

CASE NO. 84934

IN THE SUPREME COURT OF NEVADA

ROWEN SEIBEL AND GR BURGR, LLC,

Electronically Filed
Mar 10 2023 07:14 PM
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 33 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

VOLUME 33 OF 34

TABLE OF CONTENTS

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Transcript of Proceedings, taken January 20, 2022	33	96	AA06768- AA06846
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
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
Omnibus Order Granting the Development Parties' Motions to Seal and Redact, filed February 7, 2022	33	99	AA06870- AA06872
Notice of Entry of Order (Omnibus Order Granting the Development Parties' Motions to Seal and Redact), filed February 9, 2022	33	100	AA06873- AA06884
Minute Order Re: Sealing Motions, filed March 9, 2022	33	101	AA06885

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment, filed May 25, 2022	33	102	AA06886-AA06912
Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, filed May 31, 2022	33	103	AA06913-AA06932
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 Appeal, filed June 28, 2022 – Part 1 of 3	33	106	AA06987-AA07002
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

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 (PHWLTV, 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:

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

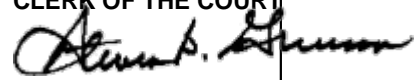
Email: JJP@pisanellibice.com
DLS@pisanellibice.com
MMM@pisanellibice.com
Attorneys for Respondent PHWLTV, LLC

JOHN D. TENNERT
GEENAMARIE CARUCCI
WADE BEAVERS
**FENNEMORE CRAIG,
P.C.**
7800 Rancharrah 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

TAB 96



RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, ET AL.,)	CASE#: A-17-751759-B
)	
Plaintiffs,)	DEPT. XVI
)	
vs.)	
)	
PHWLV LLC, ET AL.,)	
)	
Defendants.)	

BEFORE THE HONORABLE TIMOTHY C. WILLIAMS,
DISTRICT COURT JUDGE

THURSDAY, JANUARY 20, 2022

RECORDER'S TRANSCRIPT OF HEARING
GORDON RAMSAY'S MOTION FOR SUMMARY JUDGMENT

APPEARANCES (Via Video Conference):

For the Development Entities:	PAUL WILLIAMS, ESQ. JOSHUA P. GILMORE, ESQ.
For Gordon Ramsay:	JOHN D. TENNERT, ESQ. WADE ELLIS BEAVERS, ESQ.
For the Caesars Entities:	JAMES J. PISANELLI, ESQ. MARIA MAGALI MERCERA, ESQ.
For Original Homestead Rest.:	ALAN M. LEBENSFELD, ESQ.

RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 ***RECORDER'S TRANSCRIPT OF HEARING - CONTINUED***

2 **GORDON RAMSAY'S MOTION TO REDACT GORDON RAMSAY'S**
3 **MOTION FOR SUMMARY JUDGMENT AND SEAL EXHIBITS 2-3,**
4 **5-25, 27, 28, 30, 32-35, 37, 38, 42 IN APPENDIX TO RAMSAY'S**
 MOTION FOR SUMMARY JUDGMENT

5 **THE DEVELOPMENT ENTITIES AND ROWEN SEIBEL'S MOTION TO**
6 **REDACT THEIR OPPOSITIONS TO THE MOTIONS FOR SUMMARY**
7 **JUDGMENT AND TO SEAL EXHIBITS 526 THROUGH 647 TO THE**
 APPENDIX OF EXHIBITS THERETO

8 **MOTION TO REDACT CAESARS' MOTION FOR SUMMARY**
9 **JUDGMENT NO. 1 AND MOTION FOR SUMMARY JUDGMENT NO.**
10 **2 AND TO SEAL EXHIBITS 1-36, 38, 40-42, 45-46, 48, 50, 66-67, 73,**
11 **AND 76-80 TO THE APPENDIX OF EXHIBITS IN SUPPORT OF**
 CAESARS' MOTIONS FOR SUMMARY JUDGMENT

12 **STATUS CHECK: TRIAL SETTING**

1 Las Vegas, Nevada, Thursday, January 20, 2022

2
3 [Case called at 1:32 p.m.]

4 THE COURT: Is everybody signed in?

5 THE COURT RECORDER: Yes, Your Honor. We're on the
6 record now.

7 THE COURT: All right. I want to say good afternoon to
8 everyone and welcome you to the July [sic] 20th, 2022, 1:30 p.m.
9 law and motion calendar. We only have one matter on this
10 afternoon and that's Rowen Seibel versus PHWLTV, LLC, and let's go
11 ahead and set forth our appearances for the record.

12 MR. WILLIAMS: Good afternoon, Your Honor.

13 MR. TENNERT: Good afternoon --

14 MR. WILLIAMS: This is Paul Williams on behalf of the
15 development parties. Along with me is Joshua Gilmore.

16 MR. TENNERT: Good afternoon, Your Honor. This is
17 John Tennert of Fennemore Craig. I'm joined by my colleague,
18 Wade Beavers, on behalf of Gordon Ramsay.

19 MR. PISANELLI: Afternoon, Your Honor. James Pisanelli
20 on behalf of the Caesars entities.

21 MR. LEBENSFELD: Good afternoon --

22 MS. MERCERA: Good afternoon, Your Honor. Magali
23 Mercera on behalf of the Caesars parties.

24 MR. LEBENSFELD: Good afternoon, Your Honor. Alan
25 Lebensfeld, Lebensfeld Sharon, on behalf of The Original

1 Homestead, Inc. doing business as The Old Homestead Steakhouse.

2 THE COURT: All right, good afternoon. Does that cover
3 all appearances?

4 I think so, right, Mister Clerk? All right.

5 Anyway, I guess we have one primary matter we have to
6 address today and that would be I guess the first matter, Gordon
7 Ramsay's motion for summary judgment. All right. And we'll pass
8 the floor to the moving party.

9 MR. TENNERT: Thank you, Your Honor. And this is John
10 Tennert on behalf of Gordon Ramsay. This litigation must end as to
11 Gordon Ramsay.

12 Now, Your Honor, this case has been pending for several
13 years, thousands of pages of documents have been filed, the Court
14 has presided over numerous contested hearings, and yet, this will
15 be the first time that we've appeared before this Court on behalf of
16 Mr. Ramsay to argue a substantial motion.

17 In fact, I wouldn't blame the Court if it forgot that Mr.
18 Ramsay was actually a party to this action, and for good reason.
19 Mr. Ramsay does not now, nor has he ever belonged in this alleged
20 contract dispute between GR BURGR, LLC, which I'll refer to today
21 as GRB and we refer to in our brief as GRB, and Planet Hollywood.

22 As to GRB's contract-based claims, Mr. Ramsay -- against
23 Mr. Ramsay and all of the claims are contract based, the Court's job
24 today is simple. Apply the plain and unambiguous terms of the
25 highly negotiated contact with Mr. Ramsay as a party and grant

1 summary judgment.

2 As this Court is well aware, this action is occasioned by
3 Mr. Seibel's deceit, his criminal acts, his resulting felony conviction,
4 and his prison sentence. Upon discovering Mr. Seibel's conviction,
5 Planet Hollywood, a Caesars subsidiary, exercised its bargained-for
6 exclusive -- again, it's exclusive discretion and deemed Mr. Seibel,
7 and by extension GRB, unsuitable persons under the parties'
8 development agreement.

9 When Mr. Seibel, a 50 percent member of GRB, refused to
10 voluntarily disassociate from GRB, Planet Hollywood terminated
11 the development agreement and wound up the defunct restaurant,
12 BURGR, which is B-U-R-G-R Gordon Ramsay at the Planet
13 Hollywood Resort & Casino.

14 Notwithstanding the fact that it was Mr. Seibel's own
15 doing that resulted in termination of the agreement, Mr. Seibel
16 purportedly on behalf of GRB sued Mr. Ramsay in his individual
17 capacity alleging breach of the development agreement, breach of
18 the implied covenant, unjust enrichment, and civil conspiracy to
19 breach the development agreement.

20 Your Honor, as to Mr. Ramsay, these claims fail. Mr.
21 Seibel fails to identify any contractual obligation that Mr. Ramsay
22 personally assumed and failed to perform. Nor can he establish
23 any breach. Mr. Ramsay, in his individual capacity, is a party to the
24 development agreement for the specific limited purposes of
25 allowing Planet Hollywood to use his name and likeness, menu

1 advice and personal appearances. That is it. There are no
2 allegations nor evidence to support that Mr. Ramsay breached any
3 of his obligations under the development agreement.

4 Now, as outlined in our briefs, the basic facts underlying
5 Mr. Seibel's criminal conduct is fraudulent proposal to disassociate
6 himself from GRB and Planet Hollywood's exercise of its discretion
7 to terminate the development agreement are simple,
8 straightforward and not subject to genuine dispute.

9 There's no question that Rowen Seibel, not Mr. Ramsay or
10 any other person or business, set into motion a chain of events that
11 resulted in the termination of the development agreement and the
12 demise of GRB. As a necessary result of Mr. Seibel's established
13 misconduct, a Delaware court has since dissolved and cancelled
14 GRB.

15 Your Honor, GRB no longer exist. GRB's intellectual
16 property, to the extent there was any in the first place, has been
17 assigned to GRB's other 50 percent member, GR US Licensing, LP,
18 which is a Delaware limited partnership and I'll refer here to today
19 as GRUS also referred to in our briefs as GRUS.

20 Although the Delaware court and its liquidating trustee
21 found no merit to the derivative claims asserted here, the Delaware
22 court assigned a 50 percent interest in the claims to Mr. Seibel to
23 pursue on his own dime.

24 Now, I'll address Mr. Seibel's derivative claims and their
25 established deficiencies in the order that they appear in Mr. Seibel's

1 first amended complaint. And I'll start with Mr. Seibel's first claim
2 for relief which alleges breach of contract on behalf of GRB against
3 Mr. Ramsay.

4 As a threshold matter, all of Mr. Seibel's breach of
5 contract claims against Mr. Ramsay fail because Mr. Ramsay owed
6 no contractual duties to GRB under the development agreement.

7 Again, and I can't stress this enough, Your Honor, Mr.
8 Ramsay owed no contractual duties to GRB. This much is clear
9 from the plain and unambiguous text of the agreement itself which
10 states in its opening paragraph that the parties to the agreement
11 are first, Planet Hollywood, second, GRB, and third, and I quote
12 directly from the agreement, to the limited extent specifically
13 provided herein, Gordan Ramsay, an individual. And also note that
14 Mr. Seibel is not a party to the development agreement.

15 Mr. Seibel has not and he cannot identify any of the
16 limited specific obligations that Mr. Ramsay personally assumed
17 and failed to perform. The development agreement confirms that
18 Planet Hollywood, not GRB, retained Mr. Ramsay in his personal
19 capacity for the limited purposes of, one, permitting Planet
20 Hollywood to use his personal name and likeness in connection
21 with the restaurant; two, personally providing menu development
22 advice, which is section 3.1.4; three, personally engaging in
23 promotional activities and media interviews, which is section 7.1;
24 and four, personal appearances at the restaurant, which is section
25 7.2 of the development agreement. That's it. Mr. Ramsay did not

1 personally assume any obligation to GRB whatsoever.

2 This much is further confirmed by section 10.2 of the
3 development agreement which identifies Mr. Ramsay's
4 representations and warranties as solely running to Planet
5 Hollywood, not GRB. Likewise, GRB's representations and
6 warranties run to Planet Hollywood and not Mr. Ramsay.

7 In his opposition, Mr. Seibel admits, as he must, that Mr.
8 Ramsay's contract obligations are limited to personal consultation
9 and personal appearances. Mr. Seibel does not allege, nor can he
10 allege, that Mr. Ramsay breached any of these obligations and
11 they're certainly at issue in this litigation.

12 Instead, Mr. Seibel conflates Mr. Ramsay's limited specific
13 obligations with those of Planet Hollywood. He alleges them as
14 though Mr. Ramsay are -- and Planet Hollywood are one in the
15 same. They are not, Your Honor.

16 The specific sections of the development agreement that
17 Mr. Seibel contends Planet Hollywood breached relate to pre- and
18 post-termination operations and do not impose any obligation upon
19 Mr. Ramsay. In fact, none of these obligations even reference Mr.
20 Ramsay. It is basic contract law that Mr. Ramsay cannot be liable
21 for breach of nonexisting obligations.

22 For example, Mr. Seibel alleges that Mr. Ramsay breached
23 section 14.21 of the development agreement pertaining to
24 additional restaurant projects by personally entering into an
25 agreement with Planet Hollywood in 2017 for a new restaurant,

1 Gordan Ramsay Burger, B-u-r-g-e-r, after Planet Hollywood deemed
2 GRB unsuitable and GRB was placed into dissolution.

3 Mr. Seibel's contention that Mr. Ramsay is barred under
4 section 14.21 from ever contracting with Planet Hollywood fails for
5 several independent reasons which are addressed in our -- in our
6 brief at length, any one of which warrants summary judgment.

7 For purpose of today, I'll address the two primary
8 reasons. First, Mr. Seibel's claim is not supported by the text of
9 14.21. Simply look at it. Plainly read, the unambiguous language
10 does not obligate Planet Hollywood, much less Mr. Ramsay, to do
11 or not do anything.

12 Section 14.21 provides the discretionary option to Planet
13 Hollywood and I'll quote directly from the -- the -- the agreement
14 itself, which is Exhibit 6 in our appendix, if PH elects to pursue any
15 venture similar to a restaurant; i.e., any venture generally in the
16 nature of a burger-centric or burger-themed restaurant, GRB shall
17 or shall cause an affiliate to execute a development operation and
18 license agreement.

19 Section 14.21 does not bar Planet Hollywood and Mr.
20 Ramsay from opening a burger restaurant. It simply does not say
21 that. Section 14.21 certainly does not impose any obligation upon
22 Mr. Ramsay personally. Again, Mr. Ramsay is not even mentioned
23 in section 14.21 of the development agreement.

24 Second, section 14.21 is unenforceable because it is
25 nothing more than an agreement to agree at a future time. It is

1 black letter Nevada law that an agreement to agree at a future time
2 is nothing and will not support an action for damages. That's what
3 the *City of Reno v. Silver State Flying* case, Nevada Supreme Court
4 1968 tells us.

5 An agreement to agreement -- agree is void. And to the
6 extent a provision in an otherwise enforceable contract is an
7 agreement to agree, that provision is unenforceable. That's what
8 the *VeriFone* case in our brief tells us, a 2017 Nevada District Court
9 opinion.

10 Section 14.21 is a textbook example of an agreement to
11 agree. Every essential term of a possible additional restaurant
12 project remains subject to future negotiation, including project
13 location, project cost, initial capital investment, operating expenses
14 and license (indiscernible) percentages.

15 The intent of the parties that section 14.21 not bind them
16 is clear from the plain text of the contract which states that the
17 material terms of a future project, if any, must be, quote, agreed to
18 by the parties, end quote, at a later date. And this was on purpose.

19 At the time of contracting, Mr. Seibel's counsel confirmed
20 that section 14.21 is nothing more than a, quote, agreement to
21 agree, end quote, and -- and specifically agreed that terms of future
22 projects, if any, would be subject to, again quote, mutual
23 negotiation. That's Exhibit 37 to our motion.

24 Mr. Seibel's own counsel, Brian Zeigler [ph], who this
25 Court is well aware of, confirmed via email that, quote, as to future

1 deals, it is too early to evaluate them now. We don't know where
2 the thresholds will be. They may make total sense or they may not.
3 In any event, as a group, we'll be able to evaluate at that time.

4 Mr. Seibel's own words in 2012: Section 14.21 is not
5 binding because there is, quote, is always an option to say yes or
6 no, end quote, to future deals.

7 The fact that GRB maintained, as Seibel represented in
8 2012, an option to say yes or no to future deals is further
9 confirmation that section 14.21 is nothing more than an agreement
10 to agree at a future date -- at a future date and time which is
11 unenforceable in Nevada as a matter of law.

12 There are no disputed facts that contradict the plain and
13 unambiguous text of 14.21. First, it does not apply to Mr. Ramsay
14 at all. Summary judgment is warranted on this basis alone.
15 Second, section 14.21 is unenforceable as a matter of law. This is
16 also an independent basis to issue summary judgment.

17 To summarize, the development agreement plainly
18 outlines Mr. Ramsay's specific and limited personal obligations to
19 Planet Hollywood. Mr. Seibel has not established that Mr. Ramsay
20 has breached any of those obligations, and indeed, none of those
21 obligations are at issue in this lawsuit. Because there is no legal or
22 factual basis for Mr. Seibel's breach of contract claims as to Mr.
23 Ramsay, this Court should enter summary judgment on the breach
24 of contract claims.

25 Unable to identify and express breach of contract as to

1 Mr. Ramsay, Mr. Seibel's second claim for relief alleges that Mr.
2 Ramsay breached the implied covenant of good faith and fair
3 dealing. Like his claim for express breach of contract, his claim for
4 implied breach fails as a matter of law.

5 As this Court is aware, a contractual breach of the implied
6 covenant may occur when the terms of the contract are literally
7 complied with, but one party to a contract deliberately
8 countervenes [ph] the intention of the spirit of the contract. This
9 implied covenant, however, may not be used to imply a term that is
10 contradicted by an express term of the contract.

11 Now, as a preliminary matter, the development
12 agreement states that it constitutes the entire agreement and it
13 confirms that there are, quote, no other agreements,
14 understandings, negotiations, and discussions, whether oral or
15 written, end quote. In violation of this expressed negotiation
16 limitation and established law, Mr. Seibel now wrongly attempts to
17 impose extracontractual obligations upon Mr. Ramsay personally
18 that directly contradict the express terms of the contract. This
19 attempt must fail.

20 Mr. Seibel's breach of implied covenant claim against Mr.
21 Ramsay is nothing more than a recast of his failed claim against
22 Planet Hollywood that Planet Hollywood improperly exercised its
23 discretion when it terminated the development agreement. As has
24 been well established, the plain language of the development
25 agreement provides Planet Hollywood with the sole, exclusive

1 judgment to determine suitability and terminate the development
2 agreement. Planet Hollywood's exercise of this discretion did not
3 support a claim against Mr. Ramsay who had no role, contractual or
4 otherwise, in determining Mr. Seibel's or GRB's suitability.

5 Further, undisputed evidence confirms that Caesars'
6 suitability determination was wholly within Caesars' compliance
7 function and that neither Mr. Ramsay nor his counsel had any input
8 or role in Caesars' suitability determination. There's simply no
9 evidence to dispute this fact.

10 Indeed, Mr. Seibel devotes an entire section of his
11 opposition to arguing that Caesars' compliance committee acting
12 alone determined that Mr. Seibel wasn't suitable. At page 13 of his
13 brief, Mr. Seibel states, and I'm quoting directly from his brief,
14 Caesars' deputy compliance officer, Susan Carletta, was tasked with
15 analyzing Seibel's suitability in light of his felony conviction and
16 sentence. She alone determined that he was not suitable, end
17 quote.

18 Mr. Ramsay had zero involvement with Caesars'
19 suitability determination. This much is not in dispute.

20 Mr. Seibel also alleges that Mr. Ramsay violated the
21 implied covenant by allegedly refusing to allow Mr. Seibel to assign
22 his membership interest in GRB to his purported family trust. The
23 development agreement imposes no express nor implied obligation
24 on Mr. Ramsay to personally assist Mr. Seibel who is not even a
25 party to the development agreement in concealing his criminal acts

1 from Caesars. Again, Mr. Ramsay's contractual obligations were
2 limited to menu development and personal appearances.

3 In any event, Mr. Ramsay had no right or obligation to
4 approve or disapprove of Mr. Seibel's proposed transfer. The
5 rights of GRB's 50 percent members are governed by Delaware law
6 and GRB's LLC agreement. It was GR US Licensing, LP, not Mr.
7 Ramsay, that had the authority to approve the proposed
8 assignment, and GR US had absolutely no obligation to do so. And
9 we know that because GRB's LLC agreement at section 10.1 tells us
10 that.

11 In a binding admission, GRB's liquidating trustee reported
12 to the Delaware court that Seibel's implied covenant claim will not
13 survive summary judgment, explaining, and I quote, perhaps
14 Seibel's felony conviction provided an easier or more profitable
15 path to terminating the agreement for Caesars' and GRUS slash
16 Ramsay, but the receiver does not view the exercise of a
17 contractual right as evidence of bad faith. To say otherwise is to
18 change the legal (indiscernible) rights and obligations of the
19 parties. And in that report the liquidating trustee cited Nevada case
20 law that we provided to Your Honor.

21 At any rate, Mr. Ramsay owed no express contractual
22 duties to GRB and therefore no implied duties. Mr. Seibel's efforts
23 to impose such duties must be rejected by -- rejected and the Court
24 should enter summary judgment on Mr. Seibel's second cause of
25 action against Mr. Ramsay.

1 Mr. Seibel's third claim for unjust enrichment against Mr.
2 Ramsay is barred by the express contracts governing the parties'
3 relationships, including the development agreement, GRB's LLC
4 agreement, and a license agreement between GRUS and GRB.

5 In Nevada, an unjust enrichment claim cannot exist
6 where, as here, an express written contract governs because no
7 agreement can be implied when there's an express agreement.

8 Here, Mr. Seibel's unjust enrichment claim against Mr.
9 Ramsay is premised on the factually incorrect allegation that
10 Ramsay directly or indirectly has wrongfully accepted and retained
11 monies intended and owed to GRB under the development
12 agreement. There are no facts to support this allegation.

13 Mr. Seibel also suggest that it would be inequitable for
14 Mr. Ramsay to license his own name which only he owns in
15 connection with the new hamburger restaurant. As to Mr. Ramsay,
16 GRB cannot allege that it conferred a benefit upon him personally.
17 It was Mr. Ramsay who conferred benefits upon GRB and Planet
18 Hollywood by allowing the use of his name and likeness in
19 connection with the burger restaurant.

20 Again, this obligation is governed by the express terms of
21 the development agreement. When Planet Hollywood terminated
22 the development agreement, Mr. Ramsay personally owed no
23 further obligations to any party under the bargained-for express
24 terms of the agreement.

25 Lastly, Mr. Seibel's suggestion that Mr. Ramsay has

1 unjustly received a, quote, benefit reimbursable to Mr. Seibel
2 resulting from the increase in Mr. Ramsay's reputation and good
3 will is absurd. Neither Mr. Seibel nor GRB hold stock in Mr.
4 Ramsay such that Mr. Ramsay's reputation and good will should be
5 payable to Mr. Seibel.

6 Every shred of evidence before this Court confirms that
7 Mr. Ramsay is entitled to keep whatever benefits he derives from
8 others' use of his personal name in connection with the new
9 restaurant or otherwise. There has been no retention of value
10 goods or services by Mr. Ramsay that are justly owed to GRB.
11 Again, against these undisputed facts, Mr. Seibel's third cause of
12 action against Mr. Ramsay for unjust enrichment fails as a matter of
13 law.

14 Mr. Seibel's fourth cause of action against Mr. Ramsay
15 (indiscernible) conspiracy with Planet Hollywood to breach the
16 development agreement is simply not actionable. Mr. Seibel's
17 conspiracy claim is derivative of his breach of contract claims.
18 Specifically, Mr. Seibel alleges that Ramsay and Planet Hollywood
19 conspired to breach the development agreement. That's directly
20 from Mr. Seibel's first amended complaint.

21 As a matter of law, Mr. Seibel's claim for conspiracy to
22 breach the development agreement cannot succeed because Mr.
23 Ramsay, Planet Hollywood and GRB are all parties to the
24 development agreement. This is not in dispute.

25 In Nevada, like other jurisdictions, a party cannot, as a

1 matter of law, tortiously interfere with its own contract. Therefore,
2 it is well established in Nevada and every other jurisdiction that
3 consider this issue that there can be no conspiracy by two or more
4 parties to a contract to breach that contract. Conspiracy to breach
5 the terms of a contract may lie only where there's a contract
6 between a contracting party and third parties.

7 At most, GRB may assert a claim for breach of contract
8 against contracting parties. Claim for conspiracy to breach the
9 contract stated against contracting parties is untenable as a matter
10 of law. For this threshold reason, the Court should grant summary
11 judgment in Mr. Ramsay's favor on the conspiracy claim.

12 Even if such claim could stand, it cannot, there's simply
13 no evidence that Mr. Ramsay personally committed any wrongful
14 act in furtherance of a conspiracy to cause Mr. -- to cause Planet
15 Hollywood to breach the development agreement. As
16 demonstrated over and over and over again in this case, the
17 undisputed evidence shows that Planet Hollywood did not breach
18 the development agreement by terminating it within its sole
19 discretion following Mr. Seibel's felony conviction.

20 There is no evidence whatsoever to support Mr. Seibel's
21 false contention that Mr. Ramsay conspired with Caesars'
22 compliance committee to deem Mr. Seibel unsuitable and
23 terminate the development agreement. None.

24 Again, Mr. Seibel's opposition clearly states that -- that
25 Caesars' compliance committee, quote, acting alone rendered Mr.

1 Seibel unsuitable. Mr. Seibel's fourth cause of action against Mr.
2 Ramsay for civil conspiracy fails as a matter of law.

3 Now finally, Your Honor, Mr. Seibel concedes that the
4 Court should grant summary judgment against GRB's additional
5 request in its first amended complaint for specific performance,
6 declaratory relief, accounting, and injunction as those requests are
7 moot following GRB's dissolution and cancellation.

8 In conclusion, Your Honor, there are no genuine issues as
9 -- as to any material fact and this contract-based action that
10 preclude entry of judgment for Mr. Ramsay on GRB's claims. This
11 litigation must end as to -- as to Gordon Ramsay. For the reasons
12 stated today and amplified in Mr. Ramsay's papers, Mr. Ramsay
13 respectfully request that the Court grant his motion for summary
14 judgment.

15 THE COURT: All right. Thank you, sir.

16 Let's hear from the opposition.

17 MR. WILLIAMS: Good afternoon, Your Honor. This is,
18 again, Paul Williams on behalf of the development parties and
19 specifically as to this motion, GRB, LLC.

20 You know, Your Honor, what this motion boils down to is
21 can Ramsay who's a party to the GRB agreement actively
22 encourage and assist Planet Hollywood to terminate the GRB
23 agreement to the detriment of GRB without any consequences
24 under either contract law or tort law. And that -- that can't be the
25 case.

1 Whether it's under contract law or tort law, a party to an
2 agreement should not be able to encourage and assist another
3 party to terminate that agreement to the detriment of another party.
4 And that's exactly what happened here.

5 And, you know, at the outset, Ramsay really wants things
6 both ways here. What I mean by that is, on the one hand, he says,
7 you know, when you're looking at the contract claims, Your Honor,
8 please keep in mind that I'm a -- I'm -- I'm a limited party; my
9 obligations are very limited so I should have -- you shouldn't view
10 me as having really any obligations at all under either direct
11 contractual obligations or under the implied covenant.

12 Then on the other hand, he says, you know, when you're
13 looking at the tort claims, Your Honor, I'm a party to that contract.
14 Therefore, I can't have any responsibility under tort law because I'm
15 a party.

16 Well, which is it? Ramsay can't argue that he's somehow
17 only a limited party to the contract to escape contractual liability,
18 then at the same time argue, well, I'm a party to the contract so
19 don't have any -- don't impose tort liability on me. That -- you just
20 can't have it both ways.

21 Now, before I get into the details in some of the claims,
22 there's just a -- a -- a -- two things I want to note, Your Honor. First
23 is that GRB is the plaintiff here. Now, Mr. Seibel was assigned the
24 rights to the claims that were asserted by GRB against Mr. Ramsay.
25 That was done by the Delaware court. But it's important to note

1 that Mr. Seibel is not the party -- is not -- it's not his claim
2 individually, it belongs to GRB.

3 The second point I want to note, Your Honor, is that GRB
4 is in a different position than the other development entities and --
5 and what I mean by that is, GRB was an entity that was jointly
6 owned by Mr. Seibel and Mr. Ramsay through GRUS. Unlike the
7 other entities where you have different agreements between them
8 there, here there's one agreement between GRB and Planet
9 Hollywood with the GRB entity being jointly owned by Mr. Seibel
10 and Mr. Ramsay. So that -- that makes a -- that makes a -- a
11 distinction here again. This claim is not Mr. Seibel's individual
12 claim, it's GRB's claim against Mr. Ramsay.

13 Now, just a few things on -- on the factual background.
14 This -- this has been very well documented by -- by all sides
15 involved, but there's just a few things I want to point out factually --
16 factual wise.

17 You know, Your Honor, you're -- you're aware that what
18 happened here is in late 2011, Mr. Seibel and Mr. Ramsay, through
19 his entity, GRUS, entered into various agreements and they formed
20 GRB, LLC, and they each own 50 percent.

21 Mr. Ramsay licensed his name and likeness to GRUS
22 through a licensing agreement. Then GRUS in turn sublicensed
23 those rights to GRB with the idea that GRB was going to develop
24 and operate a burger -- a burger-centric, burger-themed concept
25 utilizing Mr. Ramsay's name. And applied for and received certain

1 trademarks. Got Burger Gordon Ramsay and again, it's B-u-r-g
2 capital G -- B-u-r capital G-R Gordon Ramsay and the GR obviously
3 being the initials for Mr. Ramsay. As well as the trademark BURGR,
4 again with no E, and then GR BURGR with no E.

5 These items in the -- in the licensing agreement between
6 GRUS and GRB are called the GR marks and there's also general
7 GR materials.

8 Subsequently, GRB and Ramsay, individually, Mr.
9 Ramsay, entered into a development, operation and license
10 agreement with Planet Hollywood. GRB developed the burger
11 restaurant which was extremely profitable and in fact to this same
12 day -- to this very day, it still remains extremely profitable.

13 Now, despite the success of the burger restaurant and all
14 the other restaurants that Mr. Ramsay and the development entities
15 developed at Caesars' properties, the relationship between Mr.
16 Seibel and Mr. Ramsay soured. Mr. Ramsay at one point in time
17 expressed that he just wanted to be done with development entities
18 and I'm going -- I'm going to read from one specific email and it's in
19 our appendix as Exhibit 569.

20 This is an email from Stuart Gillies to Tom Jenkin. Stuart
21 Gillies was Mr. Ramsay's CEO of his companies at the time, and
22 Tom Jenkin was the President of Caesars at this time, and I'm just
23 going to quote from a portion of it. It says: As I suspected, Gordon
24 and I have no interest in any proposal to stay in business with
25 Rowen. We want him out of all of our dealings as much as is

1 possible and will deal with the court cases currently in motion. On
2 another note, we are still excited at the option of a partnership with
3 yourselves. However, based on Rowen's knowledge of our plans,
4 we think that we should wait to issue any official written proposal
5 until we have dealt with Rowen both on our side and yours.

6 So, Your Honor, you know, when -- when we're talking
7 here and we'll get into this later on, you know, a conspiracy and --
8 and about what the plan was between Gordon Ramsay and Planet
9 Hollywood slash Caesars, it's written down, it's not speculation on
10 our part, we have it in an email, and again, that's Exhibit 569. And
11 there are other emails that we reference and we have in our
12 appendix that you can look at to show what -- that they wanted out
13 and they were planning to get Mr. Seibel out.

14 And then briefly, Your Honor, you're aware that Mr. Seibel
15 became aware that he was under investigation for -- for potential
16 tax crimes and as part of that and as -- and as well as part of
17 general estate planning, he created a trust and looked to transfer
18 his interest in the development entities to that trust, and as part of
19 that, he looked to assign his interest in GRB from himself to the
20 trust and then have Craig Green serve in his place as the
21 co-manager of GRB along with whoever Mr. Ramsay had
22 nominated.

23 This -- this -- Mr. Seibel attempted to do this and Mr.
24 Ramsay, through GRUS, said no, not going to do it. And, you
25 know, they've -- they've tried to -- they've tried to construe, Your

1 Honor, at this point on a motion for summary judgment that
2 somehow Mr. Seibel was acting fraudulently, but again, this is a
3 motion for summary judgment, and you cannot make those
4 inferences on behalf of Mr. Ramsay, you have to look at the
5 evidence in the light most favorable to GRB and have to accept the
6 -- the testimony that those transfers were made in good faith.

7 Now I want to move on. The next -- the next point in time
8 is the termination, so Mr. Seibel, as you're aware, has pled guilty to
9 a tax crime and that occurred in April of 2016. Importantly, you
10 know, what was -- what was the initial reaction from Ramsay and
11 from Caesars when they learned about Mr. Seibel's conviction?
12 Was it hey, you know, we're really concerned here from a -- a
13 gaming perspective, we're -- our gaming license is going to be at
14 issue now that Mr. Seibel has pled guilty to this crime? Was there
15 -- was there any express concern that the development entities
16 were suddenly now no longer suitable? No. That's not what their
17 reaction was. Their reaction was, wow, maybe we can now go
18 through on our goal of getting rid of the development entities from
19 all these deals.

20 And again, Your Honor, this isn't speculation on our part.
21 We have the emails. If you look at Exhibit 531 to our appendix,
22 there -- there's an email on August 21st, 2016, from Tom Jenkins
23 [sic throughout] to both Stuart Gillies and Gordon Ramsay, and
24 Tom Jenkin says, and I'm quoting part of it here only, first off, in
25 light of the news, the news being Mr. Seibel's conviction, I have

1 Amie checking to see if legal difficulties give us a contractual out on
2 all of our contracts -- on all our contracts. And Amie Sabo is inside
3 counsel for Caesars, Your Honor.

4 So, the reaction isn't like oh no, we have a gaming
5 concern here, it's hey, maybe we can use this. So, what does --
6 what does Ramsay say in response? Well, his CEO, Mr. Gillies, says
7 -- in response to Tom Jenkins in that same email says, the recent
8 criminal elements are interesting timing and we would hope it
9 works strongly in our favor to resolve all current issues.

10 Well, what current issues is he talking about? Well,
11 clearly, he's talking about his plan that we referenced earlier to get
12 rid of the development entities and move forward with just
13 relationship between Mr. Ramsay and Caesars itself.

14 Mr. Seibel then again after this point in time tried to work
15 with -- I'm sorry, Mr. Seibel after this point in time again sought to
16 work with GRB and with Mr. Ramsay to disassociate from GRB so
17 the relationship between GRB and -- and Planet Hollywood could
18 continue, and there's just a -- there's the letters and we have a
19 timeline in our brief that I'm not going to rehash here, Your Honor,
20 but we have a -- we have a detailed timeline. There's just a few
21 things I want to -- I want to point out.

22 First I want to point out on Exhibit 590 which is an email
23 from --

24 THE COURT: I mean, I -- sir, I understand your -- the
25 position you're taking, but when you look at the -- the business

1 relationships that are involved here, specifically as it relates to GRB
2 and the development entities and the agreement that's in place, are
3 you saying that -- that the defendant in this matter, Gordon
4 Ramsay, shouldn't be concerned that a individual that he was
5 conducting business with was just convicted of tax fraud?

6 MR. WILLIAMS: No, Your Honor, what -- from -- from
7 GRB's perspective here, Your Honor, what I'm saying is he had --
8 and, Your Honor, I can get to this later or I can get -- I can -- I can
9 jump ahead if you want me to at this point just to get to what were
10 -- what did Mr. Ramsay, when he learned of the conviction, did he
11 have any obligation to work at that point in good faith to work with
12 Mr. -- Mr. Seibel and Mr. -- and GRB --

13 THE COURT: What -- what is he -- contractually what was
14 he supposed to do? Under the contract --

15 MR. WILLIAMS: Okay, well, Your Honor, we --

16 THE COURT: -- once -- once he -- once he's --

17 MR. WILLIAMS: Okay, I -- I -- I agree --

18 THE COURT: Wait, wait, wait. Once Mr. Seibel was
19 convicted of tax fraud, are you telling me that Mr. Ramsay was
20 supposed to somehow overlook that and continue to conduct
21 business with him?

22 MR. WILLIAMS: Not necessarily, Your Honor, and that's
23 not -- that's not the basis of our claims --

24 THE COURT: Okay. My next question is this, what was he
25 supposed to do contractually? Pursuant to the development

1 agreement.

2 MR. WILLIAMS: Understood, Your Honor. Your Honor,
3 yeah, I -- I will agree with opposing counsel that our -- our claim for
4 like a -- if you're looking at the -- the -- what were his obligations
5 under the development agreement, I understand that the -- the --
6 the only -- the only direct claim that we are asserting is a -- is a
7 violation of 14.21. I agree that as to what Mr. Ramsay had to do his
8 -- his direct obligations under the contract are what they -- what he
9 -- what Mr. Tennert said they are.

10 Now, we do argue that, however, the implied covenant of
11 good faith and fair dealing --

12 THE COURT: Okay.

13 MR. WILLIAMS: -- required him to, number one, not
14 encourage and assist Planet Hollywood to terminate the agreement,
15 and number two, to work with Mr. Seibel to disassociate so that
16 GRB could continue its relationship with --

17 THE COURT: Where does that come from -- where does
18 that come from contractually?

19 MR. WILLIAMS: It comes from the implied covenant, Your
20 Honor. I will -- I will readily admit that is not -- that is not a term
21 that is contained in the GRB agreement.

22 THE COURT: So, the implied covenant of good faith and
23 fair dealings requires Mr. Ramsay to, all right, he is -- now one of
24 the partnership entities he's involved with has been convicted of
25 tax fraud, and so Mr. Ramsay under those circumstances is

1 required to work with him to make sure he doesn't lose any
2 ownership interest in -- in GRB. Is that what you're saying or to --

3 MR. WILLIAMS: Not with this --

4 THE COURT: I mean, I'm just bottom lining it. I'm trying
5 to figure out the basis for the claims.

6 MR. WILLIAMS: Understood, Your Honor. And the -- the
7 basis is not, okay, what -- to the benefit of Mr. Seibel, but we're
8 talking again about GRB. Right? If the -- as a party to the
9 agreement, was it okay for Mr. -- Mr. Ramsay to encourage and
10 assist Planet Hollywood to terminate the agreement?

11 THE COURT: Well, I mean, we do have a convicted felon
12 here. I mean, I'm just saying it like it is. And I'm looking --

13 MR. WILLIAMS: I --

14 THE COURT: -- at it from a realistic perspective. I would
15 understand your position if hypothetically Mr. Seibel was never
16 convicted of a crime. I get that. And there's been no breach. Right,
17 I get it, but I'm -- but the facts are the facts, unfortunately.

18 MR. WILLIAMS: I agree, Your Honor, can't -- can't deny
19 the facts. I -- I agree wholeheartedly, Your Honor. Mr. -- so, Mr.
20 Seibel is absolutely a convicted felon and I understand what Your
21 Honor -- what Your Honor's position is; well, he's a convicted
22 felon --

23 THE COURT: I don't have a position. Lawyers say that
24 from time to time. It's an observation. I'm not a litigant. I have no
25 position in this case. But ago ahead, sir.

1 MR. WILLIAMS: My apology -- my apologies, Your Honor.
2 Going to your observation, yes, he's absolutely a convicted felon.
3 Does that mean that Mr. Ramsay has to continue to do business
4 with him? No. That -- that's not what we're arguing.

5 THE COURT: Okay. I get it.

6 MR. WILLIAMS: We're -- we are arguing that Mr. Ramsay
7 had an obligation to -- as part of being a party to that agreement to
8 ensure that that agreement would -- that he wouldn't work with
9 another party to try to terminate it. And okay, Mr. -- Mr. Seibel --
10 they -- obviously Caesars was not satisfied with the proposal that
11 Mr. Seibel had put forward to put all of his interest in a trust and
12 then have, you know, have a --

13 THE COURT: How is that a breach -- how is that a
14 breach --

15 MR. WILLIAMS: -- they -- they did not -- they did not like
16 that proposal.

17 THE COURT: I want to understand this. How is that a
18 breach of covenant of good faith and fair dealing? Because that's
19 not a contractual breach we can agree, right?

20 MR. WILLIAMS: Correct. Not a -- not a contractual
21 breach. There's no term in there that says Mr. Ramsay will not
22 encourage and assist Planet Hollywood to terminate this
23 agreement. Agreed, not in there.

24 THE COURT: Right. Okay.

25 MR. WILLIAMS: Agreed. It's an implied term, Your

1 Honor, that's -- our argument is that under the implied covenant of
2 good faith and fair dealing, you cannot frustrate the justified
3 expectations of another party. And the whole point of the implied
4 covenant of good faith and fair dealing is --

5 THE COURT: Okay, how -- I'm trying to -- please, bear
6 with me. I'm trying to understand that argument. And I understand
7 the covenant of good faith and fair dealings as set forth in *Butch*
8 *Lewis*. I get it. The Las Vegas Hilton case, I understand what it is.
9 But I'm trying to understand this claim for relief for the breach of
10 the covenant of good faith and fair dealings, because under the
11 facts and circumstances of this case, even if I accept your
12 argument, Mr. Ramsay does not want to do business any longer
13 with a convicted felon.

14 MR. WILLIAMS: I understand that observation, Your
15 Honor. And what we're saying -- so, Mr. Ramsay is a party to the
16 agreement --

17 THE COURT: Right.

18 MR. WILLIAMS: -- and as a party -- as a party, he is
19 subject to the implied covenant of good faith and fair dealing.

