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**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

IN THE MATTER OF SEARCH  
WARRANTS REGARDING SEIZURE  
OF DOCUMENTS, LAPTOP  
COMPUTERS, CELLULAR  
TELEPHONES, AND OTHER  
DIGITAL STORAGE DEVICES FROM  
THE PREMISES OF LAS VEGAS  
BISTRO, LLC AND LITTLE  
DARLINGS OF LAS VEGAS, LLC  
LAS VEGAS BISTRO, LLC D/B/A  
LARRY FLYNT'S HUSTLER CLUB;  
AND LITTLE DARLINGS OF LAS  
VEGAS, LLC,

Appellants,

vs.

LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT,

Respondent.

Case No.: 84931-COA

Appeal from the Eighth Judicial District  
Court, The Honorable Jerry A. Wiese II  
Presiding.

**RESPONDENT LAS VEGAS**  
**METROPOLITAN POLICE**  
**DEPARTMENT'S**  
**SUPPLEMENTAL OPPOSITION**  
**TO APPELLANTS' EMERGENCY**  
**MOTION UNDER NRAP 27(e) FOR**  
**STAY PURSUANT TO NRAP 8**

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## **I. INTRODUCTION**

In ordering additional briefing regarding NRS 179.085(1)(e), NRS 179.085(3), and the return of property under the totality of circumstances, it appears that this Court is focused on the fourth NRAP 8 factor—likelihood of success on the merits. As identified in the LVMPD’s Response to the Motion to Stay, Appellants contend that they present a substantial legal issue, not that they are likely to prevail. Thus, Appellants have waived any argument regarding the likelihood of success on the merits as it was not raised below. Similar to the point raised by this Court, Appellants failed to assert that the continued seizure of the property is unreasonable under the totality of the circumstances. Rather, Appellants maintained that there lacked probable cause to issue the warrant and that the warrant itself was facially invalid. To be sure, nowhere in the request for return of property do Appellants cite the clear authority in Nevada regarding the standard that applies in determining whether the property should be returned under the totality of the circumstances, *In re 12067 Oakland Hills, Las Vegas, Nevada 89141 (Las Vegas Metro. Police Dep’t v. Anderson)*, 134 Nev. 799, 805, 435 P.3d 672, 677 (Nev. App. 2018). In fact, the only time *Anderson* is referenced by Appellants is in their reply in support of its request wherein it merely cites to LVMPD’s opposition. Even if this Court were to construe Appellants’ moving papers as seeking the return of property under NRS 179.085(1)(e) and on the basis

that its property contains privileged material, Appellants have not satisfied their evidentiary burden. For the sake of argument, if they had satisfied their burden, LVMPD has met its burden in demonstrating that it is actively conducting a criminal investigation. Finally, even if this Court imposed a stay, it must be limited to the specific devices identified in the briefing and, consistent with NRS 179.085(3), this Court should permit LVMPD to fully image the devices to preserve all evidence before returning any property to ensure that its investigation is not derailed by subsequent spoliation in the event the Court affirms the district court's order.

## **II. STATEMENT OF ADDITIONAL FACTS**

Relevant to this Court's inquiry on whether a stay should issue, is the fact that Jason Mohny, managing member of the Las Vegas Bistro, LLC dba Larry Flynt's Hustler Club (Hustler Club), filed a separate action for return of property on behalf of Go Best, LLC. *See* Motion attached as **Exhibit 4**. Here, Mohny seeks to obtain the same property the district court previously denied and is not subject to appeal. Compare *Id.* with Reply in Support of Petitioner's Motion attached hereto as **Exhibit 3**. Additionally, Appellants failed to provide any specific evidence to the Court below regarding alleged privileged material. *See* Motion for Return of Property attached hereto as Exhibit 2; *see also* Exhibit 3. There was no privilege log provided, which is the quintessential document to

substantiate the alleged privilege. *Id.* All that was provided were overbroad, vague, and self-serving declarations simply stating that property contained privileged material. *Id.*

Finally, the district court, during the hearing on Appellant's motion for stay, required that LVMPD return property that had already been imaged if LVMPD no longer needed to access the original device.<sup>1</sup> The deadline to complete this is by July 15, 2022. However, because of passwords on the devices, LVMPD is unable to verify whether some devices have been completely imaged. This hinders LVMPD's ability to return the property. More importantly, the order from the district court is for LVMPD to extract the privileged information. *See* Motion for Stay at Exhibit A. Appellants refuse to provide such information to LVMPD—further hindering its ability to search and return the property. In reality, the inability of LVMPD to quickly return the property is by Appellants' own making. Should this Court issue a stay of the district court's order, this would undeniably delay the return of property. This clearly evidences that Appellants have no need for this property to run their business.

LVMPD strives for returning Appellants' property once the original device is no longer needed. *See* LVMPD's Opposition to Motion for Return of Property

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<sup>1</sup> While LVMPD provided a proposed order to Appellants to review and submit to the Court, they have not completed this task.

attached hereto as **Exhibit 5**. As argued by LVMPD in its opposition to Appellants' request for return of property, some items have been imaged, and so long as no issue arises with the imaging process, and LVMPD does not need to the original device to extract the privileged material, LVMPD can and will return the property to all owners as soon as it is feasible to do so. *Id.*

### **III. LEGAL ARGUMENT**

#### **A. APPELLANTS FAILED TO RAISE ARGUMENTS BELOW.**

A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981). While the Court directed the parties to provide supplemental briefing regarding NRS 179.085 and the return of property under the totality of the circumstances, such arguments were not raised by Appellants and should not be considered by this Court. *See* Exhibits 2 and 3.

Moreover, it appears that this Court seeks additional briefing in relation to the fourth factor under NRAP 8. In weighing this final factor, the Supreme Court has articulated that “a movant does not always have to show a probability of success on the merits, [but] the movant must ‘present a substantial case on the merits when a serious *legal question* is involved and show that the balance of equities weighs heavily in favor of granting the stay.’” *Hansen*, 116 Nev. at 659, 6

P.3d at 987. Here, there cannot be any substantial case on the merits related to a serious legal issue. This issue of privileged material, and probable cause, is one in fact for which Appellants have provided no support. Thus, this Court should deny the request for stay as the fourth factor clearly weighs against a stay and in favor of LVMPD.

**B. THE SEIZED PROPERTY CANNOT BE RETURNED DUE TO THE ONGOING CRIMINAL INVESTIGATION.**

Return of seized property is governed by NRS 179.085, which provides:

**NRS 179.085 Motions for return of property and to suppress evidence.**

1. A person aggrieved by an unlawful search and seizure or the deprivation of property may move the court having jurisdiction where the property was seized for the return of the property on the ground that:

- (a) The property was illegally seized without warrant;
- (b) The warrant is insufficient on its face;
- (c) There was not probable cause for believing the existence of the grounds on which the warrant was issued;
- (d) The warrant was illegally executed; or
- (e) Retention of the property by law enforcement is not reasonable under the totality of the circumstances.

The judge shall receive evidence on any issue of fact necessary to the decision of the motion.

“[T]he moving party [Appellants] bears the initial burden to show that the government’s retention of his or her property is facially unreasonable under the totality of all of the circumstances that then exist.” *Anderson*, 134 Nev. at 806, 435

678. To meet this burden, Appellants could, for example, present evidence that the property is no longer needed as evidence, that no charges have been filed, or that the “criminal case has been completely resolved, either through a trial or a guilty plea, because such a resolution suggests that any criminal investigation is likely over.” *Id.*

*Anderson* cites to federal law. Nevada’s return of property statute, codified at NRS 179.085, mirrors Fed. R. Crim. P. 41(g). Under federal law, it is clear that a law enforcement agency has the right to take temporary custody of property which is or may contain evidence of a crime. A motion for return of property is properly denied if the government’s need for the property continues. *United States v. Mills*, 991 F.2d 609, 612 (9th Cir. 1993), citing *United States v. U.S. Currency Amounting to Sum of \$20,294.00 More or Less*, 1495 F. Supp. 147, 150 (E.D.N.Y. 1980). If property has evidentiary value, and it is legally seized, it need not be returned until its evidentiary value has been exhausted. *Id.* The court has the duty to return the contested property once the government’s need for it has ended. *United States v. Martinson*, 809 F.2d 1364, 1370, citing *United States v. Wilson*, 540 F.2d 1100, 1103-1104 (D.C. Cir. 1976); \$20,294.00, *supra*; *United States v. Totaro*, 468 F.Supp. 1045, 1048 (D. Md. 1979).

Here, Appellants have not met this initial burden. Even Appellants cannot dispute that there is an on-going investigation. *See Motion*. The request for the

property to be returned should end there. “If the movant fails to meet this initial burden, nothing more is required and the motion may be denied even if the government produces no evidence in response.” *Id.*

Only if Appellants had met this initial burden would the burden then shift to LVMPD. For the sake of argument, LVMPD could easily satisfy its burden, which *Anderson* holds can be done in “several ways,” including by “show[ing] that the property was related to an ongoing criminal investigation.” *Id.* LVMPD must do so with “more than a naked assertion of counsel.” *Id.* If necessary, LVMPD can submit information to the Court *in camera*, because “the disclosure of an active and ongoing criminal investigation may jeopardize the integrity of the investigation itself by revealing to a suspect that he or she is being investigated, how the investigation is being conducted, and by whom.” *Id.* at 679.

LVMPD provided evidence of declaration of Detective Chavez regarding the ongoing and active investigation and Supervisor Zachary Johnson regarding the status of the searches and the ability to return some of the devices once imaging has been completed and vetted. LVMPD offered to provide the District Court with additional details *in camera* if needed. The District Court declined.

LVMPD has acknowledged in other cases that at some point, the length of time that property is being held can become problematic. The *Anderson* Court recognized something like this when it stated that the moving party can meet its



initial burden by demonstrating that “no charges have been filed even after the government has had more than enough time to conduct its investigation.” *Id.* at 678. For this proposition, the *Anderson* Court cited *Mr. Lucky Messenger Serv., Inc. v. United States*, 587 F.2d 15, 17 (7th Cir. 1978). In *Mr. Lucky Messenger*, the Court was faced with a motion to return property that had been seized 17 months prior yet no charges had been filed. The Court provided the following factors that should be addressed when deciding whether the length of time is too long to be constitutional:

The critical inquiry then is whether the Government has an adequate justification for withholding the plaintiff's \$65,000 for over seventeen months without bringing any charges against the plaintiff. The Government, of course, is not required to secure an indictment immediately after it seizes property pursuant to a grand jury investigation. But if no charges are filed for nearly one and one-half years after the property was seized, and the Government is unable to present evidence justifying such a delay, constitutional violations emerge which would seem on equitable principles to mandate that the property be returned...

\* \* \*

. . . [O]ther factors a court should consider . . . are whether the plaintiff has an individual interest in and need for the material whose return it seeks; whether it would be irreparably injured by denial of the return of the property; and whether it has an adequate remedy at law for redress of its grievance.

*Id.* at 17 (citations omitted and emphasis added). There is no assertion that the

length of time is an issue here. The mere fact that LVMPD demonstrated that its criminal investigation is ongoing and that it has not even been able to complete the search of the property due to Appellants' gamesmanship should end the inquiry.

Instead, Appellants provided nothing more than scant evidence that the property contains privileged material. And, a declaration from counsel merely stating that the property has attorney-client privilege or accountant-client privilege, is not enough. Exhibit 2. The other declarations do nothing more than baldly assert devices—not necessarily belonging to the Hustler Club—contain privileged material.

Moreover, the scant evidence provided regarding privileged material does not justify a return of the property. Below, Appellants relied on NRS 179.105 for the notion that attorney-client privilege protects materials that are otherwise subject to a warrant. NRS 179.105 provides:

All property or things taken on a warrant must be retained in an officer's custody, subject to the order of the court to which the officer is required to return the proceedings before the officer, or of any other court in which the offense in respect to which the property or things are taken is triable. If it appears that the property taken is not the same as that described in the warrant, that there is no probable cause for believing the existence of the grounds on which the warrant was issued **or that the property is determined pursuant to NRS 179.11518 to be subject to the attorney-client privilege**, the magistrate shall cause it to be restored to the person from whom it was taken. However, no search warrant shall be quashed by any magistrate or judge within this State nor shall any evidence based upon a search warrant be suppressed in any criminal action or proceeding because of

mere technical irregularities which do not affect the substantial rights of the accused.

(emphasis added). Under NRS 179.11518, a district attorney or the Attorney General is required to review the property for attorney-client privilege if the search warrant was issued pursuant to NRS 179.11514. NRS 179.11514 expressly applies to search warrants issued and executed upon an attorney engaged in the practice of law. Thus, the attorney-client provision within NRS 179.105 has no application here because LVMPD did not seize property from an attorney engaged in the practice of law. Other than NRS 179.11518, Appellants neglected to cite to any authority for the position that such material must be returned, despite the property being subject to a search warrant.

Nevertheless, even if LVMPD cannot seize privileged information, courts recognize that the movant bears the burden of establishing that the property contains privileged material. *In re Grand Jury Investigation*, 974 F.2d 1068, 1070 (9th Cir. 1992). There, the court required the corporation to submit a privilege log regarding the material that was alleged to be privileged. *Id.* A log should identify: (a) the attorney and client involved, (b) the nature of the document, (c) all persons or entities shown on the document to have received or sent the document, (d) all persons or entities known to have been furnished the document or informed of its substance, and (e) the date the document was generated, prepared, or dated. *Id.* (citation omitted). Without this information, Appellants cannot satisfy their burden

that the information contained in *all* devices is privileged material. The privilege log is necessary as there is an exception to privileges, including the crime-fraud exception. *Clark v. United States*, 289 U.S. 1, 15, 53 S.Ct. 465, 469, 77 L.Ed. 993 (1933); 8 John H. Wigmore, *Evidence* § 2298 (McNaughton Rev.1961 and Supp.1991). In *United States v. Zolin*, 491 U.S. 554, 565, 109 S.Ct. 2619, 2627, 105 L.Ed.2d 469 (1989), the Supreme Court held that in camera review of privileged information may be used to establish whether the crime-fraud exception applies. In other words, just because Appellants assert the privilege applies, a privilege log is necessary so that LVMPD can seek in camera of particular records if there is a basis to believe that the material would fall under the crime-fraud exception.

In contrast, LVMPD has demonstrated a justification for not being able to return the electronic devices. The electronic devices are needed to complete an ongoing criminal investigation, which has only just begun. This investigation is complex and may take months to complete. The warrants themselves recognize that time is needed. It is common that this process can take many months. In sum, there is no basis to return the seized electronic devices. The request for a stay must be denied.

**C. ANY STAY MUST BE LIMITED TO THE SPECIFIC DEVICES OF THE HUSTLER CLUB.**

While Appellants assert in blanket fashion that the devices seized contained privileged information, Appellants only provided declarations of: Jason Mohny, claiming that a Go Best laptop was seized and contains privileged information; Ralph James claiming that his Apple MacBook Laptop was seized; and Andrea Woods personal cell phone was seized. *See* Exhibit 3 at Exhibit I. It certainly begs the question whether the Court has jurisdiction to enter a stay regarding property that does not belong to Hustler, the moving party (i.e., the personal cell phone and Go Best Laptop). To the extent this Court believes it can exercise jurisdiction over this property, the stay must be limited to this property as there is no evidence before this Court, or provided below, that any of the other property contains privileged material. For instance, the DVR systems and Point of Sale systems seized would not contain any privileged material. Similarly, Appellants neglected to provide any evidence that the property of Little Darlings contains privileged material. Accordingly, in the event the Court believes a stay is appropriate, it must be limited to the property that is asserted to contain privileged material and not be issued against all property seized.

#### **IV. CONCLUSION**

Based on the foregoing, LVMPD asks that the Court deny Appellants' Emergency Motion to Stay the District Court's Order.

Dated this 13th day of July, 2022.

MARQUIS AURBACH

By: /s/ Jackie V. Nichols  
Nick D. Crosby, Esq.  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **RESPONDENT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S SUPPLEMENTAL OPPOSITION TO APPELLANTS' EMERGENCY MOTION UNDER NRAP 27(e) FOR STAY PURSUANT TO NRAP 8** was filed electronically with the Nevada Supreme Court on the 13th day of July, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Deanna Forbush, Esq.  
Colleen McCarty, Esq.  
Attorneys for Movants and Real Parties in Interest  
Las Vegas Bistro, LLC and Little Darlings of Las Vegas, LLC

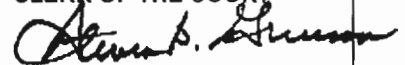
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

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Las Vegas Bistro, LLC and Little Darlings of Las Vegas, LLC

/s/ Leah A. Dell  
\_\_\_\_\_  
An employee of Marquis Aurbach

# **EXHIBIT 2**





CASE NO: A-22-851073-C  
Department 4

**MOT**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

IN RE SEARCH WARRANT REGARDING  
SEIZURE OF DOCUMENTS, LAPTOP  
COMPUTERS, CELLULAR TELEPHONES AND  
OTHER DIGITAL STORAGE DEVICES FROM  
THE PREMISES OF LAS VEGAS BISTRO, LLC  
AND LITTLE DARLINGS OF LAS VEGAS, LLC,

Case No.:  
Dept No.:

**HEARING REQUESTED**

Movants and Real Parties in Interest.

**MOTION OF REAL PARTIES IN INTEREST LAS VEGAS BISTRO, LLC DBA LARRY  
FLYNT'S HUSTLER CLUB AND LITTLE DARLINGS OF LAS VEGAS, LLC DBA  
LITTLE DARLINGS TO: (1) UNSEAL SEARCH WARRANT APPLICATIONS AND  
SUPPORTING AFFIDAVITS; (2) QUASH SEARCH WARRANTS, AND  
(3) RETURN SEIZED PROPERTY**

Pursuant to the Fourth and Fourteenth Amendments to the Constitution of the United States;  
Article 1, Section 18 of the Constitution of the State of Nevada; and Nevada Revised Statutes  
("NRS"), Sections 179.105; 179.045, 179.085, and 179.11518, Movants Las Vegas Bistro, LLC  
dba Larry Flynt's Hustler Club (the "Hustler Club") and Little Darlings of Las Vegas, LLC dba  
Little Darlings ("Little Darlings" and collectively with the Hustler Club, "Movants"), by and

1 through their attorneys of record, Deanna L. Forbush, Esq., and Colleen E. McCarty, Esq., of the  
2 law firm of Fox Rothschild, LLP, and Zachary M. Youngsma of the law firm of Shafer &  
3 Associates, P.C., hereby respectfully request that this Honorable Court enter an Order:

4 1. Unsealing the Application and Affidavit of Las Vegas Metropolitan Police  
5 Department ("LVMPD") Detective R. Chavez, P#7758 ("Hustler Club Application and Supporting  
6 Affidavit") submitted in support of the Search Warrant issued on April 1, 2022 in the matter of  
7 6007 Dean Martin Dr., Las Vegas, NV 89118 (the Hustler Club) by the Honorable Harmony Letizia,  
8 Justice of the Peace for the Las Vegas Township Justice Court ("the Hustler Club Search Warrant"),  
9 authorizing a search by law enforcement officers of the business known as Larry Flynt's Hustler  
10 Club and further authorizing seizure of, among other items, business documents and electronic and  
11 digital storage devices, inclusive of computers, cellular phones and tablets (the "Property"), which  
12 Search Warrant Application and Supporting Affidavit was sealed by Judge Letizia pending further  
13 order of the court. *See Exhibit A.* The Hustler Club Search Warrant was executed on April 5,  
14 2022. *See Exhibit B.*

15 2. Likewise, unsealing the Application and Affidavit of LVMPD Detective R. Chavez,  
16 P#7758 ("Little Darlings Application and Supporting Affidavit" and collectively with the Hustler  
17 Club Application and Supporting Affidavit, the "Applications and Supporting Affidavits")  
18 submitted in support of the Search Warrant issued on April 1, 2022 in the matter of 1514 Western  
19 Ave., Las Vegas, NV 89102 (Little Darlings) by the Honorable Harmony Letizia, Justice of the  
20 Peace for the Las Vegas Township Justice Court ("the Little Darlings Search Warrant" and  
21 collectively with the Hustler Club Search Warrant, the "Search Warrants"),<sup>1</sup> authorizing a search  
22 by law enforcement officers of the business known as Little Darlings and further authorizing seizure  
23 of the identical aforementioned Property, which Search Warrant Application and Supporting  
24

25  
26  
27  
28 <sup>1</sup> For reasons unknown to Movants, a Duplicate Original Search Warrant and Order Sealing  
Affidavit was issued by Justice of the Peace Joseph Scisento of the Las Vegas Township Justice  
Court on April 5, 2022 for Little Darlings. Both the original Little Darlings search warrant and  
sealing order and the duplicate search warrant and sealing order were left at the business following  
the search.

1 Affidavit was also sealed by Judge Letizia pending further order of the court. *See Exhibit C.* The  
2 Little Darlings Search Warrant was executed on April 5, 2022. *See Exhibit D.*

3 3. Providing Movants' counsel with an opportunity to review and evaluate the  
4 representations contained in the Applications and Supporting Affidavits and to thereafter submit a  
5 Supplemental Memorandum of Points and Authorities in support of this Motion with the benefit of  
6 such review, regarding Movants' contention, presently based upon information and belief, that the  
7 search warrants are facially deficient under Nevada law and that the representations contained  
8 therein fail to establish probable cause to justify the seizure of Movants' Property pursuant to the  
9 Search Warrants as set forth *infra*;

10 4. Quashing the Search Warrants should the Court find, in view of supplemental  
11 briefing, that probable cause to seize Movants' Property was in fact lacking; and

12 5. Thereafter, requiring the immediate return of Movants' Property and before any  
13 application for a warrant to search said Property is even considered by the Court; the examination  
14 of any of its content by any law enforcement officer or designee; or the presentation of any of its  
15 content to any judicial officer, grand jury, or other entity or person whomsoever for any purpose  
16 whatsoever.

17 This Motion is made and based upon the following Memorandum of Points and Authorities;  
18 the Declaration of Deanna L. Forbush, Esq. ("Forbush Declaration") included herein and the  
19 exhibits attached thereto; all pleadings and papers already on file; and any oral argument the Court  
20 may permit at a hearing of this matter.

## 21 MEMORANDUM OF POINTS AND AUTHORITIES

### 22 I.

#### 23 INTRODUCTION

24 In broad searches of the premises of two expressive businesses that are presumptively  
25 protected by the First Amendment to the United States Constitution and Article 1, Section 18, of  
26 the Constitution of the State of Nevada, LVMPD seized from Movants and their employees, among  
27 other things, a variety of documents and digital storage devices, including computers, cell phones  
28 and tablets, that undeniably contain information and communications subject to the attorney/client,

1 accountant/client, and work product privileges; virtually none of which relates to the subject matter  
2 of the search warrants at issue. Neither the search warrants nor, upon information and belief, the  
3 underlying supporting materials used to obtain those warrants authorized, or even sought to  
4 authorize, the search or seizure of such privileged materials.

5 The clear case law applicable to these matters permits the Court, in the proper exercise of  
6 its discretion, to immediately protect Movants' interests by, at minimum, ordering LVMPD to  
7 return all seized property pending further review by the Movants and the Court of the Applications  
8 and Supporting Affidavits at issue and ordering the unsealing of same for this purpose.

9 **STATEMENT OF RELEVANT FACTS**

10 On January 26, 2022 and March 12, 2022, LVMPD sent correspondence to the Hustler Club  
11 purportedly providing "notice" that one or more entertainers, who LVMPD *failed to identify* and  
12 incorrectly referenced as "employees"<sup>2</sup> of the Hustler Club, had solicited an undercover police  
13 detective for sexual acts on the premises. See **Exhibit E**. As advised by LVMPD and required  
14 pursuant to NRS 201.395, the Hustler Club responded in writing to LVMPD Detective R. Sioson  
15 on February 1, 2022, and LVMPD Detective R. Chavez on March 15, 2022, asking for identification  
16 of the entertainer(s) at issue, affirming its zero-tolerance policy regarding illegal sexual conduct,  
17 and outlining its extensive efforts to ensure that no acts of solicitation of prostitution occurred on  
18 its premises. See **Exhibits F and G**. In its correspondence, the Hustler Club further invited  
19 guidance from LVMPD regarding additional actions, policies and procedures it could implement  
20 to address the issue and ensure compliance with NRS 201.395(3). See *id.* No further response was  
21 provided by LVMPD.

22 Similarly, on January 8, 2022 and March 12, 2022, Little Darlings received correspondence  
23 from LVMPD regarding alleged prostitution activity by one or more unidentified entertainer(s).  
24 Like the Hustler Club, Little Darlings responded to Detective Chavez, via email on January 11,  
25 2022, and March 14, 2022, detailing its efforts to ensure that no such conduct occurred on its  
26

27  
28 <sup>2</sup> The dancers/entertainers who perform at the Hustler Club and Little Darlings are independent contractors, not employees, of the respective businesses.

1 premises, and inviting further input from LVMPD regarding the same. *See Exhibit H.* And, like  
2 the Hustler Club, Little Darlings received no further communication from LVMPD.

3 On April 5, 2022, members of LVMPD's Special Investigations Section executed a search  
4 of the premises of Larry Flynt's Hustler Club (as well as premises leased to another entity) and  
5 Little Darlings.<sup>3</sup> Upon their arrival, detectives corralled the employees of each respective business  
6 and seized the personal cellular telephones of the persons who identified themselves as management  
7 employees of each club. *See Exhibits B and D.* Police officers took three (3) cellular telephones  
8 from managers of the Hustler Club and one cellular telephone from a manager at Little Darlings.  
9 To be clear, these phones were not the property of either business and instead were purchased by  
10 and solely belong to the individuals from whom they were seized for their personal and business  
11 use.

12 Among other items, LVMPD also removed multiple computers from the premises of each  
13 business. At the Hustler Club, detectives seized three (3) laptop computers and two (2) iPads. *See*  
14 *Exhibit B.* At Little Darlings, LVMPD removed four (4) computers and three (3) tablets. *See*  
15 *Exhibit D.* Detectives also seized computer servers, thumb drives and mountains of documents  
16 from both businesses. *See Exhibits B and D.* LVMPD's digital forensics team worked in  
17 collaboration with detectives on scene at the Hustler Club and advised the undersigned counsel that  
18 they could, and in fact did, create mirror images of some of the devices using the mobile forensics  
19 unit parked on site.

20 Notwithstanding the hardship created by the seizure of the Property to the business interests  
21 of the Movants, and the personal interests of those owning the phones seized, the Property contains  
22 documents and communications which are privileged pursuant to the attorney-client privilege and  
23 work product doctrine, NRS 49.095, and the accountant-client privilege, NRS 49.185. By this  
24 Motion, Movants seek to protect all privileged information contained within the Property seized by  
25 LVMPD, inclusive of the personal cellular telephones of the managers.

26  
27  
28 <sup>3</sup> LVMPD executed a third search warrant the same day at another adult nightclub, Play It Again  
Sam's.

1 II.

2 LEGAL ARGUMENT

3 1. Legal Standard.

4 The Fourth Amendment to the United States Constitution provides that “[t]he right of the  
5 people to be secure in their persons, houses, papers, and effects, against unreasonable searches and  
6 seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by  
7 Oath or affirmation, and particularly describing the place to be searched and persons or things to  
8 be seized.” A “seizure” of property occurs when there is some meaningful interference with an  
9 individual’s possessory interests in ... [some type of] property. *United States v. Jacobsen*, 466 U.S.  
10 109, 113 (1984) (holding at 466 U.S. at 120 that “agents’ assertion of dominion and control over  
11 the package and its contents did constitute a ‘seizure’” and at 122 n. 18 that “the decision by  
12 governmental authorities to exert dominion and control over the package for their own purposes  
13 clearly constituted a “seizure”). And, as the United States Supreme Court explained in *Jacobsen*,  
14 absent the application of exceptional circumstances, under the Fourth Amendment, a “seizure”  
15 requires “a warrant, based on probable cause.” 466 U.S. at 122.

16 Under Nevada law, search and seizure protections are embodied in Article 1, Section 18 of  
17 the Nevada Constitution. And, like both constitutional provisions, NRS 179.045(1) and (6)(a) also  
18 provide that warrants authorizing searches or seizures must be based upon a sworn showing of  
19 probable cause by affidavit.<sup>4</sup> NRS 179.045(4) further sets forth that “upon a showing of good  
20 cause, [a judge or] magistrate may order [such] an affidavit ... to be sealed. [And that likewise,  
21 ***[u]pon a showing of good cause, a court may cause the affidavit ... to be unsealed***” (emphasis  
22 added).

