

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.

PHWLV, LLC, AND GORDON RAMSAY,

Respondents,

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

APPENDIX TO APPELLANTS' OPENING BRIEF

VOLUME 19 OF 34

JOHN R. BAILEY
NEVADA BAR NO. 0137
DENNIS L. KENNEDY
NEVADA BAR NO. 1462
JOSHUA P. GILMORE
NEVADA BAR NO. 11576
PAUL C. WILLIAMS
NEVADA BAR NO. 12524

BAILEY ❖ KENNEDY

8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
TELEPHONE: (702) 562-8820
FACSIMILE: (702) 562-8821
JBAILEY@BAILEYKENNEDY.COM
DKENNEDY@BAILEYKENNEDY.COM
JGILMORE@BAILEYKENNEDY.COM
PWILLIAMS@BAILEYKENNEDY.COM

Attorneys for Appellants

APPENDIX OF EXHIBITS TO APPELLANTS' OPENING BRIEF

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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:

JAMES J. PISANELLI
DEBRA L. SPINELLI
M. MAGALI MERCERA
PISANELLI BICE PLLC
400 South 7th Street, Suite
300
Las Vegas, NV 89101

Email: JJP@pisanellibice.com
DLS@pisanellibice.com
MMM@pisanellibice.com
Attorneys for Respondent PHWLTV, LLC

JOHN D. TENNERT
GEENAMARIE CARUCCI
WADE BEAVERS
**FENNEMORE CRAIG,
P.C.**
7800 Rancharra Parkway
Reno, NV 89511

Email: jtennert@fennemorelaw.com
wbeavers@fennemorelaw.com
gcarucci@fennemorelaw.com
Attorneys for Respondent Gordon Ramsay

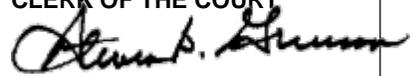
/s/ Susan Russo
Employee of BAILEY ❖ KENNEDY

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**FILED UNDER
SEAL PURSUANT
TO PENDING
MOTION TO SEAL
FILED
CONCURRENTLY
HEREWITH**

TAB 66



1 **RFJN**
2 John D. Tennert III (SBN 11728)
3 Wade Beavers (SBN 13451)
4 Austin M. Maul (SBN 15596)
5 FENNEMORE CRAIG, P.C.
6 7800 Rancharra Pkwy
7 Reno, Nevada 89511
8 Telephone: (775) 788-2200
9 Facsimile: (775) 786-1177
10 Email: jtennert@fclaw.com
11 wbeavers@fclaw.com
12 amaul@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 as Nominal Plaintiff on
18 behalf of Real Party in Interest GR BURGR LLC,
19 a Delaware limited liability company;

20 Plaintiff,

21 vs.

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

24 Defendant,

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

27 Nominal Defendant.

28 AND ALL RELATED MATTERS.

CASE NO: A-17-751759-B
DEPT NO: XV

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

GORDON RAMSAY'S REQUEST FOR
JUDICIAL NOTICE

29 Pursuant to NRS 47.130, Defendant Gordon Ramsay respectfully requests that this Court
30 take judicial notice of the public filings and Court orders entered in the dissolution proceedings of
31 Nominal Defendant GR BURGR, LLC ("GRB") currently pending in the Delaware Court of
32 Chancery, *In re GR BURGR, LLC*, No. 12825-VCS (the "Delaware Dissolution Proceedings") and
33 Plaintiff Seibel's criminal proceedings *United States of America v. Rowen Seibel*, Case No. 1:16-

FENNEMORE CRAIG, P.C.
7800 Rancharra Pkwy
Reno, Nevada 89511
Tel: (775) 788-2200 Fax: (775) 786-1177

1 cr-00279-WHP (the “Seibel Criminal Proceedings”).