20 THE COURT: Right.

21 MR. WILLIAMS: And we're saying that the implied
22 covenant of good faith and fair dealing required him not to frustrate
23 the justified expectations of the parties to that agreement.

24 Now GRB, again not Mr. Seibel, GRB is not a convicted
25 felon, it's an entity. GRB is not a convicted felony -- a convicted

1 felon. GRB has cure rights under that agreement that if there is an
2 associate -- a person that Caesars deems to be unsuitable, then it
3 has the right to cure.

4 And, Your Honor, I will tell you what section that is.
5 That's under section -- one moment, please. That is under section
6 11.2 under privilege license. GRB has a contractual right that if
7 Caesars determines that there is an unsuitable person that they're
8 affiliated with to disassociate with that individual, and that's exactly
9 what attempted to occur here. But for, pardon me, but for
10 Ramsay's refusal to allow --

11 THE COURT: You know, and maybe I'm missing
12 something because I understand -- I'm looking here and how can
13 GRB file a lawsuit as it pertains to Gordon Ramsay and the failure
14 of -- of Ramsay and/or some of the related entities to accept the
15 offer by Mr. Seibel where they would transfer whatever ownership
16 interest he has to some trust? How's that a breach of the covenant
17 of good faith and fair dealings? Because in essence that's what
18 we're here --

19 MR. WILLIAMS: Well, Your Honor, and I --

20 THE COURT: -- and I'm trying to figure out how GRB and
21 because I -- I've looked at this really closely. How can they file a --
22 that type of claim?

23 MR. WILLIAMS: I -- I -- again, I understand your
24 observation, Your Honor. One thing I want to point out to give
25 some context before I -- before I respond to that is on Exhibit 590,

1 it's a -- it's a letter from Mr. Seibel's counsel to Mr. Ramsay's
2 counsel and in there in that exhibit on page 2, not only is there this
3 trust arrangement, right, I -- I -- I fully understand neither Caesars
4 nor Ramsay found the trust arrangement to be workable, right? I
5 understand that -- acknowledge that.

6 However, that's not the only thing that was offered by
7 Seibel, Your Honor. He says here and this is a portion of it says --
8 he's talking to -- again, to Ramsay: Consider and discuss another
9 acceptable method of terminating Mr. Seibel's relationship with
10 GRB in a fair and workable manner to all parties.

11 And what we're saying here, Your Honor, is that the good
12 -- the obligation of good faith and fair dealing required Ramsay as a
13 party to that agreement to work in good faith to try to find that
14 resolution to -- to -- to get Mr. Seibel out to have him no longer
15 affiliated with GRB so that GRB could continue to do business with
16 Planet Hollywood, and that's what we're saying he's not -- Mr.
17 Ramsay did not work in good faith with Mr. Seibel and with GRB --
18 well with GRB to help cause that disassociation to happen.

19 THE COURT: Okay, here's my next question: What
20 impact does the dissolution order that was issued back on October
21 5th, 2017 have on that argument?

22 MR. WILLIAMS: On that argument, Your Honor, there --
23 actually, Mr. -- Mr. Ramsay cannot assert the dissolution or the --
24 the fact -- or the assignment of the IP rights that were part of that
25 dissolution. There was an assignment of Mr. Ramsay's IP rights

1 back to Mr. Ramsay. That's part of the dissolution.

2 THE COURT: But -- but that's not my question.

3 MR. WILLIAMS: But as part of that dissolution --

4 THE COURT: I'm just looking here and I -- this is what the
5 court held. I think this is on page 9 of the moving papers. Quote,
6 Seibel cannot reasonably expect that this court indefinitely lock
7 Ramsay in a failed joint venture and thereby preclude him from
8 ever engaging in a business that bears the resemblance to GRB, a
9 restaurant business that exploits Ramsay's celebrity -- celebrity to
10 sell one of the most popular and beloved food preparations in all of
11 history, period. Any such result would be the antithesis of
12 equitable.

13 MR. WILLIAMS: Yes, Your Honor. I understand that and
14 we don't argue that there's any legal basis to -- to prevent Mr.
15 Ramsay from doing what that says. However, as part of that
16 determination --

17 THE COURT: But isn't that arguing you're saying that
18 whatever he did was in violation of the covenant of good faith and
19 fair dealings.

20 MR. WILLIAMS: Correct, Your Honor, I don't -- and our --
21 our position is that dissolution order doesn't impact that. The point
22 of it is --

23 THE COURT: And -- and -- and -- and -- and why? Tell me
24 why.

25 MR. WILLIAMS: Sure. The -- so, good faith -- our position

1 is good faith and fair dealing required Mr. Ramsay to work in good
2 faith with Mr. -- with -- with GRB to cause the disassociation of Mr.
3 Seibel and irrespective of the dissolution, that -- that -- the -- the
4 breach of the implied covenant occurred well before the
5 dissolution. So, our -- our point is that dissolution doesn't impact
6 that. I think what Mr. Ramsay has tried to argued is that dissolution
7 makes 14.21, you know, moot in the sense that he can try to -- that
8 he's not limited in the businesses he can engage with Caesars. But
9 -- but that's a separate issue.

10 And, Your Honor, more importantly, I -- I don't have the --
11 I don't have it in front of me directly here, but the assignment
12 prohibits Ramsay from making an argument based on the
13 dissolution that -- that says he can defend this -- these claims based
14 on the dissolution that, you know, so that's -- that -- that -- that's a
15 separate issue, Your Honor, but I -- I don't -- the -- the point is the
16 breach of the implied covenant occurred prior to that dissolution. If
17 he had acted in good faith and Mr. Seibel had disassociated from
18 GRB, there would have been no need to terminate GRB. It would
19 have continued as going on concern --

20 THE COURT: Well, I mean, but -- but -- but it -- it appears
21 to me the whole basis for the GRB claim here is the fact that Seibel,
22 Caesars or the other entities wouldn't accept the deal being offered
23 by Mr. Seibel. That's really what it's all about.

24 MR. WILLIAMS: I -- again, I appreciate your observation,
25 but I -- I'm going to again point out that Mr. Seibel said okay, you

1 don't accept this trust that -- this -- this trust method, you don't
2 accept it. Right, that's that -- that -- that occurred. And Mr. Seibel
3 then said, okay, then let's do something else, let's sell it to a third
4 party, let's do something else that's workable for you. And that
5 didn't happen and our position is good faith and fair dealing --

6 THE COURT: But I mean, in -- in a technical perspective,
7 by putting himself in a position where ultimately Mr. Seibel was
8 charged and convicted of a felon [sic], tax fraud, this is what
9 happens under those circumstances. And the reason why I bring
10 that up and I -- and I will say this, I mean, I understand the
11 arguments but for that. But -- but I'm trying to figure out the --
12 because I looked at the claims, the breach of contract, implied
13 covenant of good faith and fair dealings, unjust enrichment -- I'm
14 trying -- the conspiracy to breach of contract and so on. I'm trying
15 to understand these claims for relief. I -- I am, in light of the facts of
16 this case and the development agreement that was in place.

17 MR. WILLIAMS: Again, I -- I appreciate your observations,
18 Your Honor. However, the development entities were not convicted
19 of tax fraud, Mr. Seibel was.

20 THE COURT: Right.

21 MR. WILLIAMS: Development entities are not convicted
22 felons. But for Caesars' determination that the development
23 entities were still affiliated with Mr. Seibel, there would be no basis
24 to -- to find them unsuitable. And I understand your observation to
25 say well, he got convicted, therefore this is what's going to happen.

1 However, there was not a civil forfeiture. There was not a
2 determination that hey Mr. -- Mr. Seibel, all of these entities that
3 you were formerly involved with and I -- I understand that's a -- an
4 issue that's disputed by both sides. These entities that you're
5 formerly involved with, well they should have losses too based on
6 that.

7 THE COURT: Well, no, but I mean slightly -- it's a slightly
8 different set of facts because the conviction triggered rights of the
9 parties to the development agreement, right? Pursuant to the --

10 MR. WILLIAMS: Well that -- that's a --

11 THE COURT: Is that a question of fact or is it set forth in
12 the agreement itself?

13 MR. WILLIAMS: I -- I would argue that's a question of fact
14 of whether or not they -- they -- I agree they had the discretion to
15 make suitability determinations --

16 THE COURT: Right.

17 MR. WILLIAMS: -- but the -- but the entire essence of -- of
18 the implied covenant claim is did they exercise that discretion in
19 good faith. And we cited lots of cases in both the brief on this and
20 the briefing on the Caesars that when you have that absolute
21 discretion that you have to exercise it in good faith and if not, what
22 we have here is an illusory contract because if there's no -- if
23 Caesars could have determined that the -- the development entities
24 were unsuitable for any reason without any --

25 THE COURT: Right, that's - but see, that's all speculation.

1 There's no facts to support that. Right, the -- the unsuitability
2 decision was based upon what?

3 MR. WILLIAMS: Based upon Caesars' determination that
4 the development entities were still affiliated with Mr. Seibel.

5 THE COURT: Right.

6 MR. WILLIAMS: And our position is, okay, you -- you
7 made that determination. So, we would like to cure and try to get --
8 and we would like to end that, and Caesars determined no, we're
9 not going to let you.

10 THE COURT: And you wanted to cure it how?

11 MR. WILLIAMS: Ramsay said no, we're not going to let
12 you.

13 THE COURT: I mean, my point is this, how was -- what
14 was the proposed cure?

15 MR. WILLIAMS: There -- well, Your Honor, there -- there
16 was the -- the trust and they rejected that so then we said, okay,
17 you're not okay with the trust, let us sell it to a third party. That's
18 something that's contemplated by the parties and Caesars never
19 responded to that.

20 THE COURT: All right.

21 MR. WILLIAMS: And clearly, we want -- we never -- there
22 was never a discussion with Caesars or with Ramsay like that that
23 was, hey, we're going to sell to this third party, are you okay with
24 that because they never responded, they didn't -- they just said, no,
25 the trust doesn't work, that's it, thank you, we'll take -- we'll take the

1 development entities' money, go on your way.

2 And again, we're -- I understand -- I understand the
3 position with Mr. Seibel, but again, the development entities were
4 not convicted of a crime. Mr. Seibel was.

5 And did they reject his efforts to disassociate? They
6 absolutely did. But that doesn't mean that suddenly there should
7 be a -- a civil forfeiture of all the development entities' rights under
8 those agreements. If there's a -- if there's someone who's
9 unsuitable, then let's find a way to make it -- let's find a way to get
10 rid of that affiliation, and that's what we wanted to happen and
11 Caesars and Ramsay would not let it happen. And we're arguing
12 that is not good faith under the implied covenant of good faith and
13 fair dealing.

14 THE COURT: All right. Continue on, sir.

15 MR. WILLIAMS: Okay. I already read to you the -- earlier I
16 was going to read again that, you know, Exhibit 590 shows that Mr.
17 Seibel was not only looking at the trust arrangement but also
18 offered other potential resolutions.

19 You know, we talked about the dissolution proceedings,
20 Your Honor. Just one thing I want to point out on that, and this is
21 something that Mr. Ramsay has argued and was also argued
22 previously by his counsel just now. The trustee's report, the
23 trustee's findings are not binding admissions. We've quoted the --
24 the case law on that. Under Nevada law, judicial admission must
25 be one of concrete fact. It can't be a -- you know, can't be a legal

1 conclusion and that's exactly what they're trying to argue is a
2 binding admission --

3 THE COURT: What -- what about -- what about the
4 holding of the Delaware court?

5 MR. WILLIAMS: The -- if -- to the extent there's a -- the
6 holding of the Delaware court itself is not -- doesn't make a finding
7 as a matter of law that any claims are valid or invalid. In fact, you
8 know, one thing that they -- they fail to -- they neglect to -- to note is
9 that the trustee did find that some of the claims were -- had merit,
10 but -- but those were not discussed, just as -- just as they cannot
11 use the trustee's findings against us, we can't use the trustee's
12 findings against them because they're not facts, but there's no
13 findings in the -- in the order that made determination as to the
14 merits of the claim, Your Honor.

15 THE COURT: Okay, here's my next question --

16 MR. WILLIAMS: At least --

17 THE COURT: -- though I mean and -- and I will admit I've
18 never practiced in Delaware, but I was looking at this issue and it --
19 and for example it said on October 13th, 2020, the Delaware court
20 adopted the liquidating trustee's report and ordered GRUS and
21 Seibel to prepare and submit and implementing an order necessary
22 to implement the plan of liquidating. And my point is this: From
23 time to time I will adopt the decision and recommendations of the
24 discovery commissioner. Right? I will. It happens. Sometimes I
25 reject them. When that happens, it becomes an order.

1 What happens under these circumstances as it relates to
2 the -- the liquidating trustee's recommendations and the impact of
3 the Delaware court's decision? That's what I'm trying to figure out.

4 MR. WILLIAMS: Understood, Your Honor, but the -- the --
5 ultimately the Delaware court didn't go with the recommendation
6 not to pursue -- not to enable Mr. Seibel to pursue these claims.
7 The Delaware court allowed him to and I think the -- the -- I don't
8 have it in front of me, but I believe there's some language that he
9 would allow the -- the Nevada courts to separate the wheat from
10 the chaff --

11 THE COURT: Yeah, something.

12 MR. WILLIAMS: -- that's some language --

13 THE COURT: And it does say that.

14 MR. WILLIAMS: Yeah.

15 THE COURT: When I read it --

16 MR. WILLIAMS: And I --

17 THE COURT: -- when I read that I felt they should have
18 done that. But anyway, I'm stuck with it. Go ahead, sir.

19 MR. WILLIAMS: Your Honor. So, just the point on the
20 trustee's opinion is that that's not a -- it's not a judicial admission, it
21 was not -- it's not a concrete fact, it's -- it's pure legal determination.

22 Now, what happened subsequent to the termination is
23 that Planet Hollywood entered into another -- a new agreement
24 that's very similar to the GRB agreement with a Ramsay entity
25 called RB Restaurant Ventures, LLC. And that new -- that new --

1 that new agreement, the -- it's a licensing agreement similar to the
2 GRB agreement. In fact, Caesars parties have testified that it's
3 pretty much the same agreement just with different -- different
4 names.

5 That -- under that agreement they -- what Planet
6 Hollywood and Ramsay argue is that we have rebranded BurGR
7 Gordan Ramsay into Gordan Ramsay Burger and that that is
8 somehow a new restaurant because the GRB agreement
9 unequivocally required Planet Hollywood to shut down the
10 restaurant if the agreement was terminated. And so, what they --
11 what they have said is like oh well, we shut it down, we've
12 rebranded it and this is a new restaurant.

13 Well, Your Honor, I would submit that's -- that's a highly
14 contested issue of fact. First off, the name's practically the same.
15 They've shifted -- they've got -- they added an E to burger and they
16 shifted Gordon Ramsey from the back to the front. Otherwise,
17 same name.

18 And in fact, the United States Patent and Trademark Office
19 rejected Mr. Ramsay's application for the trademark Gordon
20 Ramsay Burger because how similar it was to Burger Gordon
21 Ramsay and they found there was, quote, likely a potential
22 customer would be confused, mistaken or deceived, end quote, by
23 the new trademark because they were so similar.

24 The menus are the same --

25 THE COURT: But my question is that -- I mean I

1 understand that argument, but as far as GRB is concerned on that
2 specific issue, wasn't the contract with Planet Hollywood?

3 MR. WILLIAMS: Yes, Your Honor, that -- that is -- I
4 understand that and we'll get to that this goes to section 14.21
5 which is what we'll get to.

6 THE COURT: Okay.

7 MR. WILLIAMS: That is correct.

8 THE COURT: But the reason why I'm saying that if there's
9 a complaint on that as it pertains to the covenant of good faith and
10 fair dealing or breach of contract, that contract wasn't made with
11 GRB, but that contract was made with Planet Hollywood, right?

12 MR. WILLIAMS: There -- so there is -- you're -- the -- the
13 contract is between Planet Hollywood and GRB and Ramsay.

14 THE COURT: Right.

15 MR. WILLIAMS: And I understand and we'll -- we'll get to
16 this later. I understand Ramsay's argument well I'm only -- I'm only
17 a limited party. But the point is he's still a party to the agreement
18 so there is going to be a new agreement --

19 THE COURT: But I mean as far as the -- but the contract
20 itself as far as the name, likeness, personal appearances and so on,
21 who did Gordon Ramsay contract with in that regard?

22 MR. WILLIAMS: Well, you can go back, Your Honor, there
23 is the -- there -- there is the licensing agreements between the
24 parties, right? There's a licensing agreement that goes from
25 Gordon Ramsay to GRUS, a sublicense from GRUS to GRB, and

1 then there is that license is then sublicensed to Planet Hollywood
2 under the GRB agreement.

3 THE COURT: Right.

4 MR. WILLIAMS: But our -- our point is Ramsay is still a
5 party to that agreement -- to the agreement with GRB.

6 THE COURT: But as far as --

7 MR. WILLIAMS: Now --

8 THE COURT: -- but my question is this as far as whether
9 there was a breach of that agreement as it pertains to name,
10 likeness, personal appearances and so on as it pertains to Gordon
11 Ramsay, who had a contractual right to enforce a breach as to
12 Gordon Ramsay?

13 MR. WILLIAMS: Well, Your Honor, I'd argue GRB does --

14 THE COURT: Okay --

15 MR. WILLIAMS: -- because GRB --

16 THE COURT: But in light of those transactions you just
17 discussed, I understand the argument, but from a contractual
18 perspective, the documents itself, who had that right?

19 MR. WILLIAMS: Your Honor, I would argue that GRB had
20 the right to enforce the GR marks and the GR materials which
21 included the -- the burger-centric themed --

22 THE COURT: Where -- show me -- show me where that's
23 at so I can look at it.

24 MR. WILLIAMS: Sure, I can -- so, if you go back -- and,
25 Your Honor, this is going to -- this is going to -- if you go to the

1 license agreement between GRUS and GRB, it talks about -- this is
2 Gordon Ramsay Exhibit 5 and the development entities' Exhibit
3 546. It talks about that the license has developed and owns and
4 operates a burger-centric restaurant concept and that's on page 1 of
5 the agreement. And that C talks about the licensee marks which are
6 the trademarks, and then there's a grant of license which talks
7 about that there's going to be a restaurant called BurGR Gordon
8 Ramsay, the restaurant operation.

9 So, then this license agreement, which again, Exhibit 5
10 and/or 546 is in turn -- that license is in sublicensed two Planet
11 Hollywood. And that starts on page 17. This is Exhibit 6 under
12 Gordon Ramsay's appendix and Exhibit 544 under the development
13 entities' appendix.

14 THE COURT: Okay, I have Exhibit 6. Which page on
15 Exhibit 6?

16 MR. WILLIAMS: Page 17 -- if you turn to page 17.

17 THE COURT: Okay.

18 MR. WILLIAMS: Point two. Six point two one.

19 THE COURT: All right, I see it. Ownership.

20 MR. WILLIAMS: Yep. Six point two one, by GRB or
21 Gordon Ramsay. PH, Planet Hollywood, acknowledges and agrees
22 that GRB is the owner of the GRB marks and the general GR
23 materials and any modification, adaptation, improvement or
24 derivative of or to the foregoing.

25 THE COURT: How about further, notwithstanding the

1 foregoing, each of Gordon Ramsay and GRB acknowledges and
2 agrees that PH shall have all copyrights and other rights and titles
3 and interest in and to all materials described in subsection 2.2 -- I
4 guess that would be two. What -- what -- what's the impact of that?
5 That language.

6 MR. WILLIAMS: Well, Your Honor, what that
7 demonstrated is that, again, and I'm -- I'm going to go very -- I'm
8 going to go to a -- I -- an overview here. So, the point is GRB was
9 an entity established and given the rights to do this burger-centric
10 restaurant. That's confirmed in the licensing agreement from
11 GRUS to GRB and it's confirmed right here in this agreement under
12 the section we just read, 6.21, that -- and importantly, it's not just
13 the only, you know, just this specific version of this restaurant, but
14 any modification, adaptation, improvement or derivative of or to
15 the foregoing. So, the point is that any derivative of this is also
16 within the licensing rights of GRB.

17 And I understand your -- your -- your -- the argument that
18 Mr. Ramsay is making and this -- I'm -- I'm going back to what was
19 previously argued as it relates to Planet Hollywood here, but what
20 Mr. Ramsay is arguing is well, my obligations are not under -- I
21 don't have obligations under 6.2.1 and I -- the point of this is, Your
22 Honor, as it relates to Mr. Ramsay, the individual, we believe that
23 by working with Planet Hollywood to develop this new entity, this
24 new -- this what they consider to be a new restaurant, we consider
25 it to be the same restaurant, that got -- that -- that interfered with

1 the justified expectations of GRB.

2 What are the -- what are the justified expectations of GRB?
3 That it had the licensing rights under 6.2.1 and what was -- what
4 frustrated that? Mr. Ramsay having -- encouraging and assisting
5 Planet Hollywood to terminate the GRB agreement and then open
6 what they consider to be a new restaurant to the exclusion of GRB.

7 And that's -- that's how it applies to Mr. Ramsay. Overall,
8 generally, the point with -- the point with respect to Planet
9 Hollywood is you can't operate a derivative of the burger restaurant
10 in the same place with the same menu, practically the same name,
11 you can't do that. As to Mr. Ramsay, it is you -- you interfered with
12 our justified expectations under the agreement. You're a party to
13 the agreement. You can't do that.

14 Any other questions --

15 THE COURT: I -- I -- I do have a question for you and what
16 impact, if any, does section 14.2 have in this case as it pertains to
17 successor, assigns and delegees?

18 MR. WILLIAMS: Fourteen point two, Your Honor?

19 THE COURT: Yes.

20 MR. WILLIAMS: One moment. So, Your Honor -- so, I -- if
21 you give me a moment, I can read through it. I -- I -- I read through
22 the agreement, but as far as this provision's concerned, I -- there's
23 no party may assign -- so this is basically there's no assignment
24 without -- without written consent of the parties.

25 I think my -- our point to this would be, Your Honor, that

1 GRB maintains its rights under -- with the marks and the -- and the
2 materials and that specific actually in here under subsection A
3 where -- well, not A. Sorry, if you're reading, Your Honor, if you go
4 to like the fifth line, it starts talking about that GRB has the right to
5 assign its marks, but that's -- it retains the rights still under the
6 agreement. I don't think that impacts anything that occurred here.

7 THE COURT: All right.

8 MR. WILLIAMS: If anything, it confirms that those rights
9 remain with GRB. And it talks about certain circumstances under
10 which the parties can assign -- that Mr. Ramsay can assign his
11 interest to other entities but doesn't talk about -- it doesn't give a
12 right for Mr. Ramsay to take the rights that belong to GRB that it
13 sublicensed from him.

14 Were there any further questions on that provision, Your
15 Honor?

16 THE COURT: Does it impact the -- the actions of Mr.
17 Seibel?

18 MR. WILLIAMS: I'm sorry, say that again?

19 THE COURT: Does it impact --

20 MR. WILLIAMS: I --

21 THE COURT: -- the actions of Mr. Seibel?

22 MR. WILLIAMS: How does 14.2 impact the actions of Mr.
23 Seibel?

24 THE COURT: If any, yes.

25 MR. WILLIAMS: I --

1 THE COURT: As it pertains to his attempt to get Gordon
2 Ramsay to accept the transfer of ownership interest vis-à-vis the
3 trust -- the trust issue.

4 MR. WILLIAMS: Well -- again, Your Honor, I -- we're not --
5 I -- the point with the trust issue, Your Honor, is that that wasn't the
6 only option. Obviously, it wasn't something that was satisfactory to
7 Caesars and it wasn't satisfactory to Ramsay. Our -- our argument
8 is that they needed to work with us to find a resolution -- they need
9 to work in good faith to try to find a resolution to that, but they
10 didn't want to --

11 THE COURT: Here's my next question --

12 MR. WILLIAMS: -- and I -- I -- I --

13 THE COURT: -- are they obligated to work after the
14 breach?

15 MR. WILLIAMS: After the breach?

16 THE COURT: After -- I think they're -- they -- they -- it's my
17 -- unless I'm missing something, regardless of whatever position or
18 arguments have been -- that have been made, they're taking a
19 position that, you know, once they found out about the, quote, tax
20 fraud conviction, are you saying once they found out about that and
21 -- and that wasn't a breach to the terms of the agreement between
22 the parties?

23 MR. WILLIAMS: You know, I didn't -- I -- I'm not really
24 sure if Caesars is taking the position that's a direct breach. What
25 they're taking the position is, is that that gave them the -- the right

1 to terminate based on them -- based on a finding of unsuitability.

2 And our position is --

3 THE COURT: Well, I mean a finding of --

4 MR. WILLIAMS: I'm sorry, Your Honor.

5 THE COURT: -- unsuitability I -- I guess. I don't know if
6 they call it a breach or not, but maybe it would be. Right? Because
7 you have to -- you have to remain a certain -- a certain level as far
8 as character is concerned. So, anyway, but go ahead, sir.

9 MR. WILLIAMS: Your -- yeah, Your Honor, if -- if you turn
10 to page 26 which is actually at the very top it's -- this is the second
11 page of section 11.2 and about the tenth line down or so, if any --
12 says if any GRC [sic] associate fails to -- to satisfy any such
13 requirement which is suitability, then there's a contractual right that
14 -- that GR -- that GRB may -- has the -- may disassociate from that
15 individual but continue. So, I mean that's addressed by the
16 contract. That's why I don't think it's in terms of a breach, but there
17 is the right of GRB to cure that determination of unsuitability.

18 THE COURT: All right. And I want to make sure I
19 understand the language you're relying on because I have -- I think
20 you said that would be 11.2 is that -- on page 26?

21 MR. WILLIAMS: Correct, Your Honor. Section 11.2 starts
22 on page 25 --

23 THE COURT: Yes.

24 MR. WILLIAMS: -- but the section I'm talking about is on
25 page 26.

1 THE COURT: And -- and how many lines from the -- from
2 the top are you?

3 MR. WILLIAMS: Let me count, Your Honor, one minute,
4 sorry. Eleven.

5 THE COURT: Okay.

6 [Pause]

7 THE COURT: Okay, sir, I understand.

8 MR. WILLIAMS: Thank you, Your Honor. So, getting back
9 to the implied covenant. Now, I just want to generally say, you
10 know, that's a -- it's a question of fact.

11 And, Your Honor, I know we -- we've gone through a lot of
12 these contracts, we've also presented a lot of emails, there's a lot
13 more exhibits that are in our appendix, but the point of all this is
14 that to -- this is a highly disputed question of fact of what -- what
15 does good faith require and I (indiscernible) what the Nevada
16 Supreme Court said in *Hilton*, the -- the Hilton one said, the
17 factfinder considers whether one -- one party's conduct, quote, fell -
18 - fell outside the reasonable expectation, end quote, of the other
19 party which determination is guided by, quote, by the various
20 factors and special circumstances that shape the parties'
21 expectations.

22 The reason I quote that, Your Honor, is that this is a fact
23 intensive inquiry of what does the -- what does the duty of good
24 faith and fair dealing require. Something that it's highly fact
25 intensive and we -- we've cited for you the *Republic Group versus*

1 *Won-Door* case (indiscernible) Utah Court of Appeals opinion that it
2 goes into a good explanation of why these things are very difficult
3 to decide on summary judgment just -- just because they are so fact
4 sensitive.

5 One thing I want to discuss, Your Honor, is that, you
6 know, Ramsay has continuously argued, hey, I'm only a limited
7 party to this, right? And he's saying I -- you know, I only have these
8 certain obligations. And our point is there -- I -- I -- I -- I -- he did not
9 cite a case and I have not seen a case that says well if you're a party
10 with only limited obligations, you're not subject to the implied
11 covenant of good faith and fair dealing. And I would submit that
12 the reason is when you're a party to a contract, you're a party to a
13 contract. And all parties to a contract are subject to the implied
14 covenant of good faith and fair dealing.

15 And there -- there are three things that we contend that
16 Ramsay -- three primary things in which Ramsay breached this
17 implied covenant of good faith and fair dealing. One -- and we've
18 talked about this at length. I won't go into detail but is that he
19 encouraged and assisted Planet Hollywood to terminate the
20 development agreement.

21 One -- one exhibit I point you to, Your Honor, is that
22 Exhibit 532 which is a letter from Mr. Ramsay's counsel to counsel
23 for Caesars is that basically in that exhibit they're telling them that
24 hey, you know what, we, Ramsay, we've determined that this trust
25 arrangement is not going to work and you should therefore reject it

1 as well. Basically saying, yeah, you should terminate this
2 agreement.

3 We argue, number one, that doesn't mention oh by the
4 way, Mr. -- Mr. Seibel has asked us is there anything else that's
5 going to work, is there another arrangement that we can do to -- to
6 avoid this outcome where the GRB agreement is terminated. So I
7 point you to that -- that particular letter.

8 And the other part to keep in mind here is that Seibel was
9 -- my apologies, Mr. Ramsay was the one that was blocking Seibel
10 from being able to -- Mr. -- Mr. Ramsay under the -- under the
11 parties' agreement, he had the ability and used that ability to block
12 any of Mr. Seibel's efforts to disassociate, and we argue that's not
13 in good faith because it hurts GRB. Not because it hurt Mr. Seibel,
14 it hurt GRB who is a party to the contract and was entitled to
15 receive the ongoing funds from that agreement.

16 But that -- plainly what happened here, and I'll say this is
17 -- this is a question of -- I wouldn't say plainly. Let me strike that.
18 This is a question for fact for the jury is Mr. Ramsay obviously had
19 a big benefit here by what occurred. He was splitting the profits
20 with GRB with Mr. Seibel before, and after now he has all the
21 profits for himself, so he goes from 50 percent to a hundred
22 percent, and that's something that a jury could look at and say
23 yeah, that -- that shows that this was not done in good faith, that he
24 was not trying -- his goal was not to try to save the GRB agreement,
25 his goals was to get rid of the GRB agreement. We know that

1 based on his emails.

2 And again, is there a direct provision in the contract that
3 requires Ramsay not to do this? No, there's not. But the implied
4 covenant of good faith and fair dealing supplies those terms. It
5 says you can't deny the justified expectation of a party. That's
6 exactly what Mr. Ramsay did here. Simply the -- the -- the question
7 a jury needs to resolve is did Mr. Ramsay breach the implied
8 covenant by encouraging and assisting Planet Hollywood to
9 terminate the GRB agreement.

10 The second category for the breach of the implied
11 covenant is -- we've talked about this again is that Mr. Ramsay
12 effectively blocked Mr. Seibel from disassociating from GRB. And
13 was that done -- the question the jury needs to resolve, was that
14 done in good faith? Did that comply with the implied covenant of
15 good faith and fair dealing?

16 And again, this not from the perspective of the detriment
17 to Mr. Seibel. This is from the perspective of the detriment to GRB
18 who went from having a hundred percent being a party to the
19 agreement with Planet Hollywood to being on complete out.

20 And again, I just want to -- I just want to reiterate, Your
21 Honor, I -- I understand Caesars and Ramsay both said you know
22 what, this trust arrangement is not going to work for us, but that's
23 not the only thing that was offered by Mr. Seibel and his counsel.
24 Mr. Seibel said, okay, that didn't work for you, let's find something
25 that does. And both Seibel -- I'm sorry, both Ramsay and Caesars

1 said nah. We're not going to do that. We're just going to -- we're
2 going to terminate the agreement and keep everything for
3 ourselves.

4 And part -- one of the things to keep in mind of this, Your
5 Honor, and that we cited case law on this in our opposition, it's --
6 it's unfair for both Ramsay and for Caesars and I understand we're
7 only here on Ramsay, but it's unfair (indiscernible) to keep the
8 benefits of an agreement but at the same time avoid the burdens of
9 it. Right?

10 GRB is the party that developed this concept, that owned
11 the rights to the trademarks under the licensing agreement and as
12 discussed, it's clear in the -- in the GRB agreement itself that GRB is
13 the -- the party that has those rights. It developed those. And by
14 the actions of Ramsay and by Planet Hollywood but by -- we're
15 focusing here on Ramsay, that is now -- that -- that's gone. They're
16 not receiving the funds, so the question is did that -- did -- did Mr.
17 Ramsay's conduct breach the implied covenant of good faith and
18 fair dealing and our argument is yes it did.

19 Now, we agree that this is -- there are -- there are -- there
20 are many issues of -- there are many issues of fact that need to be
21 resolved by a jury. We're not here saying hey, you should enter
22 summary judgment in our favor. No, we're -- we're saying this
23 needs to go to the jury, which importantly, again, under the
24 standards and I know you know the standards very well, Your
25 Honor, you have to make every -- every reasonable inference in

1 favor of the nonmoving party and view the evidence in light most
2 favorable to nonmoving party and here that's GRB.

3 And third, Your Honor, there -- there's a third category of
4 the implied covenant of good faith -- implied covenant breaches
5 that I want discuss and that is Ramsay continuing -- continuing to
6 work with Planet Hollywood in the -- what they consider to be the
7 new restaurant.

8 Now again, we believe that restaurant is the same exact
9 restaurant, but GRB had a justified expectation that it had the
10 licensing rights to that concept -- to the marks and to the concept.
11 And those -- and those by -- by continuing to work with Planet
12 Hollywood and this new restaurant, Ramsay has interfered with
13 those justified expectations of GRB.

14 Now, Your Honor, I'll -- I'll briefly go over the remaining
15 claims, unless you have any other questions you want me to
16 address first.

17 THE COURT: No, go ahead.

18 MR. WILLIAMS: Thank you, Your Honor.

19 So, section 14.21. First I want to address this argument
20 that it's an agreement to an agree -- it's an agreement to agree.
21 The material terms of the agreement were there. The type of the
22 restaurant, the duration of the agreement, the percentage of gross
23 restaurant sales and gross retail sales to be paid to GRB or it's
24 affiliates, and the -- the other terms that Mr. Ramsay contends are
25 material terms were the cost of the buildout of the restaurant,

1 whatever its ongoing -- whatever its ongoing operating expenses
2 were. Those are not -- those are not material terms, those are
3 things that vary by wherever the restaurant's located. Those things
4 that really aren't -- they can't be factored by either party, it's
5 something they are what they are. The cost of the buildout is
6 whatever the cost of the buildout is. The operating expenses are
7 whatever the operating expenses are. All the material terms are
8 there.

9 Now, I know they focus a lot on statements that were
10 made by Mr. Seibel's counsel and about well, this -- you know,
11 saying oh this is an agreement to agree. Well, reading those
12 emails, it's clear that that is what perhaps that Mr. Seibel and Mr.
13 Ramsay both wanted, but that's not the agreement they got. They
14 got an agreement that has all the material terms there.

15 And -- and the same token that they're asking you to look
16 at that parol evidence before the agreement was executed to say oh
17 yeah, this is an agreement to agree. However, they're not looking
18 at the course of conduct between the parties which I would argue
19 you should give more weight to.

20 And what happened here in the course of conduct is
21 Caesars actually abided by the similar provision that was contained
22 in the pub agreement and said -- and acknowledged in emails, oh
23 yeah, if we're contractually and I'll -- this is actually Exhibit 555. It's
24 an August 8th, 2013 email. And this is an email from Caesars, and
25 it says Gordon contractually can't do steak, pub or burger without

1 Rowen or similar concepts with the GR name. And that's an
2 acknowledgement that that is an enforceable agreement.

3 And what happened is that in another -- in a restaurant
4 that was -- for a restaurant in New Jersey, they actually -- using that
5 provision, they actually made a new agreement. They -- they
6 abided by that agreement and -- and all the parties to that
7 agreement entered into a new agreement and a new restaurant was
8 built in -- as part of that obligation under the contract.

9 So, instead of looking to parol evidence that occurred
10 before the contract was signed, if you look at the course of conduct
11 between the parties, they actually abided by it and followed it.
12 There wasn't any fight over, oh, well, this -- this wasn't -- this
13 material term wasn't agreed to or that material term wasn't agreed
14 to. The material terms was there -- were there.

15 And at a minimum, Your Honor, there's that -- that's a
16 question of fact for the jury and that's the -- the -- I can't pronounce
17 the name, but *Svoboda*, S-v-o-b-o-d-a, *v. Bowers Distillery, Inc.* case
18 that's from the Eighth Circuit that we cited to you says that's a
19 question that has to be determined by the trier of fact from all the
20 evidence presented. It's not something that is right for adjudication
21 as -- as a determination of law.

22 And then I want to get to this argument that Ramsay says
23 well my -- my name is not in that provision and -- and the response
24 to that is this, Your Honor: Ramsay is a party to the agreement. To
25 have an agreement on the same terms and conditions, Ramsay

1 would have to be a party to that agreement. So, to say he's not
2 subject to it just would defy the purpose of that agreement that
3 there has to be -- it's on the same terms and conditions because
4 Ramsay is a party to the agreement so he's going to have to be a
5 party to another agreement.

6 Your Honor, on the unjust enrichment claim, I'll keep this
7 one very short. This is -- what we're arguing unjust enrichment
8 here, Your Honor, is that if this Court finds that section 14.21 is an
9 unenforceable agreement to agree which we don't think this Court
10 should, but if it does, then in the alternative, it is unfair that -- it's
11 unjust for Ramsay and Planet Hollywood to continue to utilize the
12 GR marks and the GR materials, the concept of the burger-centric
13 restaurant, in the same place, same menu, same products to -- to its
14 benefit without compensating GRB for the development that -- work
15 that it did.

16 And I understand their argument is well there's a contract
17 here, but we cited to you the -- the *Hays v. Moon* case out of
18 Florida --

19 THE COURT: But I mean, I have to go with the contract,
20 right? I mean, here's my question, does the development
21 agreement prohibit Ramsay from continuing doing business with
22 Planet Hollywood?

23 MR. WILLIAMS: As a general view, no, Your Honor, but
24 specifically as to a burger-centric restaurant, yes, I mean --

25 THE COURT: Where does it say that then?

1 MR. WILLIAMS: -- Ramsay can't --

2 THE COURT: Where -- where does it say that?

3 MR. WILLIAMS: I -- well, Your Honor, there's not going to
4 be a term that says Ramsay can't continue to do business relating
5 to the burger concept because the contract says that the rights to
6 the burger-centric restaurant belong to GRB. So, Mr. Ramsay is
7 using those rights in the new agreement to the detriment of GRB
8 who owns those rights through the licensing agreement.

9 THE COURT: But doesn't Planet Hollywood have the right
10 to terminate the agreement?

11 MR. WILLIAMS: I -- there -- there are termination
12 provisions in there, yeah, that -- that discuss that they may
13 terminate and if they terminate, they have to shut down the
14 restaurant.

15 THE COURT: Right.

16 MR. WILLIAMS: Right. And I -- I -- I'm not going to get
17 into whether or not their termination was, you know, made in good
18 faith. That was argued as length in the prior hearing and it's on --
19 on the briefing on -- brief relating to the -- the Caesars' motions for
20 summary judgment. But yes, they -- they did they had to -- they
21 had to shut it down and they didn't. That same restaurant is still
22 there.

23 THE COURT: All right. But continue on, sir.

24 MR. WILLIAMS: Sure. I want to move to the -- the -- the
25 last claim, the civil -- the civil conspiracy claim. Mr. Ramsay's

1 argument is primarily, I'm a party to this contract so I can't civilly
2 conspire to breach it. Well, the cases that he cites, especially in his
3 reply brief, concern cases that say you can't civilly conspire to
4 breach your own contract. And there are some jurisdictions that
5 say can't do that, can't -- can't conspire to breach your own
6 contract, but that's not what Nevada law says.

7 Nevada law provides that even if you have a -- even if you
8 have an act that's lawful so I understand if the Court -- you know, if
9 -- if there's a determination made that -- that, you know, someone
10 was exercising their rights or what have you, that that -- that that's
11 okay when -- it can be done lawful by one person. When you're
12 acting in concert with others, it's not. And that's the -- the *Hotel*
13 *Riviera* case and the *Eikelberger* case.

14 And specifically, what I'm saying, Your Honor --

15 THE COURT: But I -- I mean, actually isn't it much -- I
16 mean, either you breached the contract or you didn't if you were
17 part of the contract. I mean, I think that's the point they're making
18 would be a simple breach of contract case versus a --

19 MR. WILLIAMS: I -- I --

20 THE COURT: -- civil conspiracy to breach the contract that
21 you're a party to.

22 MR. WILLIAMS: I understand, Your Honor. I think what --
23 what we're trying to point out here is that they're saying oh no, on
24 the one hand, for the contract claim, you can't -- we're not subject
25 to the implied covenant. Even though we're a party, we're not

1 subject to it because we have limited duties. And as to the civil
2 conspiracy claim, we're a party so we can't -- we can't conspire to
3 breach our own contract.