23 NRS 179.085(1) provides that a “person aggrieved by an unlawful search and seizure or the  
24 deprivation of property may move the court having jurisdiction where the property was seized for  
25 the return of the property on the ground that: . . . (b) The warrant is insufficient on its face; (c) There

26 <sup>4</sup> It is well-settled that a state’s own judiciary may interpret a state constitutional provision to  
27 provide greater protection to its citizenry than its federal counterpart requires as interpreted by the  
28 Supreme Court of the United States, and by statute, a state Legislature may do likewise. *Virginia v. Moore*, 553 U.S. 164, 171 (2008); *State v. Kincade*, 129 Nev. 953, 956, 317 P.3d 206, 208 (2013) (en banc); *Osburn v. State*, 118 Nev. 323, 326, 44 P.3d 523, 525 (2002).

1 was not probable cause for believing the existence of the grounds on which the warrant was issued;  
2 (d) The warrant was illegally executed; or (e) Retention of the property by law enforcement is not  
3 reasonable under the totality of the circumstances.” Upon such showing pursuant to paragraphs (b)  
4 – (d), the property must be restored and deemed inadmissible at any hearing or trial. NRS  
5 179.085(2). If the motion is granted on the ground set forth in paragraph (e), the property must be  
6 returned, but the Court may set reasonable conditions to protect future access. NRS 179.085(3).  
7 Similarly, NRS 179.105 provides, “[i]f it appears that the property taken is not the same as that  
8 described in the warrant, [or] that there is no probable cause for believing the existence of the  
9 grounds on which the warrant was issued ... [it] *shall* ... be restored to the person from whom it was  
10 taken.” (emphasis added).

11 2. **The Search Warrants are Legally Deficient Under NRS 179.085; and Therefore, This**  
12 **Court Should Enter An Order Unsealing the Applications and Supporting Affidavits;**  
**Quashing the Search Warrants; and Requiring the Immediate Return of the Property.**

13 Movants respectfully submit, upon information and belief, that the instant Applications and  
14 Supporting Affidavits fail to set forth sufficient facts and circumstances to establish probable cause  
15 to justify the seizure of the Property pursuant to the Search Warrants as required by the Fourth  
16 Amendment, Article 1, Section 18 of the Nevada Constitution, and NRS 179.045(1) and (6)(a).  
17 Absent such mandatory support, the Search Warrants should be quashed. Further, Movants assert  
18 that LVMPD has failed to meet the strict requirements of NRS 179.085(b), (d) and (e) where the  
19 Search Warrants are insufficient on their face, illegally executed, and the continuing retention of  
20 the Property is unreasonable under the totality of the circumstances.

21 Movants, however, are at an extreme disadvantage as the instant Applications and  
22 Supporting Affidavits, the very documents Movants require to meet their evidentiary burden, are  
23 currently under seal without reasonable basis. Upon information and belief, the gravamen of the  
24 instant LVMPD investigation is the alleged solicitation of prostitution at the Hustler Club and Little  
25 Darlings in January and March of this year, and Movants’ responses thereto to abate the alleged  
26 illegal activity as required under NRS 201.395(c). As such, all of the events at issue have already  
27 occurred. LVMPD sent its notices in January and March, 2022, and Movants provided their written  
28 responses immediately thereafter. LVMPD executed the Search Warrants on April 5, 2022 at both

1 clubs. There can be no good cause to maintain the Applications and Supporting Affidavits under  
2 seal when unsealing them will in no way impact the investigation of any such events that, even  
3 assuming that they did in fact actually occur, did so in the past and where the searches of the subject  
4 premises have concluded. To the contrary, Movants must be permitted the opportunity to preserve  
5 this issue for briefing pending an opportunity to evaluate the contents of the underlying documents,  
6 in recognition that a failure of the necessary showings constitutes “good cause” upon which to order  
7 ***unsealing*** within the meaning of NRS 179.045(4).

8 Accordingly, the instant Applications and Supporting Affidavits should be ordered unsealed  
9 and Movants’ counsel afforded the opportunity to evaluate the representations contained therein  
10 and to submit a supplemental memorandum of points and authorities regarding these issues with  
11 the benefit of such review. And should the Court find, in view of supplemental briefing, that support  
12 to seize the Property was indeed lacking, this Court should order the immediate return of the  
13 Property before any application for a warrant to search its contents is even considered by the Court,  
14 and before the examination of any of its internal contents by any law enforcement officer or  
15 designee, or the presentation of any of its internal contents to any judicial officer, grand jury, or  
16 other entity or person for any purpose whatsoever.

17 **3. Emails, Documents, Notes and Other Correspondence with Movants’ Attorneys and**  
18 **Accountants are Contained Within the Property and Protected by the Attorney-Client**  
**and Accountant-Client Privileges and Work Product Doctrine.**

19 The Property seized by LVMPD, inclusive of paper documents and digital storage devices,  
20 contains emails, documents and other correspondence with Movants’ attorneys and accountants that  
21 are privileged pursuant to the attorney-client privilege and work product doctrine and the  
22 accountant-client privilege. As mandated by statute, this information is not subject to disclosure  
23 and must be protected and returned to Movants. NRS § 179.105 states, in relevant part, “[i]f it  
24 appears . . . that the property is determined pursuant to NRS 179.11518 to be subject to the attorney-  
25 client privilege, the magistrate ***shall cause it to be restored to the person from whom it was taken.***”  
26 (emphasis added). NRS § 179.11518 states, in its entirety:

27 A district attorney or the Attorney General shall ensure that any property seized  
28 during a search conducted under a search warrant issued pursuant to NRS



1        179.11514<sup>[5]</sup> is reviewed to determine whether the attorney-client privilege applies  
2        and that any seized property that is subject to the attorney-client privilege is  
3        returned as provided in NRS 179.105 to the attorney from whom the property was  
4        seized.

5        (footnote added).

6        The attorney-client privilege is set forth in NRS 49.095, which provides:

7        A client has a privilege to refuse to disclose, and to prevent any other person from  
8        disclosing, confidential communications:

- 9        1. Between the client or the client's representative and the client's lawyer or the  
10        representative of the client's lawyer.
- 11        2. Between the client's lawyer and the lawyer's representative.
- 12        3. Made for the purpose of facilitating the rendition of professional legal services  
13        to the client, by the client or the client's lawyer to a lawyer representing another  
14        in a matter of common interest.

15        "For this privilege to apply, the communications must be between an attorney and client,  
16        for the purpose of facilitating the rendition of professional legal services, and be confidential."  
17        *Wynn Resorts, Ltd. v. Eighth Jud. Dist. Ct. in & for Cty. of Clark*, 133 Nev. 369, 374, 399 P.3d 334,  
18        341 (Nev. 2017). "A communication is confidential if it is not intended to be disclosed to third  
19        persons other than those to whom disclosure is in furtherance of the rendition of professional legal  
20        services to the client or those reasonably necessary for the transmission of the communication."  
21        NRS 49.055.

22        "The work-product doctrine protects more than just communications between a client and  
23        attorney, and is thus broader than the attorney-client privilege." *Wynn Resorts*, 399 P.3d at 347.  
24        "[A]n attorney's work product, which includes 'mental impressions, conclusions, opinions, and  
25        legal theories of counsel are not discoverable under any circumstances.'" *Id.* (quoting *Wardleigh v.*  
26        *Second Jud. Dist. Ct. In & For Cty. of Washoe*, 111 Nev. 345, 359, 891 P.2d 1180, 1189 (Nev.  
27        1995)). "Both the attorney and client have the power to invoke the work-product privilege." *Id.*  
28        Protected materials must have the following "two characteristics: (1) they must be prepared in  
anticipation of litigation or for trial, and (2) they must be prepared by or for another party or by or

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<sup>5</sup> NRS 179.11514 deals with special rules for issuing a search warrant for property of an attorney.  
The warrant at issue here was not issued under this statute.

1 for the other party's representative.'" *Id.* (quoting *In re Grand Jury Subpoena (Mark Torff/Torff*  
2 *Envtl. Mgmt.) (Torff)*, 357 F.3d 900, 907 (9th Cir. 2004)).

3 Nevada has adopted the "because of" test when determining whether materials are prepared  
4 in anticipation of litigation. *Wynn Resorts*, 399 P.3d at 347-48. Under this test, "documents are  
5 prepared in anticipation of litigation when 'in light of the nature of the document and the factual  
6 situation in a particular case, the document can fairly be said to have been prepared or obtained  
7 because of the prospect of litigation," this necessarily includes "protecting records prepared by or  
8 at the request of an attorney." *Id.* (quoting *Restatement (Third) of the Law Governing Lawyers*, §  
9 87 cmt. I (2000). This "because of" test is applied using a "totality of the circumstances standard".  
10 *Id.* at 348. "[I]t considers the totality of the circumstances and affords protection when it can fairly  
11 be said that the document was created in anticipation of litigation, and would have not have been  
12 created in substantially similar form but for the prospect of litigation.'" *Id.* (quoting *Torff*, 357 F.3d  
13 900, at 908). Notably, "'a document does not lose protection under this formulation [the "but for  
14 the prospect of litigation, the document would not exist formulation"] merely because it is created  
15 in order to assist with a business decision.'" *Id.* at 348 (quoting *Torff*, 357 F.3d 900, at 908; *United*  
16 *States v. Adlman*, 134 F.3d 1194, 1202 (2d Cir. 1998)).

17 Similarly, NRS § 49.185 provides:

18 A client has a privilege to refuse to disclose, and to prevent any other person from  
19 disclosing, confidential communications:

- 20 1. Between the client or the client's representative and the client's accountant or  
the representative of the client's accountant.
- 21 2. Between the client's accountant and the accountant's representative.
- 22 3. Made for the purpose of facilitating the rendition of professional accounting  
23 services to the client, by the client or the client's accountant to an accountant  
representing another in a matter of common interest.

24 "A communication is 'confidential' if it is not intended to be disclosed to third persons other  
25 than those to whom disclosure is in furtherance of the rendition of professional accounting services  
26 to the client or those reasonably necessary for the transmission of the communication." NRS §  
27 49.155. "Accountant means a person certified or registered as a public accountant under Chapter  
28 628 of NRS who holds a live permit." NRS § 49.135.

1       This privilege extends to out-of-state accountants under Chapter 628 of NRS. “Except as  
2 otherwise provided in this chapter, a natural person who holds a valid license as a certified public  
3 accountant from any other than this State shall be deemed to be a certified public accountant for all  
4 purposes under the laws of this State other than this chapter.” NRS § 628.315(1). Further out-of-  
5 state accountants are exempted from the live permit requirement, “[a] natural person granted  
6 practice privileges pursuant to subsection 1 is not required to obtain: (a) a certificate pursuant to  
7 NRS 628.190; or (b) a permit pursuant to NRS 628.380.” NRS § 628.315(2).

8       Here, Movants cannot stress enough the amount of material stored on the Property that is  
9 indisputably protected by the attorney-client privilege and work product doctrine, as well as the  
10 accountant-client privilege. The seized computers, thumb drives, hard drives and tablets are used  
11 to run/oversee/manage numerous businesses worldwide. The owners of the Hustler Club and Little  
12 Darlings, their respective general managers, and in some cases, certain personnel, are in near daily  
13 contact with their businesses’ attorneys and accountants, and the vast majority of these  
14 communications are conducted through the Property. *See* Forbush Declaration at ¶ 3. Further,  
15 documents sent and received from attorneys and accountants are stored within the Property and  
16 many of these stored electronic documents are also protected by the work-product doctrine as they  
17 were prepared by counsel in preparation for litigation (virtually all of which has absolutely nothing  
18 to do with the allegations of prostitution that are supposedly the bases of these searches and  
19 seizures). *See* Forbush Declaration at ¶ 4. Movants’ concern regarding these privileges also extends  
20 to the voluminous paper documents seized by LVMPD.

21       Accordingly, Movants respectfully request this Court enter an order prohibiting LVMPD,  
22 the Clark County District Attorney’s Office, and any person acting on their behalf (hereafter the  
23 “Government”), from reviewing any of the seized property, as that term (property) is defined in  
24 NRS § 179.015, until such a time as Movants and the Court can facilitate the scrubbing of the seized  
25 property of any materials protected by either the attorney-client, work product, or accountant-client  
26 privileges. In addition, Movants seek the permanent return of all property that contains information  
27 protected by the attorney-client, work product, or accountant-client privileges.

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III.

**CONCLUSION**

For all the foregoing reasons, Movants respectfully request that the Court grant this Motion, together with such further and other relief as the Court deems fair and just.

DATED this 12<sup>th</sup> day of April, 2022.

**FOX ROTHSCHILD LLP**

/s/ Deanna L. Forbush  
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3800 Capital City Blvd., Ste. 2  
Lansing, Michigan 48906  
*Attorneys for Movants and Real Parties in Interest  
Las Vegas Bistro, LLC and Little Darlings of Las  
Vegas, LLC*

**DECLARATION OF DEANNA L. FORBUSH ESQ. IN SUPPORT OF MOTION OF  
REAL PARTIES IN INTEREST LAS VEGAS BISTRO, LLC DBA LARRY FLYNT'S  
HUSTLER CLUB AND LITTLE DARLINGS OF LAS VEGAS, LLC DBA LITTLE  
DARLINGS, TO: (1) UNSEAL SEARCH WARRANT APPLICATIONS AND  
SUPPORTING AFFIDAVITS; (2) QUASH SEARCH WARRANTS;  
AND (3) RETURN SEIZED PROPERTY**

I, Deanna L. Forbush, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of Nevada and am a Partner with the law firm of Fox Rothschild LLP, attorneys of record for Movants Las Vegas Bistro, LLC dba Larry Flynt's Hustler Club and Little Darlings of Las Vegas, LLC dba Little Darlings. I have personal knowledge of the facts stated in this Declaration, and if called upon to testify to the same, I am competent to do so.

2. I make this Declaration in support of the Motion of Real Parties in Interest Las Vegas Bistro, LLC dba Larry Flynt's Hustler Club and Little Darlings of Las Vegas, LLC dba Little Darlings to: (1) Unseal Search Warrant Applications and Supporting Affidavits; (2) Quash Search Warrants; and (3) Return Seized Property.

3. As counsel for Las Vegas Bistro, LLC ("Las Vegas Bistro") and Little Darlings of Las Vegas, LLC ("Little Darlings"), I am aware that my clients routinely exchange materials with me and other attorneys and accountants in their employ via email and text which are protected by the attorney-client and accountant-client privileges and the work product doctrine.

4. I am also aware that materials protected by the attorney-client and accountant-client privileges and the work product doctrine are stored on digital storage devices which were seized by the Las Vegas Metropolitan Police Department ("LVMPD").

5. Attached hereto as **Exhibit A** is a true and correct copy of the Search Warrant for Larry Flynt's Hustler Club issued on April 1, 2022 and executed on April 5, 2022 and the Order Sealing Affidavit associated therewith issued on April 1, 2022.

6. Attached hereto as **Exhibit B** is a true and correct copy of the Search Warrant Return for Larry Flynt's Hustler Club left by the LVMPD following the search conducted on April 5, 2022. Upon information and belief, it does not reflect all items seized.

7. Attached hereto as **Exhibit C** is a true and correct copy of the Search Warrant for Little Darlings issued on April 1, 2022 and executed on April 5, 2022, the Order Sealing Affidavit associated therewith issued on April 1, 2022, and the Duplicate Original Search Warrant and Order Sealing Affidavit issued on April 5, 2022.

8. Attached hereto as **Exhibit D** is a true and correct copy of the Search Warrant Return for Little Darlings left by the LVMPD following the search conducted on April 5, 2022.

9. Attached hereto as **Exhibit E** are true and correct copies of correspondence from the LVMPD to Larry Flynt's Hustler Club, dated January 26, 2022 and March 12, 2022, which advise that an undercover officer was allegedly solicited for prostitution at the Hustler Club on January 13, 2022 and March 9, 2022, and requesting information regarding the Hustler Club's abatement efforts.

10. Attached hereto as **Exhibit F** is a true and correct copy of an email from me, in my capacity as legal counsel for the Hustler Club, to LVMPD Detective R. Sioson, dated February 1, 2022, advising of the Hustler Club's prostitution prevention efforts.

11. Attached hereto as **Exhibit G** is a true and correct copy of a letter from Jason Mohney, owner of the Hustler Club, to LVMPD Detective R. Chavez, dated March 15, 2022, advising of the Hustler Club's prostitution prevention efforts.

12. Attached hereto as **Exhibit H** are true and correct copies of emails from Trevor Bowen, General Manager of Little Darlings, to LVMPD Detective R. Sioson, and LVMPD Detective R. Chavez, dated January 11, 2022 and March 14, 2022 respectively, advising of Little Darling's prostitution prevention efforts.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045)<sup>6</sup>, that the foregoing is true and correct.

DATED this 12<sup>th</sup> day of April, 2022.

/s/ Deanna L. Forbush  
DEANNA L. FORBUSH

<sup>6</sup> **NRS 53.045** Use of unsworn declaration in lieu of affidavit or other sworn declaration. Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated, in substantially the prescribed form.

# **EXHIBIT “A”**

## **SEARCH WARRANT**

**STATE OF NEVADA    )**  
**) ss:**  
**COUNTY OF CLARK    )**

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by R. Chavez, P#7758, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property, namely:

- 1) Business documents to include, but not limited to, financial and bank records, credit card receipts, ownership records, lease contracts, tax reports, business and professional licenses, lists of services provided, employee lists, customer lists, financial ledgers, owe sheets, and travel documents.
- 2) Electronic and digital storage devices, as well as digital storage media, to include, but not limited to, computers, cellular phones, tablets, discs, thumb drives, hard drives, credit card readers, point of sale devices, and digital video recorder (DVR) systems.
- 3) Condoms, lubricants, medications used to treat or counteract sexually transmitted diseases, and other paraphernalia related to Erotic Dance establishments operating as brothels.
- 4) Limited items of personal property, which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant, to include, but not limited to, personal identification, documents, utility bills, receipts, letters, photographs, insurance policies, and governmental notices, whether such items are



**SEARCH WARRANT**  
**(Continuation)**

**Page 2**

written, typed, or stored on an electronic medium are presently located at:

**1) The business known as Larry Flynt's Hustler Club, located at 6007 Dean Martin Dr., Las Vegas, NV 89118. The structure is a four-story commercial building, located on the southwest corner of Dean Martin Dr. and West Ponderosa Way. The building is primarily pink and white in color stucco. The numbers "6007" are affixed above the northeast corner of the building on the east facing wall and are pink in color. The words "Larry Flynt's Hustler" are affixed above the southeast side of the building. The words "Larry Flynt's" is blue in color and "Hustler" is in pink. 2) The persons of adults or minors working at the premises at the time of the execution of this search warrant.**

And as I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the affidavit attached hereto, there are sufficient grounds for the issuance of the Search Warrant. Furthermore, I acknowledge this **is not** a no-knock search warrant, as defined by SB50 Section 1.9.

**SEARCH WARRANT**  
(Continuation)

Page 3

You are hereby commanded to search forthwith said premises for said property, serving this warrant between the hours of anytime, day or night, and if the property is there to seize it, prepare a written inventory of the property seized, and make a return for me within ten days.

Dated this 15<sup>th</sup> Day day of April Month, 2022

HH Retizia  
JUDGE

FYI

IN RE: SEARCH WARRANT for

6007 Dean Martin Dr.,  
Las Vegas, NV 89118

ORDER SEALING  
AFFIDAVIT

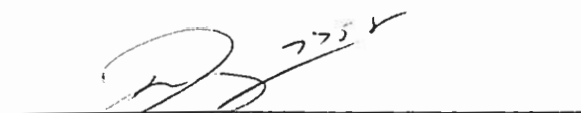
Upon the ex parte application of Det. R. Chavez P#7758, a commissioned officer with the Las Vegas Metropolitan Police Department and Affiant, to seal the Affidavit in support of the attached Search Warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the Affidavit in support of the attached Search Warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the Affidavit be left at the premises along with the Search Warrant in lieu of the Affidavit in support of the Warrant.

DATED this 1<sup>st</sup> day of April, 2021.

  
JUDGE

  
AFFIANT

## **EXHIBIT “B”**

## **RETURN**

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

1234 5th St. N. Minneapolis, MN 55405  
\_\_\_\_\_  
\_\_\_\_\_

was executed on 4-9-97  
(month, day, year)

A copy of this inventory was left with 1234 5th St. N. Minneapolis, MN 55405  
\_\_\_\_\_  
(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

1. 1997 Ford Taurus, VIN 1F8P...  
2. 1997 Ford Taurus, VIN 1F8P...  
3. 1997 Ford Taurus, VIN 1F8P...  
4. 1997 Ford Taurus, VIN 1F8P...  
5. 1997 Ford Taurus, VIN 1F8P...  
6. 1997 Ford Taurus, VIN 1F8P...  
7. 1997 Ford Taurus, VIN 1F8P...  
8. 1997 Ford Taurus, VIN 1F8P...  
9. 1997 Ford Taurus, VIN 1F8P...  
10. 1997 Ford Taurus, VIN 1F8P...

This inventory was made by: 1234 5th St. N. Minneapolis, MN 55405

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)

Page \_\_\_\_\_ of \_\_\_\_\_

**RETURN (continued)**

location: \_\_\_\_\_

\_\_\_\_\_  
Officers Initials

## **EXHIBIT “C”**

LLV  
220400019181

## SEARCH WARRANT

STATE OF NEVADA     )  
                                      ) ss:  
COUNTY OF CLARK    )

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by R. Chavez P#7758, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property, namely:

- 1) Business documents to include, but not limited to, financial and bank records, credit card receipts, ownership records, lease contracts, tax reports, business and professional licenses, lists of services provided, employee lists, customer lists, financial ledgers, owe sheets, and travel documents.
- 2) Electronic and digital storage devices, as well as digital storage media, to include, but not limited to, computers, cellular phones, tablets, discs, thumb drives, hard drives, credit card readers, point of sale devices, and digital video recorder (DVR) systems.
- 3) Condoms, lubricants, medications used to treat or counteract sexually transmitted diseases, and other paraphernalia related to Erotic Dance establishments operating as brothels.
- 4) Limited items of personal property, which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant, to include, but not limited to, personal identification, documents, utility bills, receipts, letters, photographs, insurance policies, and governmental notices, whether such items are



**SEARCH WARRANT**  
**(Continuation)**

**Page 2**

written, typed, or stored on an electronic medium are presently located at: **1) The business known as Little Darlings, located at 1514 Western Ave., Las Vegas, NV 89102. The structure is a single-story building located on Western Ave, north of W. Wyoming Ave. The building is primarily pink in color stucco with brown trim. The numbers "1514" are affixed above the northeast corner of the building, on the east facing wall and they are white in color. The words "Little Darlings" are affixed above the main entrance, located on the northeast side of the building, and are white in color. 2) The persons of adults or minors working at the premises at the time of the execution of this search warrant.**

**2) The persons of adults or minors working at the premises at the time of the execution of this search warrant.**

And as I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the affidavit attached hereto, there are sufficient grounds for the issuance of the Search Warrant. Furthermore, I acknowledge this is **not** a no-knock search warrant, as defined by SB50 Section 1.9.

**SEARCH WARRANT**  
**(Continuation)**

**Page 3**

You are hereby commanded to search forthwith said premises for said property, serving this warrant between the hours of anytime, day or night, and if the property is there to seize it, prepare a written inventory of the property seized, and make a return for me within ten days.

Dated this 15<sup>th</sup> Day day of April Month, 2022

H. Retizia  
JUDGE

LLV  
2204000 / 4/81

IN RE: SEARCH WARRANT for

1514 Western Ave.,  
Las Vegas, NV 89102

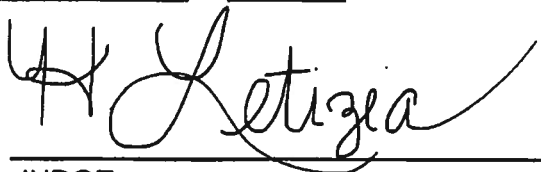
ORDER SEALING  
AFFIDAVIT

Upon the ex parte application of Det. R. Chavez P#7758, a commissioned officer with the Las Vegas Metropolitan Police Department and Affiant, to seal the Affidavit in support of the attached Search Warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the Affidavit in support of the attached Search Warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the Affidavit be left at the premises along with the Search Warrant in lieu of the Affidavit in support of the Warrant.

DATED this 1<sup>st</sup> day of April, 2022.

  
JUDGE

  
AFFIANT

**IN RE: SEARCH WARRANT for**  
 LITTLE DARLING  
 1500/1502/1514  
 WESTERN AVE LVN 89102

**ORDER SEALING  
 AFFIDAVIT**

Upon the ex parte application of Officer's Name, a commissioned officer with the Las Vegas Metropolitan Police Department and Affiant, to seal the affidavit in support of the attached search warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the affidavit in support of the attached search warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the affidavit be left at the premises along with the search warrant in lieu of the affidavit in support of the warrant.

DATED this 5<sup>TH</sup> day of APRIL, 2022.

J. SCISENTO  
 JUDGE

DET. A CARRERON P#9025  
 AFFIANT

LLV

Event # 220400019181

**DUPLICATE ORIGINAL SEARCH WARRANT  
N.R.S. 179.045**

STATE OF NEVADA }  
                              } ss.  
                              }

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made before me by Det. A. CAPRON #9025, by oral statements given under oath, that there is probable cause to believe certain evidence, to wit:

- (1) ~~United States Currency~~
- (2) Business documents to include but not limited to financial and bank records, credit card receipts, ownership records, rent receipts and lease contracts, tax reports, business and professional licenses, lists of services provided, employee lists, customer list, financial ledgers and owe sheets, travel documents, etc.
- (3) Condoms, Lubricants, medications used to treat or counteract sexually transmitted diseases and other paraphernalia related to massage parlors operating as brothels.
- (4) Electronic and Digital Storage Devices as well as Digital Storage Media, to include but not limited to, computers, cellular phones, tablets, discs, thumb drives, hard drives, credit card readers, and a digital video recorder (DVR) system.

X / \_\_\_\_\_  
\_\_\_\_\_  
( ) \_\_\_\_\_  
\_\_\_\_\_

- ( ) Limited items of personal property

Demonstrating the crime(s) of ADVANCING PROSTITUTION has / have been committed and said evidence is presently located at: 1514 / 1502 / 1500 WESTERN AVE LUN 89102 Las Vegas, Clark County, Nevada, and as I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the statements of Det. A-CAPRON, there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search and examine said premise(s) for said property and trace evidence, serving this warrant (anytime day or night) / (between 7 a.m. and 7 p.m.), and if the evidence/property is there, to seize it and leave a written inventory and make a return before me within 10 days. The attached recorded oral statement upon which this warrant is based is hereby incorporated by this reference as though fully set forth herein.

Dated this 5 day of APRIL, 2022 at 1602 hours.

(Write Judges Name) Judge JOSEPH SCISCENTO

Signed by Det. A. CAPRON, acting on oral authorization of Judge JUDGE SCISCENTO

Endorsed this 5 day of APRIL, 2022

Judge J. SCISCENTO

## **EXHIBIT “D”**

200  
22090014/21

Page 1 of 1

# RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

1000 E. 1st St. Suite 1000 Las Vegas NV 89101  
1000 E. 1st St. Suite 1000

was executed on 1/21/22  
(month, day, year)

A copy of this inventory was left with Donna L. [unclear]  
(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

1. 1 [unclear]  
2. 1 [unclear]  
3. 1 [unclear]  
4. 1 [unclear]  
5. 1 [unclear]  
6. 1 [unclear]  
7. 1 [unclear]  
8. 1 [unclear]  
9. 1 [unclear]  
10. 1 [unclear]  
11. 1 [unclear]  
12. 1 [unclear]  
13. 1 [unclear]  
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28. 1 [unclear]  
29. 1 [unclear]  
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35. 1 [unclear]  
36. 1 [unclear]  
37. 1 [unclear]  
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39. 1 [unclear]  
40. 1 [unclear]  
41. 1 [unclear]  
42. 1 [unclear]  
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88. 1 [unclear]  
89. 1 [unclear]  
90. 1 [unclear]  
91. 1 [unclear]  
92. 1 [unclear]  
93. 1 [unclear]  
94. 1 [unclear]  
95. 1 [unclear]  
96. 1 [unclear]  
97. 1 [unclear]  
98. 1 [unclear]  
99. 1 [unclear]  
100. 1 [unclear]

This inventory was made by: Donna L. [unclear]  
1000 E. 1st St. Suite 1000  
(at least two officers including affiant if present. If person from whom property is taken is present include that person.)



## **EXHIBIT “E”**



**LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT**

JOSEPH LOMBARDO, Sheriff

*Partners with the Community*

January 26, 2022

Attn: Ralph James – General Manager  
**Larry Flynt's Hustler Club, LLC**  
6007 Dean Martin Dr.,  
Las Vegas, NV 89118

In Response, Please Reply To:  
Detective R. Sioson P#10055  
702-828-3724 Office  
702-659-1351 Cell  
[R10055S@LVMPD.COM](mailto:R10055S@LVMPD.COM)

Re: **Larry Flynt's Hustler Club**

The purpose of this letter is to inform the owner or operator of **Larry Flynt's Hustler Club** that on January 13<sup>th</sup>, 2022, solicitation for illegal prostitution occurred at this place of business where three **Larry Flynt's Hustler Club** employees solicited undercover detectives for sexual acts, under LVMPD event LLV220100051719. The investigation was conducted following recent information of dancers/entertainers at **Larry Flynt's Hustler Club** soliciting customers for sex in exchange for money on multiple occasions. Mr. Ralph James was identified as the General Manager of **Larry Flynt's Hustler Club** during a site check of the business establishment on 01/13/2022 at approximately 2200 hours.