2 The Delaware Dissolution Proceedings are closely related to GRB’s relationship with
3 Seibel and GRB’s relationship with Defendant PHWL, LLC (“PH”) and non-party GR US
4 Licensing, LP (“GRUS”). *See Mack v. Estate of Mack*, 125 Nev. 80, 91–92, 206 P.3d 98, 106
5 (2009) (taking judicial notice of documents filed in a prior case because the prior case was closely
6 related to the case currently before that court). Specifically, Ramsay requests judicial notice of the
7 following documents attached to Ramsay’s Appendix to his Motion for Summary Judgment
8 (“GR’s App.”) at Exhibit 26: (1) Memorandum of Opinion dated August 25, 2017; (2) Order
9 Dissolving GR BURGR, LLC and Appointing Liquidating Trustee dated October 25, 2017; (4)
10 Appointment Order dated December 11, 2017; (5) Report and Proposed Liquidation Plan for GR
11 BURGR, LLC (Public Version) dated March 30, 2020; and (6) Letter Opinion of Vice Chancellor
12 Joseph R. Slights dated October 13, 2020. These documents are publicly available online at the
13 Delaware Court’s website <https://courts.delaware.gov/> and are capable of accurate and ready
14 determination. NRS 42.130(2).

15 Ramsay also requests that this Court take judicial notice of the public filings and orders
16 entered in the Seibel Criminal Proceedings, which directly relate to Seibel’s unsuitability and the
17 facts that gave rise to this action. Specifically, Ramsay requests judicial notice of the following
18 documents attached to Ramsay’s Appendix to his Motion for Summary Judgment: (1) Ex. 10,
19 Information filed April 18, 2016 [ECF No. 2]; (2) Ex. 16, Notice of Intent to File Information filed
20 February 29, 2016 [ECF No. 1]; (3) Ex. 17, Plea Hearing Transcript filed April 25, 2016 [ECF No.
21 7]; (4) Ex. 18, Ltr. from R. Fink to Hon. J. Pauley filed August 5, 2016 [ECF 14]; (5) Ex. 19, Lrt.
22 from R. Fink to Hon. J. Pauley filed August 16, 2016 [ECF 16]; and (6) Ex. 20, Sentencing
23 Hearing Transcript filed September 13, 2016 [ECF 18]. These documents are available on the
24 federal government’s PACER website and are capable of accurate and ready determination. NRS
25 42.130(2).

26 **CONCLUSION**

27 For the reasons set forth above, Ramsay respectfully requests that this Court take judicial
28 notice of the public filings referenced above.

FENNEMORE CRAIG, P.C.
7800 Rancharrah Pkwy
Reno, Nevada 89511
Tel: (775) 788-2200 Fax: (775) 786-1177

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Dated: February 26, 2021

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert III (SBN 11728)
Wade Beavers (SBN 13451)
Austin M. Maul (SBN 15596)
7800 Rancharrah Pkwy
Reno, Nevada 89511
Telephone: (775) 788-2200
Facsimile: (775) 786-1177
Email: jtennert@fclaw.com
wbeavers@fclaw.com
amaul@fclaw.com

Attorneys for Gordon Ramsay

FENNEMORE CRAIG, P.C.
7800 Rancharrah Pkwy
Reno, Nevada 89511
Tel: (775) 788-2200 Fax: (775) 786-1177

CERTIFICATE OF SERVICE

I certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, pursuant to NRCP 5(b), I caused to be served via the Court's e-filing /e-service system a true and correct copy of the above and foregoing GORDON RAMSAY'S REQUEST FOR JUDICIAL NOTICE to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302

*Attorneys for Rowen Seibel, Craig Green,
Moti Partners, LLC, Moti Partner 16s, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises
16, LLC, TPOV Enterprises, LLC, TPOV
Enterprises 16, LLC, FERG, LLC, FERG 16
LLC, and R Squared Global Solutions, LLC,
Derivatively on Behalf of Inc. DNT
Acquisition LLC*

Aaron D. Lovaas, Esq.
NEWMEYER & DILLION LLP
3800 Howard Hughes Parkway, Suite 700
Las Vegas, Nevada 89169

Attorneys for GR Burgr, LLC

Alan Lebensfeld, Esq.
Lawrence J. Sharon, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

*Attorneys for
The Original Homestead Restaurant, Inc*

James J. Pisanelli, Esq.
Debra Spinelli, Esq.
M. Magali Mercera, Esq.
Brittanie T. Watkins, Esq.
PISANELLI BICE PLLC
400 South 7 th Street, Suite 300
Las Vegas, Nevada 89101

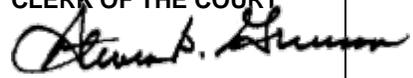
Jeffrey J. Zeiger, Esq.
William E. Arnault, IV, Esq.
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

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

DATED: February 26, 2021

/s/ Shawna Braselton
An employee of FENNEMORE CRAIG, P.C.

