 19801

Trustee for GR Burgr, LLC


An employee of PISANELLI BICE PLLC



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Telephone: 702.214.2100

Counsel for Defendant PHWLTV, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Case No.: A-17-751759-B

Dept. No.: XV

Plaintiff,

vs.

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

**ORDER VACATING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Defendants,

and

GR BURGR, LLC, a Delaware limited liability
company,

Date of Hearing: November 7, 2017

Time of Hearing: 9:00 a.m.

Nominal Defendant.

Plaintiff Rowen Seibel's ("Seibel") Motion for Partial Summary Judgment Concerning
(1) the Payment of the License Fee Through March 31, 2017, and (2) The Breach of § 14.21 of
the Development Agreement (the "Motion"), dated September 18, 2017, came on before this
Court on November 7, 2017. James J. Pisanelli, Esq. and Brittnie T. Watkins, Esq., of
PISANELLI BICE PLLC, appeared on behalf of Defendant PHWLTV, LLC ("Planet Hollywood").
Allen J. Wilt, Esq. of FENNEMORE CRAIG, PC, appeared on behalf of Defendant Gordon Ramsay
("Ramsay"). Paul B. Sweeney, Esq. of CERTILMAN BALIN ADLER & HYMAN, LLP, and
Matthew C. Wolf, Esq., of McNUTT LAW FIRM, PC appeared on behalf of Seibel.

1 The Court having considered the Motion, Planet Hollywood's Opposition, Ramsay's
2 Opposition, the Reply, and arguments of counsel, continued the hearing due to its concerns with
3 Seibel's ability to pursue claims derivatively on behalf of GR BURGR, LLC. The Court set the
4 matter for a status check on December 5, 2017, at 9:00 a.m.

5 At the December 5, 2017 status check hearing, M. Magali Mercera, Esq. and Brittanie T.
6 Watkins, Esq., of PISANELLI BICE PLLC, appeared on behalf of Planet Hollywood. Allen J.
7 Wilt, Esq. of FENNEMORE CRAIG, PC, appeared telephonically on behalf of Ramsay. Dan
8 McNutt, Esq., of MCNUTT LAW FIRM, PC appeared on behalf of Seibel. Paul B. Sweeney, Esq. of
9 CERTILMAN BALIN ADLER & HYMAN, LLP, appeared telephonically on behalf of Seibel.

10 The Court having received status updates from counsel, counsel having represented to the
11 Court that the liquidating trustee verbally accepted appointment, and good cause appearing
12 therefor,

13 THE COURT FINDS that to pursue the Motion, the Motion must be re-filed rather than
14 re-noticed.

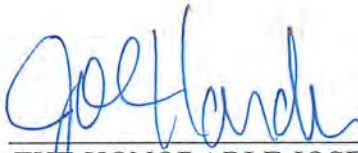
15 ///

16 ///

17 ///

1 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Seibel's
2 Motion is Vacated.

3 DATED this 7th day of March 2018.


THE HONORABLE JOSEPH HARDY
EIGHTH JUDICIAL DISTRICT COURT

6 Respectfully submitted by:

Approved as to form by:

8 DATED: March 6, 2018

DATED March 6, 2018

9 PISANELLI BICE PLLC

MCNUTT LAW FIRM, P.C.

10 By: /s/ Brittanie T. Watkins

By: /s/ Daniel R. McNutt

11 James J. Pisanelli, Esq., #4027
12 Debra L. Spinelli, Esq., #9695
13 M. Magali Mercera, Esq. #11742
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Daniel R. McNutt (SBN 7815)
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and

17 *Counsel for Defendant PHWLTV, LLC*

Paul B. Sweeney, Esq.
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HYMAN, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

Attorneys for Plaintiff Rowen Seibel

18 Approved as to form by:

19 DATED March 6, 2018

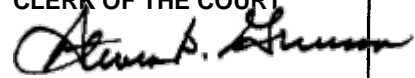
20 FENNEMORE CRAIG, P.C.

21 By: /s/ Allen Wilt

22 Allen Wilt, Esq. (SBN 4798)
23 John Tennert, Esq. (SBN 11728)
24 300 East 2nd Street, Suite 1510
25 Reno, NV 89501

26 *Attorneys for Defendant Gordon Ramsay*

TAB 43



BCO

DISTRICT COURT

CLARK COUNTY, NEVADA

DESERT PALACE, INC.;
PARIS LAS VEGAS OPERATING)
COMPANY, LLC; PHWLTV, LLC; and)
ROWEN SEIBEL, an individual and citizen of New)
York, derivatively on behalf of Real Party of)
Interest GR BURGR LLC, a Delaware limited) CASE NO.: A-17-751759-B
liability company,) DEPT. NO.: XVI

Plaintiff,

Hearing Date: **September 11, 2018**

Hearing Time: **10:30 am**

v.

PHWLTV, LLC, a Nevada limited liability company;)
GORDON RAMSAY, an individual; DOES I) Consolidated With
through X; ROE CORPORATIONS I through X,)
Defendants) Case No.: A-17-760537-B

AND ALL RELATED MATTERS.

BUSINESS COURT ORDER

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

ACCORDINGLY, IT IS HEREBY ORDERED:

I. Mandatory Rule 16 Conference

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

1 Avenue, Las Vegas, Nevada 89155, unless before then the record shows that this case is in the
2 Court-Annexed Arbitration Program.

3 B. If the parties hold an Early Case Conference and prepare a Joint Case Conference
4 Report prior to the date and time set for the mandatory case management conference, a
5 courtesy copy of the parties' Joint Case Conference Report shall be submitted directly to the
6 District Court Judge in lieu of the Discovery Commissioner.
7

8 C. The purpose of this case management conference is to expedite settlement or other
9 appropriate disposition of the case. Counsel/parties in proper person must be prepared to
10 discuss the following:

- 11 (1) Status of settlement discussions and a review of possible court assistance;
- 12 (2) Alternative dispute resolution, if any, appropriate to this case;
- 13 (3) Simplification of issues;
- 14 (4) A summary of discovery conducted to date and the nature and timing of all
15 remaining discovery;
- 16 (5) Whether the parties believe an Electronic Filing and Service Order should be
17 entered;
- 18 (6) An estimate of the volume of documents and/or electronic information likely
19 to be the subject of discovery in the case from parties and nonparties and whether there are
20 technological means, including, but not limited to, production of electronic images rather than
21 paper documents and any associated protocol, that may render document discovery more
22 manageable at an acceptable cost;
- 23 (7) Identification of any and all document retention/destruction policies including
24 electronic data, and whether a demand for presentation of electronic data has been made;
- 25 (8) The extent to which electronic discovery may be relevant to the case, to
26
27
28

1 include scope, presentation, collection, review, format, search procedures and privilege;

2 (9) Whether the appointment of a special master or receiver is necessary and/or
3 may aid in the prompt disposition of this action;

4 (10) Any special case management procedures appropriate to this case;

5 (11) Trial setting; and

6 (12) Other matters as may aid in the prompt disposition of this action.

7
8 D. Trial or lead counsel for all parties are required to attend the case management
9 conference unless excused by the Court.

10 E. Parties desiring a settlement conference shall so notify the Court at the setting.

11 F. **Plaintiff is responsible for serving a copy of this Order upon counsel for all**
12 **parties who have not formally appeared in this case as of the date of the filing of this**
13 **order.**

14
15 **II. Pretrial Motions**

16 A. Any requests for injunctive relief must be made with notice to the opposing party
17 unless extraordinary circumstances exist. All parties shall advise the Court in writing if there
18 is an agreement to consolidate the trial on the merits with the preliminary injunction hearing
19 pursuant to NRCP 65(a)(2).

20
21 B. With the exception of motions in limine (see below), any motions which should
22 be addressed prior to trial – including, without limitation, motions for summary judgment –
23 shall be served, filed and scheduled for hearing as set forth in the applicable Trial Order.
24 Except upon a showing of unforeseen extraordinary circumstances, the Court will not shorten
25 time for the hearing of any such motions.

26
27 C. Motions in limine shall be served, filed and scheduled as set forth in the Trial
28 Order. Except upon a showing of unforeseen extraordinary circumstances, the Court will not

1 shorten time for the hearing of any such motions.

2 **III. Discovery**

3 A. Discovery disputes in this matter shall be handled by the District Court Judge
4 rather than the Discovery Commissioner.

5 B. A continuance of trial does not extend the deadline for completing discovery. A
6 request for an extension of the discovery deadline, if needed, must be presented in compliance
7 with EDCR 2.35.

8 C. A party objecting to a written discovery request must, in the original objection,
9 specifically detail the reasons that support the objection, and include affidavits or other
10 evidence for any factual assertions upon which an objection is based.

11 D. Documents produced in compliance with NRCP 16.1 or in a response to a written
12 discovery request, must be consecutively Bates stamped or numbered and accompanied by an
13 index with a reasonably specific description of the documents.

14 E. Any party, whether in compliance with NRCP 16.1 or in a response to a written
15 discovery request not producing all documents in its possession, custody or control, shall:

16 (1) identify any documents withheld with sufficient particularity to support a
17 Motion to Compel; and

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

19 F. If photographs are produced in compliance with NRCP 16.1 or in a response to a
20 written discovery request, the parties are instructed to include one (1) set of color prints (Color
21 laser copies of sufficient clarity are acceptable), accompanied by a front page index, location
22 depicted in the photograph (with reasonable specificity) and the date the photograph was
23 taken. If color laser copies are deposited, any party wishing to view the original photographs
24 shall make a request to do so with the other party.
25
26
27
28

1 When a case is settled, counsel for the plaintiff and each unrepresented plaintiff of record
2 shall notify the District Court Judge in writing within twenty-four (24) hours of the settlement and
3 shall advise the Court of the identity of the party or parties who will prepare and present the
4 judgment, dismissal, or stipulation of dismissal, which shall be presented within twenty (20) days
5 of the notification of settlement.

6 Failure to comply with any provision of this Order may result in the imposition of
7 sanctions.
8

9 DATED: August 16, 2018.

10 
11 TIMOTHY C. WILLIAMS
12 District Court Judge

13 **CERTIFICATE OF SERVICE**

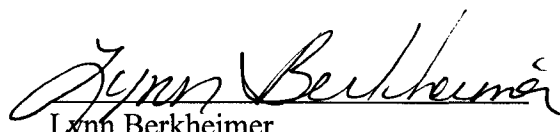
14
15 I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS**
16 **COURT ORDER** was E-Served to the following parties registered with Odyssey File &
17 Serve as follows:

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

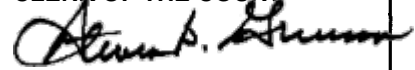
1 Brittnie T. Watkins . btw@pisanellibice.com
2 Dan McNutt . drm@cmlawnv.com
3 Debra L. Spinelli . dls@pisanellibice.com
4 Diana Barton . db@pisanellibice.com
5 Lisa Anne Heller . lah@cmlawnv.com
6 Matt Wolf . mcw@cmlawnv.com
7 Meg Byrd . mbyrd@fclaw.com
8 PB Lit . lit@pisanellibice.com
9 Steven Chaiken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

21 
22 Lynn Berkheimer
23 Judicial Executive Assistant
24
25
26
27
28

TAB 44



OSCJC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants.

and

GR BURGER LLC, a Delaware limited
liability company,

Nominal Plaintiff

AND ALL RELATED CLAIMS

Case No. A-17-751759-B

Dept No. XVI

CONSOLIDATED WITH:

Case No.: A-17-760537-B

ENTERED

BUSINESS COURT SCHEDULING ORDER SETTING

CIVIL JURY TRIAL AND PRE-TRIAL CONFERENCE/CALENDAR CALL

This BUSINESS COURT SCHEDULING ORDER SETTING TRIAL ("Scheduling Order") is entered following the Rule 16 conference conducted on October 23, 2018. Pursuant to NRCP 16.1(f) this case has been deemed complex and all discovery disputes will be resolved by this Court. Based upon the information presented at the conference and the agreement of the parties, EDCR Rule 2.55 is superseded by this Scheduling Order. This

TIMOTHY C. WILLIAMS
DISTRICT JUDGE

DEPARTMENT SIXTEEN
LAS VEGAS NV 89155

AA01622

1 Order may be amended or modified by the Court upon good cause shown.

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

3 Motions to amend pleadings or add parties **February 4, 2019**

4 Designation of experts pursuant to NRCP 16.1(a)(2) **February 4, 2019**

5 Designation of rebuttal experts pursuant to NRCP 16.1(a)(2) **March 4, 2019**

6 Discovery Cut Off **May 6, 2019**

7 Motions in Limine or other Dispositive Motions **June 3, 2019**

8
9
10 **IT IS HEREBY ORDERED** that based on the discussions at the Rule 16 Conference, the
11 depositions will have a seven (7) hour limitation, unless the parties stipulate otherwise.

12 **IT IS HEREBY ORDERED** that a Status Check re status of case/Proposed Trial
13 Protocol/Electronically Stored Information has been set for **February 28, 2019 at 9:00 a.m.**

14
15 **IT IS HEREBY ORDERED THAT:**

16 A. The above entitled case is set to be tried to a jury on a five week stack to begin
17 **October 14, 2019 at 9:30 a.m.**

18 B. A calendar call will be held on **October 3, 2019 at 10:30 a.m.** Parties must bring to
19 Calendar Call the following:

- 20 (1) Typed exhibit lists;
21 (2) List of depositions;
22 (3) Courtesy copies of any legal briefs on trial issues.

23 The Final Pretrial Conference may be set at the time of the Calendar Call.

24 C. The Pre-Trial Memorandum must be filed no later than **October 1, 2019** with a
25 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
26 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
27 in the Memorandum an identification of orders on all motions in limine or motions for partial
28

1 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
2 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
3 as any objections to the opinion testimony.

4 D. All motions in limine must be in writing and filed no later than **June 3, 2019**.

5 **Orders shortening time will not be signed except in extreme emergencies.**

6
7 E. All original depositions anticipated to be used in any manner during the trial must be
8 delivered to the clerk prior to the final Pre-Trial Conference. If deposition testimony is anticipated
9 to be used in lieu of live testimony, a designation (by page/line citation) of the portions of the
10 testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days prior to
11 the final Pre-Trial Conference. Any objections or counter-designations (by page/line citation) of
12 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the final Pre-
13 Trial Conference commencement. Counsel shall advise the clerk prior to publication.