4 And our point is well, you know, I -- I understand your
5 observation there, Your Honor, to say well they're -- they're -- they
6 are parties to the contract, absolutely they are. I still think under
7 Nevada law you have a claim when even though it's something that
8 was within the rights of one party to do and I'm not saying that
9 what Caesars did was within their rights because we obviously
10 think it was decided in bad faith to terminate the agreement, but the
11 point is even if it was, you could have a conspiracy because there's
12 an agreement here between Ramsay and Caesars to terminate the
13 agreements and we showed you those emails .

14 At least a rational factfinder could read those and say,
15 yeah, they're holding off on doing these business deals --

16 THE COURT: But wouldn't that just be evidence of a
17 breach of contract claim? Really and truly because --

18 MR. WILLIAMS: It could --

19 THE COURT: -- it seems like it's duplicative, especially as
20 it relates to --

21 MR. WILLIAMS: And Your --

22 THE COURT: -- members of a -- parties to a contract.

23 MR. WILLIAMS: I -- I understand that, Your Honor, but the
24 same time we have Ramsay saying well, you can't apply the
25 implied -- you can't apply the implied covenant claim to me

1 because I'm a limited party. Right, I -- I understand what your -- I --
2 I understand the observation you're making, Your Honor. I still
3 think Nevada law enables you to make that claim. It could be
4 something that would be a breach of an agreement and at the same
5 time a conspiracy because you have an agreement between two
6 people, but the point is even if the Court were to find that there --
7 there was no breach, there -- there could still be conspiracy for a
8 wrongful act to -- to get rid of GRB and the other development
9 entities and that could be subject to civil conspiracy.

10 I -- again, our position is they breached -- Caesars and
11 Ramsay breached the agreement. Right? I understand you're
12 saying well, isn't that just a breach of contract claim, but my point
13 is under Nevada law under *Hotel Riviera* and under *Eikelberger*,
14 that you can assert a conspiracy claim based on the combination
15 between Ramsay and Caesars. Here specifically Planet Hollywood.

16 And on the civil conspiracy claim, Your Honor, you know,
17 he -- Mr. -- Mr. Ramsay says well I didn't do anything wrong, I'm
18 not going to rehash here it's -- it is -- we are saying what he did
19 wrong here is conspiring with Caesars with Planet Hollywood to
20 terminate the GRB agreement. We have the email saying, okay,
21 yeah, let's -- let's hold off until we can get rid of Rowen and then
22 we'll start talking about these new projects and you have Ramsay
23 saying I want out of all my business dealings with Rowen and that
24 is what happened. And we're saying that is the conspiracy and that
25 is what led to this and what, you know, the outcome -- the outcome

1 of what happened here is clear. Ramsay doubled his profits from
2 the burger restaurant by going from GRB where he had to split with
3 Seibel to getting all those profits for himself.

4 THE COURT: All right.

5 MR. WILLIAMS: And, Your Honor, there -- just to
6 summarize here, there's -- I want to point out just a few things and,
7 you know, there -- there are too many issues of material fact here,
8 Your Honor.

9 First off, did Ramsay act in good faith? I understand he
10 argues he's not subject to the implied covenant of good faith and
11 fair dealing, but frankly I -- I -- I have not seen a case that says a
12 limited party is not subject to the implied covenant of good faith
13 and fair dealing. Whatever that would mean, a limited party, but
14 the fact is he's a party to the agreement, he's subject to the implied
15 covenant of good faith and fair dealing.

16 Were his actions in good faith? Were they tortious? Was
17 it part of a civil conspiracy? Those are things that need to be
18 decided by a jury and here there's plenty of evidence that a jury
19 could make those inferences in favor of GRB. We have the emails
20 between Ramsay's CEO and Caesars saying, yeah, we want to get
21 rid of this guy.

22 We have the emails that I haven't discussed that were
23 previously -- that are addressed in our opposition but were -- that
24 pertain to just internal emails of Caesars desiring to get rid of the
25 development entities to say we want to be done with the

1 development entities, we want them gone, we want to keep all the
2 profits for ourselves.

3 The second main issue of material fact is whether Gordon
4 Ramsay Burger is the new -- is a new restaurant or whether it's the
5 same restaurant. Again, the GRB contract is clear, once you
6 terminate, you cannot continue to operate the burger restaurant.
7 You have to stop operating it. And their position is, well, we -- we
8 did stop operating it, now it's Gordon Ramsay Burger, but our
9 position is read the menu, read the name, the name of the -- the
10 name of the -- the new -- the name of the restaurant. It's the same
11 restaurant. The menu is the same. The décor is the same.

12 And in fact, again, the U.S. Patent and Trademark Office
13 rejected their attempts to get a trademark because it was too
14 similar to GR BURGR. I think that tells you enough there.

15 But the point is a jury needs to decide is that the same
16 restaurant or is it a new restaurant. We say it's the same, they say
17 it's different. That's a very highly contested factual issue, but if
18 they -- if they're continuing to operate the same restaurant, clearly
19 they're in breach of the agreement. And that -- and as to Ramsay,
20 that goes to did he breach the implied covenant by allowing that to
21 happen by assisting GRB to do that as a party to the GRB
22 agreement and to the new agreement.

23 The third issue is again, the -- the license agreement
24 provides that GRB has the -- the rights to the GRB -- the GR marks
25 and the GR materials, and Ramsay contends that that agreement

1 allows him, and I'll quote, to use Ramsay's name with any
2 restaurant, including burger restaurants, without fetter or inhibition.
3 I would submit the contract pretty clearly does not.

4 We've gone through those provisions, Your Honor, but
5 that -- it's a question of fact for the jury to decide, you know, did the
6 license agreement give GRB a license to any variation of the burger
7 restaurant like it says or did -- is Ramsay's -- is Ramsay's contention
8 that he's allowed to do that accurate and I -- I -- I think frankly the --
9 the contract's clear on that point -- the point is Ramsay hasn't met
10 his burden of production on that point to say that there's no issue
11 of material fact there that he can operate this Gordon Ramsay
12 Burger.

13 And finally, Your Honor, the one thing that -- that -- there's
14 many issues of material fact as to Mr. Seibel's intent with a lot of
15 the facts that we've discussed. For example, Ramsay contends that
16 there was this fraudulent -- there was a fraudulent intent by Mr.
17 Seibel when he was trying to do these assignments that his actions
18 were fraudulent. Those are questions that are not appropriate for
19 resolution on a motion for summary judgment, they require
20 inferences to be made on Ramsay's part for one thing. But more
21 importantly, those are -- those are determinations of fact that are
22 going to be have to be made by the jury.

23 And if -- Your Honor, give me on moment.

24 The last thing I just want to address, Your Honor, is -- and
25 we've gone through this. The fact that GRB no longer exists, the

1 assignment doesn't allow Mr. Ramsay to use that as a defense and
2 the Court's decision did not make any findings as to the viability of
3 his claims. Again, he put the -- he put the onus on the courts here
4 to -- to separate the wheat from the chaff.

5 And unless you have any further questions, Your Honor,
6 I'll turn it over.

7 THE COURT: Not at this time, sir, thank you.

8 MR. WILLIAMS: Thank you.

9 THE COURT: Is everybody fine or do you need a break?

10 THE CLERK: Restroom break?

11 THE COURT: All right, we're going to take a quick
12 10-minute recess for my staff. Let's go ahead and (indiscernible) 10
13 minutes.

14 THE COURT RECORDER: That's fine. Thank you.

15 THE CLERK: Thank you, Judge.

16 THE COURT: All right.

17 [Recess taken at 3:08 p.m.]

18 [Proceedings resumed at 3:22 p.m.]

19 THE COURT: All right. I guess we can go back on the
20 record.

21 THE COURT RECORDER: We are on the record.

22 THE COURT: All right. And let's go ahead hear from the
23 reply.

24 Can he hear us or?

25 THE COURT RECORDER: They can hear us, Judge.

1 THE COURT: All right. You have --

2 MR. TENNERT: Thank you, Your Honor. Are -- are you
3 able to see me?

4 THE COURT: Yes, I can hear you, sir.

5 MR. TENNERT: Thank you, Your Honor. John Tennert on
6 behalf of Gordon Ramsay, and I'll try to be brief in my -- in my
7 rebuttal here. I guess I'll start -- start off with just noting that, you
8 know, I listened to your observations which I, you know, believe to
9 be very keen observations. This case is a contract case. My
10 colleague, Mr. Williams, had -- had -- had sort of mentioned a bit
11 about contract claims versus tort claims and that my client can't
12 have it both ways.

13 Well, I -- I -- I'm not aware of any tort claims that are
14 asserted in this case, Your Honor. We're moving for summary
15 judgment on the claims that have been asserted in the first
16 amended complaint. These are all contract-based claims; breach of
17 contract, breach of the implied covenant, unjust enrichment, a
18 quasi-contract claim, and the civil conspiracy to breach a contract.

19 I think as Your Honor noted, facts are facts. And I agree,
20 Your Honor. There's -- I haven't heard through -- through argument
21 any disputed material facts that would weigh on granting summary
22 judgment on these contract-based claims. Again, we need to look
23 no further behind the four corners of the development agreement
24 itself.

25 Now, as to count one, the express breach of contract, Mr.

1 Seibel appears to agree with -- with our position that there are no
2 express obligations in the development agreement as to Mr.
3 Ramsay that have been breached, so I think we can move on to the
4 implied covenant claim which we spent some time debating.

5 And, Your Honor, I -- I -- I understand your confusion with
6 the implied covenant claim and quite frankly I'm confused as well.
7 First, I'm confused as to who my colleague, Mr. Williams, is arguing
8 on behalf. Whose justified expectations are we talking about here?
9 GRB's justified expectations, according to the contract, or Mr.
10 Seibel's personal justified expectations?

11 To me it sounds a lot like we're arguing Mr. Seibel's
12 justified expectations, which again Mr. Seibel has none. Mr. Seibel
13 is not a party to the development agreement. And I think one way
14 to maybe add some clarity to your -- your -- you know, Your
15 Honor's questions is to, you know, kind of talk about the structure
16 of the deal here and the structure of GR BURGR, LLC.

17 And so, I just want to point out as point -- pointed out --
18 pointed this out in our brief and we've included a organization
19 chart, we've included GRB's operating agreement, we've -- we've
20 included GRUS's and GRB's agreement, and so we are clear here,
21 Mr. Ramsay is a party to this suit as an individual. Mr. Ramsay is
22 not a member of GRB. He's not a manager of GRB. At no time has
23 he ever been a manager or member of GRB. GRB is a Delaware
24 entity. Its members are Rowen Seibel, individually, and GR US
25 Licensing, LP. And GRUS and Rowen Seibel are 50/50 members of

1 that Delaware entity.

2 Now, that Delaware entity, GRB, is governed under
3 Delaware law and it's governed by an operating agreement.

4 Now, one of the contentions is that Mr. Ramsay
5 personally breached the implied covenant of good faith and fair
6 dealing under the development agreement because GRUS did not
7 allow Mr. -- did not approve of Mr. Seibel's proposed assignment to
8 his family trust.

9 Now, the ability of GRB's members to assign their interest
10 is not governed by the development agreement. There's nowhere
11 in the development agreement that talks about that. The rights of
12 the members of GRB to assign their interest is governed by GRB's
13 operating agreement.

14 And, Your Honor, that's Exhibit 2 in our appendix.

15 THE COURT: Right.

16 MR. TENNERT: And in that operating agreement, at
17 section 10.1, it specifically talks about the ability of both Mr. Seibel
18 and GRUS to assign their membership interest to third parties. And
19 under that provision, it requires the written consent of the other
20 member to assign that interest.

21 Now, that -- that's the contract that governs the ability to
22 assign the membership interest. And so, in our brief we -- we walk
23 Your Honor through the -- that fact, the fact that it's governed by
24 the operating agreement. We also point out that in April of 2016,
25 Mr. Seibel sent a letter to GR US Licensing, LP requesting

1 assignment of his membership interest to this family trust. And I
2 believe that's Exhibit 7.

3 You know though in that request in April of 2016, again, to
4 GR US Licensing, LP, not to Mr. Ramsay personally, Mr. Seibel
5 specifically includes a -- a membership assignment agreement that
6 references GRB's LLC agreement, specifically section 10.1, and
7 requesting consent to assign to the family trust.

8 Now as you'll see in our -- in our motion, we've attached
9 the -- the letters, GRUS, again, not Mr. Ramsay, responded to that
10 request and request -- almost immediately and requested additional
11 information about the business justification for the assignment,
12 who the trustees of this family trust were, who were the
13 beneficiaries, so on and so forth.

14 As also we've outlined in our motion and attached -- the
15 attached exhibits, GRUS followed up on multiple occasions in -- in
16 June and in July asking for a follow up. You know, where is this
17 information so we can consider this assignment. None was
18 provided.

19 Wasn't until Mr. Seibel's felony conviction was made
20 public through the press, GRUS, Mr. Ramsay both discovered this --
21 the conviction in August, along with Caesars as a result of a, you
22 know, reporting on the -- on the conviction. After that point,
23 Caesars then sent a letter to GRUS -- or sorry, to GRB indicating
24 that it deemed Mr. Seibel unsuitable and requested that GRB
25 disassociate from Mr. Seibel.

1 You'll also see as exhibits to our motion that GRUS sent a
2 letter to Mr. Seibel in response to Caesars' letter demanding that
3 Mr. Seibel sign all documents to disassociate from GRB. Mr. Seibel
4 refused to disassociate. Under GRB's operating agreement, GR US
5 Licensing, LP did not have the authority to unilaterally expel Mr.
6 Seibel from the company.

7 So, you know, I -- I think the facts show here, as born out
8 by the evidence, that it was Mr. Seibel who refused to disassociate
9 from GRB. And so, when -- so when -- so when Mr. Seibel now
10 argues purportedly on behalf of GRB that GRB's justified
11 expectations under the development agreement, again, an
12 agreement with Planet Hollywood that had nothing to do with the
13 internal ongoings of GRB, but when Mr. Seibel argues that it was
14 GRB's justified expectations were destroyed when GRUS didn't --
15 didn't agree to the -- the transfer after the felony conviction, what
16 he's -- or didn't allow Mr. Seibel to disassociate, what he's really
17 arguing here is that Mr. Seibel's own justified expectations weren't
18 satisfied that GRUS or somebody else would have paid him
19 disassociate from GRB.

20 There is nothing stopping Mr. Seibel from disassociating
21 from GRB. Had Mr. Seibel simply disassociated back in 2016, it's
22 possible that GRB would still be in a contract with Planet
23 Hollywood. So, we're not talking about Mr. Seibel's justified
24 expectations here. We're talking about GRB's to the extent it had
25 any.

1 So, I -- I hope that sort of clarifies the -- the argument
2 here, so when on the -- on the arguments as far as the implied
3 covenant of breach and faith -- good faith and fair dealing, there's
4 the three points. You know, the -- the one point we just discussed
5 is that Mr. Ramsay didn't allow Mr. Seibel to disassociate. One,
6 that's unequivocally false. Mr. Ramsay has neither had the
7 authority nor the obligation to even consider assignment. Again,
8 that -- that ability to transfer assets is governed by GRB's operating
9 agreement, not the development agreement.

10 There's also no evidence that Mr. Ramsay personally
11 objected to a -- an assignment. Again, he had no -- no ability to do
12 so.

13 The second point is that Ramsay purportedly encouraged
14 Planet Hollywood to breach the development agreement or
15 determine Mr. Seibel unsuitable. Again, there's no obligation
16 under the contract as to Mr. Ramsay with regard to Caesars'
17 suitability determination. Caesars retained the sole and absolute
18 discretion under the express terms of the contract.

19 Again, the facts support that it was -- that it was Caesars'
20 compliance committee who made the determination and Caesars'
21 compliance committee alone. Mr. Ramsay had no involvement
22 with deeming Mr. Seibel unsuitable.

23 And I think Your -- Your Honor asked a -- a good question
24 and I don't think it was answered, but, you know, was Mr. Seibel's
25 felony conviction and failure to maintain the suitability standards a

1 breach of the agreement? I would -- I would -- I would -- I would
2 suggest, Your Honor, that absolutely yes. There are suitability
3 provisions in the contract. Mr. -- Mr. Seibel and Mr. Seibel's acts
4 alone in his felony conviction are what rendered him unsuitable
5 and therefore rendered GRB unsuitable.

6 The -- the fourth -- the -- I guess the third point goes back
7 to this section 14.21 argument and I think I addressed it in my
8 opening comments, and it's thoroughly addressed in our brief. I'll
9 -- I'll just reiterate again Mr. Ramsay is a party to this agreement for
10 a limited, specific purpose, for him to make personal appearances
11 and make -- and have consultation on the menu and that's it.

12 And the reason why it's structured that way is because
13 Mr. -- Mr. Ramsay is not a party to GRB's operating agreement, he's
14 not a member. GRB can't control Mr. Ramsay's actions. So, Mr.
15 Ramsay is an independent party to the contract with specific rights
16 and obligations. GRB is an independent party to the contract with
17 specific rights and obligations, and so is Planet Hollywood.

18 Section 14.21 does not reference Mr. Ramsay. It doesn't
19 say in there that Mr. Ramsay shall not open a restaurant with Planet
20 Hollywood or shall not engage in contracts with Caesars. It simply
21 doesn't say that.

22 I'll touch back on the point about the agreement to agree.
23 Your Honor, we can look at the -- the text of the agreement itself. It
24 clearly says it's subject to agreement of the parties. And, you
25 know, with respect, license fee percentages, project location, and all

1 those other points are clearly material terms of a deal.

2 There was some discussion about the emails from Mr.
3 Seibel himself at the time they're entering into the contract that are
4 confirming that it's nothing more than an unenforceable agreement
5 to agree. Your Honor, to the extent it's really not even necessary to
6 use parol evidence here, the -- the agreement is clear on its face,
7 but the -- but the emails are admissions of the party this is what it
8 is. Right, the -- the section 14.21 is not an enforceable provision,
9 it's simply an agreement to agree to perhaps negotiate into the
10 future.

11 So, on that point, Your Honor, I think we've -- we've
12 briefed -- we fully briefed it in our -- both our motion and our reply,
13 the authorities support our position under Nevada law, section
14 14.21 is unenforceable.

15 I'll also touch on the conspiracy claim. We cited in our
16 brief, Your Honor, authority that supports that parties to a contract
17 cannot conspire to breach the contract. This isn't a novel theory
18 that's only recognized in Nevada. We've cited several cases that
19 stand for this proposition.

20 I think Your Honor frankly noted the -- the basis for this --
21 this rule, and the basis is that a contract is a contract. When the
22 parties enter into a contract, they expect it to be enforced by its
23 terms. Party can't intentionally interfere with its own contract. That
24 would be a breach of contract claim.

25 I think the whole reason and the rationale given by the

1 courts that address the issue about the prohibition on a claim that
2 two parties to a contract can't conspire to breach it, it arises from
3 the economic loss doctrine in a -- in a way that, you know, you can't
4 replace a contract with a tort claim. And that's what's really they're
5 trying to argue here, it's that, well, you don't have -- we can't -- we
6 can't state a claim for a breach -- express breach of contract, we
7 can't state a claim for implied breach, well, let's argue a, you know,
8 conspiracy to breach the contract. Your Honor, that -- that claim
9 cannot be sustained and we -- and we -- we request that the Court
10 enter summary judgment on that claim.

11 So, Your Honor, I -- I don't know what we're really left
12 with here. We've -- we've put our arguments forth in the motion
13 supported by undisputed evidence all of the pieces of the puzzle fit
14 together here. We -- we respectfully request to the Court enter
15 summary judgment in favor of Mr. Ramsay.

16 Unless you have any questions, Your Honor, I'll conclude.

17 THE COURT: All right. And for the record, sir, I don't
18 have any additional questions. And one thing I will say I think we
19 have a very rigorous record as far as this case is concerned and I
20 will say this and it's nice to get again, I do appreciate the courtesy
21 copies. They -- they really and truly did make my job much easier
22 and I don't mind saying this because I'm a -- I'm a paper person, I
23 like to write, highlight, tab and all those things and it makes my job
24 so much easier, and I -- I appreciate that.

25 Ultimately, I have to make a decision as it pertains to

1 Gordon Ramsay's motion for summary judgment under the facts of
2 this case, and after reviewing, for example, the points and
3 authorities on file herein, the limited liability agreement of GRB or
4 GR BURGR, LLC and chance to review the development, operation
5 and license agreement with Gordon Ramsay, GR BURGR and I
6 guess it would be Caesars dba Planet Hollywood, and looking at the
7 -- the specific individual claims as they relate to a breach of
8 contract, breach of the covenant of -- of good faith and fair
9 dealings, unjust enrichment and the conspiracy claims, what I'm
10 going to do is this: As far as the motion for summary judgment, sir,
11 I'm going to grant that.

12 Also, as it pertains to section 4.21 [sic], I do agree with
13 your analysis it's an agreement to agree in the future that would be
14 unenforceable. I -- I agree with that. And I've looked at the
15 terminology and the language as set forth in the specific provision
16 and I think that's under the operating agreement. I'm sorry, the
17 development agreement.

18 But anyway, I think that covers all issues regarding
19 Gordon Ramsay's motion for summary judgment; is that correct?
20 And sir, what you need to do is prepare --

21 MR. TENNERT: Yes, sir.

22 THE COURT: -- prepare a comprehensive findings of
23 facts, conclusions of law and -- and this is important to point out
24 because I actually say this in minute orders I issue, but I would
25 anticipate that would include or rely upon the points and authorities

1 and the record as far as this motion is concerned, and prepare that
2 for my review and signature.

3 What you can do too is make sure you circulate that to
4 counsel. If you can't agree, then prepare competing findings of
5 facts and conclusions of law and I'll make a determination as to
6 which one I will accept. All right?

7 MR. TENNERT: Thank you, Your Honor.

8 THE COURT: Okay.

9 MR. WILLIAMS: Thank you, Your Honor.

10 MR. PISANELLI: Your -- Your Honor, James Pisanelli for
11 the Caesars entities.

12 THE COURT: Yes, sir.

13 MR. PISANELLI: As you may recall, we kind of deferred
14 any further action or rulings on our pending motions for summary
15 judgment and it's never my intention to nudge the Court, but just
16 any -- any idea of when -- when we might get to that one?

17 THE COURT: Shortly. Right, Mister Law Clerk?

18 THE LAW CLERK: Uh-huh.

19 THE COURT: I'm a lot closer to all the issues now, Mr.
20 Pisanelli.

21 MR. PISANELLI: Yeah, fair enough. I mean it -- it was a
22 big stack of briefing so, you know, I --

23 THE COURT: Yes.

24 MR. PISANELLI: -- I tread lightly when I ask a question like
25 that.

1 THE COURT: Yeah, very shortly.

2 [Court and Law Clerk confer]

3 THE COURT: And, in fact, we talked about that during the
4 intermission, Mr. Pisanelli. I'll just let you know that, my law clerk
5 and I.

6 Next up, what about the motions to seal? Those were
7 unopposed, right?

8 MS. MERCER: Correct, Your Honor. This is Magali
9 Mercera on behalf of the Caesars parties. There are three motions
10 to seal on calendar that all related to the initial motions for
11 summary judgment both Caesars' and Ramsay's, as well as to the
12 Seibel parties' motion to redact their opposition. No oppositions
13 were filed to any of those.

14 THE COURT: All right. And, ma'am, what I'll do based
15 upon the fact that they're unopposed, I'll grant that, but one thing
16 you have to do for me, and this is very important and I -- I know you
17 understand this, but whenever we redact and/or seal pursuant to --
18 what is it, Rule 7 or Rule 3? Which one is it --

19 THE LAW CLERK: Rule 3.

20 THE COURT: Rule 3, the appellate Rule 3, I do have to
21 make specific findings, and so when you prepare the order, make
22 sure you make references to the findings under the rule.

23 MS. MERCERA: Will do, Your Honor, thank you.

24 THE COURT: All right. Okay. So --

25 THE CLERK: Judge, we did have a status check as to the

1 trial date. Is that something --

2 THE COURT: Yeah, I guess if it's on calendar, we have to
3 talk about it, right?

4 THE CLERK: Well, as it is, there is no trial date.

5 THE COURT: Okay. I see we have a status -- okay, let me
6 look here. How about this, does this make sense because I don't
7 want you to unnecessarily have to perform any functions and so
8 on. How about this, maybe set a status check regarding a trial date
9 on March 9th, 2022, at the same time because apparently there's
10 something on calendar --

11 THE CLERK: Yes. On calendar is a motion to redact that
12 day.

13 THE COURT: A motion to redact. Can everyone hear me?

14 MR. PISANELLI: Yes, Your Honor.

15 UNIDENTIFIED SPEAKER: Your Honor.

16 THE COURT: Status check regarding trial setting at that
17 time?

18 MR. PISANELLI: Okay.

19 THE COURT: And whatever decision I have to make will
20 be done well before then. I can promise you that. All right.

21 MS. MERCERA: Your Honor, and if I could just get a brief
22 -- brief clarity as to time, you said the status check was March 9th.
23 Is that going to be at the same time as the motion to redact or are
24 we having a special setting as well?

25 THE COURT: No, that'll be at the same time, ma'am.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. MERCERA: Thank you, Your Honor.

THE COURT: All right. Okay. Well, everyone enjoy your day.

MR. PISANELLI: Thank you, Your Honor.

THE COURT: Okay.

MS. MERCERA: Thank you.

UNIDENTIFIED SPEAKER: Thank you, Your Honor.


THE COURT: All right.

UNIDENTIFIED SPEAKER: Your Honor.

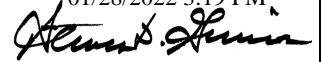
[Proceedings concluded at 3:43 p.m.]

* * * * *

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.


Tracy A. Gegenheimer, CERT-282
Court Recorder/Transcriber

TAB 97


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLV, 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.

PHWLV, 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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**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**

AND ALL RELATED MATTERS

PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las
Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic
City's ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,")
*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*

1 *Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment* (the "Motion to Seal"),
2 filed on February 25, 2021, came before this Court for hearing on January 20, 2022.
3 James J. Pisanelli, Esq. and M. Magali Mercera, Esq. of the of the law firm PISANELLI BICE PLLC,
4 appeared on behalf of Caesars. Joshua P. Gilmore, Esq. and Paul C. Williams, Esq. of the law firm
5 BAILEY KENNEDY, appeared on behalf of Rowen Seibel ("Seibel"), TPOV Enterprises, LLC
6 ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ
7 Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI
8 Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), Craig Green ("Green"), GR Burgr,
9 LLC, and R Squared Global Solutions, LLC, derivatively on behalf of DNT Acquisition, LLC
10 ("DNT"). John Tennert, Esq. and Wade Beavers, Esq., of the law firm FENNEMORE CRAIG, appeared
11 on behalf of Gordon Ramsay. Alan Lebensfeld, Esq. appeared on behalf of The Original Homestead
12 Restaurant, Inc.

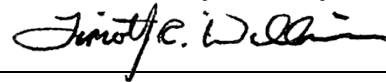
13 Upon review of the papers and pleadings on file in this matter, as proper service of the
14 Motion to Seal has been provided, this Court notes no opposition has been filed. Accordingly,
15 pursuant to EDCR 2.20(e), the Motion to Seal is deemed unopposed. The Court finds that portions
16 of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2, and
17 Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66- 67, 73, and 76-80 to the Appendix of Exhibits in Support
18 of Caesars' Motions for Summary Judgment contain commercially sensitive information creating a
19 compelling interest in protecting the information from widespread dissemination to the public
20 which outweighs the public disclosure of said information in accordance with Rule 3(4) of the
21 Nevada Supreme Court's Rules Governing Sealing and Redacting of Court Records. Therefore,
22 good cause appearing therefor:

23 ///

THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES that the Motion to Seal shall be, and hereby is, GRANTED as follows: 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 are SEALED given the sensitive private, confidential and/or commercial information contained in the documents, and the identified portions of the redacted versions of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2, are APPROVED.

IT IS SO ORDERED.

Dated this 28th day of January, 2022



MH

018 4F1 9D36 529A
Timothy C. Williams
District Court Judge

Respectfully submitted by:

DATED January 27, 2022.

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED January 26, 2022.

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
John R. Bailey, Esq., Bar No. 0137
Dennis L. Kennedy, Esq., Bar No. 1462
Joshua P. Gilmore, Esq., Bar No. 11576
Paul C. Williams, Esq., Bar No. 12524
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Approved as to form and content by:

DATED January 27, 2022.

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld

Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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*

Approved as to form and content by:

DATED January 27, 2022.

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert

John D. Tennert, Esq., Bar No. 11728
Wade Beavers, Esq., Bar No. 13451
7800 Rancharrah Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

Cinda C. Towne

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera; Paul Williams; Tennert, John; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix
Attachments: 22.01.26 Omnibus Sealing Order.docx

CAUTION: This message is from an EXTERNAL SENDER.
Good morning. You may apply my e-signature.

Relatedly, please find attached for review a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact. Please let us know if anyone has proposed revisions or changes or if none, whether we may affix everyone's e-signatures.

Thanks. Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP
8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302
(702) 562-8820 (main) | (702) 562-8821 (fax) | (702) 789-4547 (direct) | JGilmore@BaileyKennedy.com
www.BaileyKennedy.com

This e-mail message is a confidential communication from Bailey Kennedy, LLP and is intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-562-8820 and delete this e-mail message and any attachments from your workstation or network mail system.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Tuesday, January 25, 2022 2:27 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>
Subject: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

All –

In accordance with the Court's ruling last week, attached please find the draft *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*. Please let us know by close of business on Thursday, January 27, 2022 if you have any changes. Otherwise, if acceptable, please confirm that we may apply your e-signature.

Thanks,

M. Magali Mercera

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Thursday, January 27, 2022 10:18 AM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

CAUTION: This message is from an EXTERNAL SENDER.

You may, thank you.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Thursday, January 27, 2022 12:39 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Thanks, Josh. John and Alan – please confirm whether we may apply your e-signature to our proposed Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits.

Josh – You may apply my e-signature to the a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Thursday, January 27, 2022 11:02 AM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali, you may apply my e-signature to the draft Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

COVID-19: Governors in our markets have deemed law firms essential services. As a result, our offices will be open from 8 am to 5 pm, but most of our team members are working remotely. To better protect our employees and clients, please schedule an appointment before coming to our offices.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Tuesday, January 25, 2022 2:27 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>
Subject: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

All –

In accordance with the Court's ruling last week, attached please find the draft *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'*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWLTV LLC, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/28/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@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

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

lit@pisanellibice.com

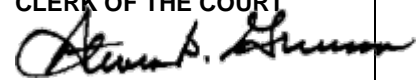
26
27
28
AA06854

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 98



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**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**

///

1 PLEASE TAKE NOTICE that an Order Granting Motion to Redact Caesars' Motion for
2 Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 1-36, 38,
3 40-42, 45-46, 48, 50, 66-67, 73, and 76-80 to the Appendix of Exhibits in Support of Caesars'
4 Motions for Summary Judgment was entered in the above-captioned matter on January 28, 2022, a
5 true and correct copy of which is attached hereto.

6 DATED this 28th day of January 2022.

7 PISANELLI BICE PLLC

8
9 By: /s/ M. Magali Mercera
10 James J. Pisanelli, Esq., #4027
11 Debra L. Spinelli, Esq., #9695
12 M. Magali Mercera, Esq., #11742
13 400 South 7th Street, Suite 300
14 Las Vegas, Nevada 89101

15 *Attorneys for Desert Palace, Inc.;*
16 *Paris Las Vegas Operating Company, LLC;*
17 *PHWLV, LLC; and Boardwalk Regency*
18 *Corporation d/b/a Caesars Atlantic City*
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 28th day of January 2022, 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 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** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com

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

John D. Tennert, Esq.
Wade Beavers, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharra Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com

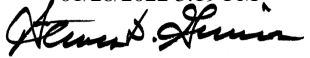
Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701
alan.lebensfeld@lsandspc.com

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

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

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLV, 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.

PHWLV, 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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**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**

AND ALL RELATED MATTERS

PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las
Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic
City's ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,")
*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*

1 *Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment* (the "Motion to Seal"),
2 filed on February 25, 2021, came before this Court for hearing on January 20, 2022.
3 James J. Pisanelli, Esq. and M. Magali Mercera, Esq. of the of the law firm PISANELLI BICE PLLC,
4 appeared on behalf of Caesars. Joshua P. Gilmore, Esq. and Paul C. Williams, Esq. of the law firm
5 BAILEY KENNEDY, appeared on behalf of Rowen Seibel ("Seibel"), TPOV Enterprises, LLC
6 ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ
7 Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI
8 Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), Craig Green ("Green"), GR Burgr,
9 LLC, and R Squared Global Solutions, LLC, derivatively on behalf of DNT Acquisition, LLC
10 ("DNT"). John Tennert, Esq. and Wade Beavers, Esq., of the law firm FENNEMORE CRAIG, appeared
11 on behalf of Gordon Ramsay. Alan Lebensfeld, Esq. appeared on behalf of The Original Homestead
12 Restaurant, Inc.

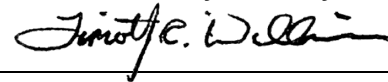
13 Upon review of the papers and pleadings on file in this matter, as proper service of the
14 Motion to Seal has been provided, this Court notes no opposition has been filed. Accordingly,
15 pursuant to EDCR 2.20(e), the Motion to Seal is deemed unopposed. The Court finds that portions
16 of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2, and
17 Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66- 67, 73, and 76-80 to the Appendix of Exhibits in Support
18 of Caesars' Motions for Summary Judgment contain commercially sensitive information creating a
19 compelling interest in protecting the information from widespread dissemination to the public
20 which outweighs the public disclosure of said information in accordance with Rule 3(4) of the
21 Nevada Supreme Court's Rules Governing Sealing and Redacting of Court Records. Therefore,
22 good cause appearing therefor:

23 ///

THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES that the Motion to Seal shall be, and hereby is, GRANTED as follows: 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 are SEALED given the sensitive private, confidential and/or commercial information contained in the documents, and the identified portions of the redacted versions of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2, are APPROVED.

IT IS SO ORDERED.

Dated this 28th day of January, 2022



MH

018 4F1 9D36 529A
Timothy C. Williams
District Court Judge

Respectfully submitted by:

DATED January 27, 2022.

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED January 26, 2022.

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
John R. Bailey, Esq., Bar No. 0137
Dennis L. Kennedy, Esq., Bar No. 1462
Joshua P. Gilmore, Esq., Bar No. 11576
Paul C. Williams, Esq., Bar No. 12524
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Approved as to form and content by:

DATED January 27, 2022.

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld

Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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*

Approved as to form and content by:

DATED January 27, 2022.

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert

John D. Tennert, Esq., Bar No. 11728
Wade Beavers, Esq., Bar No. 13451
7800 Rancharrah Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

Cinda C. Towne

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera; Paul Williams; Tennert, John; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix
Attachments: 22.01.26 Omnibus Sealing Order.docx

CAUTION: This message is from an EXTERNAL SENDER.
Good morning. You may apply my e-signature.

Relatedly, please find attached for review a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact. Please let us know if anyone has proposed revisions or changes or if none, whether we may affix everyone's e-signatures.

Thanks. Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP
8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302
(702) 562-8820 (main) | (702) 562-8821 (fax) | (702) 789-4547 (direct) | JGilmore@BaileyKennedy.com
www.BaileyKennedy.com

This e-mail message is a confidential communication from Bailey Kennedy, LLP and is intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-562-8820 and delete this e-mail message and any attachments from your workstation or network mail system.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Tuesday, January 25, 2022 2:27 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>
Subject: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

All –

In accordance with the Court's ruling last week, attached please find the draft *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*. Please let us know by close of business on Thursday, January 27, 2022 if you have any changes. Otherwise, if acceptable, please confirm that we may apply your e-signature.

Thanks,

M. Magali Mercera

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Thursday, January 27, 2022 10:18 AM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

CAUTION: This message is from an EXTERNAL SENDER.

You may, thank you.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Thursday, January 27, 2022 12:39 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Thanks, Josh. John and Alan – please confirm whether we may apply your e-signature to our proposed Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits.

Josh – You may apply my e-signature to the a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Thursday, January 27, 2022 11:02 AM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali, you may apply my e-signature to the draft Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

COVID-19: Governors in our markets have deemed law firms essential services. As a result, our offices will be open from 8 am to 5 pm, but most of our team members are working remotely. To better protect our employees and clients, please schedule an appointment before coming to our offices.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Tuesday, January 25, 2022 2:27 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>
Subject: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

All –

In accordance with the Court's ruling last week, attached please find the draft *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'*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWLTV LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/28/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@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

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

lit@pisanellibice.com

26
27
28
AA06867

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 99

ORDR (CIV)

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 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*

**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 CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**OMNIBUS ORDER GRANTING THE
DEVELOPMENT PARTIES' MOTIONS TO SEAL
AND REDACT**

This Order addresses the following matters (together, the “Motions to Seal/Redact”):

- The Development Parties’¹ Motion to Redact Their Reply in Support of Their Motion for Leave to File a Supplement to their Oppositions to Motions for Summary Judgment, which was filed on December 6, 2021, and which came before the Court, Department XVI (the Honorable Timothy C. Williams presiding), on December 22, 2021, in chambers; and
- The Development Entities and Rowen Seibel’s Motion to Redact Their Oppositions to the Motions for Summary Judgment and to Seal Exhibits 526 Through 647 to the Appendix of Exhibits Thereto, which was filed on March 30, 2021, and which came before the Court, Department XVI (the Honorable Timothy C. Williams presiding), on January 20, 2022.

James J. Pisanelli, Esq. and M. Magali Mercera, Esq. of the law firm PISANELLI BICE PLLC appeared on behalf of Caesars.² Joshua P. Gilmore, Esq. and Paul C. Williams, Esq. of the law firm BAILEY ♦ KENNEDY appeared on behalf of the Development Parties. John Tennert, Esq. and Wade Beavers, Esq. of the law firm FENNEMORE CRAIG appeared on behalf of Gordon Ramsay. Alan Lebensfeld, Esq. of the law firm LEBENSFELD SHARON & SCHWARTZ P.C. appeared on behalf of The Original Homestead Restaurant, Inc. (“OHR”).

FINDINGS

Upon review of the papers and pleadings on file in this matter, as proper service has been provided, this Court notes no oppositions were filed to the Motions to Seal/Redact. Accordingly, pursuant to EDCR 2.20(e), the Motions to Seal/Redact are deemed unopposed. In accordance with Part VII of the Nevada Supreme Court Rules Governing Sealing and Redacting Court Records (SRCR), the Court finds that the information sought to be sealed and/or redacted as set forth in the Motions to Seal/Redact has been marked Confidential or Highly Confidential under the Stipulated Confidentiality Agreement and Protective Order, entered on March 12, 2019, contains commercially

¹ Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); and R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”) are collectively referred to as the “Development Entities.” The Development Entities, together with Rowen Seibel and Craig Green, are collectively referred to as the “Development Parties.”

² PHWLTV, LLC (“Planet Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) are collectively referred to as “Caesars.”

sensitive information, and that the parties' privacy interests in maintaining the confidential nature of such information outweighs the public interest in access to the court record. SRCR 3(4)(h).

ORDER

Based on the foregoing Findings, and good cause appearing,

IT IS HEREBY ORDERED that the Development Parties' Motion to Redact Their Reply in Support of Their Motion for Leave to File a Supplement to their Oppositions to Motions for Summary Judgment shall be, and hereby is, GRANTED.

IT IS HEREBY FURTHER ORDERED that the Development Entities and Rowen Seibel's Motion to Redact Their Oppositions to the Motions for Summary Judgment and to Seal Exhibits 526 Through 647 to the Appendix of Exhibits Thereto shall be, and hereby is, GRANTED.

IT IS SO ORDERED.

Respectfully Submitted By:

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS

Attorneys for the Development Parties

Approved as to Form and Content:

LEBENSFELD SHARON & SCHWARTZ, P.C.

By: /s/ Alan M. Lebensfeld

ALAN M. LEBENSFELD (*Pro Hac Vice*)
140 Broad Street
Red Bank, New Jersey 07701
Telephone: (732) 530-4600
Facsimile: (732) 530-4601

Attorneys for OHR

Approved as to Form and Content:

PISANELLI BICE PLLC

By: /s/ M. Magali Mercera

JAMES J. PISANELLI (#4027)
DEBRA L. SPINELLI (#9695)
M. MAGALI MERCERA (#11742)
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Caesars

Approved as to Form and Content:

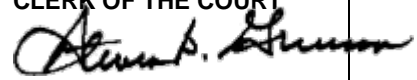
FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert

JOHN D. TENNERT (#11728)
WADE BEAVERS (#13451)
7800 Rancharra Parkway
Reno, Nevada 89511
Telephone: (775) 788-2200
Facsimile: (775) 786-1177

Attorneys for Ramsay

TAB 100



NEOJ (CIV)

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 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*

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 CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

NOTICE OF ENTRY OF ORDER

1 PLEASE TAKE NOTICE that an Omnibus Order Granting the Development Parties'
2 Motions to Seal and Redact was entered in the above-captioned action on February 8, 2022, a true
3 and correct copy of which is attached hereto.

4
5 DATED this 9th day of February, 2022.