Jason Mohny Revocable Trust, Cherry II LLC, have been identified as the owner, member and trustee of **Larry Flynt's Hustler Club, LLC** (per business licensing records).

Prostitution is illegal in Clark County, Nevada under NRS 201.354, 201.300, 201.301.

You are advised to contact the LVMPD Special Investigations Section (SIS), VICE section or the nearest LVMPD area command for assistance in abating future instances of illegal prostitution within this business.

Please contact the Special Investigations Section Det. R. Sioson P# 10055 by email to document the steps you have taken to abate this illegal activity.



LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT

JOSEPH LOMBARDO, Sheriff

*Partners with the Community*

Future instances of illegal prostitution that occur within **Larry Flynt's Hustler Club** may result in criminal charges against the owner/ operator of this business under NRS 201.300, 201.301.

Received by:

---

Sincerely,  
**Joseph Lombardo, Sheriff**

By, Sgt. T. Thayer  
Special Investigations Section



**LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT**

JOSEPH LOMBARDO, Sheriff

*Partners with the Community*

March 12, 2022

Attn: Ralph James – General Manager  
**Larry Flynt's Hustler Club, LLC**  
6007 Dean Martin Dr.,  
Las Vegas, NV 89118

In Response, Please Reply To:  
Detective R. Chavez P#7758  
702-828-3724 Office  
702-239-0444 Cell  
[R7758C@LVMPD.COM](mailto:R7758C@LVMPD.COM)

**Re: Larry Flynt's Hustler Club**

The purpose of this letter is to inform the owner or operator of **Larry Flynt's Hustler Club** that on March 9, 2022, solicitation for illegal prostitution occurred at this place of business where a **Larry Flynt's Hustler Club** employee solicited an undercover detective for sexual acts, under LVMPD event LLV220300038211. The investigation was conducted following recent information of dancers/entertainers at **Larry Flynt's Hustler Club** soliciting customers for sex in exchange for money on multiple occasions. Mr. Ralph James was identified as the General Manager of **Larry Flynt's Hustler Club** during a site check of the business establishment on 03/09/2022 at approximately 2300 hours.

Jason Mohny Revocable Trust, Cherry II LLC, have been identified as the owner, member and trustee of **Larry Flynt's Hustler Club, LLC** (per business licensing records).

Prostitution is **illegal** in Clark County, Nevada under NRS 201.354, 201.300, 201.301.

You are advised to contact the LVMPD Special Investigations Section (SIS), VICE section or the nearest LVMPD area command for assistance in abating future instances of illegal prostitution within this business.

Please contact the Special Investigations Section Det. R. Chavez P#7758 by email to document the steps you have taken to abate this illegal activity.





**LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT**

*JOSEPH LOMBARDO, Sheriff*

*Partners with the Community*

Future instances of illegal prostitution that occur within **Larry Flynt's Hustler Club** may result in criminal charges against the owner/ operator of this business under NRS 201.300, 201.301.

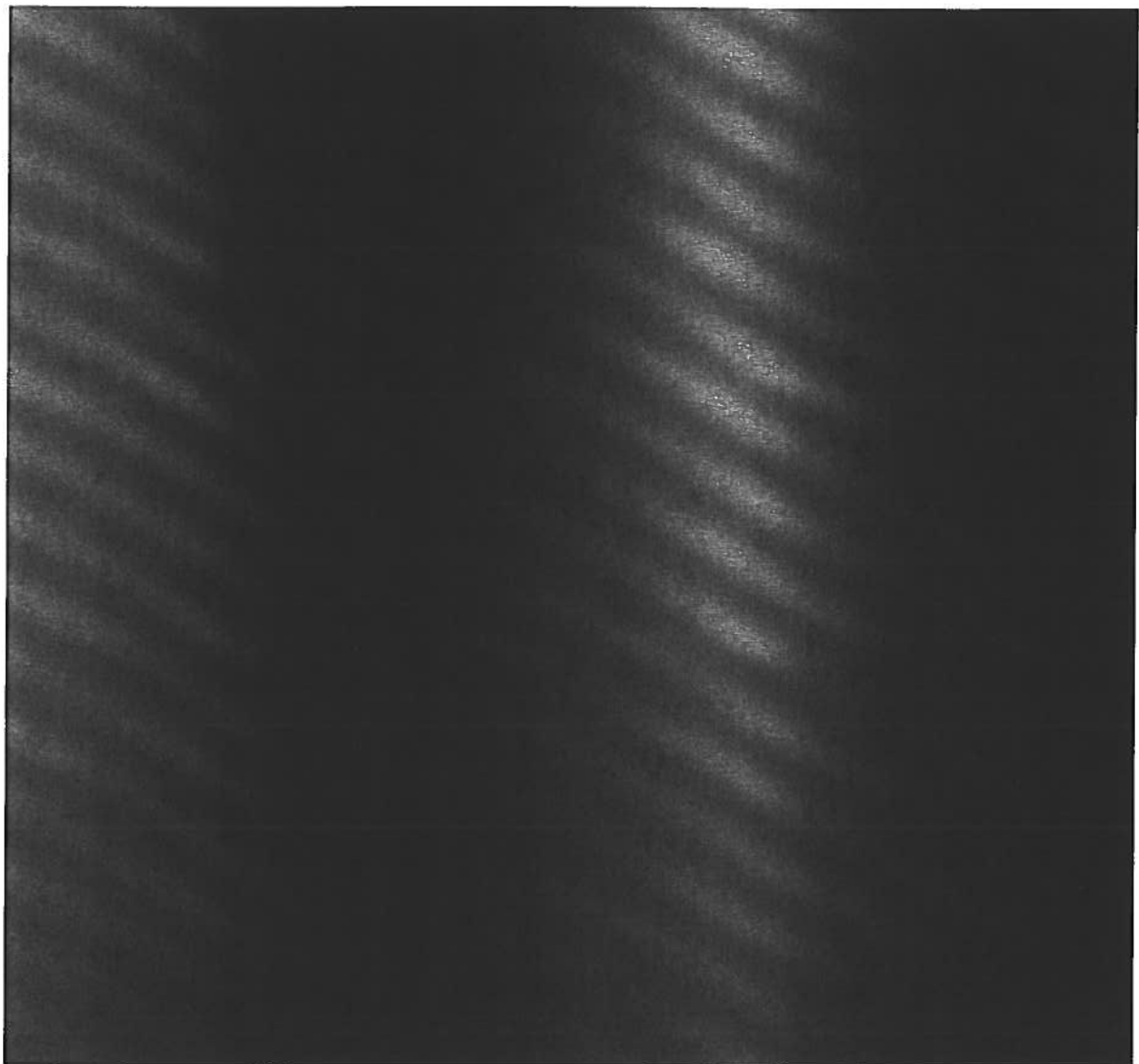
Received by:

Sincerely,  
**Joseph Lombardo, Sheriff**

By, Sgt. T. Thayer  
Special Investigations Section



## **EXHIBIT “F”**



**From:** "Forbush, Deanna L." <[DForbush@foxrothschild.com](mailto:DForbush@foxrothschild.com)>

**Date:** February 1, 2022 at 2:41:58 PM CST

**To:** [R10055S@lvmpd.com](mailto:R10055S@lvmpd.com)

**Cc:** "Wade, Michelle" <[MWade@foxrothschild.com](mailto:MWade@foxrothschild.com)>

**Subject:** Las Vegas Bistro d/b/a Larry Flynt's Hustler Club

Dear Detective R. Sioson:

Further to my voice-mail message left for you earlier today, I and this law firm are legal counsel to Ralph James and Las Vegas Bistro d/b/a Larry Flynt's Hustler Club ("Hustler Club" or "Club"). I have been trying to reach you to discuss your letter to the Hustler Club Of

January 26, 2022 ("Correspondence"). Please call me at your earliest convenience to discuss the same. In the interim, will you please have a copy of report concomitant to Event LLV220100051719 ("Report") sent to me through this email address or at the address listed below?

Additionally, further to your request that my Client document steps taken to abate the alleged illegal activity referenced in your Correspondence, allow me to take the opportunity to emphasize the fact that the Hustler Club prides itself in being an active partner with law enforcement and works hard to ensure compliance with all applicable laws and ordinances. Nevertheless, the Club will take all further reasonably recommended steps to ensure that the persons performing and/or working at the Club remain compliant with the laws of Clark County and the State of Nevada.

To that end:

1. The Club has met with and will continue to meet with each entertainer to review the local ordinances governing exotic dance establishments. Should any person fail to comply with the requirements of the law, we will terminate performance contracts of all offending entertainers. Further action can be taken in this regard upon receipt of the names of the persons mentioned but not named in your Correspondence. To the extent that a list of names of infringing entertainers are not contained in the referenced Report, please provide them so that we may further address the situation;
2. The Club will host a meeting with all entertainers to remind them of the applicable laws and that what they say in conversation (whether or not intended to be carried out) may be interpreted as solicitation;
3. The Club will additionally host a meeting with all employees to remind them of the applicable laws and their responsibility to



actively enforce the applicable laws; and

4. The Club will increase the frequency of security patrols of dance areas to ensure that no illicit activity occurs.

As noted, all entertainers at the Hustler Club are independently contracted and we desire to remove any contractor from our establishment that does not follow the law. The Club monitors dance areas closely to ensure that illicit activities do not occur and will continue to do so.

The efforts expressed herein are made in a sincere effort to continue to strengthen the Club's strong pro-law enforcement reputation. In doing so however, the Hustler Club admits no liability by way of this correspondence, but does wish to convey its earnest interest in abating any and all alleged illicit activity and to continue an amicable relationship with law enforcement.

Please call me at your convenience so that we may continue our discussion regarding this matter.

Best regards,

**Deanna Forbush**

Partner

**Fox Rothschild LLP**

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5169 - direct

(702) 597-5503 - fax

[DForbush@foxrothschild.com](mailto:DForbush@foxrothschild.com)

[www.foxrothschild.com](http://www.foxrothschild.com)

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the

intended recipient, you may not copy, disclose or use any contents in this email. If you have received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

## **EXHIBIT “G”**



March 15, 2022

Detective R Chavez P #7758  
400 S Martin L King Blvd  
Las Vegas, NV 89106

Jason Mohnney  
Larry Flynt's Hustler Club Las Vegas  
6007 Dean Martin Drive  
Las Vegas, NV 89118

RE: The Prevention of Illicit Activity at Larry Flynt's Hustler Club Las Vegas

The purpose of this letter is to affirm management's zero tolerance approach to acts of illicit sexual conduct on our premises, or arising from any interaction between entertainers and guests on our premises, and to outline the following proactive steps we've enacted and will continue to enact to prevent such conduct:

Although the majority of our entertainers are independent professionals and are expected to be familiar with local, state and federal laws pertaining to their profession, we provide each with an orientation video outlining these laws and will, going forward, provide them with a copy of all laws and ordinances governing adult entertainment establishments for their records. We will be hosting multiple meetings with entertainers to remind them of the laws, as well as the fact that making misleading statements to guests—even if there is no intention to follow through—can be perceived as a crime. We will make clear that—as in the past—any entertainer found to have engaged in, or have promised to engage in, an act of illicit sexual conduct is in breach of her contract and will no longer be able to perform at Larry Flynt's Hustler Club of Las Vegas.

Additionally, we plan to meet with all managers and cast members, including security, hosts and service staff, to remind them of the applicable laws and their roles with respect to enforcing them. Every cast member will be instructed to remain vigilant and report any suspected illicit activity directly to management, while security and hosts will increase the frequency and visibility of their dance area patrols. We regularly inspect our surveillance cameras and employ a dedicated "eye in the sky" to monitor dances and alert management to any visibly questionable activity.

## **EXHIBIT “H”**

From: Trevor Bowen trevor@littledarlingsvegas.com  
Subject: Letter  
Date: Jan 11, 2022 at 1:09:54 PM  
To: R10055S@lvmpd.com

Hello Det. Sioson,

This is Trevor Bowen at Little Darlings. In regards to your letter dated January 8, 2022, we intend to take the following steps to abate the alleged illicit activity at Little Darlings.

1. Upon receipt of the names of allegedly infringing entertainers, we will immediately meet with each entertainer to review the local ordinances governing exotic dance establishments and will have each entertainer sign a copy thereof. Should they fail to comply, we will terminate their performance contracts.
2. We will host a meeting with all entertainers to remind them of the applicable laws and that what they say in conversation can be interpreted as solicitation.
3. We will host a meeting with all employees to remind them of the applicable laws and their responsibility to enforce the applicable laws.
4. We will increase the frequency of security patrols of dance areas to ensure that no illicit activity occurs.
5. We will find additional areas to install the anti-prostitution signage throughout our facility. As a reminder, this is already posted throughout our facility and printed on receipts.

Further, all entertainers at Little Darlings are independently contracted and we desire to remove any contractor from our establishment that does not follow the law. The club monitors dance areas closely to ensure that illicit activities do not occur.

Little Darlings admits no liability by way of this letter, but is strongly interested in abating alleged illicit activity and wants an amicable relationship with law enforcement.

Please reply with the list of names of infringing entertainers so that we may address the situation accordingly and please also advise if there are any further recommendations you can provide to ensure compliance.

Thank you,  
Trevor Bowen  
General Manager  
Little Darlings of Las Vegas, LLC

From: Trevor Bowen trevor@littledarlingsvegas.com  
Subject: Little Darlings of Las Vegas, LLC  
Date: Mar 14, 2022 at 1:38:59 PM  
To: R7758C@lvmpd.com

Hello Det. Chavez,

This is Trevor Bowen at Little Darlings. In regards to your letter dated March 12, 2022, we intend to take the following steps to abate the alleged illicit activity at Little Darlings.

1. We met with each entertainer in question to review the local ordinances governing exotic dance establishments and had each entertainer sign a copy thereof. Should they fail to continue to comply or be found guilty of the violations with which they were charged, we will terminate their performance contracts.
2. We hosted a meeting with all entertainers to remind them of the applicable laws and that what they say in conversation can be interpreted as solicitation.
3. We hosted a meeting with all employees to remind them of the applicable laws and their responsibility to enforce the applicable laws.
4. We increased the frequency of security patrols of dance areas to ensure that no illicit activity occurs.
5. We clearly posted all pricing signage throughout our facility. As a reminder, the legally mandated anti-prostitution signage is already posted throughout our facility and printed on receipts.
6. We required each entertainer to sign a summary document acknowledging the laws, and will continue to do so regularly for the foreseeable future.
7. We met with each manager to discuss the letter and to remind them to be diligent to ensure that no illicit activities occur.

Further, all entertainers at Little Darlings are independently contracted and we desire to remove any contractor from our establishment that does not follow the law. The club monitors dance areas closely to ensure that illicit activities do not



occur.

Little Darlings admits no liability by way of this letter, but is strongly interested in abating alleged illicit activity and wants an amicable relationship with law enforcement.

Please advise if there are any further recommendations you can provide to ensure compliance. We welcome the opportunity to work with you to discuss any additional safeguards that you feel would be helpful.

Thank you,  
Trevor Bowen  
General Manager  
Little Darlings of Las Vegas, LLC

# **EXHIBIT 3**



1 **RIS**

2 DEANNA L. FORBUSH

3 Nevada Bar No. 6646

4 dforbush@foxrothschild.com

5 COLLEEN E. MCCARTY

6 Nevada Bar No. 13186

7 cmccarty@foxrothschild.com

8 **FOX ROTHSCHILD LLP**

9 1980 Festival Plaza Drive, Suite 700

10 Las Vegas, Nevada 89135

11 Telephone: (702) 262-6899

12 Facsimile: (702) 597-5503

13 ZACHARY M. YOUNGSMA

14 Nevada Bar No. 15680

15 zach@bradshaferlaw.com

16 **SHAFFER & ASSOCIATES, P.C.**

17 3800 Capital City Blvd., Suite 2

18 Lansing, Michigan 48906

19 Telephone: (517) 886-6560

20 Facsimile: (517) 886-6565

21 *Attorneys for Movants and Real parties in Interest*

22 *Las Vegas Bistro, LLC and Little Darlings of Las Vegas, LLC*

23 **DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 IN RE SEARCH WARRANT REGARDING  
26 SEIZURE OF DOCUMENTS, LAPTOP  
27 COMPUTERS, CELLULAR TELEPHONES  
28 AND OTHER DIGITAL STORAGE DEVICES  
FROM THE PREMISES OF LAS VEGAS  
BISTRO, LLC AND LITTLE DARLINGS OF  
LAS VEGAS, LLC,

Movants and Real Parties in Interest.

Case No.: A-22-851073-C

Dept No.: XXX

**REPLY IN SUPPORT OF MOTION OF  
REAL PARTIES IN INTEREST TO (1)  
UNSEAL SEARCH WARRANT  
APPLICATIONS AND SUPPORTING  
AFFIDAVITS, (2) QUASH SEARCH  
WARRANTS, AND (3) RETURN  
SEIZED PROPERTY**

Date of Hearing: May 12, 2022

Time of Hearing: 10:30 a.m.

Movants and Real Parties in Interest, Las Vegas Bistro, LLC and Little Darlings of Las Vegas, LLC (collectively "Movants"), by and through their attorneys of record, Deanna L. Forbush,

1 Esq. and Colleen E. McCarty, Esq. of Fox Rothschild LLP, and Zachary Youngsma, Esq. of Shafer  
2 & Associates, P.C., hereby submit their Reply to the Opposition filed by the Las Vegas Metropolitan  
3 Police Department ("LVMPD") to the Motion of Real Parties in Interest Las Vegas Bistro, LLC dba  
4 Larry Flynt's Hustler Club and Little Darlings of Las Vegas, LLC dba Little Darlings to: (1) Unseal  
5 Search Warrant Applications and Supporting Affidavits; (2) Quash Search Warrants; and (3) Return  
6 Seized Property, filed on Order Shortening Time on April 21, 2022 (the "Reply," "Opposition," and  
"Motion," respectively).

7 This Reply is made and based on the following Memorandum of Points and Authorities, the  
8 Declarations of Jason Mohny, Ralph James, Andrea Woods and Angela Swank, attached hereto as  
9 **Exhibit I**, the pleadings and papers already on file, and any oral argument permitted at the hearing  
10 of this matter.

11 Dated this 9<sup>th</sup> day of May, 2022.

12 **FOX ROTHSCHILD LLP**

13 By: /s/ Deanna L. Forbush

14 DEANNA L. FORBUSH

15 Nevada Bar No. 6646

16 COLLEEN E. MCCARTY

17 Nevada Bar No. 13186

18 1980 Festival Plaza Drive, Suite 700

19 Las Vegas, Nevada 89135

20 Telephone: (702) 262-6899

21 ZACHARY M. YOUNGSMA

22 Nevada Bar No. 15680

23 SHAFER & ASSOCIATES, P.C.

24 3800 Capital City Blvd., Suite 2

25 Lansing, Michigan 48906

26 Telephone: (517) 886-6560

27 *Attorneys for Movants/Real Parties in Interest*

28 **MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**INTRODUCTION**

In a markedly contorted response, LVMPD never cogently or directly addresses the

1 fundamental issue underlying the Motion at bar: whether the sealed affidavits even *sought*, let alone  
2 *justified*, the seizure of any materials or communications protected by either the attorney-client or  
3 the accountancy privileges. Rather, it argues, variously, that Movants have not sufficiently  
4 established even the *existence* of privileged materials in the seized business documents and  
5 electronic and digital storage devices, inclusive of servers, computers, tablets, DVRs, personal  
6 cellular phones, tablets and other materials (the “Property”); that there is no actual law precluding  
7 the government from reviewing privileged materials or procedure to compel LVMPD to return  
8 improperly seized privileged materials; that its personnel have not yet begun a “search” of any of the  
9 Property, [Johnson Declaration, ¶ 21], while at the same time *acknowledging that it has sought,*  
10 *obtained, and in fact attaches as Exs. 1B & 1D to its Opposition, subsequent search warrants*  
11 *specifically authorizing the searching of all of the seized electronic equipment/devices;* that,  
12 regardless, it won’t look at any privileged communication as long as it knows the identities of the  
13 attorneys and accountants involved, while conceding that it does not possess such information; that  
14 irrespective of the privileges involved, some members of its department will *admittedly* be able to  
15 access and review such privileged information; and that irrespective of all of the foregoing, it should  
16 just be trusted to “do the right thing” while acknowledging that it is already “processing”  
17 electronically stored information (“ESI”) containing privileged information. LVMPD also asserts  
18 that the instant Motion has been filed in the wrong court.

19 For the reasons set forth herein, LVMPD is egregiously in error on all counts.

## 20 II.

### 21 LEGAL ARGUMENT

#### 22 A. THE DISTRICT COURT IS THE ONLY APPROPRIATE VENUE TO HEAR THE 23 INSTANT MATTER.

24 LVMPD asserts that the only appropriate person to review the instant motion is Justice of the  
25 Peace Harmony Letizia because of her role in issuing the initial search warrants, and for judicial  
26 economy. *See* Opposition at 7:14-15, 25. Both arguments fail as a matter of law and reason.

27 As a threshold matter, LVMPD makes no mention of the subsequent search warrants, each  
28 labeled “Duplicate Original Search Warrant,” entered by Justice of the Peace Joseph Sciscento on  
April 5, 2022, several hours into LVMPD’s actual execution of the search warrants at the Hustler  
Club and Little Darlings. It appears from their face that these additional search warrants were  
submitted by LVMPD due to the facial deficiencies of the original warrants (specifically the failure

1 to state the grounds or probable cause for their issuance, as required by NRS 179.045(6)(a)), as well  
2 as an error in Little Darlings' address. Nor does LVMPD acknowledge that the search warrants for  
3 digital storage devices and associated sealing orders subsequently obtained on April 7, 2022, were  
4 also entered by Judge Sciscento. *See* Exhibits 1B and 1D to the Opposition. As such, not one but two  
Justice Court magistrates ostensibly have some knowledge of the search warrants at issue.

5 Of course, these facts would not serve LVMPD's argument, and their exclusion is telling.  
6 Regardless, LVMPD's argument fails for the myriad of reasons set forth below. This motion can and  
7 must be heard by this Court.

8 **1. Relevant Procedural History**

9 Movants filed the instant matter on April 12, 2022, in the Eighth Judicial District Court and  
10 were randomly assigned to Department IV. Following Movants' peremptory challenge, on April 14,  
11 2022, the matter was randomly reassigned to Department XIV. *See* Notice of Department  
12 Reassignment, dated April 14, 2022, on file herein. Thereafter, on April 19, 2022, the Chief Judge of  
13 the Eighth Judicial District Court, the Honorable Linda Marie Bell, entered a Minute Order ordering  
14 that the case be reassigned to a department that handles criminal matters. *See* Minute Order, dated  
15 April 19, 2022, on file herein. The case was then reassigned the following day, consistent with Judge  
16 Bell's Order, to this Court. *See* Notice of Department Reassignment, dated April 20, 2022, on file  
17 herein. Significantly, Judge Bell, a long-time jurist and criminal practitioner, found no basis to  
18 transfer the matter to the Justice Court, where the search warrants were issued and sealed, and indeed  
there is none as is explained below.

19 Thereafter, on April 21, 2022, this Court granted Movants' Ex Parte Application for Order  
20 and Order Shortening Time and entered the order setting this matter for hearing on May 12, 2022,  
21 along with a briefing schedule. *See* Order Shortening Time, dated April 21, 2022, on file herein.  
Judicial economy may only be served for the matter to finally be heard as currently assigned.

22 **2. NRS 179.085 Requires the Instant Matter Be Heard By the District Court.**

23 LVMPD wholly ignores NRS 179.085, the statute providing the mechanism for return of  
24 property motions *pre-indictment*. Specifically, NRS 179.085(5) states, "[i]f a motion pursuant to this  
25 section is filed when no criminal proceeding is pending, the motion must be treated as a civil  
26 complaint seeking equitable relief." As this Court is aware, Justice Courts enjoy limited jurisdiction.  
27 NRS 4.370 sets forth the civil actions and proceedings over which the Justice Court has jurisdiction,  
28 and nowhere in the exhaustive list did the Legislature provide jurisdiction for equitable relief

1 matters, as is required here.

2 The instant Motion seeks the unsealing and review of search warrant materials submitted to  
3 the Justice Court and the return of Movants' Property seized under the issued warrants in accordance  
4 with NRS 179.085(5). Monetary damages and other matters properly before the Justice Court are not  
at issue. The District Court, as the only proper court in equity, must retain this matter.

5 Moreover, the specific statute governing the sealing and unsealing of warrant materials  
6 permits jurisdiction in this Court. "Upon a showing of good cause, the *magistrate* may order an  
7 affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a  
8 showing of good cause, *a court* may cause the affidavit or recording to be unsealed." NRS  
9 179.045(4) (emphasis added). Courts must examine the plain language of a statute to determine the  
10 Legislature's intent, must "avoid statutory interpretation that renders language meaningless or  
11 superfluous," and "[if] the statute's language is clear and unambiguous, [must] enforce the statute as  
written." *Hobbs v. State*, 127 Nev. 234, 237, 251 P.3d 177, 179 (2011).

12 Pursuant to NRS 179.045(4), the magistrates in this case can and did seal the search warrant  
13 affidavits, and *any court*, including this Court, can unseal them. If the Legislature intended to craft a  
14 law that only permitted the issuing magistrate to unseal an affidavit, it would have so specifically  
15 stated. It did not. This Court may and should retain jurisdiction and unseal the affidavits.

16 **3. Local Rules and Judicial Economy Warrant Retention of This Matter.**

17 EDCR 1.30(b)(15) vests the Chief Judge with the authority to "[r]eassign cases from a  
18 department to another department as convenience or necessity requires." And indeed, Chief Judge  
19 Bell reassigned this case from Judge Escobar to this Court. Notably, Chief Judge Bell, who herself is  
20 a veteran criminal practitioner, did not transfer this matter to the Justice Court, as LVMPD asserts  
21 should be done. Judge Bell recognized what this Court will recognize; this matter is properly before  
this Court.

22 Finally, despite LVMPD's unsupported claim to the contrary, judicial economy favors  
23 retention of this matter in this Department. The search warrants at issue were executed more than  
24 thirty (30) days ago. This case has been reassigned twice, significantly slowing consideration of this  
25 time sensitive matter. And, as of the date of this filing, LVMPD enjoys possession of, and has  
26 unrestricted access to, the seized Property, much of which contains information and communications  
27 indisputably protected by the attorney-client and accountancy privileges and the work product  
28 doctrine. Absent court intervention, these materials remain vulnerable to improper examination, and

1 further reassignment will only serve to further delay court review of Movants' grievances and  
2 issuance of the critical relief they seek in order to preserve these fundamental privileges.

3 **B. ACCESS TO WARRANT MATERIALS PRE-INDICTMENT IS LEGALLY**  
4 **PERMITTED, AND LVMPD HAS FAILED TO MEET ITS BURDENS OF**  
5 **DEMONSTRATING A COMPELLING INTEREST FOR, AND THE LACK OF**  
6 **LESSER RESTRICTIVE MEANS TO, CONTINUED SEALING.**

7 LVMPD asserts that it "is well established that the on-going criminal investigation serves as  
8 a compelling reason against the disclosure of search warrant materials" and that "there is no  
9 established qualified right of access to search warrant proceedings and materials while a criminal  
10 investigation remains ongoing;" citing to *Times Mirror Co. v. U.S.*, 873 F.2d 1210 (9th Cir. 1998) in  
11 support of those statements. Opposition at 9:20-24. It also argues that *U.S. v. Business of Custer*  
12 *Battlefield Museum and Store*, 658 F.3d 1188 (9th Cir. 2011), "affirmed its *Times Mirror*  
13 decision[.]" Opposition at 11:3-4. LVMPD, however, overstates *Times Mirror*, ignores the  
14 procedural posture of these matters, utterly fails to meet its burden under applicable case law, and  
15 misrepresents the holding of *Custer Battlefield*.

