

CASE NO. 86462

IN THE SUPREME COURT OF NEVADA

ROWEN SEIBEL, MOTI PARTNERS, LLC; MOTI PARTNERS 16, LLC; LLTQ ENTERPRISES, LLC; LLTQ ENTERPRISES 16, LLC; TPOV ENTERPRISES, LLC; TPOV ENTERPRISES 16, LLC; FERG, LLC; FERG 16, LLC; CRAIG GREEN; R SQUARED GLOBAL SOLUTIONS, LLC, Derivatively on Behalf of DNT ACQUISITION, LLC; and GR BURGR, LLC,

Appellants,

vs.

DESERT PALACE, INC.; PARIS LAS VEGAS OPERATING COMPANY, LLC; PHWLTV, LLC; and BOARDWALK REGENCY CORPORATION,

Respondents.

District Court Case No. A-17-760537-B

APPENDIX OF EXHIBITS TO APPELLANT'S OPENING BRIEF

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<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Order Granting Motion to Redact Caesars' Opposition to the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) To Compel Responses to Written Discovery on Order Shortening Time; and Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green and Seal Exhibits 3-6, 8-11, 13, 14, and 16 Thereto, filed February 3, 2021	13	82	AA02612-AA02625
Notice of Entry of Order Granting Motion to Redact Caesars' Opposition to the Development Parties' Motion For Leave to File A Supplement to their Oppositions to Motions for Summary Judgment on Order Shortening Time, filed July 26, 2022	38	147	AA08072-AA08083
Notice of Entry of Order Granting Motion to Redact Caesars' Reply to Development Parties' Omnibus Supplement to Their Oppositions to Motions for Summary Judgment Filed by Caesars and Ramsay and Seal Exhibit 115 Thereto, filed June 2, 2022	34	132	AA07101-AA07112

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Order Granting Motion to Redact Caesars' Reply in Support of (1) Counter-Motion for Summary Judgment Against Craig Green; and (2) Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV – VIII of the First Amended Complaint) and Seal Exhibits 39-43 and 45-47 Thereto; and to Redact Reply in Support of PHWLTV, LLC's Motion for Attorneys' Fees and to Seal Exhibit 4 thereto, filed March 17, 2023	42	167	AA09054-AA09065
Notice of Entry of Order Granting Motion to Redact Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment, filed July 26, 2022	38	145	AA08051-AA08062
Notice of Entry of Order Granting Motion to Redact Opposition to Craig Green's Motion for Summary Judgment; Countermotion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV – VIII of the First Amended Complaint) and Seal Exhibits 2-3, 15-18, 21, 23-28, 31 and 33 in Appendix Thereto, filed March 17, 2023	42	166	AA09042-AA09053

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Order Granting Motion to Redact Replies in Support of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 82, 84-87, 90, 82, 99-100, and 109-112 to the Appendix of Exhibits in Support of Caesars' Replies in Support of its Motions for Summary Judgment, filed January 4, 2022	33	121	AA06980-AA06992
Notice of Entry of Order Granting Motion to Seal Exhibit 23 to Caesars' Reply in Support of its Motion for Leave to File First Amended Complaint, filed April 13, 2020	5	57	AA01156-AA01162
Notice of Entry of Order Granting Proposed Plaintiff in Intervention The Original Homestead Restaurant, Inc. d/b/a The Old Homestead Steakhouse's Motion to Intervene, filed October 23, 2018	2	27	AA00383-AA00388
Notice of Entry of Order Granting the Development Parties' Motion for Leave to File a Supplement to Their Opposition to Motions for Summary Judgment, filed December 27, 2021	33	118	AA06945-AA06956
Notice of Entry of Order Granting the Development Parties' Motion to Redact Their Oppositions to the Counter-Motion and Cross-Motion for Summary Judgment and to Seal All or Portions of Exhibits A-2, A-3, B, D-F, and I-N to the Appendix of Exhibits Supporting the Oppositions, filed October 27, 2022	41	162	AA08869-AA08878

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Notice of Entry of Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	2	33	AA00445-AA00469
Notice of Entry of Stipulation and Order for a Limited Extension of the Dispositive Motion Deadline, filed February 18, 2021	13	88	AA02687-AA02700
Notice of Entry of Stipulation and Order of Dismissal of J. Jeffrey Frederick With Prejudice, filed August 28, 2019	2	37	AA00483-AA00487
Notice of Entry of Stipulation and Order of Dismissal With Prejudice, filed June 3, 2022	34	136	AA07165-AA07173
Notice of Entry of Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 13, 2018	1	17	AA00218-AA00224
Notice of Entry of Stipulation and Proposed Order to Extend Discovery Deadlines (Ninth Request), filed October 19, 2020	7	70	AA01494-AA01523
Notice of Order Granting Caesars' Motion for Leave to File First Amended Complaint, filed March 11, 2020	5	52	AA01093-AA01100
Objections to Evidence Offered by Caesars in Support of its Motions for Summary Judgment, filed March 30, 2021	20	98	AA04118-AA04125

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
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Objections to Exhibits Offered in Support of Craig Green’s Motion for Summary Judgment, filed July 14, 2022	37	142	AA08034-AA08037
Objections to Exhibits Offered in Support of Craig Green’s Opposition to Caesars’ Counter-Motion for Summary Judgment and Rowen Seibel and the Development Entities’ Opposition to Caesars’ Cross-Motion for Summary Judgment, filed October 12, 2022	39	157	AA08432-AA08435
Objections to Exhibits Offered in Support of Plaintiffs’ Omnibus Supplement to Their Oppositions to Motions For Summary Judgment, filed January 13, 2022	33	123	AA07003-AA07006
Objections to Exhibits Offered in Support of the Seibel Parties’ Oppositions to Caesars’ Motions for Summary Judgment, filed November 30, 2021	32	114	AA06801-AA06808
Omnibus Order Granting the Development Entities, Rowen Seibel, and Craig Green’s Motions to Seal and Redact, filed May 26, 2021	31	109	AA06426-AA06437

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Omnibus Order Granting the Development Parties' Motions to Seal and Redact, filed February 8, 2022	33	126	AA07030-AA07038
Opposition to Caesars Motion for Leave to File First Amended Complaint, filed December 23, 2019 – FILED UNDER SEAL	5	47	AA00935-AA01009
Opposition to Craig Green's Motion for Summary Judgment; Counter-Motion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint), filed July 14, 2022 – FILED UNDER SEAL	35	139	AA07450-AA07475
Opposition to Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses and Counterclaims, filed on October 14, 2019	3	39	AA00605-AA00704
Order (i) Denying the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green, filed on February 4, 2021	13	85	AA02657-AA02664
Order Denying Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses and Counterclaims, filed on November 25, 2019	4	43	AA00759-AA00762

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Order Granting Caesars' Motion for Leave to File First Amended Complaint, filed March 10, 2020	5	51	AA01088-AA01092
Order Granting Craig Green's Motion to Seal Exhibits 1-6 and 9-11 to His Motion for Summary Judgment, filed August 15, 2022	38	148	AA08084-AA08090
Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66-67, 73, and 76-80 to the Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed January 28, 2022	33	124	AA07007-AA07016
Order Granting Motion to Redact Caesars' Opposition to the Development Entities, Rowen Seibel, and Craig Green's Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) To Compel Responses to Written Discovery on Order Shortening Time; and Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green and Seal Exhibits 3-6, 8-11, 13, 14, and 16 Thereto, filed February 2, 2021	13	81	AA02601-AA02611
Order Granting Motion to Redact Caesars' Opposition to the Development Parties' Motion For Leave to File A Supplement to their Oppositions to Motions for Summary Judgment on Order Shortening Time, filed July 26, 2022	38	146	AA08063-AA08071

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Order Granting Motion to Redact Caesars' Reply in Support of (1) Counter-Motion for Summary Judgment Against Craig Green; and (2) Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV – VIII of the First Amended Complaint) and Seal Exhibits 39-43 and 45-47 Thereto; and to Redact Reply in Support of PHWLTV, LLC's Motion for Attorneys' Fees and to Seal Exhibit 4 thereto, filed March 16, 2023	42	165	AA09033-AA09041
Order Granting Motion to Redact Caesars' Reply to Development Parties' Omnibus Supplement to Their Oppositions to Motions for Summary Judgment Filed by Caesars and Ramsay and Seal Exhibit 115 Thereto, filed May 31, 2022	34	131	AA07092-AA07100
Order Granting Motion to Redact Caesars' Response to Objections to Evidence Offered in Support of Motions for Summary Judgment, filed July 26, 2022	38	144	AA08042-AA08050
Order Granting Motion to Redact Opposition to Craig Green's Motion for Summary Judgment; Countermotion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV – VIII of the First Amended Complaint) and Seal Exhibits 2-3, 15-18, 21, 23-28, 31 and 33 in Appendix Thereto, filed March 16, 2023	42	164	AA09024-AA09032

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Order Granting Motion to Redact Replies in Support of Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 82, 84-87, 90, 82, 99-100, and 109-112 to the Appendix of Exhibits in Support of Caesars' Replies in Support of its Motions for Summary Judgment, filed January 3, 2022	33	120	AA06970-AA06979
Order Granting Motion to Seal Exhibit 23 to Caesars' Reply in Support of its Motion for Leave to File First Amended Complaint, filed April 13, 2020	5	56	AA01152-AA01155
Order Granting Proposed Plaintiff in Intervention The Original Homestead Restaurant, Inc. d/b/a The Old Homestead Steakhouse's Motion to Intervene, filed October 23, 2018	2	26	AA00381-AA00382
Order Granting the Development Parties' Motion for Leave to File a Supplement to Their Opposition to Motions for Summary Judgment, filed December 27, 2021	33	117	AA06936-AA06944
Order Granting the Development Parties' Motion to Redact Their Oppositions to the Counter-Motion and Cross-Motion for Summary Judgment and to Seal All or Portions of Exhibits A-2, A-3, B, D-F, and I-N to the Appendix of Exhibits Supporting the Oppositions, filed October 26, 2022	41	161	AA08862-AA08868
Plaintiff's Reply to Defendant PHWLTV, LLC's Counterclaims, filed August 25, 2017	1	9	AA00168-AA00173

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Reply in Support of (1) Counter-Motion for Summary Judgment Against Craig Green and (2) Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint), filed October 12, 2022 – FILED UNDER SEAL	39	158	AA08436-AA08452
Reply in Support of Craig Green’s Motion for Summary Judgment, filed October 12, 2022	39	155	AA08411-AA08422
Reply in Support of Motion to Amend LLTQ/FERG Defendants’ Answer, Affirmative Defenses and Counterclaims, filed on October 17, 2019	3	41	AA00711-AA00726
Reply to DNT Acquisition, LLC’s Counterclaims, filed July 25, 2018	2	23	AA00339-AA00350
Reply to LLTQ/FERG Defendants’ Counterclaims, filed July 25, 2018	2	24	AA00351-AA00374
Reporter’s Transcript, taken December 14, 2020	13	80	AA02498-AA02600
Reporter’s Transcript, taken December 6, 2021	33	116	AA06820-AA06935
Reporter’s Transcript, taken February 12, 2020	5	50	AA01060-AA01087
Reporter’s Transcript, taken May 20, 2020	6	60	AA01170-AA01224
Reporter’s Transcript, taken November 22, 2022	42	163	AA08879-AA09023

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Reporter's Transcript, taken November 6, 2019	4	42	AA00727- AA00758
Reporter's Transcript, taken September 23, 2020	7	67	AA01389- AA01462
Request for Judicial Notice of Exhibit 30 in Appendix of Exhibits in Support of Caesars' Opposition to Craig Green's Motion for Summary Judgment; Counter-Motion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint), filed July 14, 2022	37	143	AA08038- AA08041
Request for Judicial Notice of Exhibits 39, 59, and 62 in Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed February 25, 2021	20	96	AA04076- AA04079
Response to Objections to Evidence Offered by Caesars in Support of its Opposition to Craig Green's Motion for Summary Judgment; Counter-Motion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VII of the First Amended Complaint), filed August 31, 2022	38	152	AA08146- AA08150

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Response to Objections to Evidence Offered by Caesars in Support of Its Opposition to Craig Green’s Motion for Summary Judgment; Counter-Motion for Summary Judgment Against Craig Green; and Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint), filed October 12, 2022	39	156	AA08423-AA08431
Rowen Seibel and the Development Entities’ Opposition to Caesars’ Cross-Motion for Summary Judgment, filed August 31, 2022 – FILED UNDER SEAL	38	151	AA08123-AA08145
Stipulated Confidentiality Agreement and Protective Order, filed March 12, 2019	2	32	AA00423-AA00444
Stipulation and Order for a Limited Extension of the Dispositive Motion Deadline, filed February 17, 2021	13	87	AA02676-AA02686
Stipulation and Order of Dismissal of J. Jeffrey Frederick With Prejudice, filed August 28, 2019	2	36	AA00481-AA00482
Stipulation and Order of Dismissal With Prejudice, filed June 2, 2022	34	133	AA07113-AA07118
Stipulation and Order to Consolidate Case No. A-17-760537-B with and into Case No. A-17-751759-B, filed February 9, 2018	1	16	AA00214-AA00217
Stipulation and Proposed Order to Extend Discovery Deadlines (Ninth Request), filed October 15, 2020	7	69	AA01467-AA01493

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
Substitution of Attorneys for GR Burger, LLC, filed March 17, 2021	20	97	AA04080-AA04417
The Development Entities and Rowen Seibel's Opposition to Caesars' Motion for Summary Judgment No. 1, filed March 30, 2021 – FILED UNDER SEAL	20	99	AA04126-AA04175
The Development Entities, Rowen Seibel, and Craig Green's Answer to Caesars' First Amended Complaint and Counterclaims, filed June 19, 2020	6	62	AA01231-AA01281
The Development Entities, Rowen Seibel, and Craig Green's Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) To Compel Responses to Written Discovery on Order Shortening Time, filed November 20, 2020 – FILED UNDER SEAL	7	71	AA01524-AA01591
The Development Entities, Rowen Seibel, and Craig Green's: (1) Reply in Support of Motion For Leave/ To Compel; (2) Opposition to Caesars' Countermotion for Protective Order; and (3) Opposition to Motion to Compel Deposition of Craig Green, filed December 7, 2020	12	78	AA02460-AA02469
The Development Entities' Opposition to Caesars' Motion to Strike Counterclaims, and/or in the Alternative, Motion to Dismiss, filed August 3, 2020	6	65	AA01316-AA01373

<u>Document Title:</u>	<u>Vol. No.:</u>	<u>Tab No.:</u>	<u>Page Nos.:</u>
The Development Parties' Omnibus Supplement to Their Oppositions to Motions for Summary Judgment Filed by Caesars and Ramsay, filed December 30, 2021	33	119	AA06957-AA06969
Verified Complaint and Demand for Jury Trial, filed February 28, 2017	1	1	AA00001-AA00036

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 27th day of September, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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PHWLV, LLC; and Boardwalk Regency
Corporation*

/s/ Susan Russo

Employee of BAILEY ♦ KENNEDY

TAB 67

1 CASE NO. A-17-751759-B

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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* * * * *

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ROWEN SEIBEL,

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Plaintiff,

)

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vs.

)

12

PHWLTV LLC,

)

13

Defendant.

)

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REPORTER'S TRANSCRIPT

16

OF

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MOTION

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(TELEPHONIC HEARING)

19

20

BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

21

DISTRICT COURT JUDGE

22

23

DATED WEDNESDAY, SEPTEMBER 23, 2020

24

25

REPORTED BY: PEGGY ISOM, RMR, NV CCR #541

Peggy Isom, CCR 541, RMR

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Pursuant to NRS 239.053, illegal to copy without payment.

AA01389

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4 DEPARTMENT 16 ARE BEING HEARD VIA TELEPHONIC
APPEARANCE)

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AA01390

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AA01391

1 LAS VEGAS, NEVADA, WEDNESDAY, SEPTEMBER 23, 2020

2 9:15 A.M.

3 P R O C E E D I N G S

4 * * * * *

5
6 THE COURT: Rowen Seibel versus PHWLTV LLC
7 et al. Let's go ahead and place our appearances on the
8 record.

9 MR. BAILEY: Good morning, your Honor. This
09:15:49 10 is John Bailey and Paul Williams on behalf of plaintiff
11 Rowen Seibel, Craig Green, and the development
12 entities.

13 And we would ask that this matter be reported.

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

09:16:09 15 Did you get that, Ms. Isom?

16 THE COURT REPORTER: I did. Thank you.

17 MR. PISANELLI: Good morning, your Honor.
18 James Pisanelli on behalf of the Caesars entities.

19 MS. SPINELLI: Good morning, your Honor.
09:16:18 20 Debra Spinelli on behalf of the Caesars entities.

21 MS. WATKINS: Good morning, your Honor.
22 Brittnie Watkins on behalf of the Caesars entities.

23 MR. TENNERT: Good morning, your Honor. John
24 Tennert on behalf of Gordon Ramsey.

09:16:33 25 MR. LOVAAS: Good morning, your Honor. Aaron

Peggy Isom, CCR 541, RMR

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AA01392

09:16:34 1 Lovaas on behalf of the nominal plaintiff GRB.

2 THE COURT: All right. Does that cover
3 everyone? I think so.

4 (Reporter clarification)

09:16:43 5 MS. SPINELLI: Debra Spinelli for Pisanelli
6 Bice.

7 THE COURT: Okay. And once again, good
8 morning. And it appears we have a couple of matters
9 on. We have Caesars' motion to strike Seibel
09:17:07 10 affiliated entities' counterclaims and/or in the
11 alternative motion to dismiss.

12 And then we also have the development entities
13 and Rowen Seibel's motion to compel production of
14 financial records related to Gordon Ramsey Steak
09:17:22 15 Atlantic City. So it appears to me then, tell me if
16 you agree on this, it's probably better to deal with
17 the motion to strike and/or dismiss first.

18 MR. PISANELLI: James Pisanelli, your Honor.
19 That makes sense to us.

09:17:37 20 MR. BAILEY: This is John Bailey, your Honor.
21 I agree with Mr. Pisanelli.

22 THE COURT: All right. Okay.

23 And so anyway, let's go ahead and deal with
24 that matter. And we're going to deal first with the
09:17:49 25 Caesar's motion to strike and/or motion to dismiss.

09:17:55 1 MR. PISANELLI: Thank you, your Honor. James
2 Pisanelli on behalf of the Caesars entities.

3 Your Honor, we filed this motion to dismiss or
4 I should say motion to strike or in the alternative to
09:18:08 5 dismiss because we have, by all measures, a rogue
6 pleading entered into this case that is attempting to
7 turn the case upside down.

8 I have to give Mr. Seibel credit. The move,
9 if nothing, is not brazen. As your Honor may recall,
09:18:27 10 Mr. Seibel and his entities first asked for permission
11 to do what they're doing. And, of course, the Court
12 denied that finding that there is no good cause for the
13 Seibel entities and Mr. Seibel to have sat on their
14 hands for so long in this case only to want a do-over.
09:18:48 15 Whether that's because they got new counsel or
16 otherwise didn't carry the day.

17 So having been denied, they went ahead and did
18 it anyway presumably with the plan to seek forgiveness
19 from you after the fact. And they even did that after
09:19:03 20 having been called out. Your Honor may remember when
21 Caesars was granted leave to amend after the amendment
22 cutoff because of newly discovery information
23 concerning Mr. Seibel's kickback scheme, counsel for
24 Mr. Seibel indicated that they would be filing an
09:19:25 25 omnibus response for all the parties hinting that our

09:19:30 1 new pleading and the omnibus mechanics might open the
2 door to new pleadings.

3 So we called them out. Said, your Honor, this
4 sounded awfully suspicious. Sounds like they're going
09:19:44 5 to try to squeeze in the new counterclaims in this
6 omnibus pleading. And, of course, that's exactly what
7 they did.

8 So here we are as predicted spending our
9 client's time and money, spending your Honor's time and
09:19:59 10 resources again for what feels like the umpteenth time
11 to bring Mr. Seibel in line with the rules of this
12 Court and more importantly the order of this Court like
13 we all have to do.

14 So no need to go through the long sordid
09:20:18 15 history of how challenging this case has been to deal
16 with Mr. Seibel. Your Honor has seen it in this case.
17 You've seen it in other cases, I'm sure. We all have.
18 That rules of civil procedure are, for the most part,
19 designed to deal with parties who are operating in good
09:20:38 20 faith. Because when you have someone like Mr. Seibel
21 who from the very beginning -- remember it took him,
22 like, ten months to even respond to our pleadings, and
23 that was only under threat of default. When you have
24 somebody who has the design to disrupt the system, you
09:20:51 25 know, there is ways to do it.

09:20:53 1 Ultimately, justice is found. But it takes
2 more time when you have somebody with the mind as
3 Mr. Seibel has brought to this case. Whether it be his
4 attempt to hide the facts, whether it be about his
09:21:08 5 kickbacks, or the fraud that he committed against the
6 United States as well as Caesars itself, or just trying
7 to impose burdens on parties by finding every
8 opportunity to make one party or another spend time and
9 expense responding to his rogue either discovery
09:21:26 10 requests or pleadings.

11 That's what we have on our hands here.
12 Someone who is not proceeding in good faith, has never
13 proceeded in good faith. And so here we go again.

14 Couple of dates that I think really are key to
09:21:41 15 this dispute. Probably the dates matter more than the
16 background of facts for this dispute.

17 Your Honor may recall we are on the third --
18 we've already passed the third anniversary of Caesars'
19 complaint which sought declaratory judgment concerning
09:22:00 20 the termination of the contracts with Mr. Seibel due to
21 his felony conviction.

22 Now the Seibel entities filed the responsive
23 pleading, as I said, after a lot of wrangling, almost a
24 year later, July of 2018. Now, importantly, four of
09:22:18 25 those Seibel entities only filed answers. And three

09:22:25 1 DNT, LLTQ, and FERG filed counterclaims.

2 Now, your Honor through your management of
3 this case made clear to everybody that February 4 of
4 2019 about, what, year and a half ago was the deadline
09:22:42 5 to amend the pleadings.

6 Nonetheless, Mr. Seibel, as he is apt to do,
7 came to your Honor long after the expiration of the
8 deadline last year in October seeking to add
9 counterclaims. And your Honor said "no". You said the
09:23:00 10 defendants were aware of the facts. This is your
11 quote:

12 "They're aware of facts that they sought to
13 include in their amended counterclaim before
14 the deadline to amend expired, and they delayed
09:23:12 15 seeking leave to amend their counterclaims."

16 So in other words, your Honor, found that
17 there was not good cause to relieve them of the
18 deadline you had imposed upon all parties.

19 Now we on the other hand came forward in
09:23:25 20 December, and we told you about our need to amend.
21 And, again, we were after the deadline too, but we had
22 discovered something new. We discovered something that
23 is key to our dispute today. And that is Mr. Seibel
24 and Mr. Green had been involved in a kickback scheme
09:23:43 25 with some of Caesars' vendors, something no one knew

09:23:47 1 anything about. We had a document that the Seibel
2 parties seized upon to say you should have caught us
3 long ago.

