

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEI-GSR HOLDINGS, LLC, AM-GSR
HOLDINGS, LLC, and GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC,

Appellants,

v.

ALBERT THOMAS, *et al.*,

Respondents.

Case No. 85915

Electronically Filed
May 23 2023 02:56 PM
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANTS' REPLY IN SUPPORT OF
MOTION TO DISMISS AS MOOT**

Jordan T. Smith, Esq., Bar No. 12097
Brianna Smith, Esq., Bar No. 11795
Daniel R. Brady, Esq., Bar No. 15508
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

*Attorneys for Appellants
MEI-GSR Holdings, LLC; Gage Village
Commercial Development, LLC; and
AM-GSR Holdings, LLC*

I. INTRODUCTION

Final judgments automatically terminate preliminary injunctions and receiverships. Respondents do not suggest otherwise. Instead, pointing to a jurisdictional question raised in a related appeal (Case No. 86092), Respondents contend the "Amended Final Judgment" is not *actually* a "final judgment." To them, the Amended Final Judgment is a misnomer, and this appeal is not moot because the Receiver has a to-do list of things far outside Respondents' operative complaint, including implementing the December 5, 2022 preliminary injunction.

The question, however, is *not* "how is there a final judgment when a receiver remains pending?" On the contrary, the question *is* "how is there a receiver still pending when there is a final judgment?"

There cannot be. A receivership is not a standalone claim for relief or cause of action. Rather, like a preliminary injunction, a receivership is an interim *remedy* that maintains the status quo *during* a case. Once judgment has been entered on the underlying claims, there can no longer be a receiver. The Receivership activities cease and it lingers only long enough to be paid for work already done. That is the case here. All interlocutory forms of relief automatically dissolved when Respondents were awarded many millions of dollars on the claims pled in the operative complaint. Respondents' desire to maintain and expand the Receivership in perpetuity does not prevent the amended judgment from being "final." Thus, the Amended Final Judgment

is just that – final. As a result, the Preliminary Injunction Order and Receivership have automatically terminated, and this appellate proceeding has been mooted.

II. A RECEIVERSHIP IS NOT A "CLAIM FOR RELIEF."

Under NRCP 54, a final judgment is one that resolves all "claims" against all parties. *See also Lee v. GNLV Corp.*, 116 Nev. 424, 425, 996 P.2d 416, 417 (2000) (describing a "final and appealable" order as one "which disposes of all claims and parties before the district court"). Even though the Amended Final Judgment resolved all their claims and monetary injuries to the tune of \$17.5 million, Respondents argue their so-called "receivership claim" remains along with some receiver-related tasks like the preliminarily-enjoined sale of condo units. (Resp. at 6 & n.2.)

But a receivership is not a "claim" or "cause of action." 75 C.J.S. Receivers § 5 ("it alone does not constitute a cause of action."). A receivership is a *remedy*. *Bowler v. Leonard*, 70 Nev. 370, 384, 269 P.2d 833, 840 (1954) (Receivership "a *remedy* of last resort") (emphasis added); *Hines v. Plante*, 99 Nev. 259, 261, 661 P.2d 880, 881-82 (1983) ("The appointment of a receiver *pendente lite* is a harsh and extreme *remedy*") (emphasis added); 75 C.J.S. Receivers § 2 ("A receivership is a remedy").

And a receivership is a pre-judgment provisional remedy at that. "A provisional remedy is '[a] *temporary remedy awarded before judgment and pending the action's disposition*, such as a temporary restraining order, a *preliminary injunction*, a *prejudgment receivership*, or an attachment,' that 'is intended to maintain the status quo by protecting a person's safety or preserving property.'" *Direct Grading & Paving, LLC v. Eighth Jud. Dist. Ct.*, 137 Nev.

320, 324, 491 P.3d 13, 17 (2021) (emphases added). A receivership "is an ancillary remedy" as "merely a means of preserving the status quo" "***pending outcome of the principle case.***" *Johnson v. Steel, Inc.*, 100 Nev. 181, 183, 678 P.2d 676, 678 (1984).

As an "ancillary remedy," a receivership may only be appointed in connection with a pending action and other underlying causes of action. *Id.*; NRS 32.010 ("[a] receiver may be appointed by the court *in which an action is pending*..." (emphasis added); *id.* at (1)-(2) ("In an action"). The Supreme Court has held that a receivership is "*auxiliary to some primary relief which is sought*" *Kelleam v. Maryland Cas. Co. of Baltimore, Md.*, 312 U.S. 377, 381 (1941) (emphasis added). "A receivership," the Court has continued, "is only a means to reach some legitimate end sought through the exercise of the power of a court of equity. It is not an end in itself." *Id.* It exists only while the action has some other purpose "in which there is a prayer for other relief." 75 C.J.S. Receivers § 5.

Here, the Receiver was appointed *pendente lite* to maintain the status quo until Respondents' claims were resolved on the merits. Seven years later, the Amended Final Judgment awarded Respondents \$17.5 million in damages to compensate Respondents (and punish Appellants) for all injuries and claims pled in the operative complaint. By Respondents' own acknowledgement, there are no other non-receivership-related requests for relief pending. (Resp. at 3-4, 6, 8.) Each claim for relief was specifically addressed in the 2015 compensatory award. (Ex. J at 16-21.) Respondents cannot belatedly expand the relief requested post-judgment, particularly since Appellants were defaulted. NRCP 54(c). The Amended Final Judgment also struck all of Appellants'

counterclaims. Thus, there are no standalone claims left. Because a receivership is not a cause of action, and all other claims have been resolved, the Receivership cannot exist for the sake of itself. It automatically terminated when the Amended Judgment was entered, rendering "final" the Amended Final Judgment.

Respondents' characterization about the district court's "inten[t] to retain jurisdiction" is neither relevant nor controlling. (Resp. at 10.) This Court focuses on what an order substantively accomplishes, not what was subjectively intended. *Lee*, 116 Nev. at 427, 996 P.2d at 418. Substantively, the Amended Final Judgment *is* a final judgment.¹ And until this Motion, Respondents and the district court treated it as final. The parties stipulated that the compensatory award was not final because *only* punitive damages were left. (Ex. K.) The district court *twice* directed Respondents to submit a "final judgment." (Exs. L, M.) Then, Respondents filed a Rule 59(e) motion to alter or amend where they repeatedly called it a "Final Judgment." (Ex N.) Respondents' counsel hurried Appellants to post the \$29 million supersedeas bond, asserting that the time to execute was ticking. (Ex. O.)² Respondents cross-appealed from the Amended Final Judgment and did not do so "protectively."³ All sides and the district court

¹ Respondents oddly claim Appellants stipulated that the Receivership would continue until the units were sold. (Resp. at 3.) The stipulation does no such thing and it could not anyway. It was entered two months *before* the Amended Final Judgment.

² If there is no final judgment, Appellant could retract the supersedeas bond, and post-judgment interest is not running on either the compensatory or punitive award. Respondents' attorney fee motion and award would also be premature.

³ (*Compare* Resps.' NOCA filed Feb. 2, 2023 at n.1 *with* NOCA filed May 1, 2023.)

intended and treated the Amended Final Judgment as a final, appealable judgment.

III. RESPONDENTS' AUTHORITY IS INAPPLICABLE.

Relying on this Court's order in Case No. 86092, Respondents cite *Martin & Co. v. Kirby* and *Alper v. Posin* to contend that there is no final judgment until the Receiver provides his final report. (Resp. at 7.) First, *Kirby* appears to be an action about a *post-judgment* receiver's bond (it discusses existing creditors). See NRS 32.010(3)-(4). Second, *Alper* describes the cited portion of *Kirby* as mere "dictum." 77 Nev. 328, 331, 363 P.2d 502, 503 (1961). More fundamentally, *Alper* illustrates Appellants' point. There, "Posin brought suit against Alper for [1] accounting and [2] dissolution of their joint venture, and for [3] the appointment of a receiver." *Id.* at 329, 363 P.2d at 502. This Court unremarkably held that an order confirming a receiver's sale was not final or appealable because the other causes of action for [1] accounting and [2] dissolution remained pending. *Id.* at 331, 363 P.2d at 503. Here, unlike *Alper*, all underlying claims have been resolved so the Amended Final Judgment is final, and the Preliminary Injunction Order and Receivership have terminated.

The Receivership and its activities halted on final judgment and its residue remains only long enough for its final invoices to be paid, which they have here. See *Very v. Watkins*, 64 U.S. 469, 474, (1859). As an example, *McMurrey v. McMurrey*, 168 S.W.2d 944, 945 (Tex. Civ. App. 1943), held that an injunction and receivership appeal was mooted by the final judgment even though the receiver's final report remained pending. For the same reasons, this appellate proceeding is moot.

DATED this 23rd day of May, 2023.

PISANELLI BICE PLLC

By: /s/ Jordan T. Smith
Jordan T. Smith, Esq., #12097
Brianna Smith, Esq., #11795
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 23rd day of May, 2023, I caused to be served through the Court's CM/ECF website true and correct copies of the above and foregoing **APPELLANTS' REPLY IN SUPPORT OF MOTION TO DISMISS AS MOOT** to all parties registered for service, as follows:

/s/ Kimberly Peets
An employee of Pisanelli Bice PLLC

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEI-GSR HOLDINGS, LLC, AM-GSR
HOLDINGS, LLC, and GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC,

Appellants,

v.

ALBERT THOMAS, *et al.*,

Respondents.

Case No. 85915

**APPENDIX TO APPELLANTS'
REPLY IN SUPPORT OF
MOTION TO DISMISS AS MOOT**

Jordan T. Smith, Esq., Bar No. 12097
Brianna Smith, Esq., Bar No. 11795
Daniel R. Brady, Esq., Bar No. 15508
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Appellants
MEI-GSR Holdings, LLC; Gage Village
Commercial Development, LLC; and
AM-GSR Holdings, LLC

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>BATES NO.</u>
J	Findings of Fact, Conclusions of Law and Judgment dated October 9, 2015	233-257
K	Stipulation and Order Regarding the Court's Findings of Fact, Conclusions of Law and Judgment dated November 3, 2015	258-260
L	Order (Motion in Support of Punitive Damages Award) dated January 17, 2023	261-267
M	Order (Motion to Alter or Amend Judgment) dated March 27, 2023	268-271
N	Motion to Alter or Amend Final Judgment dated February 8, 2023	272-314
O	Email exchange between R. Eisenberg and J. Smith dated February 28, 2023	315-318

DATED this 23rd day of May, 2023.

PISANELLI BICE PLLC

By: /s/ Jordan T. Smith
Jordan T. Smith, Esq., Bar No. 12097
Brianna Smith, Esq., Bar No. 11795
Daniel R. Brady, Esq., Bar No. 15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

*Attorneys for Appellants MEI-GSR Holdings, LLC;
Gage Village Commercial Development, LLC; and
AM-GSR Holdings, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 23rd day of May, 2023, I caused to be served through the Court's CM/ECF website true and correct copies of the above and foregoing **APPENDIX TO APPELLANTS' REPLY IN SUPPORT OF MOTION TO DISMISS AS MOOT** to all parties registered for service.

/s/ Kimberly Peets

An employee of Pisanelli Bice PLLC

EXHIBIT J

1
2
3
4
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7 * * *

8 ALBERT THOMAS, individually, et al,

9 Plaintiffs,

Case No: CV12-02222

10 vs.

Dept. No: 10

11 MEI-GSR Holdings, LLC, a Nevada Limited
12 Liability Company, et al,

13 Defendants.
14 _____/

15 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

16 This action was commenced on August 27, 2012, with the filing of a COMPLAINT ("the
17 Complaint"). The Complaint alleged twelve causes of action: 1) Petition for Appointment of a
18 Receiver as to Defendant Grand Sierra Resort Unit-Owners' Association; 2) Intentional and/or
19 Negligent Misrepresentation as to Defendant MEI-GSR; 3) Breach of Contract as to Defendant
20 MEI-GSR; 4) Quasi-Contract/Equitable Contract/Detrimental Reliance as to Defendant MEI-GSR;
21 5) Breach of the Implied Covenant of Good Faith and Fair Dealing as to Defendant MEI-GSR;
22 6) Consumer Fraud/Nevada Deceptive Trade Practices Act Violations as to Defendant MEI-GSR; 7)
23 Declaratory Relief as to Defendant MEI-GSR; 8) Conversion as to Defendant MEI-GSR; 9) Demand
24 for an Accounting as to Defendant MEI-GSR and Defendant Grand Sierra Unit Owners Association;
25 10) Specific Performance Pursuant to NRS 116.122, Unconscionable Agreement; 11) Unjust
26 Enrichment/Quantum Meruit against Defendant Gage Village Development; 12) Tortious
27 Interference with Contract and/or Prospective Business Advantage against Defendants MEI-GSR
28

1 and Gage Development. The Plaintiffs (as more fully described *infra*) were individuals or other
2 entities who had purchased condominiums in the Grand Sierra Resort ("GSR"). A FIRST
3 AMENDED COMPLAINT ("the First Amended Complaint") was filed on September 10, 2012.
4 The First Amended Complaint had the same causes of action as the Complaint.

5 The Defendants (as more fully described *infra*) filed an ANSWER AND COUNTERCLAIM
6 ("the Answer") on November 21, 2012. The Answer denied the twelve causes of action; asserted
7 eleven affirmative defenses; and alleged three Counterclaims. The Counterclaims were for: 1)
8 Breach of Contract; 2) Declaratory Relief; 3) Injunctive Relief.

9 The Plaintiffs filed a SECOND AMENDED COMPLAINT ("the Second Amended
10 Complaint") on March 26, 2013. The Second Amended Complaint had the same causes of action as
11 the Complaint and the First Amended Complaint. The Defendants filed an ANSWER TO SECOND
12 AMENDED COMPLAINT AND COUNTER CLAIM ("the Second Answer") on May 23, 2013.
13 The Second Answer generally denied the allegations in the Second Amended Complaint and
14 contained ten affirmative defenses. The Counterclaims mirrored the Counterclaims in the Answer.

15 The matter has been the subject of extensive motion practice. There were numerous
16 allegations of discovery abuses by the Defendants. The record speaks for itself regarding the
17 protracted nature of these proceedings and the systematic attempts at obfuscation and intentional
18 deception on the part of the Defendants. Further, the Court has repeatedly had to address the
19 lackadaisical and inappropriate approach the Defendants have exhibited toward the Nevada Rules of
20 Civil Procedure, the District Court Rules, the Washoe District Court Rules, and the Court's orders.
21 The Defendants have consistently, and repeatedly, chosen to follow their own course rather than
22 respect the need for orderly process in this case. NRCP 1 states that the rules of civil procedure
23 should be "construed and administered to secure the just, speedy, and inexpensive determination of
24 every action." The Defendants have turned this directive on its head and done everything possible to
25 make the proceedings unjust, dilatory, and costly.

26 The Court twice has addressed a request to impose case concluding sanctions against the
27 Defendants because of their repeated discovery abuses. The Court denied a request for case
28 concluding sanctions in its ORDER REGARDING ORIGINAL MOTION FOR CASE

1 CONCLUDING SANCTIONS filed December 18, 2013 ("the December Order"). The Court found
2 that case concluding sanctions were not appropriate; however, the Court felt that some sanctions
3 were warranted based on the Defendants' repeated discovery violations. The Court struck all of the
4 Defendants' Counterclaims in the December Order and required the Defendants to pay for the costs
5 of the Plaintiffs' representation in litigating that issue.

6 The parties continued to fight over discovery issues after the December Order. The Court
7 was again required to address the issue of case concluding sanctions in January of 2014. It became
8 clear that the Defendants were disingenuous with the Court and Plaintiffs' counsel when the first
9 decision regarding case concluding sanctions was argued and resolved. Further, the Defendants
10 continued to violate the rules of discovery and other court rules even after they had their
11 Counterclaims struck in the December Order. The Court conducted a two day hearing regarding the
12 renewed motion for case concluding sanctions. An ORDER GRANTING PLAINTIFFS' MOTION
13 FOR CASE-TERMINATING SANCTIONS was entered on October 3, 2014 ("the October Order").
14 The Defendants' Answer was stricken in the October Order. A DEFAULT was entered against the
15 Defendants on November 26, 2014.

16 The Court conducted a "prove-up hearing" regarding the issue of damages from March 23
17 through March 25, 2015. The Court entered an ORDER on February 5, 2015 ("the February Order")
18 establishing the framework of the prove-up hearing pursuant to *Foster v. Dingwall*, 126 Nev. Adv.
19 Op. 6, 227 P.3d 1042 (2010). The February Order limited, but did not totally eliminate, the
20 Defendants' ability to participate in the prove-up hearing. The Court heard expert testimony from
21 Craig L. Greene, CPA/CFF, CFE, CCEP, MAFF ("Greene") at the prove-up hearing. Greene
22 calculated the damages owed the Plaintiffs using information collected and provided by the
23 Defendants. The Court finds Greene to be very credible and his methodology to be sound. Further,
24 the Court notes that Greene attempted to be "conservative" in his calculations. Greene used
25 variables and factors that would eliminate highly suspect and/or unreliable data. The Court has also
26 received and reviewed supplemental information provided as a result of an inquiry made by the
27 Court during the prove-up hearing.

28

1 The GSR is a high rise hotel/casino in Reno, Nevada. The GSR has approximately 2000
2 rooms. The Plaintiffs purchased individual rooms in the GSR as condominiums. It appears to the
3 Court that the primary purpose of purchasing a condominium in the GSR would be as an investment
4 and revenue generating proposition. The condominiums were the subject of statutory limitations on
5 the number of days the owners could occupy them during the course of a calendar year. The owners
6 would not be allowed to "live" in the condominium. When the owners were not in the rooms they
7 could either be rented out or they had to remain empty.

8 As noted, *supra*, the Court stripped all of the Defendants general and affirmative defenses in
9 the October Order. The Defendants stand before the Court having involuntarily conceded all of the
10 allegations contained in the Second Amended Complaint. The Court makes the following findings
11 of fact:

12 I. FINDINGS OF FACT

13 1. Plaintiff Albert Thomas is a competent adult and is a resident of the State of
14 California.

15 2. Plaintiff Jane Dunlap is a competent adult and is a resident of the State of California.

16 3. Plaintiff John Dunlap is a competent adult and is a resident of the State of California.

17 4. Plaintiff Barry Hay is a competent adult and is a resident of the State of California.

18 5. Plaintiff Marie-Annie Alexander, as Trustee of the Marie-Annie Alexander Living
19 Trust, is a competent adult and is a resident of the State of California.

20 6. Plaintiff Melissa Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
21 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
22 resident of the State of Nevada.

23 7. Plaintiff George Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
24 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
25 resident of the State of Nevada.

26 8. Plaintiff D'Arcy Nunn is a competent adult and is a resident of the State of California.