16 First, *Times Mirror* is factually distinguishable from the matter at bar and at least two other  
17 courts have rejected the very arguments LVMPD makes here. See *In re Searches & Seizures*, 2008  
18 WL 5411772, at \*3 (E.D. Cal. Dec. 19, 2008) (emphasis added) (the government there similarly  
19 arguing "that in [*Times Mirror Co*] the court held that 'sealed warrant affidavits should not be  
20 ordered unsealed before an indictment is returned," which the court succinctly rejected: "[t]his court  
21 disagrees."). In addition, as *Searches & Seizures* noted, the *Times Mirror* court was only presented  
22 with the question of "whether *the media* has a qualified right of access" to sealed search warrant  
23 materials and had "merely held that . . . no such right" existed. *Id.* Relevant here, *Times Mirror* did  
24 not "address the entirely different question of *a property owner's* 'abiding interest in challenging the  
25 reasonableness of the government's invasion of his property and/or privacy' which is left  
26 unanswered by inquiries into the general public's right of access to search warrant materials." *Id.*  
27 More recently, the Eastern District of California, in specifically addressing that "unanswered"  
28 question, observed that "there exists a *private* 'right of access under the Fourth Amendment to the  
affidavit in support of the search warrant' during the pre-indictment stage, *which vests with the*  
*individual or entity whose property was seized.*" *Societe d'Equipments Internationaux Nigeria, Ltd.*  
*v. Dolarian Cap., Inc.*, 2016 WL 4191887, at \*1 (E.D. Cal. Aug. 8, 2016) (all emphasis added) (in  
fact quoting *In re Searches & Seizures*, 2008 WL 5411772). It is under this private *constitutional*  
*right* of access that Movants, as the persons from whom the Property was seized, seek to unseal the



underlying warrant materials. Moreover, there is extensive caselaw support for the proposition that the *target* of a search warrant has the *right* of access to the underlying support materials, *and to obtain the same pre-indictment*.<sup>1</sup>

Once the warrants have been returned (as here; Exs. 1A -1D to the Opposition), unsealing the application materials is, indeed, standard fare.<sup>2</sup> In fact, analogous Fed. R. Crim. P. 41(i) provides as such. *See* 8A Fed. Proc., L. Ed. § 22:211 (noting Fed. R. Crim. P. 41(i) “contemplates that, *upon the warrant’s return*, all papers in connection with the warrant—including the application or affidavit in support of the warrant—will be made public”) (emphases added).<sup>3</sup>

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<sup>1</sup> *See, e.g., In re Search Warrant for 2934 Anderson Morris Rd., Niles, Ohio 44406*, 48 F. Supp. 2d 1082, 1083 (N.D. Ohio 1999) (“a person whose property has been seized pursuant to a search warrant has a *right* under the Warrant Clause of the Fourth Amendment *to inspect and copy the affidavit upon which the warrant was issued.*”) (emphasis added); *e.g., In re Search Warrants Issued in Connection with Investigation of Death of Michael Jackson*, Eighth Judicial District Court Case No. A-09-601140-C, dated Nov. 20, 2009 (courtesy copy attached hereto as **Exhibit J**) (unsealing search warrant materials during criminal investigation into Michael Jackson’s death); *In re Search Warrants Issued on Apr. 26, 2004*, 353 F. Supp. 2d 584, 591 (D. Md. 2004) (affirming the magistrate’s order and recognizing “a search subject’s pre-indictment Fourth Amendment right to inspect the probable cause affidavit”); *Matter of Up N. Plastics, Inc.*, 940 F. Supp. 229, 232 (D. Minn. 1996) (denying government’s pre-indictment motion to keep in place a previously entered order sealing the affidavit in support of a search warrant”); *In re Search Warrants Issued Aug. 29, 1994*, 889 F. Supp. 296, 299 (S.D. Ohio 1995) (granting a home and business owner’s pre-indictment motion to unseal search warrant materials, stating “the Fourth Amendment right to be free from unreasonable searches and seizures includes the right to examine the affidavit that supports a warrant after the search has been conducted and a return has been filed”); *United States v. Oliver*, 208 F.3d 211, \*2 (4th Cir. 2000) (table decision) (recognizing a Fourth Amendment right to examine the search warrant affidavit); *In the Matter of the Search of a Residence*, 121 F.R.D. 78, 80 (E.D. Wisc. 1988) (emphasis and clarification added) (“They [the subjects of the warrant] have a right to know what information is contained in the applications in order to determine *whether or not they wish to pursue a return of the seized property.*”).

<sup>2</sup> *See, e.g., United States v. All Funds on Deposit at Wells Fargo Bank in San Francisco, California, in Acct. No. 7986104185, Held in the Name of Acct. Servs. Inc., & All Prop. Traceable Thereto*, 643 F. Supp. 2d at 586 (S.D.N.Y. 2009) (unsealing narrowly redacted versions of warrant application materials despite the fact that the government “has not yet publicly filed a criminal or civil forfeiture action and that it is actively investigating matters discussed in the affidavits that [intervenor] seeks to unseal”); *Matter of Found. Foods Grp., Inc.*, 21 WL 2561772, at \*3 (N.D. Ga. June 3, 2021) (unsealing the docket “except” documents related to the warrant application, “which are to remain sealed pending the execution of the warrant”), *report and recommendation adopted sub nom., United States v. Found. Foods Grp., Inc.*, 2021 WL 4900948 (N.D. Ga. Oct. 18, 2021); *In re Documents 1, 2, 3 Search Warrant & Supporting Affidavits Relating to Kaczynski*, No. MCR 96-6-H-CCL, 1996 WL 343429, at \*1 (D. Mont. Apr. 10, 1996) (unsealing warrant materials after “[t]he return of the search warrant . . .”).

<sup>3</sup> NRS 179.075 and Fed. R. Crim. P. 41(i) are quite similar in their warrant return requirements. “[W]here Nevada statutes track their federal counterparts, federal cases interpreting the rules can be instructive[.]” *In re 12067 Oakland Hills, Las Vegas, Nevada 89141*, 134 Nev. 799, 805, 435 P.3d 672, 677 (Nev. App. 2018). Thus, the cases and federal supplement cited above are instructive here;

1 This, of course, makes perfect sense where: i) there may *never* be any criminal charges  
2 brought and, absent this reasoning, private property could be retained by the government *forever*  
3 without any showing of constitutional justification; and ii) targets of searches and seizures have an  
4 absolute right to challenge the validity and legality of the same but obviously cannot competently do  
5 so unless they can *review and analyze the sufficiency* of the affidavits and other supporting materials  
6 that served as the underlying constitutional basis for the issuance of the warrants.

7 Nevertheless, LVMPD cites to *U.S. v. Business of Custer Battlefield Museum and Store*, 658  
8 F.3d 1188 (9th Cir. 2011) as supposedly “affirming” its interpretation of *Times Mirror*. Opposition  
9 at 11:3-6. Not so. Rather, *Custer Battlefield* answered one of the questions left open by *Times*  
10 *Mirror*: “[w]hether the common law right of access applies to warrant materials after an  
11 investigation has ended[.]” 658 F.3d at 1192. *Custer Battlefield* unequivocally held that it did, but its  
12 ruling cuts directly against LVMPD’s position in that it explicitly stated that this right *also applies*  
13 *even before the investigation is terminated*. “Search warrant applications generally are unsealed at  
14 later stages of criminal proceedings, such as upon the return of the execution of the warrant[.]”  
15 *Custer Battlefield*, 658 F.3d at 1193-94 (emphasis added; quoting *United States v. All Funds on*  
16 *Deposit at Wells Fargo Bank in San Francisco, California, in Acct. No. 7986104185, Held in the*  
17 *Name of Acct. Servs. Inc., & All Prop. Traceable Thereto*, 643 F. Supp. 2d 577, 581 (S.D.N.Y.  
18 2009)). And, of course, as noted above, the calculus changes when it is not the general public  
19 requesting to unseal the warrant materials but, rather, the person whose property has been seized.

20 Second, recognizing the balancing of rights that sealing requires, *some*—not all—courts have  
21 concluded that certain circumstances may justify that warrant materials be kept confidential post  
22 return. In such cases, however, “***the government*** must demonstrate to the court that a ***compelling***  
23 ***government interest*** requires the materials to be kept under seal ***and that there is no less restrictive***  
24 ***means, such as redaction, capable of serving that interest.***” *Searches & Seizures*, 2008 WL  
25 5411772, at \*3 (citing *In re Search Warrants Issued Aug. 29, 1994*, 889 F. Supp. 296, 299 (S.D.  
26 Ohio 1995)).

27 Here, LVMPD’s only asserted interest is the rote line that “on-going criminal investigation  
28 serves as a compelling reason[.]” Opposition at 9:20-21, 11:25-26. ***But nowhere does LVMPD assert***  
***any reason whatsoever to be able to retain attorney/client and accountancy privileged materials.***  
And, LVMPD’s claimed “on-going criminal investigation” interest, without more, has been found to

especially, given the lack of authority from Nevada courts.

1 be *insufficient* to maintain warrant affidavits under seal. See *United States v. Wei Seng Phua*, No.  
2 2:14-CR-00249-APG, 2015 WL 1281603, at \*3 (D. Nev. Mar. 20, 2015) (“[T]he government’s  
3 unsupported statement that disclosure of the information in the search warrants ‘might possibly  
4 jeopardize the investigation’ and that the government’s ‘right to secrecy far outweighs the public  
5 right to know<sup>[4]</sup>’ do not support maintaining the applications and warrants under seal.”).<sup>5</sup> LVMPD  
6 has not provided any information whatsoever to permit the Court to invoke a less restrictive remedy.  
7 Moreover, such bald and unsupported assertions by the government are insufficient to outweigh the  
8 Movants’ right of access. As one court explained: “More than a conclusory allegation of an ongoing  
9 investigation is required, however. The government must make *a specific factual showing of how* its  
10 investigation *will be compromised* by the release of the affidavit[.]” *Up North Plastics*, 940 F. Supp.  
11 at 233 (emphasis added); *Accord in re Search Warrant for Second Floor Bedroom*, 489 F. Supp.  
12 207, 210 (D.R.I. 1980) (emphasis added) (“A general allegation, totally unsupported by any  
13 evidence or explanation is **not** enough[.]”). LVMPD does not even *attempt* to make such a factual  
14 showing.

15 Then, somewhat astonishingly, LVMPD actually argues for an interest in “protect[ing]”  
16 *Movants* from “possible injury to privacy interests[.]” Opposition at 10:24-25. Movants, however,  
17 are not interested in having LVMPD “protect” their interests—they’d much rather have their  
18 privileged materials returned, *and immediately so*.

19 And further tipping the scales in Movants’ favor is LVMPD’s concession that “[t]his  
20 investigation is complex and . . . this process can take *many months*,” Opposition at 16:18-21  
21

22 4 As pointed out above, at issue here is not the public’s right to know but, rather, the targets’  
23 constitutional right to review and potentially challenge the affidavits that caused the seizure of  
24 voluminous business records and personal information, including communications protected under  
25 the attorney-client and accountancy privileges.

26 <sup>5</sup> LVMPD’s conclusory assertion (in its statement of facts; it does not substantively argue this point  
27 in its memorandum) that if the warrant materials were unsealed, “it is *possible* that additional  
28 evidence necessary for the investigation would be destroyed,” Opposition at 4:26-27 (emphasis  
added), should be afforded little weight. First, LVMPD does not identify any type or form of  
evidence that it believes “could” be destroyed with the unsealing of the affidavits. Second, LVMPD  
fails to explain in any logical fashion whatsoever how the unsealing of affidavits so as to permit  
Movants to be able to demonstrate that there was no basis to either seize or search privileged  
materials could result in *other evidence* being destroyed. And, of course, if LVMPD had at the very  
least articulated *what evidence* it is concerned about being destroyed and, more importantly, how  
specifically the unsealing of the affidavits could lead to such conduct, this Court could, of course,  
*redact* any such *limited portions* of the affidavits. But the Court can’t do that because LVMPD has  
not provided it with any information whatsoever to permit the Court to invoke a less restrictive  
remedy.

1 (emphasis added), and its admission that it actually “need[s] to purchase additional equipment” in  
2 order to be able to review some of the seized materials. *Id.* at 6:20. With supply chains the way they  
3 are today, there is no way of knowing how long it may take LVMPD to obtain such unidentified  
4 “additional equipment,” and LVMPD provides no estimate of time or costs. Opposition at p. 6:20.  
5 Concern over the prolonged nature of governmental investigations has been specifically noted by the  
6 Ninth Circuit in *Offs. of Lakeside Non-Ferrous Metals, Inc. v. United States*, 679 F.2d 778 (9th Cir.  
7 1982), where the court observed: “the Government has the obligation to conduct its investigation  
8 with diligence, for under any other interpretation, the Government, having all its evidence under  
9 seal, might be inclined to delay proceedings, rather than to expedite them.” *Id.* at p. 779-80.<sup>6</sup>

10 Nor does LVMPD seriously attempt to fulfill the second prong of its burden: establishing that  
11 lesser restrictive options—such as redaction, attorney’s eyes-only unsealing, or even execution of  
12 non-disclosure agreements—would fail to serve its supposed continued-sealing interest. LVMPD  
13 simply cites to *In re Search Warrant for Secretarial Area Outside Off. of Gunn*, 855 F.2d 569 (8th  
14 Cir. 1988), for the proposition that “sealing the search warrant materials in the entirety is the less  
15 restrictive means due to the active investigation.” Opposition at 12:3-4. Comparing this case to  
16 *Gunn*, however, is apples to oranges.

17 Unlike the facts and circumstances at bar, fundamental privileges were not at issue in *Gunn*  
18 (the media, not *Gunn*—the target of the warrant, who actually “opposed unsealing the affidavits”—  
19 sought to unseal the materials). 855 F.2d at 571. In addition, the district court there “reviewed the  
20 sealed documents and determined that redaction on a line-by-line basis was impracticable because of  
21 the complex and interrelated nature of the allegations and the large number of individuals and  
22 activities involved.” *Id.* The investigation in *Gunn* involved a “large number of individuals and  
23 activities involved,” and the simultaneous execution of “more than 40 search warrants at various  
24 sites across the nation in connection with a nationwide investigation conducted by the [FBI] and  
25 Naval Investigation Service of alleged fraud and bribery in the Department of Defense and in the  
26 defense industry.” *Id.* at 570-71.

27 By comparison, LVMPD admits its investigation revealed a total of only six individuals  
28 (between *both* the Hustler Club and Little Darlings) purportedly observed soliciting for the purpose  
of prostitution, Opposition at 3:24-25, 4:7-8, one individual who had allegedly “been sexually

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<sup>6</sup> It also must be emphasized that included in the materials seized were *personal* cell phones and laptop computers containing a great deal of information of specific necessity to their owners. LVMPD does not even *attempt* to address the difficulties caused to these individuals by the seizure of their personal equipment or to give them any hope of return in the foreseeable future.

1 assaulted,” *id.* at 4:6; and that “undercover investigations . . . led entertainers to solicit *an*  
2 undercover officer for sex.” [Declaration of Robert Chavez, at ¶¶12, 26 (emphasis added)]. Thus, at  
3 most, LVMPD has evinced nine people (assuming it was a different officer allegedly solicited for  
4 sex at the Hustler Club and Little Darlings), and only two businesses involved. More to the point,  
5 however, no matter how complex LVMPD may believe its present investigation to be, it has  
6 supplied *no evidence whatsoever* that its complexity is such that line-by-line redaction of the  
7 underlying warrant materials would be impracticable. Yet, that is the constitutional burden placed on  
LVMPD.<sup>7</sup>

8 Simply put, constitutionally, the blanket sealing of warrant materials is the option of last  
9 resort; not the default option. *See Howard v. State*, 128 Nev. 736, 745, 291 P.3d 137, 143, n.4 (2012)  
10 (citing SRCR 3(5)(b), (c) and SRCR 3(6) in a criminal case and ruling that “sealing of an entire  
11 court file is prohibited and . . . should the court order sealing, it ‘shall use the least restrictive means  
12 and duration’”); *see also Kasza v. Whitman*, 325 F.3d 1178, 1181 (9th Cir. 2003) (where release of  
13 court records poses risk to *national security*, “[p]ublic release of redacted material is an appropriate  
14 response”) (emphasis added); *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1074 (3d Cir. 1984)  
15 (noting the district court abused its discretion when it “failed to consider less restrictive means to  
16 keep this information from the public”).

17 LVMPD failed to meet its burden of demonstrating both a compelling interest in continued  
18 sealing and that lesser restrictive means would not preserve any such unarticulated interest.

### 19 **C. MOVANTS HAVE MET THEIR EVIDENTIARY BURDEN.**

20 Contrary to LVMPD’s argument, Movants have met their burden, and the ongoing

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21 <sup>7</sup> *See, e.g., In re Providence Journal Co.*, 293 F.3d 1, 15 (1st Cir. 2002) (“[T]he First Amendment  
22 requires consideration of the feasibility of redaction on a document-by-document basis.”); *In re N.Y.*  
23 *Times Co.*, 834 F.2d 1152, 1154 (2d Cir. 1987) (approving of requirement “to minimize redaction in  
24 view of First Amendment considerations”); *Matter of Search Warrants Issued on June 11, 1988, for*  
25 *the Premises of Three Buildings at Unisys, Inc.*, 710 F. Supp. 701, 705 (D. Minn. 1989) (with respect  
26 to warrant materials, “[w]here redaction is required to protect privacy interests, it must be narrowly  
27 tailored to allow as much disclosure as is feasible”); *United States v. Packard*, 733 F.3d 1297, 1303-  
28 05 (10th Cir. 2013) (noting under the common law right of access to judicial records, a party seeking  
to maintain sealing must demonstrate that “redacting documents instead of completely sealing them  
would [not] adequately serve [the] government interest to be protected”); *In re Application of*  
*Newsday, Inc.*, 895 F.2d 74, 79 (2d Cir. 1990) (approving of a trial court’s release of redacted  
probable cause affidavits to protect privacy interest of innocent third parties whose names were  
redacted); *Baltimore Sun Co. v. Goetz*, 886 F.2d 60, 66 (4th Cir. 1989) (cleaned up) (“[T]he judicial  
officer must consider alternatives to [blanket] sealing [of] documents. This ordinarily involves  
disclosing some of the documents or giving access to a redacted version.”).

1 investigation does not prohibit return of the property, Opposition at 13-16; the latter having been  
2 established by the clear line of authorities discussed, *supra*.

3 While LVMPD asserts that Movants have not established the privileged nature of a great deal  
4 of the information seized, in addition to the declaration of Deanna Forbush in the Motion and the  
5 additional declarations filed contemporaneously herewith, *see Exhibit I*, LVMPD basically  
6 concedes that, as a result of its “protocol” arguments, Opposition at 16-17, there is indeed privileged  
7 information found in the seized Property. The question then becomes whether it is reasonable under  
8 the totality of the circumstances for LVMPD to *retain* those privileged materials and search through  
9 them. Opposition at 13 (citing *Las Vegas Metro Police Dep’t v. Anderson (In re 12067 Oakland*  
10 *Hills, Las Vegas)*, --- Nev. ---, 435 P.3d 672, 678 (2018). It is not.

11 As discussed above, without permitting Movants access to the sealed original search warrant  
12 affidavits, neither Movants nor this Court are able to determine whether there is anything contained  
13 therein that either requests, or justifies, not only the seizure of, but now the searching through,  
14 privileged information and communications. In addition, of course, assuming that there is nothing in  
15 those affidavits to justify the seizure of privileged information, which LVMPD’s silence on this topic  
16 basically concedes, there is then absolutely no basis whatsoever for either LVMPD’s continued  
17 retention of the same (either pending completion of the investigation, the issuance of criminal  
18 charges, or even for one second longer) or its review thereof. While LVMPD argues that a motion  
19 for return of property is properly denied if the government’s need for the property continues,  
20 Opposition at 14, it has articulated absolutely no basis whatsoever to retain privileged information,  
21 personal computers and cell phones, or computer records of these businesses, necessary for, among  
22 other things, business operations, personal matters, litigation (unrelated to the underlying claims)  
23 support, and tax compliance purposes.

24 The assertion that Movants have failed to provide “any evidence whatsoever to demonstrate  
25 any irreparable injury,” Opposition at 15, is, of course, nothing short of preposterous. Centrally at  
26 issue here are materials and communications protected by these fundamental privileges, which  
27 LVMPD admits it intends to have its personnel *review* short of further intervention by this Court.

28 **D. LVMPD’S SUGGESTED PROTOCOLS ARE DEFICIENT, AS NOTED BY**  
**NUMEROUS COURTS.**

LVMPD’s dismissive response to Movants’ privilege concerns demonstrates better than any  
argument Movants could make why LVMPD’s unfettered access to the seized Property requires this  
Court’s immediate intervention.

1 In its quest for purported “proof” of prostitution activities at Movants’ businesses, which  
2 LVMPD apparently did not find any hard evidence of, LVMPD resorted to seizing all electronic  
3 storage devices it came across without regard to the ownership or contents thereof, as well as  
4 volumes of documents, for purposes still unknown to Movants and the Court. LVMPD now asks the  
5 Court to condone this fishing expedition on the basis that “a separate section, DFL, conducts the  
6 search and provides only evidence within the scope of the warrant . . . [and] [p]rivileged material,  
7 like attorney-client communications or accountant-client communications are [*sic*] able to be  
8 screened if information is provided to LVMPD.” *See* Opposition at 17:14-17. This “protocol” in no  
9 way fixes the privilege issues.

10 LVMPD’s proposed use of a subset of its department (here, the DFL) to substantively review  
11 attorney-client (and accountant-client) communications has been resoundingly criticized by courts  
12 and commentators. The practice inherently invades privilege and work product protections because it  
13 does not prevent the government from reviewing privileged documents; it merely “changes the  
14 identity of the government attorneys and agents who first review that information.” *See, e.g.,* Loren  
15 E. Weiss & Gregory S. Osborne, *Taint Teams and the Attorney-Client Privilege*, American Bar  
16 Association (Dec. 2015). These practices have regularly been called into question because  
17 government agents cannot be expected to just ignore material when it contains privileged  
18 communications and products. If governmental functionaries find information that they think may  
19 help a prosecution, their natural tendency will, or course, be to try to find ways to disclose and use  
20 the information. Such “conscious knowledge” can “lead investigators to unconsciously alter the  
21 course of investigation and prosecution for other criminal matters.” *Id.* at 5.

22 As one Federal District Court noted, “[L]iberal use of taint teams should be discouraged  
23 because they present ‘inevitable and reasonably foreseeable risks that privileged information may be  
24 leaked to prosecutors.’” *United States v. Renzi*, 722 F. Supp. 2d 1100, 1112 (D. Ariz. 2010) (quoting  
25 *In re Grand Jury Subpoenas*, 454 F.3d 511, 523 (6th Cir. 2006)). The court reasoned:

26 [T]he government taint team may have an interest in preserving privilege, but it also  
27 possesses a *conflicting interest* in pursuing the investigation, and, human, nature being  
28 what it is, occasionally some taint team attorneys will make mistakes or violate their  
ethical obligations.

*Id.* (emphasis added). Certainly nothing is different for government investigators who themselves are  
not even bound by attorneys’ ethical obligations.

Other courts have been equally critical of the practice, if not more so. “When considering the  
purposes of the attorney-client privilege, it is obvious that no governmental entity should

1 intentionally review privileged material without the express approval of the court.” *United States v.*  
2 *Pedersen*, 2014 WL 3871197, at \*29 (D. Or. 2014). “It would be a rare defendant who would feel  
3 comfortable speaking openly with his defense attorney knowing that somebody from the  
4 government, even a filter team attorney, was reviewing those communications.” *Id.* Moreover, such  
5 procedures should only be used as a last resort. *See id.* at \*31 (“If there is a feasible means to  
6 segregate privileged material without risk of accidental review and without use of a taint team, such  
7 means should be employed.”). Similarly, in *United States v. Neill*, 952 F. Supp. 834 (D.D.C. 1997),  
8 the reviewing court held that “the government’s affirmative decision to invoke [taint team]  
9 procedures constitutes a per se intentional intrusion” into the attorney-client relationship. *Id.* at 840-  
10 41.

11 Where the government chooses to take matters into its own hands rather than using the  
12 more traditional alternatives of submitting disputed documents under seal for in  
13 camera review by a neutral and detached magistrate or by court-appointed special  
14 masters,....it bears the burden to rebut the assumption that tainted material was  
15 provided to the prosecution team.  
16 *Id.* at 841 (emphasis added; internal citations omitted).

17 In fact, LVMPD has disclosed nothing about what its DFL section has done in the past or  
18 how it intends to guarantee the protection of the privileges here. Moreover, given the broad scope of  
19 the privileged materials seized here, it is impossible to see how agents in the DFL section could  
20 possibly assess privilege, both attorney and accountancy, and work product protections, without  
21 understanding the actual relationships, agreements, and transactions among the various actors;  
22 information that is, itself, subject to privilege. Moreover, LVMPD’s Opposition actually  
23 acknowledges coordination between its detectives and its DFL section. *See* Opposition at 6:27-7:5.  
24 Yet, the point of setting aside potentially privileged materials is to ensure the government itself,  
25 irrespective of which agent or employee may be involved, *does not know, is not able to read, and is*  
26 *not able to access*, its contents.

27 For these reasons, as recognized in *United States v. Neill*, the Court should itself or through  
28 its duly appointed special master review Movants’ privilege claims, after returning the items to  
Movants to review and prepare the appropriate privilege logs. *Neill*, 952 F. Supp. at 841. The  
spurious suggestion that Movants, who are long time business operators and holders of lucrative  
privilege licenses, would attempt to destroy evidence or could even do so without such actions being  
obvious, should not be countenanced by the Court. Instead, the Court should exercise its  
considerable discretion to ensure the proper balance is struck between the needs of LVMPD to  
investigate and the privileges implicated in that investigation by the broad-sweeping seizures



1 following execution of the search warrants.

2 Nevada law is well settled that the burden of establishing that a privilege exists falls to the  
3 party claiming the privilege, which Movants can only accomplish upon the return of the items  
4 seized. *See Rogers v. State*, 127 Nev. 323, 330, 255 P.3d 1264, 1268 (2011). To assert and correctly  
5 preserve the privilege, it will be necessary for Movants to identify and sufficiently describe any  
6 information sought to be permanently withheld to permit LVMPD to meaningfully challenge  
7 whether it has been properly designated. *See Nev. Power Co. v. Monsanto, Co.*, 151 F.R.D. 118, 121  
8 n. 5 (D. Nev. 1993). Under this protocol, the Court or the special master would then have access to  
9 the information withheld as privileged or work product, and LVMPD, in turn, would be entitled to  
10 the return of everything not sought to be withheld and anything deemed by the Court as not properly  
11 withheld.

12 This well-settled procedure is the only one that truly strikes the appropriate balance between  
13 “the rights of suspects with the rights of victims to obtain justice,” as LVMPD itself recognizes must  
14 be the case for its search to be reasonable. Opposition at 17:23-24.

15 **E. NRS 179.105 APPLIES TO THE CIRCUMSTANCES AT BAR.**

16 LVMPD also asserts that NRS 179.105 is inapplicable to this proceeding. Yet, its contorted  
17 statutory “construction” between NRS 179.105 and NRS 179.11518 would dictate the conclusion  
18 that there is no procedure whatsoever for a court to compel the return of privileged materials seized  
19 from a *client*, as opposed to the attorney. *That cannot be the law of this State.*

20 Initially, LVMPD employs no tools of statutory interpretation and, predictably, reaches an  
21 incorrect outcome.<sup>8</sup> Courts are to “presume that the Legislature enacted the statute ‘with full  
22 knowledge of the existing statutes relating to the same subject.’” *Nevada Att’y for Injured Workers v.*  
23 *Nevada Self-Insurers Ass’n*, 126 Nev. 74, 84, 225 P.3d 1265, 1271 (2010) (quoting *State, Div. of Ins.*  
24 *v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 294, 995 P.2d 482, 486 (2000)). They are also to  
25 “construe statutes to give meaning to all of their parts and language, and this court will read each  
26 sentence, phrase, and word to render it meaningful within the context of the purpose of the  
27 legislation. Further, *no part of a statute should be rendered meaningless* and its language should

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28 <sup>8</sup> LVMPD also attempts to fault Movants for “cit[ing] to no authority,” yet as they are well aware  
there is a dearth of authority surrounding these statutes—most likely because of how new they are. In  
fact, there are a total of eleven cases from Nevada courts (including federal) that cite to NRS 179.105  
and zero citing to NRS 179.11518. Of the eleven, none are particularly relevant to the topic at issue  
here.

1 not be read to produce absurd or unreasonable results.” *Harris Assocs. v. Clark Cty. Sch. Dist.*, 119  
2 Nev. 638, 642, 81 P.3d 532, 534 (2003) (cleaned up; citations and quotation marks omitted;  
emphasis added).

3 Yet, LVMPD’s restrictive interpretation would render the entire following line from NRS  
4 179.105 meaningless: “or that the property is determined pursuant to NRS 179.11518 to be subject  
5 to the attorney-client privilege.” And, of course, NRS 179.11518 already instructs, in the context of  
6 seizing property of an attorney, to return the property “as provided in NRS 179.105[.]” NRS  
7 179.11518. If NRS 179.105 was not intended to also command the return of property seized from a  
8 *non*-attorney, it would not have been necessary to include the reference to NRS 179.11518 because  
9 NRS 179.11518 already commands the return of property subject to the attorney-client privilege  
seized from an attorney.