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

23
24 G. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
25 included in the Jury Notebook. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel
26 shall be prepared to stipulate or make specific objections to items to be included in the Jury
27 Notebook.
28

1 H. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
2 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
3 provide the Court, at the final Pre-Trial Conference, an agreed set of jury instructions and proposed
4 form of verdict along with any additional proposed jury instructions with an electronic copy in Word
5 format.


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

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

14
15 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if*
16 *they are going to require daily copies of the transcripts of this trial or real time court*
17 *reporting. Failure to do so may result in a delay in the production of the transcripts or the*
18 *availability of real time court reporting.*
19

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

24
25 DATED: October 31, 2018.

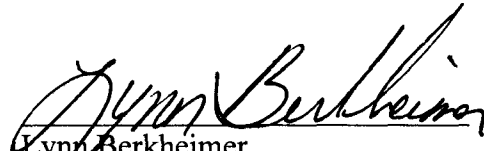
26
27 
28 TIMOTHY C. WILLIAMS
District Court Judge

1
2 **CERTIFICATE OF SERVICE**
3

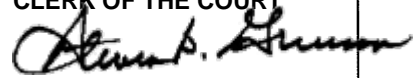
4 I hereby certify that on or about the date filed, a copy of the foregoing **BUSINESS**
5 **COURT SCHEDULING ORDER SETTING CIVIL JURY TRIAL AND PRE-TRIAL**
6 **CONFERENCE/CALENDAR CALL** was E-Served, mailed or a copy was placed in the
7 attorney's folder in the Clerk's Office as follows:
8

9 William E Arnault	warnault@kirkland.com
10 Magali Mercera	mmm@pisanellibice.com
11 Cinda Towne	cct@pisanellibice.com
12 Jeffrey J Zeiger	jzeiger@kirkland.com
13 Paul Sweeney	PSweeney@certilmanbalin.com
14 Robert Atkinson	robert@nv-lawfirm.com
15 Litigation Paralegal	bknotices@nv-lawfirm.com
16 "James J. Pisanelli, Esq." .	lit@pisanellibice.com
17 "John Tennert, Esq." .	jtennert@fclaw.com
18 Allen Wilt .	awilt@fclaw.com
19 Brittnie T. Watkins .	btw@pisanellibice.com
20 Dan McNutt .	drm@cmlawnv.com
21 Debra L. Spinelli .	dls@pisanellibice.com
22 Diana Barton .	db@pisanellibice.com
23 Lisa Anne Heller .	lah@cmlawnv.com
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Lynn Berkheimer
Judicial Executive Assistant

TAB 45



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300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

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

COME NOW, PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris") and Boardwalk Regency Corporation, d/b/a Caesars Atlantic City ("CAC" and collectively with Caesars Palace, Paris and Planet Hollywood, "Caesars"); Rowen Seibel ("Seibel"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), TPOV Enterprises, LLC ("TPOV"), TPOV 16 Enterprises, LLC ("TPOV 16") and DNT Acquisition, LLC ("DNT") (collectively the "Seibel Entities"); Gordon Ramsay ("Ramsay"), GR Burgr LLC ("GR Burgr"), Jeffrey Frederick ("Frederick") and Old Homestead Restaurant, Inc. ("OHR"); by and through their undersigned counsel of record, hereby enter into this Stipulated Confidentiality Agreement and Protective Order pursuant to NRCP 26(c) and NRCP 29. Planet Hollywood, Caesars Palace, Paris, CAC, Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16, TPOV, TPOV 16, DNT, GR Burgr, Frederick, and OHR are collectively referred to as the "Parties" in this Stipulation and individually as "Party."

Whereas, the Parties desire to produce certain documents or other material which may contain proprietary and/or confidential information, it is hereby stipulated and agreed, by and between the Parties hereto, through their respective counsel of record, that:

1. **Applicability of this Protective Order:** Subject to Section 2 below, this Protective Order does not and will not govern any trial proceedings in this action, but will otherwise be applicable to and govern the handling and production of documents, depositions, deposition exhibits, interrogatory responses, responses to requests for admissions, responses to requests for production of documents, and all other discovery obtained pursuant to Nevada Rules of Civil Procedure or other legal process by or from, or produced on behalf of, a Party or witness in connection with this action. Such information hereinafter shall be referred to as "Discovery Material." Additionally, as used herein, "Producing Party" or "Disclosing Party" shall refer to the Parties and non-parties that give testimony or produce documents or other information in connection with this action; "Receiving Party" shall refer to the Parties in this action that receive such information; and "Authorized Recipient" shall refer to any person or entity authorized by Sections 12 and 13 of this Protective Order to obtain access to Confidential Information, Highly Confidential Information, or the contents

1 of such Discovery Material. Discovery Material produced in accordance with this Stipulation may
2 be used in other actions as permitted by the Global Agreement for the Utilization of Discovery
3 Across Cases entered into between the Parties (the "Global Utilization Agreement").

4 2. **No Waiver.** This Protective Order is entered solely for the purpose of facilitating the
5 exchange of documents and information among the Parties to this action without involving the Court
6 unnecessarily in the process. Nothing in this Protective Order, nor the production of any information
7 or document under the terms of this Protective Order, nor any proceedings pursuant to this Protective
8 Order, shall be deemed to be a waiver of any rights or objections to challenge the authenticity or
9 admissibility of any document, testimony, or other evidence at trial. Additionally, this Protective
10 Order will not prejudice the right of any party or non-party to oppose production of any information
11 on the ground of attorney-client privilege, work product doctrine, or any other privilege or protection
12 provided under the law.

13 3. **Designation of Information:** Any Producing Party may designate Discovery
14 Material that is in its possession, custody, or control produced to a Receiving Party as "Confidential"
15 or "Highly Confidential" under the terms of this Protective Order, but only if the Producing Party in
16 good faith reasonably believes that such Discovery Material contains non-public, confidential
17 information as defined in Sections 5 and 6 below.

18 4. **Exercise of Restraint and Care in Designating Material for Protection:** Each
19 Producing Party that designates information or items for protection under this Protective Order must
20 take care to limit any such designation to specific material that qualifies under the appropriate
21 standards. Indiscriminate designations are prohibited.

22 5. **Confidential Information:** For purposes of this Protective Order, "Confidential
23 Information" means all information that constitutes, reflects, or discloses non-public information,
24 trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential
25 business, marketing, regulatory, or strategic information (regarding business plans or strategies,
26 technical data, and non-public designs), the disclosure of which the Producing Party believes in good
27 faith might reasonably result in economic, competitive or business injury to the Producing Party (or
28 its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from

1 an inspection of publicly available sources, documents, material, or devices. "Confidential
2 Information" shall also include sensitive personal information that is not otherwise publicly
3 available, such as home addresses; social security numbers; dates of birth; employment personnel
4 files; medical information; home telephone records/numbers; employee disciplinary records; court
5 documents sealed by another court or designated Confidential by agreement of the Parties in another
6 matter; wage statements or earnings statements; employee benefits data; tax records; and other
7 similar personal financial information. A Party may also designate as "CONFIDENTIAL"
8 compilations of publicly available discovery materials, which would not be known publicly in a
9 compiled form and the disclosure of which the Producing Party believes in good faith might
10 reasonably result in economic, competitive or business injury to the Producing Party.

11 **6. Highly Confidential Information:** For purposes of this Protective Order, "Highly
12 Confidential Information" is any Confidential Information as defined in Section 5 above that also
13 includes (a) extremely sensitive, highly confidential, non-public information, consisting either of
14 trade secrets or proprietary or other highly confidential business, financial, regulatory, private, or
15 strategic information (including information regarding business plans, technical data, and non-public
16 designs), the disclosure of which would create a substantial risk of competitive, business, or personal
17 injury to the Producing Party, and/or (b) non-public documents or information reflecting the
18 substance of conduct or communications that are the subject of then ongoing state, federal, or foreign
19 government investigations. Certain Confidential Information may compel alternative or additional
20 protections beyond those afforded Highly Confidential Information, in which event the Parties shall
21 meet and confer in good faith, and, if unsuccessful, the Party seeking any greater protection shall
22 move the Court for appropriate relief. A Party may re-designate material originally
23 "CONFIDENTIAL" as "HIGHLY CONFIDENTIAL" by giving notice of such a re-designation to
24 all Parties.

25 **7. Designating Confidential Information or Highly Confidential Information.** If
26 any Party in this action determines in good faith that any information, documents, things, or
27 responses produced in the course of discovery in this action should be designated as Confidential
28 Information or Highly Confidential Information (the "Designating Party"), it shall advise any Party

1 receiving such material of this fact, and all copies of such documents, things, or responses, or
2 portions thereof deemed to be confidential shall be marked "CONFIDENTIAL" or "HIGHLY
3 CONFIDENTIAL" (whether produced in hard copy or electronic form) at the expense of the
4 Designating Party and treated as such by all Parties. A Designating Party may inform another Party
5 that a document is Confidential or Highly Confidential by providing the Bates number of the
6 document in writing. If Confidential or Highly Confidential Information is produced via an
7 electronic form on a computer readable medium (e.g., CD-ROM), other digital storage medium, or
8 via Internet transmission, the Producing Party or Designating Party shall affix in a prominent place
9 on the storage medium or container file on which the information is stored, and on any container(s)
10 for such medium, the legend "Includes CONFIDENTIAL INFORMATION" or "Includes HIGHLY
11 CONFIDENTIAL INFORMATION." Nothing in this section shall extend confidentiality or the
12 protections associated therewith to any information that does not otherwise constitute "Confidential
13 Information" or "Highly Confidential Information" as defined in Sections 5 and 6 herein.

14 **8. Redaction Allowed:** Any Producing Party may redact from the documents or things
15 it produces matter that the Producing Party reasonably claims in good faith is subject to the attorney-
16 client privilege, the work product doctrine, a legal prohibition against disclosure, or any other
17 privilege from disclosure. Any Producing Party also may redact information that is both personal
18 and non-responsive, such as a social security number. A Producing Party may not withhold non-
19 privileged, responsive information solely on the grounds that such information is contained in a
20 document that includes privileged information. The Producing Party shall mark each redaction with
21 a legend stating "REDACTED," and include an annotation indicating the specific reason for the
22 redaction (e.g., "REDACTED—Work Product"). All documents redacted based on attorney client
23 privilege or work product immunity shall be listed in an appropriate log in conformity with Nevada
24 law and Nevada Rule of Civil Procedure 26(b)(5). Where a document consists of more than one
25 page, the page on which information has been redacted shall so be marked. The Producing Party
26 shall preserve an unredacted version of such document.

27 **9. Use of Confidential Information or Highly Confidential Information.** Except as
28 provided herein, Confidential Information and Highly Confidential Information designated or

1 marked shall be maintained in confidence, used solely for the purposes of this action (except as
2 permitted by the Global Utilization Agreement), and to the extent not otherwise prohibited by an
3 Order of the Court, shall be disclosed to no one except those persons identified herein in Sections
4 12 and 13, and shall be handled in such manner until such designation is removed by the Designating
5 Party, or by Order of the Court. Confidential or Highly Confidential information produced by
6 another Party shall not be used by any Receiving Party for any commercial, competitive or personal
7 purpose. Nothing in this Protective Order shall govern or restrict a Producing Party's use of its own
8 Confidential or Highly Confidential Information in any way.

9 10. Once the Court enters this Protective Order, a Party shall have forty-five (45) calendar
10 days to designate as Confidential or Highly Confidential any documents previously produced in this
11 action, which it can do by stamping "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on the
12 document, or informing the other Parties of the Bates numbers of the documents so designated.

13 11. **Use of Confidential Information and Highly Confidential Information in**
14 **Depositions.** Counsel for any Party shall have the right to disclose Confidential or Highly
15 Confidential Information at depositions, provided that such disclosure is consistent with this
16 Protective Order, including Sections 12 and 13 hereof. Any counsel of record may request that all
17 persons not entitled under Sections 12 or 13 of this Protective Order to have access to Confidential
18 Information or Highly Confidential Information, leave the deposition room during the confidential
19 portion of the deposition. Failure of such persons to comply with a request to leave the deposition
20 room shall constitute substantial justification for counsel to advise the witness that the witness need
21 not answer the question where the answer would disclose Confidential Information or Highly
22 Confidential Information. Additionally, at any deposition session: (1) upon inquiry with regard to
23 the content of any discovery material(s) designated or marked as "CONFIDENTIAL" or "HIGHLY
24 CONFIDENTIAL;" (2) whenever counsel for a party deems that the answer to a question may result
25 in the disclosure or revelation of Confidential or Highly Confidential Information; and/or (3)
26 whenever counsel for a Party deems that the answer to any question has resulted in the disclosure or
27 revelation of Confidential or Highly Confidential Information, counsel to any Party may designate
28 those portions of a deposition transcript and/or video of any deposition (or any other testimony) as

1 containing Confidential or Highly Confidential Information in accordance with this Order, either by
2 placing a statement on the record during the deposition, or by notifying all other Parties in writing
3 within thirty (30) calendar days of receiving the transcript or video that it contains Confidential or
4 Highly Confidential Information and designating the specific pages, lines, and/or counter numbers
5 as containing Confidential or Highly Confidential Information. If a designation is made via a
6 statement on the record during a deposition, counsel must follow-up in writing within thirty (30)
7 calendar days of receiving the transcript or video, identifying the specific pages, lines, and/or counter
8 numbers containing the Confidential or Highly Confidential Information. If no confidentiality
9 designations are made within said thirty (30) day period, the entire transcript shall be considered
10 non-confidential. During the thirty (30) day period, the entire transcript and video shall be treated
11 as Highly Confidential Information. All originals and copies of deposition transcripts that contain
12 Confidential Information or Highly Confidential Information shall be prominently marked
13 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL " on the cover thereof and, if and when filed
14 with the Court, the portions of such transcript so designated shall be filed under seal. Counsel must
15 designate portions of a deposition transcript as "CONFIDENTIAL" or "HIGHLY
16 CONFIDENTIAL" within thirty (30) calendar days of receiving the transcript. Any DVD or other
17 digital storage medium containing Confidential or Highly Confidential deposition testimony shall
18 be labeled in accordance with the provisions of Section 7.