6 BAILEY ♦ KENNEDY

7 By: /s/ Joshua P. Gilmore

8 JOHN R. BAILEY

DENNIS L. KENNEDY

JOSHUA P. GILMORE

9 PAUL C. WILLIAMS

10 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti*
11 *Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises*
12 *16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16,*
13 *LLC; FERG, LLC; FERG 16, LLC; Craig Green; R Squared*
14 *Global Solutions, LLC, Derivatively on Behalf of DNT*
15 *Acquisition, LLC; and GR Burgr, LLC*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 9th day of February, 2022, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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 Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWL, LLC; and Boardwalk Regency Corporation

JOHN D. TENNERT
FENNEMORE CRAIG, P.C.
7800 Rancharra Parkway
Reno, NV 89511

Email: jtennert@fclaw.com
Attorneys for Defendant Gordon Ramsay

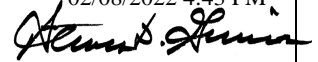
ALAN LEBENSFELD
BRETT SCHWARTZ
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Email: alan.lebensfeld@lsandspc.com
Brett.schwartz@lsandspc.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

MARK J. CONNOT
KEVIN M. SUTEHALL
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Email: mconnot@foxrothschild.com
ksutehall@foxrothschild.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY


CLERK OF THE COURT

BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

ORDR (CIV)

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 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*

**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 CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**OMNIBUS ORDER GRANTING THE
DEVELOPMENT PARTIES' MOTIONS TO SEAL
AND REDACT**

This Order addresses the following matters (together, the “Motions to Seal/Redact”):

- The Development Parties’¹ Motion to Redact Their Reply in Support of Their Motion for Leave to File a Supplement to their Oppositions to Motions for Summary Judgment, which was filed on December 6, 2021, and which came before the Court, Department XVI (the Honorable Timothy C. Williams presiding), on December 22, 2021, in chambers; and
- The Development Entities and Rowen Seibel’s Motion to Redact Their Oppositions to the Motions for Summary Judgment and to Seal Exhibits 526 Through 647 to the Appendix of Exhibits Thereto, which was filed on March 30, 2021, and which came before the Court, Department XVI (the Honorable Timothy C. Williams presiding), on January 20, 2022. James J. Pisanelli, Esq. and M. Magali Mercera, Esq. of the law firm PISANELLI BICE PLLC appeared on behalf of Caesars.² Joshua P. Gilmore, Esq. and Paul C. Williams, Esq. of the law firm BAILEY ♦ KENNEDY appeared on behalf of the Development Parties. John Tennert, Esq. and Wade Beavers, Esq. of the law firm FENNEMORE CRAIG appeared on behalf of Gordon Ramsay. Alan Lebensfeld, Esq. of the law firm LEBENSFELD SHARON & SCHWARTZ P.C. appeared on behalf of The Original Homestead Restaurant, Inc. (“OHR”).

FINDINGS

Upon review of the papers and pleadings on file in this matter, as proper service has been provided, this Court notes no oppositions were filed to the Motions to Seal/Redact. Accordingly, pursuant to EDCR 2.20(e), the Motions to Seal/Redact are deemed unopposed. In accordance with Part VII of the Nevada Supreme Court Rules Governing Sealing and Redacting Court Records (SRCR), the Court finds that the information sought to be sealed and/or redacted as set forth in the Motions to Seal/Redact has been marked Confidential or Highly Confidential under the Stipulated Confidentiality Agreement and Protective Order, entered on March 12, 2019, contains commercially

¹ Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); and R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”) are collectively referred to as the “Development Entities.” The Development Entities, together with Rowen Seibel and Craig Green, are collectively referred to as the “Development Parties.”

² PHWLTV, LLC (“Planet Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) are collectively referred to as “Caesars.”

sensitive information, and that the parties' privacy interests in maintaining the confidential nature of such information outweighs the public interest in access to the court record. SRCR 3(4)(h).

ORDER

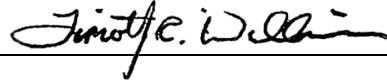
Based on the foregoing Findings, and good cause appearing,

IT IS HEREBY ORDERED that the Development Parties' Motion to Redact Their Reply in Support of Their Motion for Leave to File a Supplement to their Oppositions to Motions for Summary Judgment shall be, and hereby is, GRANTED.

IT IS HEREBY FURTHER ORDERED that the Development Entities and Rowen Seibel's Motion to Redact Their Oppositions to the Motions for Summary Judgment and to Seal Exhibits 526 Through 647 to the Appendix of Exhibits Thereto shall be, and hereby is, GRANTED.

IT IS SO ORDERED.

Dated this 8th day of February, 2022



MH

2F8 CFD 5725 72CA
Timothy C. Williams
District Court Judge

Respectfully Submitted By:

Approved as to Form and Content:

BAILEY ♦ KENNEDY

PISANELLI BICE PLLC

By: /s/ Joshua P. Gilmore

By: /s/ M. Magali Mercera

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS

JAMES J. PISANELLI (#4027)
DEBRA L. SPINELLI (#9695)
M. MAGALI MERCERA (#11742)
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for the Development Parties

Attorneys for Caesars

Approved as to Form and Content:

Approved as to Form and Content:

LEBENSFELD SHARON & SCHWARTZ, P.C.

FENNEMORE CRAIG, P.C.

By: /s/ Alan M. Lebensfeld

By: /s/ John D. Tennert

ALAN M. LEBENSFELD (*Pro Hac Vice*)
140 Broad Street
Red Bank, New Jersey 07701
Telephone: (732) 530-4600
Facsimile: (732) 530-4601

JOHN D. TENNERT (#11728)
WADE BEAVERS (#13451)
7800 Rancharrah Parkway
Reno, Nevada 89511
Telephone: (775) 788-2200
Facsimile: (775) 786-1177

Attorneys for OHR

Attorneys for Ramsay

Susan Russo

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Friday, February 4, 2022 2:59 PM
To: Joshua Gilmore; Tennert, John; Magali Mercera; Paul Williams; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

You may, sorry.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Friday, February 04, 2022 5:18 PM
To: Tennert, John <jtennert@fennemorelaw.com>; Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Alan – Good afternoon. I didn't receive a response to my email below requesting approval of the attached sealing/redaction order. Please advise if we may affix your e-signature. Thanks. Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP
8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302
(702) 562-8820 (main) | (702) 562-8821 (fax) | (702) 789-4547 (direct) | JGilmore@BaileyKennedy.com

www.BaileyKennedy.com

This e-mail message is a confidential communication from Bailey Kennedy, LLP and is intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-562-8820 and delete this e-mail message and any attachments from your workstation or network mail system.

From: Joshua Gilmore
Sent: Thursday, January 27, 2022 12:37 PM
To: Tennert, John <jtennert@fennemorelaw.com>; Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Thanks John and Magali.

Alan – At your convenience, please let me know if we may affix your e-signature, too.

Susan Russo

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Thursday, January 27, 2022 11:37 AM
To: Joshua Gilmore; Magali Mercera; Paul Williams; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Hi Josh, you may apply my e-signature to the draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact.

Thanks,
John

John D. Tennert III, Director

FENNEMORE

7800 Rancharra Parkway, Reno, NV 89511
T: 775.788.2212 | F: 775.788.2213
jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

COVID-19: Governors in our markets have deemed law firms essential services. As a result, our offices will be open from 8 am to 5 pm, but most of our team members are working remotely. To better protect our employees and clients, please schedule an appointment before coming to our offices.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Joshua Gilmore

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Thursday, January 27, 2022 9:39 AM
To: Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Diana Barton; Susan Russo
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

Thanks, Josh. John and Alan – please confirm whether we may apply your e-signature to our proposed Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits.

Josh – You may apply my e-signature to the a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Wednesday, January 26, 2022 11:01 AM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Diana Barton <DB@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: Order Granting MTSR MSJ No. 1, MSJ No. 2, and Appendix

CAUTION: This message is from an EXTERNAL SENDER.
Good morning. You may apply my e-signature.

Relatedly, please find attached for review a draft Omnibus Order Granting the Development Parties' Motions to Seal and Redact. Please let us know if anyone has proposed revisions or changes or if none, whether we may affix everyone's e-signatures.

Thanks. Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 2/8/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@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

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

lit@pisanellibice.com

26
27
28
AA06882

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
6	Magali Mercera	mmm@pisanellibice.com
7	Cinda Towne	cct@pisanellibice.com
8	Daniel McNutt	drm@cmlawnv.com
9	Paul Sweeney	PSweeney@certilmanbalin.com
10	Litigation Paralegal	bknotices@nv-lawfirm.com
11	Shawna Braselton	sbraselton@fennemorelaw.com
12	Nathan Rugg	nathan.rugg@bfkn.com
13	Steven Chaiken	sbc@ag-ltd.com
14	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
15	Brett Schwartz	brett.schwartz@lsandspc.com
16	Doreen Loffredo	dloffredo@foxrothschild.com
17	Christine Gioe	christine.gioe@lsandspc.com
18	Mark Connot	mconnot@foxrothschild.com
19	Joshua Feldman	jfeldman@certilmanbalin.com
20	Nicole Milone	nmilone@certilmanbalin.com
21	Trey Pictum	trey@mcnuttlawfirm.com
22	Monice Campbell	monice@envision.legal
23	Karen Hippner	karen.hippner@lsandspc.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Lawrence Sharon	lawrence.sharon@lsandspc.com
Wade Beavers	wbeavers@fclaw.com
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
Sarah Hope	shope@fennemorelaw.com
John Tennert	jtennert@fennemorelaw.com

TAB 101

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

March 09, 2022 09:00 AM All Pending Motions

HEARD BY: Williams, Timothy C. COURTROOM: RJC Courtroom 16C

COURT CLERK: Darling, Christopher

RECORDER: Garibay, Maria

REPORTER:

PARTIES PRESENT:

John D. Tennert Attorney for Defendant

Joshua P, Gilmore, ESQ Attorney for Counter Claimant, Counter
Defendant, Defendant, Other Plaintiff,
Plaintiff

Maria Magali Mercera Attorney for Consolidated Case Party,
Counter Claimant, Defendant

JOURNAL ENTRIES

Hearing held live and by BlueJeans remote conferencing.

MOTION TO REDACT CAESARS' REPLY TO THE DEVELOPMENT PARTIES' OMNIBUS SUPPLEMENT TO THEIR OPPOSITIONS TO MOTIONS FOR SUMMARY JUDGMENT FILED BY CAESARS AND RAMSAY AND SEAL EXHIBIT 115 THERETO...GORDON RAMSAY'S MOTION TO REDACT: I) GORDON RAMSAY'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT, AND II) GORDON RAMSAY'S RESPONSE TO ROWEN SEIBEL AND GR BURGR, LLC'S OBJECTIONS TO EVIDENCE
Ms. Mercera advised both instant Motion to Redact and 3/23/22 Motion to Redact are unopposed. There being no objection, COURT ORDERED, instant Motion GRANTED; 3/23/22 Motion to Redact ADVANCED and GRANTED. Prevailing party to prepare the order.

STATUS CHECK: TRIAL SETTING

Ms. Mercera advised certain motions anticipated with respect to summary judgment claims and, in light of stay being lifted, motions and trial date will need to be set. Mr. Gilmore advised he agrees for need to set dispositive motions and suggested 30-45 days from today to file. Colloquy regarding setting trial date. There being agreement, COURT ORDERED, Trial SET 1/9/23. Upon Court's inquiry, Ms. Mercera advised she will prepare a written order in that regard and include proposed deadlines.

Proposed order(s) to be submitted to DC16Inbox@clarkcountycourts.us.

12/15/22 10:30 AM PRETRIAL/CALENDAR CALL

1/9/23 9:30 AM

TAB 102

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

Attorneys for Defendant Gordon Ramsay

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;

Plaintiff,

vs.

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

Defendant,

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant.

AND ALL RELATED MATTERS.

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

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING GORDON
RAMSAY'S MOTION FOR
SUMMARY JUDGMENT**

Date of Hearing: January 20, 2022

Time of Hearing: 1:30 p.m.

On June 28, 2017, Rowen Seibel ("Mr. Seibel" or "Plaintiff"), filed his First Amended
Verified Complaint ("First Amended Complaint") alleging causes of action derivatively on behalf
of GR BURGR, LLC ("GRB") against Gordon Ramsay ("Mr. Ramsay"), for (1) breach of

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

1 contract; (2) contractual breach of the covenant of good faith and fair dealing; (3) unjust
2 enrichment; and (4) civil conspiracy. Mr. Seibel also sought, as “Additional Requests for Relief,”
3 specific performance and declaratory and injunctive relief. On February 25, 2021, Mr. Ramsay
4 filed his Motion for Summary Judgment (“Ramsay Motion”) seeking judgment as a matter of law
5 as to all of Mr. Seibel’s claims against him. On January 20, 2022, at 1:30 p.m., a hearing was held
6 in Department XVI of the above-captioned court before the Honorable Timothy C. Williams with
7 Joshua P. Gilmore and Paul C. Williams of the law firm of Bailey Kennedy present on behalf of
8 Mr. Seibel; MOTI Partners, LLC; MOTI Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ
9 Enterprises 16, LLC; TPOV Enterprises, LLC’ TPOV Enterprises 16, LLC; FERG, LLC; FERG
10 16, LLC; Craig Green; R Squared Global Solutions, LLC, derivatively on behalf of DNT
11 Acquisition, LLC; and GR Burgr, LLC; John D. Tennert III and Wade Beavers of the law firm of
12 Fennemore Craig, P.C., present on behalf of Mr. Ramsay; James J. Pisanelli and M. Magali
13 Mercera of the law firm of Pisanelli Bice PLLC present on behalf of PHWLTV, LLC (“Planet
14 Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC
15 (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC,” and
16 collectively, with Caesars Palace, Paris, and Planet Hollywood, “Caesars”); and Alan M.
17 Lebensfeld of the law firm of Lebensfeld, Sharon & Schwartz, P.C. present on behalf of the Old
18 Homestead Restaurant, Inc.

19 The Court, having reviewed the pleadings in this matter, as well as the Ramsay Motion,
20 Mr. Ramsay’s Appendix to Defendant Gordon Ramsay’s Motion for Summary Judgment
21 (“Ramsay Appendix”); Mr. Ramsay’s Request for Judicial Notice; Mr. Seibel’s Opposition to
22 Gordon Ramsay’s Motion for Summary Judgment (“Seibel Opposition”); Mr. Seibel’s “Appendix
23 of Exhibits to (1) the Development Entities and Rowen Seibel’s Opposition to Caesar’s Motion for
24 Summary Judgment No. 1; (2) Opposition to Caesars’s Motion for Summary Judgment No. 2; and
25 (3) Opposition to Gordon Ramsay’s Motion for Summary Judgment” (“Seibel Appendix”); Mr.
26 Seibel’s Objections to Evidence Offered by Gordon Ramsay in Support of His Motion for
27 Summary Judgment (“Objections to Evidence”); Mr. Ramsay’s Reply in Support of His Motion
28 for Summary Judgment (“Reply”); and Mr. 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; and being familiar with the other papers on file in this matter, having heard the arguments of counsel at hearing, and being otherwise duly advised, **FINDS** and **ORDERS** as follows:

I. Mr. Ramsay's Request for Judicial Notice

In Mr. Ramsay's February 26, 2021, Request for Judicial Notice, he asks that the Court take judicial notice pursuant to NRS 47.130 of the factual matters set forth in certain documents included in the Ramsay Appendix filed in support of his Motion for Summary Judgment. Specifically, Mr. Ramsay asks that the Court take judicial notice of the matters of fact set forth in Ramsay Appendix Exhibit 10, (Information filed April 18, 2016 [ECF No. 1]); Ramsay Appendix Exhibit 16 (Notice of Intent to File Information filed February 29, 2016 [ECF No. 1]); Ramsay Appendix Exhibit 17 (Plea Hearing Transcript filed April 25, 2016 [ECF No. 7]); Ramsay Appendix Exhibit 18 (Ltr. From R. Fink to Hon. J. Pauley filed August 5, 2016 [ECF No. 14]); Ramsay Appendix Exhibit 19 (Ltr. From R. Fink to Hon. J. Pauley filed August 16, 2016 [ECF No. 16]); and Ramsay Appendix Exhibit 20 (Sentencing Hearing Transcript filed September 13, 2016 [ECF No. 18]). Mr. Ramsay argues that each of the documents identified is a publicly-available filing or order entered in the criminal proceedings in the United States District Court in the Southern District of New York, captioned *United States v. Seibel*, case number 16-cr-00279-WHP, available to the public through the U.S. government's PACER website for court filings, and that their contents are capable of accurate and ready determination pursuant to NRS 47.130(2).

Mr. Ramsay further requests that the Court take judicial notice of the matters of fact set forth in the documents attached to the Declaration of Timothy Dudderar, Esq., submitted as Ramsay Appendix Exhibit 26, consisting of (1) Memorandum of Opinion dated August 25, 2017; (2) Order Dissolving GR BURGR, LLC and Appointing Liquidating Trustee dated October 25, 2017; (3) Appointment Order dated December 11, 2017; (4) Report and Proposed Liquidation Plan for GR BURGR, LLC (Public Version) dated March 30, 2020; and (5) Letter Opinion of Vice Chancellor Joseph R. Slights dated October 13, 2020. Mr. Ramsay argues that each of these documents is a publicly-available filing or order entered in the corporate dissolution proceedings

1 in the Delaware Court of Chancery, captioned *In re GR Burgr, LLC*, C.A. No. 12825-VCS. Mr.
2 Ramsay argues that the documents are presently available to the public through the online website
3 of the Delaware Court of Chancery, that their contents are capable of accurate and ready
4 determination pursuant to NRS 47.130(2), and that the dissolution proceedings are closely related
5 to the contractual relationships among GRB, Mr. Seibel, and Planet Hollywood in this case.

6 The Court has not received a written opposition from Mr. Seibel to Mr. Ramsay's Request
7 for Judicial Notice. Pursuant to this Court's local rules, "[f]ailure of the opposing party to serve
8 and file written opposition may be construed as an admission that the motion ...is meritorious and
9 a consent to granting the same." EDCR 2.20(e). Further, the Court agrees with Mr. Ramsay's
10 arguments set forth in Mr. Ramsay's Request for Judicial Notice.

11 The Court finds that the contents of the documents identified in Mr. Ramsay's Request for
12 Judicial Notice are the proper subject of judicial notice pursuant to NRS 47.130 to NRS 47.170,
13 and does take judicial notice of the contents of those documents for the purposes of ruling on Mr.
14 Ramsay's Motion for Summary Judgment.

15 II. Findings of Fact

16 1. Planet Hollywood operates a casino and resort in Las Vegas, the Planet Hollywood
17 Resort & Casino. Planet Hollywood and its affiliates (collectively "Caesars") are gaming entities
18 regulated by the State of Nevada.

19 2. Mr. Ramsay is a chef, businessperson, and media personality, who from time to
20 time lends his personal name and brand to restaurant ventures.

21 3. Mr. Seibel is the Plaintiff in this action and at all relevant times was a member and
22 manager of GRB.

23 4. In or around 2012, Mr. Seibel, Mr. Ramsay, and Planet Hollywood became
24 involved, in various capacities, in the development of a new restaurant venture to open inside the
25 Planet Hollywood Resort & Casino. The restaurant was to focus on serving hamburgers. The
26 restaurant was to be named BURGR Gordon Ramsay ("BURGR Restaurant"). The trademark
27 BURGR Gordon Ramsay was owned at all relevant times by GR US Licensing LP ("GRUS").
28

1 5. In connection with the formation of the restaurant, GRB was formed as a Delaware
2 limited liability company in October 2012 by Mr. Seibel and GRUS. The management of GRB
3 was governed by the Limited Liability Company Agreement of GR BURGR, LLC (“LLC
4 Agreement”). GRUS and Seibel each own a 50% membership interest in GRB. Mr. Ramsay is
5 not, personally, a member or manager of GRB.

6 6. Contemporaneous with the formation of GRB, GRB and GRUS entered into a
7 License Agreement (“GRUS License Agreement”) whereby GRUS conferred limited rights on
8 GRB to use or sublicense the trademark BURGR Gordon Ramsay. The GRUS License
9 Agreement clarified that GRUS and Mr. Ramsay “are in no way limited or restricted in using and
10 exploiting any other trademark or trade name that includes the name ‘Gordon Ramsay’ nor from
11 using the name Gordon Ramsay without limitation.” See Ramsay Appendix, Exhibit 5, GRUS
12 License Agreement, at §1.1.

13 7. GRB, Planet Hollywood, and Mr. Ramsay thereafter entered into a Development,
14 Operation and License Agreement dated December 2012 (“Development Agreement”). Under the
15 Development Agreement, GRB agreed to sublicense the BURGR Gordon Ramsay mark to Planet
16 Hollywood for use in connection with the BURGR Restaurant, and Planet Hollywood agreed to
17 pay to GRB a License Fee based on a percentage of gross sales from the BURGR Restaurant.

18 8. Section 11.2 of the Development Agreement provided, among other things, that:

19 Privileged License.....[I]f [Planet Hollywood] shall determine, in [Planet
20 Hollywood’s] sole and exclusive judgment, that any GR Associate is an
21 Unsuitable Person, then immediately following notice by [Planet Hollywood] to
22 Gordon Ramsay and GRB,(a) Gordon Ramsay and/or GRB shall terminate any
23 relationship with the Person who is the source of such issue, (b) Gordon Ramsay
24 and/or GRB shall cease the activity or relationship creating the issue to [Planet
25 Hollywood]’s satisfaction, in [Planet Hollywood]’s sole judgment, or (c) if such
26 activity or relationship is not subject to cure as set forth in the foregoing clauses
27 (a) and (b), as determined by [Planet Hollywood] in its sole discretion, [Planet
28 Hollywood] shall, without prejudice to any other rights or remedies of [Planet
Hollywood] including at law or in equity, have the right to terminate this
Agreement and its relationship with Gordon Ramsay and GRB.

See Ramsay Appendix, Exhibit 6, Development Agreement, at §11.2.

9. The Development Agreement defined “Unsuitable Person” at Section 1 thereof to
include any person “who is or might be engaged or about to be engaged in any activity which

could adversely impact the business or reputation of [Planet Hollywood] or its Affiliates.” *Id.* at §1 (“Unsuitable Person” defined). Mr. Seibel, as a member and manager of GRB, was a “GR Associate” as that term was defined in Section 2.2 of the Development Agreement.

10. Section 14.21 of the Development Agreement provided as follows:

Additional Restaurant Projects....If [Planet Hollywood] elects to pursue any venture similar to the Restaurant (i.e., any venture generally in the nature of a burger centric or burger themed restaurant), GRB shall, or shall cause an Affiliate to, execute a development, operation and license agreement generally on the same terms and conditions as this Agreement, subject only to revisions agreed to by the parties, including revisions as are necessary to reflect the differences in such things as location, Project Costs, Initial Capital Investment, Operating Expenses and the potential for Gross Restaurant Sales between the Restaurant and such other venture and any resulting Section 8.1 threshold adjustment.

See Ramsay Appendix, Exhibit 6, Development Agreement, at §14.21. The Development Agreement defined the “Restaurant” as “a restaurant featuring primarily burger centric food and beverages known as ‘BURGR Gordon Ramsay’” located on the premises at the Planet Hollywood Hotel & Casino. *See id.* at Recital C (defining the “Restaurant”).

Unbeknownst to GRUS and Mr. Ramsay at the time of the Development Agreement, Mr. Seibel had participated in an illegal scheme between 2004 and 2009 to conceal taxable income from the IRS. According to Seibel’s Criminal Information, from 2004 to 2008, Seibel (and his mother) deposited considerable sums into a numbered account that he maintained at Union Bank of Switzerland (“UBS”) that, for an additional fee, concealed his identity from U.S. tax authorities. *See* Ramsay Appendix, Exhibit 10, Information ¶¶ 4-7. Upon learning of a government investigation into UBS’s efforts to help wealthy Americans evade taxes, Seibel took the following actions to avoid detection: [1] he created a Panamanian shell company for himself, [2] he traveled to Switzerland to close the UBS account, [3] he opened an account in the name of the Panamanian shell company at another Swiss Bank, and [4] he deposited a \$900,000 check from UBS into the new account. *See id.* ¶¶ 8-9. During this time Seibel filed tax returns that failed to report his overseas income and falsely claimed that he did not have an interest or signatory authority over a financial account in a foreign country. *See id.* ¶¶ 10-11.

In 2009, Seibel applied for amnesty under the IRS’s Voluntary Disclosure Program. *See id.* ¶ 12. In furtherance of his scheme to defraud the United States Government, Seibel falsely stated

1 that he had been unaware, during the years 2004 and 2005, that his mother had made deposits into
2 the account. *See id.* ¶ 13. Seibel also represented that he had been unaware, until he made
3 inquiries of UBS in 2009, of the status of his account at UBS and had in fact over time reached
4 “the conclusion that deposits (into his UBS account) had been stolen or otherwise disappeared.”
5 *See id.* These statements were false. *See id.* Seibel did not disclose that he created a Panamanian
6 shell company, opened another Swiss account for his benefit, and deposited the funds he claimed
7 were “stolen” or “disappeared” into the account. *See id.*

8 11. At some time no later than 2013, Mr. Seibel became aware that he was the target of
9 a federal criminal investigation into his tax improprieties. Between 2015 and March of 2016, Mr.
10 Seibel was involved in discussions and negotiations with the United States Government relating to
11 his crimes. On April 18, 2016, Mr. Seibel pleaded guilty to a one-count criminal information
12 charging him with impeding the administration of the Internal Revenue Code relating to his
13 criminal conduct.

14 12. On or about April 11, 2016, Mr. Seibel sent a letter to GRUS requesting GRUS’
15 consent, pursuant to the terms of the LLC Agreement, to an assignment of Mr. Seibel’s
16 membership interest in GRB to “The Seibel Family 2016 Trust” and to accept Mr. Seibel’s
17 resignation as manager of GRB. Mr. Seibel did not explain in his letter the reason for the
18 requested assignment and resignation. On or about April 14, 2016, GRUS responded and
19 requested further information from Mr. Seibel about the proposed assignment. Mr. Seibel did not
20 respond to GRUS’ request for further information or provide GRUS with the requested
21 information.

22 13. On or about August 19, 2016, Judge William H. Pauley, III sentenced Mr. Seibel to
23 one month of imprisonment, six months of home detention, and 300 hours of community service,
24 and ordered restitution.

25 14. Mr. Ramsay first learned of Mr. Seibel’s felony conviction when it was reported in
26 the press in or around late August 2016.

27 15. Mr. Seibel alleges that on August 30, 2016, he sent a letter to Planet Hollywood
28 regarding his felony conviction and his intent to assign his interests in GRB to “The Seibel Family

2016 Trust.” In response, on September 2, 2016, Planet Hollywood informed Mr. Seibel that “The Seibel Family 2016 Trust” is not an acceptable assignee of his interests.

16. On September 2, 2016, Planet Hollywood’s counsel sent notice to GRB, Mr. Ramsay, and Mr. Seibel’s personal attorney stating that, in Planet Hollywood’s judgment, the conviction rendered Mr. Seibel an “Unsuitable Person” as that term is defined in the Development Agreement. Planet Hollywood demanded that GRB completely terminate any relationship with Mr. Seibel within ten days, and warned that if GRB failed to dissociate itself from Mr. Seibel, Planet Hollywood would terminate the Development Agreement.

17. On September 6, 2016, GRUS, as the 50% member of GRB, made a demand to Mr. Seibel that Mr. Seibel terminate his relationship with GRB. In response, on September 8, 2016, Mr. Seibel proposed to GRUS that he dissociate himself from GRB by transferring his membership interest to “The Seibel Family 2016 Trust.” Mr. Seibel made this request to GRUS notwithstanding the fact that Planet Hollywood had already informed him days earlier that “The Seibel Family 2016 Trust” is not an acceptable assignee.

18. On September 12, 2016, Planet Hollywood’s counsel confirmed to Mr. Seibel that Planet Hollywood had rejected Mr. Seibel’s proposed assignment to “The Seibel Family 2016 Trust” because it had determined, in its own judgment, that the proposed assignee and its associates would maintain an impermissible direct or indirect relationship with Mr. Seibel, thereby rendering the proposed assignee an “Unsuitable Person” under the Development Agreement.

19. In a letter dated September 12, 2016, GRUS renewed its demand to Mr. Seibel that Mr. Seibel completely disassociate from GRB to Caesars’ and Planet Hollywood’s satisfaction. Mr. Seibel did not dissociate from GRB. Mr. Seibel had the ability to voluntarily relinquish his interests in GRB and terminate his relationship with GRB, but Mr. Seibel refused. Mr. Ramsay did not prevent Mr. Seibel from dissociating from GRB.

20. On September 21, 2016, Planet Hollywood terminated the Development Agreement on grounds that GRB had failed to dissociate from Mr. Seibel, effectively ending the BURGR Restaurant enterprise. Neither Mr. Ramsay nor GRUS had any role in Planet Hollywood’s

1 suitability determination or Planet Hollywood's decision to terminate the Development
2 Agreement.

3 21. On September 22, 2016, GRUS sent a letter notice to GRB that it was terminating
4 the License Agreement between itself and GRB for use of the BURGR Gordon Ramsay mark. The
5 termination of the License Agreement was effective as of Planet Hollywood's September 21, 2016
6 termination of the Development Agreement.

7 22. In October 2016, GRUS commenced a proceeding for judicial dissolution of GRB
8 in the Delaware Court of Chancery on grounds of the shareholder deadlock between Mr. Seibel
9 and GRUS following Mr. Seibel's felony conviction. *See In re GR Burgr, LLC*, Delaware Court
10 of Chancery C.A. No. 12825-VCS. On August 25, 2017, the Delaware Court of Chancery granted
11 a dispositive motion by GRUS and dissolved GRB. *See In re: GR BURGR, LLC*, 2017 WL
12 3669511, at *7 ("While the working relationship between the parties [GRUS and Siebel] arguably
13 had broken down prior to Seibel's felony conviction in 2016 ... whatever deadlock may have
14 arisen prior to Seibel's conviction solidified to igneous rock thereafter.") In dissolving GRB, the
15 Delaware Court noted that Mr. Seibel has no right to interfere with Mr. Ramsay's ability to engage
16 "in some other burger venture that uses his name and likeness to capitalize on the celebrity and
17 status Ramsay has spent his career building." *Id.* at, *11. The Delaware Court held:

18 Seibel cannot reasonably expect that this court would indefinitely lock Ramsay in a
19 failed joint venture and thereby preclude him from ever engaging in a business that
20 bears resemblance to GRB—a restaurant business that exploits Ramsay's celebrity
21 to sell one of the most popular and beloved food preparations in all of history. Any
22 such result would be the antithesis of equitable.

22 *Id.* This Court agrees.

23 23. In February 2017, Planet Hollywood entered into a new contract to open a new
24 restaurant at the Planet Hollywood Hotel & Casino called "Gordon Ramsay Burger" (the "New
25 Restaurant"). Mr. Ramsay has licensed his personal name for use in connection with the New
26 Restaurant. The New Restaurant does not use the "BURGR Gordon Ramsay" mark or the
27 "BURGR" mark.
28

24. Mr. Ramsay has not personally received payments from Planet Hollywood for the operations of the BURGR Restaurant or the New Restaurant, and Mr. Seibel has cited no evidence that Mr. Ramsay has otherwise received any direct (or even indirect) financial benefit from the operations of the New Restaurant.

25. Mr. Seibel initiated this matter by filing his Complaint on February 28, 2017, wherein he purported to assert various claims against Mr. Ramsay (as well as other claims) derivatively on behalf of GRB. Mr. Seibel filed his First Amended Verified Complaint on June 28, 2017, in which he again purported to assert derivative claims on behalf of GRB against Mr. Ramsay.

26. On March 8, 2021, the Delaware Court of Chancery issued an *Order Regarding Liquidating Receiver's Report and Recommendation* in the Delaware Proceedings, whereby it judicially assigned the derivative claims Mr. Seibel asserted on GRB's behalf in this proceeding against Mr. Ramsay to Mr. Seibel, personally, to pursue "directly on his own behalf as assignee of GRB (which entity shall be cancelled...) with all right, title, and interests in and to the [claims] held by GRB being hereby assigned and transferred to Seibel." *See* Seibel Appendix, Exhibit 525, Mar. 8, 2021 Order. The Delaware Order further provided "to the extent Seibel hereinafter pursues [the claims], he shall do so entirely at his own costs." *Id.* Thus, Mr. Seibel, as assignee, personally stepped into the shoes of GRB to pursue the damages claims arising out of or relating to the enforcement of the terms of the GRB Agreement. *See* Substitution of Attorneys for GR Burgr, LLC (filed March 17, 2021).

27. As of March 17, 2021, GRB was cancelled pursuant to a Certificate of Cancellation of Certificate of Formation filed by the Liquidating Trustee of GRB with the Secretary of State of Delaware. *See id.* GRB no longer exists.

III. Legal Standard

Pursuant to Nevada Rule of Civil Procedure ("NRCP") 56(a), the court shall grant summary judgment on a claim if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to summary judgment as a matter of law. "A genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for

1 the non-moving party.” *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42
2 (1993). When reviewing a motion for summary judgment, the evidence, and any reasonable
3 inferences drawn from it, must be viewed in a light most favorable to the nonmoving party. *Wood*
4 *v. Safeway*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). When a motion for summary
5 judgment is made and supported as required by NRCP 56, the nonmoving party may not rest upon
6 general allegations and conclusions, but must, by affidavit or otherwise, set forth specific facts
7 demonstrating the existence of a genuine factual issue. *Pegasus v. Reno Newspapers, Inc.*, 118
8 Nev. 706, 713-714, 57 P.3d 82, 87 (2002).

9 IV. Mr. Seibel’s Claim For Breach of Contract

10 Mr. Ramsay moves for summary judgment on Mr. Seibel’s First Cause of Action for
11 “Breaches of Contract” as set forth in the First Amended Complaint. Mr. Seibel brings his claim
12 for breach of contract against Mr. Ramsay in his own name as GRB’s assignee. He has alleged
13 that Mr. Ramsay breached the Development Agreement in a number of ways, including by,
14 according to Mr. Seibel, continuing to do business with Planet Hollywood by participating in the
15 operation of the New Restaurant; utilizing intellectual property of GRB in connection with the
16 New Restaurant; “failing to enter into a separate written agreement with GRB or an affiliate”
17 concerning the New Restaurant, “continuing to operate the Restaurant beyond the wind-up
18 deadline in the Development Agreement”; and “[r]eceiving, directly or indirectly, monies intended
19 for and owed to GRB under the Development Agreement.” *See* Am. Compl. at ¶71. Mr. Seibel
20 argues more specifically that the alleged acts by Mr. Ramsay breached Section 14.21 of the
21 Development Agreement, related to “Additional Restaurant Projects,” and Section 4.3.2 of the
22 Development Agreement, related to “Certain Rights of [Planet Hollywood] Upon Expiration or
23 Termination.” *See* Ramsay Appendix, Exhibit 6, §§4.3.3; 14.21.

24 Mr. Ramsay argues that summary judgment is appropriate because (a) he owed no
25 contractual duties to GRB under the Development Agreement; (b) he did not accept or receive
26 monies from Planet Hollywood that were owed to GRB; (c) the Development Agreement does not
27 prohibit Mr. Ramsay from doing future business deals with Planet Hollywood following
28 termination of the Development Agreement; (d) Mr. Ramsay is not using any “intellectual

property” of GRB, nor would his use of any such “intellectual property” be restricted by any express term of the Development Agreement; (e) Mr. Ramsay had no post-termination obligations with respect to a “wind-up” period; (f) Section 14.21 of the Development Agreement is an unenforceable agreement to agree; (g) Section 14.21 of the Development Agreement does not prohibit Mr. Ramsay from participating in the New Restaurant; and (h) enforcement of Section 14.21 of the Development Agreement was rendered impossible by GRB’s dissolution.

The Development Agreement contains a Nevada choice-of-law provision and none of the parties dispute that the validity, construction, performance and effect of the Development Agreement is governed by Nevada law. *See also* Ramsay Appendix at Ex. 6, Development Agreement, § 14.10.1. To survive summary judgment on his claim for breach of the Development Agreement under Nevada law, Mr. Seibel is required to show a genuine issue for trial as to each of the following elements: (1) the existence of a valid contract, (2) that GRB performed the contract or was excused from performance, (3) that Mr. Ramsay failed to perform the contract, and (4) that GRB suffered economic damages as a result of Mr. Ramsay’s alleged breach. *See State Dep’t of Transp. v. Eighth Jud. Dist. Ct.*, 133 Nev. 549, 554, 402 P.3d 677, 682 (2017).

“Breach of contract is the material failure to perform a duty arising under or imposed by agreement.” *Id.* (internal quotation marks omitted). “Contracts will be construed from the written language and enforced as written” and a court cannot “interpolate in a contract what the contract does not contain.” *Id.* (internal quotation marks omitted). “[W]hen a contract is clear, unambiguous, and complete, its terms must be given their plain meaning and the contract must be enforced as written; the court may not admit other evidence of the parties’ intent because the contract expresses their intent.” *Ringle v. Bruton*, 120 Nev. 82, 93, 86 P.3d 1032 (2004). Contract construction is a question of law and therefore “suitable for determination by summary judgment.” *Ellison v. California State Auto. Ass’n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990).

As a threshold matter, the Court finds that while Mr. Ramsay is a party to the Development Agreement, his obligations thereunder are limited to those expressly set forth in the contract’s express language. The plain and unambiguous recitals to the Development Agreement state that Mr. Ramsay is a party to the Development Agreement “to the limited extent specifically provided

therein.” *See* Ramsay Appendix at Ex. 6, Development Agreement, Recitals. The Development Agreement imposes on Mr. Ramsay certain express obligations to provide consulting services, to permit the use of his personal name, and to make personal appearances in connection with the BURGR Restaurant. Mr. Ramsay’s limited obligations to Planet Hollywood are identified at Section 3.4.1, 7.1, and 7.2, as follows:

- 3.4.1 Menu Development. “Gordon Ramsay or members of his team shall develop the initial food and beverage menus of the Restaurant, the recipes for the same, and thereafter, Gordon Ramsay or members of his team shall revise the food and beverage menus of the Restaurant, and the recipes for same (the ‘Menu Development Services’).”
- 7.1 Initial Promotion. “During the period prior to the Opening Date, Gordon Ramsay shall, as reasonably required by PH ... engage in promotional activities for the Restaurant....” Ramsay agreed to visit the Restaurant before the Opening Date (“GR Promotional Visits”).
- 7.3 Subsequent Restaurant Visits. After the Opening Date, Ramsay agreed to visit the Restaurant for promotion purposes (“GR Restaurant Visits”).

See id. at §§ 3.4.1, 7.1, 7.2.

These are Mr. Ramsay’s only obligations under the Development Agreement. Absent from the plain language of the Development Agreement is any contractual obligation running from Mr. Ramsay, personally, to GRB, or any representation or warranty made by Mr. Ramsay to GRB.

The Court also finds that Section 14.21 of the Development Agreement—relied on by Mr. Seibel—is void and unenforceable as “an agreement to agree in the future.” “An agreement to agree at a future time is nothing and will not support an action for damages.” *City of Reno v. Silver State Flying Serv.*, 84 Nev. 170, 176, 438 P.2d 257, 261 (1968). “An agreement to agree on contract terms at a later date is not a binding contract in Nevada.” *Diamond Elec. Inc. v. Pace Pac. Corp.*, 346 Fed. App’x 186, 187 (9th Cir. 2009). The Court agrees with Mr. Ramsay that the plain language of Section 14.21 lacks any of the definite terms of a binding agreement, but instead leaves all material terms of any future, similar restaurant that Planet Hollywood may pursue open to further negotiation. The parties’ intent that the contract not bind them to a specific set of terms in the future is clear from the plain text stating that material terms of a future project, if any, must be “agreed to by the parties.” *See* Ramsay Appendix at Ex. 6, Development Agreement, §14.21. This void provision is separate and severable from the remainder of the Development Agreement

1 pursuant to Section 14.7 of the Development Agreement. *See id.* at §14.7 (“Severability”).
2 Because Section 14.21 is unenforceable as a binding contractual provision, all of Mr. Seibel’s
3 arguments predicated on that clause fail as a matter of law.

4 Moreover, even if Section 14.21 of the Development Agreement were enforceable, nothing
5 in its plain language imposes any obligation whatsoever on Mr. Ramsay. If anything, the plain
6 and unambiguous language of the provision compels GRB, (not Mr. Ramsay or Planet Hollywood
7 or any other party) to take certain actions in the event Planet Hollywood “elects to pursue any
8 venture similar to the” BURGR Restaurant. Mr. Ramsay, a party to the Development Agreement
9 to the limited extent specifically provided therein, is not subject to a claim for breach of Section
10 14.21 of the Development Agreement.