10 Furthermore, in 2017, Laws 2017, c. 236, § 6, eff. Oct. 1, 2017, the Legislature both created  
11 NRS 179.11512, *et seq.* and amended NRS 179.105. That law’s amendment to NRS 179.105  
12 consisted purely of adding the quoted line above that LVMPD seeks to render nugatory. In other  
13 words, under the presumption that the Legislature knows the statutes relating to the subject at issue,  
14 and giving effect to each sentence, phrase, and word, the Legislature: 1) created the code sections  
15 relating to search warrants for attorney’s property; and also 2) amended the *existing* statute relating  
16 to general search warrants (NRS 179.105) to include a third statutory reason where “the magistrate  
17 shall cause it [the property] to be restored to the person from whom it was taken.” NRS 179.105. The  
18 intent is clear: if “property is determined pursuant to NRS 179.11518 to be subject to the attorney-  
19 client privilege. [then] the magistrate shall cause it to be restored to the person from whom it was  
taken.” *Id.*

20 Under rules of statutory construction, the only permissible reading of NRS 179.105 is that  
21 there are now three circumstances under which the court “shall cause [the seized property] to be  
22 restored to the person from whom it was taken.” NRS 179.105. Those include, “[i]f it appears that”  
23 1) the seized property “is not the same as that described in the warrant,” 2) the warrant lacked  
24 probable cause, and 3) “the property is determined pursuant to NRS 179.11518 to be subject to the  
attorney-client privilege.” NRS 179.105.

25 Finally, NRS 179.11518 does *not* state that the district attorney or the Attorney General is  
26 “required to review the property for attorney-client privilege[d]” material as LVMPD advocates.  
27 Opposition at 16:7-8. That would, of course, completely defeat the purpose of the privilege itself and  
28 would, circularly, be like (and actually is) having opposing counsel review the privileged materials

1 themselves to confirm the privileged nature of the information. Rather, NRS 179.11518 says the  
2 district attorney or the Attorney General “shall ensure that any property seized . . . is reviewed to  
3 determine whether the attorney-client privilege applies[.]” (emphasis added).<sup>9</sup> Thus, the Court (or its  
4 *independent* and neutral designee) is presumed to be the proper reviewer; not an opposing party.

### 5 III.

### 6 CONCLUSION

7 The Search Warrants resulting in the seizure of documents, laptop computers, cellular  
8 telephones and other digital storage devices, invited the investigative agents to rummage through the  
9 entire contents thereof regardless of the undisputed fact that the seized Property contains privileged  
10 materials. In light thereof, the Search Warrants were fatally overbroad in their scope and should be  
11 quashed, or, at a minimum, narrowed by this Court by way of a protective order to protect Movant’s  
12 statutory and common law privileges. Any items seized should be held by the Court until such time  
13 as the Court can implement appropriate and independent search protocols to preserve privilege, and  
14 any items not properly subject to the Warrants should be returned. Further, as good cause exists for  
15 Movants to be afforded the opportunity to examine the facts upon which the Search Warrants were

16 ///

18 ///

21 ///

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26 <sup>9</sup> NRS 179.11516 provides the optional process, through the use of the term “may,” for reviewing  
27 material “during a search conducted pursuant to a search warrant issued pursuant to NRS  
28 179.11514,” but even then, it does not permit the involvement of persons who participated in the  
searches themselves, in this case the DFL, and specifically requires attorney involvement, not just a  
“supervisor in [LVMPD’s] Digital Forensics Lab.” Johnson Declaration, at ¶ 2.

1 made, the supporting Affidavits and other warrant materials should be unsealed and provided to  
2 Movants immediately upon the Court's order.

3 Dated this 9<sup>th</sup> day of May, 2022.

4 **FOX ROTHSCHILD LLP**

5 By: /s/ Deanna L. Forbush

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17 Lansing, Michigan 48906

18 Telephone: (517) 886-6560

19 *Attorneys for Movants/Real Parties in Interest*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of Fox Rothschild LLP, and on the 9<sup>th</sup> day of May, 2022, I served a true and correct copy of the foregoing **REPLY IN SUPPORT OF MOTION OF REAL PARTIES IN INTEREST TO (1) UNSEAL SEARCH WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS, (2) QUASH SEARCH WARRANTS, AND (3) RETURN SEIZED PROPERTY** via electronic service by operation of the Court's electronic filing system, upon each party and counsel in this case who is registered as an electronic case filing user with the Clerk, as follows:

Nick Crosby, Esq.  
Jacqueline Nichols, Esq.  
**Marquis Aurbach**  
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*Attorneys for Real Party in Interest,  
Las Vegas Metropolitan Police Department*

/s/ Jineen DeAngelis  
An employee of Fox Rothschild LLP

## **EXHIBIT “I”**

**DECLARATION OF JASON C-H MOHNEY IN SUPPORT OF REAL PARTIES IN INTEREST LAS VEGAS BISTRO, LLC, DBA LARRY FLYNT'S HUSTLER CLUB, AND LITTLE DARLINGS OF LAS VEGAS, LLC, DBA LITTLE DARLINGS, TO (1) UNSEAL SEARCH WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS, (2) QUASH SEARCH WARRANTS, AND (3) RETURN SEIZED PROPERTY**

I, Jason C-H Mohney, pursuant to NRS § 53.045, hereby declare as follows:

1. I make this declaration upon my personal knowledge, unless specifically stated the contrary.

2. I am an adult resident of sound mind of the State of Nevada.

3. I am the Managing Member of Las Vegas Bistro, LLC, d/b/a Larry Flynt's Hustler Club, which is located at 6007 Dean Martin Drive in Las Vegas, Nevada (the "Hustler Club").

4. I am also the Managing Member of Go Best, LLC ("Go Best"). Go Best's offices are located at 3131 Ponderosa Way, Ste. 8500 in Las Vegas, Nevada, which is in the basement of the building that houses the Hustler Club. Go Best's offices have a separate mailing address from the Hustler Club, a locked door, and separate signage.

5. Attached hereto as **Exhibit 1** is a true and accurate photo of the entrance to Go Best's offices taken after the April 5, 2022 raid and the clean-up efforts therefrom, but which still accurately reflects the signage and door lock that were in place before the April 5, 2022 search.

6. Attached hereto as **Exhibit 2** is a true and accurate photo of the interior of Go Best's offices taken after the April 5, 2020 raid and the clean-up efforts therefrom, but which still accurately reflects the signage, decor, and layout of the office as it was before the April 5, 2022 raid.

7. Nearly all of the file cabinets and desk drawers in Go Best's offices were unlocked, yet law enforcement officers executing the warrant still broke the cabinets and drawers.

8. A Go Best laptop, annotated on the Return as "Apple Laptop SN C02VHAAHHTD5," Exhibit 1A to Opposition Brief, was seized from inside Go Best's locked office by law enforcement during the April 5, 2022 police raid of the Hustler Club.

9. In addition to my positions with the Hustler Club and Go Best, I own, directly or indirectly, and/or manage, and/or consult with a large number of businesses across the country.

10. As a result of my various business endeavors, I regularly and frequently correspond, via e-mail, using the seized laptop, with a large number of attorneys across the country who are

1 providing legal advice and services either to me personally or to the businesses with which I am  
2 associated. Many of these emails are physically stored on the seized laptop, and all of them are  
3 accessible through that laptop. Much of the attorney/client correspondence that is contained on the  
4 seized laptop has absolutely nothing whatsoever to do with either the Hustler Club or Go Best, but  
5 concerns rather one or more of the other businesses with which I am associated.

6 11. In addition to correspondence either seeking or receiving legal advice, the seized  
7 laptop contains many privileged documents prepared and/or created by the attorneys involved for  
8 anticipated, pending and/or ongoing litigation.

9 12. In my various business capacities, I also regularly and frequently correspond via e-  
10 mail from the seized laptop with a variety of Certified Public Accountants regarding, among other  
11 things, accounting matters, tax audits or investigations, litigation support, and the preparation of tax  
12 returns. These accountants include, but are not limited to, Angela Swank and Nicole Turnwald of  
13 Modern Bookkeeping, Inc., and David Shindel of the accounting firm ShindelRock.

14 13. In addition to mere correspondence either seeking or receiving accounting advice, the  
15 seized laptop also contains many privileged documents prepared and/or created by the CPA's that I  
16 or the businesses with which I am involved have retained, including but not limited to profit and loss  
17 statements, draft tax returns, finalized tax returns, information supporting and annexed to such tax  
18 returns, and documents prepared for attorneys in connection with the CPA's litigation support  
19 services (including but not limited to for tax audits and investigations). Just as is the case with  
20 correspondence from the attorneys discussed above, most of this information that is contained on the  
21 seized laptop has nothing whatsoever to do with either the Hustler Club or Go Best, but concerns,  
22 rather, one or more of the other businesses with which I am associated.

23 **I declare under penalty of perjury under the law of the State of Nevada that the**  
24 **foregoing is true and correct.**

25 Executed on 05/09/22  
26 \_\_\_\_\_

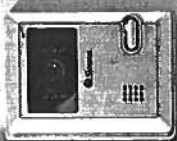
DocuSigned by:  
  
993C39D54D30402  
JASON C-H MOHNEY



# **EXHIBIT “1”**



SUITE 8500

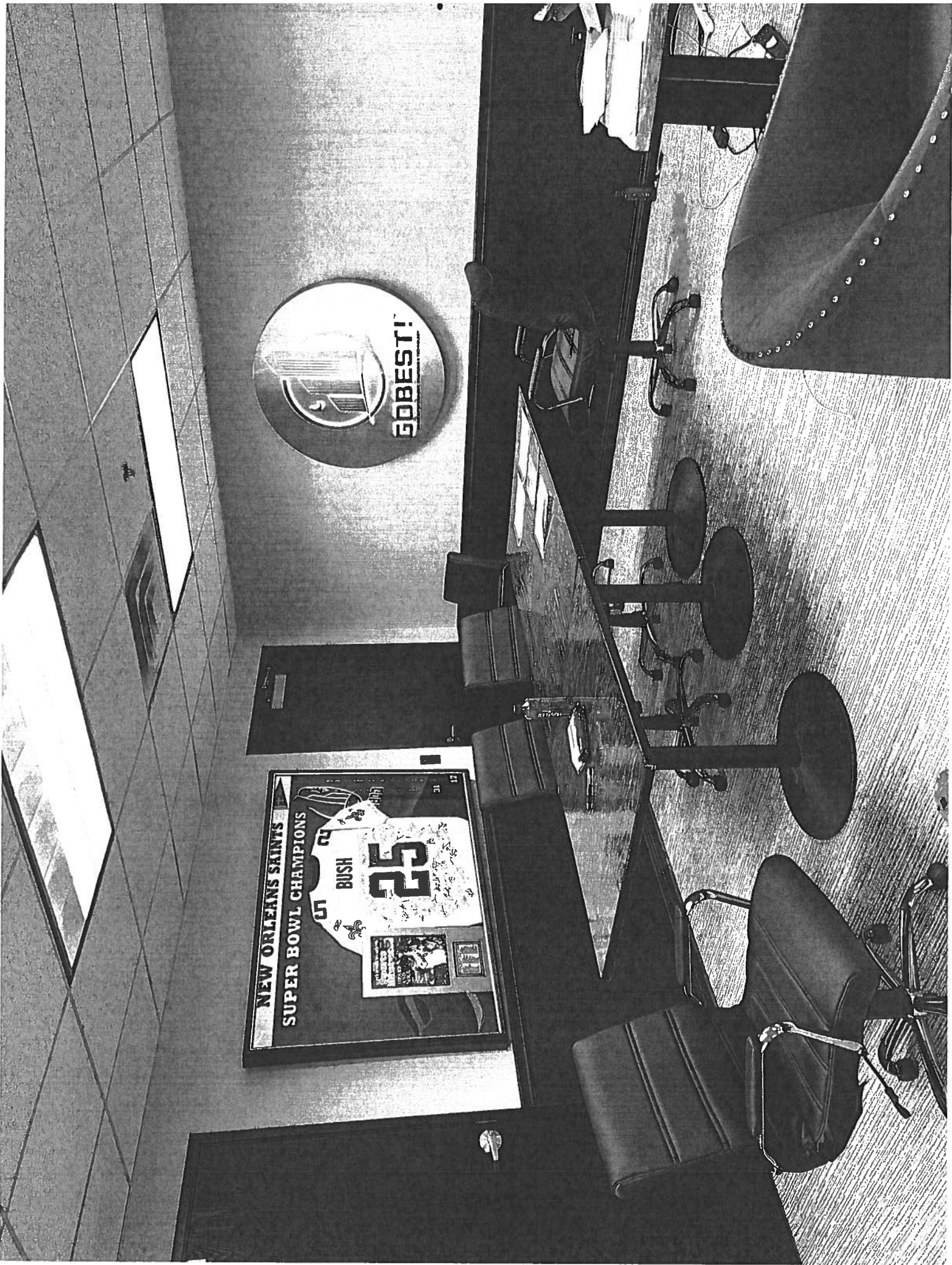


TM

GOBBEST

GO BIG ENTERTAINMENT, SOLUTIONS & TECHNOLOGY

## **EXHIBIT “2”**



1     **DECLARATION OF RALPH JAMES IN SUPPORT OF REAL PARTIES IN INTEREST**  
2     **LAS VEGAS BISTRO, LLC, DBA LARRY FLYNT'S HUSTLER CLUB, AND LITTLE**  
3     **DARLINGS OF LAS VEGAS, LLC, DBA LITTLE DARLINGS, TO (1) UNSEAL SEARCH**  
4     **WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS, (2) QUASH SEARCH**  
5     **WARRANTS, AND (3) RETURN SEIZED PROPERTY**

6     I, Ralph James, pursuant to NRS § 53.045, hereby declare as follows:

7     1.     I make this declaration upon my personal knowledge, unless specifically stated the  
8     contrary.

9     2.     I am an adult resident of sound mind of the State of Nevada.

10    3.     I am the General Manager of Las Vegas Bistro, LLC d/b/a Larry Flynt's Hustler Club,  
11    Las Vegas (the "Club") at 6007 Dean Martin Drive in Las Vegas, Nevada.

12    4.     My laptop, annotated on the Return as "1x Apple MacBook Laptop," Exhibit 1A to  
13    Opposition Brief, was seized by law enforcement during the April 5, 2022, police raid on the Club.

14    5.     I frequently correspond, via e-mail, using the seized laptop, with a large number of  
15    attorneys across the country who are providing legal advice and services to me for the Club. Many of  
16    these emails are physically stored on my seized laptop, and all of them are accessible through my  
17    seized laptop as I was logged into my email accounts and the passwords are stored on the computer at  
18    the time it was seized.

19    6.     In addition to simple correspondence either seeking or receiving legal advice, my  
20    seized laptop contains many privileged documents prepared and/or created by the attorneys involved  
21    for anticipated, pending, and/or ongoing litigation.

22    7.     I also regularly and frequently correspond via e-mail from my seized laptop with a  
23    variety of Certified Public Accountants regarding, among other things, accounting matters, tax audits,  
24    litigation support, and the preparation of tax returns. These accountants include, but are not limited  
25    to, Angela Swank and Nicole Turnwald of Modern Bookkeeping, Inc., and David Shindel of the  
26    accounting firm ShindelRock.

27    8.     In addition to mere correspondence seeking or receiving accounting advice, my seized  
28    laptop also contains many privileged documents prepared and/or created by the CPA's that the Club  
29    retains, including, but not limited to, profit and loss statements, draft tax returns, finalized tax returns,  
30    information supporting and annexed to such tax returns, and documents prepared for attorneys in

1 connection with the CPA's litigation support services (including, but not limited to, for tax audits and  
2 investigations).

3 9. My seized laptop also contains a wealth of personal information that is completely  
4 unrelated to the investigation into the Club, including, but not limited to, access to my various social  
5 media accounts; access to my personal email accounts; contact information, including personal  
6 addresses, phone numbers, and email accounts, for hundreds of family and friends; and browser  
7 histories.

8 **I declare under penalty of perjury under the law of the State of Nevada that the**  
9 **foregoing is true and correct.**

10 Executed on 5/9/2022

/s/ Ralph James

RALPH JAMES



1 **DECLARATION OF ANDREA WOODS IN SUPPORT OF REAL PARTIES IN INTEREST**  
2 **LAS VEGAS BISTRO, LLC, DBA LARRY FLYNT'S HUSTLER CLUB, AND LITTLE**  
3 **DARLINGS OF LAS VEGAS, LLC, DBA LITTLE DARLINGS, TO (1) UNSEAL SEARCH**  
4 **WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS, (2) QUASH SEARCH**  
5 **WARRANTS, AND (3) RETURN SEIZED PROPERTY**

6 I, Andrea Woods, pursuant to NRS § 53.045, hereby declare as follows:

7 1. I make this declaration upon my personal knowledge, unless specifically stated the  
8 contrary.

9 2. I am an adult resident of sound mind of the State of Nevada.

10 3. I am the Office Manager of Las Vegas Bistro, LLC d/b/a Larry Flynt's Hustler Club,  
11 Las Vegas (the "Club") at 6007 Dean Martin Drive in Las Vegas, Nevada. I have nothing to do with  
12 entertainers who perform at the Club, or the interactions between Club management and those  
13 entertainers.

14 4. On April 5, 2022, members of the Las Vegas Metro Police Department ("LVMPD")  
15 conducted a raid on the Club. I was present during the raid.

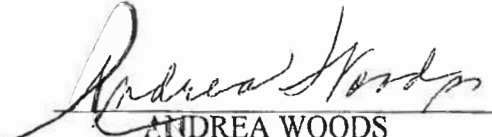
16 5. My personal cell phone, annotated on the Return as one of the "3 x cell phones  
17 (apple)," Exhibit 1A to Opposition Brief, was seized from my person by law enforcement during the  
18 April 5, 2022, police raid on the Club.

19 6. Since the raid, I have contacted LVMPD multiple times about the return of my cell  
20 phone. LVMPD has not given me a timeline of when it may return my cell phone.

21 7. My cell phone contains a wealth of personal information including, but not limited to,  
22 access to my various social media accounts; access to my personal email accounts; photos of my  
23 family and friends; contact information, including personal addresses, phone numbers, and email  
24 accounts, for hundreds of my family and friends; my GPS data, which includes my personal travels  
25 and/or pattern of life; records of my purchases/spending habits; browser histories; and text messages.  
26 I am unable to access much of that information without that cell phone.

27 **I declare under penalty of perjury under the law of the State of Nevada that the**  
28 **foregoing is true and correct.**

Executed on 5/9/2022

  
ANDREA WOODS

1 **DECLARATION OF ANGELA SWANK IN SUPPORT OF REAL PARTIES IN INTEREST**  
2 **LAS VEGAS BISTRO, LLC, DBA LARRY FLYNT'S HUSTLER CLUB, AND LITTLE**  
3 **DARLINGS OF LAS VEGAS, LLC, DBA LITTLE DARLINGS, TO (1) UNSEAL SEARCH**  
4 **WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS, (2) QUASH SEARCH**  
5 **WARRANTS, AND (3) RETURN SEIZED PROPERTY**

6 I, Angela Swank, pursuant to NRS § 53.045, hereby declare as follows:

7 1. I make this declaration upon my personal knowledge, unless specifically stated the  
8 contrary.

9 2. I am an adult resident of sound mind of the State of Michigan.

10 3. I am a licensed Certified Public Accountant by the State of Michigan's Department of  
11 Licensing and Regulatory Affairs. I am employed in that capacity by, and am the President of,  
12 Modern Bookkeeping, Inc. ("MBI"), located at 8252 Lansing Road in Durand, Michigan.

13 4. Las Vegas Bistro, LLC, d/b/a Larry Flynt's Hustler Club ("Las Vegas Bistro") is a  
14 client of MBI.

15 5. In addition to my work as a CPA, MBI also employs Nicole Turnwald as another  
16 licensed CPA.

17 6. Ms. Turnwald and I provide substantially the same accounting services and advice to  
18 all of MBI's clients, including but not limited to Las Vegas Bistro, and we do so through regular  
19 communications with the owners and management of the client entities. For Las Vegas Bistro, this  
20 would include communications with, among other people, Jason Mohny, Managing Member of Las  
21 Vegas Bistro; Ralph James, General Manager of Las Vegas Bistro; and Andrea Woods, Office  
22 Manager of Las Vegas Bistro. These communications are made, variously, through written  
23 correspondence exchanged in overnight delivery packages; emails; text messages; and telephone  
24 calls, including the leaving of detailed voicemail messages.

25 7. Ms. Turnwald and I provide to the clients of MBI, including to Las Vegas Bistro, a  
26 variety of accounting services, including but not limited to collection and collation of business  
27 income and expenses, posting of daily sales reports and cash payouts, preparation of profit and loss  
28 statements, preparation of draft tax returns (federal, state, and, if applicable, local), and the  
preparation and filing of finalized tax returns and supporting information and materials.



1           8.       As part of the work that we do for MBI's clients, including for Las Vegas Bistro, Ms.  
2 Turnwald and I also provide accounting advice and services in a variety of tax audits and for  
3 litigation support. In those matters, we regularly communicate with the principals of the businesses,  
4 and the individuals, involved; with the management staff of the entities; and with legal counsel for  
5 those entities/persons. In addition, we regularly both seek and receive legal advice from attorneys,  
6 often in communications in which the clients and/or their representatives are copied, in order to  
7 permit us to provide the best accounting services and litigation support possible to those clients. It is  
8 my understanding that all such communications where a lawyer is involved with regard to the  
9 services that MBI, and specifically Ms. Turnwald and I, provide to its clients, are protected under the  
10 attorney-client privilege.

11           9.       I consider the work, as well as the communication and correspondence with the  
12 individuals referenced in the three paragraphs immediately above, to be protected by the accountant-  
13 client privilege under both federal and state law.

14           10.      Specifically with regard to communications between either I or Ms. Turnwald and  
15 Messrs. Mohny and James, and/or between or with various legal counsel, much of that involves  
16 accounting and/or legal matters that have absolutely nothing to do with either Las Vegas Bistro.  
17 Because of the involvement of Messrs. Mohny and James with a variety of other businesses across  
18 the country that are also clients of MBI, Ms. Turnwald and I communicate regularly and frequently  
19 with these two gentlemen, and/or with their legal counsels or with legal counsels representing those  
20 other entities with which they are involved, on a wide variety of matters involving, specifically and  
21 exclusively, those other entities (as opposed to Las Vegas Bistro), including, of course, but not  
22 limited to, the preparation of their tax returns and supporting materials and information.

23           11.      Upon information and belief, it is my understanding that as part of the recent raids that  
24 occurred on the business premises of Las Vegas Bistro, a variety of computers, including servers,  
25 laptops and tablets, as well as personal cell phones, were seized by the Las Vegas Municipal Police  
26 Department. If so, that equipment and those devices contain, as referenced above, correspondence,  
27 communication, and information between and among Ms. Turnwald and I, the individuals identified  
28 above, and various legal counsel, that are protected by both the accountancy and attorney/client

1 privileges. In addition, as referenced above, much of that correspondence, communication and  
2 information has nothing whatsoever to do with Las Vegas Bistro, but concerns, rather, other clients  
3 of MBI.

4       **I declare under penalty of perjury under the law of the State of Nevada that the**  
5 **foregoing is true and correct.**

6  
7 Executed on 5/9/2022

  
ANGELA SWANK

## **EXHIBIT “J”**

ORIGINAL

11

1 **ORDR**

2 DONALD J. CAMPBELL (Nevada State Bar No. 1216)

3 J. COLBY WILLIAMS (Nevada State Bar No. 5549)

4 CAMPBELL & WILLIAMS

5 700 South Seventh Street

6 Las Vegas, Nevada 89101

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**FILED**

**NOV 20 2009**

*Alvin L. Williams*  
CLERK OF COURT

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10 Nevada Pro Hac Vice Pending)

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20 THE ASSOCIATED PRESS; STEPHENS MEDIA LLC

21 d/b/a LAS VEGAS REVIEW-JOURNAL; and TMZ

22 PRODUCTIONS, INC.

A-09-601140-P  
537903



23 **DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 IN RE MATTER OF SEARCH WARRANTS )  
26 ISSUED IN CONNECTION WITH )  
27 INVESTIGATION OF DEATH OF MICHAEL )  
28 JACKSON )

Miscellaneous Action No. A-09-601140-C  
Dept. No. XXI

**SUPPLEMENTAL ORDER  
REGARDING REQUEST TO  
INTERVENE AND FOR ORDER  
UNSEALING COURT RECORDS  
RELATED TO SEARCH WARRANTS**

Hearing Date: November 18-19, 2009  
Hearing Time: 10:00 a.m.

29 The Request to Intervene and for Order Unsealing Court Records Related to Search  
30 Warrants came on for a status hearing in Department XXI before the Honorable Valerie Adair on

CLERK OF THE COURT

NOV 20 2009

RECEIVED



CAMPBELL  
& WILLIAMS  
ATTORNEYS AT LAW

700 SOUTH SEVENTH STREET  
LAS VEGAS, NEVADA 89101  
PHONE: 702/382-5222  
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1 November 18, 2009. J. Colby Williams, Esq. appeared on behalf of the Non-Party Press  
2 Organizations; David Schubert, Chief Deputy District Attorney, appeared on behalf of the State of  
3 Nevada. The Court, having previously reviewed the papers and pleadings on file in this matter,  
4 considered the arguments of counsel at the time of status hearing, which included *in camera*  
5 presentations from Detective Orlando Martinez from the Los Angeles Police Department (on  
6 November 18) and Deputy Attorney David Walgren from the Los Angeles District Attorney's  
7 Office (on November 19) who are involved in the Michael Jackson murder investigation, hereby  
8 rules as follows:  
9

10 Upon the Court's inquiry, Deputy Attorney Walgren was unable to articulate a specific  
11 reason why the search warrant and affidavit filed on or about August 13, 2009 should be kept  
12 sealed or explain how the subject investigation would be compromised by unsealing these  
13 materials. Based upon Deputy Attorney Walgren's statements and the testimony of Detective  
14 Orlando Martinez of the previous day, the Court FINDS there is not a sufficient basis to continue  
15 to keep the materials sealed.  
16

17 NOW, THEREFORE, the Court GRANTS the Motion of the Non-Party Press  
18 Organizations and ORDERS the warrant and affidavit filed on or about August 13, 2009  
19 UNSEALED.  
20

21 DATED this <sup>24</sup>20 day of November, 2009.

22   
23 \_\_\_\_\_  
24 DISTRICT COURT JUDGE  
25  
26  
27  
28



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1 Submitted by:

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3 DONALD J. CAMPBELL  
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7 ALONZO WICKERS IV

8 By: 

J. Colby Williams

9 Attorneys for Non-Party Press Organizations  
10 LOS ANGELES TIMES COMMUNICATIONS LLC;  
11 THE ASSOCIATED PRESS; STEPHENS MEDIA LLC  
12 d/b/a LAS VEGAS REVIEW-JOURNAL;  
13 and TMZ PRODUCTIONS, INC.



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# **EXHIBIT 4**



1 **MOT**

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3 Nevada Bar No. 7269

4 ALINA M. SHELL, ESQ.

5 Nevada Bar No. 11711

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CASE NO: A-22-853921-P  
Department 31

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10  
11 IN RE: EXECUTION OF WARRANT for

12  
13 6007 Dean Martin Drive,  
14 Las Vegas, Nevada 89118

Case No.:  
Dept. No.:

**MOTION FOR RETURN OF  
PROPERTY**

**HEARING REQUESTED**

15  
16 Pursuant to NRS 179.085, Movant/Real-Party-In-Interest, Go BEST, LLC ("Go BEST")  
17 hereby moves the Court for an order requiring the requiring the return of property illegally seized  
18 from it during the execution of certain search warrants by the Las Vegas Metropolitan Police  
19 Department ("Metro").

20 Because no criminal proceedings have been initiated against Go BEST, Go BEST  
21 respectfully requests that this Court treat the instant Motion as a civil complaint seeking equitable  
22 relief pursuant to NRS 179.085(5).

23 This Court has subject matter jurisdiction pursuant to NRS 179.085 and the United States  
24 Constitution. Venue is proper as the parties, property, events, and search warrants took place in  
25 Clark County, Nevada. Further, Go BEST demands a jury trial, to the extent that such a demand is  
26 required under NRS 179.085 and the applicable rules of civil procedure.