19 **12. Persons Authorized to Receive Confidential Information.** Confidential
20 Information produced pursuant to this Protective Order may be disclosed or made available only to
21 the Court, its employees, other court personnel, any discovery referee, mediator or other official who
22 may be appointed by the Court, and to the persons below:

23 (a) A Party, or officers, directors, employees, and agents of a Party deemed necessary by counsel
24 to aid in the prosecution, defense, or settlement of this action;

25 (b) Counsel for a Party (including in-house attorneys, outside attorneys associated with a law
26 firm(s) of record, and paralegal, clerical, and secretarial staff employed by such counsel);
27
28

- 1 (c) Persons retained by a Party to provide litigation support services (photocopying, videotaping,
2 translating, preparing exhibits or demonstrations, organizing, storing, retrieving data in any
3 form or medium, etc.);
- 4 (d) Consultants or expert witnesses (together with their support staff) retained by a Party or its
5 counsel for the prosecution or defense of this litigation, provided that such an expert or
6 consultant is not a current employee of a direct competitor of a Party named in this action;¹
- 7 (e) Court reporter(s) and videographers(s) employed in this action;
- 8 (f) Any authors or recipients of the Confidential Information;
- 9 (g) A witness at any deposition or other proceeding in this action, who shall sign the
10 Confidentiality Agreement attached as "Exhibit A" to this Protective Order before being
11 shown a confidential document; and
- 12 (h) Any other person as to whom the Parties in writing agree, or that the Court in these
13 proceedings so designates.

14 Any person to whom Confidential Information is disclosed pursuant to subparts (a) through
15 (h) hereinabove shall be advised that the Confidential Information is being disclosed pursuant to an
16 Order of the Court; that the information may not be disclosed by such person to any person not
17 permitted to have access to the Confidential Information pursuant to this Protective Order; and that
18 any violation of this Protective Order may result in the imposition of such sanctions as the Court
19 deems proper. Any person to whom Confidential Information is disclosed pursuant to subpart (c),
20 (d), (g), or (h) of this section shall also be required to execute a copy of the form Exhibit A. The
21 persons shall agree in writing to be bound by the terms of this Protective Order by executing a copy
22 of Exhibit A (which shall be maintained by the counsel of record for the Party seeking to reveal the
23 Confidential Information) in advance of being shown the Confidential Information. No Party (or its
24 counsel) shall discourage any persons from signing a copy of Exhibit A. If a person refuses to
25 execute a copy of Exhibit A, the Party seeking to reveal the Confidential Information shall seek an
26

27
28 ¹ A party may seek leave of court to provide information to a consultant employed by a competitor.

1 Order from the Court directing that the person be bound by this Protective Order. In the event of
2 the filing of such a motion, Confidential Information may not be disclosed to such person until the
3 Court resolves the issue. Proof of each written agreement provided for under this Section shall be
4 maintained by each of the Parties while this action is pending and disclosed to the other Parties upon
5 good cause shown and upon Order of the Court.

6 **13. Persons Authorized to Receive Highly Confidential Information.** "HIGHLY
7 CONFIDENTIAL" documents and information may be used only in connection with this case
8 (except as permitted by the Global Utilization Agreement), and may be disclosed only to the Court
9 and the persons listed in subsections (b) to (e) and (g) to (h) of Section 12 above, but shall not be
10 disclosed to a Party, or an employee of a Party unless otherwise agreed in writing by the Parties or
11 ordered by the Court. With respect to sub-section (f), the parties will consider disclosure of Highly
12 Confidential Information to an author or recipient on a case by case basis. Any person to whom
13 Highly Confidential Information is disclosed pursuant to sub-sections (c), (d), (g) or (h) of Section
14 12 above shall also be required to execute a copy of the form Exhibit A.

15 **14. Filing of Confidential Information or Highly Confidential Information With**
16 **Court.** Any Party seeking to file or disclose materials designated as Confidential Information or
17 Highly Confidential Information with the Court in this action (or with the court in another action as
18 permitted by the Global Utilization Agreement) must seek to file such Confidential or Highly
19 Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and
20 Redacting Court Records (or, if in another action permitted by the Global Utilization Agreement, in
21 accordance with the rules and procedures of that court). The Designating Party will have the burden
22 to provide the Court with any information necessary to support the designation as Confidential or
23 Highly Confidential Information.

24 **15. Notice to Nonparties.** Any Party issuing a subpoena to a non-party shall enclose a
25 copy of this Protective Order and advise the non-party that it may designate any Discovery Material
26 it produces pursuant to the terms of this Protective Order as Confidential Information or Highly
27 Confidential Information, should the non-party wish to do so. This Order shall be binding in favor
28

1 of non-parties to the maximum extent permitted by law. Any non-party invoking the Protective
2 Order shall comply with, and be subject to, all applicable sections of the Protective Order.

3 16. **Knowledge of Unauthorized Use or Possession.** If a Party receiving Confidential
4 Information or Highly Confidential Information learns of any possession, knowledge, use or
5 disclosure of any Confidential Information or Highly Confidential Information in violation of the
6 terms of this Protective Order, the Receiving Party shall immediately notify in writing the Party that
7 produced the Confidential Information or Highly Confidential Information. The Receiving Party
8 shall promptly furnish the Producing Party with the full details of such possession, knowledge, use
9 or disclosure. With respect to such unauthorized possession, knowledge, use or disclosure, the
10 Receiving Party shall assist the Producing Party in remedying the disclosure (*e.g.*, by retrieving the
11 Confidential Information from an unauthorized recipient), and/or by preventing its recurrence.

12 17. **Copies, Summaries or Abstracts.** Any copies, summaries, abstracts or exact
13 duplications of Confidential Information or Highly Confidential Information shall be marked
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," and shall be considered Confidential
15 Information or Highly Confidential Information subject to the terms and conditions of this Protective
16 Order. Attorney-client communications and attorney-work product regarding Confidential
17 Information or Highly Confidential Information, as permitted by this Protective Order, shall not be
18 subject to this section, regardless of whether they summarize, abstract, paraphrase, or otherwise
19 reflect Confidential Information or Highly Confidential Information.

20 18. **Information Not Confidential.** The restrictions set forth in this Protective Order
21 shall not be construed to apply to any information or materials that:

- 22 (a) Were lawfully in the Receiving Party's possession prior to such information being
23 designated as Confidential or Highly Confidential Information in this action, and that
24 the Receiving Party is not otherwise obligated to treat as confidential;
- 25 (b) Were obtained without any benefit or use of Confidential or Highly Confidential
26 Information from a third party having the right to disclose such information to the
27 Receiving Party without restriction or obligation of confidentiality;
- 28

- 1 (c) Were independently developed after the time of disclosure by persons who did not
- 2 have access to the Producing Party's Confidential or Highly Confidential
- 3 Information;
- 4 (d) Have been or become part of the public domain by publication or otherwise and not
- 5 due to any unauthorized act or omission on the part of a Receiving Party; or
- 6 (e) Under law, have been declared to be in the public domain.

7 19. **Challenges to Designations.** Any Party may object to the designation of
8 Confidential Information or Highly Confidential Information on the ground that such information
9 does not constitute Confidential Information or Highly Confidential Information, by serving written
10 notice upon counsel for the Producing Party within ninety (90) calendar days of the date the item(s)
11 was designated, specifying the item(s) in question and the ground(s) for the objection. The
12 Producing Party shall have thirty (30) calendar days to respond to the challenge of designation. If a
13 Party objects to the designation of any materials as Confidential Information or Highly Confidential
14 Information, the Party challenging the designation shall arrange for a meet and confer to be held
15 within ten (10) court days of service of the response to the designation challenge by the Producing
16 Party, to attempt to informally resolve the dispute. If the Parties cannot resolve the matter, the Party
17 challenging the designation may file a motion with the Court to resolve the dispute. Such motions
18 must be filed within ten (10) court days following the meet and confer. This Protective Order shall
19 not affect the burden of proof on any such motion, or impose any burdens upon any Party that would
20 not exist had the Protective Order not been entered; as a general matter, the burden shall be on the
21 person making the designation to establish the propriety of the designation. Any contested
22 information shall continue to be treated as Confidential Information or Highly Confidential
23 Information and subject to this Protective Order until such time as such motion has been ruled upon.

24 20. **Use in Court.** If any Confidential Information or Highly Confidential Information
25 is used in any pretrial Court proceeding in this action (or used in another action as permitted by the
26 Global Utilization Agreement), it shall not necessarily lose its confidential status through such use,
27 and the party using such information shall take all reasonable steps consistent with the Nevada
28 Supreme Court Rules Governing Sealing and Redacting Court Records (or, if used in another action

1 as permitted by the Global Utilization Agreement, in accordance with the rules and procedures of
2 that court governing sealing and redacting), to maintain its confidentiality during such use.

3 21. **Reservation of Rights.** The Parties each reserve the right to seek or oppose
4 additional or different protection for particular information, documents, materials, items or things,
5 including but not limited to, items which they consider to be attorney's eyes only in nature. This
6 Stipulation shall neither enlarge, nor affect, the proper scope of discovery in this Action. In addition,
7 this Stipulation shall not limit or circumscribe in any manner any rights the Parties (or their
8 respective counsel) may have under common law or pursuant to any state, federal, or foreign statute
9 or regulation, and/or ethical rule.

10 22. **Inadvertent Failure to Designate.** The inadvertent failure to designate information
11 produced in discovery as Confidential or Highly Confidential shall not be deemed, by itself, to be a
12 waiver of the right to so designate such Discovery Materials as Confidential Information or Highly
13 Confidential Information. Within a reasonable time of learning of any such inadvertent failure, the
14 Producing Party shall notify all Receiving Parties of such inadvertent failure and shall take such
15 other steps as necessary to correct such failure after becoming aware of it. Disclosure of such
16 Discovery Materials to any other person prior to later designation of the Discovery Materials in
17 accordance with this section shall not violate the terms of this Protective Order. However,
18 immediately upon being notified of an inadvertent failure to designate, all Parties shall treat such
19 information as though properly designated, and shall take any actions necessary to prevent any future
20 unauthorized disclosure, use, or possession.

21 23. **No Waiver of Privilege:** Disclosure (including production) of information after the
22 Parties' entry of this Protective Order that a Party or non-party later claims was inadvertent and
23 should not have been disclosed because of a privilege, including, but not limited to, the
24 attorney-client privilege or work product doctrine ("Privileged Information"), shall not constitute a
25 waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or other
26 ground for withholding production as to which the Disclosing or Producing Party would be entitled
27 in this action.
28

1 24. **Effect of disclosure of Privileged Information:** The Receiving Party hereby agrees
2 to promptly return, sequester, or destroy any Privileged Information disclosed or produced by a
3 Disclosing or Producing Party upon request by the Disclosing or Producing Party, regardless of
4 whether the Receiving Party disputes the designation of Privileged Information. The Receiving
5 Party may sequester (rather than return or destroy) such Privileged Information only if it contends
6 that the information itself is not privileged or otherwise protected, and it challenges the privilege
7 designation, in which case it may only sequester the information until the claim of privilege or other
8 protection is resolved. If any Party disputes the privilege claim ("Objecting Party"), that Objecting
9 Party shall object in writing by notifying the Producing Party of the dispute and the basis therefore.
10 The Parties thereafter shall meet and confer in good faith regarding the disputed claim within
11 fourteen (14) business days after service of the written objection. In the event that the Parties do not
12 resolve their dispute, the Objecting Party may bring a motion for a determination of whether a
13 privilege applies within fourteen (14) business days following the meet and confer session, but may
14 only contest the asserted privileges on grounds other than the inadvertent production of such
15 document(s). In making such a motion, the Objecting Party shall not disclose the content of the
16 document(s) at issue, but may refer to the information contained on the privilege log. Nothing herein
17 shall relieve counsel from abiding by applicable ethical rules regarding inadvertent disclosure and
18 discovery of inadvertently disclosed privileged or otherwise protected material. The failure of any
19 Party to provide notice or instructions under this section shall not constitute a waiver of, or estoppel
20 as to, any claim of attorney-client privilege, attorney work product, or other ground for withholding
21 production as to which the Disclosing or Producing Party would be entitled in this action.

22 25. **Inadvertent Production of Non-Discoverable Documents.** If a Producing Party
23 inadvertently produces a document that contains no discoverable information, the Producing Party
24 may request in writing that the Receiving Party return the document, and the Receiving Party shall
25 return the document. A Producing Party may not request the return of a document pursuant to this
26 section if the document contains any discoverable information. If a Producing Party inadvertently
27 fails to redact personal information (*e.g.*, a social security number), the Producing Party may provide
28 the Receiving Party a substitute version of the document that redacts the personal information, and

1 the Receiving Party shall return the original, unredacted document to the Producing Party.

2 26. **Return of Information.** Within thirty (30) days after the final disposition of this
3 action (or the final disposition of any other action as permitted by the Global Utilization Agreement),
4 all Discovery Materials containing Confidential Information and/or Highly Confidential Information
5 produced by an opposing Party or non-party (including, without limitation, any copies, extracts or
6 summaries thereof) as part of discovery in this action shall be destroyed by the Parties to whom the
7 Discovery Materials containing Confidential Information and/or Highly Confidential Information
8 was produced, and each counsel shall, by declaration delivered to all counsel for the Producing Party,
9 affirm that all such Discovery Materials containing Confidential Information and/or Highly
10 Confidential Information (including, without limitation, any copies, extracts or summaries thereof)
11 has been destroyed; provided, however, that each counsel shall be entitled to retain pleadings,
12 motions and memoranda in support thereof, declarations or affidavits, deposition transcripts and
13 videotapes, or documents reflecting attorney work product or consultant or expert work product,
14 even if such material contains or refers to Discovery Materials containing Confidential Information
15 and/or Highly Confidential Information, but only to the extent necessary to preserve a litigation file
16 with respect to this action (or another action as permitted by the Global Utilization Agreement).
17 Counsel are not required to destroy or certify destruction of Confidential Information or Highly
18 Confidential Information replicated on automatic archival or data backup systems maintained by
19 Counsel.

20 27. **Attorney's Fees.** Nothing in this Protective Order is intended to either expand or
21 limit a prevailing party's right under the Nevada Rules of Civil Procedure or other applicable state
22 or federal law to pursue costs and attorney's fees incurred related to confidentiality designations or
23 the abuse of the process described herein.