TAB 67



1 **OBJ (CIV)**

2 JOHN R. BAILEY
3 Nevada Bar No. 0137
4 DENNIS L. KENNEDY
5 Nevada Bar No. 1462
6 JOSHUA P. GILMORE
7 Nevada Bar No. 11576
8 PAUL C. WILLIAMS
9 Nevada Bar No. 12524
10 STEPHANIE J. GLANTZ
11 Nevada Bar No. 14878

12 **BAILEY ❖ KENNEDY**

13 8984 Spanish Ridge Avenue
14 Las Vegas, Nevada 89148-1302
15 Telephone: 702.562.8820
16 Facsimile: 702.562.8821
17 JBailey@BaileyKennedy.com
18 DKennedy@BaileyKennedy.com
19 JGilmore@BaileyKennedy.com
20 PWilliams@BaileyKennedy.com
21 SGlantz@BaileyKennedy.com

22 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC;*
23 *LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; TPOV Enterprises, LLC;*
24 *TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green;*
25 *R Squared Global Solutions, LLC, Derivatively On Behalf of DNT Acquisition,*
26 *LLC; and GR Burgr, LLC*

27 DISTRICT COURT
28 CLARK COUNTY, NEVADA

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

21 Plaintiff,

22 vs.

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

27 Defendants,

28 And

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED CLAIMS.

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

Consolidated with A-17-760537-B

**OBJECTIONS TO EVIDENCE OFFERED BY
GORDON RAMSAY IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

HEARING NOT REQUESTED

1 Rowen Seibel and GR Burger, LLC (“GRB”), by and through their counsel, object to the
2 following evidence submitted by Gordon Ramsay with his Appendix of Exhibits in support of his
3 Motion for Summary Judgment, filed March 26, 2021 (the “Motion”):

4 1. **Exhibit 13:** The document contains inadmissible hearsay. NRS 51.035; NRS
5 51.065(1). Ramsay seeks to offer the document to prove the truth of the matters asserted. Further,
6 Seibel and GRB were unable to cross-examine Rob W. Morey, Assistant U.S. Attorney, and Paul
7 Krieger, Deputy Chief, Complex Frauds & Cybercrime Unit, who handled Seibel’s criminal matter,
8 making it unfair for the Court to consider out-of-court statements from them. In addition, the
9 document contains argument of counsel, which is not evidence. *See, e.g., McKenna v. State*, 114
10 Nev. 1044, 1053, 968 P.2d 739, 745 (1998). Further, Ramsay did not lay a proper foundation for
11 the document—it is not signed by Seibel or his counsel. *Frias v. Valle*, 101 Nev. 219, 221-22, 698
12 P.2d 875, 876-77 (1985). Moreover, the document references inadmissible settlement
13 communications. NRS 48.045(1). Finally, Exhibit 13’s probative value (if any) is substantially
14 outweighed by the danger of unfair prejudice, confusion of the issues or of misleading the jury.
15 NRS 48.035(1). For these reasons, the Court should disregard Exhibit 13.

16 2. **Exhibit 14:** The document contains inadmissible hearsay. NRS 51.035; NRS
17 51.065(1). Ramsay seeks to offer the document to prove the truth of the matters asserted. Further,
18 Seibel and GRB were unable to cross-examine Messrs. Morey and Krieger who handled Seibel’s
19 criminal matter, making it unfair for the Court to consider out-of-court statements from them. In
20 addition, the document contains argument of counsel, which is not evidence. *See, e.g., McKenna*,
21 114 Nev. at 1053, 968 P.2d at 745. Further, Ramsay did not lay a proper foundation for the
22 document—it is not signed by Seibel or his counsel. *Frias*, 101 Nev. at 221-22, 698 P.2d at 876-77.
23 Moreover, the document references inadmissible settlement communications. NRS 48.045(1).
24 Finally, Exhibit 14’s probative value (if any) is substantially outweighed by the danger of unfair
25 prejudice, confusion of the issues or of misleading the jury. NRS 48.035(1). For these reasons, the
26 Court should disregard Exhibit 14.

27 3. **Exhibit 17:** The document is incomplete, precluding the Court from ensuring that it
28 is what Ramsay claims it to be. NRS 52.015(1). That aside, the document contains inadmissible

1 hearsay. NRS 51.035; NRS 51.065(1). Other than statements made by Mr. Seibel or his counsel,
2 the Court should disregard statements by others in Exhibit 17.