27 9. Plaintiff Henry Nunn is a competent adult and is a resident of the State of California.
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- 1 10. Plaintiff Lee Van Der Bokke is a competent adult and is a resident of the State of
2 California.
- 3 11. Plaintiff Madelyn Van Der Bokke is a competent adult and is a resident of the State of
4 California.
- 5 12. Plaintiff Donald Schreifels is a competent adult and is a resident of the State of
6 Minnesota.
- 7 13. Plaintiff Robert R. Pederson, individually and as Trustee of the Pederson 1990 Trust,
8 is a competent adult and is a resident of the State of California.
- 9 14. Plaintiff Lou Ann Pederson, individually and as Trustee of the Pederson 1990 Trust,
10 is a competent adult and is a resident of the State of California.
- 11 15. Plaintiff Lori Ordovery is a competent adult and is a resident of the State of
12 Connecticut.
- 13 16. Plaintiff William A. Henderson is a competent adult and is a resident of the State of
14 California.
- 15 17. Plaintiff Christine E. Henderson is a competent adult and is a resident of the State of
16 California.
- 17 18. Plaintiff Loren D. Parker is a competent adult and is a resident of the State of
18 Washington.
- 19 19. Plaintiff Suzanne C. Parker is a competent adult and is a resident of the State of
20 Washington.
- 21 20. Plaintiff Michael Izady is a competent adult and is a resident of the State of New
22 York.
- 23 21. Plaintiff Steven Takaki is a competent adult and is a resident of the State of
24 California.
- 25 22. Plaintiff Farad Torabkhan is a competent adult and is a resident of the State of New
26 York.
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- 1 23. Plaintiff Sahar Tavakol is a competent adult and is a resident of the State of New
2 York.
- 3 24. Plaintiff M&Y Holdings is a Nevada Limited Liability Company with its principal
4 place of business in Nevada.
- 5 25. Plaintiff JL&YL Holdings, LLC is a Nevada Limited Liability Company with its
6 principal place of business in Nevada.
- 7 26. Plaintiff Sandi Raines is a competent adult and is a resident of the State of Minnesota.
- 8 27. Plaintiff R. Raghuram is a competent adult and is a resident of the State of California.
- 9 28. Plaintiff Usha Raghuram is a competent adult and is a resident of the State of
10 California.
- 11 29. Plaintiff Lori K. Tokutomi is a competent adult and is a resident of the State of
12 California.
- 13 30. Plaintiff Garrett Tom is a competent adult and is a resident of the State of California.
- 14 31. Plaintiff Anita Tom is a competent adult and is a resident of the State of California.
- 15 32. Plaintiff Ramon Fadrilan is a competent adult and is a resident of the State of
16 California.
- 17 33. Plaintiff Faye Fadrilan is a competent adult and is a resident of the State of California.
- 18 34. Plaintiff Peter K. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
19 competent adult and is a resident of the State of California.
- 20 35. Plaintiff Monica L. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
21 competent adult and is a resident of the State of California.
- 22 36. Plaintiff Dominic Yin is a competent adult and is a resident of the State of California.
- 23 37. Plaintiff Elias Shamieh is a competent adult and is a resident of the State of
24 California.
- 25 38. Plaintiff Nadine's Real Estate Investments, LLC, is a North Dakota Limited Liability
26 Company.
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1 39. Plaintiff Jeffery James Quinn is a competent adult and is a resident of the State of
2 Hawaii.
3 40. Plaintiff Barbara Rose Quinn is a competent adult and is a resident of the State of
4 Hawaii.
5 41. Plaintiff Kenneth Riche is a competent adult and is a resident of the State of
6 Wisconsin.
7 42. Plaintiff Maxine Riche is a competent adult and is a resident of the State of
8 Wisconsin.
9 43. Plaintiff Norman Chandler is a competent adult and is a resident of the State of
10 Alabama.
11 44. Plaintiff Benton Wan is a competent adult and is a resident of the State of California.
12 45. Plaintiff Timothy Kaplan is a competent adult and is a resident of the State of
13 California.
14 46. Plaintiff Silkscape Inc. is a California Corporation.
15 47. Plaintiff Peter Cheng is a competent adult and is a resident of the State of California.
16 48. Plaintiff Elisa Cheng is a competent adult and is a resident of the State of California.
17 49. Plaintiff Greg A. Cameron is a competent adult and is a resident of the State of
18 California.
19 50. Plaintiff TMI Property Group, LLC is a California Limited Liability Company.
20 51. Plaintiff Richard Lutz is a competent adult and is a resident of the State of California.
21 52. Plaintiff Sandra Lutz is a competent adult and is a resident of the State of California.
22 53. Plaintiff Mary A. Kossick is a competent adult and is a resident of the State of
23 California.
24 54. Plaintiff Melvin H. Cheah is a competent adult and is a resident of the State of
25 California.
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- 1 55. Plaintiff Di Shen is a competent adult and is a resident of the State of Texas.
- 2 56. Plaintiff Ajit Gupta is a competent adult and is a resident of the State of California.
- 3 57. Plaintiff Seema Gupta is a competent adult and is a resident of the State of California.
- 4 58. Plaintiff Fredrick Fish is a competent adult and is a resident of the State of Minnesota.
- 5 59. Plaintiff Lisa Fish is a competent adult and is a resident of the State of Minnesota.
- 6 60. Plaintiff Robert A. Williams is a competent adult and is a resident of the State of
- 7 Minnesota.
- 8 61. Plaintiff Jacquelin Pham is a competent adult and is a resident of the State of
- 9 California.
- 10 62. Plaintiff May Ann Hom, as Trustee of the May Ann Hom Trust, is a competent adult
- 11 and is a resident of the State of California.
- 12 63. Plaintiff Michael Hurley is a competent adult and is a resident of the State of
- 13 Minnesota.
- 14 64. Plaintiff Dominic Yin is a competent adult and is a resident of the State of California.
- 15 65. Plaintiff Duane Windhorst is a competent adult and is a resident of the State of
- 16 Minnesota.
- 17 66. Plaintiff Marilyn Windhorst is a competent adult and is a resident of the State of
- 18 Minnesota.
- 19 67. Plaintiff Vinod Bhan is a competent adult and is a resident of the State of California.
- 20 68. Plaintiff Anne Bhan is a competent adult and is a resident of the State of California.
- 21 69. Plaintiff Guy P. Browne is a competent adult and is a resident of the State of
- 22 California.
- 23 70. Plaintiff Garth Williams is a competent adult and is a resident of the State of
- 24 California.
- 25 71. Plaintiff Pamela Y. Aratani is a competent adult and is a resident of the State of
- 26 California.
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- 1 72. Plaintiff Darleen Lindgren is a competent adult and is a resident of the State of
2 Minnesota.
- 3 73. Plaintiff Laverne Roberts is a competent adult and is a resident of the State of
4 Nevada.
- 5 74. Plaintiff Doug Mecham is a competent adult and is a resident of the State of Nevada.
- 6 75. Plaintiff Chrisine Mecham is a competent adult and is a resident of the State of
7 Nevada.
- 8 76. Plaintiff Kwangsoo Son is a competent adult and is a resident of Vancouver, British
9 Columbia.
- 10 77. Plaintiff Soo Yeun Moon is a competent adult and is a resident of Vancouver, British
11 Columbia.
- 12 78. Plaintiff Johnson Akindodunse is a competent adult and is a resident of the State of
13 California.
- 14 79. Plaintiff Irene Weiss, as Trustee of the Weiss Family Trust, is a competent adult and
15 is a resident of the State of Texas.
- 16 80. Plaintiff Pravesh Chopra is a competent adult and is a resident of the State of
17 California.
- 18 81. Plaintiff Terry Pope is a competent adult and is a resident of the State of Nevada.
- 19 82. Plaintiff Nancy Pope is a competent adult and is a resident of the State of Nevada.
- 20 83. Plaintiff James Taylor is a competent adult and is a resident of the State of California.
- 21 84. Plaintiff Ryan Taylor is a competent adult and is a resident of the State of California.
- 22 85. Plaintiff Ki Ham is a competent adult and is a resident of Surry B.C.
- 23 86. Plaintiff Young Ja Choi is a competent adult and is a resident of Coquitlam, B.C.
- 24 87. Plaintiff Sang Dae Sohn is a competent adult and is a resident of Vancouver, B.C.
- 25 88. Plaintiff Kuk Hyung ("Connie") is a competent adult and is a resident of Coquitlam,
26 B.C.
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- 1 89. Plaintiff Sang ("Mike") Yoo is a competent adult and is a resident of Coquitlam, B.C.
- 2 90. Plaintiff Brett Menmuir, as Trustee of the Cayenne Trust, is a competent adult and is
- 3 a resident of the State of Nevada.
- 4 91. Plaintiff William Miner, Jr., is a competent adult and is a resident of the State of
- 5 California.
- 6 92. Plaintiff Chanh Truong is a competent adult and is a resident of the State of
- 7 California.
- 8 93. Plaintiff Elizabeth Anders Mecua is a competent adult and is a resident of the State of
- 9 California.
- 10 94. Plaintiff Shepherd Mountain, LLC is a Texas Limited Liability Company with its
- 11 principal place of business in Texas.
- 12
- 13 95. Plaintiff Robert Brunner is a competent adult and is a resident of the State of
- 14 Minnesota.
- 15 96. Plaintiff Amy Brunner is a competent adult and is a resident of the State of
- 16 Minnesota.
- 17 97. Plaintiff Jeff Riopelle is a competent adult and is a resident of the State of California.
- 18 98. Plaintiff Patricia M. Moll is a competent adult and is a resident of the State of Illinois.
- 19 99. Plaintiff Daniel Moll is a competent adult and is a resident of the State of Illinois.
- 20 100. The people and entities listed above represent their own individual interests. They are
- 21 not suing on behalf of any entity including the Grand Sierra Unit Home Owner's Association. The
- 22 people and entities listed above are jointly referred to herein as "the Plaintiffs".
- 23 101. Defendant MEI-GSR Holdings, LLC ("MEI-GSR") is a Nevada Limited Liability
- 24 Company with its principal place of business in Nevada.
- 25 102. Defendant Gage Village Commercial Development, LLC ("Gage Village") is a
- 26 Nevada Limited Liability Company with its principal place of business in Nevada.
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1 103. Gage Village is related to, controlled by, affiliated with, and/or a subsidiary of MEI-
2 GSR.

3 104. Defendant Grand Sierra Resort Unit Owners' Association ("the Unit Owners'
4 Association") is a Nevada nonprofit corporation with its principal place of business in Nevada.

5 105. MEI-GSR transferred interest in one hundred forty-five (145) condominium units to
6 AM-GSR Holdings, LLC ("AM-GSR") on December 22, 2014.

7 106. Defendants acknowledged to the Court on January 13, 2015, that AM-GSR would be
8 added to these proceedings and subject to the same procedural posture as MEI-GSR. Further, the
9 parties stipulated that AM-GSR would be added as a defendant in this action just as if AM-GSR was
10 a named defendant in the Second Amended Complaint. Said stipulation occurring and being ordered
11 on January 21, 2015.

12 107. MEI-GSR, Gage Village and the Unit Owner's Association are jointly referred to
13 herein as "the Defendants".

14 108. The Grand Sierra Resort Condominium Units ("GSR Condo Units") are part of the
15 Grand Sierra Unit Owners Association, which is an apartment style hotel condominium development
16 of 670 units in one 27-story building. The GSR Condo Units occupy floors 17 through 24 of the
17 Grand Sierra Resort and Casino, a large-scale hotel casino, located at 2500 East Second Street,
18 Reno, Nevada.

19 109. All of the Individual Unit Owners: hold an interest in, own, or have owned, one or
20 more GSR Condo Units.

21 110. Gage Village and MEI-GSR own multiple GSR Condo Units.

22 111. MEI-GSR owns the Grand Sierra Resort and Casino.

23 112. Under the Declaration of Covenants, Conditions, Restrictions and Reservations of
24 Easements for Hotel-Condominiums at Grand Sierra Resort ("CC&Rs"), there is one voting member
25 for each unit of ownership (thus, an owner with multiple units has multiple votes).
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1 113. Because MEI-GSR and Gage Village control more units of ownership than any other
2 person or entity, they effectively control the Unit Owners' Association by having the ability to elect
3 MEI-GSR's chosen representatives to the Board of Directors (the governing body over the GSR
4 Condo Units).

5 114. As a result of MEI-GSR and Gage Village controlling the Unit Owners' Association,
6 the Individual Unit Owners effectively have no input or control over the management of the Unit
7 Owners' Association.

8 115. MEI-GSR and Gage Village have used, and continue to use, their control over the
9 Unit Owners' Association to advance MEI-GSR and Gage Villages' economic objectives to the
10 detriment of the Individual Unit Owners.

11 116. MEI-GSR and Gage Villages' control of the Unit Owners' Association violates
12 Nevada law as it defeats the purpose of forming and maintaining a homeowners' association.

13 117. Further, the Nevada Division of Real Estate requires a developer to sell off the units
14 within 7 years, exit and turn over the control and management to the owners.

15 118. Under the CC&Rs, the Individual Unit Owners are required to enter into a "Unit
16 Maintenance Agreement" and participate in the "Hotel Unit Maintenance Program," wherein MEI-
17 GSR provides certain services (including, without limitation, reception desk staffing, in-room
18 services, guest processing services, housekeeping services, Hotel Unit inspection, repair and
19 maintenance services, and other services).

20 119. The Unit Owners' Association maintains capital reserve accounts that are funded by
21 the owners of GSR Condo Units. The Unit Owners' Association collects association dues of
22 approximately \$25 per month per unit, with some variation depending on a particular unit's square
23 footage.

24 120. The Individual Unit Owners pay for contracted "Hotel Fees," which include taxes,
25 deep cleaning, capital reserve for the room, capital reserve for the building, routine maintenance,
26 utilities, etc.
27
28

1 121. MEI-GSR has systematically allocated and disproportionately charged capital reserve
2 contributions to the Individual Unit Owners, so as to force the Individual Unit Owners to pay capital
3 reserve contributions in excess of what should have been charged.

4 122. MEI-GSR and Gage Development have failed to pay proportionate capital reserve
5 contribution payments in connection with their Condo Units.

6 123. MEI-GSR has failed to properly account for, or provide an accurate accounting for
7 the collection and allocation of the collected capital reserve contributions.

8 124. The Individual Unit Owners also pay "Daily Use Fees" (a charge for each night a unit
9 is occupied by any guest for housekeeping services, etc.).

10 125. MEI-GSR and Gage Village have failed to pay proportionate Daily Use Fees for the
11 use of Defendants' GSR Condo Units.

12 126. MEI-GSR has failed to properly account for the contracted "Hotel Fees" and "Daily
13 Use Fees."

14 127. Further, the Hotel Fees and Daily Use Fees are not included in the Unit Owners'
15 Association's annual budget with other assessments that provide the Individual Unit Owners' the
16 ability to reject assessment increases and proposed budget ratification.

17 128. MEI-GSR has systematically endeavored to increase the various fees that are charged
18 in connection with the use of the GSR Condo Units in order to devalue the units owned by
19 Individual Unit Owners.

20 129. The Individual Unit Owners' are required to abide by the unilateral demands of MEI-
21 GSR, through its control of the Unit Owners' Association, or risk being considered in default under
22 Section 12 of the Agreement, which provides lien and foreclosure rights pursuant to Section 6.10(f)
23 of the CC&R's.

24 130. Defendants MEI-GSR and/or Gage Village have attempted to purchase, and
25 purchased, units devalued by their own actions, at nominal, distressed prices when Individual Unit
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1 Owners decide to, or are effectively forced to, sell their units because the units fail to generate
2 sufficient revenue to cover expenses.

3 131. MEI-GSR and/or Gage Village have, in late 2011 and 2012, purchased such devalued
4 units for \$30,000 less than the amount they purchased units for in March of 2011.

5 132. The Individual Unit Owners effectively pay association dues to fund the Unit
6 Owners' Association, which acts contrary to the best interests of the Individual Unit Owners.

7 133. MEI-GSR's interest in maximizing its profits is in conflict with the interest of the
8 Individual Unit Owners. Accordingly, Defendant MEI-GSR's control of the Unit Owners'
9 Association is a conflict of interest.

10 134. As part of MEI-GSR's Grand Sierra Resort and Casino business operations, it rents:
11 (1) hotel rooms owned by MEI-GSR that are not condominium units; (2) GSR Condo Units owned
12 by MEI-GSR and/or Gage Village; and (3) GSR Condo Units owned by the Individual Condo Unit
13 Owners.

14 135. MEI-GSR has entered into a Grand Sierra Resort Unit Rental Agreement with
15 Individual Unit Owners.

16 136. MEI-GSR has manipulated the rental of the: (1) hotel rooms owned by MEI-GSR; (2)
17 GSR Condo Units owned by MEI-GSR and/or Gage Village; and (3) GSR Condo Units owned by
18 Individual Condo Unit Owners so as to maximize MEI-GSR's profits and devalue the GSR Condo
19 Units owned by the Individual Unit Owners.

20 137. MEI-GSR has rented the Individual Condo Units for as little as \$0.00 to \$25.00 a
21 night.

22 138. Yet, MEI-GSR has charged "Daily Use Fees" of approximately \$22.38, resulting in
23 revenue to the Individual Unit Owners as low as \$2.62 per night for the use of their GSR Condo Unit
24 (when the unit was rented for a fee as opposed to being given away).

25 139. By functionally, and in some instances actually, giving away the use of units owned
26 by the Individual Unit Owners, MEI-GSR has received a benefit because those who rent the
27
28

1 Individual Units frequently gamble and purchase food, beverages, merchandise, spa services and
2 entertainment access from MEI-GSR.

3 140. MEI-GSR has rented Individual Condo Units to third parties without providing
4 Individual Unit Owners with any notice or compensation for the use of their unit.

5 141. Further, MEI-GSR has systematically endeavored to place a priority on the rental of
6 MEI-GSR's hotel rooms, MEI-GSR's GSR Condo Units, and Gage Village's Condo Units.

7 142. Such prioritization effectively devalues the units owned by the Individual Unit
8 Owners.

9 143. MEI-GSR and Gage Village intend to purchase the devalued units at nominal,
10 distressed prices when Individual Unit Owners decide to, or are effectively forced to, sell their units
11 because the units fail to generate sufficient revenue to cover expenses and have no prospect of
12 selling their persistently loss-making units to any other buyer.

13 144. Some of the Individual Unit Owners have retained the services of a third party to
14 market and rent their GSR Condo Unit(s).

15 145. MEI-GSR has systematically thwarted the efforts of any third party to market and
16 rent the GSR Units owned by the Individual Unit Owners.

17 146. MEI-GSR has breached the Grand Sierra Resort Unit Rental Agreement with
18 Individual Condo Unit Owners by failing to follow its terms, including but not limited to, the failure
19 to implement an equitable Rotational System as referenced in the agreement.
20

21 147. MEI-GSR has failed to act in good faith in exercising its duties under the Grand
22 Sierra Resort Unit Rental Agreements with the Individual Unit Owners.

23 The Court is intimately familiar with all of the allegations in the twelve causes of action
24 contained in the Second Amended Complaint. The Court's familiarity is a result of reviewing all of
25 the pleadings and exhibits in this matter to include the various discovery disputes, the testimony at
26 the numerous hearings conducted to date, and the other documents and exhibits on file. The Court
27 finds that the facts articulated above support the twelve causes of action contained in the Second
28 Amended Complaint.

II. CONCLUSIONS OF LAW

- 1
- 2 A. The Court has jurisdiction over MEI-GSR, Gage Village, the Unit Owner's Association
- 3 and the Plaintiffs.
- 4
- 5 B. The appointment of a receiver is appropriate when: (1) the plaintiff has an interest in
- 6 the property; (2) there is potential harm to that interest in property; and (3) no other
- 7 adequate remedies exist to protect the interest. *See generally Bowler v. Leonard*, 70
- 8 Nev. 370, 269 P.2d 833 (1954). *See also* NRS 32.010. The Court appointed a receiver
- 9 to oversee the Unit Owner's Association on January 7, 2015. The Court concludes that
- 10 MEI-GSR and/or Gage Village have operated the Unit Owner's Association in a way
- 11 inconsistent with the best interests of all of the unit owners. The continued
- 12 management of the Unit Owner's Association by the receiver is appropriate under the
- 13 circumstances of this case and will remain in effect absent additional direction from the
- 14 Court.
- 15
- 16 C. Negligent misrepresentation is when "[o]ne who, in the course of his business,
- 17 profession or employment, or in any other action in which he has a pecuniary interest,
- 18 supplies false information for the guidance of others in their business transactions, is
- 19 subject to liability for pecuniary loss caused to them by their justifiable reliance upon
- 20 the information, if he fails to exercise reasonable care or competence in obtaining or
- 21 communicating the information." *Barmeltler v. Reno Air, Inc.*, 114 Nev. 441, 956 P.2d
- 22 1382, 1387 (1998) (quoting *Restatement (Second) of Torts § 552(1)* (1976)). Intentional
- 23 misrepresentation is when "a false representation made with knowledge or belief that it
- 24 is false or without a sufficient basis of information, intent to induce reliance, and
- 25 damage resulting from the reliance. *Lubbe v. Barba*, 91 Nev. 596, 599, 540 P.2d 115,
- 26
- 27
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1 117 (1975).” *Collins v. Burns*, 103 Nev. 394, 397, 741 P.2d 819, 821 (1987). MEI-
2 GSR is liable for intentionally and/or negligent misrepresentation as alleged in the
3 Second Cause of Action.
4

5 D. An enforceable contract requires, “an offer and acceptance, meeting of the minds, and
6 consideration.” *Certified Fire Protection, Inc. v. Precision Construction, Inc.* 128 Nev.
7 Adv. Op. 35, 283 P.3d 250, 255 (2012)(citing *May v. Anderson*, 121 Nev. 668, 672, 119
8 P.3d 1254, 1257 (2005)). There was a contract between the Plaintiffs and MEI-GSR.
9 MEI-GSR has breached the contract and therefore MEI-GSR is liable for breach of
10 contract as alleged in the Third Cause of Action.
11

12 E. MEI-GSR is liable for Quasi-Contract/Equitable Contract/Detrimental Reliance as
13 alleged in the Fourth Cause of Action.
14

15 F. An implied covenant of good faith and fair dealing exists in every contract in Nevada.
16 *Hilton Hotels Corp. v. Butch Lewis Productions, Inc.*, 109 Nev. 1043, 1046, 862 P.2d
17 1207, 1209 (1993). “The duty not to act in bad faith or deal unfairly thus becomes part
18 of the contract, and, as with any other element of the contract, the remedy for its breach
19 generally is on the contract itself.” *Id.* (citing *Wagenseller v. Scottsdale Memorial*
20 *Hospital*, 147 Ariz. 370, 383, 710 P.2d 1025, 1038 (1985)). “It is well established that
21 in contracts cases, compensatory damages ‘are awarded to make the aggrieved party
22 whole and ... should place the plaintiff in the position he would have been in had the
23 contract not been breached.’ This includes awards for lost profits or expectancy
24 damages.” *Road & Highway Builders, LLC v. Northern Nevada Rebar, Inc.*, 128 Nev.
25 Adv. Op. 36, 284 P.3d 377, 382 (2012)(internal citations omitted). “When one party
26 performs a contract in a manner that is unfaithful to the purpose of the contract and the
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1 justified expectations of the other party are thus denied, damages may be awarded
2 against the party who does not act in good faith.” *Perry v. Jordan*, 111 Nev. 943, 948,
3 900 P.2d 335, 338 (1995)(*citation omitted*). “Reasonable expectations are to be
4 ‘determined by the various factors and special circumstances that shape these
5 expectations.’” *Id.* (*citing Butch Lewis*, 107 Nev. at 234, 808 P.2d at 923). MEI-GSR is
6 liable for breach of the covenant of good faith and fair dealing as set forth in the Fifth
7 Cause of Action.
8

9
10 G. MEI-GSR has violated NRS 41.600(1) and (2) and NRS 598.0915 through 598.0925,
11 inclusive and is therefore liable for the allegations contained in the Sixth Cause of
12 Action. Specifically, MEI-GSR violated NRS 598.0915(15) and NRS 598.0923(2).