24 28. **Injunctive Relief and Sanctions Available for Unauthorized Disclosure or Use of**
25 **Confidential Information or Highly Confidential Information.** The Parties and/or non-parties
26 shall not utilize any Confidential Information and/or Highly Confidential Information for their own
27 personal and/or business advantage or gain, aside from purpose(s) solely related to the instant
28 litigation (or to other litigations as permitted by the Global Utilization Agreement). The Parties and

1 non-parties acknowledge and agree that the unauthorized use and/or disclosure of Confidential
2 Information and/or Highly Confidential Information beyond this litigation (or beyond other
3 litigations as permitted by the Global Utilization Agreement) shall subject the offending Party or
4 non-party to sanctions contemplated in NRCP 37(b)(2)(A)-(D) (or pursuant to the rules and
5 procedures of the courts in litigations governed by the Global Utilization Agreement), up to and
6 including entry of judgment against the offending Party or non-party in circumstances involving
7 willful disobedience with this Order. Further, the Parties and/or non-parties receiving or being given
8 access to Confidential Information and/or Highly Confidential Information acknowledge that
9 monetary remedies would be inadequate to protect each Party in the case of unauthorized disclosure
10 or use of Confidential Information or Highly Confidential Information that the Receiving Party only
11 received through discovery in this action (or in other actions governed by the Global Utilization
12 Agreement), and that injunctive relief would be necessary and appropriate to protect each Party's
13 rights in the event there is any such unauthorized disclosure or use of Confidential Information or
14 Highly Confidential Information. The availability of injunctive relief to protect against the
15 unauthorized disclosure or use of Confidential Information or Highly Confidential Information shall
16 not be exclusive.

17 **29. Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in another
18 action, investigation, or proceeding, (b) is served with a demand in another action, investigation, or
19 proceeding, or (c) is served with any legal process by one not a Party to this Protective Order, seeking
20 materials which were produced or designated as Confidential or Highly Confidential pursuant to this
21 Protective Order, the Receiving Party shall give prompt actual written notice by electronic
22 transmission to counsel of record for such Producing Party within five (5) business days of receipt
23 of such subpoena, demand or legal process, or such shorter notice as may be required to provide
24 other Parties with the opportunity to object to the immediate production of the requested Discovery
25 Materials to the extent permitted by law. The burden of opposing enforcement of the subpoena shall
26 fall upon the Party or non-party who produced or designated the Discovery Material as Confidential
27 Information or Highly Confidential Information. Unless the Party or non-party who produced or
28 designated the Confidential Information or Highly Confidential Information obtains an Order

1 directing that the subpoena not be complied with, and serves such Order upon the Receiving Party
2 prior to production pursuant to the subpoena, the Receiving Party shall be permitted to produce
3 documents responsive to the subpoena on the subpoena response date. Compliance by the Receiving
4 Party with any Order directing production pursuant to a subpoena of any Confidential Information
5 or Highly Confidential Information shall not constitute a violation of this Protective Order. Nothing
6 in this Protective Order shall be construed as authorizing a Party to disobey a lawful subpoena issued
7 in another action.

8 30. **Execution in Counterparts.** This Protective Order may be signed in counterparts,
9 and a fax or "PDF" signature shall have the same force and effect as an original ink signature.

10 31. **Order Survives Termination.** This Protective Order shall survive the termination
11 of this action (or of the other actions governed by the Global Utilization Agreement), and the Court
12 shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

13 DATED ^{March} February 11, 2019

14 PISANELLI BICE PLLC

15 By: 

16 James J. Pisanelli, Esq., Bar No. 4027
17 Debra L. Spinelli, Esq., Bar No. 9695
18 M. Magali Mercera, Esq., Bar No. 11742
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22 and

23 Jeffrey J. Zeiger, P.C., Esq.
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PHWL, LLC; and Boardwalk Regency
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DATED February 16th 2019

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Rowen Seibel; LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
MOTI Partners 16, LLC; TPOV Enterprises,
LLC; and TPOV Enterprises 16, LLC*

31. **Order Survives Termination.** This Protective Order shall survive the termination of this action (or of the other actions governed by the Global Utilization Agreement), and the Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

DATED February __, 2019

PISANELLI BICE PLLC

By: _____
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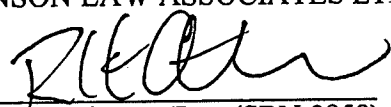
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DATED February 22, 2019

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*Attorney for Defendant
J. Jeffrey Frederick*

DATED February __, 2019

DATED February __, 2019

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LLC; and TPOV Enterprises 16, LLC*

DATED February __, 2019

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1 DATED February __, 2019

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7 *Attorney for Defendant*
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DATED February __, 2019

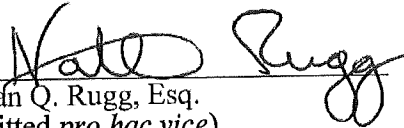
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MOTI Partners 16, LLC.*

DATED February __, 2019

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DATED February __, 2019

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3 By: _____
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8 and

9 Steven B. Chaiken, Esq.
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14 *LLC; LLTQ Enterprises 16, LLC, FERG,*
15 *LLC; FERG 16, LLC; MOTI Partners, LLC;*
16 *and MOTI Partners 16, LLC.*

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Las Vegas, NV 89135

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

17 DATED February __, 2019

18 HEYMAN ENERIO GATTUSO &
19 HIRZEL LLP

20 By: _____
21 Kurt Heyman, Esq.
22 300 Delaware Ave., Suite 200
23 Wilmington, DE 19801

24 *Trustee for GR Burgr LLC*

ORDER

25 IT IS SO ORDERED.

1 DATED February __, 2019

2 HEYMAN ENERIO GATTUSO &
3 HIRZEL LLP

4 By: _____
5 Kurt Heyman, Esq.
6 300 Delaware Ave., Suite 200
7 Wilmington, DE 19801

8 *Trustee for GR Burgr LLC*

10 **ORDER**

11 IT IS SO ORDERED.

12 
13 THE HONORABLE TIMOTHY C. WILLIAMS
14 DISTRICT COURT JUDGE

15 DATED: 3/12/19
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EXHIBIT "A"

CONFIDENTIALITY AGREEMENT

I, _____ do hereby acknowledge and agree, under penalty of perjury, as follows:

1. I have read the Stipulated Confidentiality Agreement and Protective Order ("the Protective Order") entered in *Rowen Seibel v. PHWLTV, LLC, A-17-751759-B, consolidated with Case No. A-17-760537-B* on _____, _____, and I fully understand its contents.

2. I hereby agree and consent to be bound by the terms of the Protective Order and to comply with it in all respects, and to that end, I hereby knowingly and voluntarily submit and subject myself to the personal jurisdiction of the Eighth Judicial District Court, State of Nevada so that the said court shall have the power and authority to enforce the Protective Order and to impose appropriate sanctions upon me for knowingly violating the Protective Order, including punishment for contempt of court for a knowing violation of the Protective Order.

3. I understand that by signing this instrument, I will be eligible to receive "Confidential Information" and/or "Highly Confidential Information" under the terms and conditions of the Protective Order. I further understand and agree that I must treat any "Confidential Information" and/or "Highly Confidential Information" in accordance with the terms and conditions of the Protective Order, and that, if I should knowingly make a disclosure of any such information in a manner unauthorized by the Protective Order, I will have violated a court order, will be in contempt of court, and will be subject to punishment by the court for such conduct.

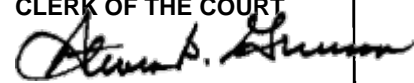
DATED: _____

(Signature)

(Printed Name)

(Address)

TAB 46



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

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF STIPULATED
CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER**

PLEASE TAKE NOTICE that a Stipulated Confidentiality Agreement and Protective Order was entered in the above-captioned matter on March 12, 2019, a true and correct copy of which is attached hereto.

DATED this 12th day of March 2019.

PISANELLI BICE PLLC

By: 

James J. Pisanelli, Esq., #4027
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Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12 day of March 2019, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER** to the following:

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

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Attorneys for Gordon Ramsay

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

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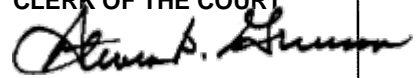
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VIA U.S. MAIL
Kurt Heyman, Esq.
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Wilmington, DE 19801

Attorneys for J. Jeffrey Frederick

Trustee for GR Burgr, LLC


An employee of PISANELLI BICE PLLC



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

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

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

COME NOW, PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris") and Boardwalk Regency Corporation, d/b/a Caesars Atlantic City ("CAC" and collectively with Caesars Palace, Paris and Planet Hollywood, "Caesars"); Rowen Seibel ("Seibel"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), TPOV Enterprises, LLC ("TPOV"), TPOV 16 Enterprises, LLC ("TPOV 16") and DNT Acquisition, LLC ("DNT") (collectively the "Seibel Entities"); Gordon Ramsay ("Ramsay"), GR Burgr LLC ("GR Burgr"), Jeffrey Frederick ("Frederick") and Old Homestead Restaurant, Inc. ("OHR"); by and through their undersigned counsel of record, hereby enter into this Stipulated Confidentiality Agreement and Protective Order pursuant to NRCP 26(c) and NRCP 29. Planet Hollywood, Caesars Palace, Paris, CAC, Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16, TPOV, TPOV 16, DNT, GR Burgr, Frederick, and OHR are collectively referred to as the "Parties" in this Stipulation and individually as "Party."

Whereas, the Parties desire to produce certain documents or other material which may contain proprietary and/or confidential information, it is hereby stipulated and agreed, by and between the Parties hereto, through their respective counsel of record, that:

1. **Applicability of this Protective Order:** Subject to Section 2 below, this Protective Order does not and will not govern any trial proceedings in this action, but will otherwise be applicable to and govern the handling and production of documents, depositions, deposition exhibits, interrogatory responses, responses to requests for admissions, responses to requests for production of documents, and all other discovery obtained pursuant to Nevada Rules of Civil Procedure or other legal process by or from, or produced on behalf of, a Party or witness in connection with this action. Such information hereinafter shall be referred to as "Discovery Material." Additionally, as used herein, "Producing Party" or "Disclosing Party" shall refer to the Parties and non-parties that give testimony or produce documents or other information in connection with this action; "Receiving Party" shall refer to the Parties in this action that receive such information; and "Authorized Recipient" shall refer to any person or entity authorized by Sections 12 and 13 of this Protective Order to obtain access to Confidential Information, Highly Confidential Information, or the contents

1 of such Discovery Material. Discovery Material produced in accordance with this Stipulation may
2 be used in other actions as permitted by the Global Agreement for the Utilization of Discovery
3 Across Cases entered into between the Parties (the "Global Utilization Agreement").

4 2. **No Waiver.** This Protective Order is entered solely for the purpose of facilitating the
5 exchange of documents and information among the Parties to this action without involving the Court
6 unnecessarily in the process. Nothing in this Protective Order, nor the production of any information
7 or document under the terms of this Protective Order, nor any proceedings pursuant to this Protective
8 Order, shall be deemed to be a waiver of any rights or objections to challenge the authenticity or
9 admissibility of any document, testimony, or other evidence at trial. Additionally, this Protective
10 Order will not prejudice the right of any party or non-party to oppose production of any information
11 on the ground of attorney-client privilege, work product doctrine, or any other privilege or protection
12 provided under the law.

13 3. **Designation of Information:** Any Producing Party may designate Discovery
14 Material that is in its possession, custody, or control produced to a Receiving Party as "Confidential"
15 or "Highly Confidential" under the terms of this Protective Order, but only if the Producing Party in
16 good faith reasonably believes that such Discovery Material contains non-public, confidential
17 information as defined in Sections 5 and 6 below.

18 4. **Exercise of Restraint and Care in Designating Material for Protection:** Each
19 Producing Party that designates information or items for protection under this Protective Order must
20 take care to limit any such designation to specific material that qualifies under the appropriate
21 standards. Indiscriminate designations are prohibited.

22 5. **Confidential Information:** For purposes of this Protective Order, "Confidential
23 Information" means all information that constitutes, reflects, or discloses non-public information,
24 trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential
25 business, marketing, regulatory, or strategic information (regarding business plans or strategies,
26 technical data, and non-public designs), the disclosure of which the Producing Party believes in good
27 faith might reasonably result in economic, competitive or business injury to the Producing Party (or
28 its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from

1 an inspection of publicly available sources, documents, material, or devices. "Confidential
2 Information" shall also include sensitive personal information that is not otherwise publicly
3 available, such as home addresses; social security numbers; dates of birth; employment personnel
4 files; medical information; home telephone records/numbers; employee disciplinary records; court
5 documents sealed by another court or designated Confidential by agreement of the Parties in another
6 matter; wage statements or earnings statements; employee benefits data; tax records; and other
7 similar personal financial information. A Party may also designate as "CONFIDENTIAL"
8 compilations of publicly available discovery materials, which would not be known publicly in a
9 compiled form and the disclosure of which the Producing Party believes in good faith might
10 reasonably result in economic, competitive or business injury to the Producing Party.

11 6. **Highly Confidential Information:** For purposes of this Protective Order, "Highly
12 Confidential Information" is any Confidential Information as defined in Section 5 above that also
13 includes (a) extremely sensitive, highly confidential, non-public information, consisting either of
14 trade secrets or proprietary or other highly confidential business, financial, regulatory, private, or
15 strategic information (including information regarding business plans, technical data, and non-public
16 designs), the disclosure of which would create a substantial risk of competitive, business, or personal
17 injury to the Producing Party, and/or (b) non-public documents or information reflecting the
18 substance of conduct or communications that are the subject of then ongoing state, federal, or foreign
19 government investigations. Certain Confidential Information may compel alternative or additional
20 protections beyond those afforded Highly Confidential Information, in which event the Parties shall
21 meet and confer in good faith, and, if unsuccessful, the Party seeking any greater protection shall
22 move the Court for appropriate relief. A Party may re-designate material originally
23 "CONFIDENTIAL" as "HIGHLY CONFIDENTIAL" by giving notice of such a re-designation to
24 all Parties.

25 7. **Designating Confidential Information or Highly Confidential Information.** If
26 any Party in this action determines in good faith that any information, documents, things, or
27 responses produced in the course of discovery in this action should be designated as Confidential
28 Information or Highly Confidential Information (the "Designating Party"), it shall advise any Party

1 receiving such material of this fact, and all copies of such documents, things, or responses, or
2 portions thereof deemed to be confidential shall be marked "CONFIDENTIAL" or "HIGHLY
3 CONFIDENTIAL" (whether produced in hard copy or electronic form) at the expense of the
4 Designating Party and treated as such by all Parties. A Designating Party may inform another Party
5 that a document is Confidential or Highly Confidential by providing the Bates number of the
6 document in writing. If Confidential or Highly Confidential Information is produced via an
7 electronic form on a computer readable medium (*e.g.*, CD-ROM), other digital storage medium, or
8 via Internet transmission, the Producing Party or Designating Party shall affix in a prominent place
9 on the storage medium or container file on which the information is stored, and on any container(s)
10 for such medium, the legend "Includes CONFIDENTIAL INFORMATION" or "Includes HIGHLY
11 CONFIDENTIAL INFORMATION." Nothing in this section shall extend confidentiality or the
12 protections associated therewith to any information that does not otherwise constitute "Confidential
13 Information" or "Highly Confidential Information" as defined in Sections 5 and 6 herein.