3 4. **Exhibit 20:** The document is incomplete, precluding the Court from ensuring that it
4 is what Ramsay claims it to be. NRS 52.015(1). That aside, the document contains inadmissible
5 hearsay. NRS 51.035; NRS 51.065(1). Other than statements made by Seibel or his counsel, the
6 Court should disregard statements by others in Exhibit 20.

7 5. **Exhibit 27:** The document is irrelevant, and thus, inadmissible. NRS 48.025(2).
8 The document is a redacted, public version of a March 30, 2020 Report and Proposed Liquidation
9 Plan for GR Burger, LLC (the “Report”) prepared by the Liquidating Trustee (Kurt Heyman, Esq.)
10 for GRB and filed in *In re: GR Burger, LLC*, C.A. No. 12825-VCS, Court of Chancery, State of
11 Delaware. As set forth in Seibel and GRB’s Opposition to Ramsay’s Motion, the various opinions
12 and legal conclusions contained in the Report do not constitute judicial admissions. Caesars cites
13 no authority indicating that a court may defer to the findings of a court-appointed trustee in
14 assessing the merits of a party’s claims where those claims were assigned by the trustee to a former
15 member of the party. Next, Ramsay did not lay a proper foundation upon which Mr. Heyman
16 rendered his opinions and made various legal conclusions in his Report. Specifically, Ramsay did
17 not show which documents were reviewed by Mr. Heyman and which witnesses were interviewed
18 by Mr. Heyman. It is undisputed that Mr. Heyman lacks personal knowledge of the underlying
19 facts—he was appointed as the Receiver for GRB *after* Planet Hollywood terminated the GRB
20 Agreement. Absent a proper foundation, the Report is not properly before the Court. *Frias*, 101
21 Nev. at 221-22, 698 P.2d at 876-77. Finally, the Report is inadmissible hearsay. NRS 51.035; NRS
22 51.065(1). The Report contains out-of-court statement from the Trustee being offered by Ramsay
23 to prove the truth of the matters asserted. Ramsay cites no authority providing that statements made
24 by a court-appointed receiver for a dissolved entity constitute party admissions for purposes of the
25 hearsay rule. Because the Report contains opinions and legal conclusions from the Receiver based
26 on information to which he lacks personal knowledge, it should be excluded. *See also FTC v. Data*
27 *Med. Capital, Inc.*, SA CV 99-1266 AHS (EEx), 2010 U.S. Dist. LEXIS 3344, at *80 (C.D. Cal.
28 Jan. 15, 2010) (finding that a receiver’s report constituted hearsay “insofar as the Court is asked to

1 make factual findings based on the various conclusions drawn by the Receiver”). For these reasons,
2 the Court should disregard Exhibit 27.

3 6. **Exhibit 30:** The document is parol evidence and is being used to contradict the
4 express and implied obligations undertaken by Ramsay in the GRB Agreement. *Kaldi v. Farmers*
5 *Ins. Exch.*, 117 Nev. 273, 281, 21 P.3d 16, 21 (2001). Thus, the Court should disregard Exhibit 30.

6 7. **Exhibit 32:** The document contains inadmissible hearsay. NRS 51.035; NRS
7 51.065(1). Thus, the Court should disregard Exhibit 32.

8 8. **Exhibit 34:** The document contains inadmissible hearsay. NRS 51.035; NRS
9 51.065(1). Thus, the Court should disregard Exhibit 34.

10 9. **Exhibit 37:** The document contains inadmissible hearsay. NRS 51.035; NRS
11 51.065(1). Other than statements made by Seibel or his counsel, the Court should disregard
12 statements by others (such as statements by Stuart Gillies, Michael Thomas, Esq., and Amie Sabo,
13 Esq.) in Exhibit 37.

14 Because the above exhibits are not admissible and/or not properly before the Court (whether
15 because they contain inadmissible hearsay or settlement communications or because Ramsay did
16 not lay a proper foundation for them), they should be ignored by the Court in deciding Ramsay’s
17 Motion. Seibel and GRB reserve the right to assert additional objections—including, but not
18 limited to, if and when Ramsay seeks to use the Appendices for purposes other than those provided
19 in the Motion.