4 But your Honor rejected that theory, as well
09:24:02 5 you should have, finding that we could not have known
6 what one email here or one statement there meant until
7 we had the opportunity to conduct depositions. And
8 Mr. Seibel's delay of those depositions couldn't work
9 to his benefit to then say that now we can't bring in
09:24:19 10 these kickback scheme claims.

11 So your Honor granted our motion, and we filed
12 I think it was five additional counterclaims or claims
13 all related to the kickback scheme. That's all they
14 relate to as a matter of fact. So now we find
09:24:39 15 ourselves jumping to June of this year, June 19.

16 And notwithstanding that your Honor had
17 already taken Mr. Seibel and the Seibel entities to
18 task by telling them that they will not be given leave
19 to file broad counterclaims having to do with damages
09:25:00 20 from their claims that they were wrongfully terminated,
21 their development contracts were wrongfully terminated,
22 they did it anyway.

23 They filed the very claims that you said, "No,
24 you cannot file." But even more, even for the parties
09:25:14 25 that never filed any counterclaims, TPOV, TPOV 16, and

09:25:20 1 MOTI and MOTI 16, even they jumped on the wagon and
2 filed counterclaims. None of them whether it be the
3 four who are filing for the first time, or DNT, and
4 LLTQ, and FERG filing additional ones, none of them
09:25:37 5 asked your Honor for permission to do that. That's the
6 point I was trying to make earlier between, you know,
7 seeking permission versus forgiveness.

8 Having already sought permission, you said no.
9 And so they said let's go ahead anyway and seek
09:25:54 10 forgiveness later. Maybe, maybe we'll be able to pull
11 this off. So that's what brings us here today, these
12 rogue counterclaims that are grotesquely late in this
13 case, problem number one. And problem number two that
14 they've already been rejected and have no place moving
09:26:11 15 forward.

16 So the standard, oddly enough, there is some
17 tiny little places where the parties agree. And one of
18 them is that Nevada case law doesn't give us very
19 specific guidance on what to do. That's not to say we
09:26:31 20 don't know what the answer is. That's not to say that
21 Rule 15 and most importantly your scheduling order
22 doesn't tell us what to do.

23 But there is no case law on point in Nevada
24 governing moves like Mr. Seibel and Seibel entities
09:26:45 25 have pulled in this case.

09:26:46 1 So we, like the Seibel entities, have done our
2 best to give your Honor the four different approaches
3 across the many different jurisdictions that have been
4 used to deal with maneuvers like this.

09:27:01 5 And very quickly, the first one which has been
6 widely rejected, I can't say in every jurisdiction
7 because we know there's at least one case from Alabama
8 that has followed this approach, but it's called "the
9 permissive approach". And that's just the wide up, you
09:27:19 10 know, Wild West type of approach. Once a plaintiff
11 amends the complaint, even under circumstances like
12 this, passed the cutoff, basically the start -- the
13 case starts over. Pleadings stage is reopened. And if
14 one party files a complaint, everybody now has free
09:27:37 15 rein to do whatever they want.

16 The case we cited EEOC versus Morgan Stanley
17 case really, I think, hit the nail on the head here in
18 explaining how and why that permissive approach has
19 been so widely rejected. There the Court said:

09:27:55 20 "If every amendment, no matter how minor or
21 substantive, allowed defendants to assert
22 counterclaims or defenses as a right, claims
23 that would otherwise be barred or precluded
24 could be revived without cause. This would
09:28:06 25 deprive the Court of its ability to effectively

09:28:09 1 manage the litigation."

2 End quote.

3 The reason I think that's so important here is
4 your Honor has already exercised your powers to
09:28:18 5 effectively manage this litigation and this permissive
6 approach which the Seibel entities cling to for dear
7 life here, basically erases not only your order but
8 your logic, your powers, and even your reasoning of why
9 you rejected these complaints in the first place.

09:28:38 10 So there's no -- there's no reason to think
11 that our court, our high court would ever adopt this
12 widely rejected philosophy, and we shouldn't do it
13 here.

14 The next two philosophies on this point are
09:28:56 15 pretty close in how they're defined. One is called the
16 moderate approach. The other is called the narrow
17 approach. But really they're pretty close.

18 The moderate approach which has been cited in
19 Nevada but not in our state court system has been cited
09:29:10 20 in United States District Court as recently as 2018.
21 There, the Court and the philosophy goes that in
22 circumstances where a new pleading is filed, an amended
23 pleading is filed, the opponent can plead in response.
24 That's the phrase "plead in response."

09:29:30 25 The narrow related -- you know, the third

09:29:33 1 theory called narrow also says that you plead in
2 response, but the narrow actually says it's strictly
3 confined. Your responsive pleading is strictly
4 confined to the new issues raised by the amended
09:29:48 5 complaint. It's a good argument that strictly confined
6 to the new issues and pleading in response to the
7 amended pleading are largely the same thing. But
8 doesn't matter if they are slightly different. What
9 they say is that the breadth of the changes in the
09:30:02 10 amended answer -- and I'm quoting from the United
11 States District Court in Composite Resources:

12 "The breadth of the changes in the amended
13 answer must reflect the breadth of the changes
14 in the second amended complaint. Should
09:30:16 15 defendants seek to make additional changes
16 outside the scope of the changes, the second
17 amended complaint, and it must -- or may file a
18 motion to amend under Rule 15."

19 So the point is this: If, like here, we file
09:30:30 20 a new amended complaint having to do with kickbacks,
21 the moderate approach, or maybe even the narrow
22 approach, is that you can strictly -- you are strictly
23 confined, Seibel entities, to plead in response to the
24 kickback claims if you, for instance, have a
09:30:49 25 counterclaim that you may claim is either permissive or

09:30:54 1 even compulsory.

2 As it relates to the kickback, the moderate
3 approach says that those may have a place in the case
4 without leave to amend. But anything outside here in
09:31:05 5 our circumstances, the kickback allegations would have
6 to come before your Honor in a Rule 15 motion which
7 your Honor has already addressed prior to filing these
8 counterclaims, and, therefore, they would be rejected.

9 And finally, the fourth approach is referred
09:31:19 10 to as the uniform approach. That simply says
11 everything is under a Rule 15 standard. No matter what
12 it is, no matter when it comes forward, you've got the
13 good cause requirement so it doesn't matter if it's
14 before, during, or after the amendment period,
09:31:34 15 everything is treated the same under Rule 15. So what
16 do we do with these different approaches?

17 I think the answer is quite clear. That maybe
18 under the permissive approach at best, the Wild West
19 type of approach that, you know, you start a case anew,
09:31:53 20 that there would be an argument that something like
21 this could be done. But because that has been so
22 widely rejected that cannot be the rule of Nevada, and
23 it's certainly not the law of this case.

24 And the reason why I say maybe permissive
09:32:06 25 would apply, your Honor, because even if we were to say

09:32:09 1 the permissive approach is going to be the rule of
2 Nevada, we think that's what the Supreme Court would
3 do, we already have the law of this case. And the law
4 of this case says that it would not be allowed.

09:32:23 5 So even under the permissive approach, we
6 don't see how these counterclaims could come in. But
7 setting that aside because, as I've noted, it is so
8 infrequently used and so few if, you know, beyond one
9 that I can see, jurisdiction has ever even adopted it,
09:32:44 10 the moderate approach, the narrow approach, the uniform
11 approach all come to the same conclusion.

12 These are rogue counterclaims that have no
13 place in this case. They needed permission from your
14 Honor before they could file them. Your Honor has, in
09:32:58 15 essence, already in advance rejected that request. And
16 so they have to be stricken at this point.

17 We know this, your Honor, because, as I've
18 said, everything that we said in our new counterclaims
19 has to do with this kickback. And these arguments have
09:33:17 20 nothing to do with the kickbacks. These are more
21 arguments about wrongful termination, some of claims
22 and restaurants they knew about long ago. They even
23 knew about them before they filed their first
24 counterclaims. And some of them filed answers knowing
09:33:33 25 that other operations were in place.

09:33:35 1 And now, again, I think it's because it's new
2 counsel with a new philosophy on the case, they want to
3 bring more breaches of contract, wrongful termination
4 claims in simply because of our counterclaims having to
09:33:47 5 do with the very narrow issue of a kickback scheme.
6 All the other approaches they know that is not allowed.
7 You needed court approval. And because we know your
8 Honor has already rejected this -- this attempt in the
9 first place that they should be stricken now.

09:34:04 10 Now, let me take just a quick moment to
11 address this issue about this declaratory judgment
12 exception that somehow the Seibel parties are
13 suggesting to your Honor that before our amendment,
14 they were not obligated, or maybe even more permitted
09:34:21 15 to file these counterclaims. I'm not sure what the
16 logic is there. But because ours, Caesars original
17 count was a declaratory judgment that no claims or
18 issue preclusion would apply and now they would, that
19 is just dead wrong. And it's a ruse, I would
09:34:40 20 suggestion, your Honor, as an excuse, the forgiveness
21 excuse, for trying to put in these counterclaims where
22 they don't belong.

23 The declaratory judgment exception is pretty
24 simple. It is an acknowledgment that the rules are set
09:34:52 25 up to allow parties to come to court and seek only

09:34:59 1 declaratory relief where there is a dispute about
2 contract without having a full war against each other
3 for damages and all the related claims.

4 In other words, have a judge resolve what your
09:35:08 5 dispute is as it relates to your contract rights, for
6 example, and then go back. And once you know what the
7 contract is, everyone has retained the rights if they
8 need to come back later for damages.

9 In the absence of that rule, a party could
09:35:21 10 never come forward for declaratory relief without also
11 suing for damages which undermines the entire purposes
12 of the dec relief action. So we have that exception.

13 But the exception doesn't mean that the issues
14 litigated in the declaratory relief itself have no
09:35:38 15 preclusive effect. Of course, they do. Otherwise, no
16 one would bother with the dec relief claim anyway
17 because it would have no preclusive effect against the
18 other side. The other side could continue to litigate
19 the same issues.

09:35:49 20 The whole point of a declaratory relief action
21 is that it would preclude future litigation on the
22 issues and the claims litigated.

23 Even more importantly for our case, we have
24 counterclaims asserted by some but not all of the
09:36:05 25 Seibel entities. And so all of these issues are in

09:36:08 1 dispute. This narrow exception for someone to come
2 back later if they need to to get damages after dec
3 relief claim has been resolved has nothing to do with
4 this debate. And the suggestion that it does -- that
09:36:22 5 it is, I don't think is a serious argument. And
6 certainly doesn't turn all of the analysis under
7 Rule 15, all of the Court's orders that govern this
8 case, and then the different approaches we talked about
9 on dealing with rogue amendment like this, doesn't turn
09:36:36 10 all of that stuff upside down on its head.

11 Apparently the declaratory judgment exception
12 has no placement in this debate, and it doesn't change
13 the results.

14 The long and short of it is this; we filed a
09:36:51 15 narrow set of claims because your Honor gave us
16 permission to do so. Your Honor found there was good
17 cause for our counterclaims to come after the close of
18 the amendment period, and that did nothing as it
19 relates to the Seibel entities' rights. The Seibel
09:37:09 20 entities' rights were to respond to those claims, not
21 to turn the case upside down, not to do a do-over, not
22 to put in new claims that would require all the parties
23 to redo the depositions we've done, bring all the same
24 parties back now and start the discovery process over.
09:37:26 25 This is not a new case, but if you allowed them to do

09:37:29 1 what they're doing, it's going to have to be treated
2 like a brand-new case starting from square one. And we
3 know your Honor has already expressed that is not your
4 desire to do that. So we ask that they be stricken or
09:37:39 5 in the alternative the two to be dismissed. Thank you,
6 your Honor.

7 THE COURT: Thank you, sir.

8 And we'll hear from the plaintiff.

9 MR. BAILEY: Good morning, your Honor. John
09:37:53 10 Bailey for the record. And I guess it will come as no
11 surprise to you that I adamantly disagree with the
12 comments of my colleague on the other side. Unless you
13 have any preliminary questions, your Honor, I'd like to
14 spare you the hyperbole and go straight to the legal
09:38:10 15 analysis.

16 THE COURT: And you can do that. And then
17 after both of you are done, I do have some comments I
18 want to read into the record -- discuss and read into
19 the record. And then I'm going to have some questions
09:38:20 20 based upon that because I do understand what the
21 different approaches have been by the different
22 circuits, the permissive approach, moderate approach,
23 whether the moderate approach is the same thing as a
24 narrow approach. And I did also note the uniform
09:38:37 25 approach. But I have a question because I don't know

1 if any of those approaches would be accepted by our
2 Nevada Supreme Court, and we'll get to that after
3 you're done.

4 MR. BAILEY: All right, your Honor. Let me go
5 straight to the actual analysis. Because Caesars and
6 its counsel made a calculated and strategic decision to
7 amend the complaint to add new claims and to add a new
8 party, which you allowed them to do.

9 My client, the development entities, answered
10 Caesars' first amended complaint. We asserted new
11 counterclaims, and we also provided allegations about
12 new restaurants that were covered by our initial
13 counterclaims.

14 And now Caesars is asking you to strike our
15 counterclaims under the theory that our counterclaims
16 don't relate to the new claims that it asserted in its
17 first amended complaint.

18 So the analysis, and there are -- what we can
19 tell there are three approaches. Or there were three
20 approaches. Now there's really only two approaches
21 that Courts look to in determining whether or not and
22 the scope of whether you can strike a defendant's
23 counterclaims based on a new amendment to the claims
24 asserted by the plaintiff.

25 And the approach that the Caesars entities

09:40:08 1 tried to persuade you to take in their motion was the
2 narrow approach. And, of course, it's only the narrow
3 approach that says that the claims in -- the
4 allegations or claims in the counterclaims have to be
09:40:25 5 strictly confined to the amendments in the complaint.
6 No other approach takes that position, only the narrow
7 approach.

8 After their motion was filed and after we
9 pointed out in our opposition that the narrow approach
09:40:43 10 is no longer used by courts as of 2009, when Rule, I
11 think it was, 13(f) was stricken, that in their reply,
12 in Caesars' reply that it admitted that no, we cannot
13 proceed or we should not proceed under the narrow
14 approach.

09:41:03 15 And I will -- I will direct to you page 8 of
16 their reply where they refer to as the unviable narrow
17 approach at Footnote 7 where they finally admit that
18 the narrow approach is no longer applied by any of the
19 courts.

09:41:19 20 So that leaves us with really two approaches.
21 The permissive approach and the moderate approach. And
22 clearly under the permissive approach where courts say
23 that if you're going to amend your complaint, that the
24 other side gets to respond as though it was the
09:41:40 25 original complaint.

09:41:42 1 The permissive approach, while I know my
2 colleague indicates that it would not -- if you applied
3 it in this case, that you would have to think about
4 whether or not to grant their motion, I suggest to you
09:41:56 5 that it's pretty easy to understand that when you apply
6 the permissive approach that their motion should be
7 denied. Because it allows for you, if you're going to
8 run the risk of amending your complaint, then out of
9 what they refer to, all the cases refer to, as
09:42:16 10 fundamental fairness that the other side gets to file
11 their response and their counterclaims as though it was
12 the original complaint.

13 Let's turn to the moderate approach. And the
14 moderate approach is the prevailing approach. It's
09:42:33 15 applied by most of the courts. It has been applied by
16 the federal district courts here in the state of Nevada
17 and, indeed, the Ninth Circuits.

18 It is generally referred to as requiring
19 proportionality. That's the term you read in all the
09:42:49 20 cases as to how you look at the moderate approach.
21 It's based on proportionality.

22 In other words in response to an amended
23 complaint without the leave of court you can add new or
24 amended counterclaims so long as the amended
09:43:07 25 counterclaims do not disproportionately increase the

09:43:13 1 scope of the litigation when compared to the amended
2 claims.

3 And that's irrespective of whether the
4 counterclaims relate to the subject matter of the new
09:43:22 5 claims asserted in the amended complaint. It's a
6 proportionality rule, and it is the proportionality
7 moderate approach that is the approach applied by most
8 courts.

9 And so just very quickly running through the
09:43:43 10 moderate approach because I would suggest to you, your
11 Honor, that because the federal courts system, the
12 majority of federal courts including the Ninth Circuit
13 and the vast majority of courts across the country
14 apply the moderate approach, that if the Nevada Supreme
09:43:58 15 Court were to take this issue up, they would be more
16 likely than not and very well inclined to apply the
17 moderate approach.

18 So in our case, let's just go straight to the
19 analysis. What happens if we apply the moderate
09:44:13 20 approach and focus on proportionality.

21 We start with looking at what did Caesars do
22 to its original -- in its original complaint. Well, in
23 its original complaint it asserted three claims for
24 declaratory relief only. That's it. It had three
09:44:32 25 claims for declaratory relief.

09:44:33 1 In its first amended complaint that was just
2 recently filed within the last few months, Caesars
3 dramatically increased the scope and theories in this
4 case by adding five coercive claims to its declaratory
09:44:50 5 relief claims.

6 Specifically it added claims for civil
7 conspiracy, breach of the covenant of good faith and
8 fair dealing, unjust enrichment, intentional
9 interference with contractual relations and fraudulent
09:45:06 10 concealment. Caesars also added a new party,
11 Mr. Green, Craig Green.

12 So that's what happened between its complaint
13 and now its first amended complaint. It starts with
14 three declaratory relief claims. And now it has a
09:45:25 15 total of eight claims, five of which are new to this
16 case as of a few months ago, and they're coercive
17 claims.

18 We then asked what did the development
19 entities add to their amended counterclaims. And when
09:45:38 20 you compare our original counterclaims to what we
21 amended within the last couple months in response to
22 their first amended complaint, we made two primary
23 additions. Number one, existing parties, the TPOV and
24 the MOTI party added contract-based claims to the
09:46:03 25 contract-based claims that already existed in this

09:46:06 1 case.

2 The new claims are all based on the same set
3 of facts, the same legal theories as previously
4 asserted by the developmental -- the development
09:46:17 5 entities, and they're all based on the same business
6 relationship. So when my colleague on the other side
7 says to you, Oh, we've blown this case up, and it's
8 going to require a whole new set of discovery, and this
9 is really expounded what's going on, the answer is, no,
09:46:34 10 it's not.

11 Because existing parties, the TPOV and the
12 MOTI parties, we added contract-based claims to the
13 contract-based claims that are already in this case,
14 and it's all based on the exact same set of facts and
09:46:51 15 the same legal theories.

16 The other thing we did was we added additional
17 allegations, not claims, allegations about two
18 restaurants Gordon Ramsey Steak Atlantic City, Gordon
19 Ramsey Steak Kansas City. Both of these restaurants
09:47:12 20 were already the subject of what we referred as the
21 Section 13.22 clause of the existing contract-based
22 claims.

23 In other words our counterclaims that we
24 initially asserted specifically referred to
09:47:29 25 Section 13.22 and talks about -- because it survives

09:47:35 1 the expiration termination of the relevant agreements,
2 talks about future opportunities and the fact that
3 these parties agreed with respect to how they were
4 going to treat future opportunities.

09:47:50 5 So in our initial counterclaims we added a
6 couple of the restaurants that we knew about that were
7 open. And since the termination or the alleged
8 termination of these contracts, new restaurants based
9 on the same general relationships between these parties
09:48:08 10 opened. So we added additional allegations, not
11 claims, to our new counterclaims.

12 Therefore, the question becomes
13 proportionality. The amended counterclaims by the
14 development entities are really without any legitimate
09:48:29 15 dispute, lesser in scope, and do not add any additional
16 theories in comparisons to the amendments made by
17 Caesars.

18 The bottom line, your Honor, is this: Caesars
19 cannot reasonably contend that the changes in our
09:48:44 20 amended counterclaims are disproportionate when
21 compared to the five new claims for coercive relief and
22 adding a new party. I suggest to you that on a scale
23 of one to ten, ten being the most expansive increase in
24 scope and theories, Caesars is an eight or nine and the
09:49:04 25 development entities are a one.

09:49:06 1 So when you apply the moderate approach, the
2 developmental entities -- the development entities
3 amended counterclaims are appropriate, and, therefore,
4 Caesars' motion should be denied.

09:49:21 5 That's the legal analysis. Let me make a
6 final comment because we attached as Exhibits 1 and 2
7 to our opposition briefs that were filed by Caesars and
8 my colleagues at Pisanelli Bice in another case in
9 federal court here in Nevada, Sierra Development vs.
09:49:38 10 Chartwell, where this precise issue was litigated.

11 Both Caesars and my colleagues on the other side were
12 advocating for the permissive approach. Federal court
13 applied prevailing majority view, the moderate
14 approach, and denied a motion to strike the amended
09:50:00 15 counterclaims that did not relate to new claims in the
16 amended complaint in that case.

17 And the reason why I bring that up is to
18 ensure this Court that both Caesars and its counsel
19 undeniably knew that by filing a first amended
09:50:14 20 complaint couple months ago, and by expanding the scope
21 and the theories of this litigation, and by adding a
22 new party that their conduct would likewise allow the
23 development entities the ability to proportionately do
24 the same.

09:50:33 25 It was a calculated decision that they

09:50:36 1 undertook. And I suggest to you that principles of
2 fairness and as discussed by all the courts applying
3 both the permissive approach and the moderate approach
4 has to prevail in this situation. Caesars simply has
09:50:52 5 no basis for complaining, and we believe that their
6 motion should be denied.

7 THE COURT: All right, sir. And thank you.

8 And I just have a few comments. And I thought
9 about this case last night. And I do understand the
09:51:08 10 distinction, the different approaches that have been
11 set forth in the record by both parties. But I do have
12 some comments and some thoughts because I'll just tell
13 you what I'm thinking about.

14 And when I thought about this case, I thought
09:51:20 15 about it from a more historical perspective because
16 this is an important issue. But I can't overlook the
17 history as a litigator here in Clark County. And I
18 remember the days before Rule 16.1 where, in essence,
19 you didn't get a trial date until you filed your note
09:51:41 20 for trial docket. And I remember there was a time when
21 there was no five-year rule. In fact, there was no
22 4(i) as it relates to service of process within 120
23 days.

24 And here's my point: It seems to me when our
09:51:53 25 Nevada Supreme Court implemented Rule 16.1 they were

09:51:58 1 doing many things, but the most important thing they
2 wanted to do was they wanted to make sure the trial
3 judges actively managed their cases in an orderly
4 manner.

09:52:10 5 And the reason why I say that is this: It
6 appears to me that's how the case law has evolved over
7 the years in Clark County.

8 And then we move a little, we move forward.
9 And we have 16.1. And a couple things have happened in

09:52:24 10 the last few years. And the first point of reference
11 would be the Nutton case. And the reason why I bring
12 that up is this because it was Justice Silver who
13 discussed, I think that was her decision, and she did
14 discuss the tension between Rule 16 and Rule 15(d) as
09:52:42 15 it dealt with amendment of pleadings to be freely
16 granted. And she talked about that tension.