13 H. The Plaintiffs are entitled to declaratory relief as more fully described below and
14 prayed for in the Seventh Cause of Action.

15 I. MEI-GSR wrongfully committed numerous acts of dominion and control over the
16 property of the Plaintiffs, including but not limited to renting their units at discounted
17 rates, renting their units for no value in contravention of written agreements between
18 the parties, failing to account for monies received by MEI-GSR attributable to specific
19 owners, and renting units of owners who were not even in the rental pool. All of said
20 activities were in derogation, exclusion or defiance of the title and/or rights of the
21 individual unit owners. Said acts constitute conversion as alleged in the Eighth Cause
22 of Action.

23 J. The demand for an accounting as requested in Ninth Cause of Action is moot pursuant
24 to the discovery conducted in these proceedings and the appointment of a receiver to
25 oversee the interaction between the parties.

26 K. The Unit Maintenance Agreement and Unit Rental Agreement proposed by MEI-GSR
27 and adopted by the Unit Owner’s Association are unconscionable. An unconscionable
28

1 clause is one where the circumstances existing at the time of the execution of the
2 contract are so one-sided as to oppress or unfairly surprise an innocent party. *Bill*
3 *Stremmel Motors, Inc. v. IDS Leasing Corp.*, 89 Nev. 414, 418, 514 P.2d 654, 657
4 (1973). MEI-GSR controls the Unit Owner's Association based on its majority
5 ownership of the units in question. It is therefore able to propose and pass agreements
6 that affect all of the unit owners. These agreements require unit owners to pay
7 unreasonable Common Expense fees, Hotel Expenses Fees, Shared Facilities Reserves,
8 and Hotel Reserves ("the Fees"). The Fees are not based on reasonable expectation of
9 need. The Fees have been set such that an individual owner may actually owe money
10 as a result of having his/her unit rented. They are unnecessarily high and imposed
11 simply to penalize the individual unit owners. Further, MEI-GSR and/or Gage Village
12 have failed to fund their required portion of these funds, while demanding the
13 individual unit owners continue to pay the funds under threat of a lien. MEI-GSR has
14 taken the Fees paid by individual unit owners and placed the funds in its general
15 operating account rather than properly segregating them for the use of the Unit Owner's
16 Association. All of said actions are unconscionable and unenforceable pursuant to NRS
17 116.112(1). The Court will grant the Tenth Cause of Action and not enforce these
18 portions of the agreements.
19

20 L. The legal concept of *quantum meruit* has two applications. The first application is in
21 actions based upon contracts implied-in-fact. The second application is providing
22 restitution for unjust enrichment. *Certified Fire*, at 256. In the second application,
23 "[l]iability in restitution for the market value of goods or services is the remedy
24 traditionally known as quantum meruit. Where unjust enrichment is found, the law
25 implies a quasi-contract which requires the defendant to pay to the plaintiff the value of
26 the benefit conferred. In other words, the defendant makes restitution to the plaintiff in
27 *quantum meruit*." *Id.* at 256-57. Gage Village has been unjustly enriched based on the
28

1 orchestrated action between it and MEI-GSR to the detriment of the individual unit
2 owners as alleged in the Eleventh Cause of Action.

3 M. Many of the individual unit owners attempted to rent their units through third-party
4 services rather than through the use of MEI-GSR. MEI-GSR and Gage Village
5 intentionally thwarted, interfered with and/or disrupted these attempts with the goal of
6 forcing the sale of the individual units back to MEI-GSR. All of these actions were to
7 the economic detriment of the individual unit owners as alleged in the Twelfth Cause of
8 Action.

9 N. The Plaintiffs are entitled to both equitable and legal relief. "As federal courts have
10 recognized, the long-standing distinction between law and equity, though abolished in
11 procedure, continues in substance, *Coca-Cola Co. v. Dixi-Cola Labs.*, 155 F.2d 59, 63
12 (4th Cir. 1946); 30A C.J.S. *Equity* § 8 (2007). A judgment for damages is a legal
13 remedy, whereas other remedies, such as avoidance or attachment, are equitable
14 remedies. *See* 30A *Equity* § 1 (2007)." *Cadle Co. v. Woods & Erickson, LLP*, 131
15 Nev. Adv. Op. 15, 345 P.3d 1049, 1053 (2015).

16 O. "[W]here default is entered as a result of a discovery sanction, the non-offending party
17 'need only establish a *prima facie* case in order to obtain the default.'" *Foster*, 227 P.3d
18 at 1049 (*citing Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 94, 787 P.2d 777,
19 781 (1990)). "[W]here a district court enters a default, the facts alleged in the pleadings
20 will be deemed admitted. Thus, during a NRCP 55(b)(2) prove-up hearing, the district
21 court shall consider the allegations deemed admitted to determine whether the non-
22 offending party has established a *prima facie* case for liability." *Foster*, 227 P.3d at
23 1049-50. A *prima facie* case requires only "sufficiency of evidence in order to send the
24 question to the jury." *Id.* 227 P.3d at 1050 (*citing Vancheri v. GNLV Corp.*, 105 Nev.
25 417, 420, 777 P.2d 366, 368 (1989)). The Plaintiffs have met this burden regarding all
26 of their causes of action.
27
28

1 P. "Damages need not be determined with mathematical certainty." *Perry*, 111 Nev. at
2 948, 900 P.2d at 338. The party requesting damages must provide an evidentiary basis
3 for determining a "reasonably accurate amount of damages." *Id. See also*,
4 *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 733, 192 P.3d 243, 248
5 (2008) and *Mort Wallin of Lake Tahoe, Inc. v. Commercial Cabinet Co., Inc.*, 105 Nev.
6 855, 857, 784 P.2d 954, 955 (1989).

7 Q. Disgorgement is a remedy designed to dissuade individuals from attempting to profit
8 from their inappropriate behavior. "Disgorgement as a remedy is broader than
9 restitution or restoration of what the plaintiff lost." *American Master Lease LLC v.*
10 *Idanta Partners, Ltd*, 225 Cal. App. 4th 1451, 1482, 171 Cal. Rptr. 3d 548, 572
11 (2014)(*internal citation omitted*). "Where 'a benefit has been received by the defendant
12 but the plaintiff has not suffered a corresponding loss or, in some cases, any loss, but
13 nevertheless the enrichment of the defendant would be unjust . . . the defendant may be
14 under a duty to give to the plaintiff the amount by which [the defendant] has been
15 enriched.'" *Id.* 171 Cal. Rptr. 3d at 573 (*internal citations omitted*). *See also Miller v.*
16 *Bank of America, N.A.*, 352 P.3d 1162 (N.M. 2015) and *Cross v. Berg Lumber Co.*, 7
17 P.3d 922 (Wyo. 2000).
18
19

20 III. JUDGMENT

21 Judgment is hereby entered against MEI-GSR, Gage Village and the Unit Owner's
22 Association as follows:

23 Monetary Relief:

- 24 1. Against MEI-GSR in the amount of \$442,591.83 for underpaid revenues to Unit owners;
- 25 2. Against MEI-GSR in the amount of \$4,152,669.13 for the rental of units of owners who had no
26 rental agreement;
- 27 3. Against MEI-GSR in the amount of \$1,399,630.44 for discounting owner's rooms without
28 credits;

- 1 4. Against MEI-GSR in the amount of \$31,269.44 for discounted rooms with credits;
- 2 5. Against MEI-GSR in the amount of \$96,084.96 for "comp'd" or free rooms;
- 3 6. Against MEI-GSR in the amount of \$411,833.40 for damages associated with the bad faith
- 4 "preferential rotation system";
- 5 7. Against MEI-GSR in the amount of \$1,706,798.04 for improperly calculated and assessed
- 6 contracted hotel fees;
- 7 8. Against MEI-GSR in the amount of \$77,338.31 for improperly collected assessments;
- 8 9. MEI-GSR will fund the FF&E reserve, shared facilities reserve and hotel reserve in the amount of
- 9 \$500,000.00 each. The Court finds that MEI-GSR has failed to fund the reserves for the units it, or
- 10 any of its agents, own. However, the Court has also determined, *supra*, that these fees were
- 11 themselves unconscionable. The Court does not believe that the remedy for MEI-GSR's failure to
- 12 fund the unconscionable amount should be some multiple of that unreasonable sum. Further, the
- 13 Court notes that Plaintiffs are individual owners: not the Unit Owner's Association. Arguably, the
- 14 reserves are an asset of the Unit Owner's Association and the Plaintiffs have no individual interest in
- 15 this sum. The Court believes that the "seed funds" for these accounts are appropriate under the
- 16 circumstances of the case; and
- 17 10. The Court finds that it would be inappropriate to give MEI-GSR any "write downs" or credits
- 18 for sums they may have received had they rented the rooms in accordance with appropriate business
- 19 practices. These sums will be disgorged.

20

21 **Non-Monetary Relief:**

- 22 1. The receiver will remain in place with his current authority until this Court rules otherwise;
- 23 2. The Plaintiffs shall not be required to pay any fees, assessments, or reserves allegedly due or
- 24 accrued prior to the date of this ORDER;
- 25 3. The receiver will determine a reasonable amount of FF&E, shared facilities and hotel reserve fees
- 26 required to fund the needs of these three ledger items. These fees will be determined within 90 days
- 27 of the date of this ORDER. No fees will be required until the implementation of these new

1 amounts. They will be collected from *all* unit owners and properly allocated on the Unit Owner's
2 Association ledgers; and
3 4. The current rotation system will remain in place.

4 **Punitive Damages:**

5 The Court specifically declined to hear argument regarding punitive damages during the
6 prove-up hearing. *See* Transcript of Proceedings 428:6 through 430:1. Where a defendant has been
7 guilty of oppression, fraud, or malice express or implied in an action *not arising from contract*,
8 punitive damages may be appropriate. NRS 42.005(1). Many of the Plaintiff's causes of action
9 sound in contract; therefore, they are not the subject of a punitive damages award. Some of the
10 causes of action may so qualify. The Court requires additional argument on whether punitive
11 damages would be appropriate in the non-contract causes of action. NRS 42.005(3). An appropriate
12 measure of punitive damages is based on the financial position of the defendant, its culpability and
13 blameworthiness, the vulnerability of, and injury suffered by, the offended party, the offensiveness
14 of the punished conduct, and the means necessary to deter further misconduct. *See generally*
15 *Ainsworth v. Combined Insurance Company of America*, 104 Nev. 587, 763 P.2d 673 (1988).
16 Should the Court determine that punitive damages are appropriate it will conduct a hearing to
17 consider all of the stated factors. NRS 42.005(3). The parties shall contact the Judicial Assistant
18 within 10 days of the date of this ORDER to schedule a hearing regarding punitive damages.
19 Counsel will be prepared to discuss all relevant issues and present testimony and/or evidence
20 regarding NRS 42.005 at that subsequent hearing.

21 DATED this 9 day of October, 2015.

22 
23 ELLIOTT A. SATTLER
24 District Judge
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Jonathan Tew, Esq.

Jarrad Miller, Esq.

Stan Johnson, Esq.

Mark Wray, Esq.

DATED this 9 day of October, 2015.


SHEILA MANSFIELD
Judicial Assistant

EXHIBIT K

1 CODE: 4050
2 G. David Robertson, Esq. (NV Bar No. 1001)
3 Jarrad C. Miller, Esq. (NV Bar No. 7093)
4 Jonathan Joel Tew, Esq. (NV Bar No. 11874)
5 Robertson, Johnson, Miller & Williamson
6 50 West Liberty Street, Suite 600
7 Reno, Nevada 89501
8 (775) 329-5600
9 Attorneys for Plaintiffs

10 **SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

11 **IN AND FOR THE COUNTY OF WASHOE**

12 ALBERT THOMAS, individually, *et al.*,
13 Plaintiffs,

14 vs.

Case No. CV12-02222
Dept. No. 10

15 MEI-GSR Holdings, LLC, a Nevada Limited
16 Liability Company, GRAND SIERRA
17 RESORT UNIT OWNERS' ASSOCIATION,
18 a Nevada nonprofit corporation, GAGE
19 VILLAGE COMMERCIAL
20 DEVELOPMENT, LLC, a Nevada Limited
21 Liability Company and DOE DEFENDANTS
22 1 THROUGH 10, inclusive,
23 Defendants.

24 **STIPULATION AND ORDER REGARDING THE COURT'S**
25 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

26 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned
27 counsel on behalf of their respective clients, that:

- 28 1. The Findings of Fact, Conclusions of Law and Judgment, entered on October 9,
2015, does not constitute a final judgment under NRCP 54(a) because the Court has not resolved
whether it will award punitive damages;
2. The time to appeal a judgment pursuant to NRAP 4(a)(1) is not running;
3. The Plaintiffs will not seek a writ of execution, writ of attachment, or writ of
garnishment until there is a final judgment in the case.

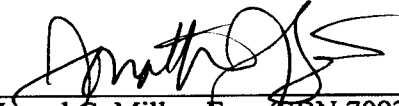
Affirmation

Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: October 16, 2015

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON
50 W. Liberty Street, Suite 600
Reno, NV 89501

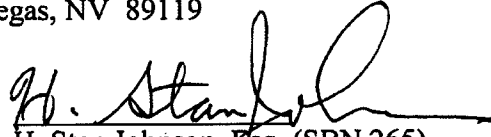
By:


Jarrad C. Miller, Esq. (SBN 7093)
Jonathan Joel Tew, Esq. (SBN 11874)
Attorneys for Plaintiffs

DATED: October 23, 2015

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119

By:


H. Stan Johnson, Esq. (SBN 265)
Steven B. Cohen, Esq. (SBN 2327)
Attorneys for Defendants

ORDER

IT IS SO ORDERED.

DATED this 3 day of November, 2015.


DISTRICT COURT JUDGE

EXHIBIT L

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)¹

Pursuant to WDCR 12(5) the Court after consideration of the Plaintiffs' November 6, 2015 Motion in Support of Punitive Damages Award ("Punitive Damages Motion"), the Defendants' December 1, 2020 opposition ("Opposition"), Plaintiffs' July 30, 2020 Reply in Support of Award of Punitive Damages ("Punitive Damages Reply"), Plaintiffs' July 6, 2022 Punitive Damages Summary, Defendants' July 6, 2022 Trial Summary, the oral argument and evidence submitted by the parties during the hearing on July 8 and 18, 2022, a review of the briefing, exhibits, testimony of the witness, transcripts of the proceedings as well as the evidence in the record, including but not

¹ On January 21, 2021, Chief District Court Judge Scott Freeman, entered an Order Disqualifying All Judicial Officers of the Second Judicial District Court. On September 19, 2022, the Nevada Supreme Court entered a Memorandum of Temporary Assignment, appointing the undersigned Senior Judge.

1 limited to, evidence submitted during the underlying hearing on compensatory damages, and being
2 fully informed rules on the Punitive Damages Motion²:

3 The Court conducted a prove up hearing on March 23-25, 2015³ after striking the Defendants
4 answer for discovery abuses and entering a default. This resulted in an admission as true all
5 allegations contained in the Second Amended Complaint. An order awarding damages and making
6 factual findings was entered on October 9, 2015. The Court at that time requested further briefing
7 on the issue of punitive damages and ordered the parties to contact chambers to schedule a hearing.
8 Defendants have argued the Unit Maintenance Agreement and Unit Rental Agreement prohibit an
9 award of punitive damages and limit an award of compensatory damages. These arguments were
10 already raised and rejected when the Court issued its October 9, 2015 Order.
11
12

13 The economic loss doctrine does not apply to limit Plaintiffs' recovery for intentional torts.⁴
14
15

16 ² Although no written order finding that punitive damages were warranted was entered after the July 8, 2022 hearing and
17 prior to the commencement of the July 18, 2022 hearing, it appears that all involved agreed that the July 18 hearing
18 would not be necessary if Senior Justice Saitta found that punitive damages should not be awarded. The motion was
19 granted orally during the July 18, 2022 hearing. 7/18/2022 Transcript, p. 10, l. 1-2. The findings stated on the record
20 were:

21 There were five tort claims set forth by the plaintiffs in an earlier hearing. Number 1, we have a tortious interference
22 with contract; we have fraud; we have conversion; we have deceptive trade practices -- it appears as if I'm missing one --
23 oh, tortious breach of the covenant of good faith and fair dealing; fraud and intentional misrepresentation -- let me be
24 clear on that one -- violation of the Deceptive Trade Practices Act. And I believe that that contains all the necessary
25 findings that need to be made for us to proceed in our hearing today.

26 7/18/2022 Transcript, p. 10; l. 8-18.

27 ³ Regardless of what an earlier Judge called the proceeding, the March 2015 evidentiary hearing was a bench trial. The
28 Court has determined that this is a bench trial based upon the USJR definitions.

According to the definitions in the data dictionary, a bench trial is held when a trial begins and evidence is taken or witnesses are sworn. Accordingly, if you have indicated that the bench trial was held, then a corresponding bench trial disposition should be used to dispose of the case.

26 See https://nvcourts.gov/AOC/Programs_and_Services/Research_and_Statistics/FAQs/#civil1. The length of time
27 between the first portion of the trial and the conclusion of the trial is one which is unacceptable in the administration of
28 justice in Nevada.

⁴ *Halcrow, Inc. v. Eighth Jud. Dist. Ct.*, 129 Nev. 394, 402 fn. 2 (2013).

1 The Nevada Legislature has limited the recovery of punitive damages in NRS 42.005.⁵

2 The Court in the October 9, 2015 Order found that the Defendants had made intentional
3 misrepresentations(fraud), breached the covenant of good faith and fair dealing, and converted the
4 property of the Plaintiffs.

5
6 The Court is tasked, in part, with determining which causes of action support the punitive damages
7 claim and warrant the award of punitive damages, if any.

8 While it is unclear whether the breach of the implied covenant finding in the October 9, 2015 Order
9 is sufficient to support a punitive damages award, the conduct related to the conversion and
10 intentional misrepresentation/fraud claims clearly warrant consideration of such damages.