20 DATED this 30th day of March, 2021.

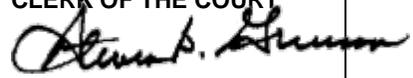
21 BAILEY ♦ KENNEDY

22 By: /s/ Joshua P. Gilmore

23 JOHN R. BAILEY
24 DENNIS L. KENNEDY
25 JOSHUA P. GILMORE
26 PAUL C. WILLIAMS
27 STEPHANIE J. GLANTZ

28 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green; R Squared Global Solutions, LLC, Derivatively On Behalf of DNT Acquisition, LLC; and GR Burgr, LLC*

TAB 68



1 **OBJ (CIV)**

2 JOHN R. BAILEY
3 Nevada Bar No. 0137
4 DENNIS L. KENNEDY
5 Nevada Bar No. 1462
6 JOSHUA P. GILMORE
7 Nevada Bar No. 11576
8 PAUL C. WILLIAMS
9 Nevada Bar No. 12524
10 STEPHANIE J. GLANTZ
11 Nevada Bar No. 14878

12 **BAILEY ❖ KENNEDY**

13 8984 Spanish Ridge Avenue
14 Las Vegas, Nevada 89148-1302
15 Telephone: 702.562.8820
16 Facsimile: 702.562.8821
17 JBailey@BaileyKennedy.com
18 DKennedy@BaileyKennedy.com
19 JGilmore@BaileyKennedy.com
20 PWilliams@BaileyKennedy.com
21 SGlantz@BaileyKennedy.com

22 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC;*
23 *LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; TPOV Enterprises, LLC;*
24 *TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green;*
25 *R Squared Global Solutions, LLC, Derivatively On Behalf of DNT Acquisition,*
26 *LLC; and GR Burgr, LLC*

27 DISTRICT COURT
28 CLARK COUNTY, NEVADA

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

21 Plaintiff,

22 vs.

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

27 Defendants,

28 And

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED CLAIMS.

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

Consolidated with A-17-760537-B

**OBJECTIONS TO EVIDENCE OFFERED BY
CAESARS IN SUPPORT OF ITS MOTIONS
FOR SUMMARY JUDGMENT**

HEARING NOT REQUESTED

1 Rowen Seibel and the Development Entities¹ (collectively, the “Development Parties”), by
2 and through their counsel, object to the following evidence submitted by Caesars² with its
3 Appendix of Exhibits in support of its Motions for Summary Judgment Nos. 1 and 2, filed March
4 25, 2021 (the “Motions”):

5 1. **Exhibit 16:** The document is irrelevant, and thus, inadmissible. NRS 48.025(2). In
6 or around September 2016, Caesars determined that Seibel was unsuitable and, further, that The
7 Seibel Family 2016 Trust (the “Trust”) was unsuitable due to Seibel’s relationships with its
8 Trustees and Beneficiaries. Seibel’s prenuptial agreement is not relevant to assist the jury in
9 assessing these suitability determinations, particularly because it was not considered at the time by
10 Caesars. Further, because the prenuptial agreement was nullified by Seibel and his wife (Bryn
11 Dorfman), its probative value is substantially outweighed by the danger of unfair prejudice,
12 confusion of the issues or of misleading the jury. NRS 48.035(1). In addition, its probative value is
13 substantially outweighed by a needless presentation of cumulative evidence. NRS 48.035(2). For
14 these reasons, the Court should disregard Exhibit 16.

15 2. **Exhibit 22:** The document contains inadmissible hearsay. NRS 51.035; NRS
16 51.065(1). Other than statements made by Seibel or his counsel, the Court should disregard
17 statements by others in Exhibit 22.

18 3. **Exhibit 24:** Caesars failed to lay a proper foundation for this document—neither Mr.
19 Seibel nor his counsel authored the document. *Frias v. Valle*, 101 Nev. 219, 221-22, 698 P.2d 875,
20 876-77 (1985). Further, the document contains inadmissible hearsay; it is being offered by Caesars
21 to prove the truth of the matters asserted. Further, attached to the document is an affidavit from a
22 non-party (inadmissible hearsay) that itself contains inadmissible hearsay, as well as various
23 newspaper articles containing inadmissible hearsay. NRS 51.035; NRS 51.065(1); NRS 51.067.
24 For these reasons, the Court should disregard Exhibit 24.