27 ///

28 ///

KM  
6/17/22  
11:35AM



1 **I. INTRODUCTION**

2 In April 2022, the Las Vegas Metropolitan Police Department (“Metro”) obtained a warrant  
3 to search and seize evidence from certain businesses located at 6700 Dean Martin Drive. When  
4 serving the warrant on April 5, 2022, Metro exceeded the scope of the search warrant by entering Go  
5 BEST’s separate business—which is located in the same building but has a different address and a  
6 separate locked and clearly marked entrance—and seizing a laptop belonging to Go BEST’s  
7 manager that is used to operate Go BEST. Pursuant to NRS 179.085(1), this Court must order Metro  
8 to return Go BEST’s laptop, as it was seized without a warrant, the warrant was insufficient on its  
9 face to justify seizure of the laptop, and Metro’s retention of the laptop under the facts and  
10 circumstances of this matter is patently unreasonable.

11 **II. FACTS**

12 *Go BEST and the Club*

13 1. Go BEST is a Nevada limited-liability company that does business in Clark County,  
14 Nevada at 3131 Ponderosa Way, Suite 8055, Las Vegas, Nevada 89118. [Ex. 1 Decl. of J. Mohney  
15 ¶¶ 2, 7.]

16 2. Metro is a political subdivision of the State created pursuant to NRS ch. 280.

17 3. Go BEST is an Internet based company that offers services to operators in the  
18 hospitality industry providing Janitorial/Sanitary, office and food service supplies, design,  
19 audiovisual solutions, marketing, web optimization, cybersecurity, digital marketing services,  
20 entertainment coordination, hospitality training, point-of-sale systems, and back-end controls, among  
21 other services. [Ex. 1 Decl. of J. Mohney ¶ 4.]

22 4. Go BEST leases space from Las Vegas Bistro, LLC d/b/a Larry Flynt’s Hustler Club  
23 (the “Club”). [Ex. 1 Decl. of J. Mohney ¶ 5.]

24 5. While physically in the Club’s structure, Go BEST’s suite has a separately demised  
25 door with a lock on it that can be opened using a numeric code. [Ex. 1 Decl. of J. Mohney ¶ 8.]

26 6. The door clearly identifies by a Go BEST sign with its logo on it and a suite number  
27 plaque with the Go BEST logo. [Ex. 1 Decl. of J. Mohney, ¶ 10.]  
28

1           7.     Go BEST's business license and Nevada tax permit are prominently displayed inside  
2 the suite. [Ex. 1 Decl. of J. Mohney ¶¶ 11, 12.]

3           8.     The Club's address is 6007 Dean Martin Drive, Las Vegas, Nevada 89118. [Ex. 1  
4 Decl. of J. Mohney ¶ 6.]

5           9.     Besides Go BEST, the Club houses three third-party managed areas: a retail store, a  
6 male revue, and a Mediterranean restaurant, none of which were subject to search during Metro's  
7 raid.

8 *The Search Warrant*

9           10.    On or about April 1, 2022, Metro applied for and received a search warrant (the  
10 "Warrant") to search the "business known as Larry Flynt's Hustler Club, located at 6007 Dean  
11 Martin Drive, Las Vegas, NV 89118." [Ex. 2 (Search Warrant).]

12          11.    The Warrant does not:

- 13               •     List Go BEST's address (3131 Ponderosa Way, Suite 8055) as an address to  
14 be searched
- 15               •     Identify Go BEST as a target of the warrant
- 16               •     Include any information regarding any connection between Larry Flynt's  
17 Hustler Club and Go BEST.

18          12.    The Affidavit in support of the Warrant is under seal. [Ex. 2 Warrant, p. 3.]

19          13.    On April 5, 2022, members of Metro's Special Investigations Section served the  
20 Warrant at the Club. [Ex. 3 Decl. of D. Forbush ¶ 4.]

21          14.    On information and belief, upon arriving at the Club Metro corralled the employees  
22 of the Club and other businesses on the premises in a single location.

23          15.    Metro spent approximately seven hours at the Club's location. [Ex. 3 Decl. of D.  
24 Forbush ¶ 5.]

25          16.    Metro entered and searched the Go BEST office without consent. [Ex. 3 Decl. of D.  
26 Forbush ¶¶ 7-9.]

27          17.    Metro seized a MacBook Pro laptop belonging to Jason Mohney, manager of Go  
28 BEST (the "Laptop"). [Ex. 1 Decl. of J. Mohney ¶ 16; *see also* Ex. 2 Warrant Return.]

1 18. Go BEST uses the Laptop to conduct its business, including its Internet businesses.  
2 [Ex. 1 Decl. of J. Mohney ¶ 17.]

3 19. The Laptop contains attorney-client communications. [Ex. 1 Decl. of J. Mohney ¶  
4 18.]

5 20. The Laptop contains accountant-client communications. [Ex. 1 Decl. of J. Mohney ¶  
6 19.]

7 21. The Laptop contains confidential, trade secrets. [Ex. 1 Decl. of J. Mohney ¶ 20.]

8 22. The Laptop is essential to Go BEST's business. [Ex. 1 Decl. of J. Mohney ¶ 21.]

9 **III. ANALYSIS: THE COURT SHOULD ORDER THE RETURN OF THE LAPTOP**  
10 **AND ALL INFORMATION ON IT**

11 The Court should order Metro to return the Laptop and all information on it.

12 Both the United States Constitution and the Nevada Constitution guarantee that the "right of  
13 the people to be secure in their persons, houses, papers, and effects, against unreasonable searches  
14 and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported  
15 by oath or affirmation, and particularly describing the place to be searched, and the persons or things  
16 to be seized." U.S. Const. amend. XIV; Nev. Const. art. I § 18. To give life to these guarantees, NRS  
17 179.085 authorizes a "person aggrieved by an unlawful search and seizure or the deprivation of  
18 property" to "move the court having jurisdiction where the property was seized for the return of the  
19 property."

20 A party aggrieved by an unlawful search and/or seizure may move for the return of property  
21 pursuant to five different grounds:

- 22 (a) The property was illegally seized without warrant;
- 23 (b) The warrant is insufficient on its face;
- 24 (c) There was not probable cause for believing the existence of the grounds on which  
25 the warrant was issued;
- 26 (d) The warrant was illegally executed; or
- 27 (e) Retention of the property by law enforcement is not reasonable under the totality  
28 of the circumstances.

26 NRS 179.085(1). Further, NRS § 179.085(5) provides that "[i]f the motion pursuant to this section is  
27 filed when no criminal proceeding is pending, the motion must be treated as a civil complaint seeking  
28 equitable relief."

1 Because the affidavit in support of the Warrant here is under seal, Go BEST is unable at this  
2 juncture to determine whether probable cause supported issuance of the Warrant in the first place.  
3 NRS 179.085(1)(c). However, based on the face of the search warrant and the facts and  
4 circumstances surrounding Metro's service of the warrant, Metro's search of Go BEST's premises  
5 and property, and Metro's seizure of Go BEST's computer, it is plain that Metro illegally seized the  
6 Laptop. Metro's retention of the Laptop under the circumstances here is entirely unreasonable. NRS  
7 179.085(1)(a), (b), (d), and (e). Thus, this Court should order Metro to return the Laptop

8 **A. THE LAPTOP WAS ILLEGALLY SEIZED WITHOUT A WARRANT**

9 As noted above, the Fourth Amendment and Article I § 18 of the Nevada Constitution  
10 provide that "no warrants shall issue no warrants shall issue, but upon probable cause, supported by  
11 oath or affirmation, and particularly describing the place to be searched, and the persons or things to  
12 be seized." "The Fourth Amendment's particularity requirement is not a mere technicality; it is an  
13 express constitutional command." *United States v. Ramirez*, 976 F.3d 946, 951 (9th Cir. 2020). The  
14 particularity requirement circumscribes officers' ability to conduct a general search; "by limiting the  
15 authorization to search to the specific areas and things for which there is probable cause to search,  
16 the requirement ensures that the search will be carefully tailored to its justifications and will not take  
17 on the character of the wide-ranging exploratory searches the Framers intended to prohibit." *Maryland v. Garrison*, 480 U.S. 79, 84 (1987). Therefore, the particularity requirement "prevents the  
18 seizure of one thing under a warrant describing another," and prevents "a general, exploratory  
19 rummaging" into a person's property by leaving nothing to the discretion of executing officers.  
20 *United States v. Janus Industries*, 48 F.3d 1548, 1553–54 (10th Cir. 1995).

21 "If the scope of the search exceeds that permitted by the terms of a validly issued warrant or  
22 the character of the relevant exception from the warrant requirement, the subsequent seizure is  
23 unconstitutional without more." *Horton v. California*, 496 U.S. 128, 140 (1990). "To the extent  
24 [government] agents want[ ] to seize relevant information beyond the scope of the warrant, they  
25 should [seek] a further warrant." *United States v. Sedaghaty*, 728 F.3d 885, 914 (9th Cir. 2013). A  
26 warrantless search is per se unreasonable unless an exception to the warrant requirement applies.  
27 *State v. Lloyd*, 129 Nev. 739, 743, 312 P.3d 467, 469 (2013).  
28

1 The Warrant here only authorized Metro to search “[t]he business known as Larry Flynt’s  
2 Hustler Club, located at 6007 Dean Martin Dr., Las Vegas NV 89118.” [Ex. 2 Warrant p. 2.] Thus,  
3 when Metro officers arrived at the building to serve the Warrant, they were aware that the *only*  
4 business which could be searched was the Club. Despite the particularity of the Warrant, however,  
5 Metro officers entered Go BEST’s separate (and locked) business without authorization, rummaged  
6 through Go BEST’s files and records, and seized Go BEST’s Laptop. [Ex. 1 Decl. of J. Mohny, ¶¶  
7 15-16; Ex. 3 Dec. of D. Forbush, ¶ 9.] Thus, the seizure of the Laptop was a warrantless seizure.

8 Significantly, there was no reason why the officers could not have obtained an additional  
9 search warrant if they believed that there was probable cause to search Go BEST’s separate business.  
10 As noted above, upon arriving at the Club to serve the Warrant, Metro officers corralled the  
11 employees of the Club and other businesses in the building into a single location. The officers were  
12 also there for several hours. [Ex. 3 Decl. of D. Forbush ¶¶ 5-6.] Thus, there were no exigent  
13 circumstances justifying Metro’s warrantless entry into Go BEST or the seizure of Go BEST’s  
14 Laptop. Metro had ample time to contact the judge who authorized the Warrant in the first place to  
15 issue to request an additional warrant to search Go BEST’s property. Metro chose not to do so and  
16 conducted a warrantless search of Go BEST’s business and property. This was patently illegal. Go  
17 BEST’s Laptop (and all the information contained on it) must therefore be returned.

18 **B. THE WARRANT IS INSUFFICIENT TO SEIZE THE LAPTOP**

19 Even if this Court were to assume that the Warrant authorized Metro officers to enter Go  
20 BEST’s separate business (which it should not), the Warrant was insufficient on its face to provide  
21 Metro with probable cause to seize the Laptop. NRS 179.045(5) provides that a warrant must either  
22 include a statement of probable cause or have the affidavit upon which probable cause is based  
23 attached. Given that the affidavit in support of the Warrant is sealed, Go BEST has no way of  
24 assaying Metro’s probable cause assertions. But setting that aside, the face of the Warrant did not  
25 provide Metro with sufficient probable cause to seize the Laptop for two reasons. First, as discussed  
26 above, the Warrant only authorized Metro to search the Club at 6700 Dean Martin Drive—and not  
27 Go BEST’s location at 3131 Ponderosa Way. [See generally Ex. 2 Warrant.]  
28

1       Second, the Warrant on its face is so overbroad and lacking in any particularity that it is  
2 indistinguishable from the sort of general warrants the Fourth Amendment was specifically intended  
3 to prohibit. *See, e.g., Virginia v. Moore*, 553 U.S. 164, 168–69, 128 S. Ct. 1598, 1603, 170 L. Ed. 2d  
4 559 (2008) (“The immediate object of the Fourth Amendment was to prohibit the general warrants  
5 and writs of assistance that English judges had employed against the colonists.”) The Warrant here  
6 merely states that Metro had probable cause to believe that “[e]lectronic and digital storage devices, .  
7 . . to include, but not limited to, computers . . . are presently located at” the Club. [Ex. 2 Warrant pp.  
8 1-2.] Of course, virtually every business in the 21st century relies on some sort of electronic or  
9 digital storage device(s) to conduct day-to-day operations, and there is nothing inherently suspect or  
10 criminal about this fact. The Warrant does not, however, give any indication that there was cause to  
11 believe that the digital and electronic storage devices contained evidence of criminal activity—only  
12 that Metro had probable cause to believe computers were there. This fact—that digital and electronic  
13 storage devices were merely present at the Club with no apparent connection to any alleged criminal  
14 conduct—was insufficient on its face to permit Metro’s seizure of Go BEST’s Laptop. The Laptop  
15 must therefore be returned.

16 **C. METRO’S RETENTION OF THE LAPTOP IS UNREASONABLE**

17       Metro’s retention of Go BEST’s Laptop is unreasonable under the totality of circumstances.  
18 Go BEST was not the subject of the Warrant. Go BEST was not the target of any investigation. Go  
19 BEST’s offices are not enumerated in the Warrant.

20       Go BEST is an Internet business whose very livelihood depends upon its computers. Go  
21 BEST’s manager has been without his computer since Metro served the Warrant. It is unreasonable  
22 for Metro to retain the Laptop and any information on it under these circumstances. Therefore, the  
23 Court should order Metro to return the Laptop and any information contained on it.

24 ///

25 ///

26 ///

27 ///

28 ///

1 IV. CONCLUSION

2 For the foregoing reasons, Go BEST respectfully request this Court enter order granting the  
3 instant Motion and directing Metro to return the Laptop and its contents to Go BEST, together with  
4 such further and other relief as this Court deems just and fair.

5  
6 DATED: June 10th, 2022.

ARMSTRONG TEASDALE LLP

7  
8 By: /s/ Jeffrey F. Barr

JEFFREY F. BARR, ESQ.

Nevada Bar No. #7269

ALINA M. SHELL

Nevada Bar No. #11711

3770 Howard Hughes Parkway, Suite 200

Las Vegas, NV 89169

# EXHIBIT 1

# EXHIBIT 1

---



1 **DECL**  
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6 ARMSTRONG TEASDALE LLP  
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11 jbarr@atl1p.com  
12 ashell@atl1p.com

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10  
11 IN RE: EXECUTION OF WARRANT for  
12  
13 6007 Dean Martin Drive,  
14 Las Vegas, Nevada 89118  
15

Case No.:  
Dept. No.:

**DECLARATION OF JASON  
MOHNEY IN SUPPORT OF  
[MOTION FOR RETURN OF  
PROPERTY]**

16 I, Jason Mohney, hereby state and declare pursuant to NRS 53.045, as follows:

- 17 1. I am over the age of eighteen, and I am competent to make this Declaration.
- 18 2. I am the manager of Go BEST, LLC ("Go BEST", Movant/Real-Party-In-Interest in  
19 the above-captioned action.
- 20 3. I have personal knowledge of the facts stated in this Declaration, and if called upon to  
21 testify to the same, I am competent to do so.
- 22 4. Go BEST is an Internet based company that offers services to operators in the  
23 hospitality industry providing janitorial/Sanitary, office and food service supplies, design,  
24 audiovisual solutions, marketing, web optimization, cybersecurity, digital marketing services,  
25 hospitality training, and back-end controls, among other services.
- 26 5. Go BEST leases space from Las Vegas Bistro, LLC d/b/a Larry Flynt's Hustler Club  
27 (the "Club").
- 28 6. The Club's address is 6007 Dean Martin Drive, Las Vegas, Nevada 89118.

1           7.     While physically in the Club's structure, Go BEST's suite has a separate address,  
2 3131 Ponderosa Way, Suite 8500, Las Vegas, Nevada 89118, and is located in the basement.

3           8.     Go BEST's suite has a separately demised door with a lock on it which can be opened  
4 using a numeric code.

5           9.     Go BEST's business logo is prominently displayed on the door to its suite.

6           10.    There is also a plaque with Go BEST's business logo and suite number immediately  
7 adjacent to the door to Go BEST's suite.

8           11.    Go BEST's business license is prominently displayed inside the suite.

9           12.    Go BEST's Nevada Tax Permit is prominently displayed inside the suite.

10          13.    Go BEST's illuminated metal sign with Go BEST's logo is prominently displayed  
11 inside the suite.

12          14.    The office suites in the basement of 3131 Ponderosa Way can be opened using a  
13 master code.

14          15.    On April 5, 2022, I provided Deanna Forbush with the master code for the office  
15 suites in the basement of 3131 Ponderosa Way, but instructed her that the code should not be used to  
16 access Go BEST's suite because Go BEST was not a target of the warrant.

17          16.    Las Vegas Metropolitan Police Department seized the MacBook Pro laptop belonging  
18 to Go BEST (the "Laptop").

19          17.    Go BEST uses the Laptop to conduct its business, including its Internet businesses.

20          18.    The Laptop contains attorney-client communications.

21          19.    The Laptop contains accountant-client communications.

22          20.    The Laptop contains confidential, trade secrets.

23          21.    The Laptop is essential to Go BEST's business.

24  
25 I declare under penalty of perjury that the foregoing is true and correct.

26  
27 Executed on

6/9/22

  
Jason Mohney

# **EXHIBIT 2**

# **EXHIBIT 2**

---

## SEARCH WARRANT

STATE OF NEVADA    )  
                              ) ss:  
COUNTY OF CLARK    )

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by R. Chavez, P#7758, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property, namely:

- 1) Business documents to include, but not limited to, financial and bank records, credit card receipts, ownership records, lease contracts, tax reports, business and professional licenses, lists of services provided, employee lists, customer lists, financial ledgers, owe sheets, and travel documents.
- 2) Electronic and digital storage devices, as well as digital storage media, to include, but not limited to, computers, cellular phones, tablets, discs, thumb drives, hard drives, credit card readers, point of sale devices, and digital video recorder (DVR) systems.
- 3) Condoms, lubricants, medications used to treat or counteract sexually transmitted diseases, and other paraphernalia related to Erotic Dance establishments operating as brothels.
- 4) Limited items of personal property, which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant, to include, but not limited to, personal identification, documents, utility bills, receipts, letters, photographs, insurance policies, and governmental notices, whether such items are

**SEARCH WARRANT**  
(Continuation)

Page 2

written, typed, or stored on an electronic medium are presently located at:

1) The business known as Larry Flynt's Hustler Club, located at 6007 Dean Martin Dr., Las Vegas, NV 89118. The structure is a four-story commercial building, located on the southwest corner of Dean Martin Dr. and West Ponderosa Way. The building is primarily pink and white in color stucco. The numbers "6007" are affixed above the northeast corner of the building on the east facing wall and are pink in color. The words "Larry Flynt's Hustler" are affixed above the southeast side of the building. The words "Larry Flynt's" is blue in color and "Hustler" is in pink. 2) The persons of adults or minors working at the premises at the time of the execution of this search warrant.

And as I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the affidavit attached hereto, there are sufficient grounds for the issuance of the Search Warrant. Furthermore, I acknowledge this is not a no-knock search warrant, as defined by SB50 Section 1.9.

**SEARCH WARRANT**  
(Continuation)

Page 3

You are hereby commanded to search forthwith said premises for said property, serving this warrant between the hours of anytime, day or night, and if the property is there to seize it, prepare a written inventory of the property seized, and make a return for me within ten days.

Dated this 13<sup>th</sup> Day day of April Month, 2022

H. Ketizla  
JUDGE

FYI  
IN RE: SEARCH WARRANT for

6007 Dean Martin Dr.,  
Las Vegas, NV 89118

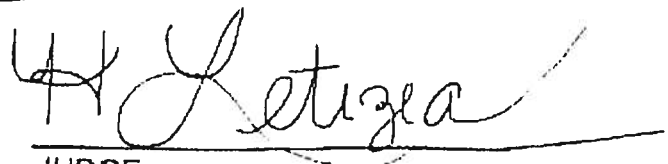
**ORDER SEALING  
AFFIDAVIT**

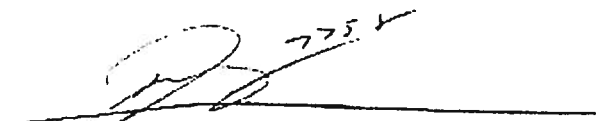
Upon the ex parte application of Det. R. Chavez P#7758, a commissioned officer with the Las Vegas Metropolitan Police Department and Affiant, to seal the Affidavit in support of the attached Search Warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the Affidavit in support of the attached Search Warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the Affidavit be left at the premises along with the Search Warrant in lieu of the Affidavit in support of the Warrant.

DATED this 15<sup>th</sup> day of April, 2021.

  
JUDGE

  
AFFIANT

# **RETURN**

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

6007 W. 10th St. Minneapolis, MN 55412

was executed on 4-5-21  
(month day year)

A copy of this inventory was left with At the place of seizure

(Name of person or title of officer)

The following is an inventory of property taken pursuant to the warrant:

2 X CELL PHONES (WIRELESS)

OFFICE DOCUMENTS

DVR SHOSHI. C/H 201T6V2H2002-7A

DVR SHOSHI EC2S

DVR HIKVISION DVRT21-100600

DVR HIKVISION WIRELESS SECURITY

DVR HIKVISION SH E19264109

1 X CELL PHONE (WIRELESS)

PRINTER PAPER IN COORDINATOR'S

OFFICE SHOSHI EC2S

This inventory was made by: 177755C

AT THE PLACE OF SEIZURE  
(At least two officers including Officer 1 present. If person from whom property is taken is present, include that person.)



### RETURN (continued)

location \_\_\_\_\_

3. KANONIC

[illegible]

# EXHIBIT 3

# EXHIBIT 3

---

1 **DECL**

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13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 IN RE: EXECUTION OF WARRANT for

16 6007 Dean Martin Drive,  
17 Las Vegas, Nevada 89118

Case No.:

Dept. No.:

18 **DECLARATION OF DEANNA L.**  
19 **FORBUSH IN SUPPORT OF**  
20 **MOTION FOR RETURN OF**  
21 **PROPERTY**

22 I, Deanna L. Forbush, hereby state and declare as follows:

23 1. I am over the age of eighteen, and I am competent to make this Declaration.

24 2. I am an attorney for Las Vegas Bistro, LLC, dba Larry Flynt's Hustler Club (the  
25 "Club").

26 3. I have personal knowledge of the facts stated in this Declaration, and if called upon to  
27 testify to the same, I am competent to do so.

28 4. On April 5, 2022, members of the Las Vegas Metropolitan Police Department  
("Metro") Special Investigations Section served a search warrant at the Club.

5. Metro spent approximately 7+ hours at the Club's location.

6. I was present at the Club during most of that 7+ hour period and personally observed  
Metro's executing the search warrant.

1           7.       During execution of the search warrant, Metro officers demanded to be allowed into  
2 and/or granted access to Go Best's separate office.

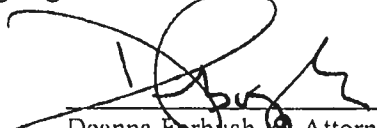
3           8.       Under protest, I provided the officers with the code to unlock Go Best's separate and  
4 door; I did so to prevent Metro from breaking down the door or otherwise damaging Go Best's  
5 property as they threatened to do.

6           9.       Metro entered and searched the Go Best office without consent.

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

8  
9 Executed on

June 8, 2022

  
Deanna Forbush, Attorney for Larry Flynt's  
Hustler Club



1 **CHLG**  
2 JEFFREY F. BARR, ESQ.  
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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

Case No.: A-22853921-P  
Dept. No.: 31

11 IN RE: EXECUTION OF WARRANT for

12 6007 Dean Martin Drive,  
13 Las Vegas, Nevada 89118

**PEREMPTORY CHALLENGE OF  
JUDGE**

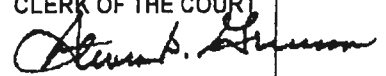
15  
16 Pursuant to Rule 48.1 of the Supreme Court Rules of the State of Nevada, Go Best, LLC,  
17 hereby exercises the Peremptory Challenge of the Honorable Judge Joanna S. Kishner.

18 DATED: June 15th, 2022.

ARMSTRONG TEASDALE LLP

19 By: /s/ Jeffrey F. Barr

20 JEFFREY F. BARR, ESQ.  
21 Nevada Bar No. #7269  
22 ALINA M. SHELL  
23 Nevada Bar No. #11711  
24 3770 Howard Hughes Parkway, Suite 200  
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26  
27  
28



DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \*

IN THE MATTER OF THE PETITION  
OF  
GO BEST, LLC

Case No.: A-22-853921-P

DEPARTMENT 26

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly  
reassigned to Judge Gloria Sturman.

☒ This reassignment follows the filing of a Peremptory Challenge of Judge Joanna  
Kishner.

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE  
RESET BY THE NEW DEPARTMENT. PLEASE INCLUDE THE NEW  
DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

7-19-22 9:00am Motion for Return of Property

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Allison Behrhorst

Allison Behrhorst,  
Deputy Clerk of the Court

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**CERTIFICATE OF SERVICE**

I hereby certify that this 16th day of June, 2022

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number A-22-853921-P.

/s/ Allison Behrhorst  
Allison Behrhorst  
Deputy Clerk of the Court

# **EXHIBIT 5**



**Marquis Aurbach**

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Nevada Bar No. 8996

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Attorneys for Real Party in Interest, Las  
Vegas Metropolitan Police Department**DISTRICT COURT****CLARK COUNTY, NEVADA**

IN RE SEARCH WARRANT REGARDING  
SEIZURE OF DOCUMENTS, LAPTOP  
COMPUTERS, CELLULAR TELEPHONES  
AND OTHER DIGITAL STORAGE DEVICES  
FROM THE PREMISES OF LAS VEGAS  
BISTRO, LLC AND LITTLE DARLINGS OF  
LAS VEGAS, LLC,

Case No.: A-22-851073-C

Dept. No.: 30

**Date of Hearing:** May 12, 2022**Time of Hearing:** 10:30 A.M.Movants and Real Parties in Interest.

**REAL PARTY IN INTEREST, LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT'S OPPOSITION TO MOTION OF REAL PARTIES IN INTEREST LAS  
VEGAS BISTRO, LLC dba LARRY FLYNT'S HUSTLER CLUB AND LITTLE  
DARLINGS OF LAS VEGAS, LLC dba LITTLE DARLINGS TO: (1) UNSEAL SEARCH  
WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS; (2) QUASH SEARCH  
WARRANTS; AND (3) RETURN SEIZED PROPERTY ON AN ORDER SHORTENING  
TIME**

Real Party in Interest, the Las Vegas Metropolitan Police Department (the "Department"  
or "LVMPD"), by and through their attorneys of record, the law firm of Marquis Aurbach,  
hereby submits its Opposition to Motion of Real Parties In Interest Las Vegas Bistro, LLC dba  
Larry Flynt's Hustler Club and Little Darlings of Las Vegas, LLC dba Little Darlings to: (1)  
Unseal Search Warrant Applications and Supporting Affidavits; (2) Quash Search Warrants; and  
(3) Return Seized Property on an Order Shortening Time.

...

...

...

...

1 This Opposition is made and based upon all papers, pleadings, and records on file herein,  
2 the attached Memorandum of Points and Authorities, and any oral argument allowed at a hearing  
3 on this matter.

4 Dated this 5th day of May, 2022.

5  
6 MARQUIS AURBACH

7  
8 By: /s/ Jackie V. Nichols  
9 Nick D. Crosby, Esq.  
10 Nevada Bar No. 8996  
11 Jackie V. Nichols, Esq.  
12 Nevada Bar No. 14246  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Real Party in Interest, Las  
Vegas Metropolitan Police Department

13 **MEMORANDUM OF POINTS & AUTHORITIES**

14 **I. INTRODUCTION**

15 This matter involves an investigation into Erotic Dance Establishments for the crime of  
16 Advancing Prostitution and Living from Earnings of Prostitution. After conducting several  
17 covert operations, LVMPD obtained information that entertainers at these establishments were  
18 soliciting customers for the purpose of prostitution. Despite receiving notice from LVMPD of  
19 this conduct, the establishments failed to take reasonable steps to abate the conduct. Based on  
20 the information that LVMPD obtained during its covert operations, Judge Harmon Letizia issued  
21 search warrants and directed the applications of those warrants to be sealed.

22 Petitioners now seek to unseal the search warrant applications and quash the warrants on  
23 the basis that they are legally deficient. Petitioners also seek return of all the property that was  
24 seized on the same basis, as well as on the basis that the electronic devices contain privileged  
25 information. Petitioners have failed to meet their burden at every turn. Petitioners provide no  
26 basis to unseal or quash the warrants other than that they are at a "disadvantage" and cannot  
27 determine whether actual probable cause existed. This is not a sufficient basis to unseal a  
28 warrant application. Likewise, there is no basis for the return of the seized property, including

1 the electronic devices, as there is an active, on-going criminal investigation. Accordingly, the  
2 Petitioners' motion must be denied in its entirety.