14 **8. Redaction Allowed:** Any Producing Party may redact from the documents or things
15 it produces matter that the Producing Party reasonably claims in good faith is subject to the attorney-
16 client privilege, the work product doctrine, a legal prohibition against disclosure, or any other
17 privilege from disclosure. Any Producing Party also may redact information that is both personal
18 and non-responsive, such as a social security number. A Producing Party may not withhold non-
19 privileged, responsive information solely on the grounds that such information is contained in a
20 document that includes privileged information. The Producing Party shall mark each redaction with
21 a legend stating "REDACTED," and include an annotation indicating the specific reason for the
22 redaction (*e.g.*, "REDACTED—Work Product"). All documents redacted based on attorney client
23 privilege or work product immunity shall be listed in an appropriate log in conformity with Nevada
24 law and Nevada Rule of Civil Procedure 26(b)(5). Where a document consists of more than one
25 page, the page on which information has been redacted shall so be marked. The Producing Party
26 shall preserve an unredacted version of such document.

27 **9. Use of Confidential Information or Highly Confidential Information.** Except as
28 provided herein, Confidential Information and Highly Confidential Information designated or

1 marked shall be maintained in confidence, used solely for the purposes of this action (except as
2 permitted by the Global Utilization Agreement), and to the extent not otherwise prohibited by an
3 Order of the Court, shall be disclosed to no one except those persons identified herein in Sections
4 12 and 13, and shall be handled in such manner until such designation is removed by the Designating
5 Party, or by Order of the Court. Confidential or Highly Confidential information produced by
6 another Party shall not be used by any Receiving Party for any commercial, competitive or personal
7 purpose. Nothing in this Protective Order shall govern or restrict a Producing Party's use of its own
8 Confidential or Highly Confidential Information in any way.

9 10. Once the Court enters this Protective Order, a Party shall have forty-five (45) calendar
10 days to designate as Confidential or Highly Confidential any documents previously produced in this
11 action, which it can do by stamping "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on the
12 document, or informing the other Parties of the Bates numbers of the documents so designated.

13 11. **Use of Confidential Information and Highly Confidential Information in**
14 **Depositions.** Counsel for any Party shall have the right to disclose Confidential or Highly
15 Confidential Information at depositions, provided that such disclosure is consistent with this
16 Protective Order, including Sections 12 and 13 hereof. Any counsel of record may request that all
17 persons not entitled under Sections 12 or 13 of this Protective Order to have access to Confidential
18 Information or Highly Confidential Information, leave the deposition room during the confidential
19 portion of the deposition. Failure of such persons to comply with a request to leave the deposition
20 room shall constitute substantial justification for counsel to advise the witness that the witness need
21 not answer the question where the answer would disclose Confidential Information or Highly
22 Confidential Information. Additionally, at any deposition session: (1) upon inquiry with regard to
23 the content of any discovery material(s) designated or marked as "CONFIDENTIAL" or "HIGHLY
24 CONFIDENTIAL;" (2) whenever counsel for a party deems that the answer to a question may result
25 in the disclosure or revelation of Confidential or Highly Confidential Information; and/or (3)
26 whenever counsel for a Party deems that the answer to any question has resulted in the disclosure or
27 revelation of Confidential or Highly Confidential Information, counsel to any Party may designate
28 those portions of a deposition transcript and/or video of any deposition (or any other testimony) as

1 containing Confidential or Highly Confidential Information in accordance with this Order, either by
2 placing a statement on the record during the deposition, or by notifying all other Parties in writing
3 within thirty (30) calendar days of receiving the transcript or video that it contains Confidential or
4 Highly Confidential Information and designating the specific pages, lines, and/or counter numbers
5 as containing Confidential or Highly Confidential Information. If a designation is made via a
6 statement on the record during a deposition, counsel must follow-up in writing within thirty (30)
7 calendar days of receiving the transcript or video, identifying the specific pages, lines, and/or counter
8 numbers containing the Confidential or Highly Confidential Information. If no confidentiality
9 designations are made within said thirty (30) day period, the entire transcript shall be considered
10 non-confidential. During the thirty (30) day period, the entire transcript and video shall be treated
11 as Highly Confidential Information. All originals and copies of deposition transcripts that contain
12 Confidential Information or Highly Confidential Information shall be prominently marked
13 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL " on the cover thereof and, if and when filed
14 with the Court, the portions of such transcript so designated shall be filed under seal. Counsel must
15 designate portions of a deposition transcript as "CONFIDENTIAL" or "HIGHLY
16 CONFIDENTIAL" within thirty (30) calendar days of receiving the transcript. Any DVD or other
17 digital storage medium containing Confidential or Highly Confidential deposition testimony shall
18 be labeled in accordance with the provisions of Section 7.

19 **12. Persons Authorized to Receive Confidential Information.** Confidential
20 Information produced pursuant to this Protective Order may be disclosed or made available only to
21 the Court, its employees, other court personnel, any discovery referee, mediator or other official who
22 may be appointed by the Court, and to the persons below:

- 23 (a) A Party, or officers, directors, employees, and agents of a Party deemed necessary by counsel
24 to aid in the prosecution, defense, or settlement of this action;
25 (b) Counsel for a Party (including in-house attorneys, outside attorneys associated with a law
26 firm(s) of record, and paralegal, clerical, and secretarial staff employed by such counsel);
27
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- 1 (c) Persons retained by a Party to provide litigation support services (photocopying, videotaping,
2 translating, preparing exhibits or demonstrations, organizing, storing, retrieving data in any
3 form or medium, etc.);
- 4 (d) Consultants or expert witnesses (together with their support staff) retained by a Party or its
5 counsel for the prosecution or defense of this litigation, provided that such an expert or
6 consultant is not a current employee of a direct competitor of a Party named in this action;¹
- 7 (e) Court reporter(s) and videographers(s) employed in this action;
- 8 (f) Any authors or recipients of the Confidential Information;
- 9 (g) A witness at any deposition or other proceeding in this action, who shall sign the
10 Confidentiality Agreement attached as "Exhibit A" to this Protective Order before being
11 shown a confidential document; and
- 12 (h) Any other person as to whom the Parties in writing agree, or that the Court in these
13 proceedings so designates.

14 Any person to whom Confidential Information is disclosed pursuant to subparts (a) through
15 (h) hereinabove shall be advised that the Confidential Information is being disclosed pursuant to an
16 Order of the Court; that the information may not be disclosed by such person to any person not
17 permitted to have access to the Confidential Information pursuant to this Protective Order; and that
18 any violation of this Protective Order may result in the imposition of such sanctions as the Court
19 deems proper. Any person to whom Confidential Information is disclosed pursuant to subpart (c),
20 (d), (g), or (h) of this section shall also be required to execute a copy of the form Exhibit A. The
21 persons shall agree in writing to be bound by the terms of this Protective Order by executing a copy
22 of Exhibit A (which shall be maintained by the counsel of record for the Party seeking to reveal the
23 Confidential Information) in advance of being shown the Confidential Information. No Party (or its
24 counsel) shall discourage any persons from signing a copy of Exhibit A. If a person refuses to
25 execute a copy of Exhibit A, the Party seeking to reveal the Confidential Information shall seek an
26

27
28 ¹ A party may seek leave of court to provide information to a consultant employed by a competitor.

1 Order from the Court directing that the person be bound by this Protective Order. In the event of
2 the filing of such a motion, Confidential Information may not be disclosed to such person until the
3 Court resolves the issue. Proof of each written agreement provided for under this Section shall be
4 maintained by each of the Parties while this action is pending and disclosed to the other Parties upon
5 good cause shown and upon Order of the Court.

6 **13. Persons Authorized to Receive Highly Confidential Information.** "HIGHLY
7 CONFIDENTIAL" documents and information may be used only in connection with this case
8 (except as permitted by the Global Utilization Agreement), and may be disclosed only to the Court
9 and the persons listed in subsections (b) to (e) and (g) to (h) of Section 12 above, but shall not be
10 disclosed to a Party, or an employee of a Party unless otherwise agreed in writing by the Parties or
11 ordered by the Court. With respect to sub-section (f), the parties will consider disclosure of Highly
12 Confidential Information to an author or recipient on a case by case basis. Any person to whom
13 Highly Confidential Information is disclosed pursuant to sub-sections (c), (d), (g) or (h) of Section
14 12 above shall also be required to execute a copy of the form Exhibit A.

15 **14. Filing of Confidential Information or Highly Confidential Information With**
16 **Court.** Any Party seeking to file or disclose materials designated as Confidential Information or
17 Highly Confidential Information with the Court in this action (or with the court in another action as
18 permitted by the Global Utilization Agreement) must seek to file such Confidential or Highly
19 Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and
20 Redacting Court Records (or, if in another action permitted by the Global Utilization Agreement, in
21 accordance with the rules and procedures of that court). The Designating Party will have the burden
22 to provide the Court with any information necessary to support the designation as Confidential or
23 Highly Confidential Information.

24 **15. Notice to Nonparties.** Any Party issuing a subpoena to a non-party shall enclose a
25 copy of this Protective Order and advise the non-party that it may designate any Discovery Material
26 it produces pursuant to the terms of this Protective Order as Confidential Information or Highly
27 Confidential Information, should the non-party wish to do so. This Order shall be binding in favor
28

1 of non-parties to the maximum extent permitted by law. Any non-party invoking the Protective
2 Order shall comply with, and be subject to, all applicable sections of the Protective Order.

3 16. **Knowledge of Unauthorized Use or Possession.** If a Party receiving Confidential
4 Information or Highly Confidential Information learns of any possession, knowledge, use or
5 disclosure of any Confidential Information or Highly Confidential Information in violation of the
6 terms of this Protective Order, the Receiving Party shall immediately notify in writing the Party that
7 produced the Confidential Information or Highly Confidential Information. The Receiving Party
8 shall promptly furnish the Producing Party with the full details of such possession, knowledge, use
9 or disclosure. With respect to such unauthorized possession, knowledge, use or disclosure, the
10 Receiving Party shall assist the Producing Party in remedying the disclosure (*e.g.*, by retrieving the
11 Confidential Information from an unauthorized recipient), and/or by preventing its recurrence.

12 17. **Copies, Summaries or Abstracts.** Any copies, summaries, abstracts or exact
13 duplications of Confidential Information or Highly Confidential Information shall be marked
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," and shall be considered Confidential
15 Information or Highly Confidential Information subject to the terms and conditions of this Protective
16 Order. Attorney-client communications and attorney-work product regarding Confidential
17 Information or Highly Confidential Information, as permitted by this Protective Order, shall not be
18 subject to this section, regardless of whether they summarize, abstract, paraphrase, or otherwise
19 reflect Confidential Information or Highly Confidential Information.

20 18. **Information Not Confidential.** The restrictions set forth in this Protective Order
21 shall not be construed to apply to any information or materials that:

- 22 (a) Were lawfully in the Receiving Party's possession prior to such information being
23 designated as Confidential or Highly Confidential Information in this action, and that
24 the Receiving Party is not otherwise obligated to treat as confidential;
- 25 (b) Were obtained without any benefit or use of Confidential or Highly Confidential
26 Information from a third party having the right to disclose such information to the
27 Receiving Party without restriction or obligation of confidentiality;
- 28

- 1 (c) Were independently developed after the time of disclosure by persons who did not
- 2 have access to the Producing Party's Confidential or Highly Confidential
- 3 Information;
- 4 (d) Have been or become part of the public domain by publication or otherwise and not
- 5 due to any unauthorized act or omission on the part of a Receiving Party; or
- 6 (e) Under law, have been declared to be in the public domain.

7 19. **Challenges to Designations.** Any Party may object to the designation of
8 Confidential Information or Highly Confidential Information on the ground that such information
9 does not constitute Confidential Information or Highly Confidential Information, by serving written
10 notice upon counsel for the Producing Party within ninety (90) calendar days of the date the item(s)
11 was designated, specifying the item(s) in question and the ground(s) for the objection. The
12 Producing Party shall have thirty (30) calendar days to respond to the challenge of designation. If a
13 Party objects to the designation of any materials as Confidential Information or Highly Confidential
14 Information, the Party challenging the designation shall arrange for a meet and confer to be held
15 within ten (10) court days of service of the response to the designation challenge by the Producing
16 Party, to attempt to informally resolve the dispute. If the Parties cannot resolve the matter, the Party
17 challenging the designation may file a motion with the Court to resolve the dispute. Such motions
18 must be filed within ten (10) court days following the meet and confer. This Protective Order shall
19 not affect the burden of proof on any such motion, or impose any burdens upon any Party that would
20 not exist had the Protective Order not been entered; as a general matter, the burden shall be on the
21 person making the designation to establish the propriety of the designation. Any contested
22 information shall continue to be treated as Confidential Information or Highly Confidential
23 Information and subject to this Protective Order until such time as such motion has been ruled upon.

24 20. **Use in Court.** If any Confidential Information or Highly Confidential Information
25 is used in any pretrial Court proceeding in this action (or used in another action as permitted by the
26 Global Utilization Agreement), it shall not necessarily lose its confidential status through such use,
27 and the party using such information shall take all reasonable steps consistent with the Nevada
28 Supreme Court Rules Governing Sealing and Redacting Court Records (or, if used in another action

1 as permitted by the Global Utilization Agreement, in accordance with the rules and procedures of
2 that court governing sealing and redacting), to maintain its confidentiality during such use.

3 21. **Reservation of Rights.** The Parties each reserve the right to seek or oppose
4 additional or different protection for particular information, documents, materials, items or things,
5 including but not limited to, items which they consider to be attorney's eyes only in nature. This
6 Stipulation shall neither enlarge, nor affect, the proper scope of discovery in this Action. In addition,
7 this Stipulation shall not limit or circumscribe in any manner any rights the Parties (or their
8 respective counsel) may have under common law or pursuant to any state, federal, or foreign statute
9 or regulation, and/or ethical rule.