25 _____
26 ¹ “Development Entities” refers to Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ
27 Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV
28 Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions,
LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”); and GR Burgr LLC (“GRB”).

² “Caesars” refers to 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”).

1 4. **Exhibit 25:** The document contains inadmissible hearsay. NRS 51.035; NRS
2 51.065(1). Other than statements made by Seibel or his counsel, the Court should disregard
3 statements by others in Exhibit 25.

4 5. **Exhibit 26:** The document contains inadmissible hearsay. NRS 51.035; NRS
5 51.065(1). Embedded within the email is a newspaper article containing inadmissible hearsay. As
6 a result, the Court should disregard Exhibit 26.

7 6. **Exhibit 27:** The document contains inadmissible hearsay. NRS 51.035; NRS
8 51.065(1). The document includes out-of-court statements from an employee of the Nevada
9 Gaming Control Board (“NGCB”) to Caesars as well as internal statements between and among
10 employees and members of the NGCB—all of which are being offered by Caesars to prove the truth
11 of the matters asserted. Further, due to the gaming privilege, the Development Parties were unable
12 to cross-examine those employees and members of the NGCB regarding this matter. NRS
13 463.120(5); *see also* NRS 49.285 (codifying the public officer privilege). It would be unfair for the
14 Court to consider out-of-court statements from employees and/or members of the NGCB regarding
15 this matter. Further, Exhibit 27’s probative value (if any) is substantially outweighed by the danger
16 of unfair prejudice, confusion of the issues or of misleading the jury. NRS 48.035(1). For these
17 reasons, the Court should disregard Exhibit 27.

18 7. **Exhibit 37:** The document contains inadmissible hearsay. NRS 51.035; NRS
19 51.065(1). Caesars may offer the document solely for purposes of establishing the fact that GR US
20 Licensing, LP initiated a dissolution proceeding of GRB in Delaware; the allegations within the
21 petition are inadmissible hearsay and should not be considered by the Court.

22 8. **Exhibit 40:** The document contains inadmissible hearsay. NRS 51.035; NRS
23 51.065(1). The document is a letter containing out-of-court statements from an attorney for Caesars
24 (Mark Clayton, Esq.) being offered by Caesars to prove the truth of the matters asserted. Next, the
25 letter attaches a transcript (separately attached to Caesars’ Motions as Exhibit 25). The
26 Development Parties incorporate herein by reference the objections set forth above to Exhibit 25.
27 Further, the letter attaches a copy of the initial Complaint filed in this matter by Caesars, which is
28 inadmissible hearsay. As to the letter itself, during Mr. Clayton’s deposition on September 20,

1 2019, Caesars instructed him to not answer any questions relating to the letter. (*See* Excerpt of
2 Dep. of Mark Clayton, Esq., Appx., Ex. 620, at 100:18-104:17.) Because the Development Parties
3 were unable to cross-examine Mr. Clayton regarding this letter, it would be unfair for the Court to
4 consider it (or its various attachments). For these reasons, the Court should disregard Exhibit 40.

5 9. **Exhibit 41:** The document contains inadmissible hearsay. NRS 51.035; NRS
6 51.065(1). The document includes out-of-court statements from a former member of the NGCB
7 (A.G. Burnett, Esq.) being offered by Caesars to prove the truth of the matters asserted. Further,
8 due to the gaming privilege, the Development Parties were unable to cross-examine Mr. Burnett
9 regarding this matter. NRS 463.120(5); *see also* NRS 49.285 (codifying the public officer
10 privilege). That is particularly significant because the Development Parties were unable to
11 determine what information, if any, was reviewed by Mr. Burnett before he prepared and sent his
12 letter to Mr. Clayton. During Mr. Clayton’s deposition on September 20, 2019, Caesars instructed
13 him to not answer any questions relating to information that he may have provided to Mr. Burnett
14 prior to his receipt of this letter. (*See* Excerpt of Dep. of Mark Clayton, Esq., Appx., Ex. 120, at
15 104:19-107:20.) Because the Development Parties were unable to cross-examine Mr. Clayton
16 regarding this letter, it would be unfair for the Court to consider it. Next, Caesars did not lay a
17 proper foundation upon which Mr. Burnett made his statements. Specifically, Caesars did not show
18 what evidence was reviewed by Mr. Burnett (if any) and which witnesses were interviewed by Mr.
19 Burnett (if any). It is undisputed that Mr. Burnett lacks personal knowledge of the underlying facts.
20 Absent a proper foundation, the letter should not be considered by the Court. *Frias*, 101 Nev. at
21 221-22, 698 P.2d at 876-77. In addition, it appears from public record that Mr. Burnett began
22 representing Caesars after he retired from the NGCB, questioning his impartiality. (*See, e.g.,* Stutz,
23 Howard, *Nevada Oks Caesars’ ownership of William Hill; CEO says it will sell bookmaker’s*
24 *international business*, CDC Gaming Reports Inc. (Mar. 19, 2021), *available at*
25 [https://www.cdcgamingreports.com/nevada-oks-caesars-ownership-of-william-hill-ceo-says-it-will-](https://www.cdcgamingreports.com/nevada-oks-caesars-ownership-of-william-hill-ceo-says-it-will-sell-bookmakers-inernational-buiness.html)
26 [sell-bookmakers-inernational-buiness.html](https://www.cdcgamingreports.com/nevada-oks-caesars-ownership-of-william-hill-ceo-says-it-will-sell-bookmakers-inernational-buiness.html) (last visited Mar. 25, 2021).³) Further, given Mr.