3 **II. STATEMENT OF FACTS**

4 **A. LVMPD CONDUCTS COVERT OPERATIONS AT THE ESTABLISHMENTS.**

5  
6 LVMPD's SIS has the primary responsibility for the enforcement of all federal, state,  
7 county, and city laws concerning privileged and regulated businesses in Clark County and the  
8 City of Las Vegas. *See* Declaration of Robert Chavez attached as **Exhibit 1**, ¶ 5. Privileged  
9 licenses include Erotic Dance establishments and Adult Cabaret's. *Id.* In particular to the instant  
10 case, the crime of Advancing Prostitution and Living from Earnings of Prostitution is being  
11 investigated in relation to the Petitioners' two establishments. *Id.* at ¶ 6.

12 SIS has conducted numerous criminal investigations of illicit Erotic Dance businesses. *Id.*  
13 ¶ 7. Through these investigations, SIS has become familiar with common ways in which these  
14 illicit businesses operate. *Id.* Illicit businesses often post suggestive advertisements on adult-  
15 oriented websites and print media. *Id.* Erotic dances are offered for an upfront fee, then, during  
16 the dance, an act of prostitution is solicited for an additional fee. *Id.* The dances are often  
17 conducted in private rooms; however, some are also done in open areas within view of  
18 management, other employees, or other patrons. *Id.* The prostitutes working in these  
19 establishments are often victims of sex trafficking and are afraid of cooperating with law  
20 enforcement. Normally, an individual directs the activities of the prostitutes. *Id.* at ¶ 8 Monies  
21 earned are split between the business and the prostitute. *Id.*

22 **1. The Hustler Club**

23 In January 2022, SIS learned that entertainers had been soliciting for the purpose  
24 prostitution within the establishment. *Id.* at ¶ 9. SIS then advised the Hustler Club that an  
25 undercover operation was conducted at their establishment and three females were observed  
26 soliciting for the purpose of prostitution. At the same time, SIS provided Hustler Club with its  
27 Advancing Prostitution letter. *Id.* at ¶ 10. The letter advised they needed to contact SIS, via  
28 email, of the steps taken to prevent this illegal activity. A manager signed the letter, and a copy

1 was left with her. *Id.* at ¶ 11. In March 2022, SIS conducted additional undercover investigations  
2 that lead entertainers to solicit an undercover officer for sex. *Id.* at ¶ 12. Subsequently, SIS  
3 advised the Hustler Club of the incident and provided it with another Advancing Prostitution  
4 letter. *Id.* at ¶ 13.

## 5                   2.       Little Darlings

6           SIS was informed that an individual had been sexually assaulted at Little Darlings  
7 sometime in November 2021. *Id.* at ¶ 22. In January, SIS conducted an undercover operation  
8 where three entertainers within the established were observed soliciting for the purpose of  
9 prostitution. *Id.* at ¶ 23. Subsequently, SIS advised Little Darlings of this information and  
10 provided it with its Advancing Prostitution letter. *Id.* at ¶ 24. The letter advised they needed to  
11 contact SIS, via email, of the steps taken to prevent this illegal activity. *Id.* at ¶ 25. In March  
12 2022, SIS conducted additional undercover investigations that lead entertainers to solicit an  
13 undercover officer for sex. *Id.* at ¶ 26. Two of the entertainers were cited for soliciting  
14 prostitution and released. *Id.* at ¶ 27. Subsequently, SIS once more advised Little Darlings of the  
15 incident and provided it with another Advancing Prostitution letter. The manager at the time  
16 advised that she was aware of the two entertainers being cited and confirmed that the two  
17 entertainers were still employed by Little Darlings. *Id.* at ¶ 28.

## 18                   B.       LVMPD PROPERLY OBTAINS AND EXECUTE SEARCH WARRANTS 19                   FOR THE ESTABLISHMENTS.

20           These documented events demonstrate there is a pattern within the business of an  
21 accepted culture involving prostitution. **Exhibit 1.** Based on SIS's investigation, both the Hustler  
22 Club and Little Darlings failed to take reasonable steps to abate such illegal prostitution within  
23 30 days after receiving notice from LVMPD. *Id.* The information contained in the search  
24 warrant application relates to an ongoing criminal investigation. As such, it would be detrimental  
25 to reveal it at this time. *Id.*

26           If the Court were to unseal the search warrant affidavits, it is possible that additional  
27 evidence necessary for the investigation would be destroyed. *Id.* Pursuant to the warrants,  
28 LVMPD seized various items, including: laptops, cellphones, office documents, and the point-of-

1 sale system. *Id.*; see also Exhibit 1-A. During the execution of the warrant, LVMPD obtained  
2 passwords to some of these devices from various employees of the Hustler Club and Little  
3 Darlings to assist with search process. LVMPD, however, was not able to obtain passwords for  
4 all electronic devices seized.<sup>1</sup> *Id.*

5 Due to the nature of the electronic devices seized, LVMPD obtained an additional search  
6 warrant to access the electronically stored information, including to image and copy the devices.  
7 *Id.*; see also Exhibits 1-B and 1-D. The searches can be conducted on images of the devices, but  
8 the lack of passwords will still provide an additional hurdle to the search. *Id.* No devices should  
9 be returned until they have been imaged. Otherwise, searches cannot take place, which defeats  
10 the entire purpose of the warrants. *Id.*

11  
12 **C. THE STATUS OF THE SEARCHES AND ON-GOING INVESTIGATIONS.**

13 After executing the initial search warrants at each of the establishments, LVMPD  
14 obtained additional search warrants for the electronic devices and electronically stored  
15 information. See Exhibit 1-B and 1-D. These warrants expressly permit LVMPD, through its  
16 Digital Forensic Lab (DFL), to examine and image and copy the electronic devices as part of its  
17 search. *Id.* DFL has imaged the following property from the Hustler Club:

- 18 • White Apple Phone with clear case
- 19 • Black iPhone w/ black case
- 20 • Blue iPhone w/ clear case
- 21 • Black iPhone w/ pink case
- 22 • iPad S/N GG8WQ3S3JF8J
- 23 • iPad S/N DMPRLA6MH1MK

24 See Declaration of Zachary Johnson attached hereto as **Exhibit 2**. Likewise, the following  
25 property has been imaged from Little Darlings:

26  
27 <sup>1</sup> It is worth noting that Play It Again Sam's also had a similar search warrant executed on their  
28 establishment during the same time period. Play It Again Sam's was cooperative and all their property  
was imaged and returned.

- HP Prop, desktop computer
- Dell OptiPlex 3060 desktop computer
- HP Pro desktop computer
- Black Cell Phone
- Black Apple iPhone
- (3) Lexar 64 GB thumb drives
- (1) SanDisk 32GB thumb drive
- (7) Unknown make thumb drives
- (1) Microsoft thumb drives

Id. These items have not yet been returned and are still located in the DFL Evidence Vault. *Id.* DFL is currently processing the images and it would be best to maintain the custody of the original evidence until DFL can confirm that the imaging was successful. *Id.* For instance, DFL began to image Dell desktop XPS computer but ran into an issue. *Id.* This device will need to be re-imaged to correct the issue. *Id.* Once DFL confirms that the processing of the imaging was successful, the original electronic devices can be returned. *Id.* Return of the original devices prior to confirming the successful imaging of the same could result in a loss of evidence. *Id.*

DFL also currently possesses three HIKVision DVR Systems from the Hustler Club, which are estimated to contain around 54 TB of data. *Id.* There are also five HIKVision DVR Systems, which are estimated to contain around 120 TB of data in DFL's possession. *Id.* To process this data, DFL needs to purchase additional equipment, including additional hard drives. No action can be taken regarding the DVR systems until DFL receives this equipment. *Id.*

At this juncture, no search of any of the electronic devices has occurred. *Id.* Once DFL assesses the data and confirms imaging of all the electronic devices are completed and successful, passwords are likely to remain an issue in completing the search of the devices. *Id.* However, DFL will not know the full extent of any complications until it is able to completely review the data. *Id.*

With respect to the concern of privileged information, in other scenarios, DFL has been provided a list of full names, email addresses, and/or phone numbers that would be considered

1 privileged. *Id.* DFL utilizes software that can search for these keywords. *Id.* After the search is  
2 completed, DFL reviews the keyword hits for the provided information. Items relates to those  
3 keywords will be redacted. *Id.* The software system then generates a report for the investigative  
4 detectives, in this case the Special Investigations Section, to review. *Id.* The detectives would  
5 not be privy to the redacted, privileged information. *Id.*

6 Only DFL would see the full extraction of the electronic devices. *Id.* In relation to this  
7 case, DFL has not been provided any information regarding names, email addresses or telephone  
8 numbers for purposes of redaction. *Id.* DFL does not participate in the investigation of any  
9 alleged criminal acts but merely facilitates the process to allow the detectives to search electronic  
10 devices. *Id.*

### 11 **III. LEGAL ARGUMENT**

#### 12 **A. THE ISSUING JUDGE IS THE APPROPRIATE JURIST TO 13 DETERMINE WHETHER THE SEARCH WARRANT MATERIALS 14 SHOULD BE UNSEALED.**

15 The appropriate method for Petitioners is to file a motion before the Honorable Harmony  
16 Letizia who initially ordered the affidavits to be sealed. *See In re Searches & Seizures*, 2008 WL  
17 5411772 (December 19, 2008) (where movants sought to unseal search warrant records in the  
18 same court that issued search warrants and ordered records sealed). NRS 179.045 confers  
19 jurisdiction upon the Justice of the Peace to seal an affidavit in support of a search warrant upon  
20 a showing of good cause. Here, Judge Letizia determined that good cause existed and ordered  
21 the affidavit sealed. See Exhibits A and B to Motion. The order further provides that the  
22 affidavit is to remained sealed pending further order of *this* Court. *Id.* Accordingly, the Order  
23 Sealing the Affidavit requires the Petitioners to seek relief from the issuing Court and not file a  
24 separate action. Thus, the Court must deny Petitioners' requested relief and transfer the matter to  
25 Judge Letizia in relation to the issued search warrants.

26 Judicial economy further supports transferring this matter to the issuing judge. Despite  
27 setting a briefing schedule on the motion, this Court has not expended a significant amount of  
28 time or resources into this matter. In fact, this Court has not even had the opportunity to review  
the search warrants or the search warrant application at issue. Given the ongoing criminal

1 investigation, LVMPD cannot divulge the confidential and sensitive details contained in the  
2 sealed affidavits within its briefing. While LVMPD maintains its position that Petitioners have  
3 not satisfied their burden in demonstrating that unsealing is warranted, in the event the Court  
4 entertains the motion, a review of the search warrant materials in camera may be necessary to  
5 determine with nondisclosure remains appropriate. While this Court is more than capable of  
6 reviewing such materials and reaching a determination, judicial economy is served by the  
7 transfer as Judge Letizia is already familiar with the matter. Furthermore, if the matter is heard  
8 before issuing judge, additional briefing, hearings, and resources by the parties will not be  
9 necessary. On the other hand, this Court will likely require additional *in camera* briefing or a  
10 hearing because of its unfamiliarity with the various search warrant materials at issue. LVMPD  
11 respectfully requests that the motion be transferred to Judge Letizia.

12 **B. PETITIONERS PROVIDE NO BASIS TO UNSEAL THE SEARCH**  
13 **WARRANT APPLICATIONS OR TO QUASH THE WARRANTS.**

14 In the event this Court does not transfer the request to unseal the search warrant  
15 applications to the issuing judge, denial of the request is appropriate. Without any rhyme or  
16 reason, Petitioners demand that this Court unseal the search warrant applications so that *they* can  
17 determine whether or not probable cause existed for the warrant.

18 In Nevada, a search warrant may issue only on affidavit or affidavits sworn to before the  
19 magistrate and establishing the grounds for issuing the warrant. NRS 179.045(1). If the  
20 magistrate is satisfied that grounds for the application exist or that there is probable cause to  
21 believe that they exist, the magistrate shall issue a warrant identifying the property and naming  
22 or describing the person or place to be searched. *Id.* Upon a showing of good cause, the  
23 magistrate may order an affidavit be sealed. NRS 179.045(3). The unsealing of the affidavit  
24 must also be based on good cause. *Id.*

25 Petitioners provide no basis to unseal the applications other than the bald assertion that  
26 the warrants are insufficient on their face and illegally executed. Of course, Petitioners rightfully  
27 recognize that in order to support these bald assertions, a review of the actual applications are  
28 necessary. Despite the fact that a neutral magistrate already determined that probable cause



1 existed for the warrants, if Petitioners truly believe that the applications are deficient, the  
2 appropriate remedy, undoubtedly, would be for this Court to review the sealed materials and  
3 make a determination as to whether probable cause exists. Instead, Petitioners claim that they are  
4 at a disadvantage and take the absurd position that unsealing is required. The Supreme Court has  
5 rejected similar arguments in the past and noted that the party must “trust th[e] Court’s  
6 determination.” See *Republican Att’ys Gen. Ass’n v. Las Vegas Metro. Police Dep’t*, 136 Nev.  
7 28, 36, 458 P.3d 328, 335 (2020). Thus, the “disadvantage” claimed by the Petitioners cannot  
8 establish good cause to unseal the search warrant applications in this case.

9 “It is within the district court’s discretion to decide whether to seal an affidavit made in  
10 support of a warrant.” *Bodden v. State*, 2010 Nev. LEXIS 107, at \*5 (Feb. 1, 2010)  
11 (unreported),<sup>2</sup> citing *Matter of Searches of Semtex Indus. Corp.*, 876 F. Supp. 426, 429  
12 (E.D.N.Y. 1995). “The propriety of sealing search warrant documents turns on the government’s  
13 need for secrecy....” *Id.* Petitioners assert that unsealing is proper because all the conduct  
14 occurred in the past and that the unsealing will not impact the investigation of past events.  
15 Notably, Petitioners’ assertion is not supported by any facts or authority. While the covert  
16 operations described herein are certainly relevant and play a part in the obtaining the warrant,  
17 such conduct is not the sole basis of the warrant. As detailed above, the remaining aspects of the  
18 investigation are confidential in nature and would be detrimental to the investigation if revealed,  
19 either by including such facts in the instant brief or by unsealing the warrant applications.

20 On the other hand, it is well established that the on-going criminal investigation serves as  
21 a compelling reason against disclosure of the search warrant materials. The Ninth Circuit has  
22 clearly established that there is no established qualified right of access to search warrant  
23 proceedings and materials while a criminal investigation remains ongoing. *Times Mirror Co. v.*  
24 *U.S.*, 873 F.2d 1210 (9th Cir. 1989).<sup>3</sup> There is no doubt that the issuance of search warrants has  
25 traditionally be carried out in secret, and normally, a search warrant is issued after an ex parte

26 <sup>2</sup> There do not appear to be any reported cases in Nevada on what constitutes “good cause.”

27 <sup>3</sup> LVMPD recognizes that the Ninth Circuit Court of Appeals decisions are not binding on this Court.  
28 Nonetheless, such holdings are more persuasive than decisions from other circuit courts.

1 application by the government and an *in camera* consideration by a judge or magistrate. *Id.* at  
2 1213-14.

3 There are several compelling reasons for maintaining the secrecy of warrant proceedings  
4 and materials. As the *Times Mirror* court discussed, the experience of history implies a  
5 judgment that warrant proceedings and materials should not be accessible to the public, at least  
6 while a pre-indictment investigation is still ongoing as in these cases. *Id.* at 1214. It follows that  
7 the information disclosed to the magistrate in support of the warrant request is entitled to the  
8 same confidentiality accorded other aspects of the criminal investigation. *Id.* Both the  
9 magistrate in granting the original sealing order and the district court in reviewing such orders  
10 have necessarily been highly deferential to the government's determination that a given  
11 investigation requires secrecy and that warrant materials be kept under seal. *Id.*

12 In addition, the *Times Mirror* court recognized that although the public has an interest in  
13 warrant proceedings, which can enhance the quality and safeguard the integrity of the fact-  
14 finding purpose, the criminal investigatory process gravely outweighs such interests. *Id.* at 1215.  
15 The court further explained that the criminal investigatory process would be harmed by public  
16 access. *Id.* Finally, the court described its concern with individual privacy rights associated with  
17 search warrant materials. *Id.* at 1216. For example, persons who prove to be innocent are  
18 frequently the subjects of government investigations. *Id.* A search warrant affidavit may supply  
19 only the barest details of the government's reasons for believing that an individual may be  
20 engaging in criminal activity. *Id.* Nonetheless, the issuance of a warrant-even on this minimal  
21 information-may indicate to the public that government officials have reason to believe that  
22 persons named in the search warrant have engaged in criminal activity. *Id.* Moreover, persons  
23 named in the warrant papers will have no forum in which to exonerate themselves if the warrant  
24 materials are made public before indictments are returned. *Id.* Thus, possible injury to privacy  
25 interests is another factor weighing against public access to warrant materials during the pre-  
26 indictment stage of an investigation. *Id.* In sum, while public access would doubtless have some  
27 positive effect by increasing the flow of information to the public about the workings of the  
28 government and by deterring judicial and law enforcement officers from abusing the warrant

1 process, the incremental value in public access is slight compared to the government's interest in  
2 secrecy at this stage of the investigation. *Id.* at 1218.

3 The court affirmed its *Times Mirror* decision decades later and further held that a  
4 common law right of access applies to warrant materials *after* an investigation has ended. *U.S. v.*  
5 *Business of Custer Battlefield Museum and Store*, 658 F.3d 1188, 1192 (9th Cir. 2011) (emphasis  
6 added). In support of its decision, the Ninth Circuit recognized that warrant applications  
7 proceedings are highly secret in nature and have historically been closed to the press and public.  
8 *Id.* at 1193 (citation omitted).

9 While good cause is not defined, Court has held that disclosure of warrant materials is  
10 only appropriate if the movant can demonstrate a threshold showing that disclosure would serve  
11 the ends of justice. *Id.* (citing *Berry v. Dep't. of Justice*, 733 F.2d 1313, 1352 (9th Cir. 1984)).  
12 Whether disclosure is warranted in a given case requires the court to balance the need for  
13 disclosure against the reasons for confidentiality. *U.S. Indus., Inc. v. United States Dist. Court*,  
14 345 F.2d 18, 21 (9th Cir. 1965). In the absence of an absolute prohibition against disclosure, an  
15 exercise of judicial discretion is manifestly required to determine whether such a need exists. *Id.*

16 The government's interest in confidentiality clearly outweighs Petitioners' concern that  
17 the warrants may be facially invalid or illegally executed. As explained in *Times Mirror*, public  
18 access to search warrant materials gravely impedes the criminal investigatory process.  
19 Moreover, the warrant process is a confidential, *ex parte* process. While the public does have an  
20 interest in ensuring the quality and safeguarding the fact-finding process, it is not entitled to cart  
21 blanche access into governmental investigations. For example, such access would reveal  
22 investigative techniques used by law enforcement. Furthermore, other safeguards are in place to  
23 ensure the government's response to the 1 October Massacre was lawful, such as 42 U.S.C. §  
24 1983 lawsuits. Finally, privacy interests of others that may be named in search warrant materials  
25 also serve as a compelling interest in favor of confidentiality. As such, the governmental need  
26 for confidentiality of an on-going criminal investigation outweighs the Petitioners' need to  
27 whether there was probable cause for the warrant. More importantly, as addressed above, the  
28 proper remedy would be for the Court to review the materials *in camera*, along with an

1 explanation by Det. Chavez as to the details of the investigation before any unsealing of the  
2 applications.

3 Finally, sealing the search warrant materials in the entirety is the less restrictive means  
4 due to the active investigation. Although the Eighth Circuit Court of Appeals determined that  
5 the public had a First Amendment qualified right to search warrant materials, it nonetheless  
6 determined that the government demonstrated that restricting public access to these documents  
7 served a compelling interest because of the on-going investigation. *In re Search Warrant for*  
8 *Secretarial Area Outside Office of Gunn*, 855 F.2d 569, 574 (“*Gunn*”). The court further  
9 explained that the documents describe in considerable detail the nature, scope and direction of  
10 the government's investigation and the individuals and specific projects involved. *Id.* Many of  
11 the specific allegations in the documents are supported by verbatim excerpts of telephone  
12 conversations obtained through court-authorized electronic surveillance or information obtained  
13 from confidential informants or both. *Id.* There is a substantial probability that the government's  
14 on-going investigation would be severely compromised if the sealed documents were released.  
15 *Id.* The court also determined that line-by-line redaction was not practicable. *Id.*

16 It is apparent that courts have recognized a general exception to disclosing search warrant  
17 materials that concern an active criminal investigation. As established by *Gunn*, complete  
18 confidentiality is the less restrictive means during an active criminal investigation due to  
19 substantial probability that disclosure would compromise and impede the investigation.  
20 Therefore, in the event the Court believes that the Petitioners have raised any doubt as to the  
21 validity of the search warrant applications, LVMPD requests that the Court first allow LVMPD  
22 to provide this Court with a supplemental declaration from Det. Chavez explaining the status of  
23 the investigation and basis for the search warrants. If that declaration is not sufficient to satisfy  
24 the Court's inquiry, the Court should then look to the search warrant materials to ensure that  
25 probable cause existed for the issuance of the search warrant, rendering Petitioners' request to  
26 unseal the search warrant entirely baseless. As a last resort, if this Court has any doubt about  
27 whether an on-going criminal investigation exists or whether disclosure of the materials will  
28 impede the investigation, LVMPD requests this Court to hold an *in camera* hearing in order for

1 representatives of LVMPD to articulate how such disclosure will impact the current criminal  
2 investigation.

3 **C. PETITIONERS DID NOT MEET THEIR HIGH-BURDEN AND THE ON-**  
4 **GOING INVESTIGATION PROHIBITS THE RETURN OF THE**  
5 **PROPERTY.**

6 Return of seized property is governed by NRS 179.085, which provides:

7 **NRS 179.085 Motions for return of property and to suppress**  
8 **evidence.**

9 1. A person aggrieved by an unlawful search and seizure or  
10 the deprivation of property may move the court having  
11 jurisdiction where the property was seized for the return of  
12 the property on the ground that:

- 13 (a) The property was illegally seized without warrant;
- 14 (b) The warrant is insufficient on its face;
- 15 (c) There was not probable cause for believing the  
16 existence of the grounds on which the warrant was  
17 issued;
- 18 (d) The warrant was illegally executed; or
- 19 (e) Retention of the property by law enforcement is not  
20 reasonable under the totality of the circumstances.

21 The judge shall receive evidence on any issue of fact necessary to  
22 the decision of the motion.

23 “[T]he moving party [Petitioners] bears the initial burden to show that the government’s  
24 retention of his or her property is facially unreasonable under the totality of all of the  
25 circumstances that then exist.” *Las Vegas Metro. Police Dep’t v. Anderson (In re 12067 Oakland*  
26 *Hills, Las Vegas)*, --- Nev. ---, 435 P.3d 672, 678 (2018).<sup>4</sup> To meet this burden, Petitioners  
27 could, for example, present evidence that the property is no longer needed as evidence, that no  
28 charges have been filed, or that the “criminal case has been completely resolved, either through a  
trial or a guilty plea, because such a resolution suggests that any criminal investigation is likely  
over.” *Id.*

<sup>4</sup> The *Anderson* case concerns subsection (e), but there is no reason that the burden-shifting analysis would not apply regardless of which subsection the moving party is relying upon. Nevertheless, as argued above, Petitioners have not, and cannot, demonstrate that the warrant is facially invalid or that it was illegally executed.

1           *Anderson* cites to federal law. Nevada's return of property statute, codified at NRS  
2 179.085, mirrors Fed. R. Crim. P. 41(g). Under federal law, it is clear that a law enforcement  
3 agency has the right to take temporary custody of property which is or may contain evidence of a  
4 crime. A motion for return of property is properly denied if the government's need for the  
5 property continues. *United States v. Mills*, 991 F.2d 609, 612 (9<sup>th</sup> Cir. 1993), citing *United States*  
6 *v. U.S. Currency Amounting to Sum of \$20,294.00 More or Less*, 1495 F. Supp. 147, 150  
7 (E.D.N.Y. 1980). If property has evidentiary value and it is legally seized, it need not be  
8 returned until its evidentiary value has been exhausted. *Id.* The court has the duty to return the  
9 contested property once the government's need for it has ended. *United States v. Martinson*, 809  
10 F.2d 1364, 1370, citing *United States v. Wilson*, 540 F.2d 1100, 1103-1104 (D.C. Cir. 1976);  
11 *\$20,294.00, supra*; *United States v. Totaro*, 468 F.Supp. 1045, 1048 (D. Md. 1979).

12           Here, Petitioners have not met this initial burden. Even Petitioners cannot dispute that  
13 there is an on-going investigation. See Mot. at 8. ("unsealing them will in no way impact the  
14 investigation . . ."). The request for the property to be returned should end there. "If the movant  
15 fails to meet this initial burden, nothing more is required and the motion may be denied even if  
16 the government produces no evidence in response." *Id.*

17           Only if Petitioners had met this initial burden would the burden then shift to LVMPD.  
18 For the sake of argument, LVMPD could easily satisfy its burden, which *Anderson* holds can be  
19 done in "several ways," including by "show[ing] that the property was related to an ongoing  
20 criminal investigation." *Id.* LVMPD must do so with "more than a naked assertion of counsel."  
21 *Id.* If necessary, LVMPD can submit information to the Court *in camera*, because "the  
22 disclosure of an active and ongoing criminal investigation may jeopardize the integrity of the  
23 investigation itself by revealing to a suspect that he or she is being investigated, how the  
24 investigation is being conducted, and by whom." *Id.* at 679.

25           Here, LVMPD submits a declaration of Detective Chavez regarding the ongoing and  
26 active investigation and Supervisor Zachary Johnson regarding the status of the searches and the  
27 ability to return some of the devices once imaging has been completed and vetted. They offer to  
28 provide the Court with additional details *in camera* if needed.

1 LVMPD has acknowledged in other cases that at some point, the length of time that  
2 property is being held can become problematic. The *Anderson* Court recognized something like  
3 this when it stated that the moving party can meet its initial burden by demonstrating that “no  
4 charges have been filed even after the government has had more than enough time to conduct its  
5 investigation.” *Id.* at 678. For this proposition, the *Anderson* Court cited *Mr. Lucky Messenger*  
6 *Serv., Inc. v. United States*, 587 F.2d 15, 17 (7<sup>th</sup> Cir. 1978). In *Mr. Lucky Messenger*, the Court  
7 was faced with a motion to return property that had been seized 17 months prior yet no charges  
8 had been filed. The Court provided the following factors that should be addressed when  
9 deciding whether the length of time is too long to be constitutional:

10 The critical inquiry then is whether the Government has an  
11 adequate justification for withholding the plaintiff's \$65,000 for  
12 over seventeen months without bringing any charges against the  
13 plaintiff. The Government, of course, is not required to secure an  
14 indictment immediately after it seizes property pursuant to a grand  
15 jury investigation. But if no charges are filed for nearly one and  
16 one-half years after the property was seized, and the Government  
17 is unable to present evidence justifying such a delay, constitutional  
18 violations emerge which would seem on equitable principles to  
19 mandate that the property be returned...

20 \* \* \*

21 . . . [O]ther factors a court should consider . . . are whether the  
22 plaintiff has an individual interest in and need for the material  
23 whose return it seeks; whether it would be irreparably injured by  
24 denial of the return of the property; and whether it has an adequate  
25 remedy at law for redress of its grievance.

26 *Id.* at 17 (citations omitted and emphasis added).

27 Here, Petitioners failed to provide any evidence whatsoever to demonstrate any  
28 irreparable injury. And, a declaration from counsel merely stating that the property has attorney-  
client privilege or accountant-client privilege, is not enough. Moreover, Petitioner's application  
for the return of the particular “privileged” documents is not persuasive and entirely contrary to  
the plain language of the statute. Petitioners rely on NRS 179.105 for the notion that attorney-  
client privilege protects materials that are otherwise subject to a warrant. NRS 179.105 provides:

All property or things taken on a warrant must be retained in an officer's custody,  
subject to the order of the court to which the officer is required to return the

proceedings before the officer, or of any other court in which the offense in respect to which the property or things are taken is triable. If it appears that the property taken is not the same as that described in the warrant, that there is no probable cause for believing the existence of the grounds on which the warrant was issued or that the property is determined pursuant to NRS 179.11518 to be subject to the attorney-client privilege, the magistrate shall cause it to be restored to the person from whom it was taken. However, no search warrant shall be quashed by any magistrate or judge within this State nor shall any evidence based upon a search warrant be suppressed in any criminal action or proceeding because of mere technical irregularities which do not affect the substantial rights of the accused.

(emphasis added). Under NRS 179.11518, a district attorney or the Attorney General is required to review the property for attorney-client privilege if the search warrant was issued pursuant to NRS 179.11514. NRS 179.11514 expressly applies to search warrants issued and executed upon an attorney engaged in the practice of law. Thus, the attorney-client provision within NRS 179.105 has no application here because LVMPD did seize property from an attorney engaged in the practice of law. Other than NRS 179.11518, Petitioners cite to no authority for the position that such material must be returned, despite the property being subject to a search warrant. Accordingly, Petitioners once more have failed to meet their burden in obtaining the relief they have requested.