17 And, ultimately, at the end of the day she
18 said, you know what, we can't overlook Rule 16 that
19 deals with the Court's ability to manage its docket.

09:52:57 20 And that's what they talked about. So, in essence,
21 before a trial court makes that type of determination
22 as it is relates to amendment of the pleadings after
23 the time runs pursuant to the Court's scheduling order,
24 the Court is forced to conduct a good cause analysis.

09:53:13 25 And the reason -- and I'm going to take it

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09:53:17 1 another step further. Just recently we've had an
2 amendment to the Nevada Rules of Civil Procedure after
3 the Nutton case. And it appears to me that our Nevada
4 Supreme Court based upon the amendments has -- they
09:53:33 5 have forced or suggested to the trial courts, look, you
6 have to take even a more active role in a case
7 management as far as these cases are concerned.

8 Because today, unlike going back 25, 30 years
9 when Rule 16.1 was first implemented, the trial courts
09:53:49 10 are required to hold 16.1 case conferences or 16.1
11 conferences with the lawyers to discuss the scheduling
12 orders, so they can get actively involved in case
13 management.

14 And the reason why I think that's important
09:54:05 15 and I thought about this, maybe Nevada will take a
16 different approach. And what I mean by that is this:
17 If amendment is granted prior to the time set forth in
18 the scheduled order, that's one standard. But after
19 the scheduling order and the time set forth there as it
09:54:25 20 relates to amendment to the pleadings has run, a
21 counterclaim, for example, would come under that
22 umbrella.

23 And the reason why I bring that up, I sit here
24 and I thought about it. And I understand we have a
09:54:37 25 discussion regarding permissive approach, moderate

09:54:39 1 approach, narrow approach, maybe a uniform approach,
2 but it -- but I think in all probability what the
3 Nevada Supreme Court would do in cases like this where
4 the time has run and the scheduling order, they would
09:54:56 5 probably adopt a Rule 16 approach. And what I mean by
6 that -- and I'm going to let everyone talk about that,
7 but that -- those are my thoughts because what would
8 happen, I granted the motion to amend. There is no
9 question about it. I determined that there was good
09:55:13 10 cause.

11 As far as the counterclaim is concerned, why
12 wouldn't the appropriate procedural mechanism be simply
13 this: Judge, we want to amend our counterclaim or add
14 counterclaims to this case based upon their amendment,
09:55:23 15 and there's good cause, and this is why. And then the
16 courts under those circumstances say, yeah, maybe
17 you're right, Mr. Bailey; maybe you're wrong.

18 And the reason why I say that is this: I
19 don't think we can side step what's required under
09:55:38 20 Rule 16 as it relates to a good cause analysis, the
21 Nutton case, and the rules as clearly set forth.

22 I don't know if the federal cases have looked
23 at it in that regard. I know there was some criticism
24 of the permissive approach because there was no basis
09:55:53 25 in the rules for that approach; right? And so at the

09:55:58 1 end of the day why wouldn't a Rule 16 approach be the
2 appropriate approach under the facts of this case?

3 And I realize neither of you have briefed that
4 specific issue. I thought about it. In light of
09:56:11 5 Justice Silver's decision in Nutton and the amendments
6 to the rules of civil procedure specifically as it
7 relates to 16.1 and the fact that most of these rules
8 require more active case management from the trial
9 court, why wouldn't that be the appropriate standard?

09:56:30 10 We'll let you talk about it, Mr. Pisanelli.

11 Of course, Mr. Bailey, I'm going to give you
12 an opportunity to, of course, comment in reply.

13 MR. PISANELLI: Thank you, your Honor. James
14 Pisanelli.

09:56:43 15 So, you know, I'm hard pressed to find any
16 reason to disagree with what you've said because I
17 think your point about Rule 16 actually goes to the
18 heart of the analysis that both rejects the permissive
19 approach. Remember, I quoted the EEOC vs. Morgan
09:57:10 20 Stanley case that says a permissive approach would
21 deprive the Court of its ability to effectively manage
22 the litigation.

23 Well, where does that obligation in Nevada for
24 the Court to effectively manage the litigation come
09:57:22 25 from? And your Honor has hit the nail on the head.

09:57:25 1 That comes from Rule 16.1. So you could take that New
2 York case and say -- and apply it directly to the rules
3 as we have here. I'm sure New York has a similar rule
4 requiring that type of case management. I think it's
09:57:37 5 the modern way that courts across the country manage
6 their cases.

7 And I think we can also say that your concept
8 about the effective case management obligation that you
9 are charged with under Rule 16.1 similarly supports
09:57:56 10 both the moderate approach and the uniform approach.
11 The point is this: If you are charged, as you say that
12 you are, as we all accept that you are, with the
13 obligation to effectively manage your cases and your
14 docket as a whole, but on a -- manage the cases on a
09:58:19 15 case-by-case, fact-by-fact basis, your Honor brought up
16 the phrase that you will at all times take into
17 consideration the good cause for doing something.

18 Sometimes good cause would simply be, as you
19 noted, the time hasn't expired. So somebody comes in
09:58:34 20 with a motion for leave to amend. Time hasn't expired.
21 Seems to be plenty of time to get the work done, the
22 defense to the new claim. So your Honor, says, Okay,
23 I'm going to allow that but still filter it. You had
24 filtered everything through the good cause standard.

09:58:49 25 So that didn't -- wouldn't matter what we call

09:58:52 1 the approach, moderate, whether it's being the breadth
2 of the changes, reflect the breadth of the changes to
3 the amended complaint, or that's -- if those breadths
4 are equal, and I think the breadth is not simply a
09:59:10 5 scale of how much work, as counsel seems to suggest,
6 the breadth of the changes as the United States
7 District Court said has to do with the substance not
8 just the weight of the work, but good cause is at the
9 heart of that statement.

09:59:24 10 Likewise, probably the easiest analysis of
11 all, if we say that the Supreme Court, in essence, is
12 going to go fall back to the uniform approach under
13 Rule 15, again, good faith becomes -- or good cause
14 becomes the standard under the uniform.

09:59:41 15 So your point is an interesting one to me
16 because what you've done is gone to the heart of what
17 is a use -- a word you have used in the past in other
18 cases, what is the clinical analysis, the clinical
19 approach to this problem?

09:59:55 20 And clinically what you have to do, no matter
21 what we call these different options or approaches are
22 determine good cause. That's really important in this
23 case for this particular reason. You've already
24 decided that. You already considered what the Seibel
10:00:13 25 parties did in this counterclaim, and you said no.

10:00:17 1 It was interesting to me that in trying to
2 present, to take his square peg counterclaims and fit
3 them into the round hole of the moderate approach,
4 counsel made our point. He said that these are not new
10:00:31 5 theories. That these are not new philosophies. These
6 are things that have already been in the case. Yes,
7 they've been in the case for three years.

8 And the Seibel parties sat on their hands and
9 did nothing with them. Some of these parties never
10:00:51 10 even filed counterclaims. But they've always knew
11 about these claims. And your Honor took these exact
12 facts, counsel's exact words that they say today you
13 were relying upon months ago, last year when they tried
14 this very stunt. And you said no. No. Under Rule 16,
10:01:10 15 under Rule 15, I have to weigh your request to upset
16 this case by adding new counterclaims to see if you've
17 given me good cause to do so.

18 You told them you knew. Mr. Seibel, and all
19 of your entities, you knew about this stuff a long time
10:01:29 20 ago, certainly within the window to amend the
21 complaint, but arguably even before you filed. Some of
22 them not even arguably. Certainly they knew about them
23 even before they filed their responsive pleadings or
24 their original counterclaims, and so your Honor
10:01:43 25 rejected them.

10:01:44 1 So what does that mean to us today? If your
2 Honor were to take the good cause Rule 16 case
3 management approach and now just simply say I'm not
4 even going to look at the kickback claims, I'm just
10:01:58 5 going to analyze what it is you're trying to do here,
6 Mr. Seibel. What you're trying to do, Mr. Seibel, is
7 upset what this Court has already ruled. You said no.
8 And then the counsel says, Well, we have a new
9 opportunity here because I'm going to quote, counsel:
10:02:16 10 "Caesars ran the risk of amending the
11 complaint."
12 Well, that's not a standard anyway under the
13 law. It should never be a risk for Caesars or any
14 other party to bring the claims it had, the claims it
10:02:33 15 discovered, and the claims that has good cause to bring
16 into this case, that should never be a risk that the
17 parties should be prejudiced by it because Mr. Seibel
18 now would get a do-over.
19 The only reason, your Honor -- let's keep this
10:02:46 20 in mind. When counsel characterizes our counterclaims
21 as a knowing risk, the only reason that they came at
22 the time that they did is because Mr. Seibel was hiding
23 it. Had he complied again with your point, with the
24 16.1 obligations at the beginning of this case, all of
10:03:08 25 this information about his kickback scheme would have

10:03:12 1 been on the table, everything would have been in this
2 case a long time ago.

3 Should he now be the beneficiary of his bad
4 faith conduct in discovery by saying, I held it out
10:03:23 5 long enough that you guys discovered it at a late hour
6 in the case. And now I get the benefit of that scheme
7 by getting a do-over with new lawyers to add all of
8 these counts back into the complaint, all new
9 counterclaims from parties who have never alleged any
10:03:40 10 counterclaims, all after the cutoff a year and a half
11 or more after the cutoff to amend pleadings, and after
12 the Court has already said, No, you can't do it.

13 Now, counsel talks about fairness. Fairness?
14 What about that scenario sounds fair to Mr. Seibel? I
10:04:05 15 don't get that. I mean, I underlined the word
16 fairness, like, six times on my notes when he said
17 that. That in all fairness Mr. Seibel should be able
18 to redo his pleading that could have been put in this
19 case from day 1 three years ago; that's fair? Caesars
10:04:21 20 took the risk of that when it came to the Court after
21 finding out that Mr. Seibel had been involved in
22 kickbacks that he'd be hiding from us and from his own
23 partners; that's fair? I don't think so.

24 I think counsel has turned this standard
10:04:36 25 upside down. What he is really doing, Mr. Seibel and

10:04:40 1 his lawyers, is taking the acceptable label of moderate
2 approach and cram it by putting the principle of the
3 widely rejected permissive approach into this case.
4 Simply because he says some of the theories are already
10:04:57 5 in this case doesn't mean that the case doesn't start
6 over. Remember, we've already deposed a lot of people
7 in this case. People who have fingerprints in every
8 one of the contracts. But none of these new
9 restaurants were part of that analysis. None of it was
10:05:12 10 part of the discovery because they weren't in this
11 case.

12 Now, he says in fairness under Rule 16.1
13 analysis or a good cause standard fairness he gets to
14 do it over again because we opened up our pleading.
10:05:25 15 That's nonsense. That's not fairness. And even using
16 his own words, it's not even proportionate.

17 What we have is a very narrow issue. Were
18 you, Mr. Seibel, or were you not operating a kickback
19 scheme? Going to be very limited discovery. Going to
10:05:44 20 be very limited document production. Very limited
21 deposition.

22 Instead he says, proportionately giving
23 himself a one or a two and us an eight, all of these
24 new restaurants have to have all kinds of discovery:
10:05:56 25 Document production, financial analysis.

10:05:59 1 Remember, your Honor, even on this
2 proportionate issue, which I think also arguably would
3 come into your 16.1 analysis, experts have already been
4 engaged and reported. Experts disclosure have come and
10:06:12 5 gone.

6 And now we have to start over again. And
7 counsel seriously suggests to you that that's a one or
8 a two on the proportion scale, while our very narrow
9 limited issue on kickback is an eight. He's, frankly,
10:06:27 10 has got it upside down. He's got the entire analysis
11 upside down.

12 So where does it all take us? 16.1 approach,
13 as I said I can't disagree with a word of that because
14 what you've done is taken all the labels out and gone
10:06:42 15 to the heart of clinically what each one of these
16 approaches do. So if we say that our Court is likely
17 to follow the United States District Court of Nevada,
18 and use what it labeled the moderate approach, that
19 just simply gets us back to what would the 16.1
10:06:56 20 analysis do in a good cause standard inside that
21 moderate approach label? That's what you would do.

22 If we say it's uniform, certainly that's what
23 you would do. You would do your 16.1 analysis and the
24 good cause analysis.

10:07:09 25 So I'm intrigued by your comments, your Honor,

10:07:14 1 because you've made all of us go beyond the label and
2 going into intellectually what are we charged with
3 doing here. And by doing that, it takes us full
4 circle. And so this is a redundant exercise. Don't
10:07:29 5 care what label you give it. You've already decided
6 these new counterclaims don't belong in this case
7 because they came in way, way, way too late, and they
8 came in based upon information that Mr. Seibel has
9 always known about.

10:07:42 10 I will tell you, your Honor, I suspect -- I
11 should say I hope you smell a rat like I do when
12 counsel says that, "We didn't add a claim. We added
13 allegations." What does that tell you? None of us who
14 have done this job for more than 20 minutes miss what
10:08:02 15 that means when somebody says that. When somebody says
16 that, that means they no longer have the right to amend
17 their counterclaim to add new claims so they're
18 pretending that it's just an allegation crammed into an
19 old one. What they're trying to do is cram another
10:08:19 20 restaurant or restaurants in more development contracts
21 and sources of damages into an existing counterclaim
22 that otherwise doesn't support it.

23 That's probably what we're going to argue in a
24 few moments on the next motion for discovery. But I
10:08:36 25 smelled a rat as soon as I saw that. That is, again, a

10:08:42 1 backdoor way of getting what you couldn't get from the
2 front door.

3 Your Honor, said no under your 16.1 analysis
4 and Rule 15 good cause debate to these counterclaims,
10:08:52 5 and so now they're pretending that they're only adding
6 allegations to an existing count in order to get to the
7 same place, and they're fooling no one.

8 So, your Honor, I've used too many words to
9 make the point that I think you are spot on here.

10:09:07 10 The analysis is about, and it has always been
11 about, from the first time they asked and now, your
12 ability to manage this case efficiently and
13 effectively. And you've already done that. And
14 there's nothing that's been presented in this case that
10:09:21 15 should upset your old order and nothing that they've
16 presented in this debate that should allow them to
17 start this case back at square one. Because that's
18 what we're going to have to do in redoing all these
19 deposition, and all the discovery, and all these
10:09:34 20 experts.

21 THE COURT: Thank you, sir. And I just want
22 to make sure the record is really clear because what
23 I'm talking about here would be a Rule 16 analysis
24 under the Nutton case. And I listened, and I -- and
10:09:48 25 some of the federal cases discuss the Rule 16 analysis.

10:09:51 1 But it appeared to me potentially -- and I realize
2 these facts are slightly different than the Nutton
3 case, but understand, what happened in Nutton was the
4 time set forth in the scheduling order had run. And
10:10:02 5 Justice Silver, she was on the Court of Appeals at that
6 time, looked at it. And it was a case of first
7 impression. And she realized the tension between
8 Rule 15(c) and Rule 16. And at the end of the day she
9 said the trial courts should conduct a Rule 16 analysis
10:10:19 10 and make a good cause determination. And that's really
11 what I'm talking about here.

12 And that's why I -- they have cases out there
13 that talk about Rule 15 analysis and the like, motions
14 to amend should be freely granted, et cetera. It
10:10:35 15 appears to me that potentially the Nevada Supreme Court
16 has already rejected that. Because if it deals
17 specifically with Rule 16 in the scheduling order and
18 modifications to the scheduling order after the time
19 has run then the Courts can do that.

10:10:51 20 But understand, and I've always felt very
21 strongly about this as a trial judge, I don't do what I
22 want to do. I always try to make sure whatever
23 decision I make as it relates to an issue is tethered,
24 moored to the rules of civil procedure in Nevada case
10:11:08 25 law. And because I think that's very, very important

10:11:11 1 to do. It gives predictability. Potentially makes
2 good law.

3 And so at the end of the day, I was wondering
4 whether the appropriate approach that would be Nevada
10:11:25 5 peculiar would be -- forget what all the federal courts
6 do -- would be a Rule 16 approach following the lead of
7 Justice Silver, and also the changes to the Nevada
8 Rules of Civil Procedure specifically as it relates to
9 Rule 16.1 and the mandate by our Supreme Court that the
10:11:47 10 trial judges get actively involved in case management.
11 Unlike what was going on 35 years ago. And that's kind
12 of where we've evolved.

13 And so that's my -- that's the point. And
14 that's -- I wanted to make sure I articulated it on the
10:12:04 15 record in case this matter goes up on appeal. Because
16 I know certain members of our Supreme Court, they read
17 these transcripts. And I've seen them. I've walked in
18 on them in chambers, and they're reading transcripts
19 because they want to know specifically what the trial
10:12:15 20 judge was considering.

21 And understand, it's unique. And I know the
22 cases have set forth a Rule 16 analysis and I'm -- I'm
23 aware of from a federal level, but I come back to
24 Nevada law.

10:12:27 25 And anyway, Mr. Bailey, you get a chance to

10:12:29 1 comment, sir. I want to listen to what you have to
2 say, sir.

3 MR. BAILEY: Thank you, your Honor. John
4 Bailey for the record. And I can understand how you're
10:12:38 5 grappling with this issue because none of us actually
6 know what the Nevada Supreme Court would do if
7 presented with this question. And, of course, one
8 option that, I guess, is plausible is to stay this
9 particular issue and let us all take it up and ask the
10:12:58 10 Supreme Court how they would approach this, whether
11 it's using the permissive approach or the moderate
12 approach or some hybrid that includes some analysis
13 under the fact that we are all obligated to comply with
14 Rule 16.

10:13:15 15 So I -- I think there's some options here.
16 And we don't have the level of guidance that is a
17 decision from the Supreme Court that tells us exactly
18 what to do under these circumstances.

19 If we set that aside for a moment. Let me
10:13:33 20 point to the fundamental operation of law in Caesars'
21 analysis to you. And that fundamental flaw is this:
22 They talk about the fact that when we moved to assert
23 counterclaims a year or so ago that you denied our
24 motion based on good cause. We accept that.

10:13:59 25 Fundamental flaw in their analysis is that a

10:14:02 1 few months ago, you granted them the ability to file a
2 first amended complaint. So your decision denying our
3 ability to file counterclaim was prior to you giving
4 them the ability to file a first amended complaint and
10:14:24 5 materially and drastically changed the theories and
6 claims in this case.

7 We're --

8 THE COURT: Mr. Bailey.

9 MR. BAILEY: -- we --

10:14:32 10 THE COURT: Mr. Bailey, I don't want to cut
11 you off at all, and I'm --

12 MR. BAILEY: Yes.

13 THE COURT: And keep your thought there. But
14 here's my point. And I was thinking about this.

10:14:41 15 Whether or not you have good cause to file a
16 counterclaim is another issue. And what I mean by that
17 is maybe that should be thoroughly briefed and vetted.
18 But my point is this from a case management
19 perspective, if what you are saying is potentially true
10:15:00 20 then potentially, the appropriate mechanism
21 procedurally under Rule 16 would be to file a motion to
22 assert a counterclaim based upon the amended complaint
23 potentially. But that's my point. But don't -- but
24 keep going. I just wanted to make sure the record was
10:15:19 25 clear on that.

10:15:20 1 MR. BAILEY: No. And I appreciate your point
2 on that. And in a different case, and when I say a
3 different case than our case right now, of course, we
4 could do that if that was your advice to us.

10:15:36 5 THE COURT: I'm not giving advice. I don't
6 ever give advice. I'm just pointing out the procedural
7 distinction. Because it just appears to me no matter
8 what at the end of the day if there's going to be an
9 amendment to pleadings after the time set forth in
10:15:50 10 Rule 16 runs as it relates to modification of the trial
11 scheduling order, then you have to seek leave of court,
12 and the Court has to make a finding as to whether or
13 not there's good cause. That's all I'm saying from a
14 procedural perspective. That appears to me to be maybe
10:16:08 15 the way to go.

16 And, you know what, maybe the Supreme Court or
17 Court of Appeals will decide that. But it does make
18 sense to me. But go ahead, Mr. Bailey. I don't want
19 to cut you off, sir.

10:16:17 20 MR. BAILEY: No, I -- and John Bailey for the
21 record. I understand your point, and I think your
22 point is well taken.

23 My only response to that is as we sit here
24 today the issue has been teed up. And if it was your
10:16:34 25 thought, I don't want to use the word "advice", or your

10:16:38 1 guidance that in a subsequent case the proper way to
2 approach that would be to file. If you want to file
3 new counterclaims to a new complaint that files new
4 claims, that the way to do that is to file a motion
10:16:54 5 seeking leave to do it and to demonstrate good cause.
6 I understand that.

7 In our particular case, that would, in my
8 view, be a bit redundant since we've teed this issue up
9 before you here today.

10:17:09 10 THE COURT: I understand. I do.

11 MR. BAILEY: And we've had a good conversation
12 about that. But my point is this: If we were to go
13 under the rubric or the framework of good cause,
14 clearly in this case we have demonstrated good cause
10:17:28 15 because Caesars had not asserted any coercive claims
16 for relief prior to a couple months ago. It had only
17 asserted dec relief claims.

18 So could we have asserted the claims that
19 we're asserting now irrespective of our motion prior to
10:17:51 20 Caesars filing the first amended complaint?

21 Irrespective of that, could we have asserted those
22 claims now or prior to now? No. The answer is "no".
23 because it was only upon the filing of the first
24 amended complaint that gave us the ability because of
10:18:12 25 the change in the theories of this case through the

10:18:16 1 assertion of coercive claims, five new coercive claims,
2 and adding a new party that we have the ability to
3 respond to that and file not -- we filed what is
4 technically new counterclaims, but they involve the
10:18:33 5 same parties as the existing counterclaims. There are
6 no new theories. And it's regarding the same
7 contract-based claims and the same business
8 relationship.

9 So if you were to ask me: Mr. Bailey, I'd
10:18:49 10 like to proceed with a good cause analysis, that's the
11 basis upon which this Court should say, yes, there is
12 good cause to file the new counterclaims which are
13 simply parties adding on to the same claims that -- the
14 same counterclaims that already existed in this case
10:19:12 15 and allegations that refer to existing counterclaims
16 based on the same contract provision that is the
17 subject of the business relationship between the
18 parties.

19 We are not, contrary to opposing counsel's
10:19:30 20 insistence, we're not dramatically increasing what
21 needs to be done in the future in terms of discovery.
22 We are not adding any theories the way the plaintiff
23 has in its first amended complaint.

24 And when you look at this in totality, I think
10:19:48 25 you have to come to the conclusion, your Honor, that

10:19:51 1 not only is good cause demonstrated, but you have to
2 look at fairness. And I've always known you to be an
3 individual who tries to do things that are based on
4 fairness for both sides, not just one side but for both
10:20:07 5 sides in litigation. And as you indicated, always
6 tethered to or moored to the prevailing law and
7 specifically the prevailing rules.

8 In this case we are dealt with you allowing
9 them to file a first amended complaint to add coercive
10:20:26 10 claims for the very first time, and they add a new
11 party.