27 _____
28 ³ The Court may consider this newspaper article because it is not being offered to prove the truth of the matters
asserted (e.g., information related to a recent acquisition) but simply to show Mr. Burnett’s role as counsel for Caesars.

1 Burnett’s lack of knowledge of the issues, Exhibit 41’s probative value is substantially outweighed
2 by the danger of unfair prejudice, confusion of the issues or of misleading the jury. NRS 48.035(1).
3 Finally, the document contains an ultimate conclusion to be made by the jury in this case – e.g.,
4 whether Caesars acted appropriately and met its duty to deal fairly and in good faith with the
5 Development Parties when terminating the various agreements at issue. For these reasons, the
6 Court should disregard Exhibit 41.

7 10. **Exhibits 42-44:** The document contains inadmissible hearsay. NRS 51.035; NRS
8 51.065(1). Further, the documents were not disclosed pursuant to NRCP 16.1 and are not otherwise
9 subject to judicial notice. NRCP 37(c)(1). In addition, the documents are not relevant (when GRB
10 filed an Answer to Caesars’ Complaint has nothing to do with the pursuit of GRB’s claims against
11 Caesars), and thus, are inadmissible. NRS 48.025(2). For these reasons, the Court should disregard
12 Exhibits 42-44.

13 11. **Exhibit 45:** Attached to this letter is a copy of Mr. Clayton’s October 23, 2017 letter
14 to Mr. Burnett (separately attached to Caesars’ Motions as Exhibit 40) and Mr. Burnett’s November
15 6, 2017 letter to Mr. Clayton (separately attached to Caesars’ Motions as Exhibit 41). The
16 Development Parties incorporate herein by reference the objections set forth above to Exhibits 40
17 and 41 and request the Court to disregard those two letters.

18 12. **Exhibits 49 and 54-58:** The documents contain inadmissible hearsay. NRS 51.035;
19 NRS 51.065(1). Further, the documents were not disclosed pursuant to NRCP 16.1 and are not
20 otherwise subject to judicial notice. NRCP 37(c)(1). In addition, the documents primarily consist
21 of argument of counsel, which is not evidence. *See, e.g., McKenna v. State*, 114 Nev. 1044, 1053,
22 968 P.2d 739, 745 (1998). In addition, the documents are not relevant (when GRB filed an Answer
23 to Caesars’ Complaint has nothing to do with the pursuit of GRB’s claims against Caesars), and
24 thus, are inadmissible. NRS 48.025(2). Finally, the documents reference inadmissible settlement
25

26
27

See Jones v. Raymer Metals, Inc., No. CV 17-00546-BRO (MRWx), 2017 U.S. Dist. LEXIS 223587, *15 (C.D. Cal.
28 May 31, 2017) (“Generally, courts may take judicial notice of newspaper articles... for the fact that [a subject] was in the
public realm....”).

1 communications. NRS 48.045(1). For these reasons, the Court should disregard Exhibits 49 and
2 54-58.