11 Defendants' officers, including Kent Vaughan, Defendants' Senior Vice President of Operations,
12 admitted to the tortious scheme.⁶

13
14
15 ⁵ That statute provides in pertinent part:

16 1. Except as otherwise provided in [NRS 42.007](#), in an action for the breach of an obligation not arising from
17 contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud or
18 malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of
19 example and by way of punishing the defendant. Except as otherwise provided in this section or by specific statute, an
award of exemplary or punitive damages made pursuant to this section may not exceed:

(a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory
damages is \$100,000 or more; or

20 * * *

21 3. If punitive damages are claimed pursuant to this section, the trier of fact shall make a finding of whether such
22 damages will be assessed. If such damages are to be assessed, a subsequent proceeding must be conducted before the
same trier of fact to determine the amount of such damages to be assessed. The trier of fact shall make a finding of the
amount to be assessed according to the provisions of this section...

23 ⁶ Vaughn testified in deposition on August 26, 2013. Relevant portions of the transcript show the conscious decision by
24 an officer of Defendants.

25 Q. How did you first come to know in July of 2011 that the Grand Sierra was taking in income for units that
were not in the unit rental program?

26 A. I authorized the front desk to use non-rental units due to demand, consumer demand.

27 Q. And when you authorized the front desk in was it July of 2011 –

A. Yes.

28 Q. -- to use units that were not in the unit rental program, did you or anyone else that you know of who
represents the Grand Sierra, contact the Grand Sierra Resort unit rental owners who were not in the program,
to advise them of this policy?

1 The Court finds the given the prior striking of Defendant's answer, Vaughn's testimony alone is
2 sufficient to meet the burden of proof of clear and convincing evidence to prove malice, oppression
3 or fraud related to the tortious scheme.

4 The damages awarded in the October 9, 2015 Order are based in part on contract claims. Damages
5 for the tort claims were based upon the same calculations and testimony provided by Plaintiffs' sole
6 witness. This crossover does not preclude an award of punitive damages related to the tort damages
7 but limits a double recovery.
8

9 A plaintiff may assert several claims for relief and be awarded damages on different theories.
10 It is not uncommon to see a plaintiff assert a contractual claim and also a cause of action
11 asserting fraud based on the facts surrounding the contract's execution and performance. See
12 Amoroso Constr. v. Lazovich and Lazovich, 107 Nev. 294, 810 P.2d 775 (1991). The
13 measure of damages on claims of fraud and contract are often the same. However, Marsh is
14 not permitted to recover more than her total loss plus any punitive damages assessed. She
15 can execute on the assets of any of the five parties to the extent of the judgments entered
16 against them until she recovers her full damages.

17 Topaz Mutual Co. v. Marsh, 108 Nev. 845, (1992) at pages 851- 852.

18 After review of all of the available evidence the Court concludes that two categories of damages
19 from the October 2015 Order warrant and support an award of punitive damages:

20 Damages awarded for underpaid revenues \$442,591.83 fall within the conversion claim⁷ and
21 intentional misrepresentation/fraud⁸;

22
23 A. No.

24 Q. Why?

25 A. I didn't have authorization to rent them.

26 Q. So it was a conscious decision to rent them without authorization?

27 A. Yes.

28 Vaughan Transcript, Ex. 1 to Reply, at p. 29 l. 3-21.

⁷ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

⁸ October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

1 Damages awarded for the rental of units of owners who had no rental agreements

2 \$4,152,669.13 falls within the conversion claim⁹ and intentional misrepresentation/fraud¹⁰;

3 The award of punitive damages on these claims would not act as a double recovery for Plaintiffs.

4 The Court finds that the remaining damages awarded in the October 9, 2015 Order are based on
5 contract claims rather than tort claims and not appropriate for consideration of punitive damages.
6

7 Given Defendants' tortious scheme and the intentional misconduct of Defendants, punitive
8 damages in this case are appropriate to set an example.

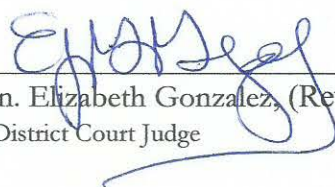
9 The amount of these damages serve to punish and will not destroy Defendants.¹¹

10 While the Court recognizes that there is a spectrum of percentages which have been awarded in
11 various Nevada punitive damages cases, given the nature of the conduct and procedural history of
12 this case, the Court concludes the appropriate multiplier in this matter is two (2) times the
13 compensatory award for the conversion claim and intentional misrepresentation/fraud claim.
14

15 Accordingly based on the compensatory damages for which punitive damages are appropriate
16 totaling \$4,595,260.96 the Court awards punitive damages in the total amount of \$9,190,521.92
17

18 Plaintiffs counsel is directed to submit a final judgment consistent with the October 9, 2015 Order
19 and this Order.
20

21 Dated this 17th day of January 2023.

22
23 
24 Hon. Elizabeth Gonzalez, (Ret.)
25 Sr. District Court Judge

26 ⁹ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

27 ¹⁰ October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

28 ¹¹ See July 18, 2022 transcript (sealed), p. 100 l. 2 to p. 101 l. 5.

CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
that on the 17th day of January, 2023, I electronically filed the foregoing with the Clerk
of the Court system which will send a notice of electronic filing to the following:

DALE KOTCHKA-ALANES

DANIEL POLSENBERG, ESQ.

DAVID MCELHINNEY, ESQ.

BRIANA COLLINGS, ESQ.

ABRAN VIGIL, ESQ.

JONATHAN TEW, ESQ.

JARRAD MILLER, ESQ.

TODD ALEXANDER, ESQ.

F. SHARP, ESQ.

STEPHANIE SHARP, ESQ.

G. DAVID ROBERTSON, ESQ.

ROBERT EISENBERG, ESQ.

JENNIFER HOSTETLER, ESQ.



EXHIBIT M

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

) ORDER

) Case#: CV12-02222

) Dept. 10 (Senior Judge)

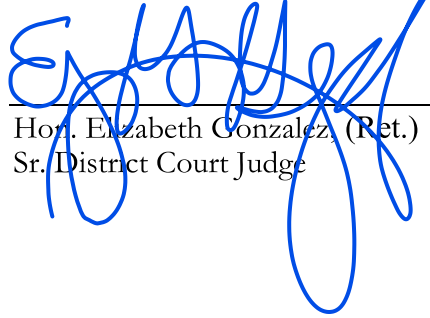
Pursuant to WDCR 12(5) the Court after a review of the briefing and related documents and being fully informed rules on Plaintiffs' Motion to Alter or Amend Judgment ("Motion").¹ After consideration of the briefing, the Court grants the Motion in part.

Consistent with the Order Granting in Part and Denying in Part Plaintiffs' Motion to Alter or Amend Judgment, filed March 7, 2019 the Final Judgment will be amended to recognize the joint liability of Defendants AM-GSR Holdings, LLC and Gage Village Development, LLC for compensatory damages, only.

¹ The court has also reviewed the Opposition filed March 1, 2023 and the Reply filed on March 8, 2023..

1 Plaintiffs' counsel to prepare and submit an amended judgment.

2 Dated this 27th day March, 2023.

3 
4 _____
5 Hon. Elizabeth Gonzalez (Ret.)
6 Sr. District Court Judge
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CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT; that on the 27th day of March, 2023, I electronically filed the foregoing with the Clerk of the Court system which will send a notice of electronic filing to the following:

DALE KOTCHKA-ALANES
DANIEL POLSENBERG, ESQ.
DAVID MCELHINNEY, ESQ.
BRIANA COLLINGS, ESQ.
ABRAN VIGIL, ESQ.
JONATHAN TEW, ESQ.
JARRAD MILLER, ESQ.
TODD ALEXANDER, ESQ.
F. DEARMOND SHARP, ESQ.
STEPHANIE SHARP, ESQ.
G.DAVID ROBERTSON, ESQ.
ROBERT EISENBERG, ESQ.
JENNIFER HOSTETLER, ESQ.
ANN HALL, ESQ.
JAMES PROCTOR, ESQ.
JORDAN SMITH, ESQ.



EXHIBIT N

CODE: 2250
Jarrad C. Miller, Esq. (NV Bar No. 7093)
Briana N. Collings, Esq. (NV Bar No. 14694)
Robertson, Johnson, Miller & Williamson
50 West Liberty Street, Suite 600
Reno, Nevada 89501
(775) 329-5600
jarrad@nvlawyers.com
briana@nvlawyers.com

Robert L. Eisenberg, Esq. (NV Bar No. 0950)
Lemons, Grundy & Eisenberg
6005 Plumas Street, Third Floor
Reno, Nevada 89519
Telephone: (775) 786-6868
Facsimile: (775) 786-9716
rle@lge.net

Attorneys for Plaintiffs

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, individually; *et al.*,

Plaintiffs,

vs.

Case No. CV12-02222
Dept. No. OJ41

MEI-GSR HOLDINGS, LLC, a Nevada
limited liability company, GRAND SIERRA
RESORT UNIT OWNERS' ASSOCIATION,
a Nevada nonprofit corporation, GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC, a Nevada limited
liability company; AM-GSR HOLDINGS,
LLC, a Nevada limited liability company; and
DOE DEFENDANTS 1 THROUGH 10,
inclusive,

Defendants.

MOTION TO ALTER OR AMEND FINAL JUDGMENT

Plaintiffs, by and through their counsel of record, the law firms of Robertson, Johnson, Miller & Williamson and Lemons, Grundy & Eisenberg, hereby submit this motion to alter or amend judgment ("Motion"). This Motion is supported by the attached memorandum of points

1 and authorities, the exhibit attached hereto, all other pleadings on file herein, and any oral
2 argument the Court may choose to hear.

3 DATED this 8th day of February, 2023.

4 ROBERTSON, JOHNSON,
5 MILLER & WILLIAMSON
50 West Liberty Street, Suite 600
6 Reno, Nevada 89501

7 *And*

8 LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Third Floor
9 Reno, Nevada 89519

10 By: /s/ Jarrad C. Miller
11 Jarrad C. Miller, Esq.
Briana N. Collings, Esq.
12 *Attorneys for Plaintiffs*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND FACTUAL BACKGROUND**

3 The Court issued its Order awarding Plaintiffs punitive damages on January 17, 2023.
4 Therein, the Court instructed Plaintiffs to prepare a final judgment “consistent with the October
5 9, 2015 Order and this Order.” (Order at 5:18-19.) Plaintiffs submitted such a proposed final
6 judgment to the Court on January 27, 2023. This proposed final judgment restated the Court’s
7 Findings of Fact, Conclusions of Law and Judgment, issued October 9, 2015 (“FFCLJ”), noted
8 the various substitutions of Plaintiffs which have taken place throughout this litigation, noted the
9 Court’s Order Granting in Part and Denying in Part Motion to Alter or Amend Judgment, filed
10 March 7, 2019, restated the punitive damages from the Court’s January 17, 2023 Order, and
11 finally, broke down the damage awards by Plaintiff. (See Ex. 1, Plaintiffs’ Proposed Final
12 Judgment.) Defendants submitted their own proposed final judgment on February 1, 2023,
13 which set forth only the compensatory damage awards in the FFCLJ and the punitive damage
14 award. The Court adopted Defendants’ proposed final judgment and entered the same on
15 February 2, 2023 (“Final Judgment”).

16 The Final Judgment overlooked critical pieces of the record which must be included in
17 any final judgment. Namely, the Final Judgment omitted (a) the joint liability of Defendants
18 AM-GSR Holdings, LLC and Gage Village Development, LLC, (b) the substitution of various
19 Plaintiffs, and (c) any breakdown of damages by Plaintiff. While Plaintiffs are uncertain whether
20 the third point is critical in the final judgment, Defendants have made the argument that the
21 FFCLJ is subject to reversal because the compensatory damages were not broken down by
22 Plaintiff. The first two omissions are critical and must be corrected.

23 Accordingly, Plaintiffs respectfully request that the Final Judgment be altered or
24 amended to include these important pieces of the record.

25 **II. LEGAL STANDARD**

26 The formal requirements of an NRCP 59(e) motion are minimal. AA Primo Builders,
27 LLC v. Washington, 126 Nev. 578, 581, 245 P.3d 1190, 1192 (2010). NRCP 59(e) states, in full,
28 that “[a] motion to alter or amend a judgment must be filed no later than 28 days after service of

1 written notice of entry of judgment.” The motion “must also satisfy NRCP 7(b) and be ‘in
2 writing, . . . state with particularity [its] grounds [and] set forth the relief or order sought.’” AA
3 Primo Builders, 126 Nev. at 581-82, 245 P.3d at 1192. Indeed, “the only real limitation” of a
4 motion to alter or amend is “that it must request a substantive alteration of the judgment, not
5 merely correction of a clerical error. . . .” Osterneck v. Ernst & Whinney, 489 U.S. 169 (1989)
6 (discussing the comparable FRCP 59(e)).

7 **III. ARGUMENT**

8 **A. AM-GSR Holdings, LLC’s and Gage Village Development’s Joint Liability** 9 **Must Be Included in the Final Judgment**

10 After the FFCLJ was issued, Plaintiffs promptly filed a Motion to Alter or Amend
11 Judgment on October 26, 2015. Therein, among other things, Plaintiffs pointed out that the
12 FFCLJ omitted reference to AM-GSR Holdings, LLC (“AM-GSR”) and Gage Village
13 Development, LLC (“Gage Village”) when reciting Defendants’ liability for the compensatory
14 damages. The Court granted Plaintiffs’ motion in this respect:

15 ***The Court will amend the judgment to hold AM-GSR jointly and***
16 ***severally liable with MEI-GSR for all monetary relief awarded.***

17 Pursuant to the Stipulation and Order [Re: Addition of AM-GSR
18 Holdings, LLC as Defendant, filed January 21, 2015], AM-GSR
19 was to be treated as one and the same with MEI-GSR. The failure
20 to include them as a liable party for the monetary relief award was
21 a manifest error of fact. For these reasons, AM-GSR will be held
22 jointly and severally liable with MEI-GSR.

23 ***The Court will amend the judgment to hold Gage [Village] jointly***
24 ***and severally liable for the \$4,152,669.13 awarded for the unjust***
25 ***enrichment and tortious interference claims.*** See Tr. Of Prove-
26 Up Hearing Day 1, p.159-62. Gage was a named defendant in the
27 SAC for the unjust enrichment and tortious interference claims.
28 The failure to include them as a liable party for these causes of
action was a manifest error of fact. For these reasons, Gage
[Village] will be held jointly and severally liable with MEI-GSR.

(Order Granting in Part and Denying in Part Motion to Alter or Amend Judgment, filed March 7,
2019 at 4:19-5:4 (emphasis added).) The Final Judgment grants Plaintiffs compensatory
damages, but holds only MEI-GSR liable for such damages. (See Final Judgment at 3-4,
“Against MEI-GSR in the amount of”) This is incorrect according to the Court’s Order
Granting in Part and Denying in Part Motion to Alter or Amend Judgment.

1 Plaintiffs thus respectfully request the Final Judgment be amended to make AM-GSR and
2 Gage Village jointly and severally liable for the appropriate damage awards to avoid future
3 potential confusion. Specifically, AM-GSR should be added as jointly and severally liable for
4 each of the compensatory damage amounts and the corresponding punitive damage award, and
5 Gage Village should be added as jointly and severally liable for the compensatory damages
6 related to Defendants' "rental of units of owners who had no rental agreement," \$4,152,669.13,
7 as well as the punitive damage award which flowed from this compensatory damage award.

8 **B. Four (4) Plaintiffs Were Substituted During the Pendency of the Litigation, and**
9 **Such Substitution Must be Noted in the Final Judgment**

10 A judgment rendered against a deceased party without substitution of a personal
11 representative is voidable. Koester v. Administrator of Estate of Koester, 101 Nev. 68, 72, 593
12 P.2d 569, 572 (1985). Generally, a final judgment will not affect a deceased party's estate until
13 the deceased party is substituted. Boyd v. Lancaster, 32 Cal.App.2d 574, 90 P.2d 317, 319
14 (1939). To create a clear record, the Final Judgment, which currently does not have any
15 indication that certain Plaintiffs have been substituted, should be amended to account for those
16 Plaintiffs who were substituted during the litigation.

17 Four (4) Plaintiffs unfortunately have passed away since initiating this lawsuit: Robert R.
18 Pederson, individually and as Trustee of the Pederson 1990 Trust, Albert Thomas, Farhad
19 Torabkhan, and Irene Weiss as Trustee of the Weiss Family Trust. Plaintiffs properly filed
20 Suggestions of Death for each of the deceased Plaintiffs, and the Court ultimately issued Orders
21 Granting Substitutions for each deceased Plaintiff. (See Order Granting Motion to Substitute
22 Party – Pederson, filed May 8, 2019, Order Granting Motion to Substitute Party – Thomas, filed
23 May 8, 2019, Order Granting Motion to Substitute Party – Torabkhan, filed December 12, 2019,
24 and Order Granting Motion to Substitute Party – Weiss, filed May 9, 2019 (collectively,
25 "Substitution Orders").) The Substitution Orders were properly entered and have become part of
26 the record.

27 In order to eliminate any confusion as to the Plaintiffs to whom damages were awarded,
28 Plaintiffs respectfully request the Court amend the Final Judgment to note the Substitution

1 Orders and the substituted Plaintiffs. (See Ex. 1 at ¶¶ 1, 13, 22, and 79, Plaintiffs’ suggested
2 language to accomplish this clarification.) This amendment is especially important because the
3 Final Judgment may be voidable if the Substitution Orders are disregarded.

4 **C. Defendants Argue the FFCLJ is Reversible for Failing to Break Down Damages**
5 **Per Plaintiff; Thus, the Final Judgment Should Provide Such a Breakdown**

6 Defendants have argued on multiple occasions that the FFCLJ is subject to reversal on
7 appeal for failing to break down the damage awards per Plaintiff. (See, e.g., Defendants’ Motion
8 to Set Aside Judgment or in the Alternative, to Amend Judgment, filed March 13, 2019 at 15:11-
9 16:8, “The monetary damages awarded failed to identify which causes of action supported the
10 damages award, and failed to identify the individual damage awards for each Plaintiff,” making
11 the FFCLJ erroneous.)

12 The breakdown of damages per Plaintiff is a calculation which Plaintiffs’ expert, Craig
13 Greene, undertook in preparation for the prove-up hearing in March 2015. Indeed, those figures
14 calculated by Mr. Greene are already in the record and reflect the compensatory damage
15 allocation by Plaintiff and also the basis to allocate the punitive damage award by Plaintiff. (See
16 Minutes of March 23, 2015 Prove Up Hearing, noting Exhibit 246 (Mr. Greene’s calculations)
17 being admitted; see also Ex. 1 at 29-31, where compensatory damage breakdown is provided
18 from Mr. Greene’s report and punitive damage award breakdown is calculated.) Mr. Greene’s
19 calculations are identical to and the basis for the Court’s compensatory damages award.

20 Plaintiffs do not believe a breakdown of damages by Plaintiff is a critical component of
21 the Final Judgment given that they are clearly reflected in the record; however, in an abundance
22 of caution, to prevent the waste of the parties’ resources on appeal and because Defendants have
23 taken the position that such a breakdown is critical, Plaintiffs’ respectfully request the Court
24 amend the Final Judgment to include such a breakdown.

25 **IV. CONCLUSION**

26 The record in this matter is incredibly lengthy and detailed. Unfortunately, it appears due
27 to the overwhelming record and the judicial turnover in this matter, the Final Judgment contains
28 certain errors and omissions which must be rectified. Namely, the Final Judgment omits AM-

1 GSR's and Gage Village's joint and several liability with MEI-GSR as laid out above, four (4)
2 Plaintiffs' substitutions, and a breakdown by Plaintiff of the final compensatory and punitive
3 damage awards. Plaintiffs therefore respectfully request this Court to alter or amend the Final
4 Judgment to include these matters.

5 **AFFIRMATION**

6 Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding
7 document does not contain the social security number of any person.