12 And our response is minimal compared to that.
13 And it's certainly no surprise to Caesars because a
14 year ago we attempted to assert those new claims, those
10:20:44 15 new counterclaims. You didn't allow us to do it then,
16 but you certainly should allow us to do it in light of
17 the fact that they have been given the ability and have
18 done the exercise of asserting coercive claims to their
19 first amended complaint. They're the ones who expanded
10:21:02 20 the theories in this case, and you allowed them to do
21 that. And I'm okay with that.

22 But you -- in terms of fairness, we have to be
23 able to respond to that. And we responded by not
24 adding any theories to the case. We responded by
10:21:19 25 supplementing, if you will, the contract-based claims

10:21:22 1 that are already in front of this Court. And it
2 certainly will not require a lot of additional
3 discovery because it's based on the same set of facts
4 that discovery has already taken place on. So there's
10:21:34 5 no real basis for severely or dramatically expanding
6 discovery in this case.

7 And so I would say to you that good cause, if
8 we want to go by a good cause rubric, we certainly have
9 demonstrated good cause. And we certainly expect to be
10:21:52 10 treated fairly as I know you would always treat both
11 sides fairly. Thank you, your Honor.

12 THE COURT: Okay. Thank you, sir.

13 And, Mr. Pisanelli, you get the last word,
14 sir.

10:22:04 15 MR. PISANELLI: Thank you, your Honor. So,
16 your Honor, where do I begin here? First of all,
17 counsel says that they have demonstrated good cause.
18 And the circular argument is, Well, when we filed our
19 counterclaims, they have to show good cause. You filed
10:22:26 20 counterclaims; therefore, there's good cause. That's
21 exactly the circular argument we just heard.

22 Remember, even in counsel's last comment he
23 said, We have to be able to respond to the new claims.
24 We agree. No debate there. And they did. They
10:22:41 25 answered them. And we would be having a very different

10:22:44 1 complaint or argument today if these counterclaims
2 touched upon the kickback scheme. But then he said,
3 We -- in all fairness we have to be able to respond to
4 the new claims from Caesars, and we did that with our
10:22:59 5 own independent claims that we've known about for
6 years. That was the bridge too far. That was the
7 disconnect that started this entire debate.

8 You can't say ever under the law this circular
9 argument that I need relief in order to do this and I
10:23:18 10 did this because I needed the relief. It doesn't work
11 that way. Good cause means: What did you know? When
12 did you know it? And what did you do with the
13 information that you knew?

14 Your Honor has already done that with these
10:23:30 15 exact claims. Not by all of them but these exact
16 claims have already been brought to your attention, and
17 the good cause analysis was already done. And your
18 Honor has already said there is not good cause.

19 There is no new good cause because you have
10:23:44 20 new parties. As a matter of fact, for the parties who
21 never filed a counterclaim in the first place and
22 they've known about this information all along, there's
23 even less good cause for that, so that certainly can't
24 be it.

10:23:56 25 And there cannot be good cause to erase the

10:24:01 1 entire analysis you've already done simply because we
2 discovered that they were hiding evidence about the
3 kickback scheme late in the day. You can't be,
4 Mr. Seibel, the beneficiary of your own wrongdoing.

10:24:12 5 Counsel talks about your Honor's equitable
6 powers and your instinct to fairness. No one is going
7 to disagree with any of that. But how can you cram
8 this concept of fairness and equity as being the
9 foundation for good cause because we learned about
10:24:28 10 Mr. Seibel hiding information late in the case? That's
11 not equity. That's not fairness.

12 And in any event, it doesn't touch upon their
13 need to respond to the kickback claims. Counsel keeps
14 saying, you know, this wait thing. This new theory.
10:24:46 15 This new coercive complaint about kickback. Okay.
16 We're going to have some documentation on the kickback.
17 We're going to find out who he was taking it from and
18 how much. It's pretty simple.

19 On the other hand, they want to take the
10:25:02 20 claims we've litigating for three years and erase it
21 all. All of our expert reports are meaningless. All
22 of the depositions we've taken, not meaningless, but
23 they're incomplete. We have to redo them now to add
24 all these different counts.

10:25:17 25 He's got the analysis exactly backwards. We

10:25:21 1 brought something in late that won't take that much
2 work, but it's late, and we have to do more work
3 because Mr. Seibel made it that way. It's his fault.
4 He's lying in the bed he made. All of us are because
10:25:32 5 he hid the evidence. But he can't get any relief
6 there.

7 But the suggestion to you that they simply
8 have the same philosophies but in new contracts, new
9 restaurants, new financial analysis is no big deal is
10:25:45 10 just not true. That's not what's going on here.

11 You know, this concept that the fatal flaw in
12 our position is that we opened up the floodgates by
13 having the audacity to bring the newly discovered
14 information to your Honor is not supported by the law.

10:26:03 15 We didn't change theories in the case. Our
16 theory in this case has never changed. That we
17 terminated these contracts because Mr. Seibel is a
18 convicted felon. Never changed. And that's what's
19 going to be presented to your Honor by summary judgment
10:26:17 20 or to the jury. It's never changed.

21 We've added, we'll call it, you know, this new
22 arm to the case on kickbacks, but we didn't change the
23 theories. We were not the ones that are fundamentally
24 turning the case upside down for a do-over. That is
10:26:31 25 not a fair assessment of what's going on.

10:26:35 1 So where does this bring us? Your Honor made
2 this very important point in -- to Mr. Bailey. You
3 said words to the effect that, In your 16.1 analysis,
4 issues like this are brought by a motion. And your
10:26:54 5 Honor would do a good-faith analysis. So I think
6 there's two options available to us here.

7 One is to accept that the briefing is
8 sufficient. And that both Mr. Bailey and I have
9 exhausted the topic on good cause. And you already
10:27:09 10 have that good cause analysis, and to simply strike
11 them and the issue is done, and we move forward in this
12 case.

13 I don't think there's anything new that the
14 motion for leave to amend would bring to the table. We
10:27:27 15 already know that because Mr. Bailey has given us his
16 best, albeit circular, argument that good cause exists
17 because we opened a floodgate, or it's the exact
18 opposite. We opened the issue with a new claim. They
19 need good cause. We've already gone through that.

10:27:44 20 And so your Honor I think has what you need
21 for you under Rule 16 in particular but as well as
22 under Rule 15 and the different approaches we've talked
23 about to say: Number one, it is rogue. It was never
24 allowed in the first place, and, therefore, it's
10:28:03 25 stricken.

10:28:03 1 And by the way, number two, that even if this
2 Court were to consider their opposition as a de facto
3 and their oral argument as a de facto motion for leave
4 to amend the Court would reject it as it's already
10:28:19 5 rejected this exact argument, these exact theories for
6 new claims and new restaurants already because there is
7 no good cause, these claims having come so late in the
8 day based upon information Mr. Seibel has always known
9 about. And the issue is over, and we move forward.

10:28:33 10 Alternatively, we could simply strike it
11 because they're rogue. I think striking them seems to
12 be the necessary first step. They are rogue. They
13 never came to your Honor for relief. And they are
14 stricken. And you can leave the door open for them to
10:28:48 15 come in then to file a new motion for leave to amend
16 and set forth all the arguments we've heard and
17 whatever else they can muster up.

18 If Mr. Bailey is making the point that, you
19 know, you have options available to you to stay this
10:29:03 20 matter so it can be brought to the Supreme Court, that
21 I don't think that's accurate.

22 I think what we need is to do is to strike
23 these pleadings as rogue. He then can take that order.
24 We would need an order not a pending issue that we
10:29:18 25 could take to the Supreme Court up for an advisory

10:29:21 1 opinion. We need an order. We need an aggrieved party
2 at the appellate level.

3 And so we strike these complaints as rogue
4 without authority from the Court. And he can take that
10:29:31 5 order up saying that under the permissive approach that
6 he is advocating for he was entitled to do this. And
7 we'll see what the Supreme Court says.

8 Maybe it will send it back and tell us to
9 reopen the case. I don't think so. I don't think
10:29:44 10 anybody, quite frankly, thinks that that will happen.

11 Alternatively, your Honor, if you do invite
12 the motion just to complete the record, even though I
13 think you have the information in these briefs, you
14 have the information from oral argument, you can leave
10:29:58 15 the door open for a new motion sometime in the future
16 for leave to amend. And then the denial of that
17 motion, which would be redundant to what you did last
18 year on these same claims, that motion under Rule 15 at
19 least as the Rule 15 being the stated foundation for
10:30:17 20 the motion, Rule 16 being the standard you would
21 employ, then the denial of that motion could be brought
22 up on a writ.

23 But staying this issue now so that they can
24 explore an advisory opinion to the Supreme Court
10:30:33 25 doesn't make any sense, and it leaves all of the

10:30:35 1 parties in limbo. Again, it would reward Mr. Seibel
2 for his bad faith conduct in having never put the
3 kickback scheme on the table and the evidence about
4 that in the first place as he's obligated to do.

10:30:49 5 So with those different options, I think we
6 end up in the same place.

7 Today this matter should be -- this motion
8 should be granted and these counterclaims stricken.
9 And we leave it for another day to see if counsel comes
10:31:02 10 back for a third bite at the apple on a motion for
11 leave to amend.

12 THE COURT: Okay, sir, anything else?

13 MR. PISANELLI: Not from us, your Honor.

14 THE COURT: I just have one -- I just have one
10:31:13 15 other issue. And I think this is -- well, Mr. Bailey
16 talks about fundamental fairness. I don't want to
17 issue any decision without at least giving both parties
18 an opportunity to make sure the record is clear and
19 supported either way. And what I mean by that is this,
10:31:31 20 and as I was listening to both of you fine gentlemen
21 argue, I was on my -- I'm not in chambers right now.
22 We're doing all this remotely, like many of you are.
23 And I don't necessarily have all the additional
24 benefits of a law library like I have in chambers where
10:31:51 25 I have Moore's Federal Practice and Procedure and all

10:31:54 1 sorts of treatises there at my fingertips, and I can --
2 and I also have copies of the Reporters, and I read
3 cases, typically, before hearings. I don't have that,
4 but I have my iPad available. And so I was reading
10:32:06 5 the Nutton case and as I was listening to both of you.

6 And here's my ultimate concern because this is
7 what the Court of Appeals said in Nutton. It quotes:

8 "Importantly, NRCP 16 specifies --" no,
9 "-- specifically requires the Court to set a
10:32:26 10 deadline for motions seeking to amend pleadings
11 in states that the deadline shall not be
12 modified except for the showing of good cause."

13 Period, end of quote. We understand that.

14 But here's where the rubber meets the road.

10:32:38 15 And this is what the Court of Appeals set forth in the
16 decision. And this hasn't really been addressed. And
17 I would hate to -- because I don't mind telling you
18 both of you, I do think it's a Rule 16 analysis based
19 upon Nutton. And there's no case like that I'm aware
10:32:56 20 of from a federal jurisdictional perspective. And this
21 is what I think Justice Silver said. Quote:

22 "In determining whether good cause exists
23 under NRCP 16(b) the trial court must decide
24 whether a particular filing deadline cannot be
10:33:11 25 reasonably met despite the diligence of the

10:33:14 1 motioning party. Courts have identified four
2 non-exclusive factors that may aid in deciding
3 whether a party exercised diligence in trying,
4 but failing, to met a deadline:" And it gives
10:33:31 5 four factors to consider.

6 I mean, it's clearly set forth there. And it
7 says: (1) the explanation for the untimely conduct,
8 (2) the importance of the requested timely -- untimely
9 action, (3) the potential prejudice in allowing the
10:33:49 10 untimely conduct, And (4) availability of a continuance
11 to cure such prejudice."

12 And they say, you know what, one factor is not
13 more important than the other. And you see that all
14 the time as far as these matters are concerned.

10:34:02 15 And the reason why I bring it up is this: We
16 discussed good cause. And, you know, good cause will
17 change as far as factors are concerned. And we all
18 know this. I know I'm just reciting something everyone
19 knows. But like good cause for service of process with
10:34:18 20 120 days you have Scrimmer, you have Saavedra and those
21 factors to consider. So these are the factors that I
22 would have to consider from an analytical perspective
23 to say there's good cause or no good cause.

24 And it's been raised. I think Mr. Bailey
10:34:33 25 raised it. He said even -- somewhere in the points and

10:34:35 1 authorities, it's my recollection.

2 And so at the end of the day I want to make
3 sure that whatever decision I make will be tethered to
4 the rules and the case law. And so I would -- I don't
10:34:51 5 know if it would be fair for me to issue a decision
6 based upon specific standards that haven't necessarily
7 been addressed by the respective parties. Because I
8 don't think these factors have been addressed.

9 Now, let's talk about that very briefly.

10:35:14 10 Mr. Pisanelli and then Mr. Bailey.

11 MR. PISANELLI: So, your Honor, not having
12 those factors in front of me, I don't want to overlook
13 anything, but it sounds to me what you're saying is if
14 you were to do the Rule 16 analysis and a good-faith
10:35:34 15 analysis, what you're saying is if the factors haven't
16 been fully addressed it's because the Seibel entities
17 filed rogue counterclaims without leave. And so --

18 THE COURT: Okay.

19 MR. PISANELLI: -- step one --

10:35:47 20 THE COURT: I understand.

21 MR. PISANELLI: -- is the -- and then we would
22 refile those motions and have that debate.

23 THE COURT: Mr. Bailey.

24 MR. BAILEY: Your Honor, I don't have those
10:35:56 25 factors in front of me as well, but as I -- as I'm

10:36:00 1 thinking back, I believe, those factors deal with
2 prejudice and why there was a delay in filing, in our
3 case, the counterclaims. And, of course, if you -- if
4 you look at delay there was no delay because the first
10:36:21 5 amended complaint was just filed a couple months ago.

6 The other point I want to make clear is that
7 the analysis regarding the three approaches: The
8 permissive approach -- actually the two approaches, the
9 permissive approach and the moderate approach. As you
10:36:40 10 look at that analysis throughout the courts, the fact
11 patterns are always after the deadline has run for
12 amendments.

13 And I heard you just mention that, but I want
14 to make sure that we're all clear that those approaches
10:36:56 15 kick in because the party filing the amended
16 counterclaims does not have to seek leave of court
17 because they're responding to newly asserted claims,
18 typically, by the plaintiff.

19 One other point I just want to be clear about
10:37:13 20 is you've heard counsel vigorously talk about my client
21 trying to hide evidence and that's why they were only
22 able to file or seek leave to file their first amended
23 complaint after the deadline had passed. I want to
24 remind the Court that the very documents that they
10:37:35 25 relied upon in seeking to amend their complaint were

10:37:40 1 documents that were provided by us in our initial
2 disclosures.

3 So this whole conversation, of course, I
4 understand opposing counsel is an advocate and he's
10:37:50 5 going to try to color things in a way that makes my
6 client look bad, but, indeed, there was no hiding of
7 documents. To suggest that somehow we're not
8 proceeding in good faith, and I think good faith is one
9 of the factors that Judge Silver in the Nutton case may
10:38:09 10 be eluding to, this is all being done in good faith.

11 And certainly, there is little to no prejudice to
12 either party by allowing us to proceed with
13 counterclaims that do not involve new theories that
14 involve the exact same contract-based claims and the
10:38:31 15 exact parties in their same business relationship.

16 This whole notion that discovery is going to be
17 significantly expanded is just inconsistent with
18 reality of the facts.

19 So I apologize for not having the Nutton case
10:38:44 20 right in front of me. But I think what I've just
21 described hits upon some of the things that Justice or
22 Judge Silver talked about in that case.

23 THE COURT: Okay. And last, but not least,
24 the reason why I bring this up, I don't mind telling
10:39:01 25 you both of you, I probably -- in a certain way to make

10:39:06 1 sure the record is firm from an appellate perspective
2 in that: Are both of you are saying, Look, you don't
3 want to have additional time to address those four
4 factors as set forth in Nutton, and I can go ahead and
10:39:17 5 take a look at the record and make a determination as
6 to whether I should strike it, give leave to, you know,
7 potentially seek a motion to determine good faith, or
8 just make a determination based upon the record and
9 relief specifically requested in front of me? See
10:39:38 10 where I'm going on that?

11 MR. PISANELLI: Your Honor, I do, your Honor.
12 James Pisanelli for Caesars entities. First correction
13 for counsel. While there may have been an email that
14 made no sense to anybody of what it meant in early
10:39:55 15 productions, what counsel will concede, as he must, is
16 Mr. Seibel has never produced all of the documentation
17 about his kickback including all of the money, all of
18 the communications and where it went and what he did to
19 hide it from us.

10:40:14 20 So the suggestion from Mr. Seibel of all
21 people in this case has been transparent is belied by
22 the record. We are where we're at because of
23 Mr. Seibel's behavior.

24 On the issue of your last question, your
10:40:24 25 Honor, I hear you loud and clear. The reason I think

10:40:30 1 you have enough before you to both deny this motion and
2 slam the door on this topic for good is that it is the
3 exact motion, the good-faith standard.

4 Remember, we're not talking about
10:40:44 5 counterclaims related to the kickback scheme. We're
6 talking about counterclaims they already asked you for
7 permission for at least some of them. They've already
8 asked you for permission to these counterclaims.

9 You've already done that analysis, and you've already
10:40:58 10 rejected them. There's nothing new that they can
11 present.

12 The only thing you heard in this debate that
13 is new is that they think that because we filed our
14 wholly unrelated claims related to the kickback that it
10:41:12 15 erases not only your order, but all of the logic and
16 reasoning you put into your order when you rejected
17 their attempt to bring these counterclaims in last
18 year.

19 In the absence of that fully briefed debate, I
10:41:26 20 probably would take you up on the option to say -- let
21 us go through the Nutton factors. But we went through
22 those factors with you in the counterclaims with these
23 exact parties already. That is the law of this case.
24 And I think you have enough and the record is clear
10:41:40 25 that there has been no prejudice to the Seibel parties

10:41:44 1 not from the substance of the order because you've
2 already analyzed these claims and why they are so late,
3 and not from a procedural standpoint either because,
4 again, a defect lies in what they did, filing motion --
10:41:59 5 or I'm sorry, filing counterclaims without leave. And
6 procedurally they've already had the opportunity to
7 present to you why they have met the good cause
8 standard.

9 This concept that they've offered today
10:42:12 10 related to our kickback claims doesn't erase the
11 history of this case and change your analysis. So I
12 think you've got enough to go ahead and reject that
13 theory and to strike these counterclaims.

14 THE COURT: All right. This is what I'm going
10:42:25 15 to do on this issue. And I think we do have a vigorous
16 and well documented record. I'm going to do really two
17 things first and foremost, and I haven't done this yet,
18 but I'm going to go back and look at the prior
19 pleadings as it relates to my prior decision in this
10:42:46 20 matter vis-à-vis the counterclaims.

21 And I'm going to look at the pleadings. I
22 don't know if I have to look at the record in any great
23 detail. But I'm going to look at my order. And then
24 the next thing I'm going to do is this: I'm going to
10:42:59 25 take another look at this, the current pleadings we

10:43:02 1 have in this case. I'm -- but I'm going to look at it
2 from a different perspective in that at the end of the
3 day I'm going to perform a Rule 16 analysis. Make a
4 good cause determination. But more specifically, it's
10:43:15 5 going to be a little bit more in depth than that
6 because I'm going to look at the amendment, and then
7 I'm going to look at the counterclaims and specifically
8 what's being requested in the counterclaims and make a
9 determination as to what impact, if any, they're
10:43:31 10 related to the amendment in the complaint, or whether
11 it's something completely separate and something that
12 potentially was the prior claims for relief. And I'm
13 going to address it in some detail. It won't be a long
14 minute order, but maybe a couple of pages or so. But I
10:43:48 15 just -- I think it's best to handle it that way because
16 I just want to go back and take a look at the prior
17 filings and my prior decision in this case. And we'll
18 get that done relatively quick.

19 MR. PISANELLI: Your Honor, James Pisanelli.
10:44:02 20 I have a quick question.

21 THE COURT: Yeah.

22 MR. PISANELLI: I think I completely
23 understand your point, your rationale of wanting to go
24 back and see what's happened. I know I have made
10:44:14 25 repeated references to that analysis and those orders,

10:44:17 1 so that only makes sense.

2 What I would suggest as a proposal to you, and
3 to counsel for that matter, is in light of that fact,
4 that we trail the second motion before you today.

10:44:32 5 THE COURT: I agree.

6 MR. PISANELLI: To occur after you do that
7 analysis because the heart of that debate, I think,
8 centers upon what your ruling will be on this first
9 motion, the reasons we took this first motion, the
10:44:44 10 motion we did before the discovery motion.

11 THE COURT: Okay. And I don't want to
12 overlook Mr. Bailey. You had a comment, sir.

13 MR. BAILEY: In fact, your Honor, John Bailey
14 for the record. What Mr. Pisanelli just said was
10:44:56 15 exactly what I was going to suggest to the Court.

16 Because the second motion is so related to your
17 decision in this motion that it makes sense to trail
18 that. So that was going to be my comment.

19 THE COURT: Okay. And that -- what we'll do
10:45:14 20 then, how about this? Let's -- as far as the second
21 motion is concerned, let's just move that 30 days. I
22 just don't want to take it off calendar.

23 MR. BAILEY: Sure. That's --

24 MR. PISANELLI: That's --

10:45:33 25 THE COURT: Yeah. That does two things.

10:45:35 1 That's -- first, it's a tickler. But number two, I
2 just don't want -- I should say I want to keep the case
3 moving forward.

4 MR. BAILEY: Understood.

10:45:48 5 THE COURT: Okay.

6 MR. PISANELLI: Understood, your Honor.

7 THE COURT: And, CJ, do you have a date?

8 THE COURT CLERK: Yes, sir. 30 days will put
9 us in October. The Court's indulgence, verify this
10:46:02 10 matter type and our calendar. So we have October 22nd
11 at 9:00 a.m.

12 THE COURT: Okay. And gentleman --

13 MR. PISANELLI: Works for us. Thank you, your
14 Honor.

10:46:15 15 THE COURT: And I'll have a decision before
16 then.

17 MR. BAILEY: Your Honor, this John Bailey.

18 THE COURT: Yes, sir.

19 MR. BAILEY: Just to bring up a quick
10:46:24 20 housekeeping matter. I guess it's a housekeeping
21 matter. My understanding is, and Mr. Williams from my
22 firm is sitting right here, there was a communication
23 or conversation amongst counsel earlier this week where
24 there was an agreement to extend the discovery deadline
10:46:43 25 for 30 days. And because of that, that would

10:46:47 1 necessarily require a moving of the trial date. I
2 wasn't a part of that conversation, so I'll let others
3 interject what the actual conversation was, but I think
4 it was the collective group's idea to bring that to
10:47:04 5 your attention now and either resolve that now or if
6 you want us to put it in some kind of pleading, then
7 that would be fine.