10 22. **Inadvertent Failure to Designate.** The inadvertent failure to designate information
11 produced in discovery as Confidential or Highly Confidential shall not be deemed, by itself, to be a
12 waiver of the right to so designate such Discovery Materials as Confidential Information or Highly
13 Confidential Information. Within a reasonable time of learning of any such inadvertent failure, the
14 Producing Party shall notify all Receiving Parties of such inadvertent failure and shall take such
15 other steps as necessary to correct such failure after becoming aware of it. Disclosure of such
16 Discovery Materials to any other person prior to later designation of the Discovery Materials in
17 accordance with this section shall not violate the terms of this Protective Order. However,
18 immediately upon being notified of an inadvertent failure to designate, all Parties shall treat such
19 information as though properly designated, and shall take any actions necessary to prevent any future
20 unauthorized disclosure, use, or possession.

21 23. **No Waiver of Privilege:** Disclosure (including production) of information after the
22 Parties' entry of this Protective Order that a Party or non-party later claims was inadvertent and
23 should not have been disclosed because of a privilege, including, but not limited to, the
24 attorney-client privilege or work product doctrine ("Privileged Information"), shall not constitute a
25 waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or other
26 ground for withholding production as to which the Disclosing or Producing Party would be entitled
27 in this action.
28

1 24. **Effect of disclosure of Privileged Information:** The Receiving Party hereby agrees
2 to promptly return, sequester, or destroy any Privileged Information disclosed or produced by a
3 Disclosing or Producing Party upon request by the Disclosing or Producing Party, regardless of
4 whether the Receiving Party disputes the designation of Privileged Information. The Receiving
5 Party may sequester (rather than return or destroy) such Privileged Information only if it contends
6 that the information itself is not privileged or otherwise protected, and it challenges the privilege
7 designation, in which case it may only sequester the information until the claim of privilege or other
8 protection is resolved. If any Party disputes the privilege claim ("Objecting Party"), that Objecting
9 Party shall object in writing by notifying the Producing Party of the dispute and the basis therefore.
10 The Parties thereafter shall meet and confer in good faith regarding the disputed claim within
11 fourteen (14) business days after service of the written objection. In the event that the Parties do not
12 resolve their dispute, the Objecting Party may bring a motion for a determination of whether a
13 privilege applies within fourteen (14) business days following the meet and confer session, but may
14 only contest the asserted privileges on grounds other than the inadvertent production of such
15 document(s). In making such a motion, the Objecting Party shall not disclose the content of the
16 document(s) at issue, but may refer to the information contained on the privilege log. Nothing herein
17 shall relieve counsel from abiding by applicable ethical rules regarding inadvertent disclosure and
18 discovery of inadvertently disclosed privileged or otherwise protected material. The failure of any
19 Party to provide notice or instructions under this section shall not constitute a waiver of, or estoppel
20 as to, any claim of attorney-client privilege, attorney work product, or other ground for withholding
21 production as to which the Disclosing or Producing Party would be entitled in this action.

22 25. **Inadvertent Production of Non-Discoverable Documents.** If a Producing Party
23 inadvertently produces a document that contains no discoverable information, the Producing Party
24 may request in writing that the Receiving Party return the document, and the Receiving Party shall
25 return the document. A Producing Party may not request the return of a document pursuant to this
26 section if the document contains any discoverable information. If a Producing Party inadvertently
27 fails to redact personal information (*e.g.*, a social security number), the Producing Party may provide
28 the Receiving Party a substitute version of the document that redacts the personal information, and

1 the Receiving Party shall return the original, unredacted document to the Producing Party.

2 26. **Return of Information.** Within thirty (30) days after the final disposition of this
3 action (or the final disposition of any other action as permitted by the Global Utilization Agreement),
4 all Discovery Materials containing Confidential Information and/or Highly Confidential Information
5 produced by an opposing Party or non-party (including, without limitation, any copies, extracts or
6 summaries thereof) as part of discovery in this action shall be destroyed by the Parties to whom the
7 Discovery Materials containing Confidential Information and/or Highly Confidential Information
8 was produced, and each counsel shall, by declaration delivered to all counsel for the Producing Party,
9 affirm that all such Discovery Materials containing Confidential Information and/or Highly
10 Confidential Information (including, without limitation, any copies, extracts or summaries thereof)
11 has been destroyed; provided, however, that each counsel shall be entitled to retain pleadings,
12 motions and memoranda in support thereof, declarations or affidavits, deposition transcripts and
13 videotapes, or documents reflecting attorney work product or consultant or expert work product,
14 even if such material contains or refers to Discovery Materials containing Confidential Information
15 and/or Highly Confidential Information, but only to the extent necessary to preserve a litigation file
16 with respect to this action (or another action as permitted by the Global Utilization Agreement).
17 Counsel are not required to destroy or certify destruction of Confidential Information or Highly
18 Confidential Information replicated on automatic archival or data backup systems maintained by
19 Counsel.

20 27. **Attorney's Fees.** Nothing in this Protective Order is intended to either expand or
21 limit a prevailing party's right under the Nevada Rules of Civil Procedure or other applicable state
22 or federal law to pursue costs and attorney's fees incurred related to confidentiality designations or
23 the abuse of the process described herein.

24 28. **Injunctive Relief and Sanctions Available for Unauthorized Disclosure or Use of**
25 **Confidential Information or Highly Confidential Information.** The Parties and/or non-parties
26 shall not utilize any Confidential Information and/or Highly Confidential Information for their own
27 personal and/or business advantage or gain, aside from purpose(s) solely related to the instant
28 litigation (or to other litigations as permitted by the Global Utilization Agreement). The Parties and

1 non-parties acknowledge and agree that the unauthorized use and/or disclosure of Confidential
2 Information and/or Highly Confidential Information beyond this litigation (or beyond other
3 litigations as permitted by the Global Utilization Agreement) shall subject the offending Party or
4 non-party to sanctions contemplated in NRCP 37(b)(2)(A)-(D) (or pursuant to the rules and
5 procedures of the courts in litigations governed by the Global Utilization Agreement), up to and
6 including entry of judgment against the offending Party or non-party in circumstances involving
7 willful disobedience with this Order. Further, the Parties and/or non-parties receiving or being given
8 access to Confidential Information and/or Highly Confidential Information acknowledge that
9 monetary remedies would be inadequate to protect each Party in the case of unauthorized disclosure
10 or use of Confidential Information or Highly Confidential Information that the Receiving Party only
11 received through discovery in this action (or in other actions governed by the Global Utilization
12 Agreement), and that injunctive relief would be necessary and appropriate to protect each Party's
13 rights in the event there is any such unauthorized disclosure or use of Confidential Information or
14 Highly Confidential Information. The availability of injunctive relief to protect against the
15 unauthorized disclosure or use of Confidential Information or Highly Confidential Information shall
16 not be exclusive.

17 **29. Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in another
18 action, investigation, or proceeding, (b) is served with a demand in another action, investigation, or
19 proceeding, or (c) is served with any legal process by one not a Party to this Protective Order, seeking
20 materials which were produced or designated as Confidential or Highly Confidential pursuant to this
21 Protective Order, the Receiving Party shall give prompt actual written notice by electronic
22 transmission to counsel of record for such Producing Party within five (5) business days of receipt
23 of such subpoena, demand or legal process, or such shorter notice as may be required to provide
24 other Parties with the opportunity to object to the immediate production of the requested Discovery
25 Materials to the extent permitted by law. The burden of opposing enforcement of the subpoena shall
26 fall upon the Party or non-party who produced or designated the Discovery Material as Confidential
27 Information or Highly Confidential Information. Unless the Party or non-party who produced or
28 designated the Confidential Information or Highly Confidential Information obtains an Order

1 directing that the subpoena not be complied with, and serves such Order upon the Receiving Party
2 prior to production pursuant to the subpoena, the Receiving Party shall be permitted to produce
3 documents responsive to the subpoena on the subpoena response date. Compliance by the Receiving
4 Party with any Order directing production pursuant to a subpoena of any Confidential Information
5 or Highly Confidential Information shall not constitute a violation of this Protective Order. Nothing
6 in this Protective Order shall be construed as authorizing a Party to disobey a lawful subpoena issued
7 in another action.

8 30. **Execution in Counterparts.** This Protective Order may be signed in counterparts,
9 and a fax or "PDF" signature shall have the same force and effect as an original ink signature.

10 31. **Order Survives Termination.** This Protective Order shall survive the termination
11 of this action (or of the other actions governed by the Global Utilization Agreement), and the Court
12 shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

13 DATED ^{March} February 11, 2019

14 PISANELLI BICE PLLC

15 By: 

16 James J. Pisanelli, Esq., Bar No. 4027
17 Debra L. Spinelli, Esq., Bar No. 9695
18 M. Magali Mercera, Esq., Bar No. 11742
19 Brittanie T. Watkins, Esq., Bar No. 13612
20 400 South 7th Street, Suite 300
21 Las Vegas, NV 89101

22 and

23 Jeffrey J. Zeiger, P.C., Esq.
24 (admitted *pro hac vice*)
25 William E. Arnault, IV, Esq.
26 (admitted *pro hac vice*)
27 KIRKLAND & ELLIS LLP
28 300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

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

DATED February 16th 2019

MCNUTT LAW FIRM, P.C.

By: 

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and

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East Meadow, NY 11554

*Attorneys for Plaintiff Rowen Seibel/Defendants
Rowen Seibel; LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
MOTI Partners 16, LLC; TPOV Enterprises,
LLC; and TPOV Enterprises 16, LLC*

31. **Order Survives Termination.** This Protective Order shall survive the termination of this action (or of the other actions governed by the Global Utilization Agreement), and the Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

DATED February __, 2019

PISANELLI BICE PLLC

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

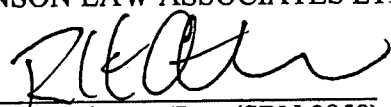
and

Jeffrey J. Zeiger, P.C., Esq.
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*Attorneys for Defendant PHWLTV, LLC/
Plaintiffs Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

DATED February 22, 2019

ATKINSON LAW ASSOCIATES LTD.

By: 
Robert E. Atkinson, Esq. (SBN 9958)
376 E. Warm Springs Road, Suite 130
Las Vegas, NV 89119

*Attorney for Defendant
J. Jeffrey Frederick*

DATED February __, 2019

DATED February __, 2019

MCNUTT LAW FIRM, P.C.

By: _____
Daniel R. McNutt, Esq. (SBN 7815)
Matthew C. Wolf, Esq. (SBN 10801)
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Las Vegas, Nevada 89101

and

Paul Sweeney, Esq.,
(admitted *pro hac vice*)
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*Attorneys for Plaintiff Rowen Seibel/Defendants
Rowen Seibel; LLTQ Enterprises, LLC;
LLTQ Enterprises 16, LLC; FERG, LLC;
FERG 16, LLC; MOTI Partners, LLC;
MOTI Partners 16, LLC; TPOV Enterprises,
LLC; and TPOV Enterprises 16, LLC*

DATED February __, 2019

FENNEMORE CRAIG, P.C.

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John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
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Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

1 DATED February __, 2019

2 ATKINSON LAW ASSOCIATES LTD.

3 By: _____
4 Robert E. Atkinson, Esq. (SBN 9958)
5 376 E. Warm Springs Road, Suite 130
6 Las Vegas, NV 89119

7 *Attorney for Defendant*
8 *J. Jeffrey Frederick*

9 DATED February __, 2019

10 BARACK FERRAZZANO KIRSCHBAUM &
11 NAGELBERG LLP

12 By: _____
13 Nathan Q. Rugg, Esq.
14 (admitted *pro hac vice*)
15 200 W. Madison St., Suite 3900
16 Chicago, IL 60606

17 and

18 Steven B. Chaiken, Esq.
19 ADELMAN & GETTLEMAN, LTD.
20 53 W. Jackson Blvd., Suite 1050
21 Chicago, IL 60604

22 *Attorneys for Defendants LLTQ Enterprises,*
23 *LLC; LLTQ Enterprises 16, LLC, FERG, LLC;*
24 *FERG 16, LLC; MOTI Partners, LLC; and*
25 *MOTI Partners 16, LLC.*

DATED February 19, 2019

FENNEMORE CRAIG, P.C.

By: _____
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John Tennert, Esq. (SBN 11728)
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Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

LEBENSFELD SHARON & SCHWARTZ
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By: _____
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and

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

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

1 DATED February __, 2019

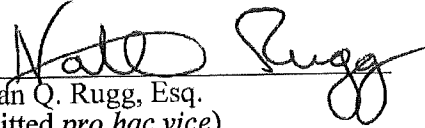
2 ATKINSON LAW ASSOCIATES LTD.

3
4 By: _____
Robert E. Atkinson, Esq. (SBN 9958)
376 E. Warm Springs Road, Suite 130
5 Las Vegas, NV 89119

6 *Attorney for Defendant*
7 *J. Jeffrey Frederick*

8 DATED February __, 2019

9 BARACK FERRAZZANO KIRSCHBAUM &
10 NAGELBERG LLP

11 By: 
12 Nathan Q. Rugg, Esq.
(admitted *pro hac vice*)
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13 Chicago, IL 60606

14 and

15 Steven B. Chaiken, Esq.
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Chicago, IL 60604

17 *Attorneys for Defendants LLTQ Enterprises,*
18 *LLC; LLTQ Enterprises 16, LLC, FERG, LLC;*
19 *FERG 16, LLC; MOTI Partners, LLC; and*
20 *MOTI Partners 16, LLC.*

DATED February __, 2019

FENNEMORE CRAIG, P.C.

By: _____
Allen Wilt, Esq. (SBN 4798)
John Tennert, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
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Reno, NV 89501

Attorneys for Defendant Gordon Ramsay

DATED February __, 2019

LEBENSFELD SHARON & SCHWARTZ
P.C.

By: _____
Alan M. Lebensfeld, Esq.
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and

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

1 BARACK FERRAZZANO KIRSCHBAUM &
2 NAGELBERG LLP


3 By: _____
4 Nathan Q. Rugg, Esq.
5 (admitted *pro hac vice*)
6 200 W. Madison St., Suite 3900
7 Chicago, IL 60606

8 and

9 Steven B. Chaiken, Esq.
10 ADELMAN & GETTLEMAN, LTD.
11 53 W. Jackson Blvd., Suite 1050
12 Chicago, IL 60604

13 *Attorneys for Defendants LLTQ Enterprises,*
14 *LLC; LLTQ Enterprises 16, LLC, FERG,*
15 *LLC; FERG 16, LLC; MOTI Partners, LLC;*
16 *and MOTI Partners 16, LLC.*

LEBENSFELD SHARON & SCHWARTZ
P.C.