8 RESPECTFULLY SUBMITTED this 8th day of February, 2023.

9 ROBERTSON, JOHNSON,
10 MILLER & WILLIAMSON
50 West Liberty Street, Suite 600
11 Reno, Nevada 89501

12 *And*

13 LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Third Floor
14 Reno, Nevada 89519

15 By: /s/ Jarrad C. Miller

16 Jarrad C. Miller, Esq.
Briana N. Collings, Esq.
17 *Attorneys for Plaintiffs*
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Robertson, Johnson,
3 Miller & Williamson, 50 West Liberty Street, Suite 600, Reno, Nevada 89501, over the age of
4 18, and not a party within this action. I further certify that on the 8th day of February, 2023, I
5 electronically filed the foregoing **MOTION TO ALTER OR AMEND FINAL JUDGMENT**
6 with the Clerk of the Court by using the ECF system which served the following parties
7 electronically:

8 Abran Vigil, Esq.
9 Meruelo Group, LLC
10 Legal Services Department
11 5th Floor Executive Offices
12 2535 Las Vegas Boulevard South
13 Las Vegas, NV 89109
14 *Attorneys for Defendants*
MEI-GSR Holdings, LLC,
Gage Village Commercial
Development, LLC, and
AM-GSR Holdings, LLC

F. DeArmond Sharp, Esq.
Stefanie T. Sharp, Esq.
Robison, Sharp Sullivan & Brust
71 Washington Street
Reno, NV 89503
Attorneys for Receiver
Richard M. Teichner

15 Jordan T. Smith, Esq.
16 Pisanelli Bice PLLC
17 400 South 7th Street, Suite 300
18 Las Vegas, NV 89101
19 *Attorneys for Defendants*
MEI-GSR Holdings, LLC;
Gage Village Commercial
Development, LLC; and
AM-GSR Holdings, LLC

Ann O. Hall, Esq.
David C. McElhinney, Esq.
Meruelo Group, LLC
2500 E. 2nd Street
Reno, NV 89595
Attorneys for Defendants
MEI-GSR Holdings, LLC,
Gage Village Commercial
Development, LLC, and
AM-GSR Holdings, LLC

21
22
23 /s/ Stefanie Martinez

24 An Employee of Robertson, Johnson, Miller & Williamson
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EXHIBIT INDEX

Ex. No.	Description	Pages
1	Plaintiffs’ Proposed Final Judgment	32

EXHIBIT “1”

EXHIBIT “1”

CODE: 1845

**SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

ALBERT THOMAS, individually; *et al.*,

Plaintiffs,

vs.

MEI-GSR Holdings, LLC, a Nevada limited liability company, GRAND SIERRA RESORT UNIT OWNERS' ASSOCIATION, a Nevada nonprofit corporation, GAGE VILLAGE COMMERCIAL DEVELOPMENT, LLC, a Nevada limited liability company; AM-GSR HOLDINGS, LLC, a Nevada limited liability company; and DOE DEFENDANTS 1 THROUGH 10, inclusive,

Defendants.

Case No. CV12-02222
Dept. No. 10¹

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL JUDGMENT
WITH THE COURT RETAINING JURISDICTION OVER THE RECEIVERSHIP**

The Court made the following findings of fact and conclusions of law after taking evidence on damages from March 23, through March 25, 2015:

¹ On January 21, 2021, Chief District Court Judge Scott Freeman, entered an Order Disqualifying All Judicial Officers of the Second Judicial District Court. On September 19, 2022, the Nevada Supreme Court entered a Memorandum of Temporary Assignment, appointing the undersigned Senior Judge.

1 This action was commenced on August 27, 2012, with the filing of a COMPLAINT (“the
2 Complaint”). The Complaint alleged twelve causes of action: 1) Petition for Appointment of a
3 Receiver as to Defendant Grand Sierra Resort Unit-Owners’ Association; 2) Intentional and/or
4 Negligent Misrepresentation as to Defendant MEI-GSR; 3) Breach of Contract as to Defendant
5 MEI-GSR; 4) Quasi-Contract/Equitable Contract/Detrimental Reliance as to Defendant MEI-
6 GSR; 5) Breach of the Implied Covenant of Good Faith and Fair Dealing as to Defendant MEI-
7 GSR; 6) Consumer Fraud/Nevada Deceptive Trade Practices Act Violations as to Defendant
8 MEI-GSR; 7) Declaratory Relief as to Defendant MEI-GSR; 8) Conversion as to Defendant
9 MEI-GSR; 9) Demand for an Accounting as to Defendant MEI-GSR and Defendant Grand
10 Sierra Unit Owners Association; 10) Specific Performance Pursuant to NRS 116.122,
11 Unconscionable Agreement; 11) Unjust Enrichment/Quantum Meruit against Defendant Gage
12 Village Development; and 12) Tortious Interference with Contract and/or Prospective Business
13 Advantage against Defendants MEI-GSR and Gage Development. The Plaintiffs (as more fully
14 described *infra*) were individuals or other entities who had purchased condominiums in the
15 Grand Sierra Resort (“GSR”). A FIRST AMENDED COMPLAINT (“the First Amended
16 Complaint”) was filed on September 10, 2012. The First Amended Complaint had the same
17 causes of action as the Complaint.

18 The Defendants (as more fully described *infra*) filed an ANSWER AND
19 COUNTERCLAIM (“the Answer”) on November 21, 2012. The Answer denied the twelve
20 causes of action; asserted eleven affirmative defenses; and alleged three Counterclaims. The
21 Counterclaims were for: 1) Breach of Contract; 2) Declaratory Relief; and 3) Injunctive Relief.

22 The Plaintiffs filed a SECOND AMENDED COMPLAINT (“the Second Amended
23 Complaint”) on March 26, 2013. The Second Amended Complaint had the same causes of action
24 as the Complaint and the First Amended Complaint. The Defendants filed an ANSWER TO
25 SECOND AMENDED COMPLAINT AND COUNTER CLAIM (“the Second Answer”) on
26 May 23, 2013. The Second Answer generally denied the allegations in the Second Amended
27 Complaint and contained ten affirmative defenses. The Counterclaims mirrored the
28 Counterclaims in the Answer.

1 The matter has been the subject of extensive motion practice. The Plaintiffs made
2 numerous allegations of discovery abuses by the Defendants. The record speaks for itself
3 regarding the protracted nature of these proceedings and the systematic attempts at obfuscation
4 and intentional deception on the part of the Defendants. Further, the Court has repeatedly had to
5 address the lackadaisical and inappropriate approach the Defendants have exhibited toward the
6 Nevada Rules of Civil Procedure, the District Court Rules, the Washoe District Court Rules, and
7 the Court's orders. The Defendants have consistently, and repeatedly, chosen to follow their own
8 course rather than respect the need for orderly process in this case. NRCP 1 states that the rules
9 of civil procedure should be "construed and administered to secure the just, speedy, and
10 inexpensive determination of every action." The Defendants have turned this directive on its
11 head and done everything possible to make the proceedings unjust, dilatory, and costly.

12 The Court twice has addressed a request to impose case concluding sanctions against the
13 Defendants because of their repeated discovery abuses. The Court denied a request for case
14 concluding sanctions in its ORDER REGARDING ORIGINAL MOTION FOR CASE
15 CONCLUDING SANCTIONS filed December 18, 2013 ("the December Order"). The Court
16 found that case concluding sanctions were not appropriate; however, the Court felt that some
17 sanctions were warranted based on the Defendants' repeated discovery violations. The Court
18 struck all of the Defendants' Counterclaims in the December Order and required the Defendants
19 to pay for the costs of the Plaintiffs' representation in litigating that issue.

20 The parties continued to fight over discovery issues after the December Order. The Court
21 was again required to address the issue of case concluding sanctions in January of 2014. It
22 became clear that the Defendants were disingenuous with the Court and Plaintiffs' counsel when
23 the first decision regarding case concluding sanctions was argued and resolved. Further, the
24 Defendants continued to violate the rules of discovery and other court rules even after they had
25 their Counterclaims struck in the December Order. The Court (at the time, Judge Elliot Sattler)
26 conducted a two-day hearing regarding the renewed motion for case concluding sanctions. An
27 ORDER GRANTING PLAINTIFFS' MOTION FOR CASE-TERMINATING SANCTIONS

1 was entered on October 3, 2014 (“the October Order”). The Defendants’ Answer was stricken in
2 the October Order. A DEFAULT was entered against the Defendants on November 26, 2014.

3 The Court conducted a “prove-up hearing” regarding the issue of damages from March
4 23 through March 25, 2015. The Court entered an ORDER on February 5, 2015 (“the February
5 Order”) establishing the framework of the prove-up hearing pursuant to *Foster v. Dingwall*, 126
6 Nev. 56, 227 P.3d 1042 (2010). The February Order limited, but did not totally eliminate, the
7 Defendants’ ability to participate in the prove-up hearing. The Court heard expert testimony from
8 Craig L. Greene, CPA/CFF, CFE, CCEP, MAFF (“Greene”) at the prove-up hearing. Greene
9 calculated the damages owed to the Plaintiffs using information collected and provided by the
10 Defendants. The Court found Greene to be very credible and his methodology to be sound.
11 Further, the Court noted that Greene attempted to be “conservative” in his calculations. Greene
12 used variables and factors that would eliminate highly suspect and/or unreliable data. The Court
13 also received and reviewed supplemental information provided as a result of an inquiry made by
14 the Court during the prove-up hearing.

15 The GSR is a high-rise hotel/casino in Reno, Nevada. The GSR has approximately 2,000
16 rooms. The Plaintiffs purchased individual rooms in the GSR as condominiums. The primary
17 purpose of purchasing a condominium in the GSR would be as an investment and revenue
18 generating proposition. The condominiums were the subject of statutory limitations on the
19 number of days the owners could occupy them during the course of a calendar year. The owners
20 would not be allowed to “live” in the condominium. When the owners were not in the rooms,
21 they could either be rented out or they had to remain empty.

22 As noted, *supra*, the Court struck all of the Defendants’ general and affirmative defenses
23 in the October Order. The Defendants stand before the Court having involuntarily conceded all
24 of the allegations contained in the Second Amended Complaint. The Court makes the following
25 findings of fact²:

26
27 ² These findings of fact were made by the former district judge (Judge Elliot Sattler) after the prove-up hearing held
28 from March 23 through 25, 2015. The Court has reviewed the transcript and the evidence admitted at the hearing
and the undersigned adopts these findings in full as her own.

1 **I. FINDINGS OF FACT**

2 1. Plaintiff Albert Thomas was a competent adult and was a resident of the State of
3 California. Thomas was substituted by Plaintiff Marie-Anne Alexander on May 8, 2019.

4 2. Plaintiff Jane Dunlap is a competent adult and is a resident of the State of
5 California.

6 3. Plaintiff John Dunlap is a competent adult and is a resident of the State of
7 California.

8 4. Plaintiff Barry Hay is a competent adult and is a resident of the State of
9 California.

10 5. Plaintiff Marie-Annie Alexander, as Trustee of the Marie-Annie Alexander Living
11 Trust, is a competent adult and is a resident of the State of California.

12 6. Plaintiff Melissa Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
13 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
14 resident of the State of Nevada.

15 7. Plaintiff George Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
16 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
17 resident of the State of Nevada.

18 8. Plaintiff D'Arcy Nunn is a competent adult and is a resident of the State of
19 California.

20 9. Plaintiff Henry Nunn is a competent adult and is a resident of the State of
21 California.

22 10. Plaintiff Lee Van Der Bokke is a competent adult and is a resident of the State of
23 California.

24 11. Plaintiff Madelyn Van Der Bokke is a competent adult and is a resident of the
25 State of California.

26 12. Plaintiff Donald Schreifels is a competent adult and is a resident of the State of
27 Minnesota.

1 13. Plaintiff Robert R. Pederson, individually and as Trustee of the Pederson 1990
2 Trust, was a competent adult and was a resident of the State of California. Peterson was
3 substituted by Lou Ann Pederson, as Trustee of the Pederson 1990 Trust on May 8, 2019.

4 14. Plaintiff Lou Ann Pederson, individually and as Trustee of the Pederson 1990
5 Trust, is a competent adult and is a resident of the State of California.

6 15. Plaintiff Lori Ordoover is a competent adult and is a resident of the State of
7 Connecticut.

8 16. Plaintiff William A. Henderson is a competent adult and is a resident of the State
9 of California.

10 17. Plaintiff Christine E. Henderson is a competent adult and is a resident of the State
11 of California.

12 18. Plaintiff Loren D. Parker is a competent adult and is a resident of the State of
13 Washington.

14 19. Plaintiff Suzanne C. Parker is a competent adult and is a resident of the State of
15 Washington.

16 20. Plaintiff Michael Izady is a competent adult and is a resident of the State of New
17 York.

18 21. Plaintiff Steven Takaki is a competent adult and is a resident of the State of
19 California.

20 22. Plaintiff Farad Torabkhan was a competent adult and was a resident of the State
21 of New York. Torabkhan was substituted by Plaintiff Peter Michael Torabkhan on December
22 12, 2019.

23 23. Plaintiff Sahar Tavakol is a competent adult and is a resident of the State of New
24 York.

25 24. Plaintiff M&Y Holdings is a Nevada Limited Liability Company with its
26 principal place of business in Nevada.

27 25. Plaintiff JL&YL Holdings, LLC is a Nevada Limited Liability Company with its
28 principal place of business in Nevada.

1 26. Plaintiff Sandi Raines is a competent adult and is a resident of the State of
2 Minnesota.
3 27. Plaintiff R. Raghuram is a competent adult and is a resident of the State of
4 California.
5 28. Plaintiff Usha Raghuram is a competent adult and is a resident of the State of
6 California.
7 29. Plaintiff Lori K. Tokutomi is a competent adult and is a resident of the State of
8 California.
9 30. Plaintiff Garett Tom is a competent adult and is a resident of the State of
10 California.
11 31. Plaintiff Anita Tom is a competent adult and is a resident of the State of
12 California.
13 32. Plaintiff Ramon Fadrilan is a competent adult and is a resident of the State of
14 California.
15 33. Plaintiff Faye Fadrilan is a competent adult and is a resident of the State of
16 California.
17 34. Plaintiff Peter K. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
18 competent adult and is a resident of the State of California.
19 35. Plaintiff Monica L. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
20 competent adult and is a resident of the State of California.
21 36. Plaintiff Dominic Yin is a competent adult and is a resident of the State of
22 California.
23 37. Plaintiff Elias Shamieh is a competent adult and is a resident of the State of
24 California.
25 38. Plaintiff Nadine's Real Estate Investments, LLC, is a North Dakota Limited
26 Liability Company.
27 39. Plaintiff Jeffery James Quinn is a competent adult and is a resident of the State of
28 Hawaii.

1 40. Plaintiff Barbara Rose Quinn is a competent adult and is a resident of the State of
2 Hawaii.
3 41. Plaintiff Kenneth Riche is a competent adult and is a resident of the State of
4 Wisconsin.
5 42. Plaintiff Maxine Riche is a competent adult and is a resident of the State of
6 Wisconsin.
7 43. Plaintiff Norman Chandler is a competent adult and is a resident of the State of
8 Alabama.
9 44. Plaintiff Benton Wan is a competent adult and is a resident of the State of
10 California.
11 45. Plaintiff Timothy Kaplan is a competent adult and is a resident of the State of
12 California.
13 46. Plaintiff Silkscape Inc. is a California Corporation.
14 47. Plaintiff Peter Cheng is a competent adult and is a resident of the State of
15 California.
16 48. Plaintiff Elisa Cheng is a competent adult and is a resident of the State of
17 California.
18 49. Plaintiff Greg A. Cameron is a competent adult and is a resident of the State of
19 California.
20 50. Plaintiff TMI Property Group, LLC is a California Limited Liability Company.
21 51. Plaintiff Richard Lutz is a competent adult and is a resident of the State of
22 California.
23 52. Plaintiff Sandra Lutz is a competent adult and is a resident of the State of
24 California.
25 53. Plaintiff Mary A. Kossick is a competent adult and is a resident of the State of
26 California.
27 54. Plaintiff Melvin H. Cheah is a competent adult and is a resident of the State of
28 California.

- 1 55. Plaintiff Di Shen is a competent adult and is a resident of the State of Texas.
- 2 56. Plaintiff Ajit Gupta is a competent adult and is a resident of the State of
- 3 California.
- 4 57. Plaintiff Seema Gupta is a competent adult and is a resident of the State of
- 5 California.
- 6 58. Plaintiff Fredrick Fish is a competent adult and is a resident of the State of
- 7 Minnesota.
- 8 59. Plaintiff Lisa Fish is a competent adult and is a resident of the State of Minnesota.
- 9 60. Plaintiff Robert A. Williams is a competent adult and is a resident of the State of
- 10 Minnesota.
- 11 61. Plaintiff Jacquelin Pham is a competent adult and is a resident of the State of
- 12 California.
- 13 62. Plaintiff May Ann Hom, as Trustee of the May Ann Horn Trust, is a competent
- 14 adult and is a resident of the State of California.
- 15 63. Plaintiff Michael Hurley is a competent adult and is a resident of the State of
- 16 Minnesota.
- 17 64. Plaintiff Dominic Yin is a competent adult and is a resident of the State of
- 18 California.
- 19 65. Plaintiff Duane Windhorst is a competent adult and is a resident of the State of
- 20 Minnesota.
- 21 66. Plaintiff Marilyn Windhorst is a competent adult and is a resident of the State of
- 22 Minnesota.
- 23 67. Plaintiff Vinod Bhan is a competent adult and is a resident of the State of
- 24 California.
- 25 68. Plaintiff Anne Bhan is a competent adult and is a resident of the State of
- 26 California.
- 27 69. Plaintiff Guy P. Browne is a competent adult and is a resident of the State of
- 28 California.

1 70. Plaintiff Garth Williams is a competent adult and is a resident of the State of
2 California.

3 71. Plaintiff Pamela Y. Aratani is a competent adult and is a resident of the State of
4 California.

5 72. Plaintiff Darleen Lindgren is a competent adult and is a resident of the State of
6 Minnesota.

7 73. Plaintiff Laverne Roberts is a competent adult and is a resident of the State of
8 Nevada.

9 74. Plaintiff Doug Mecham is a competent adult and is a resident of the State of
10 Nevada.

11 75. Plaintiff Christine Mecham is a competent adult and is a resident of the State of
12 Nevada.

13 76. Plaintiff Kwangsoo Son is a competent adult and is a resident of Vancouver,
14 British Columbia.

15 77. Plaintiff Soo Yeun Moon is a competent adult and is a resident of Vancouver,
16 British Columbia.

17 78. Plaintiff Johnson Akindodunse is a competent adult and is a resident of the State
18 of California.

19 79. Plaintiff Irene Weiss, as Trustee of the Weiss Family Trust, was a competent adult
20 and was a resident of the State of Texas. Weiss was substituted by Plaintiff Mark Weiss as
21 Trustee of the Weiss Family Trust on May 8, 2019.

22 80. Plaintiff Pravesh Chopra is a competent adult and is a resident of the State of
23 California.

24 81. Plaintiff Terry Pope is a competent adult and is a resident of the State of Nevada.

25 82. Plaintiff Nancy Pope is a competent adult and is a resident of the State of Nevada.

26 83. Plaintiff James Taylor is a competent adult and is a resident of the State of
27 California.

1 84. Plaintiff Ryan Taylor is a competent adult and is a resident of the State of
2 California.

3 85. Plaintiff Ki Ham is a competent adult and is a resident of Surry, B.C.

4 86. Plaintiff Young Ja Choi is a competent adult and is a resident of Coquitlam, B.C.

5 87. Plaintiff Sang Dae Sohn is a competent adult and is a resident of Vancouver, B.C.

6 88. Plaintiff Kuk Hyung (“Connie”) is a competent adult and is a resident of
7 Coquitlam, B.C.

8 89. Plaintiff Sang (“Mike”) Yoo is a competent adult and is a resident of Coquitlam,
9 B.C.

10 90. Plaintiff Brett Menmuir, as Trustee of the Cayenne Trust, is a competent adult and
11 is a resident of the State of Nevada.

12 91. Plaintiff William Miner, Jr., is a competent adult and is a resident of the State of
13 California.

14 92. Plaintiff Chanh Truong is a competent adult and is a resident of the State of
15 California.

16 93. Plaintiff Elizabeth Anders Mecua is a competent adult and is a resident of the
17 State of California.

18 94. Plaintiff Shepherd Mountain, LLC is a Texas Limited Liability Company with its
19 principal place of business in Texas.

20 95. Plaintiff Robert Brunner is a competent adult and is a resident of the State of
21 Minnesota.

22 96. Plaintiff Amy Brunner is a competent adult and is a resident of the State of
23 Minnesota.

24 97. Plaintiff Jeff Riopelle is a competent adult and is a resident of the State of
25 California.

26 98. Plaintiff Patricia M. Moll is a competent adult and is a resident of the State of
27 Illinois.

28 99. Plaintiff Daniel Moll is a competent adult and is a resident of the State of Illinois.

1 100. The people and entities listed above represent their own individual interests. They
2 are not suing on behalf of any entity including the Grand Sierra Resort Unit Owners'
3 Association. The people and entities listed above are jointly referred to herein as "the Plaintiffs".