In contrast, LVMPD has demonstrated a justification for not being able to return the electronic devices. The electronic devices are needed to complete an ongoing criminal investigation, which has only just begun. This investigation is complex and may take months to complete. The warrants themselves recognize that time is needed. It is common that this process can take many months. In sum, there is no basis to return the seized electronic devices. Petitioners' motion for return of property must be denied.

**D. THERE IS NO LEGAL BASIS TO ALTER THE WARRANT OR MANDATE A PROTOCOL.**

Petitioners ask that the evidence be returned so that they can scrub the devices of all evidence and then return the cleaned property to LVMPD to conduct a search. Notably, Petitioners fail to cite to any authority in support of this proposition. Indeed, many courts have rejected protocols in searching through electronic devices and through electronically stored information due to the difficult nature of the same. *See United States v. Mann*, 592 F.3d 779,



1 785 (7th Cir. 2010) (finding the attempt “overbroad”); *see also United States v. Burgess*, 576  
2 F.3d 1078, 1092-94 (10th Cir. 2009) (despite efforts to establish search protocols for computer  
3 drives to limit “overseizures,” given the capacity of a computer to store and intermingle vast  
4 amounts of data, at bottom “there may be no practical substitute for actually looking in many  
5 (perhaps all) folders and sometimes at the documents contained within those folders”); *United*  
6 *States v. Richards*, 659 F.3d 527, 539-540 (6th Cir. 2011) (same); *United States v. Stabile*, 633  
7 F.3d 219, 239-240 & n.13 (3d Cir. 2011) (same).

8 In sum, there is no legal basis - statutory, constitutional, or otherwise - that allows this  
9 Court to alter an already-issued warrant by mandating a particular protocol to conduct the search.

10 **E. LVMPD ALREADY HAS A FAIR AND BALANCED PROTOCOL.**

11 Even though there is no legal basis to mandate a protocol, the evidence before the Court  
12 is that a protocol is in place. Despite Petitioners arguments, the warrants themselves do limit the  
13 scope of the search to evidence of a certain crime from certain dates. LVMPD has also  
14 demonstrated that a separate section, DFL, conducts the search and provides only evidence  
15 within the scope of the warrant to SIS. Privileged material, like attorney-client communications  
16 or accountant-client communications are able to be screened if information is provided to  
17 LVMPD. When Petitioners made LVMPD aware of the concern for privileged material,  
18 LVMPD asked for names and email addresses. Petitioners have never provided LVMPD with  
19 this information. Thus, even if there were a legal basis to mandate a protocol, which there is  
20 not, no other protocol is needed.

21 The Constitution requires that searches be reasonable and that penalties would apply for  
22 constitutional violations, like a motion to suppress pursuant to NRS 179.085 or a civil rights  
23 lawsuit under 42 U.S.C. § 1983. The law is well-established in this area, balancing the rights of  
24 suspects with the rights of victims to obtain justice. Here, there is no clearly established right to  
25 a electronic device search protocol, and even if there were, and even if LVMPD did not follow it,  
26 the remedy would not be seeking alteration, or even the quashing, of an already-issued search  
27 warrant.

1 **IV. CONCLUSION**

2 Based on the foregoing, LVMPD respectfully requests the Court denies Motion of Real  
3 Parties In Interest Las Vegas Bistro, LLC dba Larry Flynt's Hustler Club and Little Darlings of  
4 Las Vegas, LLC dba Little Darlings to: (1) Unseal Search Warrant Applications and Supporting  
5 Affidavits; (2) Quash Search Warrants; and (3) Return Seized Property on an Order Shortening  
6 Time.

7 Dated this 5th day of May, 2022.

8  
9 MARQUIS AURBACH

10  
11 By: /s/ Jackie V. Nichols  
12 Nick D. Crosby, Esq.  
13 Nevada Bar No. 8996  
14 Jackie V. Nichols, Esq.  
15 Nevada Bar No. 14246  
16 10001 Park Run Drive  
17 Las Vegas, Nevada 89145  
18 Attorneys for Real Party in Interest, Las  
19 Vegas Metropolitan Police Department  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **REAL PARTY IN INTEREST, LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO MOTION OF REAL PARTIES IN INTEREST LAS VEGAS BISTRO, LLC DBA LARRY FLYNT'S HUSTLER CLUB AND LITTLE DARLINGS OF LAS VEGAS, LLC DBA LITTLE DARLINGS TO: (1) UNSEAL SEARCH WARRANT APPLICATIONS AND SUPPORTING AFFIDAVITS; (2) QUASH SEARCH WARRANTS; AND (3) RETURN SEIZED PROPERTY ON AN ORDER SHORTENING TIME** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 5th day of May, 2022. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>5</sup>

Deanna L. Forbush, Esq.  
Colleen E. McCarty, Esq.  
Fox Rothschild LLP  
1980 Festival Plaza Drive, Suite 700  
Las Vegas, Nevada 89135  
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3800 Capital City Blvd., Suite 2  
Lansing, Michigan 48906  
**zack@BradShaferLaw.com**

Attorneys for Movants and Real Parties in Interest  
Las Vegas Bistro, LLC and Little Darlings of Las Vegas, LLC

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A

/s/ Rosie Wesp  
An employee of Marquis Aurbach

<sup>5</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1

**DECLARATION OF ROBERT CHAVEZ**

I, Robert Chavez, P#7758, hereby declares under the penalty of perjury:

1. I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and, as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am employed by the Las Vegas Metropolitan Police Department (LVMPD) as a Detective in the Special Investigations Section ("SIS").

3. My understanding is that Las Vegas Bistro, LLC, on behalf of Larry Flynt's Hustler Club, and Little Darlings of Las Vegas, LLC, on behalf of Little Darlings (collectively referred to as the "Petitioners"), seek a Court order to unseal the search warrant applications that served the basis of the search warrants that were executed on their respective properties on April 5, 2022.

4. I also have an understanding that the Petitioners are attempting to obtain a court order quashing the search warrants.

5. LVMPD's SIS has the primary responsibility for the enforcement of all federal, state, county, and city laws concerning privileged and regulated businesses in Clark County and the City of Las Vegas. Privileged licenses include Erotic Dance establishments and Adult Cabaret's.

6. In particular to the instant case, the crime of Advancing Prostitution and Living from Earnings of Prostitution is being investigated in relation to the Petitioners' two establishments.

7. SIS has conducted numerous criminal investigations of illicit Erotic Dance businesses. Through these investigations, SIS has become familiar with common ways in which these illicit businesses operate. Illicit businesses often post suggestive advertisements on adult-oriented websites and print media. Erotic dances are offered for an upfront fee, then, during the dance, an act of prostitution is solicited for an additional fee. The dances are often conducted in private rooms; however, some are also done in open areas within view of management, other employees, or other patrons.

8. The prostitutes working in these establishments are often victims of sex trafficking and are afraid of cooperating with law enforcement. Normally, an individual directs the activities of the prostitutes. Monies earned are split between the business and the prostitute.

**HUSTLER CLUB**

9. In January 2022, SIS learned that entertainers had been soliciting for the purpose of prostitution within the establishment.

10. SIS then advised the Hustler Club that an undercover operation was conducted at their establishment and three females were observed soliciting for the purpose of prostitution. At the same time, SIS provided Hustler Club with its Advancing Prostitution letter.

11. The letter advised they needed to contact SIS, via email, of the steps taken to prevent this illegal activity. A manager signed the letter, and a copy was left with her.

12. In March 2022, SIS conducted additional undercover investigations that lead entertainers to solicit an undercover officer for sex.

13. Subsequently, SIS advised the Hustler Club of the incident and provided it with another Advancing Prostitution letter.

14. These documented events demonstrate there is a pattern within the business of an accepted culture involving prostitution.

15. Under NRS 201.395, the owner/operator of the Hustler Club failed to take reasonable steps to abate such illegal prostitution within 30 days after receiving notice from LVMPD.

16. The information contained in the search warrant application relates to an ongoing criminal investigation. As such, it would be detrimental to reveal it at this time.

17. If the Court were to unseal the search warrant affidavits, it is possible that additional evidence necessary for the investigation would be destroyed.

18. Pursuant to the warrants, LVMPD seized various items, including: laptops, cellphones, office documents, and the point-of-sale system. A true and accurate copy of the Search Warrant Return is attached hereto as **Exhibit A**.

1           19.     During the execution of the warrant, LVMPD obtained passwords to some of these  
2 devices from various employees of the Hustler Club to assist with search process. LVMPD,  
3 however, was not able to obtain passwords for all electronic devices seized.<sup>1</sup>

4           20.     Due to the nature of the electronic devices seized, LVMPD obtained an additional  
5 search warrant to access the electronically stored information. The searches can be conducted on  
6 images of the devices, but my understanding is that lack of passwords will still provide an additional  
7 hurdle to the search. A true and accurate copy the Digital Forensic Search Warrant is attached  
8 hereto as **Exhibit B**.

9           21.     No devices should be returned until they have been imaged. Otherwise, searches  
10 cannot take place, which defeats the entire purpose of the warrants.

11                               **LITTLE DARLINGS**

12           22.     SIS was informed that an individual had been sexually assaulted at Little Darlings  
13 sometime in November 2021.

14           23.     In January, SIS conducted an undercover operation where three entertainers within  
15 the established were observed soliciting for the purpose of prostitution.

16           24.     Subsequently, SIS advised Little Darlings of this information and provided it with  
17 its Advancing Prostitution letter.

18           25.     The letter advised they needed to contact SIS, via email, of the steps taken to prevent  
19 this illegal activity.

20           26.     In March 2022, SIS conducted additional undercover investigations that lead  
21 entertainers to solicit an undercover officer for sex.

22           27.     Two of the entertainers were cited for soliciting prostitution and released.

23           28.     Subsequently, SIS once more advised Little Darlings of the incident and provided it  
24 with another Advancing Prostitution letter. The manager at the time advised that she was aware of  
25  
26

27  
28           <sup>1</sup> It is worth noting that Play It Again Sam's also had a similar search warrant executed on their  
establishment during the same time period. Play It Again Sam's was cooperative and all their  
property was imaged and returned.

1 the two entertainers being cited and confirmed that the two entertainers were still employed by  
2 Little Darlings.

3 29. Under NRS 201.395, the owner/operator of the Little Darlings failed to take  
4 reasonable steps to abate such illegal prostitution within 30 days after receiving notice from  
5 LVMPD.

6 30. The information contained in the search warrant application relates to an ongoing  
7 criminal investigation. As such, it would be detrimental to reveal it at this time.

8 31. If the Court were to unseal the search warrant affidavits, it is possible that additional  
9 evidence necessary for the investigation would be destroyed.

10 32. Pursuant to the warrants, LVMPD seized various items, including: laptops,  
11 cellphones, office documents, and the point-of-sale system. A true and accurate copy of the Search  
12 Warrant Return is attached hereto as **Exhibit C**.

13 33. During the execution of the warrant, LVMPD attempted to obtain passwords to these  
14 devices from various employees of the Little Darlings to expedite the search process. While the  
15 employees were initially cooperative, lawyers quickly directed the employees to stop providing  
16 information to LVMPD.

17 34. During the execution of the warrant, LVMPD obtained passwords to some of these  
18 devices from various employees of the Little Darlings to assist with search process. LVMPD,  
19 however, was not able to obtain passwords for all electronic devices seized.

20 35. Due to the nature of the electronic devices seized, LVMPD obtained an additional  
21 search warrant to access the electronically stored information. The searches can be conducted on  
22 images of the devices, but my understanding is that the lack of passwords will still provide an  
23 additional hurdle to the search. A true and accurate copy the Digital Forensic Search Warrant is  
24 attached hereto as **Exhibit D**.

25 36. These documented events at both establishments demonstrate there is a pattern  
26 within the business of an accepted culture involving prostitution.



37. The fact that repeated incidents have occurred within a short time span at both establishments, after the businesses were served with written notification of the occurrences, shows that the business' practices promote advancing prostitution.

38. While these documented incidents serve as the basis for the search warrant, the search warrant application contains specific details of covert police operations. These details include police procedures, and intelligence obtained, during those operations. Knowledge of this sensitive information would compromise officers' safety and inhibit the effectiveness of future operations.

39. If the court deems it necessary, I can provide, *in camera*, further details about the investigation, its scope, its status, and the confidential nature of the search warrant applications.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. NRS 53.045.

EXECUTED this 5<sup>TH</sup> day of May, 2022.

Signature

Robert Chavez

# Exhibit 1A

## RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

6007 DEAN MARTIN DR LAS VEGAS, NV 89118

was executed on 4-5-22  
(month, day, year)

A copy of this inventory was left with AT THE PLACE OF SEIZURE

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

3 X CELLPHONES (APPLE)

OFFICE DOCUMENTS

DVR SAMSUNG S/H ZC1T6V2H200287A

DELL SERVER E02S

DVR HIKVISION DVRT2 MAIN FLOOR

DVR HIKVISION DVRT3 VIP FLOOR

DVR HIKVISION SN 819264409

1 X CELLPHONE (APPLE)

APPLE LAPTOP SN C02VHAAHHTDS

HP LAPTOP SN CND4402W8S

This inventory was made by: R775JC

T. THAYER 8248

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)

**RETURN (continued)**

location: 6007 DEAN MARTIN DR LV NV 89118

2 X APPLE I-PAD  
1 X APPLE MACBOOK LADTOP

DL 79  
Officers Initials

# Exhibit 1B

**SEARCH WARRANT  
DIGITAL STORAGE DEVICE  
LVMPD Event Number: LLV220400019200**

STATE OF NEVADA       )  
                                  )  
COUNTY OF CLARK     )

ss:

The State of Nevada, to any peace officer in the County of Clark. Proof by affidavit having been made before me by R. Chavez, that there is probable cause to believe that certain records, namely:

1. Digitally stored records of user and/or device created data, which may constitute evidence of Stevi Bethae, Andrea Woods, and Reynaldo Martinez's involvement in the planning or commission of the crime(s) of Advancing Prostitution and Living from the Earnings of Prostitution, which occurred on or about 10/21 - 04/05/22.
2. Digitally stored records of user and/or device created data, which would tend to establish the identity of the persons who were in sole or joint control of the below listed digital storage device(s).

Are presently located upon or within digital storage device(s), previously seized under LVMPD event number LLV220400019200 and in the custody of the LVMPD, currently located Digital Investigations Lab 400 S. Marlin Luther King Blvd Las Vegas, NV 89106, specifically:

Pkg. 1 Item 1: Black HP Laptop S/N CNDLK102W65  
Pkg. 1 Item 2: Silver Apple Laptop S/N C02VNAANHTD5  
Pkg. 2 Item 4: White Apple iPhone w/clear case  
Pkg. 3 Item 5: Samsung DVR S/N ZCIT6V2H200287A  
Pkg. 4 Item 6: DVR Hikvision DVRT2 Main floor  
Pkg. 5 Item 7: DVR Hikvision DVRT3 VIP Floor  
Pkg. 6 Item 8: DVR Hikvision S/N 819264409  
Pkg. 7 Item 9: Black iPhone w/black case  
Pkg. 8 Item 10: Blue iPhone w/clear case  
Pkg. 9 Item 11: Black iPhone w/pink case  
Pkg. 10 Item 12: Dell server E02S

Pkg. 1 Item 1: iPad S/N GG8WQ3S3JF8J  
Pkg. 2 Item 2: iPad S/N DMPRLA6MH1MK  
Pkg. 3 Item 3: Apple MacBook S/N C02T2W9NGTFJ

**SEARCH WARRANT**  
**DIGITAL STORAGE DEVICE**  
LVMPD Event Number: LLV220400019200

And as I am satisfied that there is probable cause to believe that said records are located as set forth above and that, based upon the affidavit attached hereto, there are sufficient grounds for the issuance of the warrant.

You are hereby commanded to search forthwith said device(s) for said records, serving this warrant at any time, day or night, and if the records are there to seize them, and make a return to me within ten (10) days.

Authorization is granted for a forensic technician, sworn or non-sworn, to examine; make duplicate images/copies of the digital content of the previously listed digital storage device(s); and to determine if evidence of the offenses enumerated above are contained therein.

Authorization is granted for a forensic technician to identify, circumvent, defeat, or bypass any password, encryption, security device or other mechanism that serves to impede or hinder the execution of this warrant.

Authorization is granted for a forensic technician to disassemble the device(s) and to repair or replace parts including, but not limited to, screens and charging/data ports, as necessary for the examination.

Authorization is granted to move the device(s) to an off-site facility for examination, as needed.

DATED this 7th day of April, 2022.

Joseph S. Sciscanto  
JUDGE

**IN RE: SEARCH WARRANT for**

Pkg. 1 Item 1: Black HP Laptop S/N CNDLK102W85  
Pkg. 1 Item 2: Silver Apple Laptop S/N C02VNAANHTD5  
Pkg. 2 Item 4: White Apple iPhone w/clear case  
Pkg. 3 Item 5: Samsung DVR S/N ZCIT6V2H200287A  
Pkg. 4 Item 6: DVR Hikvision DVRT2 Main floor  
Pkg. 5 Item 7: DVR Hikvision DVRT3 VIP Floor  
Pkg. 6 Item 8: DVR Hikvision S/N 819264409  
Pkg. 7 Item 9: Black iPhone w/black case  
Pkg. 8 Item 10: Blue iPhone w/clear case  
Pkg. 9 Item 11: Black iPhone w/pink case  
Pkg. 10 Item 12: Dell server E02S

Pkg. 1 Item 1: iPad S/N GG8WQ3S3JF8J  
Pkg. 2 Item 2: iPad S/N DMPRLA6MH1MK  
Pkg. 3 Item 3: Apple MacBook S/N C02T2W9NGTFJ

**ORDER SEALING  
AFFIDAVIT**

**LVMPD Event Number: LLV220400019200**

Upon the ex parte application of R. Chavez, a detective with the Las Vegas Metropolitan Police Department and Affiant, to seal the affidavit in support of the attached search warrant, and for good cause appearing therefore,

IT IS HEREBY ORDERED that the affidavit in support of the attached search warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and



**ORDER SEALING  
AFFIDAVIT**

IT IS FURTHER ORDERED a copy of this order sealing the affidavit be left at the premises  
along with the search warrant in lieu of the affidavit in support of the warrant.

DATED this 7th day of April, 2022.

Joseph S. Sciscento  
JUDGE

  
\_\_\_\_\_  
R. Chavez

## **RETURN**

(Must be made within 10 days of issuance of Warrant)

**LVMPD Event Number: LLV220400019200**

The search warrant authorizing a search and seizure of the following digital storage device(s), previously seized under LVMPD event number LLV220400019200, was executed on the 7<sup>TH</sup> day of APRIL, 2022.

Pkg. 1 Item 1: Black HP Laptop S/N CNDLK102W85  
Pkg. 1 Item 2: Silver Apple Laptop S/N C02VNAANHTD5  
Pkg. 2 Item 4: White Apple iPhone w/clear case  
Pkg. 3 Item 5: Samsung DVR S/N ZCIT6V2H200287A  
Pkg. 4 Item 6: DVR Hikvision DVRT2 Main floor  
Pkg. 5 Item 7: DVR Hikvision DVRT3 VIP Floor  
Pkg. 6 Item 8: DVR Hikvision S/N 819264409  
Pkg. 7 Item 9: Black iPhone w/black case  
Pkg. 8 Item 10: Blue iPhone w/clear case  
Pkg. 9 Item 11: Black iPhone w/pink case  
Pkg. 10 Item 12: Dell server E02S

Pkg. 1 Item 1: iPad S/N GG8WQ3S3JF8J  
Pkg. 2 Item 2: iPad S/N DMPRLA6MH1MK  
Pkg. 3 Item 3: Apple MacBook S/N C02T2W9NGTFJ

The execution of this warrant consisted of a forensic examination of one or more digital storage device(s) that were previously seized and in the custody of the LVMPD. No additional property was seized.

  
\_\_\_\_\_  
R. Chavez

# Exhibit 1C

LLU  
220400019/81

Page 1 of 1

## RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

LITTLE DARLINGS 1500 / 1502 / 1514 WESTERN AVE.  
LUN 89102

was executed on

4/5/22

(month, day, year)

A copy of this inventory was left with

PETER DOTORME (MANAGER)

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

- USB'S DRIVES
- CELLPHONES
- APPLE SQUARE COMPUTER.
- COMPUTER TOWER
- MISC PAPERWORK
- DVR'S (DIGITAL RECORDING SYSTEM) 5 TOTAL.
- (3) TABLETS W/ CHARGER.
- DELL DESKTOP COMPUTER
- DELL SERVER W/ COND.

This inventory was made by: A. CARACON #9025

Sgt. J. MANTY #9884

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)

# Exhibit 1D

**SEARCH WARRANT**  
**DIGITAL STORAGE DEVICE**  
LVMPD Event Number: LLV220400019181

And as I am satisfied that there is probable cause to believe that said records are located as set forth above and that, based upon the affidavit attached hereto, there are sufficient grounds for the issuance of the warrant.

You are hereby commanded to search forthwith said device(s) for said records, serving this warrant at any time, day or night, and if the records are there to seize them, and make a return to me within ten (10) days.

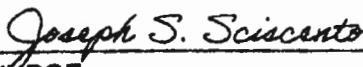
Authorization is granted for a forensic technician, sworn or non-sworn, to examine; make duplicate images/copies of the digital content of the previously listed digital storage device(s); and to determine if evidence of the offenses enumerated above are contained therein.

Authorization is granted for a forensic technician to identify, circumvent, defeat, or bypass any password, encryption, security device or other mechanism that serves to impede or hinder the execution of this warrant.

Authorization is granted for a forensic technician to disassemble the device(s) and to repair or replace parts including, but not limited to, screens and charging/data ports, as necessary for the examination.

Authorization is granted to move the device(s) to an off-site facility for examination, as needed.

DATED this 7th day of April, 2022.

  
\_\_\_\_\_  
JUDGE

**IN RE: SEARCH WARRANT for**

Item 1 Package 1	Hikvision Digital Video Recorder
Serial # E05289049	
2	2 Hikvision Digital Video Recorder
Serial # 775478252	
3	3 Hikvision Digital Video Recorder
Serial # 775478075	
4	4 Hikvision Digital Video Recorder
Serial # 775478086	
5	5 Hikvision Digital Video Recorder
Serial # 788969998	
6	6 Dell Power Edge R710 server
Serial # 3d26vv1	
7	7 HP Pro Desktop Computer
Serial # Mx29240qs	
8	8 Apple Mini Portable Desktop
Computer Serial # C07xn8psjywo	
9	9 Dell Desktop XPS Computer
Serial # J79x2w2	
10	10 Dell Optiplex 3080 Desktop
Computer Serial # H3dw2w2	
11	11 HP Pro Desktop Computer
Serial # 2ua6311tjs	
12	12 (3) Electronic Tablets
(no serial numbers)	
13	13 Black Cellphone
(no serial numbers)	
14	14 Black Apple I-phone
(no serial numbers)	
15	15 (3) Lexar 64gb Thumb drives
16	16 (1) Sandisk 32gb Thumb drive
17	17 (7) Unknown make Thumb drive
18	18 (1) Microsoft Thumb drive
19	19 Samsung grey cellphone
Serial # SMN97SU	

**ORDER SEALING  
AFFIDAVIT**

**LVMPD Event Number: LLV220400019181**

Upon the ex parte application of A Carreon P# 9025, a Detective with the Las Vegas Metropolitan Police Department and Affiant, to seal the affidavit in support of the attached search warrant, and for good cause appearing therefore,

**ORDER SEALING  
AFFIDAVIT**

IT IS HEREBY ORDERED that the affidavit in support of the attached search warrant be ordered sealed pending further order of this Court except that copies may be provided to the office of the Clark County District Attorney and the District Attorney may provide copies to a Defendant in a criminal proceeding as part of the criminal discovery process, and

IT IS FURTHER ORDERED a copy of this order sealing the affidavit be left at the premises along with the search warrant in lieu of the affidavit in support of the warrant.

DATED this 7th day of April, 2022.

Joseph S. Sciscanto  
JUDGE

  
\_\_\_\_\_  
A Carreon P# 9026



## RETURN

(Must be made within 10 days of issuance of Warrant)

**LVMPD Event Number: LLV220400019181**

The search warrant authorizing a search and seizure of the following digital storage device(s), previously seized under LVMPD event number LLV220400019181, was executed on the

7 day of April, 2022.

Item 1	Package 1	Hikvision Digital Video Recorder	Serial # E05289049
2	2	Hikvision Digital Video Recorder	Serial # 775478252
3	3	Hikvision Digital Video Recorder	Serial # 775478075
4	4	Hikvision Digital Video Recorder	Serial # 775478066
5	5	Hikvision Digital Video Recorder	Serial # 768969998
6	6	Dell Power-Edge R710 server	Serial # 3d26vv1
7	7	HP Pro Desktop Computer	Serial # Mx29240qs
8	8	Apple Mini Portable Desktop Computer	Serial # C07xn6psjywo
9	9	Dell Desktop XPS Computer	Serial # J79x2w2
10	10	Dell Optiplex 3060 Desktop Computer	Serial # H3dw2w2
11	11	HP Pro Desktop Computer	Serial # 2ua6311tjs
12	12	(3) Electronic Tablets	(no serial numbers)
13	13	Black Cellphone	(no serial numbers)
14	14	Black Apple I-phone	(no serial numbers)
15	15	(3) Lexar 64gb Thumb drives	
16	16	(1) Sandisk 32gb Thumb drive	
17	17	(7) Unknown make Thumb drive	
18	18	(1) Microsoft Thumb drive	
19	19	Samsung grey cellphone	Serial # SMN97SU

The execution of this warrant consisted of a forensic examination of one or more digital storage device(s) that were previously seized and in the custody of the LVMPD. No additional property was seized.

  
A Carreon P# 9026

## Exhibit 2

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9. DFL also currently possesses three HIKVision DVR Systems, which are estimated to contain around 54 TB of data.

10. To process this data, DFL needs to purchase additional equipment, including additional hard drives.

11. No action can be taken regarding the DVR systems until DFL receives this equipment.

## LITTLE DARLINGS

12. DFL has imaged the following property:

- HP Prop, desktop computer
- Dell OptiPlex 3060 desktop computer
- HP Pro desktop computer
- Black Cell Phone
- Black Apple iPhone
- (3) Lexar 64 GB thumb drives
- (1) SanDisk 32GB thumb drive
- (7) Unknown make thumb drives
- (1) Microsoft thumb drives
- Samsung grey cellphone

13. These items have not yet been returned and are still located in the DFL Evidence Vault.

14. DFL is currently processing the images and it would be best to maintain the custody of the original evidence until DFL can confirm that the imaging was successful.

15. Once DFL confirms that the processing of the imaging was successful, the original electronic devices can be returned.

16. Return of the original devices prior to confirming the successful imaging of the same could result in a loss of evidence.

17. DFL began to image Dell desktop XPS computer but ran into an issue. This device will need to be re-imaged to correct the issue.

1           18.     DFL also currently possesses five HIKVision DVR Systems, which are estimated to  
2 contain around 120 TB of data.

3           19.     To process this data, DFL needs to purchase additional equipment, including  
4 additional hard drives.

5           20.     No action can be taken regarding the DVR systems until DFL receives this  
6 equipment.

7                           **SEARCHING THE ELECTRONIC DEVICES**

8           21.     At this juncture, no search of any of the electronic devices has occurred.

9           22.     Once DFL assesses the data and confirms imaging of all the electronic devices are  
10 completed and successful, passwords are likely to remain an issue in completing the search of the  
11 devices.

12          23.     However, DFL will not know the full extent of any complications until it is able to  
13 completely review the data.

14          24.     With respect to the concern of privileged information, in other scenarios, DFL has  
15 been provided a list of full names, email addresses, and/or phone numbers that would be considered  
16 privileged.

17          25.     DFL utilizes software that can search for these keywords.

18          26.     After the search is completed, DFL reviews the keyword hits for the provided  
19 information. Items relates to those keywords will be redacted.

20          27.     The software system then generates a report for the investigative detectives, in this  
21 case the Special Investigations Section, to review. The detectives would not be privy to the  
22 redacted, privileged information.

23          28.     Only DFL would see the full extraction of the electronic devices.

24          29.     In relation to this case, DFL has not been provided any information regarding names,  
25 email addresses or telephone numbers for purposes of redaction.

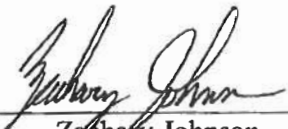
26          30.     DFL does not participate in the investigation of any alleged criminal acts but merely  
27 facilitates the process to allow the detectives to search electronic devices.

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31. If the court deems it necessary, I can provide, *in camera*, further details about DFL's role in the investigation and the protocol and procedures used to search the electronic devices.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. NRS 53.045.

EXECUTED this 5 day of May, 2022.

Signature   
Zachary Johnson