8 THE COURT: Well, Mr. Bailey, I just have one
9 comment on that. And from a historical perspective,
10:47:21 10 couple things. Number one, if the party's want to
11 stipulate to move the dates as set forth in the
12 scheduling order, and everyone agrees, I never get
13 involved or get in the way. The only time I get
14 concerned is when we get close to a five-year issue.
10:47:41 15 Don't have that yet. And then I get concerned and I
16 have everyone come in and we discuss what the issues
17 are.

18 So all I'm trying to say, if everyone wants to
19 move the trial date, and they want to continue
10:47:53 20 discovery, and they want to prepare a stipulation and
21 order on that, I'll sign it.

22 MR. BAILEY: Thank you, your Honor.

23 THE COURT: No formal motions have to be
24 filed. They just don't. I think that's pretty much a
10:48:05 25 waste of time. I've always felt from a litigation

10:48:06 1 perspective, I let the -- I let the lawyers,
2 ultimately, navigate waters of litigation. And if
3 they're agreeing on things and many of those cases go
4 away. That's kind of how I see it. And, ultimately,
10:48:25 5 we have to try some cases. I get that.

6 But I'd rather have everyone be in control of
7 their destiny philosophically.

8 MR. PISANELLI: Appreciate that, your Honor.
9 I have not been involved in those discussions either,
10:48:39 10 so I don't have any substance to offer. I do think
11 that they are kind of evolving. That there have been
12 discussions. They have been, by any and all measures,
13 been proceeding in good faith.

14 I don't know that the parties have agreed to
10:48:56 15 anything. But knowing your policy as you just stated,
16 we will get back together with one another. Finalize
17 what works and what's fair to everybody. And then if
18 it's a stipulation, then we'll bring that back to you
19 to your attention. And if it's for a time, and with no
10:49:14 20 restrictions, no limitations, we'll just ask you to
21 change the date. And if it's for time just to do
22 certain things, clean up work, get some depositions
23 done, things like that, then, you know, we'll be clear
24 to you what it is we're doing. We appreciate your
10:49:29 25 point.

1 THE COURT: Yeah. And lastly, I just have one
2 other point. And I see this matter is currently set
3 for a trial readiness in November.

4 And just so everyone understands what I've
5 been doing is this. And Mr. Bailey brought up the
6 trial date. There's two issues there. Number one, the
7 way things are currently set as it relates to with the
8 pandemic nationally, I don't mind being candid with
9 everyone, I am becoming concerned about the viability
10 of trying a case in February. Six months ago I didn't
11 have that concern. But now it's almost October, and
12 we're talking four months, four and-a-half, five months
13 from now. And nothing has changed. There is no
14 vaccine. There's no safe and effective therapeutics
15 that help in a significant way. You know, no Tamiflu
16 or anything like that out there. There's just not.

17 And so that's the big concern of mine. And
18 you can think about it from that perspective. If you
19 want to move it, what would be a more viable date. And
20 you can always get dates from my judicial executive
21 assistant Lynn or call the court clerk CJ Darling. He
22 can help you in that regard as far as these dates are
23 concerned.

24 Just as important too, regarding changing of
25 the scheduling order, if everyone agrees, I'm fine with

10:50:48 1 that. But simply because we move a trial date based
2 upon the pandemic, that doesn't necessarily extend all
3 the dates as set forth in the scheduling order unless
4 the parties agree. I think everybody knows that. And
10:51:01 5 there's --

6 MR. PISANELLI: Understood, your Honor.

7 THE COURT: Just want to let you know that.
8 But the bottom line is I will work with you whatever
9 you need.

10:51:11 10 MR. PISANELLI: Appreciate that. Thank you,
11 your Honor.

12 MR. BAILEY: Thank you, your Honor. We
13 appreciate your consideration. Thanks so much.

14 THE COURT: Okay. And everyone enjoy your day
10:51:16 15 and stay safe.

16 MR. PISANELLI: Thank you. You as well, your
17 Honor.

18 THE COURT: All right.

19
10:51:23 20
21
22
23 (Proceedings were concluded.)
24

25 * * * * *

REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE
TELEPHONIC PROCEEDINGS HAD IN THE BEFORE-ENTITLED
MATTER AT THE TIME AND PLACE INDICATED, AND THAT
THEREAFTER SAID STENOGRAPHY NOTES WERE TRANSCRIBED INTO
TYPEWRITING AT AND UNDER MY DIRECTION AND SUPERVISION
AND THE FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE
AND ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF
NEVADA.

PEGGY ISOM, RMR, CCR 541

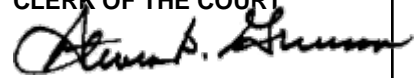
Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

AA01462

TAB 68



ARJT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiff,

-vs-

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

Defendants.

and

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

Nominal Plaintiff.

AND ALL RELATED MATTERS

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

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

HEARING DATE(S)
ENTERED IN
ODYSSEY

**7th AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL, CALENDAR CALL, AND DEADLINES FOR MOTIONS;
AMENDED DISCOVERY SCHEDULING ORDER CALL**

Pursuant to the Stipulation and Proposed Order to Extend Discovery Deadlines (Ninth Request, the Discovery Deadlines and Trial dates are hereby amended as follows:

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

Motions to amend pleadings or add parties Closed

Close of Fact Discovery Closed

1	Designation of experts pursuant to NRCP 16.1(a)(2)	Closed
2	Designation of rebuttal experts pursuant to NRCP 16.1(a)(2)	Closed
3	Discovery Cut Off (new)	November 18, 2020
4	(all)	December 18, 2020
5	Dispositive Motions	February 18, 2021
6	Motions in Limine	April 23, 2021

7
8 **IT IS HEREBY ORDERED THAT:**

9 A. The above entitled case is set to be tried to a jury on a **five week stack** to begin
10 **July 12, 2021 at 9:30 a.m.**

11 B. Pre-Trial Conference/Calendar Call will be held on **June 24, 2021 at 10:30 a.m.**

12 C. Parties are to appear on **February 3, 2021 at 9:00a.m.**, for a Status Check re Trial
13 Readiness.

14 D. The Pre-Trial Memorandum must be filed no later than **May 24, 2021**, with a
15 courtesy copy delivered to Department XVI. All parties, (Attorneys and parties in proper person)
16 **MUST** comply with **All REQUIREMENTS** of EDCR 2.67, 2.68 and 2.69. Counsel should include
17 in the Memorandum an identification of orders on all motions in limine or motions for partial
18 summary judgment previously made, a summary of any anticipated legal issues remaining, a brief
19 summary of the opinions to be offered by any witness to be called to offer opinion testimony as well
20 as any objections to the opinion testimony.

21 E. All motions in limine to exclude or admit evidence must be in writing and filed no
22 later than **April 23, 2021. Orders shortening time will not be signed except in extreme**
23 **emergencies.**

24 F. Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
25
26
27
28

1 16.1(a)(3) must be made at least 30 days before trial.

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

11
12 H. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
13 exhibits must comply with EDCR 2.27. Two (2) sets must be three-hole punched placed in three
14 ring binders along with the exhibit list. The sets must be delivered to the clerk two days prior to the
15 firm trial date. Any demonstrative exhibits including exemplars anticipated to be used must be
16 disclosed prior to the calendar call. Pursuant to EDCR 2.68, counsel shall be prepared to stipulate or
17 make specific objections to individual proposed exhibits. Unless otherwise agreed to by the parties,
18 demonstrative exhibits are marked for identification but not admitted into evidence.
19

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

24 J. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
25 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall
26 provide the Court, two (2) judicial days prior to the firm trial date given at Calendar Call, an agreed
27
28

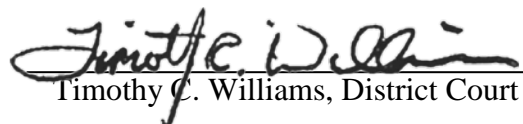
1 set of jury instructions and proposed form of verdict along with any additional proposed jury
2 instructions with an electronic copy in Word format.

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

7
8 *Counsel is asked to notify the Court Reporter at least two (2) weeks in advance if they are*
9 *going to require daily copies of the transcripts of this trial or real time court reporting. Failure to*
10 *do so may result in a delay in the production of the transcripts or the availability of real time court*
11 *reporting.*

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

17 DATED: October 15, 2020.

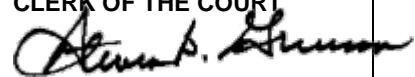
18
19 
20 Timothy C. Williams, District Court Judge

21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on the date filed, a copy of the foregoing Amended Order Setting Civil
23 Jury Trial, Pre-Trial/Calendar Call was electronically served, pursuant to N.E.F.C.R. Rule 9, to all
24 registered parties in the Eighth Judicial District Court Electronic Filing Program to all registered
25 service contacts on Odyssey File and Serve for Case No. A751759.

26 /s/ Lynn Berkheimer
27 Lynn Berkheimer, Judicial Executive Assistant
28

TAB 69



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

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**STIPULATION AND PROPOSED
ORDER TO EXTEND DISCOVERY
DEADLINES (NINTH REQUEST)**

AND ALL RELATED MATTERS

The Parties, PHWLTV, LLC ("Planet Hollywood"), Gordon Ramsay ("Ramsay"), Rowen Seibel ("Seibel"), Craig Green ("Green"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC," and collectively with Caesars Palace, Paris, and Planet Hollywood, "Caesars"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), TPOV Enterprises, LLC ("TPOV"), TPOV 16 Enterprises, LLC ("TPOV 16"), Original Homestead Restaurant, Inc. ("OHR"), R Squared Global Solutions, LLC ("R Squared"), derivatively on behalf of DNT Acquisition, LLC ("DNT"), and GR Burgr, LLC ("GRB") (the "Parties"), by and through their undersigned counsel of record, hereby stipulate and request to modify the schedule set by this Court's Sixth Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order dated June 18, 2020 (the "Sixth Scheduling Order"). This is the ninth request for an extension of discovery deadlines. The Parties stipulated to six extensions and this Court previously ordered two extensions following opposed motions. This Stipulation is being entered into in good faith and not for the purposes of delay, as good cause appears to extend discovery deadlines.

I. STATEMENT OF DISCOVERY COMPLETED TO DATE.

- Planet Hollywood served its initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Planet Hollywood served privilege/redaction logs in Case No. A-17-751759 on September 5, 2017. Planet Hollywood supplemented its disclosures on January 9, 2018.
- Seibel served his initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Ramsay also served his initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Caesars served its initial disclosures in Case No. A-17-760537-B (together with Case No. A-17-751759, the "Consolidated Action") on November 6, 2018.
- Caesars served its initial privilege log in the Consolidated Action on November 16, 2018.

- J. Jeffrey Frederick (who is no longer a party to the Consolidated Action) served his initial disclosures in the Consolidated Action on November 16, 2018.
- OHR served its initial disclosures in the Consolidated Action on November 27, 2018.
- Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT served their initial disclosures in the Consolidated Action on November 29, 2018.
- Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT served their requests for the production of documents on Caesars Palace, Paris, Planet Hollywood, and CAC on January 24, 2019.
- Caesars served its First Set of Requests for Production of Documents to Frederick on January 30, 2019.
- Desert Palace served its First Set of Interrogatories to Frederick on January 30, 2019.
- Desert Palace served its First Set of Interrogatories to Seibel on February 5, 2019.
- Caesars served its First Set of Requests for Production of Documents to Seibel on February 5, 2019.
- On March 1, 2019, Frederick served his responses to Desert Palace's First Set of Interrogatories.
- On March 1, 2019, Frederick served his responses to Caesars' First Set of Requests for Production of Documents.
- On March 5, 2019, Caesars served its responses to Seibel's First Set of Requests for Production of Documents.
- On March 7, 2019, Caesars served its First Set of Requests for Production of Documents to MOTI.
- On March 7, 2019, Caesars served its First Set of Requests for Production of Documents to MOTI 16.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to LLTQ.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to LLTQ 16.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to MOTI.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to MOTI 16.

- On March 8, 2019, CAC served its First Set of Interrogatories to FERG.
- On March 8, 2019, CAC served its First Set of Interrogatories to FERG 16.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to FERG.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to FERG 16.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to LLTQ.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to LLTQ 16.
- On March 14, 2019, Paris served its First Set of Interrogatories to TPOV.
- On March 14, 2019, Paris served its First Set of Interrogatories to TPOV 16.
- On March 18, 2019, Ramsay served his First Supplement to NRCP 16.1 Disclosures.
- On March 21, 2019, Seibel served his responses to Caesars' First Set of Requests for Production of Documents.
- On March 21, 2019, Seibel served his responses to Desert Palace's First Set of Interrogatories.
- On April 12, 2019, Caesars served its First Supplemental Disclosures Pursuant to NRCP 16.1.
- On April 22, 2019, FERG served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 23, 2019, FERG served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, FERG 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 23, 2019, FERG 16 served its responses to Desert Palace's First Set of Interrogatories.

- On April 22, 2019, LLTQ 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, LLTQ 16 served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, LLTQ served its responses to Desert Palace's amended First Set of Interrogatories.
- On April 22, 2019, LLTQ served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, MOTI 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI 16 served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, TPOV served its responses to Paris' First Set of Interrogatories.
- On April 22, 2019, TPOV 16 served its responses to Paris' First Set of Interrogatories.
- On April 30, 2019, Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, and FERG 16 (collectively, "Seibel and the Development Entities") served their First Supplemental Disclosure.
- On May 22, 2019, Caesars served its Second Supplemental Disclosures Pursuant to NRCP 16.1.
- On May 6, 2019, Seibel and the Development Entities served their Second Supplemental Disclosure.
- On May 22, 2019, Caesars served its First Supplemental Privilege Log.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Desert Palace, Inc.

- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Paris Las Vegas Operating Company, LLC.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to PHWLTV, LLC.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Boardwalk Regency Corporation, d/b/a/ Caesars Atlantic City.
- On July 30, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On August 12, 2019, Seibel and the Development Entities served Requests for Admissions to Caesars.
- On August 12, 2019, Seibel and the Development Entities served Requests for Admissions to Ramsay.
- On August 14, 2019, Seibel and the Development Entities served Requests for Production of Documents to Ramsay.
- On August 14, 2019, Seibel and the Development Entities served Requests for Production of Documents to Caesars.
- On August 27, 2019, Caesars served its Third Supplemental Disclosures Pursuant to NRCP 16.1.
- On August 28 and 29, 2019, the Parties deposed Frederick
- On September 4 and 6, 2019, the Parties deposed Craig Green.
- On September 5, 2019, Caesars deposed the NRCP 30(b)(6) for TPOV.
- On September 6, 2019, Caesars deposed the NRCP 30(b)(6) for TPOV 16.
- On September 6, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 10, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 11, 2019, Caesars served its Responses to Seibel and the Development Entities' Requests for Admissions.

- On September 11, 2019, Ramsay served his Responses to Seibel and the Development Entities' Requests for Admissions.
- On September 13, 2019, Caesars served its Fourth Supplemental Disclosures Pursuant to NRCP 16.1.
- On September 13, 2019, Caesars served its Responses to Seibel and the Development Entities' Requests for Production of Documents.
- On September 13, 2019, Ramsay served his Responses to Seibel and the Development Entities' Requests for Production of Documents.
- On September 16, 2019, Seibel and the Development Entities deposed Thomas Jenkin.
- On September 18, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 19, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 20, 2019, Seibel and the Development Entities deposed Mark Clayton, Esq.
- On September 24 and 25, 2019, Caesars began deposing Seibel.
- On September 26, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 30, 2019, the Parties deposed Ramsay.
- On October 1, 2019, the Parties deposed the NRCP 30(b)(6) designee for Gordon Ramsay Holdings.
- On October 2, 2019, the LLTQ/FERG Defendants filed a Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses and Counterclaims. That Motion was heard on November 6, 2019 and denied in its entirety.
- On October 3, 2019, Caesars served its Second Set of Requests for Production of Documents to Seibel.
- On October 7, 2019, Caesars served its Fifth Supplemental Disclosures Pursuant to NRCP 16.1.

- 1 • On October 11, 2019, Caesars served its Sixth Supplemental Disclosures Pursuant to
- 2 NRCP 16.1.
- 3 • On October 15, 2019, Seibel and the Development Entities deposed the NRCP 30(b)(6)
- 4 designee for Caesars' Capital Committee.
- 5 • On October 16, 2019, Seibel and the Development Entities deposed Richard Casto.
- 6 • On October 25, 2019, Caesars served its Third Set of Requests for Production of
- 7 Documents to Seibel.
- 8 • On October 29, 2019, the Parties deposed Marc Sherry.
- 9 • On October 30, 2019, the Parties deposed Greg Sherry.
- 10 • On October 30, 2019, Seibel and the Development Entities served their Second Request
- 11 for Production of Documents to Ramsay.
- 12 • On October 31, 2019, the Parties deposed Bryn Dorfman.
- 13 • On November 2, 2019, Seibel served his responses to Caesars' Second Set of Requests
- 14 for Production of Documents.
- 15 • On November 4, 2019, Caesars served its Seventh Supplemental Disclosures Pursuant
- 16 to NRCP 16.1.
- 17 • On November 5, 2019, Seibel and the Development Entities deposed the NRCP 30(b)(6)
- 18 designee for Caesars' Compliance Committee.
- 19 • On November 11, 2019, Seibel and the Development Entities served a supplemental
- 20 production of documents.
- 21 • On November 12, 2019, Caesars deposed the NRCP 30(b)(6) designee of LLTQ
- 22 Enterprises, LLC.
- 23 • On November 13, 2019, Caesars deposed the NRCP 30(b)(6) designee of LLTQ
- 24 Enterprises 16, LLC.
- 25 • On November 14, 2019, Caesars deposed the NRCP 30(b)(6) designee of MOTI
- 26 Partners, LLC.
- 27 • On November 14, 2019, Seibel and the Development Entities served a supplemental
- 28 production of documents.

- 1 • On November 22, 2019, Seibel and the Development Entities served their initial
- 2 privilege log.
- 3 • On November 22, 2019, Caesars served its Eighth Supplemental Disclosures Pursuant
- 4 to NRCP 16.1.
- 5 • On November 22, 2019, Caesars served its Second Supplemental Privilege Log.
- 6 • On November 25, 2019, Seibel served his responses to Caesars' Third Set of Requests
- 7 for Production of Documents.
- 8 • On December 2, 2019, Seibel and the Development Entities served a supplemental
- 9 production of documents.
- 10 • On December 3, 2019, Seibel and the Development Entities served a supplemental
- 11 production of documents.
- 12 • On December 5, 2019, Seibel and the Development Entities deposed Gary Selesner.
- 13 • On December 6, 2019, Caesars served its Third Supplemental Privilege Log.
- 14 • On December 9, 2019, Ramsay served his responses to Seibel and the Development
- 15 Entities' Second Request for Production of Documents.
- 16 • On December 11, 2019, Caesars filed a Motion for Leave to File First Amended
- 17 Complaint ("Caesars' Motion to Amend"). Caesars' Motion to Amend came before the
- 18 Court for hearing on February 12, 2020 and the Court granted the same.
- 19 • On December 12, 2019, Seibel and the Development Entities served a supplemental
- 20 production of documents.
- 21 • On December 20, 2019, Ramsay served a supplemental production of documents.
- 22 • On January 2, 2020, Ramsay served a supplemental production of documents.
- 23 • On January 31, 2020, Ramsay served his First Set of Requests for Production of
- 24 Documents to Seibel.
- 25 • On February 21, 2020, Seibel and the Development Entities served a supplemental
- 26 production of documents.
- 27 • On March 9, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum to
- 28 Innis & Gunn USA, Inc.

- 1 • On March 10, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum
- 2 to Kostelanetz & Fink, LLC.
- 3 • On March 10, 2020, Caesars served its Ninth Supplemental Disclosures Pursuant to
- 4 NRCP 16.1.
- 5 • On March 12, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum
- 6 to Leonard A. Sands, Esq.
- 7 • On March 23, 2020, Seibel served his responses to Ramsay's First Set of Requests for
- 8 Production of Documents.
- 9 • On April 10, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 10 Disclosure of Documents and Witnesses.
- 11 • On May 15, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 12 Disclosure of Documents and Witnesses.
- 13 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 14 Duces Tecum to Innis & Gunn USA, Inc.
- 15 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 16 Duces Tecum to Innis & Gunn USA, Inc.
- 17 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 18 Duces Tecum to Leonard A. Sands, Esq.
- 19 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 20 Duces Tecum to Kostelanetz & Fink.
- 21 • On May 27, 2020, Seibel served his First Supplemental Responses to Caesars' Second
- 22 Set of Requests for Production of Documents.
- 23 • On May 29, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 24 Disclosure of Documents and Witnesses.
- 25 • On June 3, 2020, Caesars served Notice of Out-of-State Subpoena Duces Tecum to BR
- 26 23 Venture, LLC.
- 27 • On June 3, 2020, Caesars served Notice of Out-of-State Subpoena Duces Tecum to
- 28 Future Star Hospitality, LLC.

- On June 19, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On June 29, 2020, the Court entered the Parties' Stipulation and Order Permitting Issuance of Subpoenas.
- On June 30, 2020, Desert Palace served its First Set of Interrogatories to Green.
- On June 30, 2020, Caesars served its First Set of Requests for Production of Documents to Green.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Innis & Gunn USA, Inc.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Leonard A. Sands, Esq.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Kostelanetz & Fink.
- On June 30, 2020, Caesars served an Amended Notice of Out-of-State Subpoena Duces Tecum to BR 23 Venture, LLC.
- On June 30, 2020, Caesars served an Amended Notice of Out-of-State Subpoena Duces Tecum to Future Star Hospitality, LLC.
- On June 30, 2020, FERG served its First Set of Interrogatories to CAC.
- On June 30, 2020, FERG 16 served its First Set of Interrogatories to CAC.
- On June 30, 2020, Green served his First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Green served his First Set of Interrogatories to Planet Hollywood.
- On June 30, 2020, LLTQ served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, LLTQ 16 served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, MOTI served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, MOTI 16 served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, R Squared served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Seibel served his First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Seibel served his First Set of Interrogatories to Planet Hollywood.

- On June 30, 2020, TPOV served its First Set of Interrogatories to Paris.
- On June 30, 2020, TPOV 16 served its First Set of Interrogatories to Paris.
- On June 30, 2020, Seibel, the Development Entities, and Green served their Third Set of Requests for Production of Documents to Caesars.
- On July 20, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On July 22, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On July 24, 2020, GRB served its Initial Disclosures Pursuant to NRCP 16.1.
- On July 24, 2020, FERG served its First Set of Admissions to CAC.
- On July 24, 2020, FERG 16 served its Request for Admissions to CAC.
- On July 24, 2020, Green served his Request for Admission to CAC
- On July 24, 2020, Green served his Request for Admission to Desert Palace.
- On July 24, 2020, Green served his Request for Admission to Paris.
- On July 24, 2020, Green served his Request for Admission to Planet Hollywood.
- On July 24, 2020, LLTQ 16 served its Request for Admission to Desert Palace.
- On July 24, 2020, LLTQ served its Request for Admission to Desert Palace.
- On July 24, 2020, MOTI 16 served its Request for Admission to Desert Place.
- On July 24, 2020, MOTI served its Request for Admission to Desert Palace.
- On July 24, 2020, R Squared served its Request for Admission to Desert Palace.
- On July 24, 2020, Seibel served his Request for Admissions to CAC.
- On July 24, 2020, Seibel served his Request for Admissions to Desert Palace.
- On July 24, 2020, Seibel served his Request for Admissions to Paris.
- On July 24, 2020, Seibel served his Request for Admissions to Planet Hollywood.
- On July 24, 2020, TPOV served its Request for Admissions to Paris.
- On July 24, 2020, TPOV 16 served its Request for Admissions to Paris.
- On July 28, 2020, Wexford Capital LP responded to Caesars' Subpoena Duces Tecum.