By: 
Alan M. Lebensfeld, Esq.
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Red Bank, New Jersey 07701
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Mark J. Connot, Esq.
Kevin M. Sutchall, Esq.
FOX ROTHSCHILD LLP
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Las Vegas, NV 89135

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

17 DATED February __, 2019

18 HEYMAN ENERIO GATTUSO &
19 HIRZEL LLP

20 By: _____
21 Kurt Heyman, Esq.
22 300 Delaware Ave., Suite 200
23 Wilmington, DE 19801

24 *Trustee for GR Burgr LLC*

ORDER

25 IT IS SO ORDERED.

1 DATED February __, 2019

2 HEYMAN ENERIO GATTUSO &
3 HIRZEL LLP

4 By: _____
5 Kurt Heyman, Esq.
6 300 Delaware Ave., Suite 200
7 Wilmington, DE 19801

8 *Trustee for GR Burgr LLC*

10 **ORDER**

11 IT IS SO ORDERED.

12
13 
14 THE HONORABLE TIMOTHY C. WILLIAMS
15 DISTRICT COURT JUDGE

16 DATED: 3/12/19
17
18
19
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23
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EXHIBIT "A"

CONFIDENTIALITY AGREEMENT

I, _____ do hereby acknowledge and agree, under penalty of perjury, as follows:

1. I have read the Stipulated Confidentiality Agreement and Protective Order ("the Protective Order") entered in *Rowen Seibel v. PHWLTV, LLC, A-17-751759-B, consolidated with Case No. A-17-760537-B* on _____, _____, and I fully understand its contents.

2. I hereby agree and consent to be bound by the terms of the Protective Order and to comply with it in all respects, and to that end, I hereby knowingly and voluntarily submit and subject myself to the personal jurisdiction of the Eighth Judicial District Court, State of Nevada so that the said court shall have the power and authority to enforce the Protective Order and to impose appropriate sanctions upon me for knowingly violating the Protective Order, including punishment for contempt of court for a knowing violation of the Protective Order.

3. I understand that by signing this instrument, I will be eligible to receive "Confidential Information" and/or "Highly Confidential Information" under the terms and conditions of the Protective Order. I further understand and agree that I must treat any "Confidential Information" and/or "Highly Confidential Information" in accordance with the terms and conditions of the Protective Order, and that, if I should knowingly make a disclosure of any such information in a manner unauthorized by the Protective Order, I will have violated a court order, will be in contempt of court, and will be subject to punishment by the court for such conduct.

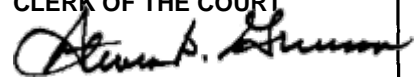
DATED: _____

(Signature)

(Printed Name)

(Address)

TAB 47



OJPC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

Plaintiff,)

-vs-)

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

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

Defendants.)

and)

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

Nominal Plaintiff.)

AND ALL RELATED MATTERS)

HEARING DATE(S)
ENTERED IN
ODYSSEY


AMENDED ORDER SETTING CIVIL JURY TRIAL, PRE-TRIAL/CALENDAR CALL

IT IS HEREBY ORDERED THAT:

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

B. A Pre-Trial/Calendar Call with the designated attorney and/or parties in proper
person will be held on **January 9, 2020 at 10:30 a.m.**

1 C. Parties are to appear on **September 25, 2019 at 9:00a.m.**, for a Status Check re Trial
2 Readiness.

3 D. The Pre-Trial Memorandum must be filed no later than **January 8, 2020**, with a
4 courtesy copy delivered to Department XI. All parties, (Attorneys and parties in proper person)
5 **MUST** comply with **All REQUIREMENTS** of E.D.C.R. 2.67, 2.68 and 2.69. Counsel should
6 include the Memorandum an identification of orders on all motions in limine or motions for partial
7 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
8 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
9 as any objections to the opinion testimony.
10

11 E. All motions in limine to exclude or admit evidence must be in writing and filed no
12 later than **November 4, 2019. Orders shortening time will not be signed except in extreme**
13 **emergencies.**
14

15 F. All dispositive motions must be filed no later than **October 4, 2019.**

16 G. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
17 16.1(a)(3) must be made at least 30 days before trial.

18 G. All discovery deadlines, and motions to amend the pleadings or add parties are
19 controlled by the previously issued Scheduling Order and/or any amendments or subsequent
20 orders.
21

22 I. All original depositions anticipated to be used in any manner during the trial must be
23 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is
24 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions
25 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days
26 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of
27
28

1 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial
2 date. Counsel shall advise the clerk prior to publication.

3 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
4 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
5 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
6 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
7 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
8 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
9 demonstrative exhibits are marked for identification but not admitted into evidence.
10

11 K. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
12 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
13 make specific objections to items to be included in the Jury Notebook.
14

15 L. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
16 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
17 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
18 set of jury instructions and proposed form of verdict along with any additional proposed jury
19 instructions with an electronic copy in Word format.
20

21 M. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two
22 (2) judicial days prior to the firm trial date given at Calendar Call, voir dire proposed to be
23 conducted pursuant to conducted pursuant to EDCR 2.68.

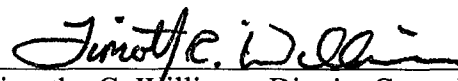
24 **Failure of the designated trial attorney or any party appearing in proper person to**
25 **appear for any court appearances or to comply with this Order shall result in any of the**
26
27
28

1 following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation
2 of trial date; and/or any other appropriate remedy or sanction.

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

7
8 Counsel is required to advise the Court immediately when the case settles or is otherwise
9 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
10 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A
11 copy should be given to Chambers.

12 DATED: March 13, 2019

13
14 
15 Timothy C. Williams, District Court Judge

16
17 **CERTIFICATE OF SERVICE**

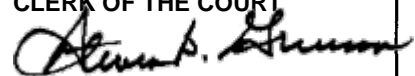
18 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil
19 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all
20 registered parties in the Eighth Judicial District Court Electronic Filing Program as follows:

21 William E Arnault	warnault@kirkland.com
22 Magali Mercera	mmm@pisanellibice.com
23 Cinda Towne	cct@pisanellibice.com
24 Jeffrey J Zeiger	jzeiger@kirkland.com
25 Paul Sweeney	PSweeney@certilmanbalin.com
26 Robert Atkinson	robert@nv-lawfirm.com
27 Litigation Paralegal	bknotices@nv-lawfirm.com
28 Kevin M. Sutehall	ksutehall@foxrothschild.com

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2	"John Tennert, Esq." .	jtennert@fclaw.com
3	Allen Wilt .	awilt@fclaw.com
4	Brittnie T. Watkins .	btw@pisanellibice.com
5	Dan McNutt .	drm@cmlawnv.com
6	Debra L. Spinelli .	dls@pisanellibice.com
7	Diana Barton .	db@pisanellibice.com
8	Lisa Anne Heller .	lah@cmlawnv.com
9	Matt Wolf .	mcw@cmlawnv.com
10	Meg Byrd .	mbyrd@fclaw.com
11	PB Lit .	lit@pisanellibice.com
12	Steven Chaiken	sbc@ag-ltd.com
13	Mark Connot	mconnot@foxrothschild.com
14	Joshua Feldman	jfeldman@certilmanbalin.com
15	Christine Gioe	christine.gioe@lsandspc.com
16	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
17	Doreen Loffredo	dloffredo@foxrothschild.com
18	Daniel McNutt	drm@cmlawnv.com
19	Nicole Milone	nmilone@certilmanbalin.com
20	Trey Pictum	trey@mcnuttlawfirm.com
21	Nathan Rugg	nathan.rugg@bfkn.com
22	Brett Schwartz	brett.schwartz@lsandspc.com

Lynn Berkheimer, Judicial Executive Assistant

TAB 48



1 ARJT

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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

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

10 Plaintiff,)

11 -vs-)

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

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

15 Defendants.)

16 and)

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

19 Nominal Plaintiff.)

AND ALL RELATED MATTERS)

HEARING DATE(S)
ENTERED IN
ODYSSEY


20 **2nd AMENDED ORDER SETTING CIVIL JURY TRIAL,**
21 **PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;**
22 **AMENDED DISCOVERY SCHEDULING ORDER CALL**

23 Pursuant to the Stipulation and Order to Extend Discovery Deadlines and Trial (4th Request)
24 the Discovery Deadlines and Trial dates are hereby amended as follows:

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

26 Motions to amend pleadings or add parties

Closed

27 Close of Fact Discovery

October 7, 2019

Designation of experts pursuant to NRCP 16.1(a)(2)	November 6, 2019
Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	December 6, 2019
Discovery Cut Off	January 6, 2020
Dispositive Motions	February 5, 2020
Motions in Limine	February 21, 2020

IT IS HEREBY ORDERED THAT:

- A. The above entitled case is set to be tried to a jury on a **five week stack** to begin **April 6, 2020 at 9:30 a.m.**
- B. Pre-Trial Conference/Calendar Call will be held on **March 19, 2020 at 10:30 a.m.**
- C. Parties are to appear on **January 22, 2020 at 9:00a.m.**, for a Status Check re Trial Readiness.
- D. The Pre-Trial Memorandum must be filed no later than **March 20, 2020**, with a courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person) **MUST** comply with **ALL REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include in the Memorandum an identification of orders on all motions in limine or motions for partial summary judgment previously made, a summary of any anticipated legal issues remaining, a brief summary of the opinions to be offered by any witness to be called to offer opinion testimony as well as any objections to the opinion testimony.
- E. All motions in limine must be in writing and filed no later than **February 2, 2020**. **Orders shortening time will not be signed except in extreme emergencies.**
- F. All motions in limine to exclude or admit evidence must be in writing and filed no later than **February 21, 2020**. **Orders shortening time will not be signed except in extreme emergencies.**

1 G. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
2 16.1(a)(3) must be made at least 30 days before trial.

3 H. All discovery deadlines, and motions to amend the pleadings or add parties are
4 controlled by the previously issued Scheduling Order and/or any amendments or subsequent
5 orders.
6

7 I. All original depositions anticipated to be used in any manner during the trial must be
8 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is
9 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions
10 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days
11 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of
12 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial
13 date. Counsel shall advise the clerk prior to publication.
14

15 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
16 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
17 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
18 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
19 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
20 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
21 demonstrative exhibits are marked for identification but not admitted into evidence.
22

23 K. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
24 included in the Jury Notebook. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
25 make specific objections to items to be included in the Jury Notebook.
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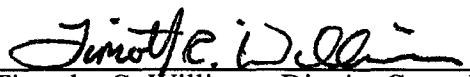
1 L. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
2 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
3 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
4 set of jury instructions and proposed form of verdict along with any additional proposed jury
5 instructions with an electronic copy in Word format.

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

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

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

20
21 DATED: August 19, 2019

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23 
24 Timothy C. Williams, District Court Judge

25 ...

26 ...

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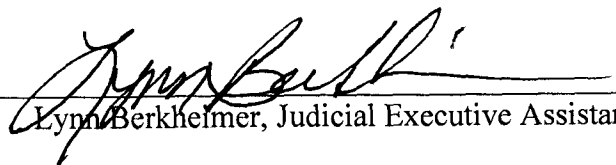
CERTIFICATE OF SERVICE

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

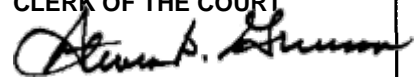
William E Arnault	warnault@kirkland.com
Magali Mercera	mmm@pisanellibice.com
Cinda Towne	cct@pisanellibice.com
Jeffrey J Zeiger	jzeiger@kirkland.com
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Anthony J DiRaimondo	adiraimondo@rrsc-law.com
Gayle McCrea	gmccrea@rrsc-law.com
Robert Opdyke	ropdyke@rrsc-law.com
Paul Sweeney	PSweeney@certilmanbalin.com
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Litigation Paralegal	bknotices@nv-lawfirm.com
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"James J. Pisanelli, Esq."	lit@pisanellibice.com
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Lynn Berkheimer, Judicial Executive Assistant

TAB 49



1 ARJT

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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

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

10 Plaintiff,)

11 -vs-)

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

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

15 Defendants.)

16 and)

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

19 Nominal Plaintiff.)

AND ALL RELATED MATTERS)

HEARING DATE(S)
ENTERED IN
ODYSSEY



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

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

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

26 Motions to amend pleadings or add parties

Closed

27 Close of Fact Discovery

January 15, 2020

1	Designation of experts pursuant to NRCP 16.1(a)(2)	February 14, 2020
2	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	March 16, 2020
3	Discovery Cut Off	April 15, 2020
4	Dispositive Motions	May 15, 2020
5	Motions in Limine	June 12, 2020

7 **IT IS HEREBY ORDERED THAT:**

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

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

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

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

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

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

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

4 H. All original depositions anticipated to be used in any manner during the trial must be
5 delivered to the clerk prior to the firm trial date given at Calendar Call. If deposition testimony is
6 anticipated to be used in lieu of live testimony, a designation (by page/line citation) of the portions
7 of the testimony to be offered must be filed and served by facsimile or hand, two (2) judicial days
8 prior to the firm trial date. Any objections or counterdesignations (by page/line citation) of
9 testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the firm trial
10 date. Counsel shall advise the clerk prior to publication.
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17 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
18 demonstrative exhibits are marked for identification but not admitted into evidence.
19

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

24 K. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
25 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
26 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
27


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

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

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

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

17 DATED: October 8, 2019.

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19 
20 Timothy C. Williams, District Court Judge
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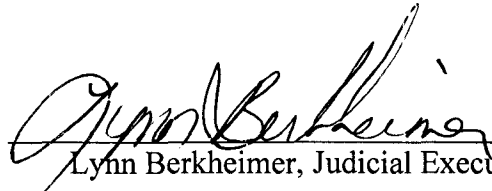
CERTIFICATE OF SERVICE

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

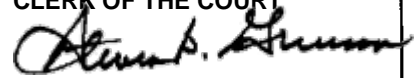
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Lynn Berkheimer, Judicial Executive Assistant

TAB 50



1 ARJT

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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

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

10 Plaintiff,)

11 -vs-)

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

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

15 Defendants.)

16 and)

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

19 Nominal Plaintiff.)

AND ALL RELATED MATTERS)

HEARING DATE(S)
ENTERED IN
ODYSSEY



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

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

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

26 Motions to amend pleadings or add parties

Closed

27 Close of Fact Discovery

May 15, 2020

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

7 **IT IS HEREBY ORDERED THAT:**

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

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

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

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

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

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

1 G. All discovery deadlines, and motions to amend the pleadings or add parties are
2 controlled by the previously issued Scheduling Order and/or any amendments or subsequent
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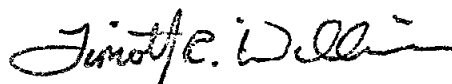
1 set of jury instructions and proposed form of verdict along with any additional proposed jury
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4 **appear for any court appearances or to comply with this Order shall result in any of the**
5 **following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation**
6 **of trial date; and/or any other appropriate remedy or sanction.**
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8 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if they are*
9 *going to require daily copies of the transcripts of this trial or real time court reporting. Failure to*
10 *do so may result in a delay in the production of the transcripts or the availability of real time court*
11 *reporting.*
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13 Counsel is required to advise the Court immediately when the case settles or is otherwise
14 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
15 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A
16 copy should be given to Chambers.