4 101. Defendant MEI-GSR Holdings, LLC ("MEI-GSR") is a Nevada Limited Liability
5 Company with its principal place of business in Nevada.

6 102. Defendant Gage Village Commercial Development, LLC ("Gage Village") is a
7 Nevada Limited Liability Company with its principal place of business in Nevada.

8 103. Gage Village is related to, controlled by, affiliated with, and/or a subsidiary of
9 MEI-GSR.

10 104. Defendant Grand Sierra Resort Unit Owners' Association ("the Unit Owners'
11 Association") is a Nevada nonprofit corporation with its principal place of business in Nevada.

12 105. MEI-GSR transferred its interest in one hundred forty-five (145) condominium
13 units to Defendant AM-GSR Holdings, LLC ("AM-GSR") on December 22, 2014.

14 106. Defendants acknowledged to the Court on January 13, 2015, that AM-GSR would
15 be added to these proceedings and subject to the same procedural posture as MEI-GSR. Further,
16 the parties stipulated that AM-GSR would be added as a defendant in this action just as if AM-
17 GSR was a named defendant in the Second Amended Complaint. Said stipulation occurring and
18 being ordered on January 21, 2015.

19 107. MEI-GSR, Gage Village and the Unit Owners' Association are jointly referred to
20 herein as "the Defendants".

21 108. The Grand Sierra Resort Condominium Units ("GSR Condo Units") are part of
22 the Grand Sierra Unit Owners' Association, which is an apartment style hotel condominium
23 development of 670 units in one 27-story building. The GSR Condo Units occupy floors 17
24 through 24 of the Grand Sierra Resort and Casino, a large-scale hotel casino, located at 2500
25 East Second Street, Reno, Nevada.

26 109. All of the Individual Unit Owners: hold an interest in, own, or have owned, one or
27 more GSR Condo Units.

28 110. Gage Village and MEI-GSR own multiple GSR Condo Units.

1 111. MEI-GSR owns the Grand Sierra Resort and Casino.

2 112. Under the Declaration of Covenants, Conditions, Restrictions and Reservations of
3 Easements for Hotel-Condominiums at Grand Sierra Resort (“CC&Rs”), there is one voting
4 member for each unit of ownership (thus, an owner with multiple units has multiple votes).

5 113. Because MEI-GSR and Gage Village control more units of ownership than any
6 other person or entity, they effectively control the Unit Owners’ Association by having the
7 ability to elect MEI-GSR’s chosen representatives to the Board of Directors (the governing body
8 over the GSR Condo Units).

9 114. As a result of MEI-GSR and Gage Village controlling the Unit Owners’
10 Association, the Individual Unit Owners effectively have no input or control over the
11 management of the Unit Owners’ Association.

12 115. MEI-GSR and Gage Village have used, and continue to use, their control over the
13 Unit Owners’ Association to advance MEI-GSR and Gage Village’s economic objectives to the
14 detriment of the Individual Unit Owners.

15 116. MEI-GSR and Gage Village’s control of the Unit Owners’ Association violates
16 Nevada law as it defeats the purpose of forming and maintaining a homeowners’ association.

17 117. Further, the Nevada Division of Real Estate requires a developer to sell off the
18 units within 7 years, exit and turn over the control and management to the owners.

19 118. Under the CC&Rs, the Individual Unit Owners are required to enter into a “Unit
20 Maintenance Agreement” and participate in the “Hotel Unit Maintenance Program,” wherein
21 MEI-GSR provides certain services (including, without limitation, reception desk staffing, in-
22 room services, guest processing services, housekeeping services, Hotel Unit inspection, repair
23 and maintenance services, and other services).

24 119. The Unit Owners’ Association maintains capital reserve accounts that are funded
25 by the owners of GSR Condo Units. The Unit Owners’ Association collects association dues of
26 approximately \$25 per month per unit, with some variation depending on a particular unit’s
27 square footage.

28

1 120. The Individual Unit Owners pay for contracted “Hotel Fees,” which include taxes,
2 deep cleaning, capital reserve for the room, capital reserve for the building, routine maintenance,
3 utilities, etc.

4 121. MEI-GSR has systematically allocated and disproportionately charged capital
5 reserve contributions to the Individual Unit Owners, so as to force the Individual Unit Owners to
6 pay capital reserve contributions in excess of what should have been charged.

7 122. MEI-GSR and Gage Development have failed to pay proportionate capital reserve
8 contribution payments in connection with their Condo Units.

9 123. MEI-GSR has failed to properly account for, or provide an accurate accounting
10 for the collection and allocation of the collected capital reserve contributions.

11 124. The Individual Unit Owners also pay “Daily Use Fees” (a charge for each night a
12 unit is occupied by any guest for housekeeping services, etc.).

13 125. MEI-GSR and Gage Village have failed to pay proportionate Daily Use Fees for
14 the use of Defendants’ GSR Condo Units.

15 126. MEI-GSR has failed to properly account for the contracted “Hotel Fees” and
16 “Daily Use Fees.”

17 127. Further, the Hotel Fees and Daily Use Fees are not included in the Unit Owners’
18 Association’s annual budget with other assessments that provide the Individual Unit Owners the
19 ability to reject assessment increases and proposed budget ratification.

20 128. MEI-GSR has systematically endeavored to increase the various fees that are
21 charged in connection with the use of the GSR Condo Units in order to devalue the units owned
22 by Individual Unit Owners.

23 129. The Individual Unit Owners are required to abide by the unilateral demands of
24 MEI-GSR, through its control of the Unit Owners’ Association, or risk being considered in
25 default under Section 12 of the Agreement, which provides lien and foreclosure rights pursuant
26 to Section 6.10(f) of the CC&R’s.

27 130. Defendants MEI-GSR and/or Gage Village have attempted to purchase, and
28 purchased, units devalued by their own actions, at nominal, distressed prices when Individual

1 Unit Owners decide to, or are effectively forced to, sell their units because the units fail to
2 generate sufficient revenue to cover expenses.

3 131. MEI-GSR and/or Gage Village have, in late 2011 and 2012, purchased such
4 devalued units for \$30,000 less than the amount they purchased units for in March of 2011.

5 132. The Individual Unit Owners effectively pay association dues to fund the Unit
6 Owners' Association, which acts contrary to the best interests of the Individual Unit Owners.

7 133. MEI-GSR's interest in maximizing its profits is in conflict with the interest of the
8 Individual Unit Owners. Accordingly, Defendant MEI-GSR's control of the Unit Owners'
9 Association is a conflict of interest.

10 134. As part of MEI-GSR's Grand Sierra Resort and Casino business operations, it
11 rents: (1) hotel rooms owned by MEI-GSR that are not condominium units; (2) GSR Condo
12 Units owned by MEI-GSR and/or Gage Village; and (3) GSR Condo Units owned by the
13 Individual Condo Unit Owners.

14 135. MEI-GSR has entered into a Grand Sierra Resort Unit Rental Agreement with
15 Individual Unit Owners.

16 136. MEI-GSR has manipulated the rental of the: (1) hotel rooms owned by MEI-GSR;
17 (2) GSR Condo Units owned by MEI-GSR and/or Gage Village; and (3) GSR Condo Units
18 owned by Individual Condo Unit Owners so as to maximize MEI-GSR's profits and devalue the
19 GSR Condo Units owned by the Individual Unit Owners.

20 137. MEI-GSR has rented the Individual Condo Units for as little as \$0.00 to \$25.00 a
21 night.

22 138. Yet, MEI-GSR has charged "Daily Use Fees" of approximately \$22.38, resulting
23 in revenue to the Individual Unit Owners as low as \$2.62 per night for the use of their GSR
24 Condo Unit (when the unit was rented for a fee as opposed to being given away).

25 139. By functionally, and in some instances actually, giving away the use of units
26 owned by the Individual Unit Owners, MEI-GSR has received a benefit because those who rent
27 the Individual Units frequently gamble and purchase food, beverages, merchandise, spa services
28 and entertainment access from MEI-GSR.

140. MEI-GSR has rented Individual Condo Units to third parties without providing Individual Unit Owners with any notice or compensation for the use of their unit.

141. Further, MEI-GSR has systematically endeavored to place a priority on the rental of MEI-GSR's hotel rooms, MEI-GSR's GSR Condo Units, and Gage Village's Condo Units.

142. Such prioritization effectively devalues the units owned by the Individual Unit Owners.

143. MEI-GSR and Gage Village intend to purchase the devalued units at nominal, distressed prices when Individual Unit Owners decide to, or are effectively forced to, sell their units because the units fail to generate sufficient revenue to cover expenses and have no prospect of selling their persistently loss-making units to any other buyer.

144. Some of the Individual Unit Owners have retained the services of a third party to market and rent their GSR Condo Unit(s).

145. MEI-GSR has systematically thwarted the efforts of any third party to market and rent the GSR Units owned by the Individual Unit Owners.

146. MEI-GSR has breached the Grand Sierra Resort Unit Rental Agreement with Individual Condo Unit Owners by failing to follow its terms, including but not limited to, the failure to implement an equitable Rotational System as referenced in the agreement.

147. MEI-GSR has failed to act in good faith in exercising its duties under the Grand Sierra Resort Unit Rental Agreements with the Individual Unit Owners.

The Court is intimately familiar with all of the allegations in the twelve causes of action contained in the Second Amended Complaint. The Court's familiarity is a result of reviewing all of the pleadings and exhibits in this matter to include the various discovery disputes, the testimony at the numerous hearings conducted to date, and the other documents and exhibits on file. The Court finds that the facts articulated above support the twelve causes of action contained in the Second Amended Complaint.

II. CONCLUSIONS OF LAW

A. The Court has jurisdiction over MEI-GSR, Gage Village, the Unit Owner's Association and the Plaintiffs.

1 B. The appointment of a receiver is appropriate when: (1) the plaintiff has an interest in
2 the property; (2) there is potential harm to that interest in property; and (3) no other
3 adequate remedies exist to protect the interest. *See generally Bowler v. Leonard*, 70
4 Nev. 370, 269 P.2d 833 (1954). *See also* NRS 32.010. The Court appointed a receiver
5 to oversee the Unit Owners’ Association on January 7, 2015. The Court concludes
6 that MEI-GSR and/or Gage Village have operated the Unit Owners’ Association in a
7 way inconsistent with the best interests of all of the unit owners. The continued
8 management of the Unit Owners’ Association by the receiver is appropriate under the
9 circumstances of this case and will remain in effect absent additional direction from
10 the Court.

11 C. Negligent misrepresentation is when “[o]ne who, in the course of his business,
12 profession or employment, or in any other action in which he has a pecuniary interest,
13 supplies false information for the guidance of others in their business transactions, is
14 subject to liability for pecuniary loss caused to them by their justifiable reliance upon
15 the information, if he fails to exercise reasonable care or competence in obtaining or
16 communicating the information.” *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 956
17 P.2d 1382, 1387 (1998) (quoting *Restatement (Second) of Torts* § 552(1) (1976)).
18 Intentional misrepresentation is when “a false representation made with knowledge or
19 belief that it is false or without a sufficient basis of information, intent to induce
20 reliance, and damage resulting from the reliance. *Lubbe v. Barba*, 91 Nev. 596, 599,
21 540 P.2d 115, 17 (1975).” *Collins v. Burns*, 103 Nev. 394, 397, 741 P.2d 819, 821
22 (1987). MEI-GSR is liable for intentionally and/or negligent misrepresentation as
23 alleged in the Second Cause of Action.

24 D. An enforceable contract requires, “an offer and acceptance, meeting of the minds, and
25 consideration.” *Certified Fire Protection, Inc. v. Precision Construction, Inc.* 128
26 Nev. Adv. Op. 35, 283 P.3d 250, 255 (2012) (*citing May v. Anderson*, 121 Nev. 668,
27 672, 119 P.3d 1254, 1257 (2005)). There was a contract between the Plaintiffs and
28

1 MEI-GSR. MEI-GSR has breached the contract and therefore MEI-GSR is liable for
2 breach of contract as alleged in the Third Cause of Action.

3 E. MEI-GSR is liable for Quasi-Contract/Equitable Contract/Detrimental Reliance as
4 alleged in the Fourth Cause of Action.

5 F. An implied covenant of good faith and fair dealing exists in every contract in Nevada.
6 *Hilton Hotels Corp. v. Butch Lewis Productions, Inc.*, 109 Nev. 1043, 1046, 862 P.2d
7 1207, 1209 (1993). “The duty not to act in bad faith or deal unfairly thus becomes
8 part of the contract, and, as with any other element of the contract, the remedy for its
9 breach generally is on the contract itself.” *Id.* (citing *Wagenseller v. Scottsdale*
10 *Memorial Hospital*, 147 Ariz. 370, 383, 710 P.2d 1025, 1038 (1985)). “It is well
11 established that in contracts cases, compensatory damages ‘are awarded to make the
12 aggrieved party whole and . . . should place the plaintiff in the position he would have
13 been in had the contract not been breached.’ This includes awards for lost profits or
14 expectancy damages.” *Road & Highway Builders, LLC v. Northern Nevada Rebar,*
15 *Inc.*, 128 Nev. Adv. Op. 36, 284 P.3d 377, 382 (2012) (*internal citations omitted*).
16 “When one party performs a contract in a manner that is unfaithful to the purpose of
17 the contract and the justified expectations of the other party are thus denied, damages
18 may be awarded against the party who does not act in good faith.” *Perry v. Jordan*,
19 111 Nev. 943, 948, 900 P.2d 335, 338 (1995) (*citation omitted*). “Reasonable
20 expectations are to be ‘determined by the various factors and special circumstances
21 that shape these expectations.’” *Id.* (citing *Butch Lewis*, 107 Nev. at 234, 808 P.2d at
22 923). MEI-GSR is liable for breach of the covenant of good faith and fair dealing as
23 set forth in the Fifth Cause of Action.

24 G. MEI-GSR has violated NRS 41.600(1) and (2) and NRS 598.0915 through 598.0925,
25 inclusive and is therefore liable for the allegations contained in the Sixth Cause of
26 Action. Specifically, MEI-GSR violated NRS 598.0915(15) and NRS 598.0923(2).

27 H. The Plaintiffs are entitled to declaratory relief as more fully described below and
28 prayed for in the Seventh Cause of Action.

- 1 I. MEI-GSR wrongfully committed numerous acts of dominion and control over the
2 property of the Plaintiffs, including but not limited to renting their units at discounted
3 rates, renting their units for no value in contravention of written agreements between
4 the parties, failing to account for monies received by MEI-GSR attributable to
5 specific owners, and renting units of owners who were not even in the rental pool. All
6 of said activities were in derogation, exclusion or defiance of the title and/or rights of
7 the individual unit owners. Said acts constitute conversion as alleged in the Eighth
8 Cause of Action.
- 9 J. The demand for an accounting as requested in Ninth Cause of Action is moot
10 pursuant to the discovery conducted in these proceedings and the appointment of a
11 receiver to oversee the interaction between the parties.
- 12 K. The Unit Maintenance Agreement and Unit Rental Agreement proposed by MEI-GSR
13 and adopted by the Unit Owner's Association are unconscionable. An unconscionable
14 clause is one where the circumstances existing at the time of the execution of the
15 contract are so one-sided as to oppress or unfairly surprise an innocent party. *Bill*
16 *Stremmel Motors, Inc. v. IDS Leasing Corp.*, 89 Nev. 414, 418, 514 P.2d 654, 657
17 (1973). MEI-GSR controls the Unit Owners' Association based on its majority
18 ownership of the units in question. It is therefore able to propose and pass agreements
19 that affect all of the unit owners. These agreements require unit owners to pay
20 unreasonable Common Expense fees, Hotel Expenses Fees, Shared Facilities
21 Reserves, and Hotel Reserves ("the Fees"). The Fees are not based on reasonable
22 expectation of need. The Fees have been set such that an individual owner may
23 actually *owe* money as a result of having his/her unit rented. They are unnecessarily
24 high and imposed simply to penalize the individual unit owners. Further, MEI-GSR
25 and/or Gage Village have failed to fund their required portion of these funds, while
26 demanding the individual unit owners continue to pay the funds under threat of a lien.
27 MEI-GSR has taken the Fees paid by individual unit owners and placed the funds in
28 its general operating account rather than properly segregating them for the use of the

1 Unit Owner's Association. All of said actions are unconscionable and unenforceable
2 pursuant to NRS 116.112(1). The Court will grant the Tenth Cause of Action and not
3 enforce these portions of the agreements.

4 L. The legal concept of *quantum meruit* has two applications. The first application is in
5 actions based upon contracts implied-in-fact. The second application is providing
6 restitution for unjust enrichment. *Certified Fire*, at 256. In the second application,
7 "[l]iability in restitution for the market value of goods or services is the remedy
8 traditionally known as quantum meruit. Where unjust enrichment is found, the law
9 implies a quasi-contract which requires the defendant to pay to the plaintiff the value
10 of the benefit conferred. In other words, the defendant makes restitution to the
11 plaintiff in *quantum meruit*." *Id.* at 256-57. Gage Village has been unjustly enriched
12 based on the orchestrated action between it and MEI-GSR to the detriment of the
13 individual unit owners as alleged in the Eleventh Cause of Action.

14 M. Many of the individual unit owners attempted to rent their units through third-party
15 services rather than through the use of MEI-GSR. MEI-GSR and Gage Village
16 intentionally thwarted, interfered with and/or disrupted these attempts with the goal of
17 forcing the sale of the individual units back to MEI-GSR. All of these actions were to
18 the economic detriment of the individual unit owners as alleged in the Twelfth Cause
19 of Action.

20 N. The Plaintiffs are entitled to both equitable and legal relief. "As federal courts have
21 recognized, the long-standing distinction between law and equity, though abolished in
22 procedure, continues in substance, *Coca-Cola Co. v. Dixi-Cola Labs.*, 155 F.2d 59, 63
23 (4th Cir. 1946); 30A C.J.S. *Equity* § 8 (2007). A judgment for damages is a legal
24 remedy, whereas other remedies, such as avoidance or attachment, are equitable
25 remedies. *See* 30A *Equity* § 1 (2007)." *Cadle Co. v. Woods & Erickson, LLP*, 131
26 Nev. Adv. Op. 15, 345 P.3d 1049, 1053 (2015).

27 O. "[W]here default is entered as a result of a discovery sanction, the non-offending
28 party 'need only establish a *prima facie* case in order to obtain the default.'" *Foster*,

1 227 P.3d at 1049 (*citing Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 94, 787
2 P.2d 777, 781 (1990)). “[W]here a district court enters a default, the facts alleged in
3 the pleadings will be deemed admitted. Thus, during a NRCP 55(b)(2) prove-up
4 hearing, the district court shall consider the allegations deemed admitted to determine
5 whether the non-offending party has established a prima facie case for liability.”
6 *Foster*, 227 P.3d at 1049-50 (*internal citation omitted*). A prima facie case requires
7 only “sufficiency of evidence in order to send the question to the jury.” *Id.* 227 P.3d
8 at 1050 (*citing Vancheri v. GNLV Corp.*, 105 Nev. 417, 420, 777 P.2d 366, 368
9 (1989)). The Plaintiffs have met this burden regarding all of their causes of action.

10 P. “Damages need not be determined with mathematical certainty.” *Perry*, 111 Nev. at
11 948, 900 P.2d at 338. The party requesting damages must provide an evidentiary basis
12 for determining a “reasonably accurate amount of damages.” *Id.* *See also*,
13 *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 733, 192 P.3d 243, 248
14 (2008) and *Mort Wallin of Lake Tahoe, Inc. v. Commercial Cabinet Co., Inc.*, 105
15 Nev. 855, 857, 784 P.2d 954, 955 (1989).

16 Q. Disgorgement is a remedy designed to dissuade individuals from attempting to profit
17 from their inappropriate behavior. “Disgorgement as a remedy is broader than
18 restitution or restoration of what the plaintiff lost.” *American Master Lease LLC v.*
19 *Idanta Partners, Ltd*, 225 Cal. App. 4th 1451, 1482, 171 Cal. Rptr. 3d 548, 572
20 (2014) (*internal citation omitted*). “Where ‘a benefit has been received by the
21 defendant but the plaintiff has not suffered a corresponding loss or, in some cases,
22 any loss, but nevertheless the enrichment of the defendant would be unjust . . . the
23 defendant may be under a duty to give to the plaintiff the amount by which [the
24 defendant] has been enriched.” *Id.* 171 Cal. Rptr. 3d at 573 (*internal citations*
25 *omitted*). *See also Miller v. Bank of America, N.A.*, 352 P.3d 1162 (N.M. 2015) and
26 *Cross v. Berg Lumber Co.*, 7 P.3d 922 (Wyo. 2000).