11 Mr. Seibel also argues that Mr. Ramsay breached Section 4.3.2(e) of the Development
12 Agreement by allegedly using protected intellectual property of GRB in connection with the New
13 Restaurant. The Court need not consider whether Mr. Seibel has submitted competent evidence of
14 the existence of such intellectual property or its use (by Mr. Ramsay or others) in connection with
15 the New Restaurant, as the Court agrees with Mr. Ramsay that Section 4.3.2(e) does not impose
16 any obligations on Mr. Ramsay to take any action or to refrain from taking any action whatsoever.
17 *See Kaldi v. Farmers Ins. Exch.*, 117 Nev. 273, 281, 21 P.3d 16, 21 (2001) (courts are “not free to
18 modify or vary the terms of an unambiguous agreement.”). Similarly, the Court agrees with Mr.
19 Ramsay that the plain language of the Development Agreement does not impose any specific
20 obligations on Mr. Ramsay with respect to the “wind-up” of the BURGR Restaurant described at
21 Section 4.3.2(a) of the Development Agreement.

22 Mr. Seibel cites no other provision of the Development Agreement that would supposedly
23 prevent Mr. Ramsay from doing any type of business with Planet Hollywood following Planet
24 Hollywood’s termination of the Development Agreement, including that Mr. Seibel offers no
25 contractual provision that should prevent Mr. Ramsay from permitting the use of his name in
26 connection with the operation of the New Restaurant. The Court finds that GRB has no rights to
27 Gordon Ramsay’s personal name, which only he (and not GRB) controls. As Mr. Seibel’s counsel
28 conceded at hearing, Mr. Seibel does not argue that there is any legal basis to prevent Mr. Ramsay

1 from engaging in a restaurant business exploiting his celebrity that bears a resemblance to GRB's
2 operation. *See* Tr. of Proceedings, 1/20/22; *Gordon Ramsay's Motion for Summary Judgment* at
3 32:4-16. Accordingly, Mr. Seibel's claims that Mr. Ramsay has breached the Development
4 Agreement by participating in the operation of the New Restaurant, doing business with Planet
5 Hollywood on a new venture without including GRB, "using" any alleged intellectual property of
6 GRB after termination of the Development Agreement, or failing to "wind up" the BURGR
7 Restaurant after termination of the Development Agreement fail. The Court finds that there is no
8 genuine issue of material fact and that Mr. Ramsay is entitled to judgment as a matter of law on
9 the breach of contract claim pursuant to NRCP 56.¹

10 **V. Mr. Seibel's Claim For Breach of the Covenant of Good Faith and Fair Dealing**

11 Mr. Ramsay moved for summary judgment on Mr. Seibel's Second Cause of Action for
12 "Contractual Breach of the Implied Covenant of Good Faith and Fair Dealing" as set forth in the
13 First Amended Complaint. Mr. Seibel brings his claim for contractual breach of the implied
14 covenant of good faith and fair dealing in his own name as GRB's assignee. He has alleged that
15 Mr. Ramsay breached the implied covenant of good faith and fair dealing in the Development
16 Agreement in a number of ways, including by, according to Mr. Seibel, "[p]ursuing an arbitrary,
17 capricious, and bad faith scheme with [Planet Hollywood] to oust Seibel and GRB from the
18 [BURGR] Restaurant to increase the profits of himself or an affiliate"; "[e]nticing and
19 encouraging [Planet Hollywood] to breach its contractual obligations to GRB"; "[r]efusing to
20 allow assignments related to GRB to damage and harm GRB's contractual rights"; "[w]rongfully
21 representing to [Planet Hollywood] that Seibel is an unsuitable person and that his affiliation with
22 GRB cannot be cured"; and "[c]laiming Nevada gaming law and authorities would prohibit [Planet
23 Hollywood] from paying any monies to GRB or from allowing Seibel to assign his interest in
24 GRB to The Seibel Family 2016 Trust...."² *See* Am. Compl. at ¶77.

25
26 ¹ To the extent Mr. Seibel has alleged or argued any other supposed conduct by Mr. Ramsay that
27 Mr. Seibel claims has breached the Development Agreement—including Mr. Seibel's
28 allegations that Mr. Ramsay received "monies intended for and owed to GRB under the
Development Agreement"—the Court has considered the record and the plain and unambiguous
contract provisions at issue and finds that no reasonable jury could return a verdict in Mr.
Seibel's favor on such claims, and therefore summary judgment is appropriate.

² To the extent Mr. Seibel has alleged other conduct in support of his claim for breach of the

1 Mr. Ramsay argues that summary judgment is appropriate because Mr. Seibel's claim is
2 essentially a recast argument that Planet Hollywood improperly terminated the Development
3 Agreement after deeming him an "Unsuitable Person." Mr. Ramsay notes the unambiguous
4 language of the Development Agreement provides that Planet Hollywood had "sole and exclusive"
5 discretion to determine "unsuitability" and to terminate the Development Agreement as it saw fit,
6 and that Mr. Ramsay had no contractual or other role in Planet Hollywood's determination. Mr.
7 Ramsay further argues that the Development Agreement imposes no obligation on Mr. Ramsay to
8 assist Mr. Seibel with his attempt to transfer his interest in GRB to his family trust. This Court
9 agrees.

10 The Court will apply Nevada law to this claim based on the choice of law provision in the
11 Development Agreement. *See* Ramsay Appendix, Ex. 6, Development Agreement, § 14.10.1.
12 Under Nevada law, a contractual breach of the implied covenant of good faith and fair dealing
13 may occur where "one party performs a contract in a manner that is unfaithful to the purpose of
14 the contract and the justified expectations of the other party are thus denied." *Hilton Hotels Corp.*
15 *v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 234, 808 P.2d 919, 923 (1991). This claim lies only
16 "[w]here the terms of a contract are literally complied with but one party to the contract
17 deliberately contravenes the intention and spirit of the contract." *Id.* The "implication" of the
18 covenant of good faith and fair dealing arises from a concern for advancing the "intention and
19 spirit" of the contracting parties. *Id.*

20 The implied covenant may not be used to imply a term that is contradicted by an express
21 term of the contract. *See, e.g., Kucharyk v. Regents of Univ.y of Cal.*, 946 F. Supp. 1419, 1432
22 (N.D. Cal. 1996) (applying California law); *see also, e.g., Sessions, Inc. v. Morton*, 491 F.2d 854,
23 857-858 (9th Cir. 1974) ("This covenant of good faith and fair dealing imposes a duty on each
24

25 implied covenant of good faith and fair dealing in the Development Agreement that is
26 duplicative of conduct he has alleged constitutes a breach of the Development Agreement, such
27 conduct cannot serve as the basis for a claim for breach of the implied covenant, and summary
28 judgment is appropriate as to such claims. *Cf. Am. Compl. at ¶71, ¶77; see also Ruggieri v.*
Hartford Ins. Co. of the Midwest, Case No. 2:13-cv-00071-GMN-GWF, 2013 WL 2896967 at
*3 (D. Nev. June 12, 2013) ("[A]llegations that a defendant violated the actual terms of a
contract are incongruent with [a claim for breach of the implied covenant of good faith and fair
dealing] and insufficient to maintain a claim.").

1 party to do everything that the contract presupposes will be done in order to accomplish the
2 purpose of the contract. However, this implied obligation must arise from the language used or it
3 must be indispensable to effectuate the intention of the parties.”) (internal quotations omitted); *see*
4 *also, Restatement (Second) of Contracts* § 205 (1981).

5 As noted above the intention and spirit of the contracting parties to the Development
6 Agreement is demonstrated by the express language they chose to include in their contract. *See,*
7 *e.g., Ringle*, 120 Nev. at 93, 86 P.3d at 1039. Here, the intention and spirit of the parties, as
8 evidenced by the contractual language, afforded Planet Hollywood the “sole and exclusive
9 judgment” to deem Mr. Seibel unsuitable under these circumstances, to reject his proposed
10 “dissociation” from GRB by transfer of his membership interest to his family trust, and to
11 terminate the Development Agreement upon GRB’s failure to timely comply with Planet
12 Hollywood’s demands to terminate its relationship with Mr. Seibel. *See* Ramsay Appendix at Ex.
13 6, Development Agreement at 25-26, § 11.1, 11.2. Similarly, the parties expressed their intention
14 in the plain language of the Development Agreement that Mr. Ramsay’s obligations would be
15 “limited” to those “specifically provided” in the Development Agreement. *See, e.g.,* Ramsay
16 Appendix, Exhibit 6, Development Agreement at Recitals.

17 To hold that Mr. Ramsay should have an implied obligation to intervene in Planet
18 Hollywood’s suitability determination as to Mr. Seibel, or to lobby on Mr. Seibel’s behalf for the
19 benefit of GRB, as Mr. Seibel appears to suggest, would be to imply terms into the Development
20 Agreement that contradict its express terms, which the Court cannot do. The Court finds that Mr.
21 Ramsay had no obligation to take, or to refrain from taking, any particular action with respect to
22 Planet Hollywood’s unsuitability determination or demand for dissociation to GRB.

23 Mr. Ramsay also had no express or implied contractual obligation to approve Mr. Seibel’s
24 proposed transfer of his interest in GRB to Mr. Seibel’s family trust, or to somehow otherwise
25 assist Mr. Seibel in selling his membership interest, as Mr. Seibel appears to argue. In fact, as Mr.
26 Ramsay is not a member or manager of GRB, nor a party to the GRB LLC Agreement, he had no
27 role or authority whatsoever in approving or disapproving a proposed transfer of interest by one of
28

1 its members. Mr. Seibel made that request to GRUS, and more specifically GRUS' appointed
2 manager of GRB, Stuart Gillies, who are not parties to this lawsuit.³

3 Moreover, the chain of events that led to Planet Hollywood's termination of the
4 Development Agreement indisputably started with Mr. Seibel's own criminal conduct. His
5 pleading guilty to a tax fraud felony, and subsequent refusal to dissociate himself from GRB to
6 Planet Hollywood's satisfaction, severely altered GRB's "justified expectations" under its
7 contract. Indeed, with one of its members acknowledging guilt of a serious criminal perpetration
8 of fraud, GRB had no justified expectation that it could continue to do business with Planet
9 Hollywood absent immediate and material corrective action by Mr. Seibel, which Mr. Seibel failed
10 to undertake. The ultimate result here—the termination of the Development Agreement and
11 closing of the BURGR Restaurant—is not attributable to Mr. Ramsay's alleged actions or
12 nonactions. The Court finds that Planet Hollywood validly exercised its "absolute discretion" and
13 determined in its "sole and exclusive judgment" that Mr. Seibel, and by extension GRB, is an
14 "Unsuitable Person," a consequence that is entirely of Mr. Seibel's own doing.

15 Because Mr. Seibel cannot identify any implied obligation under the Development
16 Agreement that Mr. Ramsay could have breached, and cannot show that any action of Mr. Ramsay
17 caused GRB's "justified expectations" to be denied, his claim must fail. The Court finds that there
18 is no genuine issue of material fact and that Mr. Ramsay is entitled to judgment as a matter of law
19 on the claim for breach of the covenant of good faith and fair dealing pursuant to NRCP 56.

20 VI. Mr. Seibel's Claim for Unjust Enrichment

21 Mr. Ramsay moves for summary judgment on Mr. Seibel's Third Cause of Action for
22 "Unjust Enrichment" as set forth in the First Amended Complaint. Mr. Seibel brings his claim for
23

24 ³ The Court rejects Mr. Seibel's argument that GRUS (and by implication Mr. Ramsay) had any
25 obligation to approve Mr. Seibel's proposed membership assignment. Paragraph 10.1(a) of
26 GRB's LLC Agreement governs "Inter-Vivos Transfer" of GRB's membership interests. *See*
27 Ramsay Appendix, Ex. 2 at ¶ 10.1(a). There is nothing in Paragraph 10.1(a) of GRB's LLC
28 Agreement that required GRUS or GRUS's appointed manager to consider, much less approve,
Mr. Seibel's request to transfer his membership interests in GRB to his family trust. Following
Mr. Seibel's felony conviction neither Mr. Ramsay nor GRUS had any obligation, contractual or
otherwise, to consider or approve Mr. Seibel's proposed assignment. In any event, Mr. Seibel's
requested assignment would not have cured GRB's unsuitability because Planet Hollywood had
already determined that The Seibel Family Trust 2016 was not a suitable assignee.

1 unjust enrichment in his own name as GRB’s assignee. He has alleged that Mr. Ramsay has been
2 unjustly enriched because, according to Mr. Seibel, Mr. Ramsay “directly or indirectly, has
3 wrongfully accepted and retained monies intended for and owed to GRB under the Development
4 Agreement.” *See* Am. Compl. at ¶84. More specifically, Mr. Seibel argues that Mr. Ramsay has
5 been unjustly enriched because Mr. Ramsay is “operating the same restaurant in the same space,”
6 and that GRB is entitled to “fair value” from the operation of the New Restaurant, regardless
7 whether Section 14.21 or any other provision of the Development Agreement is enforceable.

8 Mr. Ramsay argues that summary judgment is appropriate because the parties’ relationship
9 is comprehensively governed by contract—the Development Agreement—and because Mr. Seibel
10 cannot show that GRB conferred any benefit upon Mr. Ramsay or that Mr. Ramsay derived any
11 benefit from the operation of the New Restaurant that has been “unjust.”

12 “The phrase ‘unjust enrichment’ is used in law to characterize the result or effect of a
13 failure to make restitution or, or for, property or benefits received under such circumstances as to
14 give rise to a legal or equitable obligation to account therefor.” 66 Am. Jur. 2d, *Restitution*, § 3
15 (1973). Under Nevada law, “[u]njust enrichment exists when the plaintiff confers a benefit on the
16 defendant, the defendant appreciates such benefit, and there is acceptance and retention by the
17 defendant of such benefit under circumstances such that it would be inequitable for him to retain
18 the benefit without payment of the value thereof.” *Certified Fire Prot., Inc. v. Precision Constr.,*
19 *Inc.*, 128 Nev. 371, 381, 283 P.3d 250, 257 (2012). “For an enrichment to be inequitable to retain,
20 the person conferring the benefit must have a reasonable expectation of payment and the
21 circumstances are such that equity and good conscience require payment for the conferred
22 benefit.” *Korte Constr. Co. v. State on Relation of Bd. of Regents of Nev. Sys. of Higher Educ.*,
23 492 P.3d 540, 544, 137 Nev. Adv. Op. 37 (2021) (citing *Certified Fire Prot.*, 128 Nev. at 381, 283
24 P.3d at 257)).

25 “An action based on a theory of unjust enrichment is not available when there is an
26 express, written contract, because no agreement can be implied when there is an express
27 agreement.” *Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12, 1975*, 113 Nev. 747,
28 755-756, 942 P.2d 182, 187 (1997).

Here, the Court agrees with Mr. Ramsay that his relationship with GRB—including his obligations to GRB (or lack thereof) with respect to Mr. Ramsay’s future business ventures—were comprehensively governed by the parties’ contract, the Development Agreement. As described elsewhere in this Order, and as conceded by Mr. Seibel’s counsel at hearing, the plain language of the Development Agreement did not prohibit Mr. Ramsay from personally participating in the operation of the New Restaurant, or from participating in any future restaurant venture with Planet Hollywood involving Mr. Ramsay’s personal name. The Development Agreement does explicitly address issues relating to “intellectual property” and to GRB’s marks and materials, including at Sections 6. (“Intellectual Property License”); 6.2.1 (“Ownership...by GRB or Gordon Ramsay”); 6.2.2 (“Ownership...by [Planet Hollywood]”); and 6.5 (“Gordon Ramsay’s Rights in the Marks”). Section 4.3 of the Development Agreement governs the parties’ respective rights to the “Intellectual Property” upon termination of the Development Agreement, and Section 8 comprehensively governs “License and Service Fees.” *See, e.g.*, Ramsay Appendix, Exhibit 6, Development Agreement. Mr. Seibel does not argue that the plain language of any of these provisions bars Mr. Ramsay, personally, from participating in the operation of the New Restaurant, or any other venture.⁴

Instead, Mr. Seibel cites Section 14.21 of the Development Agreement and appears to argue that his unjust enrichment claim should serve as a failsafe claim in the event that this Court should find Section 14.21 is an unenforceable agreement to agree, but as the Court has held herein, even if it were enforceable, Section 14.21 would not bar Mr. Ramsay from participating in a new hamburger restaurant venture with Planet Hollywood (nor would any other term of the Development Agreement). To the contrary, the language of Section 14.21’s “agreement to agree” evidences no intent of the parties to impose binding obligations on Planet Hollywood with respect

⁴ GRB’s understanding of this absence of restrictions on Mr. Ramsay’s future business dealings is further demonstrated by its agreement, in the GRUS License Agreement (to which Mr. Ramsay is not a party), that notwithstanding the sublicense of the BURGR Gordon Ramsay mark to Planet Hollywood (through GRB), GRUS and Mr. Ramsay “are in no way limited or restricted in using and exploiting any other trademark or trade name that includes the name ‘Gordon Ramsay’ nor from using the name Gordon Ramsay without limitation.” *See* Ramsay Appendix, Exhibit 5, GRUS License Agreement, at §1.1.

1 to future restaurant ventures, and to impose no obligations whatsoever on Mr. Ramsay personally
2 with respect to the same.

3 Because the relationship and obligations between GRB and Mr. Ramsay with respect to the
4 operation of future hamburger restaurants at Planet Hollywood, and the use of Mr. Ramsay's name
5 or derivations thereof, were comprehensively governed by the Development Agreement, Mr.
6 Seibel's claim for unjust enrichment fails as a matter of law. Moreover, in light of the plain
7 language of the parties' business contracts, Mr. Seibel has failed to identify evidence supporting
8 that GRB has (or has ever had) any equitable entitlement to profits, or other monies or benefits,
9 that may be derived by Mr. Ramsay from the use of his name, which only he owns, in connection
10 with the operation of the New Restaurant, such that it would be an injustice for Mr. Ramsay to
11 retain that benefit.

12 The Court finds that there is no genuine issue of material fact and that Mr. Ramsay is
13 entitled to judgment as a matter of law on the unjust enrichment claim pursuant to NRCP 56.

14 **VII. Mr. Seibel's Claim For Civil Conspiracy**

15 Mr. Ramsay moves for summary judgment on Mr. Seibel's Fourth Cause of Action for
16 "Civil Conspiracy" as set forth in the First Amended Complaint. Mr. Seibel brings his claim for
17 civil conspiracy in his own name as GRB's assignee. He has alleged that Mr. Ramsay formed an
18 explicit or tacit agreement with Planet Hollywood to "breach the Development Agreement and
19 oust Seibel from the Restaurant," and that in furtherance of the conspiracy Mr. Ramsay "directly
20 or indirectly, refused to allow Seibel to transfer his interest in GRB to The Seibel Family Trust
21 2016, resign as a manager of GRB, and appoint Craig Green as a manager of GRB" and that "in a
22 letter sent on or around September 15, 2016, Ramsay and GRUS falsely told [Planet Hollywood]
23 that Seibel is an unsuitable person and his affiliation with GRB and the Restaurant could not be
24 cured." *See* Am. Compl. at ¶¶87-89.

25 Mr. Ramsay argues that summary judgment is appropriate because, as a matter of law, two
26 parties to a contract cannot be liable for a conspiracy to breach it, and because there is no evidence
27 of an unlawful or wrongful "overt act" by Mr. Ramsay in furtherance of any alleged conspiracy.
28

1 A civil conspiracy “consists of a combination of two or more persons, who, by some
2 concerted action, intend to accomplish an unlawful objective for the purpose of harming another,
3 and damages results from the act or acts.” *Consol. Generator-Nev., Inc. v. Cummins Engine Co.*,
4 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998) (internal quotations omitted).

5 Under Nevada law, conspiracy to breach the terms of a contract may only “lie where a
6 contracting party and third parties conspire to frustrate the purpose of the contract.” *Tousa*
7 *Homes, Inc. v. Phillips*, 363 F.Supp.2d 1274, 1282-83 (D. Nev. 2005) (citing *Hilton Hotels Corp.*
8 *v. Butch Lewis Prods.*, 109 Nev. 1043, 1048, 862 P.2d 1207, 1210 (1993)). “[A] party cannot, as a
9 matter of law, tortiously interfere with its own contract.” *Blanck v. Hager*, 360 F.Supp.2d 1137,
10 1154 (D. Nev. 2005); *aff’d*, 220 Fed. Appx. 697 (9th Cir. 2007) (citing *Bartsas Realty, Inc. v.*
11 *Nash*, 81 Nev. 325, 327, 402 P.2d 650, 651 (1965)). In line with these principles, courts have
12 articulated that, in general, “[t]here can be no conspiracy by two or more parties to a contract to
13 breach the contract.” *Logixx Automation v. Lawrence Michels Fam.*, 56 P.3d 1224, 1231 (Colo.
14 App. 2002) (holding that “because the only duty a contracting party owes is to perform the
15 contract according to its terms, a contracting party has no independent duty not to conspire to
16 breach its own contract.”)

17 Here, Mr. Seibel’s claim is, at its base, an allegation that Mr. Ramsay tortiously interfered
18 with his own contract, the Development Agreement, by allegedly encouraging Planet Hollywood
19 to deem Mr. Seibel “unsuitable” and by allegedly encouraging Planet Hollywood to exercise its
20 bargained-for termination rights. *Cf.* Am. Compl. at ¶89. Such a claim is not actionable, as it is
21 the law of this State that a party cannot interfere with (or “conspire to breach”) its own contract,
22 and Mr. Ramsay is indisputably a party to the Development Agreement. *See, e.g., Blanck*, 360
23 F.Supp.2d at 1154. Mr. Seibel’s claim fails as a matter of law.

24 Even if such a claim were actionable, the Court agrees with Mr. Ramsay that the record
25 lacks any evidence of an overt, “wrongful” act by Mr. Ramsay in furtherance of the alleged
26 “conspiracy.” The Court has found that no action of Mr. Ramsay breached the Development
27 Agreement. Mr. Ramsay had no obligation, express or implied, to communicate with (or refrain
28 from communicating with) Planet Hollywood with respect to its exercise of its sole and absolute

1 discretion to deem Mr. Seibel “unsuitable.” Moreover, Mr. Ramsay had no contractual role or
2 obligation with respect to Mr. Seibel’s request (just prior to his felony guilty plea and, again, after
3 his conviction was discovered) to transfer his membership interest in GRB to “The Seibel Family
4 2016 Trust.” Indeed, the approval of any assignment by a GRB member was not governed by the
5 Development Agreement, but by the express terms of GRB’s LLC Agreement, to which Mr.
6 Ramsay was not a party. It is undisputed that Mr. Seibel made his request to GRUS, not to Mr.
7 Ramsay, pursuant to the terms of GRB’s LLC Agreement. Again, in reviewing the plain language
8 of the agreements between the parties, the alleged actions (or non-actions) of Mr. Ramsay were
9 neither wrongful nor in furtherance of any wrongful act. No claim for civil conspiracy may lie
10 under such circumstances.

11 The Court finds that there is no genuine issue of material fact and that Mr. Ramsay is
12 entitled to judgment as a matter of law on the civil conspiracy claim pursuant to NRCP 56.

13 **VIII. Mr. Seibel’s “Additional Requests” for Equitable Relief**

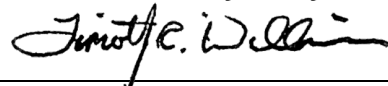
14 Mr. Ramsay moves for summary judgment as to Mr. Seibel’s “Additional Requests for
15 Relief” as set forth at paragraphs 93-123 of his Amended Complaint, on grounds that the results of
16 the Delaware Proceedings have rendered such requests for equitable relief “moot.” Mr. Seibel
17 agrees that his requests for equitable relief are moot and does not oppose summary judgment
18 thereon. Accordingly, the Court will grant the request for summary judgment on those requests.

19 Wherefore, based on the foregoing, **IT IS HEREBY ORDERED, ADJUDGED, AND**
20 **DECREED** that Gordon Ramsay’s Request for Judicial Notice is **GRANTED** in full, and Gordon
21 Ramsay’s Motion for Summary Judgment is **GRANTED** in full. Pursuant to Nevada Rule of
22 Civil Procedure 56, the Court hereby awards judgment as a matter of law in favor of Mr. Ramsay,
23 and against Mr. Seibel, on all of Mr. Seibel’s claims against Mr. Ramsay asserted in Mr. Seibel’s
24 First Amended Complaint.

25 **IT IS SO ORDERED.**

26 Dated: _____

Dated this 25th day of May, 2022



MH

1EA 5A2 2C7F D50A
Timothy C. Williams
District Court Judge

AA06908

Respectfully submitted by:

DATED May 25, 2022.

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq., Bar No. 11728
Wade Beavers, Esq., Bar No. 13451
7800 Rancharrah Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

Approved as to form and content by:

DATED May 25, 2022.

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED May 25, 2022.

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 5/25/2022

15 Robert Atkinson robert@nv-lawfirm.com

16 Kevin Sutehall ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." . lit@pisanellibice.com

18 "John Tennert, Esq." . jtennert@fclaw.com

19 Brittanie 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

24 Matt Wolf . mcw@cmlawnv.com

25 PB Lit . lit@pisanellibice.com

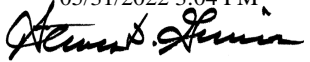
26
27
28
AA06910

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
6	Magali Mercera	mmm@pisanellibice.com
7	Cinda Towne	cct@pisanellibice.com
8	Daniel McNutt	drm@cmlawnv.com
9	Paul Sweeney	PSweeney@certilmanbalin.com
10	Litigation Paralegal	bknotices@nv-lawfirm.com
11	Shawna Braselton	sbraselton@fennemorelaw.com
12	Nathan Rugg	nathan.rugg@bfkn.com
13	Steven Chaiken	sbc@ag-ltd.com
14	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
15	Brett Schwartz	brett.schwartz@lsandspc.com
16	Doreen Loffredo	dloffredo@foxrothschild.com
17	Christine Gioe	christine.gioe@lsandspc.com
18	Mark Connot	mconnot@foxrothschild.com
19	Joshua Feldman	jfeldman@certilmanbalin.com
20	Nicole Milone	nmilone@certilmanbalin.com
21	Trey Pictum	trey@mcnuttlawfirm.com
22	Monice Campbell	monice@envision.legal
23	Karen Hippner	karen.hippner@lsandspc.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Lawrence Sharon	lawrence.sharon@lsandspc.com
Wade Beavers	wbeavers@fclaw.com
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
Sarah Hope	shope@fennemorelaw.com
John Tennert	jtennert@fennemorelaw.com

TAB 103


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLV, 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.

PHWLV, 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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION FOR SUMMARY
JUDGMENT NO. 2**

Date of Hearing: December 6, 2021

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

PHWLV, 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's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *for Summary Judgment No. 2* (the "MSJ No. 2"), filed on February 25, 2021, came before this Court for hearing on December 6, 2021, at 1:30 p.m.

AA06913

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), 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"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Alan Lebensfeld, of the law firm LEBENSFELD SHARON & SCHWARTZ P.C., appeared telephonically on behalf of The Original Homestead Restaurant.

The Court having considered MSJ No. 2, the opposition thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court HEREBY FINDS AS FOLLOWS:

1. Planet Hollywood and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. Nevada's gaming regulations provide that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

¹ Seibel, Green, and the Seibel-Affiliated Entities are collectively referred to herein as the "Seibel Parties."

1 3. Nevada gaming licensees are required to self-police and to act promptly if they learn
2 of derogatory information about their own operations or those of their business associates.

3 4. Caesars has established and operates an Ethics and Compliance Program (the
4 "Compliance Plan") requiring Caesars to maintain the highest standards of conduct and association
5 and guard its reputation to avoid even the slightest appearance of impropriety. To that end, Caesars
6 is further required to avoid questionable associations with Unsuitable Persons which could tarnish
7 Caesars' image, jeopardize its gaming licenses, or hamper its ability to expand into new markets.

8 5. Pursuant to Caesars' Compliance Plan, Caesars' vendors, suppliers, and business
9 partners, among others, must agree to abide by the same standards, business ethics, and principles
10 expected of Caesars' employees. To that end, Planet Hollywood includes clear and unambiguous
11 language in its contracts with third parties that puts all such parties on notice that Planet Hollywood
12 is in a highly regulated business and that such third parties must abide by gaming suitability
13 requirements.

14 6. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
15 Affiliated Entities relating to the development, creation, and operation of various restaurants in Las
16 Vegas and Atlantic City (the "Seibel Agreements").

17 7. Planet Hollywood, GRB (a Seibel-Affiliated Entity), and Gordon Ramsay, entered
18 into an agreement on or about December 2012 relating to the GR Burgr restaurant at Planet
19 Hollywood in Las Vegas (the "GRB Agreement"). Section 14.21 of the GRB Agreement
20 contemplated potential future restaurants but the parties did not agree on material terms regarding
21 future restaurants. Specifically, Section 14.21 provided that:

22 If [Planet Hollywood] elects to pursue any venture similar to the Restaurant
23 (*i.e.*, any venture generally in the nature of a burger centric or burger themed
24 restaurant), GRB shall, or shall cause an Affiliate to, execute a development,
25 operation and license agreement generally on the same terms and conditions as this
26 Agreement, subject only to revisions agreed to by the parties, including revisions
27 as are necessary to reflect the differences in such things as location, Project Costs,
28 Initial Capital Investment, Operating Expenses and the potential for Gross
Restaurant Sales between the Restaurant and such other venture and any resulting
Section 8.1 threshold adjustments

1 8. The GRB Agreement also contained representations, warranties, and conditions to
2 ensure that Planet Hollywood was not involved in a business relationship with an unsuitable
3 individual and/or entity.

4 9. Section 11.2 of the GRB Agreement provided, in pertinent part:

5 Each of Gordon Ramsay and GRB acknowledges that [Planet Hollywood] and PH's
6 Affiliates are businesses that are or may be subject to and exist because of
7 privileged licenses issued U.S., state, local and foreign governmental, regulatory
8 and administrative authorities, agencies, boards and officials (the "Gaming
9 Authorities") responsible for or involved in the administration of application of
10 laws, rules and regulations relating to gaming or gaming activities or the sale,
distribution and possession of alcoholic beverages. The Gaming Authorities require
PH, and [Planet Hollywood] deems it advisable, to have a compliance committee
(the "Compliance Committee") that does its own background checks on, and issues
approvals of, Persons involved with [Planet Hollywood] and its Affiliates.

11 10. Because issues of suitability affect Planet Hollywood's gaming license, Planet
12 Hollywood expressly contracted for the sole and absolute discretion to terminate the GRB
13 Agreement should GRB or its Affiliates — a term that includes Seibel — become an "Unsuitable
14 Person."

15 11. Specifically, Section 4.2.5 of the GRB Agreement provides that the "[a]greement
16 may be terminated by [Planet Hollywood] upon written notice to GRB and Gordon Ramsay having
17 immediate effect as contemplated by Section 11.2." In turn, Section 11.2 explicitly provides that
18 Planet Hollywood has the right, in its "sole and exclusive judgment," to determine that a GR
19 Associate is an Unsuitable Person under the Agreement.

20 12. Section 11.2 of the GRB Agreement further required that Gordon Ramsay and GRB
21 update their disclosures without Planet Hollywood prompting if anything became inaccurate or
22 material changes occurred. Specifically, the GRB Agreement required that prior to the execution of
23 the agreement and

24 on each anniversary of the Opening Date during the Term, (a) each of
25 Gordon Ramsay and GRB shall provide to PH written disclosure regarding
26 the GR Associates, and (b) the Compliance Committee shall have issued
27 approvals of the LLTQ Associates. Additionally, during the Term, on ten
28 (10) calendar days written request by PH to Gordon Ramsay and GRB,
Gordon Ramsay and GRB shall disclose to Caesars 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 disclosure without PH making any further request. Each of Gordon

Ramsay and GRB shall cause all GR Associates to provide all requested information and apply for and obtain all necessary approvals required or requested by PH or the Gaming Authorities.

13. Planet Hollywood did not waive, release, or modify the disclosure obligations for Ramsay or GRB.

14. In April 2016, Seibel pleaded guilty to one count of corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws because, in Seibel's own words, he was in fact guilty of the crime.

15. Prior to his guilty plea, and despite a January 2016 tolling agreement with the U.S. government entered into to allow Seibel "to manage his financial affairs in an optimal way prior to entering a guilty plea," neither Seibel nor any of the Seibel-Affiliated Entities notified Planet Hollywood of any of the facts underlying the charges against him, or that Seibel planned to plead guilty to a felony. Seibel did not update any of the mandatory suitability disclosures.

16. Before news of Seibel's conviction became public, and one week prior to pleading guilty, Seibel attempted to assign his interest in GRB to The Seibel Family 2016 Trust (the "Trust"). In order to do so, Seibel needed GRUS, the other member of GRB, to consent to such an assignment. However, Seibel did not inform GRUS or Gordon Ramsay that the reason he sought to assign his interest was because he planned to plead guilty to a felony in the coming week. Ultimately, GRUS did not consent to the assignment.

17. On or about August 19, 2016, Seibel was sentenced for his crimes, served time in a federal penitentiary, and was required to pay fines and restitution, and perform community service. Following Seibel's sentencing, Planet Hollywood found out through news reports that Seibel pleaded guilty to a felony and was sentenced to serve time in federal prison as a result of his crimes.

18. After learning of Seibel's guilty plea and conviction, Planet Hollywood determined that Seibel was unsuitable pursuant to the GRB Agreement and applicable Nevada gaming laws and regulations.

19. After determining that Seibel was unsuitable, Planet Hollywood exercised its contractual right to terminate the GRB Agreement as it was expressly allowed to do under Section 11.2 after GRB did not disassociate from Seibel.

20. Upon discovering Seibel's unsuitability, Planet Hollywood self-reported and disclosed the information of Seibel's unsuitability to Nevada gaming regulators, including its termination of the GRB Agreement and disassociation with an unsuitable person.

21. The Nevada gaming regulators agreed with Planet Hollywood's actions, concluding that Planet Hollywood appropriately addressed the matter as the Nevada gaming regulators would expect from a gaming licensee.

22. After Planet Hollywood terminated the GRB Agreement, GRUS filed a petition for judicial dissolution on or about October 13, 2016, in the Court of Chancery of the State of Delaware.

23. On February 28, 2017, Seibel filed a complaint purportedly derivatively on behalf of GRB against Planet Hollywood and Ramsay for breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, and civil conspiracy.

24. On August 25, 2017, Caesars filed its complaint for declaratory relief against the Seibel-Affiliated Entities,² including GRB (the "DP Original Complaint").

25. On or about October 5, 2017, the Delaware court appointed a liquidating trustee to oversee the dissolution of GRB. Neither Caesars nor Ramsay were parties to the dissolution proceedings.

26. Following certain motion practice in this Court, Planet Hollywood and Ramsay raised concerns about Seibel's ability to act derivatively on behalf of GRB in light of the Delaware proceedings.

27. The Order Dissolving GR BURGR LLC & Appointing Liquidating Trustee, [hereinafter "Dissolution Order"], provides that the Trustee "shall have all powers generally available to a trustee, custodian, or receiver appointed pursuant to 6 *Del. C.* § 18-803,³ unless the

² GRB, TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), 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"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") are collectively referred to herein as the "Seibel-Affiliated Entities."

³ 6 *Del. C.* § 18-803 provides that "[u]pon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in § 18-203 of this title, the persons winding up

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."

28. The proposed trustee officially accepted appointment to represent GRB on December 13, 2017

29. After the Trustee was appointed, he requested an indefinite extension to respond to Caesars' complaint, but Caesars advised that it was unable to agree to an indefinite extension. Caesars offered to extend GRB's time to answer the complaint until February 15, 2018. The Trustee did not agree, and GRB failed to answer the complaint at that time.

30. On March 11, 2020, Caesars amended its complaint ("DP First Amended Complaint").

31. Despite serving the Trustee with a copy of the DP First Amended Complaint, the Trustee continued to refuse to participate in the litigation.

32. On April 6, 2020, a Report and Proposed Liquidation Plan for GRB was publicly filed in Delaware (the "GRB Report"). In the GRB Report, the GRB trustee identified claims not worth pursuing in the Nevada litigation, including claims related to (1) wrongful termination of the GRB Agreement; (2) breach of the implied covenant of good faith and fair dealing and the purported scheme to oust Seibel; and (3) breach of Section 14.21 of the GRB Agreement.

33. The Delaware court fully adopted the GRB Report on October 13, 2020.

34. On May 20, 2020, Caesars filed a notice of intent to take default against GRB. In response, the Trustee sent correspondence to this Court and the Delaware Court requesting that the courts "communicate and coordinate with each so that the proceedings in the two courts can be completed in an orderly fashion without the possibility of inconsistent adjudications relating to GRB." The trustee further stated that "GRB has never appeared in the Nevada litigation," "GRB has no discovery to offer," GRB has no assets to defend itself or to retain counsel to respond to a

the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal or administrative"

1 default motion, and that the Delaware action should be allowed to proceed before actions are taken
2 against GRB in Nevada.

3 35. At the risk of default, and after almost three years of litigation, on June 9, 2020,
4 GRB filed a notice of appearance of counsel in this Court.

5 36. On June 19, 2020, GRB filed an answer to the DP First Amended Complaint.

6 37. On July 24, 2020, GRB served its initial disclosures, disclosing that (1) GRB has no
7 witnesses; (2) GRB has no documents to produce; and (3) "GRB asserts no affirmative claims on
8 its own behalf."

9 38. GRB never attended depositions and repeatedly refused to engage in discovery.

10 CONCLUSIONS OF LAW

11 1. Pursuant to Nevada law, summary judgment is appropriate and shall be rendered
12 when the pleadings and other evidence on file demonstrate that no genuine issue as to any material
13 fact remains and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*,
14 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCP 56(c). "The substantive law controls which
15 factual disputes are material," not the party opposing summary judgment. *Wood*, 121 Nev. at 731,
16 121 P.3d at 1031. Further, while all facts and evidence must be viewed in the light most favorable
17 to the non-moving party, the opposing party may not build its case on the "gossamer threads of
18 whimsy, speculation and conjecture." *Id.* at 731, 121 P.3d at 1030 (footnote and citations omitted).

19 2. "To successfully oppose a motion for summary judgment, the non-moving party
20 must show specific facts, rather than general allegations and conclusions, presenting a genuine issue
21 of material fact for trial." *LaMantia v. Redisi*, 118 Nev. 27, 29, 38 P.2d 877, 879 (2002). "The party
22 opposing summary judgment must be able to point to specific facts showing that there is a genuine
23 issue for trial." *Michael v. Sudeck*, 107 Nev. 332, 334, 810 P.2d 1212, 1213 (1981).

24 3. "The purpose of summary judgment is to avoid a needless trial when an appropriate
25 showing is made in advance that there is no genuine issue of fact to be tried, and the movant is
26 entitled to judgment as a matter of law." *McDonald v. D. Alexander & Las Vegas Boulevard, LLC*,
27 121 Nev. 812, 815, 123 P. 3d 748, 750 (2005) (internal quotations omitted).

1 4. Judicial admissions are defined as "deliberate, clear, unequivocal statements by a
2 party about a concrete fact within that party's knowledge." *Reyburn Lawn & Landscape Designers,*
3 *Inc. v. Plaster Dev. Co.*, 127 Nev. 331, 343, 255 P.3d 268, 276 (2011). They have "the effect of
4 withdrawing a fact from issue and dispensing wholly with the need for proof of the fact." *In re*
5 *Barker*, 839 F.3d 1189, 1195 (9th Cir. 2016) (quoting *Am. Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d
6 224, 226 (9th Cir. 1988)). "What constitutes a judicial admission should be determined by the
7 circumstances of each case and evaluated in relation to the other testimony presented in order to
8 prevent disposing of a case based on an unintended statement made by a nervous party." *Reyburn*,
9 127 Nev. at 343, 255 P.3d at 276.

10 5. "Judicial admissions are 'conclusively binding on the party who made them.'" *Id.*
11 (quoting *Am. Title*, 861 F.2d at 226).

12 6. "[S]tatements of fact contained in a brief may be considered admissions of the party
13 in the discretion of the district court." *Am. Title*, 861 F.2d at 227. "For purposes of summary
14 judgment, the courts have treated representations of counsel in a brief as admissions even though
15 not contained in a pleading or affidavit." *Id.* at 226.

16 7. Additionally, NRS 51.035(3), provides an exception to hearsay where a statement
17 being offered against a party is:

- 18 a. The party's own statement, in either the party's individual or a
19 representative capacity;
- 20 b. A statement of which the party has manifested adoption or belief in
21 its truth;
- 22 c. A statement by a person authorized by the party to make a statement
23 concerning the subject;
- 24 d. A statement by the party's agent or servant concerning a matter
25 within the scope of the party's agency or employment, made before
26 the termination of the relationship; or
- 27 e. A statement by a coconspirator of a party during the course and in
28 furtherance of the conspiracy.

26 8. Courts "construe unambiguous contracts . . . according to their plain language."
27 *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 487–88, 117 P.3d 219, 223–24 (2005).

28 9. Here, GRB admitted that it has no affirmative claims in its initial disclosures.