17 DATED: January 7, 2020.

18
19 

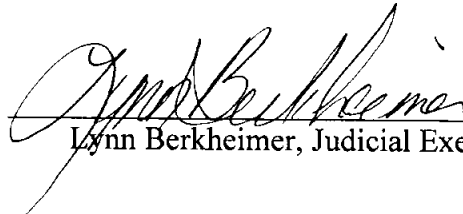
20 Timothy C. Williams, District Court Judge
21
22
23
24
25
26 ...
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28 ...

1 **CERTIFICATE OF SERVICE**

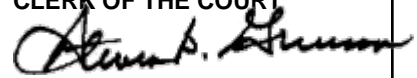
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3 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil
4 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all
registered parties in the Eighth Judicial District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

5 William E Arnault	warnault@kirkland.com
6 Magali Mercera	mmm@pisanellibice.com
7 Cinda Towne	cct@pisanellibice.com
8 Jeffrey J Zeiger	jzeiger@kirkland.com
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16 Kevin M. Sutehall	ksutehall@foxrothschild.com
17 "James J. Pisanelli, Esq." .	lit@pisanellibice.com
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22 Debra L. Spinelli .	dls@pisanellibice.com
23 Diana Barton .	db@pisanellibice.com
24 Lisa Anne Heller .	lah@cmlawnv.com
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7	Doreen Loffredo	dloffredo@foxrothschild.com
8	Daniel McNutt	drm@cmlawnv.com
9	Nicole Milone	nmilone@certilmanbalin.com
10	Litigation Paralegal	bknotices@nv-lawfirm.com
11	Trey Pictum	trey@mcnuttlawfirm.com
12	Nathan Rugg	nathan.rugg@bfkn.com
13	Brett Schwartz	brett.schwartz@lsandspc.com
14	Lawrence Sharon	lawrence.sharon@lsandspc.com


Lynn Berkheimer, Judicial Executive Assistant

TAB 51



ARJT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiff,

-vs-

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

Defendants.

and

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

Nominal Plaintiff.

AND ALL RELATED MATTERS

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY

**5th AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;
AMENDED DISCOVERY SCHEDULING ORDER CALL**

Pursuant to the Stipulation to Stay Discovery and Order to Extend Discovery Deadlines
Following Stay (Seventh Request), the Discovery Deadlines and Trial dates are hereby
amended as follows:

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

Motions to amend pleadings or add parties

Closed

1	Close of Fact Discovery	July 21, 2020
2	Designation of experts pursuant to NRCP 16.1(a)(2)	August 20, 2020
3	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	September 21, 2020
4	Discovery Cut Off	October 21, 2020
5	Dispositive Motions	November 20, 2020
6	Motions in Limine	December 7, 2020

8 **IT IS HEREBY ORDERED THAT:**

9 A. The above entitled case is set to be tried to a jury on a **five week stack** to begin
10 **January 19, 2021 at 1:30 p.m.**

11 B. Pre-Trial Conference/Calendar Call will be held on **January 7, 2021 at 10:30 a.m.**

12 C. Parties are to appear on **November 4, 2020 at 9:00a.m.**, for a Status Check re Trial
13 Readiness.

14 D. The Pre-Trial Memorandum must be filed no later than **January 5, 2021**, with a
15 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
16 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
17 in the Memorandum an identification of orders on all motions in limine or motions for partial
18 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
19 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
20 as any objections to the opinion testimony.

21 E. All motions in limine to exclude or admit evidence must be in writing and filed no
22 later than **December 7, 2020. Orders shortening time will not be signed except in extreme**
23 **emergencies.**

24 F. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
25
26
27
28

1 16.1(a)(3) must be made at least 30 days before trial.

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

11
12 H. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
13 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
14 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
15 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
16 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
17 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
18 demonstrative exhibits are marked for identification but not admitted into evidence.
19

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

24 J. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
25 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
26 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
27
28

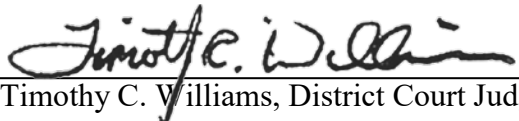
1 set of jury instructions and proposed form of verdict along with any additional proposed jury
2 instructions with an electronic copy in Word format.

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

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

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

17 DATED: April 17, 2020.

18
19 
20 Timothy C. Williams, District Court Judge

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26 ...
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28 ...

CERTIFICATE OF SERVICE

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

William E Arnault	warnault@kirkland.com
Magali Mercera	mmm@pisanellibice.com
Cinda Towne	cct@pisanellibice.com
Jeffrey J Zeiger	jzeiger@kirkland.com
John R. Bailey	jbailey@baileykennedy.com
Steven Bennett	scb@szslaw.com
Daniel J Brooks	dbrooks@szslaw.com
David A. Carroll	dcarroll@rrsc-law.com
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Joshua P. Gilmore	jgilmore@baileykennedy.com
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Gayle McCrea	gmccrea@rrsc-law.com
Robert Opdyke	ropdyke@rrsc-law.com
Paul Sweeney	PSweeney@certilmanbalin.com

Paul C. Williams	pwilliams@baileykennedy.com
------------------	-----------------------------

Kevin M. Sutehall	ksutehall@foxrothschild.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

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2	Debra L. Spinelli .	dls@pisanellibice.com
3	Diana Barton .	db@pisanellibice.com
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21	Litigation Paralegal	bknotices@nv-lawfirm.com
22	Trey Pictum	trey@mcnuttlawfirm.com
23	Nathan Rugg	nathan.rugg@bfkn.com
24	Brett Schwartz	brett.schwartz@lsandspc.com
25	Lawrence Sharon	lawrence.sharon@lsandspc.com

/s/ Lynn Berkheimer

Lynn Berkheimer, Judicial Executive Assistant

TAB 52

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

April 29, 2020 09:00 AM Status Check: Status of Case

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

COURT CLERK: Darling, Christopher

RECORDER:

REPORTER: Isom, Peggy

PARTIES PRESENT:

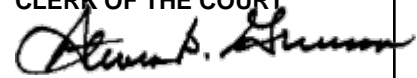
James J Pisanelli	Attorney for Consolidated Case Party, Counter Claimant, Defendant
John D. Tennert	Attorney for Defendant
John R Bailey	Attorney for Counter Claimant, Counter Defendant, Defendant, Plaintiff
Joshua P, Gilmore, ESQ	Attorney for Counter Claimant, Counter Defendant, Defendant, Plaintiff
Maria Magali Mercera	Attorney for Consolidated Case Party, Counter Claimant, Defendant

JOURNAL ENTRIES

Counsel present telephonically. Colloquy regarding stipulated stay expiring 5/22/20 with respect to both written discovery and deposition issues and whether derivative claims issue as to GRB party impacted by 6/26/20 Delaware Court hearing. Court noted complaint in this case filed 2/28/17 and without agreed extension as to 5-year rule, case to proceed timely. COURT ORDERED, status check SET at time of 5/20/20 Motion to Dismiss to consider outstanding discovery other than depositions, as discussed; parties afforded last meet and confer opportunity and Court may direct motion filing and briefing schedule if not resolved. Court stated Mr. Pisanelli not precluded from filing motion on the GRB issue. Court further stated Delaware action and Trustee report will have no impact on proceeding; however, parties may include exhibit and explanation regarding same action.

5/20/20 9:30 AM STATUS CHECK: OUTSTANDING DISCOVERY (OTHER THAN DEPOSITIONS)...MOTION TO DISMISS COUNTS IV, V, VI, VII, AND VIII OF CAESARS' FIRST AMENDED COMPLAINT

TAB 53



ARJT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiff,)

-vs-)

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

Defendants.)

and)

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

Nominal Plaintiff.)

AND ALL RELATED MATTERS)

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY

**6th AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;
AMENDED DISCOVERY SCHEDULING ORDER CALL**

Pursuant to the June 10, 2020 hearing on Craig Green's Motion to Extend Discovery
Deadlines on OST, the Discovery Deadlines and Trial dates are hereby amended as follows:

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

Motions to amend pleadings or add parties Closed

Close of Fact Discovery Closed

1	Designation of experts pursuant to NRCP 16.1(a)(2)	Closed
2	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	Closed
3	Discovery Cut Off	October 19, 2020
4	Dispositive Motions	November 18, 2020
5	Motions in Limine	January 4, 2021

7 **IT IS HEREBY ORDERED THAT:**

8 A. The above entitled case is set to be tried to a jury on a **five week stack** to begin
9 **February 22, 2021 at 9:30 a.m.**

10 B. Pre-Trial Conference/Calendar Call will be held on **February 11, 2021 at 10:30 a.m.**

11 C. Parties are to appear on **November 4, 2020 at 9:00a.m.**, for a Status Check re Trial
12 Readiness.

13 D. The Pre-Trial Memorandum must be filed no later than **Febarury 18, 2021**, with a
14 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
15 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
16 in the Memorandum an identification of orders on all motions in limine or motions for partial
17 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
18 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
19 as any objections to the opinion testimony.

20 E. All motions in limine to exclude or admit evidence must be in writing and filed no
21 later than **January 4, 2021. Orders shortening time will not be signed except in extreme**
22 **emergencies.**

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

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

10
11 H. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
12 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
13 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
14 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
15 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
16 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
17 demonstrative exhibits are marked for identification but not admitted into evidence.
18

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

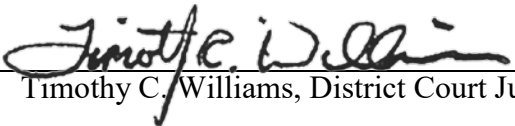
23 J. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
24 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
25 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
26 set of jury instructions and proposed form of verdict along with any additional proposed jury
27 instructions with an electronic copy in Word format.
28

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

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

9
10 Counsel is required to advise the Court immediately when the case settles or is otherwise
11 resolved prior to trial. A stipulation which terminates a case by dismissal shall also indicate
12 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial. A
13 copy should be given to Chambers.

14
15 DATED: June 18, 2020.

16
17 
18 Timothy C. Williams, District Court Judge
19
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CERTIFICATE OF SERVICE

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

William E Arnault	warnault@kirkland.com
Magali Mercera	mmm@pisanellibice.com
Cinda Towne	cct@pisanellibice.com
Jeffrey J Zeiger	jzeiger@kirkland.com
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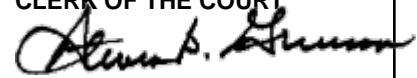
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Nathan Rugg	nathan.rugg@bfkn.com
Brett Schwartz	brett.schwartz@lsandspc.com
Lawrence Sharon	lawrence.sharon@lsandspc.com

/s/ Lynn Berkheimer

Lynn Berkheimer, Judicial Executive Assistant

TAB 54



ARJT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiff,

-vs-

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

Defendants.

and

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

Nominal Plaintiff.

AND ALL RELATED MATTERS

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY

**7th AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;
AMENDED DISCOVERY SCHEDULING ORDER CALL**

Pursuant to the Stipulation and Proposed Order to Extend Discovery Deadlines (Ninth Request, the Discovery Deadlines and Trial dates are hereby amended as follows:

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

Motions to amend pleadings or add parties Closed

Close of Fact Discovery Closed

1	Designation of experts pursuant to NRCP 16.1(a)(2)	Closed
2	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	Closed
3	Discovery Cut Off (new)	November 18, 2020
4	(all)	December 18, 2020
5	Dispositive Motions	February 18, 2021
6	Motions in Limine	April 23, 2021

7
8 **IT IS HEREBY ORDERED THAT:**

9 A. The above entitled case is set to be tried to a jury on a **five week stack** to begin
10 **July 12, 2021 at 9:30 a.m.**

11 B. Pre-Trial Conference/Calendar Call will be held on **June 24, 2021 at 10:30 a.m.**

12 C. Parties are to appear on **February 3, 2021 at 9:00a.m.**, for a Status Check re Trial
13 Readiness.

14 D. The Pre-Trial Memorandum must be filed no later than **May 24, 2021**, with a
15 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
16 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
17 in the Memorandum an identification of orders on all motions in limine or motions for partial
18 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
19 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
20 as any objections to the opinion testimony.

21 E. All motions in limine to exclude or admit evidence must be in writing and filed no
22 later than **April 23, 2021. Orders shortening time will not be signed except in extreme**
23 **emergencies.**

24 F. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
25
26
27
28

1 16.1(a)(3) must be made at least 30 days before trial.

2 G. All original depositions anticipated to be used in any manner during the trial
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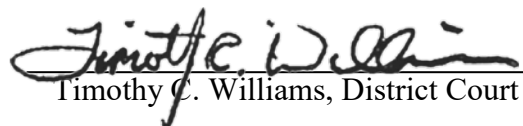
1 set of jury instructions and proposed form of verdict along with any additional proposed jury
2 instructions with an electronic copy in Word format.

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

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

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

17 DATED: October 15, 2020.

18
19 
20 Timothy C. Williams, District Court Judge

21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil
23 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all
24 registered parties in the Eighth Judicial District Court Electronic Filing Program to all registered
25 service contacts on Odyssey File and Serve for Case No. A751759.

26 /s/ Lynn Berkheimer
27 _____
28 Lynn Berkheimer, Judicial Executive Assistant

TAB 55

**FILED UNDER
SEAL PURSUANT
TO PENDING
MOTION TO SEAL
FILED
CONCURRENTLY
HEREWITH**