1 **III. JUDGMENT**

2 Judgment is hereby entered against MEI-GSR, Gage Village and the Unit Owners’
3 Association as follows:

4 **Monetary Relief:**

- 5 1. Against MEI-GSR in the amount of \$442,591.83 for underpaid revenues to Unit Owners;
6 2. Against MEI-GSR in the amount of \$4,152,669.13 for the rental of units of owners who had
7 no rental agreement;
8 3. Against MEI-GSR in the amount of \$1,399,630.44 for discounting owners’ rooms without
9 credits;
10 4. Against MEI-GSR in the amount of \$31,269.44 for discounted rooms with credits;
11 5. Against MEI-GSR in the amount of \$96,084.96 for “comp’d” or free rooms;
12 6. Against MEI-GSR in the amount of \$411,833.40 for damages associated with the bad faith
13 “preferential rotation system”;
14 7. Against MEI-GSR in the amount of \$1,706,798.04 for improperly calculated and assessed
15 contracted hotel fees;
16 8. Against MEI-GSR in the amount of \$77,338.31 for improperly collected assessments;
17 9. MEI-GSR will fund the FF&E reserve, shared facilities reserve and hotel reserve in the
18 amount of \$500,000.00 each. The Court finds that MEI-GSR has failed to fund the reserves for
19 the units it, or any of its agents, own. However, the Court has also determined, *supra*, that these
20 fees were themselves unconscionable. The Court does not believe that the remedy for MEI-
21 GSR’s failure to fund the unconscionable amount should be some multiple of that unreasonable
22 sum. Further, the Court notes that Plaintiffs are individual owners: not the Unit Owner’s
23 Association. Arguably, the reserves are an asset of the Unit Owner’s Association and the
24 Plaintiffs have no individual interest in this sum. The Court believes that the “seed funds” for
25 these accounts are appropriate under the circumstances of the case; and
26 10. The Court finds that it would be inappropriate to give MEI-GSR any “write downs” or
27 credits for sums they may have received had they rented the rooms in accordance with
28 appropriate business practices. These sums will be disgorged.

1 **Non-Monetary Relief:**

- 2 1. The receiver will remain in place with his current authority until this Court rules otherwise;
- 3 2. The Plaintiffs shall not be required to pay any fees, assessments, or reserves allegedly due or
- 4 accrued prior to the date of this JUDGMENT;
- 5 3. The receiver will determine a reasonable amount of FF&E, shared facilities and hotel reserve
- 6 fees required to fund the needs of these three ledger items. These fees will be determined within
- 7 90 days of the date of this JUDGMENT. No fees will be required until the implementation of
- 8 these new amounts. They will be collected from *all* unit owners and properly allocated on the
- 9 Unit Owner's Association ledgers; and
- 10 4. The current rotation system will remain in place.³

11 **Joint and Several Liability**⁴

12 The Court amended the judgment to hold AM-GSR jointly and severally liable with MEI-

13 GSR for all monetary relief awarded. Pursuant to the Stipulation and Order Re: Adding AM-

14 GSR Holdings, LLC ("AM-GSR") as Defendant, filed January 21, 2015, AM-GSR was to be

15 treated as one and the same with MEI-GSR. Moreover, Gage Village Commercial Development,

16 LLC is jointly and severally liable for the \$4,152,669.13 awarded for the unjust enrichment and

17 tortious interference claims. *See* Tr. Of Prove-Up Hearing Day 1, p. 159-162 and Order

18 Granting in Part and Denying in Part Motion to Alter or Amend Judgment filed March 7, 2019,

19 p. 4:19-28. Gage Village was a named defendant in the Second Amended Complaint for the

20 unjust enrichment and tortious interference claims.

21 **Interest**

22 The Court finds that Plaintiffs are entitled to pre-judgment interest on the compensatory

23 damages stated herein pursuant to NRS 17.130(2) which states that: "the judgment draws interest

24 from the time of service of the summons and complaint until satisfied. . . ." Defendants accepted

25 _____

26 ³ The foregoing tracks the Court's Findings of Fact, Conclusions of Law and Judgment dated October 15, 2015.

27 ⁴ The Court revised its initial Findings of Fact, Conclusions of Law and Judgment pursuant to a motion to amend.

28 ORDER GRANTING IN PART AND DENYING IN PART MOTION TO ALTER OR AMEND JUDGMENT,

 filed March 7, 2019 at 4:19-5:4.

1 service on September 28, 2012. Acceptance Of Service, filed October 2, 2012. Pre-judgment
2 interest does not apply to the punitive damages award. The total compensatory award is
3 \$8,318,215.55 and the pre-judgment interest on that amount at the current legal rate of interest of
4 9.5 percent is \$8,177,261.62 in interest through January 31, 2023.

5 **Punitive Damages:**⁵

6 Pursuant to WDCR 12(5) the Court after consideration of the Plaintiffs' November 6,
7 2015 Motion in Support of Punitive Damages Award ("Punitive Damages Motion"), the
8 Defendants' December 1, 2020 opposition ("Opposition"), Plaintiffs' July 30, 2020 Reply in
9 Support of Award of Punitive Damages ("Punitive Damages Reply"), Plaintiffs' July 6, 2022
10 Punitive Damages Summary, Defendants' July 6, 2022 Trial Summary, the oral argument and
11 evidence submitted by the parties during the hearing on July 8 and 18, 2022, a review of the
12 briefing, exhibits, testimony of the witness, transcripts of the proceedings as well as the evidence
13 in the record, including but not limited to, evidence submitted during the underlying hearing on
14 compensatory damages, and being fully informed rules on the Punitive Damages Motion⁶:

15 The Court conducted a prove-up hearing on March 23-25, 2015⁷ after striking the
16 Defendants' answer for discovery abuses and entering a default. This resulted in an admission as
17

18
19 ⁵ This section tracks the Court's January 17, 2023 Order.

20 ⁶ Although no written order finding that punitive damages were warranted was entered after the July 8, 2022 hearing
21 and prior to the commencement of the July 18, 2022 hearing, it appears that all involved agreed that the July 18
22 hearing would not be necessary if Senior Justice Saitta found that punitive damages should not be awarded. The
23 motion was granted orally during the July 18, 2022 hearing. 7/18/2022 Transcript, p. 10, l. 1-2. The findings stated
24 on the record were:

25 There were five tort claims set forth by the plaintiffs in an earlier hearing.
26 Number 1, we have a tortious interference with contract; we have fraud; we have
27 conversion; we have deceptive trade practices -- it appears as if I'm missing one
28 -- oh, tortious breach of the covenant of good faith and fair dealing; fraud and
intentional misrepresentation -- let me be clear on that one -- violation of the
Deceptive Trade Practices Act. And I believe that that contains all the necessary
findings that need to be made for us to proceed in our hearing today.

7/18/2022 Transcript, p. 10; l. 8-18

⁷ Regardless of what an earlier Judge called the proceeding, the March 2015 evidentiary hearing was a bench trial.
The Court has determined that this is a bench trial based upon the USJR definitions.

1 true all allegations contained in the Second Amended Complaint. An order awarding damages
2 and making factual findings was entered on October 9, 2015. The Court at that time requested
3 further briefing on the issue of punitive damages and ordered the parties to contact chambers to
4 schedule a hearing. Defendants have argued the Unit Maintenance Agreement and Unit Rental
5 Agreement prohibit an award of punitive damages and limit an award of compensatory damages.
6 These arguments were already raised and rejected when the Court issued its October 9, 2015
7 Order.

8 The economic loss doctrine does not apply to limit Plaintiffs' recovery for intentional
9 torts.⁸

10 The Nevada Legislature has limited the recovery of punitive damages in NRS 42.005.⁹

11 The Court in the October 9, 2015 Order found that the Defendants had made intentional
12 misrepresentations (fraud), breached the covenant of good faith and fair dealing, and converted
13 the property of the Plaintiffs.

14
15
16 *According to the definitions in the data dictionary, a bench trial is held when a trial begins and evidence is*
17 *taken or witnesses are sworn. Accordingly, if you have indicated that the bench trial was held, then a*
18 *corresponding bench trial disposition should be used to dispose of the case.*

19 See https://nvcourts.gov/AOC/Programs_and_Services/Research_and_Statistics/FAQs/#civil1. The length of time
20 between the first portion of the trial and the conclusion of the trial is one which is unacceptable in the administration
21 of justice in Nevada.

22 ⁸ *Halcrow, Inc. v. Eighth Jud. Dist. Ct.*, 129 Nev. 394, 402 fn. 2 (2013).

23 ⁹ That statute provides in pertinent part:

24 1. Except as otherwise provided in [NRS 42.007](#), in an action for the breach of an obligation not arising from
25 contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud
26 or malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the
27 sake of example and by way of punishing the defendant. Except as otherwise provided in this section or by specific
28 statute, an award of exemplary or punitive damages made pursuant to this section may not exceed:

(a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of
compensatory damages is \$100,000 or more; or

* * *

3. If punitive damages are claimed pursuant to this section, the trier of fact shall make a finding of whether
such damages will be assessed. If such damages are to be assessed, a subsequent proceeding must be conducted
before the same trier of fact to determine the amount of such damages to be assessed. The trier of fact shall make a
finding of the amount to be assessed according to the provisions of this section...

1 The Court is tasked, in part, with determining which causes of action support the punitive
2 damages claim and warrant the award of punitive damages, if any.

3 While it is unclear whether the breach of the implied covenant finding in the October 9,
4 2015 Order is sufficient to support a punitive damages award, the conduct related to the
5 conversion and intentional misrepresentation/fraud claims clearly warrant consideration of such
6 damages. Defendants' officers, including Kent Vaughan, Defendants' Senior Vice President of
7 Operations, admitted to the tortious scheme.¹⁰

8 The Court finds the given the prior striking of Defendant's answer, Vaughn's testimony
9 alone is sufficient to meet the burden of proof of clear and convincing evidence to prove malice,
10 oppression or fraud related to the tortious scheme.

11 The damages awarded in the October 9, 2015 Order are based in part on contract claims.
12 Damages for the tort claims were based upon the same calculations and testimony provided by
13 Plaintiffs' sole witness. This crossover does not preclude an award of punitive damages related
14 to the tort damages but limits a double recovery.

15 A plaintiff may assert several claims for relief and be awarded damages on different
16 theories. It is not uncommon to see a plaintiff assert a contractual claim and also a cause
17 of action asserting fraud based on the facts surrounding the contract's execution and
18 performance. See Amoroso Constr. v. Lazovich and Lazovich, 107 Nev. 294, 810 P.2d
19 775 (1991). The measure of damages on claims of fraud and contract are often the same.
20 However, Marsh is not permitted to recover more than her total loss plus any punitive

21 ¹⁰ Vaughn testified in deposition on August 26, 2013. Relevant portions of the transcript show the conscious
22 decision by an officer of Defendants.

23 Q. How did you first come to know in July of 2011 that the Grand Sierra was taking in income for units
24 that were not in the unit rental program?

25 A. I authorized the front desk to use non-rental units due to demand, consumer demand.

26 Q. And when you authorized the front desk in was it July of 2011 –

27 A. Yes.

28 Q. -- to use units that were not in the unit rental program, did you or anyone else that you know of who
represents the Grand Sierra, contact the Grand Sierra Resort unit rental owners who were not in the program,
to advise them of this policy?

A. No.

Q. Why?

A. I didn't have authorization to rent them.

Q. So it was a conscious decision to rent them without authorization?

A. Yes.

Vaughan Transcript, Ex. 1 to Reply, at p. 29 l. 3-21.

1 damages assessed. She can execute on the assets of any of the five parties to the extent of
2 the judgments entered against them until she recovers her full damages.

3 Topaz Mutual Co. v. Marsh, 108 Nev. 845, (1992) at pages 851- 852.

4 After review of all of the available evidence the Court concludes that two categories of
5 damages from the October 2015 Order warrant and support an award of punitive damages:

6 Damages awarded for underpaid revenues \$442,591.83 fall within the conversion claim¹¹
7 and intentional misrepresentation/fraud¹²;

8 Damages awarded for the rental of units of owners who had no rental agreements.

9 \$4,152,669.13 falls within the conversion claim¹³ and intentional
10 misrepresentation/fraud¹⁴; The award of punitive damages on these claims would not act as a
11 double recovery for Plaintiffs. The Court finds that the remaining damages awarded in the
12 October 9, 2015 Order are based on contract claims rather than tort claims and not appropriate
13 for consideration of punitive damages. Given Defendants' tortious scheme and the intentional
14 misconduct of Defendants, punitive damages in this case are appropriate to set an example.

15 The amount of these damages serves to punish and will not destroy Defendants.¹⁵

16 While the Court recognizes that there is a spectrum of percentages which have been
17 awarded in various Nevada punitive damages cases, given the nature of the conduct and
18 procedural history of this case, the Court concludes the appropriate multiplier in this matter is
19 two (2) times the compensatory award for the conversion claim and intentional
20 misrepresentation/fraud claim. Accordingly based on the compensatory damages for which
21 punitive damages are appropriate totaling \$4,595,260.96 the Court awards punitive damages in
22 the total amount of \$9,190,521.92.

23 _____
24 ¹¹ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

25 ¹² October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

26 ¹³ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

27 ¹⁴ October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

28 ¹⁵ See July 18, 2022 transcript (sealed), p. 100 l. 2 to p. 101 l. 5.

1 **Damages per Plaintiff:¹⁶**

2 During the prove-up hearing in March 2015, Plaintiffs’ expert, Greene, provided a
3 damages allocation by unit. (See Minutes of Prove-Up Hearing Day 1, filed March 23, 2015,
4 noting Exhibit 246, Greene’s report, admitted into evidence.) Greene’s report tracks identically
5 the compensatory damages awarded in the Court’s Findings of Fact, Conclusions of Law and
6 Judgment, issued October 9, 2015 (a total of \$8,318,215.55). Accordingly, Greene’s report
7 reflects the compensatory damages awarded to each Plaintiffs by unit and further demonstrates
8 the amount of punitive damages awarded to each individual unit and Plaintiff.

9 The Court has found Plaintiffs’ claims for conversion and for intentional
10 misrepresentation/fraud are eligible for punitive damages. The conversion claim is directly
11 reported in Greene’s report as “Under (Over) Reported Damages.” The intentional
12 misrepresentation/fraud claim is directly reported in Greene’s report as “Damages w/o Rental
13 Agreements.” Greene calculated the exact amount of damages attributable to each unit for these
14 particular harms. Whereas Mr. Green’s report shows damages per unit for “Under (Over)
15 Reported Damages” and “Damages w/o Rental Agreements,” the Court’s order of punitive
16 damages can appropriately be based on these categories.

17 The below chart provides the damages by unit and by Plaintiff. The “Under (Over)
18 Reported Damages” are restated in the “Underpaid Revenues by Plaintiff” column
19 (\$442,591.83), and the “Damages w/o Rental Agreements” are restated in the “Rentals with no
20 Rental Agreements by Plaintiff” column (\$4,152,669.13). These two amounts are then combined
21 and multiplied to determine the punitive damage award by unit and Plaintiff.

22
23
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28 ¹⁶ The Court’s January 17, 2023 Order granting punitive damages did not provide this breakdown nor any of the
subsequent sections of this order.

Last Name	First Name	Last Name	First Name	Entity	Unit	Damage by Unit	Compensatory Damage by Plaintiff	Underpaid Revenues by Plaintiff	Rentals with no Rental Agreements by Plaintiff	Total Punitive Damages Award by Plaintiff
Akizobunse	Johnson				1722	\$48,216.39	\$48,216.39	\$ 810.52	\$ -	\$ 1,621.04
Alexander	Marie-Anne			as Trustee of Marie-Anne Alexander Living Trust	1902	\$82,279.51	\$82,279.51	\$ 452.00	\$ 76,359.41	\$ 153,622.82
Bhan	Vinod C.	Bhan	Anne C.		1930	\$56,229.33	\$56,229.33	\$ 4,552.62	\$ -	\$ 9,105.24
Browne	Guy P.				2044	\$59,570.72	\$59,570.72	\$ 619.44	\$ -	\$ 1,278.88
Branner	Robert	Branner	Amy		2140	\$96,183.41	\$96,183.41	\$ -	\$ 86,662.15	\$ 173,324.30
Cameron	Gregory A.				1926	\$81,252.59	\$81,252.59	\$ 140.00	\$ 73,953.99	\$ 152,187.98
Chandler	Norman				2104	\$87,151.20	\$87,151.20	\$ 79.00	\$ 74,796.30	\$ 149,750.60
Cheah	Melvin H.				1911	\$74,683.79	\$74,683.79	\$ 26,081.26	\$ -	\$ 52,162.52
Cheng	Peter	Cheng	Elisa		1908	\$60,352.77	\$60,352.77	\$ 2,366.83	\$ -	\$ 4,733.66
Choi	Ki Nam	Choi	Young Ja		2270	\$80,561.44	\$80,561.44	\$ 3,886.32	\$ -	\$ 7,772.64
Chopra	Pravesh				1701	\$94,759.49	\$182,853.20	\$ 184.00	\$ 84,321.45	\$ 169,010.90
Chopra	Pravesh				1917	\$88,093.71	\$ -	\$ -	\$ 80,449.19	\$ 160,895.38
Dunlap	John	Dunlap	Jane		1963	\$73,523.80	\$73,523.80	\$ 26.24	\$ 41,071.01	\$ 82,194.50
Fadrilan	Ramon V.	Fadrilan	Faye B.		1763	\$71,380.90	\$ -	\$ 89.00	\$ 39,710.57	\$ 79,599.14
Fadrilan	Ramon V.	Fadrilan	Faye B.		1765	\$66,039.01	\$221,539.83	\$ 43,968.26	\$ 5,323.62	\$ 98,583.76
Fadrilan	Ramon V.	Fadrilan	Faye B.		1767	\$83,039.92	\$ -	\$ 28,622.76	\$ 3,499.00	\$ 64,243.52
Fish	Frederick	Fish, M.D.	Lisa H.		2328	\$67,790.68	\$137,878.08	\$ 3,289.76	\$ -	\$ 6,579.52
Fish	Frederick	Fish, M.D.	Lisa H.		2347	\$70,087.40	\$ -	\$ 2,657.52	\$ -	\$ 3,315.04
Gupta	Ajit	Gupta	Serna		1731	\$63,353.24	\$192,753.47	\$ 2,181.86	\$ -	\$ 4,363.72
Gupta	Ajit	Gupta	Serna		1919	\$64,151.34	\$ -	\$ 2,873.00	\$ -	\$ 5,746.00
Gupta	Ajit	Gupta	Serna		2045	\$65,248.09	\$ -	\$ 2,821.76	\$ -	\$ 5,643.52
Hays	Barry				1802	\$85,721.90	\$ -	\$ 69.00	\$ 76,794.95	\$ 153,727.90
Hays	Barry				1981	\$68,929.26	\$311,564.87	\$ 31,444.38	\$ 10,659.10	\$ 84,206.96
Hays	Barry				1987	\$69,934.62	\$ -	\$ 32,655.20	\$ 10,643.10	\$ 86,596.60
Hays	Barry				2073	\$86,979.09	\$ -	\$ -	\$ 78,083.68	\$ 156,162.76
Henderson	William A.	Henderson	Christine E.		1832	\$80,844.23	\$80,844.23	\$ -	\$ 78,922.25	\$ 157,844.50
Horn	May Anne			as Trustee of May Anne Horn Trust	1756	\$89,710.22	\$89,710.22	\$ 4,417.04	\$ -	\$ 8,834.08
Harley	Michael				2167	\$30,631.70	\$30,631.70	\$ 334.76	\$ -	\$ 1,009.52
Isady	Michael				2337	\$58,941.83	\$58,941.83	\$ 8,012.72	\$ -	\$ 2,025.44
Kaslan	Timothy D.				1874	\$89,940.94	\$89,940.94	\$ 15.16	\$ 77,873.36	\$ 155,777.04
Kosovick	Mary A.				1728	\$58,949.02	\$ -	\$ 3,810.92	\$ 9,602.70	\$ 26,827.24
Kosovick	Mary A.				1730	\$54,020.54	\$ -	\$ -	\$ 10,191.45	\$ 20,382.90
Kosovick	Mary A.				1945	\$70,603.57	\$305,422.68	\$ 3,692.31	\$ 11,390.76	\$ 30,166.14
Kosovick	Mary A.				2055	\$52,603.17	\$ -	\$ 2,971.13	\$ 9,996.43	\$ 25,935.12
Kosovick	Mary A.				2068	\$69,246.38	\$ -	\$ 3,872.20	\$ 9,383.83	\$ 26,112.06
Lee	Peter K.	Lee	Monica L.	as Trustee of Lee Family 2002 Revocable Trust Dated 05/23/2002	1903	\$71,488.52	\$ -	\$ -	\$ 48,254.61	\$ 96,509.22
							\$142,475.91			