1 10. In the GRB Report, the GRB trustee (*i.e.*, GRB's authorized agent) recognized that
2 GRB's claims for breach of contract related to Caesars' proper and contractually authorized
3 termination of the GRB Agreement, breach of the implied covenant of good faith and fair dealing,
4 civil conspiracy, and breach of Section 14.21 of the GRB Agreement are "not worth pursuing."

5 11. Pursuant to Section 4.2.5, which governs termination resulting from unsuitability,
6 the GRB "Agreement may be terminated by [Planet Hollywood] upon written notice to GRB and
7 Gordon Ramsay having immediate effect as contemplated by Section 11.2."

8 12. Pursuant to Section 11.2, Caesars is granted the express right to determine whether
9 a GR Associate is an Unsuitable Person, and whether the GRB Agreement must be terminated in
10 its "sole discretion."

11 13. Planet Hollywood's determination that GRB was unsuitable based on Seibel's
12 admitted criminal activities, felony conviction of engaging in corrupt endeavor to obstruct and
13 impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and sentence to
14 serve prison time for the same, was within Planet Hollywood's sole discretion under the
15 GRB Agreement.

16 14. Seibel purported to "cure" the unsuitability through the creation of new entities, but
17 Seibel secretly continued to hold both a beneficial and actual ownership interest in the new entities.
18 However, the GRB Agreement (1) does not provide Seibel or GRB with an opportunity to cure; (2)
19 nor does it provide Seibel or GRB with a unilateral right to sell Seibel's interests to a third party.

20 15. Even if the GRB provided Seibel or GRB with a right to cure his unsuitability, which
21 the Court finds it did not, Seibel and GRB forfeited any such right through the fraudulent cure
22 scheme and Seibel's continued association with the Seibel-Affiliated Entities.

23 16. Further, the GRB trustee agreed that "Caesars likely had the right to terminate the
24 [GRB] Agreement because, in the Court's words, the situation is one of Seibel's 'own making" and
25 "Caesars validly exercised its bargained-for discretion and Seibel's claim for the improper
26 termination of the [GRB] Agreement is not likely to survive summary judgment."
27
28

1 17. GRB's admissions and contractual analysis, and this Court's prior rulings⁴ support
2 an order granting Planet Hollywood summary judgment on GRB's claim for breach of contract.

3 18. The covenant of good faith and fair dealing does not call for a different result.

4 19. An implied covenant of good faith and fair dealing exists in every Nevada contract
5 and essentially forbids arbitrary, unfair acts by one party that disadvantage the other. " *Frantz v.*
6 *Johnson*, 116 Nev. 455, 465, 999 P.2d 351, 358 (2000) (citing *Consol. Generator v. Cummins*
7 *Engine*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998).

8 20. "When one party performs a contract in a manner that is unfaithful to the purpose of
9 the contract and the justified expectations of the other party are thus denied, damages may be
10 awarded against the party who does not act in good faith." *Hilton Hotels Corp. v. Butch Lewis*
11 *Prods., Inc.*, 107 Nev. 226, 234, 808 P.2d 919, 923 (1991).

12 21. "Reasonable expectations are to be 'determined by the various factors and special
13 circumstances that shape these expectations.'" *Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335,
14 338 (1995) (quoting *Hilton*, 107 Nev. at 234, 808 P.2d at 924).

15 22. Moreover, "one generally cannot base a claim for breach of the implied covenant on
16 conduct authorized by the terms of the agreement." *Miller v. FiberLight, LLC*, 808 S.E.2d 75, 87
17 (Ga. App. Ct. 2017) (quoting *Dunlap v. State Farm Fire & Cas. Co.*, 878 A.2d 434, 441 (Del.
18 2005)); *see also Vitek v. Bank of Am., N.A.*, No. 8:13-CV-816-JLS ANX, 2014 WL 1042397, at *5
19 (C.D. Cal. Jan. 23, 2014) (citation omitted) ("In general, acting in accordance with an express
20 contractual provision does not amount to bad faith.").

21 23. In other words, 'a party does not act in bad faith by relying on contract provisions
22 for which that party bargained where doing so simply limits advantages to another party.'" *Miller*,

23
24
25 ⁴ The Court granted in part and denied in part Planet Hollywood's Motion to Dismiss claims
26 brought by Seibel on behalf of GRB stating that Seibel "failed to plead facts sufficient to support a
27 breach of contract claim against Planet Hollywood for: (1) continuing to do business with Ramsay;
28 (2) refusing to provide [GRB] with an opportunity to cure its affiliation with [Seibel]; and (3)
attempting and/or planning to operate a rebranded restaurant. The plain language of the [GRB
Agreement] precludes these claims as a matter of law. They must therefore be dismissed." (Order
Granting in Part and Denying in part Planet Hollywood's Mot. to Dismiss, June 15, 2017, on file.)

1 343 Ga. App. at 607–08, 808 S.E.2d at 87 (quoting *Alpha Balanced Fund, LLLP v. Irongate*
2 *Performance Fund, LLC*, 342 Ga. App. 93, 102–103 (1), 802 S.E.2d 357 (2017)).

3 24. Importantly, "when there is no factual basis for concluding that a defendant acted
4 in bad faith, a court may determine the issue of bad faith as a matter of law." *Tennier v. Wells Fargo*
5 *Bank, N.A.*, No. 3:14-CV-0035-LRH-VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting
6 *Andrew v. Century Sur. Co.*, No. 2:12-cv- 0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29,
7 2014)).

8 25. Planet Hollywood did not violate the covenant of good faith and fair dealing when
9 it terminated the GRB Agreement as a result of Seibel's unsuitability.

10 26. An actionable civil conspiracy 'consists of a combination of two or more persons
11 who, by some concerted action, intend to accomplish an unlawful objective for the purpose of
12 harming another, and damage resulting from the act or acts.'" *Consol. Generator-Nev., Inc. v.*
13 *Cummins Engine Co., Inc.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998) (quoting *Hilton*
14 *Hotels*, 109 Nev. at 1048, 862 P.2d at 1210). "Summary judgment is appropriate if there is no
15 evidence of an agreement or intent to harm the plaintiff." *Guilfoyle v. Olde Monmouth Stock*
16 *Transfer Co., Inc.*, 130 Nev. 801, 813, 335 P.3d 190, 199 (2014).

17 27. Here, GRB failed to present any evidence to support its claim for civil conspiracy.
18 Planet Hollywood complied with the express terms of the GRB Agreement when it determined that
19 Seibel was an Unsuitable Person, that the conduct was not subject to cure and terminated the GRB
20 Agreement. As a result, there was no unlawful objective upon which to anchor a conspiracy claim
21 and GRB's civil conspiracy claim fails as a matter of law.

22 28. It is also well settled under Nevada law, that "[a] valid contract cannot exist when
23 material terms are lacking or are insufficiently certain and definite." *May v. Anderson*, 121 Nev.
24 668, 672, 119 P.3d 1254, 1257 (2005). "An agreement to agree at a future time is nothing and will
25 not support an action for damages." *City of Reno v. Silver State Flying Serv., Inc.*, 84 Nev. 170,
26 176, 438 P.2d 257, 261 (1968) (internal quotation omitted).

27 29. Additionally, "[i]t cannot be doubted at this day, nor is it denied, that a contract will
28 not be enforced if it is against public policy, or that, if a part of the consideration of an entire contract

1 is illegal as against public policy or sound morals, the whole contract is void." *Gaston v. Drake*, 14
2 Nev. 175, 181 (1879).

3 30. Section 14.21 of the GRB Agreement has indefinite and open terms and thus is an
4 invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

5 31. Further, any future agreement with GRB would violate gaming laws and put Planet
6 Hollywood's gaming license in jeopardy, requiring Caesars to again terminate the agreement under
7 the terms of Section 11.2. The benefits of not requiring a gaming licensee to contract with an
8 Unsuitable Person clearly outweigh the benefits of enforcement, rendering Section 14.21
9 unenforceable.

10 32. The Court has inherent authority to dismiss claims for lack of prosecution. *Hunter*
11 *v. Gang*, 132 Nev. 249, 256, 377 P.3d 448, 453 (Nev. App. 2016) (citing *Harris v. Harris*, 65 Nev.
12 342, 345-50, 196 P.2d 402, 403-06 (1948)). "The element necessary to justify failure to prosecute
13 for lack of diligence on the part of the plaintiff, whether individually or through counsel." *Moore v.*
14 *Cherry*, 90 Nev. 930, 935, 528 P.2d 1018, 1021 (1974). Importantly, "[t]he duty rests upon the
15 plaintiff to use diligence and to expedite his case to a final determination." *Id.* at 395, 528 P.2d at
16 1022; *see also Raine v. Ennor*, 39 Nev. 365, 372, 158 P. 133, 134 (1916).

17 33. Summary judgment is further appropriate against GRB on all its claims based on
18 want of prosecution and/or the failure of GRB to actively prosecute its claims for relief for four (4)
19 years.

20 34. To prevail on a claim for fraudulent concealment, the plaintiff must show that: "(1)
21 the defendant concealed or suppressed a material fact; (2) the defendant was under a duty to disclose
22 the fact to the plaintiff; (3) the defendant intentionally concealed or suppressed the fact with the
23 intent to defraud the plaintiff; that is, the defendant concealed or suppressed the fact for the purpose
24 of inducing the plaintiff to act differently than she would have if she had known the fact; (4) the
25 plaintiff was unaware of the fact and would have acted differently if she had known of the concealed
26 or suppressed fact; (5) and, as a result of the concealment or suppression of the fact, the plaintiff
27 sustained damages." *Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1485, 970 P.2d 98, 109–10 (1998),
28

1 *abrogated on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11 (2001) (citing *Nev.*
2 *Power Co. v. Monsanto Co.*, 891 F. Supp. 1406, 1415 (D.Nev.1995)).

3 35. As discussed above, "an actionable civil conspiracy 'consists of a combination of
4 two or more persons who, by some concerted action, intend to accomplish an unlawful objective
5 for the purpose of harming another, and damage results from the act or acts.'" *Consol. Generator-*
6 *Nev., Inc. v. Cummins Engine Co., Inc.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998)
7 Importantly, "[a]ll conspirators need not be joined in an action to hold any of the conspirators liable,
8 because conspiracy results in joint and several liability." *Envirotech, Inc. v. Thomas*, 259 S.W.3d
9 577, 587 (Mo. Ct. App. 2008).

10 36. The express terms of the GRB Agreement required Seibel to disclose his criminal
11 activities and conviction and Seibel admits that he did not disclose his guilty plea or the criminal
12 conduct that led to it to Planet Hollywood. Summary judgment is thus appropriate for Planet
13 Hollywood on its fraudulent concealment counterclaim and civil conspiracy counterclaim against
14 Seibel based on Seibel's concealment of material facts regarding his federal prosecution and
15 conviction.

16 37. Planet Hollywood suffered damages as a result of Seibel's actions and the necessary
17 rebranding of the restaurant totaling \$168,781.00.

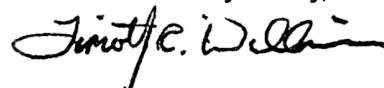
18 **ORDER**

19 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Caesars' MSJ No. 2
20 shall be, and hereby is, GRANTED in its entirety and that judgment is entered in favor of Caesars
21 and against GRB on all of GRB's claims.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is
23 entered in favor of Caesars and against Seibel on Caesars's fraudulent concealment counterclaim
24 and civil conspiracy counterclaim against Seibel in the amount of \$168,781 plus pre and post-
25 judgment interest.

26 IT IS SO ORDERED.

Dated this 31st day of May, 2022



D08 4B2 1DFF 6BFC
Timothy C. Williams
District Court Judge

AA06926

MH

Respectfully submitted by:

DATED May 25, 2022

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED May 25, 2022

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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,

Approved as to form and content by:

DATED May 25, 2022

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharra Parkway
Reno, NV 89511
Attorneys for Gordon Ramsay

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, May 25, 2022 4:36 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

You may, thanks

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 5:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Tuesday, April 26, 2022 2:03 PM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, May 25, 2022 2:44 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Alan Lebensfeld; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali,

You may affix my e-signature to both proposed orders.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 2:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 5/31/2022

15 Robert Atkinson robert@nv-lawfirm.com

16 Kevin Sutehall ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." . lit@pisanellibice.com

18 "John Tennert, Esq." . jtennert@fclaw.com

19 Brittanie 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

24 Matt Wolf . mcw@cmlawnv.com

25 PB Lit . lit@pisanellibice.com

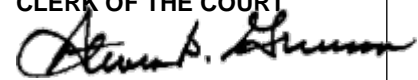
26
27
28
AA06930

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 104



1 **NEFF**

2 John D. Tennert III (SBN 11728)

3 Wade Beavers (SBN 13451)

4 Geenamarie Carucci (SBN 15393)

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@fennemorelaw.com

11 wbeavers@fennemorelaw.com

12 gcarucci@fennemorelaw.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: XVI

Consolidated with:

Case No: A-17-760537-B

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND ORDER GRANTING GORDON
RAMSAY'S MOTION FOR
SUMMARY JUDGMENT**

29 **TO: ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

30 Pursuant to Nevada Rule of Civil Procedure 58, please take notice that the Findings of
31 Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment

1 was entered on May 25, 2022, a copy of which is attached hereto as **Exhibit 1**.

2 DATED this 2nd day of June, 2022.

3 **FENNEMORE CRAIG, P.C.**

4 /s/ Geenamarie Carucci

5 John D. Tennert III (SBN 11728)

6 Wade Beavers (SBN 13451)

7 Geenamarie Carucci (SBN 15393)

8 FENNEMORE CRAIG, P.C.

9 7800 Rancharra Pkwy

10 Reno, Nevada 89511

11 Telephone: (775) 788-2200

12 Facsimile: (775) 786-1177

13 Email: jtennert@fennemorelaw.com

14 wbeavers@fennemorelaw.com

15 gcarucci@fennemorelaw.com

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, 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 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING GORDON RAMSAY'S MOTION FOR SUMMARY JUDGMENT 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.
NEWMYER & 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.
Brittnie 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; PHWLTV,
LLC; and Boardwalk Regency Corporation
d/b/a Caesars Atlantic City*

DATED: June 2, 2022.

/s/ Linda S. Bailey
An employee of FENNEMORE CRAIG, P.C.

TABLE OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Pages</u>
1	Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment	27

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

Attorneys for Defendant Gordon Ramsay

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;

Plaintiff,

vs.

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

Defendant,

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant.

AND ALL RELATED MATTERS.

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

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING GORDON
RAMSAY'S MOTION FOR
SUMMARY JUDGMENT**

Date of Hearing: January 20, 2022

Time of Hearing: 1:30 p.m.

On June 28, 2017, Rowen Seibel ("Mr. Seibel" or "Plaintiff"), filed his First Amended
Verified Complaint ("First Amended Complaint") alleging causes of action derivatively on behalf
of GR BURGR, LLC ("GRB") against Gordon Ramsay ("Mr. Ramsay"), for (1) breach of

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

1 contract; (2) contractual breach of the covenant of good faith and fair dealing; (3) unjust
2 enrichment; and (4) civil conspiracy. Mr. Seibel also sought, as “Additional Requests for Relief,”
3 specific performance and declaratory and injunctive relief. On February 25, 2021, Mr. Ramsay
4 filed his Motion for Summary Judgment (“Ramsay Motion”) seeking judgment as a matter of law
5 as to all of Mr. Seibel’s claims against him. On January 20, 2022, at 1:30 p.m., a hearing was held
6 in Department XVI of the above-captioned court before the Honorable Timothy C. Williams with
7 Joshua P. Gilmore and Paul C. Williams of the law firm of Bailey Kennedy present on behalf of
8 Mr. Seibel; MOTI Partners, LLC; MOTI Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ
9 Enterprises 16, LLC; TPOV Enterprises, LLC’ TPOV Enterprises 16, LLC; FERG, LLC; FERG
10 16, LLC; Craig Green; R Squared Global Solutions, LLC, derivatively on behalf of DNT
11 Acquisition, LLC; and GR Burgr, LLC; John D. Tennert III and Wade Beavers of the law firm of
12 Fennemore Craig, P.C., present on behalf of Mr. Ramsay; James J. Pisanelli and M. Magali
13 Mercera of the law firm of Pisanelli Bice PLLC present on behalf of PHWLTV, LLC (“Planet
14 Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC
15 (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC,” and
16 collectively, with Caesars Palace, Paris, and Planet Hollywood, “Caesars”); and Alan M.
17 Lebensfeld of the law firm of Lebensfeld, Sharon & Schwartz, P.C. present on behalf of the Old
18 Homestead Restaurant, Inc.

19 The Court, having reviewed the pleadings in this matter, as well as the Ramsay Motion,
20 Mr. Ramsay’s Appendix to Defendant Gordon Ramsay’s Motion for Summary Judgment
21 (“Ramsay Appendix”); Mr. Ramsay’s Request for Judicial Notice; Mr. Seibel’s Opposition to
22 Gordon Ramsay’s Motion for Summary Judgment (“Seibel Opposition”); Mr. Seibel’s “Appendix
23 of Exhibits to (1) the Development Entities and Rowen Seibel’s Opposition to Caesar’s Motion for
24 Summary Judgment No. 1; (2) Opposition to Caesars’s Motion for Summary Judgment No. 2; and
25 (3) Opposition to Gordon Ramsay’s Motion for Summary Judgment” (“Seibel Appendix”); Mr.
26 Seibel’s Objections to Evidence Offered by Gordon Ramsay in Support of His Motion for
27 Summary Judgment (“Objections to Evidence”); Mr. Ramsay’s Reply in Support of His Motion
28 for Summary Judgment (“Reply”); and Mr. 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; and being familiar with the other papers on file in this matter, having heard the arguments of counsel at hearing, and being otherwise duly advised, **FINDS** and **ORDERS** as follows:

I. Mr. Ramsay's Request for Judicial Notice

In Mr. Ramsay's February 26, 2021, Request for Judicial Notice, he asks that the Court take judicial notice pursuant to NRS 47.130 of the factual matters set forth in certain documents included in the Ramsay Appendix filed in support of his Motion for Summary Judgment. Specifically, Mr. Ramsay asks that the Court take judicial notice of the matters of fact set forth in Ramsay Appendix Exhibit 10, (Information filed April 18, 2016 [ECF No. 1]); Ramsay Appendix Exhibit 16 (Notice of Intent to File Information filed February 29, 2016 [ECF No. 1]); Ramsay Appendix Exhibit 17 (Plea Hearing Transcript filed April 25, 2016 [ECF No. 7]); Ramsay Appendix Exhibit 18 (Ltr. From R. Fink to Hon. J. Pauley filed August 5, 2016 [ECF No. 14]); Ramsay Appendix Exhibit 19 (Ltr. From R. Fink to Hon. J. Pauley filed August 16, 2016 [ECF No. 16]); and Ramsay Appendix Exhibit 20 (Sentencing Hearing Transcript filed September 13, 2016 [ECF No. 18]). Mr. Ramsay argues that each of the documents identified is a publicly-available filing or order entered in the criminal proceedings in the United States District Court in the Southern District of New York, captioned *United States v. Seibel*, case number 16-cr-00279-WHP, available to the public through the U.S. government's PACER website for court filings, and that their contents are capable of accurate and ready determination pursuant to NRS 47.130(2).

Mr. Ramsay further requests that the Court take judicial notice of the matters of fact set forth in the documents attached to the Declaration of Timothy Dudderar, Esq., submitted as Ramsay Appendix Exhibit 26, consisting of (1) Memorandum of Opinion dated August 25, 2017; (2) Order Dissolving GR BURGR, LLC and Appointing Liquidating Trustee dated October 25, 2017; (3) Appointment Order dated December 11, 2017; (4) Report and Proposed Liquidation Plan for GR BURGR, LLC (Public Version) dated March 30, 2020; and (5) Letter Opinion of Vice Chancellor Joseph R. Slights dated October 13, 2020. Mr. Ramsay argues that each of these documents is a publicly-available filing or order entered in the corporate dissolution proceedings

1 in the Delaware Court of Chancery, captioned *In re GR Burgr, LLC*, C.A. No. 12825-VCS. Mr.
2 Ramsay argues that the documents are presently available to the public through the online website
3 of the Delaware Court of Chancery, that their contents are capable of accurate and ready
4 determination pursuant to NRS 47.130(2), and that the dissolution proceedings are closely related
5 to the contractual relationships among GRB, Mr. Seibel, and Planet Hollywood in this case.

6 The Court has not received a written opposition from Mr. Seibel to Mr. Ramsay's Request
7 for Judicial Notice. Pursuant to this Court's local rules, "[f]ailure of the opposing party to serve
8 and file written opposition may be construed as an admission that the motion ...is meritorious and
9 a consent to granting the same." EDCR 2.20(e). Further, the Court agrees with Mr. Ramsay's
10 arguments set forth in Mr. Ramsay's Request for Judicial Notice.

11 The Court finds that the contents of the documents identified in Mr. Ramsay's Request for
12 Judicial Notice are the proper subject of judicial notice pursuant to NRS 47.130 to NRS 47.170,
13 and does take judicial notice of the contents of those documents for the purposes of ruling on Mr.
14 Ramsay's Motion for Summary Judgment.

15 II. Findings of Fact

16 1. Planet Hollywood operates a casino and resort in Las Vegas, the Planet Hollywood
17 Resort & Casino. Planet Hollywood and its affiliates (collectively "Caesars") are gaming entities
18 regulated by the State of Nevada.

19 2. Mr. Ramsay is a chef, businessperson, and media personality, who from time to
20 time lends his personal name and brand to restaurant ventures.

21 3. Mr. Seibel is the Plaintiff in this action and at all relevant times was a member and
22 manager of GRB.

23 4. In or around 2012, Mr. Seibel, Mr. Ramsay, and Planet Hollywood became
24 involved, in various capacities, in the development of a new restaurant venture to open inside the
25 Planet Hollywood Resort & Casino. The restaurant was to focus on serving hamburgers. The
26 restaurant was to be named BURGR Gordon Ramsay ("BURGR Restaurant"). The trademark
27 BURGR Gordon Ramsay was owned at all relevant times by GR US Licensing LP ("GRUS").
28

1 5. In connection with the formation of the restaurant, GRB was formed as a Delaware
2 limited liability company in October 2012 by Mr. Seibel and GRUS. The management of GRB
3 was governed by the Limited Liability Company Agreement of GR BURGR, LLC (“LLC
4 Agreement”). GRUS and Seibel each own a 50% membership interest in GRB. Mr. Ramsay is
5 not, personally, a member or manager of GRB.

6 6. Contemporaneous with the formation of GRB, GRB and GRUS entered into a
7 License Agreement (“GRUS License Agreement”) whereby GRUS conferred limited rights on
8 GRB to use or sublicense the trademark BURGR Gordon Ramsay. The GRUS License
9 Agreement clarified that GRUS and Mr. Ramsay “are in no way limited or restricted in using and
10 exploiting any other trademark or trade name that includes the name ‘Gordon Ramsay’ nor from
11 using the name Gordon Ramsay without limitation.” *See* Ramsay Appendix, Exhibit 5, GRUS
12 License Agreement, at §1.1.

13 7. GRB, Planet Hollywood, and Mr. Ramsay thereafter entered into a Development,
14 Operation and License Agreement dated December 2012 (“Development Agreement”). Under the
15 Development Agreement, GRB agreed to sublicense the BURGR Gordon Ramsay mark to Planet
16 Hollywood for use in connection with the BURGR Restaurant, and Planet Hollywood agreed to
17 pay to GRB a License Fee based on a percentage of gross sales from the BURGR Restaurant.

18 8. Section 11.2 of the Development Agreement provided, among other things, that:

19 Privileged License.....[I]f [Planet Hollywood] shall determine, in [Planet
20 Hollywood’s] sole and exclusive judgment, that any GR Associate is an
21 Unsuitable Person, then immediately following notice by [Planet Hollywood] to
22 Gordon Ramsay and GRB, (a) Gordon Ramsay and/or GRB shall terminate any
23 relationship with the Person who is the source of such issue, (b) Gordon Ramsay
24 and/or GRB shall cease the activity or relationship creating the issue to [Planet
25 Hollywood]’s satisfaction, in [Planet Hollywood]’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 [Planet Hollywood] in its sole discretion, [Planet
Hollywood] shall, without prejudice to any other rights or remedies of [Planet
Hollywood] including at law or in equity, have the right to terminate this
Agreement and its relationship with Gordon Ramsay and GRB.

26 *See* Ramsay Appendix, Exhibit 6, Development Agreement, at §11.2.

27 9. The Development Agreement defined “Unsuitable Person” at Section 1 thereof to
28 include any person “who is or might be engaged or about to be engaged in any activity which

1 could adversely impact the business or reputation of [Planet Hollywood] or its Affiliates.” *Id.* at
2 §1 (“Unsuitable Person” defined). Mr. Seibel, as a member and manager of GRB, was a “GR
3 Associate” as that term was defined in Section 2.2 of the Development Agreement.

4 10. Section 14.21 of the Development Agreement provided as follows:

5 Additional Restaurant Projects....If [Planet Hollywood] elects to pursue any
6 venture similar to the Restaurant (i.e., any venture generally in the nature of a
7 burger centric or burger themed restaurant), GRB shall, or shall cause an Affiliate
8 to, execute a development, operation and license agreement generally on the same
9 terms and conditions as this Agreement, subject only to revisions agreed to by the
parties, including revisions as are necessary to reflect the differences in such
things as location, Project Costs, Initial Capital Investment, Operating Expenses
and the potential for Gross Restaurant Sales between the Restaurant and such
other venture and any resulting Section 8.1 threshold adjustment.

10 See Ramsay Appendix, Exhibit 6, Development Agreement, at §14.21. The Development
11 Agreement defined the “Restaurant” as “a restaurant featuring primarily burger centric food and
12 beverages known as ‘BURGR Gordon Ramsay’” located on the premises at the Planet Hollywood
13 Hotel & Casino. See *id.* at Recital C (defining the “Restaurant”).

14 Unbeknownst to GRUS and Mr. Ramsay at the time of the Development Agreement, Mr.
15 Seibel had participated in an illegal scheme between 2004 and 2009 to conceal taxable income
16 from the IRS. According to Seibel’s Criminal Information, from 2004 to 2008, Seibel (and his
17 mother) deposited considerable sums into a numbered account that he maintained at Union Bank
18 of Switzerland (“UBS”) that, for an additional fee, concealed his identity from U.S. tax
19 authorities. See Ramsay Appendix, Exhibit 10, Information ¶¶ 4-7. Upon learning of a
20 government investigation into UBS’s efforts to help wealthy Americans evade taxes, Seibel took
21 the following actions to avoid detection: [1] he created a Panamanian shell company for himself,
22 [2] he traveled to Switzerland to close the UBS account, [3] he opened an account in the name of
23 the Panamanian shell company at another Swiss Bank, and [4] he deposited a \$900,000 check
24 from UBS into the new account. See *id.* ¶¶ 8-9. During this time Seibel filed tax returns that failed
25 to report his overseas income and falsely claimed that he did not have an interest or signatory
26 authority over a financial account in a foreign country. See *id.* ¶¶ 10-11.

27 In 2009, Seibel applied for amnesty under the IRS’s Voluntary Disclosure Program. See *id.*
28 ¶ 12. In furtherance of his scheme to defraud the United States Government, Seibel falsely stated

1 that he had been unaware, during the years 2004 and 2005, that his mother had made deposits into
2 the account. *See id.* ¶ 13. Seibel also represented that he had been unaware, until he made
3 inquiries of UBS in 2009, of the status of his account at UBS and had in fact over time reached
4 “the conclusion that deposits (into his UBS account) had been stolen or otherwise disappeared.”
5 *See id.* These statements were false. *See id.* Seibel did not disclose that he created a Panamanian
6 shell company, opened another Swiss account for his benefit, and deposited the funds he claimed
7 were “stolen” or “disappeared” into the account. *See id.*

8 11. At some time no later than 2013, Mr. Seibel became aware that he was the target of
9 a federal criminal investigation into his tax improprieties. Between 2015 and March of 2016, Mr.
10 Seibel was involved in discussions and negotiations with the United States Government relating to
11 his crimes. On April 18, 2016, Mr. Seibel pleaded guilty to a one-count criminal information
12 charging him with impeding the administration of the Internal Revenue Code relating to his
13 criminal conduct.

14 12. On or about April 11, 2016, Mr. Seibel sent a letter to GRUS requesting GRUS’
15 consent, pursuant to the terms of the LLC Agreement, to an assignment of Mr. Seibel’s
16 membership interest in GRB to “The Seibel Family 2016 Trust” and to accept Mr. Seibel’s
17 resignation as manager of GRB. Mr. Seibel did not explain in his letter the reason for the
18 requested assignment and resignation. On or about April 14, 2016, GRUS responded and
19 requested further information from Mr. Seibel about the proposed assignment. Mr. Seibel did not
20 respond to GRUS’ request for further information or provide GRUS with the requested
21 information.

22 13. On or about August 19, 2016, Judge William H. Pauley, III sentenced Mr. Seibel to
23 one month of imprisonment, six months of home detention, and 300 hours of community service,
24 and ordered restitution.

25 14. Mr. Ramsay first learned of Mr. Seibel’s felony conviction when it was reported in
26 the press in or around late August 2016.

27 15. Mr. Seibel alleges that on August 30, 2016, he sent a letter to Planet Hollywood
28 regarding his felony conviction and his intent to assign his interests in GRB to “The Seibel Family

2016 Trust.” In response, on September 2, 2016, Planet Hollywood informed Mr. Seibel that “The Seibel Family 2016 Trust” is not an acceptable assignee of his interests.

16. On September 2, 2016, Planet Hollywood’s counsel sent notice to GRB, Mr. Ramsay, and Mr. Seibel’s personal attorney stating that, in Planet Hollywood’s judgment, the conviction rendered Mr. Seibel an “Unsuitable Person” as that term is defined in the Development Agreement. Planet Hollywood demanded that GRB completely terminate any relationship with Mr. Seibel within ten days, and warned that if GRB failed to dissociate itself from Mr. Seibel, Planet Hollywood would terminate the Development Agreement.

17. On September 6, 2016, GRUS, as the 50% member of GRB, made a demand to Mr. Seibel that Mr. Seibel terminate his relationship with GRB. In response, on September 8, 2016, Mr. Seibel proposed to GRUS that he dissociate himself from GRB by transferring his membership interest to “The Seibel Family 2016 Trust.” Mr. Seibel made this request to GRUS notwithstanding the fact that Planet Hollywood had already informed him days earlier that “The Seibel Family 2016 Trust” is not an acceptable assignee.

18. On September 12, 2016, Planet Hollywood’s counsel confirmed to Mr. Seibel that Planet Hollywood had rejected Mr. Seibel’s proposed assignment to “The Seibel Family 2016 Trust” because it had determined, in its own judgment, that the proposed assignee and its associates would maintain an impermissible direct or indirect relationship with Mr. Seibel, thereby rendering the proposed assignee an “Unsuitable Person” under the Development Agreement.

19. In a letter dated September 12, 2016, GRUS renewed its demand to Mr. Seibel that Mr. Seibel completely disassociate from GRB to Caesars’ and Planet Hollywood’s satisfaction. Mr. Seibel did not dissociate from GRB. Mr. Seibel had the ability to voluntarily relinquish his interests in GRB and terminate his relationship with GRB, but Mr. Seibel refused. Mr. Ramsay did not prevent Mr. Seibel from dissociating from GRB.

20. On September 21, 2016, Planet Hollywood terminated the Development Agreement on grounds that GRB had failed to dissociate from Mr. Seibel, effectively ending the BURGR Restaurant enterprise. Neither Mr. Ramsay nor GRUS had any role in Planet Hollywood’s

1 suitability determination or Planet Hollywood's decision to terminate the Development
2 Agreement.

3 21. On September 22, 2016, GRUS sent a letter notice to GRB that it was terminating
4 the License Agreement between itself and GRB for use of the BURGR Gordon Ramsay mark. The
5 termination of the License Agreement was effective as of Planet Hollywood's September 21, 2016
6 termination of the Development Agreement.

7 22. In October 2016, GRUS commenced a proceeding for judicial dissolution of GRB
8 in the Delaware Court of Chancery on grounds of the shareholder deadlock between Mr. Seibel
9 and GRUS following Mr. Seibel's felony conviction. *See In re GR Burgr, LLC*, Delaware Court
10 of Chancery C.A. No. 12825-VCS. On August 25, 2017, the Delaware Court of Chancery granted
11 a dispositive motion by GRUS and dissolved GRB. *See In re: GR BURGR, LLC*, 2017 WL
12 3669511, at *7 ("While the working relationship between the parties [GRUS and Siebel] arguably
13 had broken down prior to Seibel's felony conviction in 2016 ... whatever deadlock may have
14 arisen prior to Seibel's conviction solidified to igneous rock thereafter.") In dissolving GRB, the
15 Delaware Court noted that Mr. Seibel has no right to interfere with Mr. Ramsay's ability to engage
16 "in some other burger venture that uses his name and likeness to capitalize on the celebrity and
17 status Ramsay has spent his career building." *Id.* at, *11. The Delaware Court held:

18 Seibel cannot reasonably expect that this court would indefinitely lock Ramsay in a
19 failed joint venture and thereby preclude him from ever engaging in a business that
20 bears resemblance to GRB—a restaurant business that exploits Ramsay's celebrity
21 to sell one of the most popular and beloved food preparations in all of history. Any
22 such result would be the antithesis of equitable.

22 *Id.* This Court agrees.

23 23. In February 2017, Planet Hollywood entered into a new contract to open a new
24 restaurant at the Planet Hollywood Hotel & Casino called "Gordon Ramsay Burger" (the "New
25 Restaurant"). Mr. Ramsay has licensed his personal name for use in connection with the New
26 Restaurant. The New Restaurant does not use the "BURGR Gordon Ramsay" mark or the
27 "BURGR" mark.
28

24. Mr. Ramsay has not personally received payments from Planet Hollywood for the operations of the BURGR Restaurant or the New Restaurant, and Mr. Seibel has cited no evidence that Mr. Ramsay has otherwise received any direct (or even indirect) financial benefit from the operations of the New Restaurant.

25. Mr. Seibel initiated this matter by filing his Complaint on February 28, 2017, wherein he purported to assert various claims against Mr. Ramsay (as well as other claims) derivatively on behalf of GRB. Mr. Seibel filed his First Amended Verified Complaint on June 28, 2017, in which he again purported to assert derivative claims on behalf of GRB against Mr. Ramsay.

26. On March 8, 2021, the Delaware Court of Chancery issued an *Order Regarding Liquidating Receiver's Report and Recommendation* in the Delaware Proceedings, whereby it judicially assigned the derivative claims Mr. Seibel asserted on GRB's behalf in this proceeding against Mr. Ramsay to Mr. Seibel, personally, to pursue "directly on his own behalf as assignee of GRB (which entity shall be cancelled...) with all right, title, and interests in and to the [claims] held by GRB being hereby assigned and transferred to Seibel." *See* Seibel Appendix, Exhibit 525, Mar. 8, 2021 Order. The Delaware Order further provided "to the extent Seibel hereinafter pursues [the claims], he shall do so entirely at his own costs." *Id.* Thus, Mr. Seibel, as assignee, personally stepped into the shoes of GRB to pursue the damages claims arising out of or relating to the enforcement of the terms of the GRB Agreement. *See* Substitution of Attorneys for GR Burgr, LLC (filed March 17, 2021).

27. As of March 17, 2021, GRB was cancelled pursuant to a Certificate of Cancellation of Certificate of Formation filed by the Liquidating Trustee of GRB with the Secretary of State of Delaware. *See id.* GRB no longer exists.

III. Legal Standard

Pursuant to Nevada Rule of Civil Procedure ("NRC") 56(a), the court shall grant summary judgment on a claim if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to summary judgment as a matter of law. "A genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for

1 the non-moving party.” *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441-42
2 (1993). When reviewing a motion for summary judgment, the evidence, and any reasonable
3 inferences drawn from it, must be viewed in a light most favorable to the nonmoving party. *Wood*
4 *v. Safeway*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). When a motion for summary
5 judgment is made and supported as required by NRCP 56, the nonmoving party may not rest upon
6 general allegations and conclusions, but must, by affidavit or otherwise, set forth specific facts
7 demonstrating the existence of a genuine factual issue. *Pegasus v. Reno Newspapers, Inc.*, 118
8 Nev. 706, 713-714, 57 P.3d 82, 87 (2002).

9 IV. Mr. Seibel’s Claim For Breach of Contract

10 Mr. Ramsay moves for summary judgment on Mr. Seibel’s First Cause of Action for
11 “Breaches of Contract” as set forth in the First Amended Complaint. Mr. Seibel brings his claim
12 for breach of contract against Mr. Ramsay in his own name as GRB’s assignee. He has alleged
13 that Mr. Ramsay breached the Development Agreement in a number of ways, including by,
14 according to Mr. Seibel, continuing to do business with Planet Hollywood by participating in the
15 operation of the New Restaurant; utilizing intellectual property of GRB in connection with the
16 New Restaurant; “failing to enter into a separate written agreement with GRB or an affiliate”
17 concerning the New Restaurant, “continuing to operate the Restaurant beyond the wind-up
18 deadline in the Development Agreement”; and “[r]eceiving, directly or indirectly, monies intended
19 for and owed to GRB under the Development Agreement.” *See* Am. Compl. at ¶71. Mr. Seibel
20 argues more specifically that the alleged acts by Mr. Ramsay breached Section 14.21 of the
21 Development Agreement, related to “Additional Restaurant Projects,” and Section 4.3.2 of the
22 Development Agreement, related to “Certain Rights of [Planet Hollywood] Upon Expiration or
23 Termination.” *See* Ramsay Appendix, Exhibit 6, §§4.3.3; 14.21.

24 Mr. Ramsay argues that summary judgment is appropriate because (a) he owed no
25 contractual duties to GRB under the Development Agreement; (b) he did not accept or receive
26 monies from Planet Hollywood that were owed to GRB; (c) the Development Agreement does not
27 prohibit Mr. Ramsay from doing future business deals with Planet Hollywood following
28 termination of the Development Agreement; (d) Mr. Ramsay is not using any “intellectual

property” of GRB, nor would his use of any such “intellectual property” be restricted by any express term of the Development Agreement; (e) Mr. Ramsay had no post-termination obligations with respect to a “wind-up” period; (f) Section 14.21 of the Development Agreement is an unenforceable agreement to agree; (g) Section 14.21 of the Development Agreement does not prohibit Mr. Ramsay from participating in the New Restaurant; and (h) enforcement of Section 14.21 of the Development Agreement was rendered impossible by GRB’s dissolution.

The Development Agreement contains a Nevada choice-of-law provision and none of the parties dispute that the validity, construction, performance and effect of the Development Agreement is governed by Nevada law. *See also* Ramsay Appendix at Ex. 6, Development Agreement, § 14.10.1. To survive summary judgment on his claim for breach of the Development Agreement under Nevada law, Mr. Seibel is required to show a genuine issue for trial as to each of the following elements: (1) the existence of a valid contract, (2) that GRB performed the contract or was excused from performance, (3) that Mr. Ramsay failed to perform the contract, and (4) that GRB suffered economic damages as a result of Mr. Ramsay’s alleged breach. *See State Dep’t of Transp. v. Eighth Jud. Dist. Ct.*, 133 Nev. 549, 554, 402 P.3d 677, 682 (2017).

“Breach of contract is the material failure to perform a duty arising under or imposed by agreement.” *Id.* (internal quotation marks omitted). “Contracts will be construed from the written language and enforced as written” and a court cannot “interpolate in a contract what the contract does not contain.” *Id.* (internal quotation marks omitted). “[W]hen a contract is clear, unambiguous, and complete, its terms must be given their plain meaning and the contract must be enforced as written; the court may not admit other evidence of the parties’ intent because the contract expresses their intent.” *Ringle v. Bruton*, 120 Nev. 82, 93, 86 P.3d 1032 (2004). Contract construction is a question of law and therefore “suitable for determination by summary judgment.” *Ellison v. California State Auto. Ass’n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990).

As a threshold matter, the Court finds that while Mr. Ramsay is a party to the Development Agreement, his obligations thereunder are limited to those expressly set forth in the contract’s express language. The plain and unambiguous recitals to the Development Agreement state that Mr. Ramsay is a party to the Development Agreement “to the limited extent specifically provided

therein.” *See* Ramsay Appendix at Ex. 6, Development Agreement, Recitals. The Development Agreement imposes on Mr. Ramsay certain express obligations to provide consulting services, to permit the use of his personal name, and to make personal appearances in connection with the BURGR Restaurant. Mr. Ramsay’s limited obligations to Planet Hollywood are identified at Section 3.4.1, 7.1, and 7.2, as follows:

- 3.4.1 Menu Development. “Gordon Ramsay or members of his team shall develop the initial food and beverage menus of the Restaurant, the recipes for the same, and thereafter, Gordon Ramsay or members of his team shall revise the food and beverage menus of the Restaurant, and the recipes for same (the ‘Menu Development Services’).”
- 7.1 Initial Promotion. “During the period prior to the Opening Date, Gordon Ramsay shall, as reasonably required by PH ... engage in promotional activities for the Restaurant....” Ramsay agreed to visit the Restaurant before the Opening Date (“GR Promotional Visits”).
- 7.3 Subsequent Restaurant Visits. After the Opening Date, Ramsay agreed to visit the Restaurant for promotion purposes (“GR Restaurant Visits”).