- On July 29, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On August 3, 2020, Innis & Gunn served responses to Caesars' Subpoena Duces Tecum.
- On August 4, 2020, Caesars served a Third Amended Notice of Out-of-State Subpoena Duces Tecum to Kostelanetz & Fink.
- On August 4, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to BR 23 Venture, LLC.
- On August 4, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Future Star Hospitality, LLC.
- On August 7, 2020, Green served his responses to Desert Palace's First Set of Interrogatories.
- On August 7, 2020, Green served his responses to Caesars' First Set of Requests for Production.
- On August 11, 2020, Leonard A. Sands, Esq. responded to Caesars' Subpoena Duces Tecum.
- On August 17, 2020, Caesars served a Notice of Subpoena Duces Tecum to Sysco Las Vegas, Inc.
- On August 19, 2020, Caesars served its Tenth Supplemental Disclosures Pursuant to NRCP 16.1.
- On August 20, 2020, Seibel, the Development Entities, and Green served their Initial Expert Disclosures.
- On August 20, 2020, Caesars served its Expert Witness Disclosures Pursuant to NRCP 16.1(a)(2).
- On August 21, 2020, Caesars served its responses to Seibel, the Development Entities, and Green's Third Set of Requests for Production.
- On August 21, 2020, CAC served its responses to FERG's First Set of Interrogatories.
- On August 21, 2020, CAC served its responses to FERG 16's First Set of Interrogatories.

- On August 21, 2020, Desert Palace served its responses to R Squared's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to LLTQ's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to Seibel's First Interrogatories.
- On August 21, 2020, Paris served its responses to TPOV's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to LLTQ 16's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to Green's First Set of Interrogatories.
- On August 21, 2020, Paris served its responses to TPOV 16's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to MOTI's First Set of Interrogatories.
- On August 21, 2020, PHWLV served its responses to Green's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to MOTI 16's First Set of Interrogatories.
- On August 21, 2020, Planet Hollywood served its responses to Seibel's First Set of Interrogatories.
- On August 21, 2020, Caesars served its responses to Seibel, the Development Entities, and Green's Third Set of Requests for Production.
- On August 24, 2020, Paris served its responses to TPOV 16's Request for Admissions.
- On August 24, 2020, CAC served its responses to FERG 16's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to MOTI 16's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to LLTQ 16's Request for Admissions.

- 1 • On August 24, 2020, Desert Palace served its responses to Seibel's Request for
- 2 Admissions.
- 3 • On August 24, 2020, CAC served its responses to Seibel's Request for Admissions.
- 4 • On August 24, 2020, Desert Palace served its responses to Green's Request for
- 5 Admissions.
- 6 • On August 24, 2020, CAC served its responses to Green's Request for Admissions.
- 7 • On August 24, 2020, Paris served its responses to Seibel's Request for Admissions.
- 8 • On August 24, 2020, Planet Hollywood served its responses to Seibel's Request for
- 9 Admissions.
- 10 • On August 24, 2020, Desert Palace served its responses to R Squared's Request for
- 11 Admissions.
- 12 • On August 24, 2020, Paris served its responses to TPOV's Request for Admissions.
- 13 • On August 24, 2020, Desert Palace served its responses to MOTI's Request for
- 14 Admissions.
- 15 • On August 24, 2020, Desert Palace served its responses to LLTQ's Request for
- 16 Admissions.
- 17 • On August 24, 2020, CAC served its responses to FERG's First Set of Admissions.
- 18 • On August 24, 2020, Planet Hollywood served its responses to Green's Request for
- 19 Admissions.
- 20 • On August 24, 2020, Paris served its responses to Green's Request for Admissions.
- 21 • On August 24, 2020, Planet Hollywood served its responses to Seibel's Requests for
- 22 Admissions.
- 23 • On August 24, 2020, Planet Hollywood served its responses to Green's Requests for
- 24 Admissions.
- 25 • On August 24, 2020, Paris served its responses to TPOV's Request for Admissions.
- 26 • On August 24, 2020, Paris served its responses to TPOV 16's Request for Admissions.
- 27 • On August 24, 2020, Paris served its responses to Seibel's Request for Admissions.
- 28 • On August 24, 2020, Paris served its responses to Green's Request for Admissions.

- 1 • On August 24, 2020, Desert Palace served its responses to Seibel's Request for
- 2 Admissions.
- 3 • On August 24, 2020, Desert Palace served its responses to R Squared's Request for
- 4 Admissions.
- 5 • On August 24, 2020, Desert Palace served its responses to Green's Request for
- 6 Admissions.
- 7 • On August 24, 2020, Desert Palace served its responses to MOTI's Request for
- 8 Admissions.
- 9 • On August 24, 2020, Desert Palace served its responses to MOTI 16's Request for
- 10 Admissions.
- 11 • On August 24, 2020, CAC served its responses to Seibel's Request for Admissions.
- 12 • On August 24, 2020, Desert Palace served its responses to LLTQ's Request for
- 13 Admissions.
- 14 • On August 24, 2020, CAC served its responses to FERG 16's Request for Admissions.
- 15 • On August 24, 2020, CAC served its responses to FERG's First Set of Admissions.
- 16 • On August 24, 2020, Desert Palace served its responses to LLTQ 16's Request for
- 17 Admissions.
- 18 • On August 24, 2020, CAC served its responses to Green's Request for Admissions.
- 19 • On August 26, 2020, Seibel served his First Supplemental Responses to Ramsay's First
- 20 Request for Production of Documents.
- 21 • On August 28, 2020, Seibel, the Development Entities, and Green served a
- 22 Supplemental Disclosure of Documents and Witnesses.
- 23 • On September 2, 2020, Sysco Las Vegas, Inc. responded to Caesars' Subpoena Duces
- 24 Tecum.
- 25 • On September 4, 2020, Seibel, the Development Entities, and Green served a
- 26 Supplemental Disclosure of Documents and Witnesses.
- 27 • On September 9, 2020, Caesars served its Supplemental Responses to Defendants' First
- 28 Request for Production of Documents.

- On September 11, 2020, Seibel, the Development Entities, and Green served their Fourth Set of Requests for Production of Documents.
- On September 14, 2020, Seibel, the Development Entities, and Green served a redaction log.
- On September 14, 2020, Caesars served Notice of Videotaped Deposition of the Seibel Family 2016 Trust Pursuant to NRCP 20(b)(6).
- On September 16, 2020, Seibel served his First Set of Interrogatories to Ramsay.
- On September 16, 2020, Seibel, the Development Entities, and Green served their Third Set of Requests for Production of Documents to Ramsay.
- On September 16, 2020, Seibel served his First Set of Interrogatories to CAC.
- On September 16, 2020, Seibel served his First Set of Interrogatories to Paris.
- On September 16, 2020, Seibel served his Second Set of Interrogatories to Planet Hollywood.
- On September 18, 2020, Desert Palace served its First Set of Requests for Admission to OHR.
- On September 18, 2020, Desert Palace served its Second Set of Interrogatories to Seibel.
- On September 18, 2020, Caesars served its Second Set of Requests for Documents to Green.
- On September 18, 2020, Caesars served its Fourth Set of Requests for Production of Documents to Seibel.
- On September 18, 2020, Ramsay served his First Set of Requests for Admission to GRB.
- On September 18, 2020, Ramsay served his First Set of Interrogatories to GRB.
- On September 18, 2020, Ramsay served his First Set of Interrogatories to Seibel.
- On September 18, 2020, Ramsay served his First Request for Production of Documents to GRB.
- On September 18, 2020, Ramsay served his Second Requests for Production of Documents to Seibel.

- On September 18, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On September 21, 2020, Seibel, the Development Entities, and Green served their Rebuttal Expert Disclosures.
- On September 21, 2020, Caesars served its Rebuttal Expert Witness Disclosures Pursuant to NRCP 16.1(a)(2).
- On September 21, 2020, BR 23 Venture, LLC responded to Caesars' Subpoena Duces Tecum.
- On September 21, 2020, Future Star Hospitality, LLC responded to Caesars' Subpoena Duces Tecum.

The Parties agreed that discovery in this matter will proceed simultaneously with discovery conducted in an action pending before the United States District Court, District of Nevada, styled as *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, Case No. 2:17-cv-00346-JCM-VCF. A stipulation seeking to extend the remaining deadlines in that action in the same timeframe proposed below has been submitted.

II. DISCOVERY REMAINING TO BE COMPLETED.

With certain agreed upon limitations discussed below, the Parties anticipate completing the production of additional documents, serving additional/amended privilege logs, propounding and responding to additional written discovery, conducting additional depositions (including expert depositions), and conducting third-party document and deposition discovery.

III. REASONS WHY THE REMAINING DISCOVERY WAS NOT COMPLETED.

At the outset, Case No. A-17-751759 involved extensive motion practice. On February 28, 2017, Seibel filed a motion for preliminary injunction. Ramsay and Planet Hollywood filed their oppositions on March 17, 2017. The Court entered an order denying Seibel's motion for preliminary injunction on April 12, 2017. Thereafter, Planet Hollywood filed a motion to dismiss on April 7, 2017, to which Seibel filed an opposition on April 24, 2017. This Court entered an order granting in part, and denying in part, Planet Hollywood's motion to dismiss on June 16, 2017. Subsequently, Seibel, on behalf of GRB, filed a motion for partial summary judgment on September 18, 2017,

1 Planet Hollywood filed an opposition on October 5, 2017, and Ramsay filed his opposition on
2 October 6, 2017. On or about October 5, 2017, an order was entered in the Court of Chancery of
3 the State of Delaware dissolving GRB and appointing a liquidating trustee. As a result of the
4 Delaware Court's order, on November 7, 2017, at the hearing on the motion for partial summary
5 judgment, this Court continued the matter in order to give the trustee the opportunity to review and
6 take a position on the derivative claims brought by Seibel.

7 On or about March 30, 2020, the trustee appointed to dissolve GRB filed a Report and
8 Proposed Liquidation Plan for GRB in the Court of Chancery of the State of Delaware (the
9 "Report"). A redacted, public version of the Report was filed on April 6, 2020, addressing, among
10 other things, the derivative claims brought by Seibel in Case No. A-17-751759, the claims brought
11 by Caesars against GRB in Case No. A-17-760537, and the assignment of claims by GRB to Seibel
12 and Ramsay. Ramsay's entity, GR US Licensing, LP, filed Exceptions to the Receiver's Report and
13 Proposed Liquidated Plan, dated May 22, 2020. Seibel filed a Reply Brief in Further Support of
14 Limited Exceptions to the Receiver's Report and Proposed Liquidation Plan for GR Burgr, LLC,
15 dated June 19, 2020. A hearing on the Report was held before the Court of Chancery of the State
16 of Delaware on June 26, 2020. The Delaware court did not resolve the matter and allowed for
17 additional briefing. The Delaware proceeding remains pending.

18 In addition to the motion practice and trustee issues, the Parties stipulated to consolidate this
19 action with Case No. A-17-760537-B. On February 9, 2018, this Court entered a Stipulation and
20 Order to Consolidate. Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16, DNT, TPOV,
21 and TPOV 16 filed Motions to Dismiss and/or Amended Motions to Dismiss on February 22, 2018.
22 Caesars filed a Consolidated Opposition to all of the Motions on March 12, 2018. These motions
23 were denied on June 1, 2018. On June 18, 2018, Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI,
24 MOTI 16, DNT, TPOV, and TPOV 16 filed a petition for writ of mandamus or prohibition and a
25 motion to stay the proceedings pending a decision on their petition for a writ of mandamus or
26 prohibition. Caesars filed its Opposition to the stay motion on July 9, 2018. The motion to stay was
27 denied on August 22, 2018. On September 5, 2018, Seibel, LLTQ, LLTQ 16, FERG, FERG 16,
28 MOTI, MOTI 16, DNT, TPOV, and TPOV 16 filed a Motion to Stay All District Court Proceedings

1 in the Supreme Court of Nevada. On September 14, 2018, Caesars filed its Response to the Motion
2 to Stay All District Court Proceedings in the Supreme Court of Nevada. On November 9, 2018, the
3 Supreme Court of Nevada issued an Order Denying the Motion to Stay. On June 7, 2019, the
4 Supreme Court of Nevada issued an Order Denying Petition for Writ of Mandamus or Prohibition.

5 Meanwhile, on or about August 6, 2018, OHR moved to intervene. On August 9, 2018, the
6 Parties agreed to attempt to resolve this action, as well as a number of related actions through
7 mediation. The mediation was held on October 12, 2018. This action was not resolved.

8 In May 2019, attorneys for Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16,
9 DNT (appearing derivatively by one of its two members, R Squared), TPOV, and TPOV 16 filed
10 various motions to withdraw and stay. The Parties came before the Court for hearing on May 23,
11 2019. During the hearing, this Court orally granted the motions to withdraw and granted the motion
12 to stay, in part, for two weeks. On May 31, 2019, the Court entered a written order granting the
13 motions to withdraw. On June 4, 2019, the Court entered a written order granting, in part, the
14 motion to stay. Also, on June 4, 2019, new counsel for Seibel, LLTQ, LLTQ 16, FERG, FERG 16,
15 MOTI, MOTI 16, DNT (appearing derivatively by one of its two members, R Squared), TPOV, and
16 TPOV 16 filed a Notice of Appearance.

17 Since that time, the Parties have actively been engaged in discovery as outlined above.
18 Except for depositions of the Parties' respective experts, expert discovery is now closed. The Parties
19 have conducted multiple depositions to date, but additional discovery remains to be completed, and
20 additional depositions remain to be taken, including certain out-of-state witnesses.

21 Following the untimely passing of prior lead counsel for Seibel and the Development
22 Entities (Steven Bennett, Esq.), the Parties postponed meet and confers on various discovery issues,
23 hearings on pending motions, and depositions which were being discussed to proceed in January
24 2020 were placed on hold.

1 On February 12, 2020, this Court heard and granted Caesars' Motion for Leave to File First
2 Amended Complaint. The Order was entered on March 10, 2020, and the First Amended Complaint
3 was filed on March 11, 2020.¹

4 On March 2, 2020, the law firm of Bailey Kennedy appeared as counsel in this matter for
5 Seibel and the Development Entities. Shortly thereafter, on or around March 12, 2020, Governor
6 Sisolak issued a Declaration of Emergency in the state of Nevada following the outbreak of the
7 COVID-19 health emergency. Additional actions have been taken by other local governments and
8 the judiciary since then, including, without limitation, entry of Administrative Order 20-01 in *In*
9 *the Matter of the Eighth Judicial District Court's Response to Coronavirus Disease (COVID-19)*,
10 in which Chief Judge Bell suspended all jury trials for 30 days, effective March 16, 2020, due to
11 "the severity of the risk posed to the public by COVID-19," and entry of Administrative Order 20-
12 09 in *In the Administrative Matter of Court Operations of Civil Matters In Response to COVID-19*,
13 in which Chief Judge Bell stayed "[a]ll deadlines pursuant to NRCP 16.1 for initial disclosures,
14 disclosure of expert witnesses and testimony, [and] supplementation of discovery" for 30 days (i.e.,
15 until April 20, 2020), precluded parties from issuing subpoenas without prior approval from the
16 Discovery Commissioner for 30 days (i.e., until April 20, 2020), and encouraged district court
17 judges to liberally grant stay requests "at this time based on any COVID-19 related issues." This
18 Court, like most others, ceased holding in-person hearings (unless absolutely necessary) as a
19 precaution in response to COVID-19.

20 The COVID-19 health emergency restricted travel for counsel for the Parties and witnesses,
21 thereby hampering the Parties' ability to schedule and conduct depositions. For example, Caesars
22 noticed the depositions of Seibel and the NRCP 30(b)(6) designees of MOTI 16, FERG, and FERG
23 16 in April 2020; however, because Seibel and the current anticipated designee (Green) reside in

24
25 ¹ Seibel, the Development Entities, and Green filed a Motion to Dismiss Counts IV, V, VI,
26 VII, and VIII of Caesars' First Amended Complaint on April 8, 2020. The Court entered an Order
27 Denying, Without Prejudice, Seibel, the Development Entities, and Green's Motion to Dismiss
28 Counts IV, V, VI, VII, and VIII of Caesars' First Amended Complaint on May 29, 2020. The
Development Entities, Seibel, and Green filed an Answer to Caesars' First Amended Complaint and
Counterclaims on June 19, 2020. Caesars filed a Motion to Strike the Seibel-Affiliated Entities
Counterclaims and/or in the Alternative, Motion to Dismiss on July 15, 2020. The Court held a
hearing on the motion to strike on September 23, 2020 and a decision is pending.

New York, the depositions are being rescheduled to adhere to strict social distancing requirements and avoid unnecessary possible exposure to COVID-19 for the health and safety of everyone involved. Similarly, Caesars sought, but was initially unable to domesticate subpoenas sought to be served on third parties in New York and Florida due to limited access to the local courts in those jurisdictions. Additionally, working conditions have shifted for the Parties' counsel, as some counsel continue to work remotely.

Based on these and myriad other unanticipated events that occurred in light of the current COVID-19 health emergency, the Parties agreed to stay this matter, with a few exceptions, until May 22, 2020. (*See* Stipulation to Stay Discovery and Proposed Order to Extend Discovery Deadlines Following Stay (Seventh Request) 14:20-15:26.) The Parties agreed to recommence the then-existing discovery period following the stay. Seibel, the Development Entities, and Green subsequently moved to extend the discovery period and continue the trial date, which motion was granted in part by the Court pursuant to its June 29, 2020 Order. Since then, the Parties have served and responded to numerous written discovery requests, exchanged initial and rebuttal expert disclosures, engaged in various meet and confers, and have begun discussing scheduling depositions. Despite the Parties' good faith efforts, additional time is needed for discovery.

IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY.

The Parties propose an extension of discovery as follows:

- Thirty (30) additional days from the current close of discovery to propound any additional written discovery on parties and non-parties; and
- Sixty (60) days from the current close of discovery to take depositions and to conduct clean up discovery (*e.g.*, meet and confer practice, and supplemental discovery responses and/or disclosures, if any, stemming therefrom). Thus, following the initial 30-day extension, no Party may propound new written discovery or issue any new subpoenas.²

² A carve-out to the "no new discovery" after the first 30 days of the Parties' requested 60-day discovery extension depends on the Court's ruling on Caesars' pending motion to strike the Development Entities' amended counterclaims. If the Court denies the motion, the parties will be

The Parties propose the following schedule:

<u>Deadline</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Add parties or amend pleadings	February 4, 2019	No Change
Initial Expert Disclosures	August 20, 2020	No Change
Rebuttal Expert Disclosures	September 21, 2020	No Change
Close of Discovery	October 19, 2020	November 18, 2020 (new discovery) December 18, 2020 (all discovery)
Dispositive Motions	November 18, 2020	February 18, 2021
Motions in Limine	January 4, 2021	April 23, 2021
Pre-Trial memorandum	February 18, 2021	May 24, 2021
Trial	February 22, 2021	July 12, 2021

V. CURRENT TRIAL DATE.

This case is set to be tried on a five-week stack beginning on February 22, 2020, at 9:30 a.m., pursuant to the Sixth Scheduling Order. The Parties request that the Court continue the trial to its 5-week stack beginning on July 12, 2021 or as soon thereafter as its calendar permits, to allow adequate time for the Parties to complete discovery and for the Court to hear dispositive motions. Given the proposed extensions and good cause appearing, the Parties respectfully request that this Court vacate the February 22, 2021 trial date in this matter and that the Court issue an amended scheduling order reflecting the deadlines and trial date proposed by the Parties.

permitted to serve additional written discovery related to the amended counterclaims through the close of all discovery (i.e. on or before December 18, 2020).

The Parties represent that this stipulation is sought in good faith, is not interposed for delay, and is not filed for an improper purpose.

Respectfully submitted by:

DATED October 9, 2020

PISANELLI BICE PLLC

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

DATED October 7, 2020

LEBENSFELD SHARON & SCHWARTZ P.C.

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*Attorneys for The Original Homestead
Restaurant, Inc*

DATED October 7, 2020

BAILEY KENNEDY

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Joshua P. Gilmore, Esq., Bar No. 11576
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LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC,
TPOV Enterprises 16, LLC,
FERG, LLC, FERG 16, LLC. Craig Green,
and R Squared Global Solutions, LLC,
Derivatively on Behalf of DNT Acquisition,
LLC*

DATED October 8, 2020

FENNEMORE CRAIG, P.C.

By: /s/ John Tennert
John Tennert, Esq. (SBN 11728)
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Reno, NV 89501

Attorneys for Gordon Ramsay

DATED October 7, 2020

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By: /s/ Aaron D. Lovaas
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aaron.lovaas@ndlf.com

Attorneys for Nominal Plaintiff GR Burgr LLC

ORDER


Based on the foregoing Stipulation of the Parties and good cause appearing therefor,

IT IS HEREBY ORDERED that the discovery deadlines in this matter are continued as follows:

<u>Deadline</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Close of Discovery	October 19, 2020	November 18, 2020 (new discovery) December 18, 2020 (all discovery)
Dispositive Motions	November 18, 2020	February 18, 2021
Motions in Limine	January 4, 2021	April 23, 2021
Pre-Trial memorandum	February 18, 2021	May 24, 2021
Trial	February 22, 2021	July 12, 2021

IT IS SO ORDERED.

DATED this 15th day of October 2020.



THE HONORABLE TIMOTHY C. WILLIAMS
EIGHTH JUDICIAL DISTRICT COURT LB

AUTHORIZATIONS FOR ELECTRONIC SIGNATURES

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, October 7, 2020 5:48 AM
To: Brittanie T. Watkins; Paul Williams; Tennert, John; Aaron D. Lovaas
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua C. Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Russo; Cinda C. Towne
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may on behalf of OHR

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, October 7, 2020 8:26 AM
To: Brittanie T. Watkins; Paul Williams; Tennert, John; Alan Lebensfeld
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may apply my e-signature. Thank you.

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Cinda C. Towne

From: Paul Williams <PWilliams@baileykennedy.com>
Sent: Wednesday, October 7, 2020 9:08 AM
To: Brittanie T. Watkins
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne; Tennert, John; Aaron D. Lovaas; Alan Lebensfeld
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may apply my electronic signature.