Last Name	First Name	Last Name	First Name	Entity	Unit	Damage by Unit	Compensatory Damage by Plaintiff	Underpaid Revenues by Plaintiff	Rentals with no Rental Agreements by Plaintiff	Total Punitive Damages Award by Plaintiff
Lee	Peter K.	Lee	Monica L.	as Trustee of Lee Family 2002 Revocable Trust	1907	\$70,987.39	\$ -	\$ 36.24	\$ 46,845.51	\$ 93,763.50
Lindgren	Darleen				2157	\$99,276.59	\$99,276.59	\$ 415.00	\$ 77,133.10	\$ 155,096.20
Lutz	Richard	Lutz	Sandra		2087	\$71,006.74	\$71,006.74	\$ 1,153.09	\$ 14,166.81	\$ 30,639.80
Mecham	Doug	Mecham	Christine		1710	\$62,892.15	\$62,892.15	\$ 1,215.11	\$ -	\$ 2,430.22
Mecua	Elizabeth Andres				1940	\$79,731.69	\$79,731.69	\$ 32,168.83	\$ -	\$ 64,337.66
Menmuir	Brett			as Trustee of the Vayenne Trust	1742	\$62,302.83	\$62,302.83	\$ 2,676.04	\$ -	\$ 5,352.08
Miner, Jr.	William B.				2371	\$118,499.63	\$118,499.63	\$ 667.00	\$ -	\$ 1,334.00
Moll	Daniel	Moll	Patricia		1806	\$64,862.73	\$64,862.73	\$ 2,060.31	\$ -	\$ 4,120.62
Nunn	Henry P.	Nunn	D'Arcy		2354	\$74,156.91	\$161,382.96	\$ 34,910.01	\$ 9,971.42	\$ 89,762.86
Nunn	Henry P.	Nunn	D'Arcy		2365	\$87,226.05	\$ -	\$ 158.00	\$ 80,749.83	\$ 161,815.66
Ordover	Lori				1706	\$63,879.92	\$124,867.71	\$ 1,771.33	\$ -	\$ 3,542.66
Ordover	Lori				1708	\$60,987.79	\$ -	\$ 500.93	\$ -	\$ 1,001.86
Parker	Loren D.	Parker	Suzanne C.		2179	\$87,516.72	\$87,516.72	\$ 189.00	\$ 78,345.23	\$ 157,068.46
	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)			as Trustees of Pederson 1990 Trust	1847	\$83,953.63	\$ -	\$ 36.24	\$ 76,305.53	\$ 152,683.54
Pederson	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)	Pederson	Lou Ann	as Trustees of Pederson 1990 Trust	1961	\$89,014.86	\$ -	\$ 630.00	\$ 79,408.62	\$ 160,077.24
	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)			as Trustees of Pederson 1990 Trust	2261	\$87,751.21	\$344,155.97	\$ 89.00	\$ 80,058.60	\$ 160,295.20
Pederson	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)	Pederson	Lou Ann							

Last Name	First Name	Last Name	First Name	Entity	Unit	Damage by Unit	Compensatory Damage by Plaintiff	Underpaid Revenues by Plaintiff	Rentals with no Rental Agreements by Plaintiff	Total Punitive Damages Award by Plaintiff
	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)			as Trustees of Pederson 1990 Trust	2345	\$83,436.27		\$ 140.00	\$ 75,679.11	\$ 151,638.22
Pederson		Pederson	Lou Ann							
Pederson	Robert R. (substituted by Lou Ann Pederson, see Order Granting Motion to Substitute Party - Pederson, filed May 8, 2019)	Pederson	Lou Ann	as Trustees of Pederson 1990 Trust	2359	\$87,207.17	\$87,207.17	\$ 26.24	\$ 79,098.60	\$ 158,249.68
Pham	Jacquelin				1906	\$61,578.61	\$61,578.61	\$ 1,241.39	\$ -	\$ 2,482.78
Pope	Terry L.	Pope	Nancy D.		1740	\$86,575.30	\$86,575.30	\$ 57.16	\$ 75,825.80	\$ 151,765.92
Quinn	Jeffery James	Quinn	Barbara Rose		1870	\$82,820.31	\$164,985.76	\$ 128.16	\$ 77,164.30	\$ 154,584.92
Quinn	Jeffery James	Quinn	Barbara Rose		1977	\$82,165.45		\$ 89.00	\$ 77,465.54	\$ 155,109.08
Raghuram	Rajagopalan (Raj)	Raghuram	Usha		1790	\$56,042.86	\$56,042.86	\$ 1,201.05	\$ -	\$ 2,402.10
Raines	Sandi				1803	\$65,413.29		\$ 319.88	\$ -	\$ 639.76
Raines	Sandi				1805	\$69,810.19	\$135,223.48	\$ -	\$ -	\$ -
Riche	Kenneth	Riche	Maxine		1865	\$94,087.43		\$ 945.00	\$ 74,372.22	\$ 150,634.44
Riche	Kenneth	Riche	Maxine		1975	\$91,014.45	\$276,835.14	\$ 773.00	\$ 77,360.73	\$ 156,267.46
Riche	Kenneth	Riche	Maxine		2357	\$91,733.26		\$ 580.00	\$ 74,285.03	\$ 149,730.06
Riopelle	Jeffrey G.				2059	\$89,149.87	\$89,149.87	\$ 89.00	\$ 77,265.04	\$ 154,708.08
Roberts	Laverne				1729	\$59,115.78	\$59,115.78	\$ 1,360.33	\$ -	\$ 2,720.66
Schreisfels	Donald (settled individually)				2053	\$0.00	\$0.00	\$ -	\$ -	\$ -
Shamieh	Elias				2275	\$66,595.17	\$66,595.17	\$ 6,277.99	\$ -	\$ 12,555.98
Shen	Di				1939	\$60,303.64	\$60,303.64	\$ 3,031.44	\$ -	\$ 6,062.88
Sohn	Sang Dae				2475	\$59,468.62	\$59,468.62	\$ 4,764.47	\$ -	\$ 9,528.94
Son	Kwangsoo	Moon	Sooyeon		2189	\$58,878.41	\$58,878.41	\$ 1,372.44	\$ -	\$ 2,744.88
Takaki	Steve W.				1732	\$46,608.32	\$46,608.32	\$ 918.77	\$ -	\$ 1,837.54
Taylor	James	Taylor	Ryan		1769	\$43,762.92		\$ -	\$ 0	\$ -
Taylor	James	Taylor	Ryan		1775	\$65,740.07	\$109,502.99	\$ 3,420.67	\$ 371.53	\$ 7,584.40
Last Name	First Name	Last Name	First Name	Entity	Unit	Damage by Unit	Compensatory Damage by Plaintiff	Underpaid Revenues by Plaintiff	Rentals with no Rental Agreements by Plaintiff	Total Punitive Damages Award by Plaintiff
Thomas	Albert (substituted by Marie-Anne Alexander, see Order Granting Motion to Substitute Party - Thomas, filed May 8, 2019)				2065	\$82,761.59	\$82,761.59	\$ -	\$ 79,529.72	\$ 159,059.44
Tokutomi	Lori K.				1711	\$59,116.73	\$59,116.73	\$ 2,929.16	\$ -	\$ 5,858.32
Tom	Garret	Tom	Anita		1845	\$96,015.86		\$ 118.00	\$ 76,097.80	\$ 152,431.60
Tom	Garret	Tom	Anita		1903	\$96,051.37	\$192,067.23	\$ 101.00	\$ 76,334.58	\$ 152,871.16
Torabkhan	Farhad (substituted by Peter Michael Torabkhan, see Order Granting Motion to Substitute Party - Torabkhan, filed December 12, 2019)	Tavakoli	Sahar			\$60,870.58	\$60,870.58	\$ 1,726.13	\$ -	\$ 3,452.26
Truong	Chanh				2389	\$71,070.29	\$71,070.29	\$ 140.00	\$ 47,173.36	\$ 94,626.72
Vagujhelyi	George	Vagujhelyi	Melissa	as Trustees of The George Vagujhelyi and Melissa Vagujhelyi 2001 Family Trust Agreement U/T/A Dated April 13, 2001	1827	\$86,267.97	\$86,267.97	\$ 445.00	\$ 75,693.33	\$ 152,276.66
van der Bokke	Lee	van der Bokke	Madelyn		1971	\$63,680.29	\$63,680.29	\$ 379.04	\$ 16,495.32	\$ 33,748.72
van der Bokke	Lee				2385	\$69,087.09	\$69,087.09	\$ 559.72	\$ 17,980.96	\$ 37,081.36
Wan	Benton				1838	\$96,687.85	\$96,687.85	\$ 62.00	\$ 77,365.40	\$ 154,854.80
Weiss	Irene (substituted by Mark Weiss, see Order Granting Motion to Substitute Party - Weiss, filed May 8, 2019)			as Trustee of Weiss Family Trust	2041	\$70,375.84		\$ 35,934.71	\$ -	\$ 71,869.42
Weiss	Irene			as Trustee of Weiss Family Trust	2326	\$73,257.72	\$143,633.56	\$ 305.00	\$ 40,843.26	\$ 82,296.52
Williams	Robert A.				1822	\$58,600.10		\$ 2,180.07	\$ -	\$ 4,360.14
Williams	Robert A.				1824	\$61,424.11	\$181,495.57	\$ 1,699.73	\$ -	\$ 3,399.46
Williams	Robert A.				1826	\$61,471.36		\$ 1,544.89	\$ -	\$ 3,089.78

Last Name	First Name	Last Name	First Name	Entity	Unit	Damage by Unit	Compensatory Damage by Plaintiff	Underpaid Revenues by Plaintiff	Rentals with no Rental Agreements by Plaintiff	Total Punitive Damages Award by Plaintiff
Williams	Garth A.	Aratani	Pamela Y.		1979	\$85,473.87	\$85,473.87	\$ 34,654.59	\$ 24,076.43	\$ 117,462.04
Windhorst	Duane H.	Windhorst	Marilyn L.		2181	\$87,704.42	\$87,704.42	\$ 120.00	\$ 75,411.43	\$ 151,062.86
Yin	Dominic				1837	\$56,542.70	\$56,542.70	\$ 2,246.56	\$ -	\$ 4,493.12
Yoo	Kuk Hyun (Connie)	Yoo	Sang Soon (Mike)		2283	\$64,159.40	\$64,159.40	\$ 2,182.92	\$ -	\$ 4,365.84
				Shepherd Mountain, LLC	1714	\$84,953.46	\$1,089,361.76	\$ -	\$ 77,491.86	\$ 154,983.72
				Shepherd Mountain, LLC	1715	\$84,225.56		\$ 1,274.10	\$ 78,957.43	\$ 160,463.06
				Shepherd Mountain, LLC	1720	\$85,183.21		\$ 120.00	\$ 81,838.43	\$ 163,916.86
				Shepherd Mountain, LLC	1749	\$87,942.13		\$ 1,810.00	\$ 80,334.49	\$ 164,288.98
				Shepherd Mountain, LLC	1750	\$82,185.25		\$ 754.00	\$ 76,578.51	\$ 154,665.02
				Shepherd Mountain, LLC	1755	\$83,165.76		\$ -	\$ 80,049.04	\$ 160,098.08
				Shepherd Mountain, LLC	1757	\$85,100.41		\$ 88.00	\$ 81,606.67	\$ 163,389.34
				Shepherd Mountain, LLC	1773	\$85,274.88		\$ 197.00	\$ 81,395.17	\$ 163,184.34
				Shepherd Mountain, LLC	1778	\$82,344.93		\$ 142.00	\$ 76,838.50	\$ 153,961.00
				Shepherd Mountain, LLC	1780	\$81,211.43		\$ 95.88	\$ 77,642.62	\$ 155,477.00
				Shepherd Mountain, LLC	1781	\$81,828.24		\$ 92.00	\$ 76,332.60	\$ 152,849.20
				Shepherd Mountain, LLC	1791	\$81,523.39		\$ 69.00	\$ 77,529.15	\$ 155,196.30
				Shepherd Mountain, LLC	1828	\$84,423.11		\$ -	\$ 80,459.52	\$ 160,919.04
				TMI Property Group LLC	1762	\$82,778.54	\$148,298.51	\$ 38,521.03	\$ 20,219.67	\$ 117,481.40
				TMI Property Group LLC	1770	\$65,519.97		\$ 940.34	\$ 16,974.96	\$ 35,830.60
				Nadine's Real Estate Investments, LLC	1886	\$61,785.10		\$ 2,184.71	\$ 10,509.85	\$ 25,389.12
				Silkscape, Inc.	2063	\$83,271.44	\$83,271.44	\$ -	\$ 79,449.59	\$ 158,809.18
				JL & YL Holdings, LLC	2165	\$92,140.35	\$92,140.35	\$ 75.00	\$ 79,404.36	\$ 158,958.72
				M&Y Holdings, LLC	2169	\$92,790.50	\$92,790.50	\$ 89.00	\$ 80,249.67	\$ 160,677.34
TOTAL:						\$8,318,215.55	\$8,318,215.55	\$ 442,591.83	\$ 4,152,669.13	\$ 9,190,521.92

Receivership

The Court appointed a Receiver to take charge of and exercise control over the Grand Sierra Unit Owners' Association on January 7, 2015. ORDER APPOINTING RECEIVER AND DIRECTING DEFENDANTS' COMPLIANCE, filed January 7, 2015. The Receivership currently remains in place. Nevada law allows for a receiver to be appointed "after judgment, to carry the judgment into effect," and "after judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal" or in other post-judgment situations. NRS 32.010(3), (4).

The instant case circumstances necessitate the continued receivership over the Grand Sierra Resort Unit Owners' Association after entry of this final judgment until all other Grand Sierra Unit Owners' Association business is brought current and/or wound up.

Continued Jurisdiction

1 The Court has issued orders allowing Defendants to terminate the Grand Sierra Unit
2 Owners' Association to sell the Plaintiffs' and Defendants' units at fair market value under the
3 control of the receivership. The Court has directed that such sale is to take place under Court
4 supervision. The Court therefore must retain jurisdiction over this matter such that it can
5 supervise the sale of any condominium units and the payout to the Parties for such sale and under
6 this final judgment. Retention of jurisdiction for this limited purpose is appropriate. See Hilao
7 v. Estate of Marcos, 103 F.3d 762, 764 (9th Cir. 1996).

8 DATED: _____

10 _____
11 Hon. Elizabeth Gonzalez, (Ret.)
12 Sr. District Court Judge

13 Submitted by:

14 ROBERTSON, JOHNSON,
15 MILLER & WILLIAMSON

16 /s/ Jarrad C. Miller
17 Jarrad C. Miller, Esq. (NV Bar No. 7093)
18 Briana N. Collings, Esq. (NV Bar No. 14694)
19 *Attorneys for Plaintiffs*

EXHIBIT O

From: [Robert L. Eisenberg, Esq](#)
To: [Jordan T. Smith](#); [Jarrad Miller](#)
Cc: [Kimberly Peets](#)
Subject: RE: Thomas v. MEI-GSR Holdings, LLC
Date: Tuesday, February 28, 2023 2:17:39 PM
Attachments: [image001.png](#)
[image004.png](#)

CAUTION: This message is from an EXTERNAL SENDER.

Dear Jordan:

On January 23, 2023, we had a conference call, at your request, to discuss the judgment and the supersedeas bond. I gave you Plaintiffs' proposed number for the bond: \$25.6 million to cover the judgment amount, plus an amount for post-judgment interest at the present legal rate for 24 months. You indicated you thought 18 months would be more appropriate. As I recall, I indicated that Jarrad and I would consider going along with 18 months, with the understanding that any stipulation/order would have a provision allowing the bond to be increased if the appeal dragged on too long.

I have not heard back from you. In the meantime, you served notice of entry of the judgment on February 10. This triggered the 30-day automatic stay. The automatic stay will expire on March 13. Please let us know your intentions regarding the bond.

Thank you.

Bob Eisenberg



Robert L. Eisenberg
Attorney at Law
Fellow, American Academy of Appellate Lawyers

Lemons, Grundy & Eisenberg
6005 Plumas Street, Third Floor | Reno, NV 89519
t 775.786.6868 | f 775.786.9716 | www.lge.net

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From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Monday, January 23, 2023 9:27 AM
To: Robert L. Eisenberg, Esq <rl@lge.net>; Jarrad Miller <jarrad@nvlawyers.com>
Cc: Kimberly Peets <kap@pisanellibice.com>
Subject: RE: Thomas v. MEI-GSR Holdings, LLC

If 2:30 tomorrow works for Jarrad, we'll circulate a conference number.

Thanks,

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

From: Robert L. Eisenberg, Esq <rle@lge.net>
Sent: Monday, January 23, 2023 8:50 AM
To: Jarrad Miller <jarrad@nvlawyers.com>; Jordan T. Smith <JTS@pisanellibice.com>
Subject: RE: Thomas v. MEI-GSR Holdings, LLC

CAUTION: This message is from an EXTERNAL SENDER.

My email said Tuesday after 1:30pm. But I prefer after **2:30pm** instead. Available the rest of the afternoon Tuesday.

Bob Eisenberg

From: Jarrad Miller <jarrad@nvlawyers.com>
Sent: Monday, January 23, 2023 8:41 AM
To: Jordan T. Smith <JTS@pisanellibice.com>; Robert L. Eisenberg, Esq <rle@lge.net>
Subject: RE: Thomas v. MEI-GSR Holdings, LLC

Jordan and Bob:

I am available Tuesday afternoon.

Best regards,

Jarrad C. Miller, Esq.
Robertson, Johnson, Miller & Williamson
50 West Liberty Street, Suite 600
Reno, NV 89501
Telephone: (775) 329-5600
Facsimile: (775) 348-8300
Email: JARRAD@NVLAWYERS.COM
Website: www.nvlawyers.com

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From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Monday, January 23, 2023 7:45 AM
To: Robert L. Eisenberg, Esq <rle@lge.net>
Cc: Jarrad Miller <jarrad@nvlawyers.com>
Subject: Re: Thomas v. MEI-GSR Holdings, LLC

Jarrad – Do you have any availability this morning or Tuesday afternoon as Bob indicated?

From: "Robert L. Eisenberg, Esq" <rle@lge.net>
Date: Friday, January 20, 2023 at 5:20 PM
To: "Jordan T. Smith" <JTS@pisanellibice.com>
Cc: Miller Jarrad <jarrad@nvlawyers.com>
Subject: RE: Thomas v. MEI-GSR Holdings, LLC

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Limited availability Monday. OK in the morning, but booked up most of the afternoon. Tuesday not available at all in the morning. Available from 1:30pm until 4pm in the afternoon

From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Friday, January 20, 2023 12:13 PM
To: Robert L. Eisenberg, Esq <rle@lge.net>
Cc: Miller Jarrad <jarrad@nvlawyers.com>
Subject: RE: Thomas v. MEI-GSR Holdings, LLC

Great. Let me know a convenient time on Monday or Tuesday next week. I'm largely open with the exception of a hearing at 10:30 on Tuesday.

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

From: Robert L. Eisenberg, Esq <rle@lge.net>
Sent: Friday, January 20, 2023 12:05 PM
To: Jordan T. Smith <JTS@pisanellibice.com>
Cc: Miller Jarrad <jarrad@nvlawyers.com>
Subject: Re: Thomas v. MEI-GSR Holdings, LLC

CAUTION: This message is from an EXTERNAL SENDER.
Yes. But Jarrad Miller needs to be in the conversation. I added him to the CC on this email.

Sent from my iPhone

On 20 Jan 2023, at 11:40 a.m., Jordan T. Smith <JTS@pisanellibice.com> wrote:

Bob,

I hope you are well. Do you have time early next week to discuss a couple issues related to the Thomas v. MEI-GSR matter? I'm thinking specifically about judgment and bond issues.

Thanks,

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101