3 13. **Exhibit 59:** The document is irrelevant, and thus, inadmissible. NRS 48.025(2).
4 The document is a redacted, public version of a March 30, 2020 Report and Proposed Liquidation
5 Plan for GR Burger, LLC (the “Report”) prepared by the Liquidating Trustee (Kurt Heyman, Esq.)
6 for GRB and filed in *In re: GR Burgr, LLC*, C.A. No. 12825-VCS, Court of Chancery, State of
7 Delaware. As set forth in the Development Parties’ Opposition to Caesars’ Motion for Summary
8 Judgment No. 2, the various opinions and legal conclusions contained in the Report do not
9 constitute judicial admissions. Caesars cites no authority indicating that a court may defer to the
10 findings of a court-appointed trustee in assessing the merits of a party’s claims where those claims
11 were assigned by the trustee to a former member of the party. Next, Caesars did not lay a proper
12 foundation upon which Mr. Heyman rendered his opinions and made various legal conclusions in
13 his Report. Specifically, PH did not show which documents were reviewed by Mr. Heyman and
14 which witnesses were interviewed by Mr. Heyman. It is undisputed that Mr. Heyman lacks
15 personal knowledge of the underlying facts—he was appointed as the Receiver for GRB *after* PH
16 terminated the GRB Agreement. Absent a proper foundation, the Report is not properly before the
17 Court. *Frias*, 101 Nev. at 221-22, 698 P.2d at 876-77. Finally, the Report is inadmissible hearsay.
18 NRS 51.035; NRS 51.065(1). The Report contains out-of-court statement from the Trustee being
19 offered by Caesars to prove the truth of the matters asserted. Caesars cites no authority providing
20 that statements made by a court-appointed receiver for a dissolved entity constitute party
21 admissions for purposes of the hearsay rule. Because the Report contains opinions and legal
22 conclusions from the Receiver based on information to which he lacks personal knowledge, it
23 should be excluded. *See also FTC v. Data Med. Capital, Inc.*, SA CV 99-1266 AHS (EEx), 2010
24 U.S. Dist. LEXIS 3344, at *80 (C.D. Cal. Jan. 15, 2010) (finding that a receiver’s report constituted
25 hearsay “insofar as the Court is asked to make factual findings based on the various conclusions
26 drawn by the Receiver”). For these reasons, the Court should disregard Exhibit 59.

27 14. **Exhibits 64:** The document contains inadmissible hearsay. NRS 51.035; NRS
28 51.065(1). Further, the document was not disclosed pursuant to NRCP 16.1 and is not otherwise

1 subject to judicial notice. NRCp 37(c)(1). For these reasons, the Court should disregard Exhibit
2 64.

3 15. **Exhibit 69:** This document constitutes a supplemental NRCp 16.1 disclosure served
4 by Caesars, which is inadmissible hearsay. NRS 51.035; NRS 51.065(1). Further, the document
5 consists of nothing more than argument of counsel, which is not evidence. *See, e.g., McKenna*, 114
6 Nev. at 1053, 968 P.2d at 745. For these reasons, the Court should disregard Exhibit 69.

7 Because the above exhibits are not admissible and/or not properly before the Court (whether
8 because they contain inadmissible hearsay or settlement communications or because Caesars did
9 not lay a proper foundation for them), they should be ignored by the Court in deciding Caesars'
10 Motions. The Development Parties reserve the right to assert additional objections—including, but
11 not limited to, if and when Caesars seeks to use the Appendices for purposes other than those
12 provided in the Motions.

13 DATED this 30th day of March, 2021.

14 BAILEY ❖ KENNEDY

15 By: /s/ Joshua P. Gilmore
16 JOHN R. BAILEY
17 DENNIS L. KENNEDY
18 JOSHUA P. GILMORE
19 PAUL C. WILLIAMS
20 STEPHANIE J. GLANTZ

*Attorneys for Rowen Seibel; Moti Partners, LLC; Moti
Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises
16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16,
LLC; FERG, LLC; FERG 16, LLC; Craig Green; R Squared
Global Solutions, LLC, Derivatively On Behalf of DNT
Acquisition, LLC; and GR Burgr, LLC*

TAB 69

**FILED UNDER
SEAL PURSUANT
TO PENDING
MOTION TO SEAL
FILED
CONCURRENTLY
HEREWITH**

TAB 70

**FILED UNDER
SEAL PURSUANT
TO PENDING
MOTION TO SEAL
FILED
CONCURRENTLY
HEREWITH**