Thank you,

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Cinda C. Towne

From: Tennert, John <jtennert@fclaw.com>
Sent: Thursday, October 8, 2020 5:52 PM
To: Brittne T. Watkins
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Paul Williams; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne; Aaron D. Lovaas; Alan Lebensfeld
Subject: Re: [EXTERNAL]:Caesars/Seibel - 30-day extensions

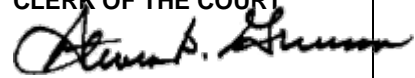
CAUTION: External Email

Hi Brittne, you may apply my electronic signature.
Thanks,

Sent from my iPhone

John D. Tennert III, Director
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TAB 70



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Corporation d/b/a Caesars Atlantic City

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF STIPULATION
AND PROPOSED ORDER TO EXTEND
DISCOVERY DEADLINES (NINTH
REQUEST)**

AND ALL RELATED MATTERS

1 PLEASE TAKE NOTICE that a Stipulation and Proposed Order to Extend Discovery
2 Deadlines (Ninth Request) was entered in the above-captioned matter on October 15, 2020, a true
3 and correct copy of which is attached hereto.

4 DATED this 19th day of October 2020.

5 PISANELLI BICE PLLC

6 By: /s/ Brittanie T. Watkins
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8 Debra L. Spinelli, Esq., #9695
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21 *Paris Las Vegas Operating Company, LLC;*
22 *PHWLV, LLC; and Boardwalk Regency*
23 *Corporation d/b/a Caesars Atlantic City*
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 19th day of October 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND PROPOSED ORDER TO EXTEND DISCOVERY DEADLINES (NINTH REQUEST)** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
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LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, FERG 16, LLC, and R Squared Global
Solutions, LLC, Derivatively on Behalf of
DNT Acquisition LLC,*

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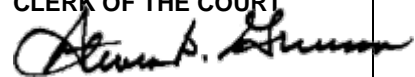
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**STIPULATION AND PROPOSED
ORDER TO EXTEND DISCOVERY
DEADLINES (NINTH REQUEST)**

AND ALL RELATED MATTERS

The Parties, PHWLTV, LLC ("Planet Hollywood"), Gordon Ramsay ("Ramsay"), Rowen Seibel ("Seibel"), Craig Green ("Green"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC," and collectively with Caesars Palace, Paris, and Planet Hollywood, "Caesars"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), TPOV Enterprises, LLC ("TPOV"), TPOV 16 Enterprises, LLC ("TPOV 16"), Original Homestead Restaurant, Inc. ("OHR"), R Squared Global Solutions, LLC ("R Squared"), derivatively on behalf of DNT Acquisition, LLC ("DNT"), and GR Burgr, LLC ("GRB") (the "Parties"), by and through their undersigned counsel of record, hereby stipulate and request to modify the schedule set by this Court's Sixth Amended Order Setting Civil Jury Trial, Pre-Trial, Calendar Call, and Deadlines for Motions; Amended Discovery Scheduling Order dated June 18, 2020 (the "Sixth Scheduling Order"). This is the ninth request for an extension of discovery deadlines. The Parties stipulated to six extensions and this Court previously ordered two extensions following opposed motions. This Stipulation is being entered into in good faith and not for the purposes of delay, as good cause appears to extend discovery deadlines.

I. STATEMENT OF DISCOVERY COMPLETED TO DATE.

- Planet Hollywood served its initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Planet Hollywood served privilege/redaction logs in Case No. A-17-751759 on September 5, 2017. Planet Hollywood supplemented its disclosures on January 9, 2018.
- Seibel served his initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Ramsay also served his initial disclosures in Case No. A-17-751759 on August 21, 2017.
- Caesars served its initial disclosures in Case No. A-17-760537-B (together with Case No. A-17-751759, the "Consolidated Action") on November 6, 2018.
- Caesars served its initial privilege log in the Consolidated Action on November 16, 2018.

- J. Jeffrey Frederick (who is no longer a party to the Consolidated Action) served his initial disclosures in the Consolidated Action on November 16, 2018.
- OHR served its initial disclosures in the Consolidated Action on November 27, 2018.
- Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT served their initial disclosures in the Consolidated Action on November 29, 2018.
- Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, FERG 16, and DNT served their requests for the production of documents on Caesars Palace, Paris, Planet Hollywood, and CAC on January 24, 2019.
- Caesars served its First Set of Requests for Production of Documents to Frederick on January 30, 2019.
- Desert Palace served its First Set of Interrogatories to Frederick on January 30, 2019.
- Desert Palace served its First Set of Interrogatories to Seibel on February 5, 2019.
- Caesars served its First Set of Requests for Production of Documents to Seibel on February 5, 2019.
- On March 1, 2019, Frederick served his responses to Desert Palace's First Set of Interrogatories.
- On March 1, 2019, Frederick served his responses to Caesars' First Set of Requests for Production of Documents.
- On March 5, 2019, Caesars served its responses to Seibel's First Set of Requests for Production of Documents.
- On March 7, 2019, Caesars served its First Set of Requests for Production of Documents to MOTI.
- On March 7, 2019, Caesars served its First Set of Requests for Production of Documents to MOTI 16.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to LLTQ.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to LLTQ 16.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to MOTI.
- On March 7, 2019, Desert Palace served its First Set of Interrogatories to MOTI 16.

- On March 8, 2019, CAC served its First Set of Interrogatories to FERG.
- On March 8, 2019, CAC served its First Set of Interrogatories to FERG 16.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to FERG.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to FERG 16.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to LLTQ.
- On March 8, 2019, Caesars served its First Set of Requests for Production of Documents to LLTQ 16.
- On March 14, 2019, Paris served its First Set of Interrogatories to TPOV.
- On March 14, 2019, Paris served its First Set of Interrogatories to TPOV 16.
- On March 18, 2019, Ramsay served his First Supplement to NRCP 16.1 Disclosures.
- On March 21, 2019, Seibel served his responses to Caesars' First Set of Requests for Production of Documents.
- On March 21, 2019, Seibel served his responses to Desert Palace's First Set of Interrogatories.
- On April 12, 2019, Caesars served its First Supplemental Disclosures Pursuant to NRCP 16.1.
- On April 22, 2019, FERG served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 23, 2019, FERG served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, FERG 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 23, 2019, FERG 16 served its responses to Desert Palace's First Set of Interrogatories.

- On April 22, 2019, LLTQ 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, LLTQ 16 served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, LLTQ served its responses to Desert Palace's amended First Set of Interrogatories.
- On April 22, 2019, LLTQ served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, MOTI 16 served its responses to Caesars' First Set of Requests for Production of Documents.
- On April 22, 2019, MOTI 16 served its responses to Desert Palace's First Set of Interrogatories.
- On April 22, 2019, TPOV served its responses to Paris' First Set of Interrogatories.
- On April 22, 2019, TPOV 16 served its responses to Paris' First Set of Interrogatories.
- On April 30, 2019, Seibel, MOTI, MOTI 16, LLTQ, LLTQ 16, TPOV, TPOV 16, FERG, and FERG 16 (collectively, "Seibel and the Development Entities") served their First Supplemental Disclosure.
- On May 22, 2019, Caesars served its Second Supplemental Disclosures Pursuant to NRCP 16.1.
- On May 6, 2019, Seibel and the Development Entities served their Second Supplemental Disclosure.
- On May 22, 2019, Caesars served its First Supplemental Privilege Log.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Desert Palace, Inc.

- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Paris Las Vegas Operating Company, LLC.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to PHWLTV, LLC.
- On June 6, 2019, Frederick served his First Set of Requests for Production of Documents to Boardwalk Regency Corporation, d/b/a/ Caesars Atlantic City.
- On July 30, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On August 12, 2019, Seibel and the Development Entities served Requests for Admissions to Caesars.
- On August 12, 2019, Seibel and the Development Entities served Requests for Admissions to Ramsay.
- On August 14, 2019, Seibel and the Development Entities served Requests for Production of Documents to Ramsay.
- On August 14, 2019, Seibel and the Development Entities served Requests for Production of Documents to Caesars.
- On August 27, 2019, Caesars served its Third Supplemental Disclosures Pursuant to NRCP 16.1.
- On August 28 and 29, 2019, the Parties deposed Frederick
- On September 4 and 6, 2019, the Parties deposed Craig Green.
- On September 5, 2019, Caesars deposed the NRCP 30(b)(6) for TPOV.
- On September 6, 2019, Caesars deposed the NRCP 30(b)(6) for TPOV 16.
- On September 6, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 10, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 11, 2019, Caesars served its Responses to Seibel and the Development Entities' Requests for Admissions.

- On September 11, 2019, Ramsay served his Responses to Seibel and the Development Entities' Requests for Admissions.
- On September 13, 2019, Caesars served its Fourth Supplemental Disclosures Pursuant to NRCP 16.1.
- On September 13, 2019, Caesars served its Responses to Seibel and the Development Entities' Requests for Production of Documents.
- On September 13, 2019, Ramsay served his Responses to Seibel and the Development Entities' Requests for Production of Documents.
- On September 16, 2019, Seibel and the Development Entities deposed Thomas Jenkin.
- On September 18, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 19, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 20, 2019, Seibel and the Development Entities deposed Mark Clayton, Esq.
- On September 24 and 25, 2019, Caesars began deposing Seibel.
- On September 26, 2019, Seibel and the Development Entities served a supplemental production of documents.
- On September 30, 2019, the Parties deposed Ramsay.
- On October 1, 2019, the Parties deposed the NRCP 30(b)(6) designee for Gordon Ramsay Holdings.
- On October 2, 2019, the LLTQ/FERG Defendants filed a Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses and Counterclaims. That Motion was heard on November 6, 2019 and denied in its entirety.
- On October 3, 2019, Caesars served its Second Set of Requests for Production of Documents to Seibel.
- On October 7, 2019, Caesars served its Fifth Supplemental Disclosures Pursuant to NRCP 16.1.

- 1 • On October 11, 2019, Caesars served its Sixth Supplemental Disclosures Pursuant to
- 2 NRCP 16.1.
- 3 • On October 15, 2019, Seibel and the Development Entities deposed the NRCP 30(b)(6)
- 4 designee for Caesars' Capital Committee.
- 5 • On October 16, 2019, Seibel and the Development Entities deposed Richard Casto.
- 6 • On October 25, 2019, Caesars served its Third Set of Requests for Production of
- 7 Documents to Seibel.
- 8 • On October 29, 2019, the Parties deposed Marc Sherry.
- 9 • On October 30, 2019, the Parties deposed Greg Sherry.
- 10 • On October 30, 2019, Seibel and the Development Entities served their Second Request
- 11 for Production of Documents to Ramsay.
- 12 • On October 31, 2019, the Parties deposed Bryn Dorfman.
- 13 • On November 2, 2019, Seibel served his responses to Caesars' Second Set of Requests
- 14 for Production of Documents.
- 15 • On November 4, 2019, Caesars served its Seventh Supplemental Disclosures Pursuant
- 16 to NRCP 16.1.
- 17 • On November 5, 2019, Seibel and the Development Entities deposed the NRCP 30(b)(6)
- 18 designee for Caesars' Compliance Committee.
- 19 • On November 11, 2019, Seibel and the Development Entities served a supplemental
- 20 production of documents.
- 21 • On November 12, 2019, Caesars deposed the NRCP 30(b)(6) designee of LLTQ
- 22 Enterprises, LLC.
- 23 • On November 13, 2019, Caesars deposed the NRCP 30(b)(6) designee of LLTQ
- 24 Enterprises 16, LLC.
- 25 • On November 14, 2019, Caesars deposed the NRCP 30(b)(6) designee of MOTI
- 26 Partners, LLC.
- 27 • On November 14, 2019, Seibel and the Development Entities served a supplemental
- 28 production of documents.

- 1 • On November 22, 2019, Seibel and the Development Entities served their initial
- 2 privilege log.
- 3 • On November 22, 2019, Caesars served its Eighth Supplemental Disclosures Pursuant
- 4 to NRCP 16.1.
- 5 • On November 22, 2019, Caesars served its Second Supplemental Privilege Log.
- 6 • On November 25, 2019, Seibel served his responses to Caesars' Third Set of Requests
- 7 for Production of Documents.
- 8 • On December 2, 2019, Seibel and the Development Entities served a supplemental
- 9 production of documents.
- 10 • On December 3, 2019, Seibel and the Development Entities served a supplemental
- 11 production of documents.
- 12 • On December 5, 2019, Seibel and the Development Entities deposed Gary Selesner.
- 13 • On December 6, 2019, Caesars served its Third Supplemental Privilege Log.
- 14 • On December 9, 2019, Ramsay served his responses to Seibel and the Development
- 15 Entities' Second Request for Production of Documents.
- 16 • On December 11, 2019, Caesars filed a Motion for Leave to File First Amended
- 17 Complaint ("Caesars' Motion to Amend"). Caesars' Motion to Amend came before the
- 18 Court for hearing on February 12, 2020 and the Court granted the same.
- 19 • On December 12, 2019, Seibel and the Development Entities served a supplemental
- 20 production of documents.
- 21 • On December 20, 2019, Ramsay served a supplemental production of documents.
- 22 • On January 2, 2020, Ramsay served a supplemental production of documents.
- 23 • On January 31, 2020, Ramsay served his First Set of Requests for Production of
- 24 Documents to Seibel.
- 25 • On February 21, 2020, Seibel and the Development Entities served a supplemental
- 26 production of documents.
- 27 • On March 9, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum to
- 28 Innis & Gunn USA, Inc.

- 1 • On March 10, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum
- 2 to Kostelanetz & Fink, LLC.
- 3 • On March 10, 2020, Caesars served its Ninth Supplemental Disclosures Pursuant to
- 4 NRCP 16.1.
- 5 • On March 12, 2020, Caesars served a Notice of Out-of-State Subpoena Duces Tecum
- 6 to Leonard A. Sands, Esq.
- 7 • On March 23, 2020, Seibel served his responses to Ramsay's First Set of Requests for
- 8 Production of Documents.
- 9 • On April 10, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 10 Disclosure of Documents and Witnesses.
- 11 • On May 15, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 12 Disclosure of Documents and Witnesses.
- 13 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 14 Duces Tecum to Innis & Gunn USA, Inc.
- 15 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 16 Duces Tecum to Innis & Gunn USA, Inc.
- 17 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 18 Duces Tecum to Leonard A. Sands, Esq.
- 19 • On May 26, 2020, Caesars served a First Amended Notice of Out-of-State Subpoena
- 20 Duces Tecum to Kostelanetz & Fink.
- 21 • On May 27, 2020, Seibel served his First Supplemental Responses to Caesars' Second
- 22 Set of Requests for Production of Documents.
- 23 • On May 29, 2020, Seibel, the Development Entities, and Green served a Supplemental
- 24 Disclosure of Documents and Witnesses.
- 25 • On June 3, 2020, Caesars served Notice of Out-of-State Subpoena Duces Tecum to BR
- 26 23 Venture, LLC.
- 27 • On June 3, 2020, Caesars served Notice of Out-of-State Subpoena Duces Tecum to
- 28 Future Star Hospitality, LLC.

- On June 19, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On June 29, 2020, the Court entered the Parties' Stipulation and Order Permitting Issuance of Subpoenas.
- On June 30, 2020, Desert Palace served its First Set of Interrogatories to Green.
- On June 30, 2020, Caesars served its First Set of Requests for Production of Documents to Green.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Innis & Gunn USA, Inc.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Leonard A. Sands, Esq.
- On June 30, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Kostelanetz & Fink.
- On June 30, 2020, Caesars served an Amended Notice of Out-of-State Subpoena Duces Tecum to BR 23 Venture, LLC.
- On June 30, 2020, Caesars served an Amended Notice of Out-of-State Subpoena Duces Tecum to Future Star Hospitality, LLC.
- On June 30, 2020, FERG served its First Set of Interrogatories to CAC.
- On June 30, 2020, FERG 16 served its First Set of Interrogatories to CAC.
- On June 30, 2020, Green served his First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Green served his First Set of Interrogatories to Planet Hollywood.
- On June 30, 2020, LLTQ served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, LLTQ 16 served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, MOTI served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, MOTI 16 served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, R Squared served its First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Seibel served his First Set of Interrogatories to Desert Palace.
- On June 30, 2020, Seibel served his First Set of Interrogatories to Planet Hollywood.

- On June 30, 2020, TPOV served its First Set of Interrogatories to Paris.
- On June 30, 2020, TPOV 16 served its First Set of Interrogatories to Paris.
- On June 30, 2020, Seibel, the Development Entities, and Green served their Third Set of Requests for Production of Documents to Caesars.
- On July 20, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On July 22, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On July 24, 2020, GRB served its Initial Disclosures Pursuant to NRCP 16.1.
- On July 24, 2020, FERG served its First Set of Admissions to CAC.
- On July 24, 2020, FERG 16 served its Request for Admissions to CAC.
- On July 24, 2020, Green served his Request for Admission to CAC
- On July 24, 2020, Green served his Request for Admission to Desert Palace.
- On July 24, 2020, Green served his Request for Admission to Paris.
- On July 24, 2020, Green served his Request for Admission to Planet Hollywood.
- On July 24, 2020, LLTQ 16 served its Request for Admission to Desert Palace.
- On July 24, 2020, LLTQ served its Request for Admission to Desert Palace.
- On July 24, 2020, MOTI 16 served its Request for Admission to Desert Place.
- On July 24, 2020, MOTI served its Request for Admission to Desert Palace.
- On July 24, 2020, R Squared served its Request for Admission to Desert Palace.
- On July 24, 2020, Seibel served his Request for Admissions to CAC.
- On July 24, 2020, Seibel served his Request for Admissions to Desert Palace.
- On July 24, 2020, Seibel served his Request for Admissions to Paris.
- On July 24, 2020, Seibel served his Request for Admissions to Planet Hollywood.
- On July 24, 2020, TPOV served its Request for Admissions to Paris.
- On July 24, 2020, TPOV 16 served its Request for Admissions to Paris.
- On July 28, 2020, Wexford Capital LP responded to Caesars' Subpoena Duces Tecum.

- On July 29, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On August 3, 2020, Innis & Gunn served responses to Caesars' Subpoena Duces Tecum.
- On August 4, 2020, Caesars served a Third Amended Notice of Out-of-State Subpoena Duces Tecum to Kostelanetz & Fink.
- On August 4, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to BR 23 Venture, LLC.
- On August 4, 2020, Caesars served a Second Amended Notice of Out-of-State Subpoena Duces Tecum to Future Star Hospitality, LLC.
- On August 7, 2020, Green served his responses to Desert Palace's First Set of Interrogatories.
- On August 7, 2020, Green served his responses to Caesars' First Set of Requests for Production.
- On August 11, 2020, Leonard A. Sands, Esq. responded to Caesars' Subpoena Duces Tecum.
- On August 17, 2020, Caesars served a Notice of Subpoena Duces Tecum to Sysco Las Vegas, Inc.
- On August 19, 2020, Caesars served its Tenth Supplemental Disclosures Pursuant to NRCP 16.1.
- On August 20, 2020, Seibel, the Development Entities, and Green served their Initial Expert Disclosures.
- On August 20, 2020, Caesars served its Expert Witness Disclosures Pursuant to NRCP 16.1(a)(2).
- On August 21, 2020, Caesars served its responses to Seibel, the Development Entities, and Green's Third Set of Requests for Production.
- On August 21, 2020, CAC served its responses to FERG's First Set of Interrogatories.
- On August 21, 2020, CAC served its responses to FERG 16's First Set of Interrogatories.

- On August 21, 2020, Desert Palace served its responses to R Squared's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to LLTQ's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to Seibel's First Interrogatories.
- On August 21, 2020, Paris served its responses to TPOV's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to LLTQ 16's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to Green's First Set of Interrogatories.
- On August 21, 2020, Paris served its responses to TPOV 16's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to MOTI's First Set of Interrogatories.
- On August 21, 2020, PHWLV served its responses to Green's First Set of Interrogatories.
- On August 21, 2020, Desert Palace served its responses to MOTI 16's First Set of Interrogatories.
- On August 21, 2020, Planet Hollywood served its responses to Seibel's First Set of Interrogatories.
- On August 21, 2020, Caesars served its responses to Seibel, the Development Entities, and Green's Third Set of Requests for Production.
- On August 24, 2020, Paris served its responses to TPOV 16's Request for Admissions.
- On August 24, 2020, CAC served its responses to FERG 16's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to MOTI 16's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to LLTQ 16's Request for Admissions.

- 1 • On August 24, 2020, Desert Palace served its responses to Seibel's Request for
- 2 Admissions.
- 3 • On August 24, 2020, CAC served its responses to Seibel's Request for Admissions.
- 4 • On August 24, 2020, Desert Palace served its responses to Green's Request for
- 5 Admissions.
- 6 • On August 24, 2020, CAC served its responses to Green's Request for Admissions.
- 7 • On August 24, 2020, Paris served its responses to Seibel's Request for Admissions.
- 8 • On August 24, 2020, Planet Hollywood served its responses to Seibel's Request for
- 9 Admissions.
- 10 • On August 24, 2020, Desert Palace served its responses to R Squared's Request for
- 11 Admissions.
- 12 • On August 24, 2020, Paris served its responses to TPOV's Request for Admissions.
- 13 • On August 24, 2020, Desert Palace served its responses to MOTI's Request for
- 14 Admissions.
- 15 • On August 24, 2020, Desert Palace served its responses to LLTQ's Request for
- 16 Admissions.
- 17 • On August 24, 2020, CAC served its responses to FERG's First Set of Admissions.
- 18 • On August 24, 2020, Planet Hollywood served its responses to Green's Request for
- 19 Admissions.
- 20 • On August 24, 2020, Paris served its responses to Green's Request for Admissions.
- 21 • On August 24, 2020, Planet Hollywood served its responses to Seibel's Requests for
- 22 Admissions.
- 23 • On August 24, 2020, Planet Hollywood served its responses to Green's Requests for
- 24 Admissions.
- 25 • On August 24, 2020, Paris served its responses to TPOV's Request for Admissions.
- 26 • On August 24, 2020, Paris served its responses to TPOV 16's Request for Admissions.
- 27 • On August 24, 2020, Paris served its responses to Seibel's Request for Admissions.
- 28 • On August 24, 2020, Paris served its responses to Green's Request for Admissions.

- On August 24, 2020, Desert Palace served its responses to Seibel's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to R Squared's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to Green's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to MOTI's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to MOTI 16's Request for Admissions.
- On August 24, 2020, CAC served its responses to Seibel's Request for Admissions.
- On August 24, 2020, Desert Palace served its responses to LLTQ's Request for Admissions.
- On August 24, 2020, CAC served its responses to FERG 16's Request for Admissions.
- On August 24, 2020, CAC served its responses to FERG's First Set of Admissions.
- On August 24, 2020, Desert Palace served its responses to LLTQ 16's Request for Admissions.
- On August 24, 2020, CAC served its responses to Green's Request for Admissions.
- On August 26, 2020, Seibel served his First Supplemental Responses to Ramsay's First Request for Production of Documents.
- On August 28, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On September 2, 2020, Sysco Las Vegas, Inc. responded to Caesars' Subpoena Duces Tecum.
- On September 4, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On September 9, 2020, Caesars served its Supplemental Responses to Defendants' First Request for Production of Documents.