See id. at §§ 3.4.1, 7.1, 7.2.

These are Mr. Ramsay’s only obligations under the Development Agreement. Absent from the plain language of the Development Agreement is any contractual obligation running from Mr. Ramsay, personally, to GRB, or any representation or warranty made by Mr. Ramsay to GRB.

The Court also finds that Section 14.21 of the Development Agreement—relied on by Mr. Seibel—is void and unenforceable as “an agreement to agree in the future.” “An agreement to agree at a future time is nothing and will not support an action for damages.” *City of Reno v. Silver State Flying Serv.*, 84 Nev. 170, 176, 438 P.2d 257, 261 (1968). “An agreement to agree on contract terms at a later date is not a binding contract in Nevada.” *Diamond Elec. Inc. v. Pace Pac. Corp.*, 346 Fed. App’x 186, 187 (9th Cir. 2009). The Court agrees with Mr. Ramsay that the plain language of Section 14.21 lacks any of the definite terms of a binding agreement, but instead leaves all material terms of any future, similar restaurant that Planet Hollywood may pursue open to further negotiation. The parties’ intent that the contract not bind them to a specific set of terms in the future is clear from the plain text stating that material terms of a future project, if any, must be “agreed to by the parties.” *See* Ramsay Appendix at Ex. 6, Development Agreement, §14.21. This void provision is separate and severable from the remainder of the Development Agreement

1 pursuant to Section 14.7 of the Development Agreement. *See id.* at §14.7 (“Severability”).
2 Because Section 14.21 is unenforceable as a binding contractual provision, all of Mr. Seibel’s
3 arguments predicated on that clause fail as a matter of law.

4 Moreover, even if Section 14.21 of the Development Agreement were enforceable, nothing
5 in its plain language imposes any obligation whatsoever on Mr. Ramsay. If anything, the plain
6 and unambiguous language of the provision compels GRB, (not Mr. Ramsay or Planet Hollywood
7 or any other party) to take certain actions in the event Planet Hollywood “elects to pursue any
8 venture similar to the” BURGR Restaurant. Mr. Ramsay, a party to the Development Agreement
9 to the limited extent specifically provided therein, is not subject to a claim for breach of Section
10 14.21 of the Development Agreement.

11 Mr. Seibel also argues that Mr. Ramsay breached Section 4.3.2(e) of the Development
12 Agreement by allegedly using protected intellectual property of GRB in connection with the New
13 Restaurant. The Court need not consider whether Mr. Seibel has submitted competent evidence of
14 the existence of such intellectual property or its use (by Mr. Ramsay or others) in connection with
15 the New Restaurant, as the Court agrees with Mr. Ramsay that Section 4.3.2(e) does not impose
16 any obligations on Mr. Ramsay to take any action or to refrain from taking any action whatsoever.
17 *See Kaldi v. Farmers Ins. Exch.*, 117 Nev. 273, 281, 21 P.3d 16, 21 (2001) (courts are “not free to
18 modify or vary the terms of an unambiguous agreement.”). Similarly, the Court agrees with Mr.
19 Ramsay that the plain language of the Development Agreement does not impose any specific
20 obligations on Mr. Ramsay with respect to the “wind-up” of the BURGR Restaurant described at
21 Section 4.3.2(a) of the Development Agreement.

22 Mr. Seibel cites no other provision of the Development Agreement that would supposedly
23 prevent Mr. Ramsay from doing any type of business with Planet Hollywood following Planet
24 Hollywood’s termination of the Development Agreement, including that Mr. Seibel offers no
25 contractual provision that should prevent Mr. Ramsay from permitting the use of his name in
26 connection with the operation of the New Restaurant. The Court finds that GRB has no rights to
27 Gordon Ramsay’s personal name, which only he (and not GRB) controls. As Mr. Seibel’s counsel
28 conceded at hearing, Mr. Seibel does not argue that there is any legal basis to prevent Mr. Ramsay

1 from engaging in a restaurant business exploiting his celebrity that bears a resemblance to GRB's
2 operation. *See* Tr. of Proceedings, 1/20/22; *Gordon Ramsay's Motion for Summary Judgment* at
3 32:4-16. Accordingly, Mr. Seibel's claims that Mr. Ramsay has breached the Development
4 Agreement by participating in the operation of the New Restaurant, doing business with Planet
5 Hollywood on a new venture without including GRB, "using" any alleged intellectual property of
6 GRB after termination of the Development Agreement, or failing to "wind up" the BURGR
7 Restaurant after termination of the Development Agreement fail. The Court finds that there is no
8 genuine issue of material fact and that Mr. Ramsay is entitled to judgment as a matter of law on
9 the breach of contract claim pursuant to NRCP 56.¹

10 **V. Mr. Seibel's Claim For Breach of the Covenant of Good Faith and Fair Dealing**

11 Mr. Ramsay moved for summary judgment on Mr. Seibel's Second Cause of Action for
12 "Contractual Breach of the Implied Covenant of Good Faith and Fair Dealing" as set forth in the
13 First Amended Complaint. Mr. Seibel brings his claim for contractual breach of the implied
14 covenant of good faith and fair dealing in his own name as GRB's assignee. He has alleged that
15 Mr. Ramsay breached the implied covenant of good faith and fair dealing in the Development
16 Agreement in a number of ways, including by, according to Mr. Seibel, "[p]ursuing an arbitrary,
17 capricious, and bad faith scheme with [Planet Hollywood] to oust Seibel and GRB from the
18 [BURGR] Restaurant to increase the profits of himself or an affiliate"; "[e]nticing and
19 encouraging [Planet Hollywood] to breach its contractual obligations to GRB"; "[r]efusing to
20 allow assignments related to GRB to damage and harm GRB's contractual rights"; "[w]rongfully
21 representing to [Planet Hollywood] that Seibel is an unsuitable person and that his affiliation with
22 GRB cannot be cured"; and "[c]laiming Nevada gaming law and authorities would prohibit [Planet
23 Hollywood] from paying any monies to GRB or from allowing Seibel to assign his interest in
24 GRB to The Seibel Family 2016 Trust...."² *See* Am. Compl. at ¶77.

25
26 ¹ To the extent Mr. Seibel has alleged or argued any other supposed conduct by Mr. Ramsay that
27 Mr. Seibel claims has breached the Development Agreement—including Mr. Seibel's
28 allegations that Mr. Ramsay received "monies intended for and owed to GRB under the
Development Agreement"—the Court has considered the record and the plain and unambiguous
contract provisions at issue and finds that no reasonable jury could return a verdict in Mr.
Seibel's favor on such claims, and therefore summary judgment is appropriate.

² To the extent Mr. Seibel has alleged other conduct in support of his claim for breach of the

1 Mr. Ramsay argues that summary judgment is appropriate because Mr. Seibel's claim is
2 essentially a recast argument that Planet Hollywood improperly terminated the Development
3 Agreement after deeming him an "Unsuitable Person." Mr. Ramsay notes the unambiguous
4 language of the Development Agreement provides that Planet Hollywood had "sole and exclusive"
5 discretion to determine "unsuitability" and to terminate the Development Agreement as it saw fit,
6 and that Mr. Ramsay had no contractual or other role in Planet Hollywood's determination. Mr.
7 Ramsay further argues that the Development Agreement imposes no obligation on Mr. Ramsay to
8 assist Mr. Seibel with his attempt to transfer his interest in GRB to his family trust. This Court
9 agrees.

10 The Court will apply Nevada law to this claim based on the choice of law provision in the
11 Development Agreement. *See* Ramsay Appendix, Ex. 6, Development Agreement, § 14.10.1.
12 Under Nevada law, a contractual breach of the implied covenant of good faith and fair dealing
13 may occur where "one party performs a contract in a manner that is unfaithful to the purpose of
14 the contract and the justified expectations of the other party are thus denied." *Hilton Hotels Corp.*
15 *v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 234, 808 P.2d 919, 923 (1991). This claim lies only
16 "[w]here the terms of a contract are literally complied with but one party to the contract
17 deliberately contravenes the intention and spirit of the contract." *Id.* The "implication" of the
18 covenant of good faith and fair dealing arises from a concern for advancing the "intention and
19 spirit" of the contracting parties. *Id.*

20 The implied covenant may not be used to imply a term that is contradicted by an express
21 term of the contract. *See, e.g., Kucharyk v. Regents of Univ.y of Cal.*, 946 F. Supp. 1419, 1432
22 (N.D. Cal. 1996) (applying California law); *see also, e.g., Sessions, Inc. v. Morton*, 491 F.2d 854,
23 857-858 (9th Cir. 1974) ("This covenant of good faith and fair dealing imposes a duty on each
24

25 implied covenant of good faith and fair dealing in the Development Agreement that is
26 duplicative of conduct he has alleged constitutes a breach of the Development Agreement, such
27 conduct cannot serve as the basis for a claim for breach of the implied covenant, and summary
28 judgment is appropriate as to such claims. *Cf. Am. Compl. at ¶71, ¶77; see also Ruggieri v.*
Hartford Ins. Co. of the Midwest, Case No. 2:13-cv-00071-GMN-GWF, 2013 WL 2896967 at
*3 (D. Nev. June 12, 2013) ("[A]llegations that a defendant violated the actual terms of a
contract are incongruent with [a claim for breach of the implied covenant of good faith and fair
dealing] and insufficient to maintain a claim.").

1 party to do everything that the contract presupposes will be done in order to accomplish the
2 purpose of the contract. However, this implied obligation must arise from the language used or it
3 must be indispensable to effectuate the intention of the parties.”) (internal quotations omitted); *see*
4 *also, Restatement (Second) of Contracts* § 205 (1981).

5 As noted above the intention and spirit of the contracting parties to the Development
6 Agreement is demonstrated by the express language they chose to include in their contract. *See,*
7 *e.g., Ringle*, 120 Nev. at 93, 86 P.3d at 1039. Here, the intention and spirit of the parties, as
8 evidenced by the contractual language, afforded Planet Hollywood the “sole and exclusive
9 judgment” to deem Mr. Seibel unsuitable under these circumstances, to reject his proposed
10 “dissociation” from GRB by transfer of his membership interest to his family trust, and to
11 terminate the Development Agreement upon GRB’s failure to timely comply with Planet
12 Hollywood’s demands to terminate its relationship with Mr. Seibel. *See* Ramsay Appendix at Ex.
13 6, Development Agreement at 25-26, § 11.1, 11.2. Similarly, the parties expressed their intention
14 in the plain language of the Development Agreement that Mr. Ramsay’s obligations would be
15 “limited” to those “specifically provided” in the Development Agreement. *See, e.g.,* Ramsay
16 Appendix, Exhibit 6, Development Agreement at Recitals.

17 To hold that Mr. Ramsay should have an implied obligation to intervene in Planet
18 Hollywood’s suitability determination as to Mr. Seibel, or to lobby on Mr. Seibel’s behalf for the
19 benefit of GRB, as Mr. Seibel appears to suggest, would be to imply terms into the Development
20 Agreement that contradict its express terms, which the Court cannot do. The Court finds that Mr.
21 Ramsay had no obligation to take, or to refrain from taking, any particular action with respect to
22 Planet Hollywood’s unsuitability determination or demand for dissociation to GRB.

23 Mr. Ramsay also had no express or implied contractual obligation to approve Mr. Seibel’s
24 proposed transfer of his interest in GRB to Mr. Seibel’s family trust, or to somehow otherwise
25 assist Mr. Seibel in selling his membership interest, as Mr. Seibel appears to argue. In fact, as Mr.
26 Ramsay is not a member or manager of GRB, nor a party to the GRB LLC Agreement, he had no
27 role or authority whatsoever in approving or disapproving a proposed transfer of interest by one of
28

1 its members. Mr. Seibel made that request to GRUS, and more specifically GRUS' appointed
2 manager of GRB, Stuart Gillies, who are not parties to this lawsuit.³

3 Moreover, the chain of events that led to Planet Hollywood's termination of the
4 Development Agreement indisputably started with Mr. Seibel's own criminal conduct. His
5 pleading guilty to a tax fraud felony, and subsequent refusal to dissociate himself from GRB to
6 Planet Hollywood's satisfaction, severely altered GRB's "justified expectations" under its
7 contract. Indeed, with one of its members acknowledging guilt of a serious criminal perpetration
8 of fraud, GRB had no justified expectation that it could continue to do business with Planet
9 Hollywood absent immediate and material corrective action by Mr. Seibel, which Mr. Seibel failed
10 to undertake. The ultimate result here—the termination of the Development Agreement and
11 closing of the BURGR Restaurant—is not attributable to Mr. Ramsay's alleged actions or
12 nonactions. The Court finds that Planet Hollywood validly exercised its "absolute discretion" and
13 determined in its "sole and exclusive judgment" that Mr. Seibel, and by extension GRB, is an
14 "Unsuitable Person," a consequence that is entirely of Mr. Seibel's own doing.

15 Because Mr. Seibel cannot identify any implied obligation under the Development
16 Agreement that Mr. Ramsay could have breached, and cannot show that any action of Mr. Ramsay
17 caused GRB's "justified expectations" to be denied, his claim must fail. The Court finds that there
18 is no genuine issue of material fact and that Mr. Ramsay is entitled to judgment as a matter of law
19 on the claim for breach of the covenant of good faith and fair dealing pursuant to NRCP 56.

20 VI. Mr. Seibel's Claim for Unjust Enrichment

21 Mr. Ramsay moves for summary judgment on Mr. Seibel's Third Cause of Action for
22 "Unjust Enrichment" as set forth in the First Amended Complaint. Mr. Seibel brings his claim for
23

24 ³ The Court rejects Mr. Seibel's argument that GRUS (and by implication Mr. Ramsay) had any
25 obligation to approve Mr. Seibel's proposed membership assignment. Paragraph 10.1(a) of
26 GRB's LLC Agreement governs "Inter-Vivos Transfer" of GRB's membership interests. *See*
27 Ramsay Appendix, Ex. 2 at ¶ 10.1(a). There is nothing in Paragraph 10.1(a) of GRB's LLC
28 Agreement that required GRUS or GRUS's appointed manager to consider, much less approve,
Mr. Seibel's request to transfer his membership interests in GRB to his family trust. Following
Mr. Seibel's felony conviction neither Mr. Ramsay nor GRUS had any obligation, contractual or
otherwise, to consider or approve Mr. Seibel's proposed assignment. In any event, Mr. Seibel's
requested assignment would not have cured GRB's unsuitability because Planet Hollywood had
already determined that The Seibel Family Trust 2016 was not a suitable assignee.

1 unjust enrichment in his own name as GRB’s assignee. He has alleged that Mr. Ramsay has been
2 unjustly enriched because, according to Mr. Seibel, Mr. Ramsay “directly or indirectly, has
3 wrongfully accepted and retained monies intended for and owed to GRB under the Development
4 Agreement.” *See* Am. Compl. at ¶84. More specifically, Mr. Seibel argues that Mr. Ramsay has
5 been unjustly enriched because Mr. Ramsay is “operating the same restaurant in the same space,”
6 and that GRB is entitled to “fair value” from the operation of the New Restaurant, regardless
7 whether Section 14.21 or any other provision of the Development Agreement is enforceable.

8 Mr. Ramsay argues that summary judgment is appropriate because the parties’ relationship
9 is comprehensively governed by contract—the Development Agreement—and because Mr. Seibel
10 cannot show that GRB conferred any benefit upon Mr. Ramsay or that Mr. Ramsay derived any
11 benefit from the operation of the New Restaurant that has been “unjust.”

12 “The phrase ‘unjust enrichment’ is used in law to characterize the result or effect of a
13 failure to make restitution or, or for, property or benefits received under such circumstances as to
14 give rise to a legal or equitable obligation to account therefor.” 66 Am. Jur. 2d, *Restitution*, § 3
15 (1973). Under Nevada law, “[u]njust enrichment exists when the plaintiff confers a benefit on the
16 defendant, the defendant appreciates such benefit, and there is acceptance and retention by the
17 defendant of such benefit under circumstances such that it would be inequitable for him to retain
18 the benefit without payment of the value thereof.” *Certified Fire Prot., Inc. v. Precision Constr.,*
19 *Inc.*, 128 Nev. 371, 381, 283 P.3d 250, 257 (2012). “For an enrichment to be inequitable to retain,
20 the person conferring the benefit must have a reasonable expectation of payment and the
21 circumstances are such that equity and good conscience require payment for the conferred
22 benefit.” *Korte Constr. Co. v. State on Relation of Bd. of Regents of Nev. Sys. of Higher Educ.*,
23 492 P.3d 540, 544, 137 Nev. Adv. Op. 37 (2021) (citing *Certified Fire Prot.*, 128 Nev. at 381, 283
24 P.3d at 257)).

25 “An action based on a theory of unjust enrichment is not available when there is an
26 express, written contract, because no agreement can be implied when there is an express
27 agreement.” *Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12, 1975*, 113 Nev. 747,
28 755-756, 942 P.2d 182, 187 (1997).

Here, the Court agrees with Mr. Ramsay that his relationship with GRB—including his obligations to GRB (or lack thereof) with respect to Mr. Ramsay’s future business ventures—were comprehensively governed by the parties’ contract, the Development Agreement. As described elsewhere in this Order, and as conceded by Mr. Seibel’s counsel at hearing, the plain language of the Development Agreement did not prohibit Mr. Ramsay from personally participating in the operation of the New Restaurant, or from participating in any future restaurant venture with Planet Hollywood involving Mr. Ramsay’s personal name. The Development Agreement does explicitly address issues relating to “intellectual property” and to GRB’s marks and materials, including at Sections 6. (“Intellectual Property License”); 6.2.1 (“Ownership...by GRB or Gordon Ramsay”); 6.2.2 (“Ownership...by [Planet Hollywood]”); and 6.5 (“Gordon Ramsay’s Rights in the Marks”). Section 4.3 of the Development Agreement governs the parties’ respective rights to the “Intellectual Property” upon termination of the Development Agreement, and Section 8 comprehensively governs “License and Service Fees.” *See, e.g.*, Ramsay Appendix, Exhibit 6, Development Agreement. Mr. Seibel does not argue that the plain language of any of these provisions bars Mr. Ramsay, personally, from participating in the operation of the New Restaurant, or any other venture.⁴

Instead, Mr. Seibel cites Section 14.21 of the Development Agreement and appears to argue that his unjust enrichment claim should serve as a failsafe claim in the event that this Court should find Section 14.21 is an unenforceable agreement to agree, but as the Court has held herein, even if it were enforceable, Section 14.21 would not bar Mr. Ramsay from participating in a new hamburger restaurant venture with Planet Hollywood (nor would any other term of the Development Agreement). To the contrary, the language of Section 14.21’s “agreement to agree” evidences no intent of the parties to impose binding obligations on Planet Hollywood with respect

⁴ GRB’s understanding of this absence of restrictions on Mr. Ramsay’s future business dealings is further demonstrated by its agreement, in the GRUS License Agreement (to which Mr. Ramsay is not a party), that notwithstanding the sublicense of the BURGR Gordon Ramsay mark to Planet Hollywood (through GRB), GRUS and Mr. Ramsay “are in no way limited or restricted in using and exploiting any other trademark or trade name that includes the name ‘Gordon Ramsay’ nor from using the name Gordon Ramsay without limitation.” *See* Ramsay Appendix, Exhibit 5, GRUS License Agreement, at §1.1.

1 to future restaurant ventures, and to impose no obligations whatsoever on Mr. Ramsay personally
2 with respect to the same.

3 Because the relationship and obligations between GRB and Mr. Ramsay with respect to the
4 operation of future hamburger restaurants at Planet Hollywood, and the use of Mr. Ramsay's name
5 or derivations thereof, were comprehensively governed by the Development Agreement, Mr.
6 Seibel's claim for unjust enrichment fails as a matter of law. Moreover, in light of the plain
7 language of the parties' business contracts, Mr. Seibel has failed to identify evidence supporting
8 that GRB has (or has ever had) any equitable entitlement to profits, or other monies or benefits,
9 that may be derived by Mr. Ramsay from the use of his name, which only he owns, in connection
10 with the operation of the New Restaurant, such that it would be an injustice for Mr. Ramsay to
11 retain that benefit.

12 The Court finds that there is no genuine issue of material fact and that Mr. Ramsay is
13 entitled to judgment as a matter of law on the unjust enrichment claim pursuant to NRCP 56.

14 **VII. Mr. Seibel's Claim For Civil Conspiracy**

15 Mr. Ramsay moves for summary judgment on Mr. Seibel's Fourth Cause of Action for
16 "Civil Conspiracy" as set forth in the First Amended Complaint. Mr. Seibel brings his claim for
17 civil conspiracy in his own name as GRB's assignee. He has alleged that Mr. Ramsay formed an
18 explicit or tacit agreement with Planet Hollywood to "breach the Development Agreement and
19 oust Seibel from the Restaurant," and that in furtherance of the conspiracy Mr. Ramsay "directly
20 or indirectly, refused to allow Seibel to transfer his interest in GRB to The Seibel Family Trust
21 2016, resign as a manager of GRB, and appoint Craig Green as a manager of GRB" and that "in a
22 letter sent on or around September 15, 2016, Ramsay and GRUS falsely told [Planet Hollywood]
23 that Seibel is an unsuitable person and his affiliation with GRB and the Restaurant could not be
24 cured." *See* Am. Compl. at ¶¶87-89.

25 Mr. Ramsay argues that summary judgment is appropriate because, as a matter of law, two
26 parties to a contract cannot be liable for a conspiracy to breach it, and because there is no evidence
27 of an unlawful or wrongful "overt act" by Mr. Ramsay in furtherance of any alleged conspiracy.
28

1 A civil conspiracy “consists of a combination of two or more persons, who, by some
2 concerted action, intend to accomplish an unlawful objective for the purpose of harming another,
3 and damages results from the act or acts.” *Consol. Generator-Nev., Inc. v. Cummins Engine Co.*,
4 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998) (internal quotations omitted).

5 Under Nevada law, conspiracy to breach the terms of a contract may only “lie where a
6 contracting party and third parties conspire to frustrate the purpose of the contract.” *Tousa*
7 *Homes, Inc. v. Phillips*, 363 F.Supp.2d 1274, 1282-83 (D. Nev. 2005) (citing *Hilton Hotels Corp.*
8 *v. Butch Lewis Prods.*, 109 Nev. 1043, 1048, 862 P.2d 1207, 1210 (1993)). “[A] party cannot, as a
9 matter of law, tortiously interfere with its own contract.” *Blanck v. Hager*, 360 F.Supp.2d 1137,
10 1154 (D. Nev. 2005); *aff’d*, 220 Fed. Appx. 697 (9th Cir. 2007) (citing *Bartsas Realty, Inc. v.*
11 *Nash*, 81 Nev. 325, 327, 402 P.2d 650, 651 (1965)). In line with these principles, courts have
12 articulated that, in general, “[t]here can be no conspiracy by two or more parties to a contract to
13 breach the contract.” *Logixx Automation v. Lawrence Michels Fam.*, 56 P.3d 1224, 1231 (Colo.
14 App. 2002) (holding that “because the only duty a contracting party owes is to perform the
15 contract according to its terms, a contracting party has no independent duty not to conspire to
16 breach its own contract.”)

17 Here, Mr. Seibel’s claim is, at its base, an allegation that Mr. Ramsay tortiously interfered
18 with his own contract, the Development Agreement, by allegedly encouraging Planet Hollywood
19 to deem Mr. Seibel “unsuitable” and by allegedly encouraging Planet Hollywood to exercise its
20 bargained-for termination rights. *Cf.* Am. Compl. at ¶89. Such a claim is not actionable, as it is
21 the law of this State that a party cannot interfere with (or “conspire to breach”) its own contract,
22 and Mr. Ramsay is indisputably a party to the Development Agreement. *See, e.g., Blanck*, 360
23 F.Supp.2d at 1154. Mr. Seibel’s claim fails as a matter of law.

24 Even if such a claim were actionable, the Court agrees with Mr. Ramsay that the record
25 lacks any evidence of an overt, “wrongful” act by Mr. Ramsay in furtherance of the alleged
26 “conspiracy.” The Court has found that no action of Mr. Ramsay breached the Development
27 Agreement. Mr. Ramsay had no obligation, express or implied, to communicate with (or refrain
28 from communicating with) Planet Hollywood with respect to its exercise of its sole and absolute

1 discretion to deem Mr. Seibel “unsuitable.” Moreover, Mr. Ramsay had no contractual role or
2 obligation with respect to Mr. Seibel’s request (just prior to his felony guilty plea and, again, after
3 his conviction was discovered) to transfer his membership interest in GRB to “The Seibel Family
4 2016 Trust.” Indeed, the approval of any assignment by a GRB member was not governed by the
5 Development Agreement, but by the express terms of GRB’s LLC Agreement, to which Mr.
6 Ramsay was not a party. It is undisputed that Mr. Seibel made his request to GRUS, not to Mr.
7 Ramsay, pursuant to the terms of GRB’s LLC Agreement. Again, in reviewing the plain language
8 of the agreements between the parties, the alleged actions (or non-actions) of Mr. Ramsay were
9 neither wrongful nor in furtherance of any wrongful act. No claim for civil conspiracy may lie
10 under such circumstances.

11 The Court finds that there is no genuine issue of material fact and that Mr. Ramsay is
12 entitled to judgment as a matter of law on the civil conspiracy claim pursuant to NRCP 56.

13 **VIII. Mr. Seibel’s “Additional Requests” for Equitable Relief**

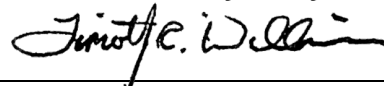
14 Mr. Ramsay moves for summary judgment as to Mr. Seibel’s “Additional Requests for
15 Relief” as set forth at paragraphs 93-123 of his Amended Complaint, on grounds that the results of
16 the Delaware Proceedings have rendered such requests for equitable relief “moot.” Mr. Seibel
17 agrees that his requests for equitable relief are moot and does not oppose summary judgment
18 thereon. Accordingly, the Court will grant the request for summary judgment on those requests.

19 Wherefore, based on the foregoing, **IT IS HEREBY ORDERED, ADJUDGED, AND**
20 **DECREEED** that Gordon Ramsay’s Request for Judicial Notice is **GRANTED** in full, and Gordon
21 Ramsay’s Motion for Summary Judgment is **GRANTED** in full. Pursuant to Nevada Rule of
22 Civil Procedure 56, the Court hereby awards judgment as a matter of law in favor of Mr. Ramsay,
23 and against Mr. Seibel, on all of Mr. Seibel’s claims against Mr. Ramsay asserted in Mr. Seibel’s
24 First Amended Complaint.

25 **IT IS SO ORDERED.**

26 Dated: _____

Dated this 25th day of May, 2022



MH

1EA 5A2 2C7F D50A
Timothy C. Williams
District Court Judge

AA06959

Respectfully submitted by:

DATED May 25, 2022.

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq., Bar No. 11728
Wade Beavers, Esq., Bar No. 13451
7800 Rancharrah Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

Approved as to form and content by:

DATED May 25, 2022.

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED May 25, 2022.

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebenseld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 5/25/2022

15 Robert Atkinson robert@nv-lawfirm.com

16 Kevin Sutehall ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." . lit@pisanellibice.com

18 "John Tennert, Esq." . jtennert@fclaw.com

19 Brittanie 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

24 Matt Wolf . mcw@cmlawnv.com

25 PB Lit . lit@pisanellibice.com

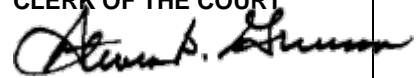
26
27
28
AA06961

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
6	Magali Mercera	mmm@pisanellibice.com
7	Cinda Towne	cct@pisanellibice.com
8	Daniel McNutt	drm@cmlawnv.com
9	Paul Sweeney	PSweeney@certilmanbalin.com
10	Litigation Paralegal	bknotices@nv-lawfirm.com
11	Shawna Braselton	sbraselton@fennemorelaw.com
12	Nathan Rugg	nathan.rugg@bfkn.com
13	Steven Chaiken	sbc@ag-ltd.com
14	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
15	Brett Schwartz	brett.schwartz@lsandspc.com
16	Doreen Loffredo	dloffredo@foxrothschild.com
17	Christine Gioe	christine.gioe@lsandspc.com
18	Mark Connot	mconnot@foxrothschild.com
19	Joshua Feldman	jfeldman@certilmanbalin.com
20	Nicole Milone	nmilone@certilmanbalin.com
21	Trey Pictum	trey@mcnuttlawfirm.com
22	Monice Campbell	monice@envision.legal
23	Karen Hippner	karen.hippner@lsandspc.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Lawrence Sharon	lawrence.sharon@lsandspc.com
Wade Beavers	wbeavers@fclaw.com
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
Sarah Hope	shope@fennemorelaw.com
John Tennert	jtennert@fennemorelaw.com

TAB 105



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING CAESARS' MOTION
FOR SUMMARY JUDGMENT NO. 2**

AND ALL RELATED MATTERS

PLEASE TAKE NOTICE that a Findings of Fact, Conclusions of Law, and Order
Granting Caesars' Motion for Summary Judgment No. 2 was entered in the above-captioned

1 matter on May 31, 2022, a true and correct copy of which is attached hereto.

2 DATED this 3rd day of June 2022.

3 PISANELLI BICE PLLC

4 By: /s/ M. Magali Mercera
5 James J. Pisanelli, Esq., #4027
6 Debra L. Spinelli, Esq., #9695
7 M. Magali Mercera, Esq., #11742
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

8 *Attorneys for Desert Palace, Inc.;*
9 *Paris Las Vegas Operating Company, LLC;*
10 *PHWLV, LLC; and Boardwalk Regency*
11 *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 3rd day of June 2022, 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 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CAESARS' MOTION FOR SUMMARY JUDGMENT NO. 2** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com

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

John D. Tennert, Esq.
Wade Beavers, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharra Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com

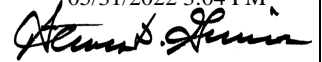
Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701
alan.lebensfeld@lsandspc.com

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

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

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLV, 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.

PHWLV, 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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION FOR SUMMARY
JUDGMENT NO. 2**

Date of Hearing: December 6, 2021

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

PHWLV, 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's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *for Summary Judgment No. 2* (the "MSJ No. 2"), filed on February 25, 2021, came before this Court for hearing on December 6, 2021, at 1:30 p.m.

AA06967

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), 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"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Alan Lebensfeld, of the law firm LEBENSFELD SHARON & SCHWARTZ P.C., appeared telephonically on behalf of The Original Homestead Restaurant.

The Court having considered MSJ No. 2, the opposition thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court HEREBY FINDS AS FOLLOWS:

1. Planet Hollywood and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. Nevada's gaming regulations provide that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

¹ Seibel, Green, and the Seibel-Affiliated Entities are collectively referred to herein as the "Seibel Parties."

1 3. Nevada gaming licensees are required to self-police and to act promptly if they learn
2 of derogatory information about their own operations or those of their business associates.

3 4. Caesars has established and operates an Ethics and Compliance Program (the
4 "Compliance Plan") requiring Caesars to maintain the highest standards of conduct and association
5 and guard its reputation to avoid even the slightest appearance of impropriety. To that end, Caesars
6 is further required to avoid questionable associations with Unsuitable Persons which could tarnish
7 Caesars' image, jeopardize its gaming licenses, or hamper its ability to expand into new markets.

8 5. Pursuant to Caesars' Compliance Plan, Caesars' vendors, suppliers, and business
9 partners, among others, must agree to abide by the same standards, business ethics, and principles
10 expected of Caesars' employees. To that end, Planet Hollywood includes clear and unambiguous
11 language in its contracts with third parties that puts all such parties on notice that Planet Hollywood
12 is in a highly regulated business and that such third parties must abide by gaming suitability
13 requirements.

14 6. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
15 Affiliated Entities relating to the development, creation, and operation of various restaurants in Las
16 Vegas and Atlantic City (the "Seibel Agreements").

17 7. Planet Hollywood, GRB (a Seibel-Affiliated Entity), and Gordon Ramsay, entered
18 into an agreement on or about December 2012 relating to the GR Burgr restaurant at Planet
19 Hollywood in Las Vegas (the "GRB Agreement"). Section 14.21 of the GRB Agreement
20 contemplated potential future restaurants but the parties did not agree on material terms regarding
21 future restaurants. Specifically, Section 14.21 provided that:

22 If [Planet Hollywood] elects to pursue any venture similar to the Restaurant
23 (i.e., any venture generally in the nature of a burger centric or burger themed
24 restaurant), GRB shall, or shall cause an Affiliate to, execute a development,
25 operation and license agreement generally on the same terms and conditions as this
26 Agreement, subject only to revisions agreed to by the parties, including revisions
27 as are necessary to reflect the differences in such things as location, Project Costs,
28 Initial Capital Investment, Operating Expenses and the potential for Gross
Restaurant Sales between the Restaurant and such other venture and any resulting
Section 8.1 threshold adjustments

1 8. The GRB Agreement also contained representations, warranties, and conditions to
2 ensure that Planet Hollywood was not involved in a business relationship with an unsuitable
3 individual and/or entity.

4 9. Section 11.2 of the GRB Agreement provided, in pertinent part:

5 Each of Gordon Ramsay and GRB acknowledges that [Planet Hollywood] and PH's
6 Affiliates are businesses that are or may be subject to and exist because of
7 privileged licenses issued U.S., state, local and foreign governmental, regulatory
8 and administrative authorities, agencies, boards and officials (the "Gaming
9 Authorities") responsible for or involved in the administration of application of
10 laws, rules and regulations relating to gaming or gaming activities or the sale,
distribution and possession of alcoholic beverages. The Gaming Authorities require
PH, and [Planet Hollywood] deems it advisable, to have a compliance committee
(the "Compliance Committee") that does its own background checks on, and issues
approvals of, Persons involved with [Planet Hollywood] and its Affiliates.

11 10. Because issues of suitability affect Planet Hollywood's gaming license, Planet
12 Hollywood expressly contracted for the sole and absolute discretion to terminate the GRB
13 Agreement should GRB or its Affiliates — a term that includes Seibel — become an "Unsuitable
14 Person."

15 11. Specifically, Section 4.2.5 of the GRB Agreement provides that the "[a]greement
16 may be terminated by [Planet Hollywood] upon written notice to GRB and Gordon Ramsay having
17 immediate effect as contemplated by Section 11.2." In turn, Section 11.2 explicitly provides that
18 Planet Hollywood has the right, in its "sole and exclusive judgment," to determine that a GR
19 Associate is an Unsuitable Person under the Agreement.

20 12. Section 11.2 of the GRB Agreement further required that Gordon Ramsay and GRB
21 update their disclosures without Planet Hollywood prompting if anything became inaccurate or
22 material changes occurred. Specifically, the GRB Agreement required that prior to the execution of
23 the agreement and

24 on each anniversary of the Opening Date during the Term, (a) each of
25 Gordon Ramsay and GRB shall provide to PH written disclosure regarding
26 the GR Associates, and (b) the Compliance Committee shall have issued
27 approvals of the LLTQ Associates. Additionally, during the Term, on ten
28 (10) calendar days written request by PH to Gordon Ramsay and GRB,
Gordon Ramsay and GRB shall disclose to Caesars 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 disclosure without PH making any further request. Each of Gordon

Ramsay and GRB shall cause all GR Associates to provide all requested information and apply for and obtain all necessary approvals required or requested by PH or the Gaming Authorities.

13. Planet Hollywood did not waive, release, or modify the disclosure obligations for Ramsay or GRB.

14. In April 2016, Seibel pleaded guilty to one count of corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws because, in Seibel's own words, he was in fact guilty of the crime.

15. Prior to his guilty plea, and despite a January 2016 tolling agreement with the U.S. government entered into to allow Seibel "to manage his financial affairs in an optimal way prior to entering a guilty plea," neither Seibel nor any of the Seibel-Affiliated Entities notified Planet Hollywood of any of the facts underlying the charges against him, or that Seibel planned to plead guilty to a felony. Seibel did not update any of the mandatory suitability disclosures.

16. Before news of Seibel's conviction became public, and one week prior to pleading guilty, Seibel attempted to assign his interest in GRB to The Seibel Family 2016 Trust (the "Trust"). In order to do so, Seibel needed GRUS, the other member of GRB, to consent to such an assignment. However, Seibel did not inform GRUS or Gordon Ramsay that the reason he sought to assign his interest was because he planned to plead guilty to a felony in the coming week. Ultimately, GRUS did not consent to the assignment.

17. On or about August 19, 2016, Seibel was sentenced for his crimes, served time in a federal penitentiary, and was required to pay fines and restitution, and perform community service. Following Seibel's sentencing, Planet Hollywood found out through news reports that Seibel pleaded guilty to a felony and was sentenced to serve time in federal prison as a result of his crimes.

18. After learning of Seibel's guilty plea and conviction, Planet Hollywood determined that Seibel was unsuitable pursuant to the GRB Agreement and applicable Nevada gaming laws and regulations.

19. After determining that Seibel was unsuitable, Planet Hollywood exercised its contractual right to terminate the GRB Agreement as it was expressly allowed to do under Section 11.2 after GRB did not disassociate from Seibel.

20. Upon discovering Seibel's unsuitability, Planet Hollywood self-reported and disclosed the information of Seibel's unsuitability to Nevada gaming regulators, including its termination of the GRB Agreement and disassociation with an unsuitable person.

21. The Nevada gaming regulators agreed with Planet Hollywood's actions, concluding that Planet Hollywood appropriately addressed the matter as the Nevada gaming regulators would expect from a gaming licensee.

22. After Planet Hollywood terminated the GRB Agreement, GRUS filed a petition for judicial dissolution on or about October 13, 2016, in the Court of Chancery of the State of Delaware.

23. On February 28, 2017, Seibel filed a complaint purportedly derivatively on behalf of GRB against Planet Hollywood and Ramsay for breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, and civil conspiracy.

24. On August 25, 2017, Caesars filed its complaint for declaratory relief against the Seibel-Affiliated Entities,² including GRB (the "DP Original Complaint").

25. On or about October 5, 2017, the Delaware court appointed a liquidating trustee to oversee the dissolution of GRB. Neither Caesars nor Ramsay were parties to the dissolution proceedings.

26. Following certain motion practice in this Court, Planet Hollywood and Ramsay raised concerns about Seibel's ability to act derivatively on behalf of GRB in light of the Delaware proceedings.

27. The Order Dissolving GR BURGR LLC & Appointing Liquidating Trustee, [hereinafter "Dissolution Order"], provides that the Trustee "shall have all powers generally available to a trustee, custodian, or receiver appointed pursuant to 6 *Del. C.* § 18-803,³ unless the

² GRB, TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), 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"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") are collectively referred to herein as the "Seibel-Affiliated Entities."

³ 6 *Del. C.* § 18-803 provides that "[u]pon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in § 18-203 of this title, the persons winding up

1 exercise of any said power would be inconsistent with any specific provision of this Order or any
2 other Order entered by the Court in this action."

3 28. The proposed trustee officially accepted appointment to represent GRB on
4 December 13, 2017

5 29. After the Trustee was appointed, he requested an indefinite extension to respond to
6 Caesars' complaint, but Caesars advised that it was unable to agree to an indefinite extension.
7 Caesars offered to extend GRB's time to answer the complaint until February 15, 2018. The Trustee
8 did not agree, and GRB failed to answer the complaint at that time.

9 30. On March 11, 2020, Caesars amended its complaint ("DP First Amended
10 Complaint").

11 31. Despite serving the Trustee with a copy of the DP First Amended Complaint, the
12 Trustee continued to refuse to participate in the litigation.

13 32. On April 6, 2020, a Report and Proposed Liquidation Plan for GRB was publicly
14 filed in Delaware (the "GRB Report"). In the GRB Report, the GRB trustee identified claims not
15 worth pursuing in the Nevada litigation, including claims related to (1) wrongful termination of the
16 GRB Agreement; (2) breach of the implied covenant of good faith and fair dealing and the purported
17 scheme to oust Seibel; and (3) breach of Section 14.21 of the GRB Agreement.

18 33. The Delaware court fully adopted the GRB Report on October 13, 2020.

19 34. On May 20, 2020, Caesars filed a notice of intent to take default against GRB. In
20 response, the Trustee sent correspondence to this Court and the Delaware Court requesting that the
21 courts "communicate and coordinate with each so that the proceedings in the two courts can be
22 completed in an orderly fashion without the possibility of inconsistent adjudications relating to
23 GRB." The trustee further stated that "GRB has never appeared in the Nevada litigation," "GRB
24 has no discovery to offer," GRB has no assets to defend itself or to retain counsel to respond to a
25
26

27 _____
28 the limited liability company's affairs may, in the name of, and for and on behalf of, the limited
liability company, prosecute and defend suits, whether civil, criminal or administrative"

1 default motion, and that the Delaware action should be allowed to proceed before actions are taken
2 against GRB in Nevada.

3 35. At the risk of default, and after almost three years of litigation, on June 9, 2020,
4 GRB filed a notice of appearance of counsel in this Court.

5 36. On June 19, 2020, GRB filed an answer to the DP First Amended Complaint.

6 37. On July 24, 2020, GRB served its initial disclosures, disclosing that (1) GRB has no
7 witnesses; (2) GRB has no documents to produce; and (3) "GRB asserts no affirmative claims on
8 its own behalf."

9 38. GRB never attended depositions and repeatedly refused to engage in discovery.

10 CONCLUSIONS OF LAW

11 1. Pursuant to Nevada law, summary judgment is appropriate and shall be rendered
12 when the pleadings and other evidence on file demonstrate that no genuine issue as to any material
13 fact remains and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*,
14 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCP 56(c). "The substantive law controls which
15 factual disputes are material," not the party opposing summary judgment. *Wood*, 121 Nev. at 731,
16 121 P.3d at 1031. Further, while all facts and evidence must be viewed in the light most favorable
17 to the non-moving party, the opposing party may not build its case on the "gossamer threads of
18 whimsy, speculation and conjecture." *Id.* at 731, 121 P.3d at 1030 (footnote and citations omitted).

19 2. "To successfully oppose a motion for summary judgment, the non-moving party
20 must show specific facts, rather than general allegations and conclusions, presenting a genuine issue
21 of material fact for trial." *LaMantia v. Redisi*, 118 Nev. 27, 29, 38 P.2d 877, 879 (2002). "The party
22 opposing summary judgment must be able to point to specific facts showing that there is a genuine
23 issue for trial." *Michael v. Sudeck*, 107 Nev. 332, 334, 810 P.2d 1212, 1213 (1981).

24 3. "The purpose of summary judgment is to avoid a needless trial when an appropriate
25 showing is made in advance that there is no genuine issue of fact to be tried, and the movant is
26 entitled to judgment as a matter of law." *McDonald v. D. Alexander & Las Vegas Boulevard, LLC*,
27 121 Nev. 812, 815, 123 P. 3d 748, 750 (2005) (internal quotations omitted).

1 4. Judicial admissions are defined as "deliberate, clear, unequivocal statements by a
2 party about a concrete fact within that party's knowledge." *Reyburn Lawn & Landscape Designers,*
3 *Inc. v. Plaster Dev. Co.*, 127 Nev. 331, 343, 255 P.3d 268, 276 (2011). They have "the effect of
4 withdrawing a fact from issue and dispensing wholly with the need for proof of the fact." *In re*
5 *Barker*, 839 F.3d 1189, 1195 (9th Cir. 2016) (quoting *Am. Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d
6 224, 226 (9th Cir. 1988)). "What constitutes a judicial admission should be determined by the
7 circumstances of each case and evaluated in relation to the other testimony presented in order to
8 prevent disposing of a case based on an unintended statement made by a nervous party." *Reyburn*,
9 127 Nev. at 343, 255 P.3d at 276.

10 5. "Judicial admissions are 'conclusively binding on the party who made them.'" *Id.*
11 (quoting *Am. Title*, 861 F.2d at 226).

12 6. "[S]tatements of fact contained in a brief may be considered admissions of the party
13 in the discretion of the district court." *Am. Title*, 861 F.2d at 227. "For purposes of summary
14 judgment, the courts have treated representations of counsel in a brief as admissions even though
15 not contained in a pleading or affidavit." *Id.* at 226.

16 7. Additionally, NRS 51.035(3), provides an exception to hearsay where a statement
17 being offered against a party is:

- 18 a. The party's own statement, in either the party's individual or a
19 representative capacity;
- 20 b. A statement of which the party has manifested adoption or belief in
21 its truth;
- 22 c. A statement by a person authorized by the party to make a statement
23 concerning the subject;
- 24 d. A statement by the party's agent or servant concerning a matter
25 within the scope of the party's agency or employment, made before
26 the termination of the relationship; or
- 27 e. A statement by a coconspirator of a party during the course and in
28 furtherance of the conspiracy.

26 8. Courts "construe unambiguous contracts . . . according to their plain language."
27 *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 487–88, 117 P.3d 219, 223–24 (2005).

28 9. Here, GRB admitted that it has no affirmative claims in its initial disclosures.

1 10. In the GRB Report, the GRB trustee (*i.e.*, GRB's authorized agent) recognized that
2 GRB's claims for breach of contract related to Caesars' proper and contractually authorized
3 termination of the GRB Agreement, breach of the implied covenant of good faith and fair dealing,
4 civil conspiracy, and breach of Section 14.21 of the GRB Agreement are "not worth pursuing."

5 11. Pursuant to Section 4.2.5, which governs termination resulting from unsuitability,
6 the GRB "Agreement may be terminated by [Planet Hollywood] upon written notice to GRB and
7 Gordon Ramsay having immediate effect as contemplated by Section 11.2."

8 12. Pursuant to Section 11.2, Caesars is granted the express right to determine whether
9 a GR Associate is an Unsuitable Person, and whether the GRB Agreement must be terminated in
10 its "sole discretion."

11 13. Planet Hollywood's determination that GRB was unsuitable based on Seibel's
12 admitted criminal activities, felony conviction of engaging in corrupt endeavor to obstruct and
13 impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and sentence to
14 serve prison time for the same, was within Planet Hollywood's sole discretion under the
15 GRB Agreement.

16 14. Seibel purported to "cure" the unsuitability through the creation of new entities, but
17 Seibel secretly continued to hold both a beneficial and actual ownership interest in the new entities.
18 However, the GRB Agreement (1) does not provide Seibel or GRB with an opportunity to cure; (2)
19 nor does it provide Seibel or GRB with a unilateral right to sell Seibel's interests to a third party.

20 15. Even if the GRB provided Seibel or GRB with a right to cure his unsuitability, which
21 the Court finds it did not, Seibel and GRB forfeited any such right through the fraudulent cure
22 scheme and Seibel's continued association with the Seibel-Affiliated Entities.

23 16. Further, the GRB trustee agreed that "Caesars likely had the right to terminate the
24 [GRB] Agreement because, in the Court's words, the situation is one of Seibel's 'own making" and
25 "Caesars validly exercised its bargained-for discretion and Seibel's claim for the improper
26 termination of the [GRB] Agreement is not likely to survive summary judgment."
27
28

1 17. GRB's admissions and contractual analysis, and this Court's prior rulings⁴ support
2 an order granting Planet Hollywood summary judgment on GRB's claim for breach of contract.

3 18. The covenant of good faith and fair dealing does not call for a different result.

4 19. An implied covenant of good faith and fair dealing exists in every Nevada contract
5 and essentially forbids arbitrary, unfair acts by one party that disadvantage the other. " *Frantz v.*
6 *Johnson*, 116 Nev. 455, 465, 999 P.2d 351, 358 (2000) (citing *Consol. Generator v. Cummins*
7 *Engine*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998).

8 20. "When one party performs a contract in a manner that is unfaithful to the purpose of
9 the contract and the justified expectations of the other party are thus denied, damages may be
10 awarded against the party who does not act in good faith." *Hilton Hotels Corp. v. Butch Lewis*
11 *Prods., Inc.*, 107 Nev. 226, 234, 808 P.2d 919, 923 (1991).

12 21. "Reasonable expectations are to be 'determined by the various factors and special
13 circumstances that shape these expectations.'" *Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335,
14 338 (1995) (quoting *Hilton*, 107 Nev. at 234, 808 P.2d at 924).

15 22. Moreover, "one generally cannot base a claim for breach of the implied covenant on
16 conduct authorized by the terms of the agreement." *Miller v. FiberLight, LLC*, 808 S.E.2d 75, 87
17 (Ga. App. Ct. 2017) (quoting *Dunlap v. State Farm Fire & Cas. Co.*, 878 A.2d 434, 441 (Del.
18 2005)); *see also Vitek v. Bank of Am., N.A.*, No. 8:13-CV-816-JLS ANX, 2014 WL 1042397, at *5
19 (C.D. Cal. Jan. 23, 2014) (citation omitted) ("In general, acting in accordance with an express
20 contractual provision does not amount to bad faith.").

21 23. In other words, 'a party does not act in bad faith by relying on contract provisions
22 for which that party bargained where doing so simply limits advantages to another party.'" *Miller*,

23
24
25 ⁴ The Court granted in part and denied in part Planet Hollywood's Motion to Dismiss claims
26 brought by Seibel on behalf of GRB stating that Seibel "failed to plead facts sufficient to support a
27 breach of contract claim against Planet Hollywood for: (1) continuing to do business with Ramsay;
28 (2) refusing to provide [GRB] with an opportunity to cure its affiliation with [Seibel]; and (3)
attempting and/or planning to operate a rebranded restaurant. The plain language of the [GRB
Agreement] precludes these claims as a matter of law. They must therefore be dismissed." (Order
Granting in Part and Denying in part Planet Hollywood's Mot. to Dismiss, June 15, 2017, on file.)

1 343 Ga. App. at 607–08, 808 S.E.2d at 87 (quoting *Alpha Balanced Fund, LLLP v. Irongate*
2 *Performance Fund, LLC*, 342 Ga. App. 93, 102–103 (1), 802 S.E.2d 357 (2017)).

3 24. Importantly, "when there is no factual basis for concluding that a defendant acted
4 in bad faith, a court may determine the issue of bad faith as a matter of law." *Tennier v. Wells Fargo*
5 *Bank, N.A.*, No. 3:14-CV-0035-LRH-VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting
6 *Andrew v. Century Sur. Co.*, No. 2:12-cv- 0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29,
7 2014)).

8 25. Planet Hollywood did not violate the covenant of good faith and fair dealing when
9 it terminated the GRB Agreement as a result of Seibel's unsuitability.

10 26. An actionable civil conspiracy 'consists of a combination of two or more persons
11 who, by some concerted action, intend to accomplish an unlawful objective for the purpose of
12 harming another, and damage resulting from the act or acts.'" *Consol. Generator-Nev., Inc. v.*
13 *Cummins Engine Co., Inc.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998) (quoting *Hilton*
14 *Hotels*, 109 Nev. at 1048, 862 P.2d at 1210). "Summary judgment is appropriate if there is no
15 evidence of an agreement or intent to harm the plaintiff." *Guilfoyle v. Olde Monmouth Stock*
16 *Transfer Co., Inc.*, 130 Nev. 801, 813, 335 P.3d 190, 199 (2014).

17 27. Here, GRB failed to present any evidence to support its claim for civil conspiracy.
18 Planet Hollywood complied with the express terms of the GRB Agreement when it determined that
19 Seibel was an Unsuitable Person, that the conduct was not subject to cure and terminated the GRB
20 Agreement. As a result, there was no unlawful objective upon which to anchor a conspiracy claim
21 and GRB's civil conspiracy claim fails as a matter of law.

22 28. It is also well settled under Nevada law, that "[a] valid contract cannot exist when
23 material terms are lacking or are insufficiently certain and definite." *May v. Anderson*, 121 Nev.
24 668, 672, 119 P.3d 1254, 1257 (2005). "An agreement to agree at a future time is nothing and will
25 not support an action for damages." *City of Reno v. Silver State Flying Serv., Inc.*, 84 Nev. 170,
26 176, 438 P.2d 257, 261 (1968) (internal quotation omitted).

27 29. Additionally, "[i]t cannot be doubted at this day, nor is it denied, that a contract will
28 not be enforced if it is against public policy, or that, if a part of the consideration of an entire contract

1 is illegal as against public policy or sound morals, the whole contract is void." *Gaston v. Drake*, 14
2 Nev. 175, 181 (1879).

3 30. Section 14.21 of the GRB Agreement has indefinite and open terms and thus is an
4 invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

5 31. Further, any future agreement with GRB would violate gaming laws and put Planet
6 Hollywood's gaming license in jeopardy, requiring Caesars to again terminate the agreement under
7 the terms of Section 11.2. The benefits of not requiring a gaming licensee to contract with an
8 Unsuitable Person clearly outweigh the benefits of enforcement, rendering Section 14.21
9 unenforceable.

10 32. The Court has inherent authority to dismiss claims for lack of prosecution. *Hunter*
11 *v. Gang*, 132 Nev. 249, 256, 377 P.3d 448, 453 (Nev. App. 2016) (citing *Harris v. Harris*, 65 Nev.
12 342, 345-50, 196 P.2d 402, 403-06 (1948)). "The element necessary to justify failure to prosecute
13 for lack of diligence on the part of the plaintiff, whether individually or through counsel." *Moore v.*
14 *Cherry*, 90 Nev. 930, 935, 528 P.2d 1018, 1021 (1974). Importantly, "[t]he duty rests upon the
15 plaintiff to use diligence and to expedite his case to a final determination." *Id.* at 395, 528 P.2d at
16 1022; *see also Raine v. Ennor*, 39 Nev. 365, 372, 158 P. 133, 134 (1916).

17 33. Summary judgment is further appropriate against GRB on all its claims based on
18 want of prosecution and/or the failure of GRB to actively prosecute its claims for relief for four (4)
19 years.

20 34. To prevail on a claim for fraudulent concealment, the plaintiff must show that: "(1)
21 the defendant concealed or suppressed a material fact; (2) the defendant was under a duty to disclose
22 the fact to the plaintiff; (3) the defendant intentionally concealed or suppressed the fact with the
23 intent to defraud the plaintiff; that is, the defendant concealed or suppressed the fact for the purpose
24 of inducing the plaintiff to act differently than she would have if she had known the fact; (4) the
25 plaintiff was unaware of the fact and would have acted differently if she had known of the concealed
26 or suppressed fact; (5) and, as a result of the concealment or suppression of the fact, the plaintiff
27 sustained damages." *Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1485, 970 P.2d 98, 109–10 (1998),
28

1 *abrogated on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11 (2001) (citing *Nev.*
2 *Power Co. v. Monsanto Co.*, 891 F. Supp. 1406, 1415 (D.Nev.1995)).

3 35. As discussed above, "an actionable civil conspiracy 'consists of a combination of
4 two or more persons who, by some concerted action, intend to accomplish an unlawful objective
5 for the purpose of harming another, and damage results from the act or acts.'" *Consol. Generator-*
6 *Nev., Inc. v. Cummins Engine Co., Inc.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998)
7 Importantly, "[a]ll conspirators need not be joined in an action to hold any of the conspirators liable,
8 because conspiracy results in joint and several liability." *Envirotech, Inc. v. Thomas*, 259 S.W.3d
9 577, 587 (Mo. Ct. App. 2008).

10 36. The express terms of the GRB Agreement required Seibel to disclose his criminal
11 activities and conviction and Seibel admits that he did not disclose his guilty plea or the criminal
12 conduct that led to it to Planet Hollywood. Summary judgment is thus appropriate for Planet
13 Hollywood on its fraudulent concealment counterclaim and civil conspiracy counterclaim against
14 Seibel based on Seibel's concealment of material facts regarding his federal prosecution and
15 conviction.

16 37. Planet Hollywood suffered damages as a result of Seibel's actions and the necessary
17 rebranding of the restaurant totaling \$168,781.00.

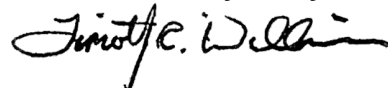
18 **ORDER**

19 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Caesars' MSJ No. 2
20 shall be, and hereby is, GRANTED in its entirety and that judgment is entered in favor of Caesars
21 and against GRB on all of GRB's claims.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is
23 entered in favor of Caesars and against Seibel on Caesars's fraudulent concealment counterclaim
24 and civil conspiracy counterclaim against Seibel in the amount of \$168,781 plus pre and post-
25 judgment interest.

26 IT IS SO ORDERED.

Dated this 31st day of May, 2022

27 

28
D08 4B2 1DFF 6BFC
Timothy C. Williams
District Court Judge

AA06980

MH

Respectfully submitted by:

DATED May 25, 2022

PISANELLI BICE PLLC

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

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

Approved as to form and content by:

DATED May 25, 2022

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 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,

Approved as to form and content by:

DATED May 25, 2022

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharra Parkway
Reno, NV 89511
Attorneys for Gordon Ramsay

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, May 25, 2022 4:36 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

You may, thanks

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 5:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Tuesday, April 26, 2022 2:03 PM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, May 25, 2022 2:44 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Alan Lebensfeld; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali,

You may affix my e-signature to both proposed orders.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 2:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 5/31/2022

15 Robert Atkinson robert@nv-lawfirm.com

16 Kevin Sutehall ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." . lit@pisanellibice.com

18 "John Tennert, Esq." . jtennert@fclaw.com

19 Brittanie 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

24 Matt Wolf . mcw@cmlawnv.com

25 PB Lit . lit@pisanellibice.com

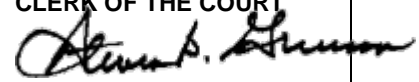
26
27
28
AA06984

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 106



Electronically Filed
Jun 28 2022 02:07 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS (CIV)

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 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*

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 CLAIMS.

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

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that, as permitted by Nevada Rules of Appellate Procedure 3(a)(1) and 3A(b)(1), (3), Rowen Seibel (“Mr. Seibel”) and GR Burgr, LLC¹ (“GRB”, and together with Mr. Seibel, “Appellants”), by and through their counsel, hereby appeal to the Supreme Court of Nevada from the following orders and decisions entered by the District Court:²

- Findings of Fact, Conclusions of Law, and Order Granting Caesars’ Motion for Summary Judgment No. 2, filed on May 31, 2021, notice of entry of which was filed on June 3, 2022;
- Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay’s Motion for Summary Judgment, filed on May 25, 2022, notice of entry of which was filed on June 2, 2022;
- Order Granting in Part, and Denying in Part, the Development Entities, Rowen Seibel, and Craig Green’s Motion to Compel the Return, Destruction, or Sequestering of the Court’s August 19, 2021 Minute Order Containing Privileged Attorney-Client Communications, filed on November, 3, 2021, notice of entry of which was filed on November 3, 2021;³
- Findings of Fact, Conclusions of Law, and Order Granting Caesars’ Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege Pursuant to the Crime-Fraud Exception, filed on October 28, 2021, notice of entry of which was filed on October 28, 2021;⁴

¹ GRB was formed as a Delaware limited liability company in 2012. GRB was judicially dissolved in 2018, and a certificate of cancellation was filed in 2021. Notwithstanding, because the claims in this matter were initially filed by Mr. Seibel derivatively on behalf of GRB, and then judicially assigned to Mr. Seibel pursuant to a proceeding in the Delaware Court of Chancery, this appeal is being filed on behalf of Mr. Seibel *and GRB* as a matter of caution.

² Case No. A-17-751759-B (the “First Case”), from which this appeal is currently being taken, was consolidated with Case No. A-17-760537-B (the “Second Case”) pursuant to an order entered on February 9, 2018. In *Matter of Estate of Sarge*, 134 Nev. 866, 432 P.3d 718 (2018), the Nevada Supreme Court held that an order “finally resolving a constituent consolidated case is immediately appealable as a final judgment even where the other constituent case or cases remain pending.” *Id.* at 866, 432 P.3d at 720. Here, the First Case is finally resolved, such that orders and decisions entered in it are immediately appealable even though the Second Case remains pending, such that any orders and decisions entered in it remain interlocutory in nature. Mr. Seibel, GRB, and the other parties to the Second Case who are represented by the undersigned counsel of record reserve their rights to appeal from, and intend to appeal from, various orders and decisions entered in the Second Case—once the Second Case is finally resolved.

³ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

⁴ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

- Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege Pursuant to the Crime-Fraud Exception, filed on June 8, 2021, notice of entry of which was filed on June 8, 2021;⁵
- Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green, filed on February 4, 2021, notice of entry of which was filed on February 4, 2021;
- Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss, filed on June 15, 2017, notice of entry of which was filed on June 16, 2017; and
- Order Denying Plaintiff's Motion for Preliminary Injunction, filed on April 12, 2017, notice of entry of which was filed on April 13, 2017.

DATED this 24th day of June, 2022.

BAILEY❖KENNEDY

By: /s/ Joshua P. Gilmore

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS

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

⁵ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 24th day of June, 2022, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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 Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWL, LLC; and Boardwalk Regency Corporation

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

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

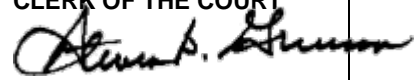
ALAN LEBENSFELD
BRETT SCHWARTZ
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Email: alan.lebensfeld@lsandspc.com
Brett.schwartz@lsandspc.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

MARK J. CONNOT
KEVIN M. SUTEHALL
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Email: mconnot@foxrothschild.com
ksutehall@foxrothschild.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY



ASTA (CIV)

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 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*

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 CLAIMS.

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

CASE APPEAL STATEMENT

1. NAME OF APPELLANT(S) FILING THIS CASE APPEAL STATEMENT:

Rowen Seibel (“Mr. Seibel”) and GR Burgr, LLC (“GRB”) (together, “Appellants”).¹

2. IDENTIFY THE JUDGE ISSUING THE DECISION, JUDGMENT, OR ORDER APPEALED FROM:

The Honorable Timothy C. Williams, Department 16 of the Eighth Judicial District Court, Clark County, Nevada, and the Honorable Joseph Hardy, Department 15 of the Eighth Judicial District Court, Clark County, Nevada.²

3. IDENTIFY EACH APPELLANT AND THE NAME AND ADDRESS OF COUNSEL FOR EACH APPELLANT:

Counsel for Appellants:

John R. Bailey (NV Bar No. 0137)
Dennis L. Kennedy (NV Bar No. 1462)
Joshua P. Gilmore (NV Bar No. 11576)
Paul C. Williams (NV 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

4. IDENTIFY EACH RESPONDENT AND THE NAME AND ADDRESS OF APPELLATE COUNSEL, IF KNOWN, FOR EACH RESPONDENT (IF THE NAME OF A RESPONDENT’S APPELLATE COUNSEL IS UNKNOWN, INDICATE AS MUCH AND PROVIDE THE NAME AND ADDRESS OF THAT RESPONDENT’S TRIAL COUNSEL):

Counsel for Respondent, PHWL V, LLC (“PHWL V”):

James J. Pisanelli (NV Bar No. 4027)
Debra L. Spinelli (NV Bar No. 9695)
M. Magali Mercera (NV Bar No. 11742)
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

¹ GRB was formed as a Delaware limited liability company in 2012. GRB was judicially dissolved in 2018, and a certificate of cancellation was filed in 2021. Notwithstanding, because the claims in this matter were initially filed by Mr. Seibel derivatively on behalf of GRB, and then judicially assigned to Mr. Seibel pursuant to a proceeding in the Delaware Court of Chancery, this notice of appeal is being filed on behalf of Mr. Seibel *and GRB* as a matter of caution.

² This case was initially before Judge Hardy and then transferred to Judge Williams.

Telephone: 702.214.2100
Facsimile: 702.214.2101
JJP@pisanellibice.com
DLS@pisanellibice.com
MMM@pisanellibice.com

Counsel for Respondent, Gordon Ramsay ("Mr. Ramsay"):

John D. Tennert (NV Bar No. 11728)
Geenamarie Carucci (NV Bar No. 15393)
Wade Beavers (NV Bar No. 13451)
FENNEMORE CRAIG, P.C.
7800 Rancharrah Parkway
Reno, NV 89511
Telephone: 702.788.220
Facsimile: 702.786.1177
jtennert@fennemorelaw.com
wbeavers@fennemorelaw.com
gcarucci@fennemorelaw.com

5. **INDICATE WHETHER ANY ATTORNEY IDENTIFIED ABOVE IN RESPONSE TO QUESTION 3 OR 4 IS NOT LICENSED TO PRACTICE LAW IN NEVADA AND, IF SO, WHETHER THE DISTRICT COURT GRANTED THE ATTORNEY PERMISSION TO APPEAR UNDER SCR 42 (ATTACH A COPY OF ANY DISTRICT COURT ORDER GRANTING SUCH PERMISSION):**

N/A.

6. **INDICATE WHETHER APPELLANT WAS REPRESENTED BY APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT:**

Appellants were represented by retained counsel in the District Court.

7. **INDICATE WHETHER APPELLANT IS REPRESENTED BY APPOINTED OR RETAINED COUNSEL ON APPEAL:**

Appellants are represented by retained counsel on appeal.

8. **INDICATE WHETHER APPELLANT WAS GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS, AND THE DATE OF ENTRY OF THE DISTRICT COURT ORDER GRANTING SUCH LEAVE:**

Appellants have not moved for leave to proceed in forma pauperis.

9. **INDICATE THE DATE THE PROCEEDINGS COMMENCED IN THE DISTRICT COURT (E.G., DATE COMPLAINT, INDICTMENT, INFORMATION, OR PETITION WAS FILED):**

This case commenced in the District Court on February 28, 2017, when the initial complaint was filed.

1 **10. PROVIDE A BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND**
2 **RESULT IN THE DISTRICT COURT, INCLUDING THE TYPE OF JUDGMENT**
3 **OR ORDER BEING APPEALED AND THE RELIEF GRANTED BY THE**
4 **DISTRICT COURT:**

5 This is a civil action related to a restaurant at the Planet Hollywood Las Vegas Resort &
6 Casino known as Gordon Ramsay Burger f/k/a BurGR Gordon Ramsay (the “Burger Restaurant”).
7 In December 2012, GRB entered into a Development, Operation, and License Agreement with
8 PHWLV and Mr. Ramsay related to the Burger Restaurant (the “Agreement”), in which GRB
9 granted certain rights to PHWLV to utilize intellectual property for a causal, gourmet, burger-centric
10 restaurant in exchange for a percentage of gross sales of the Burger Restaurant. In September 2016,
11 PHWLV terminated the Agreement prior to the end of its term upon finding that Mr. Seibel, a
12 member and Manager of GRB, was unsuitable as a result of an unrelated felony conviction.

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

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

21 In June 2017, the District Court entered an order granting, in part, and denying, in part,
22 PHWLV’s motion to dismiss, finding that certain claims were allegedly barred by the Agreement.
23 That same month, Mr. Seibel, on behalf of GRB, filed his First Amended Verified Complaint.

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

27 In August 2017, while this matter, Case No. A-17-751759-B (the “First Case”), was pending,
28 PHWLV, together with Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company,
 LLC (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC,” and

1 together with PHWLTV, Caesars Palace, and Paris, “Caesars”), initiated a separate action, Case No.
2 A-17-760537-B (the “Second Case”), against Mr. Seibel, GRB, J. Jeffrey Frederick (“Mr.
3 Frederick”), and the following entities: Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti
4 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV
5 Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”);
6 FERG 16, LLC (“FERG 16”); and DNT Acquisition LLC (“DNT”).³ Caesars asserted claims
7 against Mr. Seibel and the Development Entities for declaratory relief, including with respect to the
8 Agreement.⁴ In February 2018, the Second Case was consolidated with the First Case.

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

11 In March 2021, an order was entered in a proceeding in Delaware involving GRB, assigning
12 to Mr. Seibel those claims for damages asserted by GRB against PHWLTV and Mr. Ramsay in the
13 First Case.

14 In May 2022, the District Court entered orders granting motions for summary judgment filed
15 by PHWLTV and Mr. Ramsay in the First Case. Specifically, the District Court entered summary
16 judgment in favor of PHWLTV and Mr. Ramsay on all four claims asserted by Mr. Seibel, on behalf
17 of GRB, against PHWLTV and Mr. Ramsay. The District Court also entered summary judgment in
18 favor of PHWLTV on its two counterclaims asserted against Mr. Seibel. In doing so, the District
19 Court finally resolved all claims and counterclaims in the First Case.⁵

20 ///

21 ///

22 _____
23 ³ GRB, Moti, Moti 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT are referred to as the
“Development Entities.”

24 ⁴ In July 2018, DNT, LLTQ, LLTQ 16, FERG, and FERG 16 asserted counterclaims against Caesars for breach
of contract and accountings. In October 2018, an order was entered permitting The Original Homestead Restaurant, Inc.
25 (“OHR”) to intervene in the Second Case, to assert a claim for declaratory relief against Caesars Palace. In March 2020,
Caesars amended its Complaint in the Second Case to add coercive claims for relief against Mr. Seibel, the Development
26 Entities, and Craig Green (“Mr. Green”).

27 ⁵ Although summary judgment was also entered in the Second Case in favor of Caesars against the Development
Entities with respect to Caesars’ claims for declaratory relief and certain of the Development Entities’ counterclaims for
breach of contract and accountings, the order did not address Caesars’ claims for coercive relief, which remain pending,
28 and therefore, is interlocutory in nature.

Appellants now appeal from the following orders and decisions entered in the First Case:⁶

- (a) Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, filed on May 31, 2021, notice of entry of which was filed on June 3, 2022;
- (b) Findings of Fact, Conclusions of Law, and Order Granting Gordon Ramsay's Motion for Summary Judgment, filed on May 25, 2022, notice of entry of which was filed on June 2, 2022;
- (c) Order Granting in Part, and Denying in Part, the Development Entities, Rowen Seibel, and Craig Green's Motion to Compel the Return, Destruction, or Sequestering of the Court's August 19, 2021 Minute Order Containing Privileged Attorney-Client Communications, filed on November, 3, 2021, notice of entry of which was filed on November 3, 2021;⁷
- (d) Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege Pursuant to the Crime-Fraud Exception, filed on October 28, 2021, notice of entry of which was filed on October 28, 2021;⁸
- (e) Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege Pursuant to the Crime-Fraud Exception, filed on June 8, 2021, notice of entry of which was filed on June 8, 2021;⁹

⁶ In *Matter of Estate of Sarge*, 134 Nev. 866, 432 P.3d 718 (2018), the Nevada Supreme Court held that an order "finally resolving a constituent consolidated case is immediately appealable as a final judgment even where the other constituent case or cases remain pending." *Id.* at 866, 432 P.3d at 720. Here, the First Case is finally resolved, such that orders and decisions entered in it are immediately appealable even though the Second Case remains pending, such that any orders and decisions entered in it remain interlocutory in nature. Messrs. Seibel and Green and the Development Entities hereby reserve their rights to appeal from, and intend to appeal from, various orders and decisions entered in the Second Case—once the Second Case is finally resolved.

⁷ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

⁸ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

⁹ This order is the subject of a writ proceeding pending before the Nevada Supreme Court, Case No. 83723.

- (f) Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green, filed on February 4, 2021, notice of entry of which was filed on February 4, 2021;
- (g) Order Granting in Part and Denying in Part Planet Hollywood's Motion to Dismiss, filed on June 15, 2017, notice of entry of which was filed on June 16, 2017; and
- (h) Order Denying Plaintiff's Motion for Preliminary Injunction, filed on April 12, 2017, notice of entry of which was filed on April 13, 2017.

11. INDICATE WHETHER THE CASE HAS PREVIOUSLY BEEN THE SUBJECT OF AN APPEAL TO OR ORIGINAL WRIT PROCEEDING IN THE SUPREME COURT AND, IF SO, THE CAPTION AND SUPREME COURT DOCKET NUMBER OF THE PRIOR PROCEEDING:

This case has been the subject of the following original writ proceedings:

- (a) Petition for Extraordinary Writ Relief, Case No. 82488, filed by Petitioners Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC, TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; and R Squared Global Solutions, LLC, Derivatively on Behalf of DNT Acquisition LLC;
- (b) Petition for Extraordinary Writ Relief, Case No. 83071, filed by Petitioners Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC, TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; R Squared Global Solutions, LLC, Derivatively on Behalf of DNT Acquisition LLC; GR Burger, LLC; and Craig Green; and
- (c) Petition for Extraordinary Writ Relief, Case No. 83723, filed by Petitioners Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC, TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; FERG,

LLC; FERG 16, LLC; R Squared Global Solutions, LLC, Derivatively on Behalf of
DNT Acquisition LLC; GR Burger, LLC; and Craig Green.

**12. INDICATE WHETHER THIS APPEAL INVOLVES CHILD CUSTODY OR
VISITATION:**

This appeal does not involve child custody or visitation.

**13. IF THIS IS A CIVIL CASE, INDICATE WHETHER THIS APPEAL INVOLVES
THE POSSIBILITY OF SETTLEMENT:**

This is a civil case and involves the possibility of settlement.

DATED this 24th day of June, 2022.

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS

*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*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 24th day of June, 2022, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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 Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWL, LLC; and Boardwalk Regency Corporation

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

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

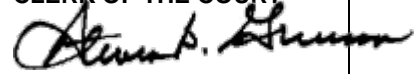
ALAN LEBENSFELD
BRETT SCHWARTZ
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Email: alan.lebensfeld@lsandspc.com
Brett.schwartz@lsandspc.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

MARK J. CONNOT
KEVIN M. SUTEHALL
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Email: mconnot@foxrothschild.com
ksutehall@foxrothschild.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY



NOCB (CIV)

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 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*

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 CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**ROWEN SEIBEL AND GR BURGR, LLC'S
NOTICE OF FILING COST BOND**

1 NOTICE IS HEREBY GIVEN that pursuant to NRAP 7, Rowen Seibel (“Mr. Seibel”) and
2 GR Burgr, LLC (“GRB”) (together, “Appellants”) posted a bond with the Clark County District
3 Court in the amount of \$500.00 for costs on appeal.

4 A true and correct copy of the \$500.00 check for costs on appeal is attached as Exhibit A.

5 DATED this 24th day of June, 2022.

6 BAILEY ♦ KENNEDY

7 By: /s/ Joshua P. Gilmore

8 JOHN R. BAILEY

DENNIS L. KENNEDY

JOSHUA P. GILMORE

9 PAUL C. WILLIAMS

10 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti*
11 *Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises*
12 *16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16,*
13 *LLC; FERG, LLC; FERG 16, LLC; Craig Green; R Squared*
14 *Global Solutions, LLC, Derivatively on Behalf of DNT*
15 *Acquisition, LLC; and GR Burgr, LLC*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 24th day of June, 2022, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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 Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWL, LLC; and Boardwalk Regency Corporation

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

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

ALAN LEBENSFELD
BRETT SCHWARTZ
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

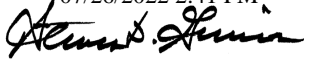
Email: alan.lebensfeld@lsandspc.com
Brett.schwartz@lsandspc.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

MARK J. CONNOT
KEVIN M. SUTEHALL
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Email: mconnot@foxrothschild.com
ksutehall@foxrothschild.com
Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY

TAB 107


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLV, 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.

PHWLV, 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-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**ORDER GRANTING MOTION TO
REDACT CAESARS' RESPONSE TO
OBJECTIONS TO EVIDENCE
OFFERED IN SUPPORT OF MOTIONS
FOR SUMMARY JUDGMENT**

Date of Hearing: December 22, 2021

Time of Hearing: Chambers

AND ALL RELATED MATTERS

PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"),
Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a
Caesars Atlantic City's ("CAC," and collectively, with Caesars Palace, Paris, and
Planet Hollywood, "Caesars,") *Motion to Redact Caesars' Response to Objections to Evidence
Offered in Support of Motions for Summary Judgment* (the "Motion to Seal"), filed on

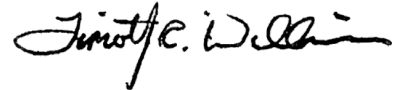
November 30, 2021, came before this Court for hearing on December 22, 2021, in Chambers. This Court issued a Minute Order dated December 22, 2021 addressing the Motion to Seal. Upon review of the papers and pleadings on file in this matter, as proper service of the Motion to Seal has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the Motion to Seal is deemed unopposed.

The Court finds that Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment contains commercially sensitive information creating a compelling interest in protecting the information from widespread dissemination to the public which outweighs the public disclosure of said information in accordance with Rule 3(4) of the Nevada Supreme Court's Rules Governing Sealing and Redacting of Court Records. Therefore, good cause appearing therefor:

THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES that the Motion to Seal shall be, and hereby is, GRANTED.

IT IS SO ORDERED.

Dated this 26th day of July, 2022



MH

6A9 5F9 119E 48FC
Timothy C. Williams
District Court Judge

Respectfully submitted: July 25, 2022

Approved as to form and content by:

PISANELLI BICE PLLC

BAILEY ♦ KENNEDY

By: /s/ M. Magali Mercera
James J. Pisanelli, Esq., #4027
Debra L. Spinelli, Esq., #9695
M. Magali Mercera, Esq., #11742
400 South 7th Street, Suite 300
Las Vegas, NV 89101

By: /s/ Joshua P. Gilmore
John R. Bailey, Esq., #0137
Dennis L. Kennedy, Esq., #1462
Joshua P. Gilmore, Esq., #11576
Paul C. Williams, Esq., #12524
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

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

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

1 Approved as to form and content by:

2 FENNEMORE CRAIG, P.C.

3
4 By: /s/ John D. Tennert
John D. Tennert, Esq., #11728
Wade Beavers, Esq., #13451
5 Geenamaria V. Carucci, Esq., #15393
7800 Rancharrah Parkway
6 Reno, NV 89511

7 *Attorneys for Gordon Ramsay*

Kimberly Peets

From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Monday, July 25, 2022 11:59 AM
To: Magali Mercera; Tennert, John; Paul Williams; Beavers, Wade; Carucci, Geenamarie
Cc: Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Kimberly Peets
Subject: RE: Desert Palace v. Seibel: Order Granting Motions to Redact

CAUTION: This message is from an EXTERNAL SENDER.
You may affix my e-signature. Thanks. Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP
8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302
(702) 562-8820 (main) | (702) 789-4547 (direct) | JGilmore@BaileyKennedy.com

www.BaileyKennedy.com

This e-mail message is a confidential communication from Bailey Kennedy, LLP and is intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-562-8820 and delete this e-mail message and any attachments from your workstation or network mail system.

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Monday, July 25, 2022 10:39 AM
To: Tennert, John <jtennert@fennemorelaw.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Carucci, Geenamarie <gcarucci@fennemorelaw.com>
Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Kimberly Peets <kap@pisanellibice.com>
Subject: RE: Desert Palace v. Seibel: Order Granting Motions to Redact

Thanks, John.

Josh/Paul – Please let us know if you have any changes or if we may apply your e-signature.

Best,

M. Magali Mercera
PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

From: Tennert, John <jtennert@fennemorelaw.com>

Sent: Friday, July 22, 2022 4:22 PM

To: Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Carucci, Geenamarie <gcarucci@fennemorelaw.com>

Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Kimberly Peets <kap@pisanellibice.com>

Subject: RE: Desert Palace v. Seibel: Order Granting Motions to Redact

CAUTION: This message is from an EXTERNAL SENDER.

Magali, you may apply my e-signature. Thanks,

John D. Tennert III
Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

From: Magali Mercera <mmm@pisanellibice.com>

Sent: Friday, July 22, 2022 2:33 PM

To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Carucci, Geenamarie <gcarucci@fennemorelaw.com>

Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Kimberly Peets <kap@pisanellibice.com>

Subject: Desert Palace v. Seibel: Order Granting Motions to Redact

Josh and John –

After reviewing the docket, it appears we had not yet submitted orders on two motions to seal that were decided via the Court's December 22, 2021 Minute order. Drafts for both are attached. Please let us know if you have any comments or suggested changes. Otherwise, if acceptable, please confirm we may apply your e-signature.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Telephone: (702) 214-2100

Fax: (702) 214-2101



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWLTV LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/26/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@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

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

lit@pisanellibice.com

26
27
28
AA07009

1	Daniel McNutt	drm@cmlawnv.com
2	Paul Sweeney	PSweeney@certilmanbalin.com
3	Nathan Rugg	nathan.rugg@bfkn.com
4	Steven Chaiken	sbc@ag-ltd.com
5	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
6	Brett Schwartz	brett.schwartz@lsandspc.com
7	Doreen Loffredo	dloffredo@foxrothschild.com
8	Paul Williams	pwilliams@baileykennedy.com
9	Dennis Kennedy	dkennedy@baileykennedy.com
10	Joshua Gilmore	jgilmore@baileykennedy.com
11	John Bailey	jbailey@baileykennedy.com
12	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
13	Magali Mercera	mmm@pisanellibice.com
14	Cinda Towne	cct@pisanellibice.com
15	Litigation Paralegal	bknotices@nv-lawfirm.com
16	Shawna Braselton	sbraselton@fennemorelaw.com
17	Mark Connot	mconnot@foxrothschild.com
18	Joshua Feldman	jfeldman@certilmanbalin.com
19	Nicole Milone	nmilone@certilmanbalin.com
20	Emily Buchwald	eab@pisanellibice.com
21	Cinda Towne	Cinda@pisanellibice.com
22	Karen Hippner	karen.hippner@lsandspc.com
23	Lawrence Sharon	lawrence.sharon@lsandspc.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

John Tennert	jtennert@fennemorelaw.com
Christine Gioe	christine.gioe@lsandspc.com
Trey Pictum	trey@mcnuttlawfirm.com
Anne Alley	aalley@fclaw.com
Monice Campbell	monice@envision.legal
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com
Geenamarie Carucci	gcarucci@fennemorelaw.com
Susan Whitehouse	swhitehouse@fennemorelaw.com