- On September 11, 2020, Seibel, the Development Entities, and Green served their Fourth Set of Requests for Production of Documents.
- On September 14, 2020, Seibel, the Development Entities, and Green served a redaction log.
- On September 14, 2020, Caesars served Notice of Videotaped Deposition of the Seibel Family 2016 Trust Pursuant to NRCP 20(b)(6).
- On September 16, 2020, Seibel served his First Set of Interrogatories to Ramsay.
- On September 16, 2020, Seibel, the Development Entities, and Green served their Third Set of Requests for Production of Documents to Ramsay.
- On September 16, 2020, Seibel served his First Set of Interrogatories to CAC.
- On September 16, 2020, Seibel served his First Set of Interrogatories to Paris.
- On September 16, 2020, Seibel served his Second Set of Interrogatories to Planet Hollywood.
- On September 18, 2020, Desert Palace served its First Set of Requests for Admission to OHR.
- On September 18, 2020, Desert Palace served its Second Set of Interrogatories to Seibel.
- On September 18, 2020, Caesars served its Second Set of Requests for Documents to Green.
- On September 18, 2020, Caesars served its Fourth Set of Requests for Production of Documents to Seibel.
- On September 18, 2020, Ramsay served his First Set of Requests for Admission to GRB.
- On September 18, 2020, Ramsay served his First Set of Interrogatories to GRB.
- On September 18, 2020, Ramsay served his First Set of Interrogatories to Seibel.
- On September 18, 2020, Ramsay served his First Request for Production of Documents to GRB.
- On September 18, 2020, Ramsay served his Second Requests for Production of Documents to Seibel.

- On September 18, 2020, Seibel, the Development Entities, and Green served a Supplemental Disclosure of Documents and Witnesses.
- On September 21, 2020, Seibel, the Development Entities, and Green served their Rebuttal Expert Disclosures.
- On September 21, 2020, Caesars served its Rebuttal Expert Witness Disclosures Pursuant to NRCP 16.1(a)(2).
- On September 21, 2020, BR 23 Venture, LLC responded to Caesars' Subpoena Duces Tecum.
- On September 21, 2020, Future Star Hospitality, LLC responded to Caesars' Subpoena Duces Tecum.

The Parties agreed that discovery in this matter will proceed simultaneously with discovery conducted in an action pending before the United States District Court, District of Nevada, styled as *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, Case No. 2:17-cv-00346-JCM-VCF. A stipulation seeking to extend the remaining deadlines in that action in the same timeframe proposed below has been submitted.

II. DISCOVERY REMAINING TO BE COMPLETED.

With certain agreed upon limitations discussed below, the Parties anticipate completing the production of additional documents, serving additional/amended privilege logs, propounding and responding to additional written discovery, conducting additional depositions (including expert depositions), and conducting third-party document and deposition discovery.

III. REASONS WHY THE REMAINING DISCOVERY WAS NOT COMPLETED.

At the outset, Case No. A-17-751759 involved extensive motion practice. On February 28, 2017, Seibel filed a motion for preliminary injunction. Ramsay and Planet Hollywood filed their oppositions on March 17, 2017. The Court entered an order denying Seibel's motion for preliminary injunction on April 12, 2017. Thereafter, Planet Hollywood filed a motion to dismiss on April 7, 2017, to which Seibel filed an opposition on April 24, 2017. This Court entered an order granting in part, and denying in part, Planet Hollywood's motion to dismiss on June 16, 2017. Subsequently, Seibel, on behalf of GRB, filed a motion for partial summary judgment on September 18, 2017,

1 Planet Hollywood filed an opposition on October 5, 2017, and Ramsay filed his opposition on
2 October 6, 2017. On or about October 5, 2017, an order was entered in the Court of Chancery of
3 the State of Delaware dissolving GRB and appointing a liquidating trustee. As a result of the
4 Delaware Court's order, on November 7, 2017, at the hearing on the motion for partial summary
5 judgment, this Court continued the matter in order to give the trustee the opportunity to review and
6 take a position on the derivative claims brought by Seibel.

7 On or about March 30, 2020, the trustee appointed to dissolve GRB filed a Report and
8 Proposed Liquidation Plan for GRB in the Court of Chancery of the State of Delaware (the
9 "Report"). A redacted, public version of the Report was filed on April 6, 2020, addressing, among
10 other things, the derivative claims brought by Seibel in Case No. A-17-751759, the claims brought
11 by Caesars against GRB in Case No. A-17-760537, and the assignment of claims by GRB to Seibel
12 and Ramsay. Ramsay's entity, GR US Licensing, LP, filed Exceptions to the Receiver's Report and
13 Proposed Liquidated Plan, dated May 22, 2020. Seibel filed a Reply Brief in Further Support of
14 Limited Exceptions to the Receiver's Report and Proposed Liquidation Plan for GR Burgr, LLC,
15 dated June 19, 2020. A hearing on the Report was held before the Court of Chancery of the State
16 of Delaware on June 26, 2020. The Delaware court did not resolve the matter and allowed for
17 additional briefing. The Delaware proceeding remains pending.

18 In addition to the motion practice and trustee issues, the Parties stipulated to consolidate this
19 action with Case No. A-17-760537-B. On February 9, 2018, this Court entered a Stipulation and
20 Order to Consolidate. Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16, DNT, TPOV,
21 and TPOV 16 filed Motions to Dismiss and/or Amended Motions to Dismiss on February 22, 2018.
22 Caesars filed a Consolidated Opposition to all of the Motions on March 12, 2018. These motions
23 were denied on June 1, 2018. On June 18, 2018, Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI,
24 MOTI 16, DNT, TPOV, and TPOV 16 filed a petition for writ of mandamus or prohibition and a
25 motion to stay the proceedings pending a decision on their petition for a writ of mandamus or
26 prohibition. Caesars filed its Opposition to the stay motion on July 9, 2018. The motion to stay was
27 denied on August 22, 2018. On September 5, 2018, Seibel, LLTQ, LLTQ 16, FERG, FERG 16,
28 MOTI, MOTI 16, DNT, TPOV, and TPOV 16 filed a Motion to Stay All District Court Proceedings

1 in the Supreme Court of Nevada. On September 14, 2018, Caesars filed its Response to the Motion
2 to Stay All District Court Proceedings in the Supreme Court of Nevada. On November 9, 2018, the
3 Supreme Court of Nevada issued an Order Denying the Motion to Stay. On June 7, 2019, the
4 Supreme Court of Nevada issued an Order Denying Petition for Writ of Mandamus or Prohibition.

5 Meanwhile, on or about August 6, 2018, OHR moved to intervene. On August 9, 2018, the
6 Parties agreed to attempt to resolve this action, as well as a number of related actions through
7 mediation. The mediation was held on October 12, 2018. This action was not resolved.

8 In May 2019, attorneys for Seibel, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, MOTI 16,
9 DNT (appearing derivatively by one of its two members, R Squared), TPOV, and TPOV 16 filed
10 various motions to withdraw and stay. The Parties came before the Court for hearing on May 23,
11 2019. During the hearing, this Court orally granted the motions to withdraw and granted the motion
12 to stay, in part, for two weeks. On May 31, 2019, the Court entered a written order granting the
13 motions to withdraw. On June 4, 2019, the Court entered a written order granting, in part, the
14 motion to stay. Also, on June 4, 2019, new counsel for Seibel, LLTQ, LLTQ 16, FERG, FERG 16,
15 MOTI, MOTI 16, DNT (appearing derivatively by one of its two members, R Squared), TPOV, and
16 TPOV 16 filed a Notice of Appearance.

17 Since that time, the Parties have actively been engaged in discovery as outlined above.
18 Except for depositions of the Parties' respective experts, expert discovery is now closed. The Parties
19 have conducted multiple depositions to date, but additional discovery remains to be completed, and
20 additional depositions remain to be taken, including certain out-of-state witnesses.

21 Following the untimely passing of prior lead counsel for Seibel and the Development
22 Entities (Steven Bennett, Esq.), the Parties postponed meet and confers on various discovery issues,
23 hearings on pending motions, and depositions which were being discussed to proceed in January
24 2020 were placed on hold.

1 On February 12, 2020, this Court heard and granted Caesars' Motion for Leave to File First
2 Amended Complaint. The Order was entered on March 10, 2020, and the First Amended Complaint
3 was filed on March 11, 2020.¹

4 On March 2, 2020, the law firm of Bailey Kennedy appeared as counsel in this matter for
5 Seibel and the Development Entities. Shortly thereafter, on or around March 12, 2020, Governor
6 Sisolak issued a Declaration of Emergency in the state of Nevada following the outbreak of the
7 COVID-19 health emergency. Additional actions have been taken by other local governments and
8 the judiciary since then, including, without limitation, entry of Administrative Order 20-01 in *In*
9 *the Matter of the Eighth Judicial District Court's Response to Coronavirus Disease (COVID-19)*,
10 in which Chief Judge Bell suspended all jury trials for 30 days, effective March 16, 2020, due to
11 "the severity of the risk posed to the public by COVID-19," and entry of Administrative Order 20-
12 09 in *In the Administrative Matter of Court Operations of Civil Matters In Response to COVID-19*,
13 in which Chief Judge Bell stayed "[a]ll deadlines pursuant to NRCP 16.1 for initial disclosures,
14 disclosure of expert witnesses and testimony, [and] supplementation of discovery" for 30 days (i.e.,
15 until April 20, 2020), precluded parties from issuing subpoenas without prior approval from the
16 Discovery Commissioner for 30 days (i.e., until April 20, 2020), and encouraged district court
17 judges to liberally grant stay requests "at this time based on any COVID-19 related issues." This
18 Court, like most others, ceased holding in-person hearings (unless absolutely necessary) as a
19 precaution in response to COVID-19.

20 The COVID-19 health emergency restricted travel for counsel for the Parties and witnesses,
21 thereby hampering the Parties' ability to schedule and conduct depositions. For example, Caesars
22 noticed the depositions of Seibel and the NRCP 30(b)(6) designees of MOTI 16, FERG, and FERG
23 16 in April 2020; however, because Seibel and the current anticipated designee (Green) reside in

24
25 ¹ Seibel, the Development Entities, and Green filed a Motion to Dismiss Counts IV, V, VI,
26 VII, and VIII of Caesars' First Amended Complaint on April 8, 2020. The Court entered an Order
27 Denying, Without Prejudice, Seibel, the Development Entities, and Green's Motion to Dismiss
28 Counts IV, V, VI, VII, and VIII of Caesars' First Amended Complaint on May 29, 2020. The
Development Entities, Seibel, and Green filed an Answer to Caesars' First Amended Complaint and
Counterclaims on June 19, 2020. Caesars filed a Motion to Strike the Seibel-Affiliated Entities
Counterclaims and/or in the Alternative, Motion to Dismiss on July 15, 2020. The Court held a
hearing on the motion to strike on September 23, 2020 and a decision is pending.

New York, the depositions are being rescheduled to adhere to strict social distancing requirements and avoid unnecessary possible exposure to COVID-19 for the health and safety of everyone involved. Similarly, Caesars sought, but was initially unable to domesticate subpoenas sought to be served on third parties in New York and Florida due to limited access to the local courts in those jurisdictions. Additionally, working conditions have shifted for the Parties' counsel, as some counsel continue to work remotely.

Based on these and myriad other unanticipated events that occurred in light of the current COVID-19 health emergency, the Parties agreed to stay this matter, with a few exceptions, until May 22, 2020. (*See* Stipulation to Stay Discovery and Proposed Order to Extend Discovery Deadlines Following Stay (Seventh Request) 14:20-15:26.) The Parties agreed to recommence the then-existing discovery period following the stay. Seibel, the Development Entities, and Green subsequently moved to extend the discovery period and continue the trial date, which motion was granted in part by the Court pursuant to its June 29, 2020 Order. Since then, the Parties have served and responded to numerous written discovery requests, exchanged initial and rebuttal expert disclosures, engaged in various meet and confers, and have begun discussing scheduling depositions. Despite the Parties' good faith efforts, additional time is needed for discovery.

IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY.

The Parties propose an extension of discovery as follows:

- Thirty (30) additional days from the current close of discovery to propound any additional written discovery on parties and non-parties; and
- Sixty (60) days from the current close of discovery to take depositions and to conduct clean up discovery (*e.g.*, meet and confer practice, and supplemental discovery responses and/or disclosures, if any, stemming therefrom). Thus, following the initial 30-day extension, no Party may propound new written discovery or issue any new subpoenas.²

² A carve-out to the "no new discovery" after the first 30 days of the Parties' requested 60-day discovery extension depends on the Court's ruling on Caesars' pending motion to strike the Development Entities' amended counterclaims. If the Court denies the motion, the parties will be

The Parties propose the following schedule:

<u>Deadline</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Add parties or amend pleadings	February 4, 2019	No Change
Initial Expert Disclosures	August 20, 2020	No Change
Rebuttal Expert Disclosures	September 21, 2020	No Change
Close of Discovery	October 19, 2020	November 18, 2020 (new discovery) December 18, 2020 (all discovery)
Dispositive Motions	November 18, 2020	February 18, 2021
Motions in Limine	January 4, 2021	April 23, 2021
Pre-Trial memorandum	February 18, 2021	May 24, 2021
Trial	February 22, 2021	July 12, 2021

V. CURRENT TRIAL DATE.

This case is set to be tried on a five-week stack beginning on February 22, 2020, at 9:30 a.m., pursuant to the Sixth Scheduling Order. The Parties request that the Court continue the trial to its 5-week stack beginning on July 12, 2021 or as soon thereafter as its calendar permits, to allow adequate time for the Parties to complete discovery and for the Court to hear dispositive motions. Given the proposed extensions and good cause appearing, the Parties respectfully request that this Court vacate the February 22, 2021 trial date in this matter and that the Court issue an amended scheduling order reflecting the deadlines and trial date proposed by the Parties.

permitted to serve additional written discovery related to the amended counterclaims through the close of all discovery (i.e. on or before December 18, 2020).

The Parties represent that this stipulation is sought in good faith, is not interposed for delay, and is not filed for an improper purpose.

Respectfully submitted by:

DATED October 9, 2020

PISANELLI BICE PLLC

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

DATED October 7, 2020

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
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(admitted *pro hac vice*)
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Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
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*Attorneys for The Original Homestead
Restaurant, Inc*

DATED October 7, 2020

BAILEY KENNEDY

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Joshua P. Gilmore, Esq., Bar No. 11576
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LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC,
TPOV Enterprises 16, LLC,
FERG, LLC, FERG 16, LLC. Craig Green,
and R Squared Global Solutions, LLC,
Derivatively on Behalf of DNT Acquisition,
LLC*

DATED October 8, 2020

FENNEMORE CRAIG, P.C.

By: /s/ John Tennert
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300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

DATED October 7, 2020

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By: /s/ Aaron D. Lovaas
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aaron.lovaas@ndlf.com

Attorneys for Nominal Plaintiff GR Burgr LLC

ORDER


Based on the foregoing Stipulation of the Parties and good cause appearing therefor,

IT IS HEREBY ORDERED that the discovery deadlines in this matter are continued as follows:

<u>Deadline</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Close of Discovery	October 19, 2020	November 18, 2020 (new discovery) December 18, 2020 (all discovery)
Dispositive Motions	November 18, 2020	February 18, 2021
Motions in Limine	January 4, 2021	April 23, 2021
Pre-Trial memorandum	February 18, 2021	May 24, 2021
Trial	February 22, 2021	July 12, 2021

IT IS SO ORDERED.

DATED this 15th day of October 2020.



THE HONORABLE TIMOTHY C. WILLIAMS
EIGHTH JUDICIAL DISTRICT COURT LB

AUTHORIZATIONS FOR ELECTRONIC SIGNATURES

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, October 7, 2020 5:48 AM
To: Brittanie T. Watkins; Paul Williams; Tennert, John; Aaron D. Lovaas
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua C. Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Russo; Cinda C. Towne
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may on behalf of OHR

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, October 7, 2020 8:26 AM
To: Brittanie T. Watkins; Paul Williams; Tennert, John; Alan Lebensfeld
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may apply my e-signature. Thank you.

Aaron D. Lovaas
702.777.7519 | Aaron.Lovaas@ndlf.com
[Newmeyer & Dillion LLP](#)

Cinda C. Towne

From: Paul Williams <PWilliams@baileykennedy.com>
Sent: Wednesday, October 7, 2020 9:08 AM
To: Brittanie T. Watkins
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne; Tennert, John; Aaron D. Lovaas; Alan Lebensfeld
Subject: RE: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

You may apply my electronic signature.

Thank you,

Paul C. Williams
Bailey Kennedy, LLP
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
(702) 562-8820 (Main)
(702) 789-4552 (Direct)
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PWilliams@BaileyKennedy.com

Cinda C. Towne

From: Tennert, John <jtennert@fclaw.com>
Sent: Thursday, October 8, 2020 5:52 PM
To: Brittne T. Watkins
Cc: James Pisanelli; Debra Spinelli; Magali Mercera; Robert A. Ryan; Emily A. Buchwald; Joshua Gilmore; Paul Williams; Stephanie Glantz; Beavers, Wade; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Susan Russo; Cinda C. Towne; Aaron D. Lovaas; Alan Lebensfeld
Subject: Re: [EXTERNAL]:Caesars/Seibel - 30-day extensions

CAUTION: External Email

Hi Brittne, you may apply my electronic signature.
Thanks,

Sent from my iPhone

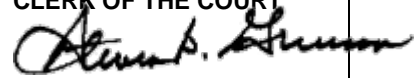
John D. Tennert III, Director
T: 775.788.2212 | F: 775.788.2213
jtennert@fclaw.com

TAB 71

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

TAB 72

Part 1 of 2



APEN (CIV)

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TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green;
and R Squared Global Solutions, LLC, Derivatively On Behalf of DNT
Acquisition, LLC*

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants,

And

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**APPENDIX OF EXHIBITS TO THE
DEVELOPMENT ENTITIES, ROWEN
SEIBEL, AND CRAIG GREEN'S
MOTION:**

- (1) FOR LEAVE TO TAKE CAESARS'
NRCP 30(B)(6) DEPOSITIONS;
AND**
- (2) TO COMPEL RESPONSES TO
WRITTEN DISCOVERY**

ON ORDER SHORTENING TIME

VOLUME 1 OF 4

Pursuant to EDCR 2.27(b), Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”) (collectively, the “Development Entities”), Rowen Seibel (“Seibel”) and Craig Green (“Green”), file this Appendix of Exhibits, Volume 1 of 4, to their Motion: (1) For Leave to Take Caesars’ NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery, on Order Shortening Time.

DATED this 20th day of November, 2020.

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS
STEPHANIE J. GLANTZ

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

TABLE OF CONTENTS

VOLUME 1

Exhibit No.	Document Description	Number Sequence
1	Declaration of Paul C. Williams, Esq.	0001-0006
2	Declaration of Joshua P. Gilmore, Esq.	0007-0009
3	ECF [64] Order on Motion to Compel, entered on June 21, 2018 in Federal Court Matter, Case No. 2:17-cv-00346-JCM-VCF	0010-0015
4	Notice of Videotaped Deposition of Desert Palace, Inc., served September 6, 2019	0016-0019
5	Notice of Videotaped Deposition of Desert Palace Inc. Compliance Committee Representative, served October 14, 2019	0020-0023
6	Transcript of Capital Committee Deposition, taken on October 15, 2019	0024-0028
7	Transcript of the Compliance Committee, taken on November 5, 2019	0029-0033
8	Rowen Seibel's First Set of Interrogatories to PHWLTV, LLC, served on June 30, 2020	0034-0044
9	MOTI Partners, LLC's First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020	0045-0055
10	MOTI Partners 16, LLC's First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020	0056-0066
11	LLTQ Enterprises, LLC's First Set of Interrogatories to Desert Palace, Inc. , served on June 30, 2020	0067-0078
12	LLTQ Enterprises 16, LLC's First Set of Interrogatories to Desert Palace, Inc. , served on June 30, 2020	0079-0089
13	TPOV Enterprises, LLC's First Set of Interrogatories to Paris Las Vegas Operating Company, LLC, served on June 30, 2020	0090-0100
14	TPOV Enterprises 16, LLC's First Set of Interrogatories to Paris Las Vegas Operating Company, LLC, served on June 30, 2020	0101-0111

Exhibit No.	Document Description	Number Sequence
15	FERG, LLC's First Set of Interrogatories to Boardwalk Regency Corporation d/b/a/ Caesars Atlantic City, served on June 30, 2020	0112-0122
16	FERG 16, LLC's First Set of Interrogatories to Boardwalk Regency Corporation d/b/a/ Caesars Atlantic City, served on June 30, 2020	0123-0133
17	R Squared Global Solutions, LLC, derivatively on behalf of DNT Acquisition LLC's First Set of Interrogatories to Desert Palace, Inc. , served on June 30, 2020	0134-0144
18	Rowen Seibel's First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020	0145-0155
19	The Development Entities, Rowen Seibel, and Craig Green's Third Set of Requests for Production to Caesars Entities, served on June 30, 2020	0156-0177
20	PHWLTV, LLC's Responses to Rowen Seibel's First Set of Interrogatories, served on August 21, 2020	0178-0184
21	Desert Palace, Inc.'s Responses to MOTI Partners, LLC's First Set of Interrogatories, served on August 21, 2020	0185-0191
22	Desert Palace, Inc.'s Responses to MOTI Partners 16, LLC's First Set of Interrogatories, served on August 21, 2020	0192-0198
23	Desert Palace, Inc.'s Responses to LLTQ Enterprises, LLC's First Set of Interrogatories, served on August 21, 2020	0199-0205
24	Desert Palace Inc.'s Responses to LLTQ Enterprises 16, LLC's First Set of Interrogatories, served on August 21, 2020	0206-0212
25	Paris Las Vegas Operating Company, LLC's Responses to TPOV Enterprises, LLC's First Set of Interrogatories, served on August 21, 2020	0213-0219
26	Paris Las Vegas Operating Company, LLC's Responses to TPOV Enterprises 16, LLC's First Set of Interrogatories, served on August 21, 2020	0220-0226
27	Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG, LLC's First Set of Interrogatories, served on August 21, 2020	0227-0233

Exhibit No.	Document Description	Number Sequence
28	Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG 16, LLC's First Set of Interrogatories, served on August 21, 2020	0234-0240
29	Desert Palace Inc.'s Responses to R Squared Global Solutions, LLC, Derivatively on behalf of DNT Acquisition LLC's First Set of Interrogatories, served on August 21, 2020	0241-0248

VOLUME 2

Exhibit No.	Document Description	Number Sequence
30	Desert Palace, Inc.'s Responses to Rowen Seibel's First Set of Interrogatories, served on August 21, 2020	0249-0256
31	Caesars Parties' Responses to Rowen Seibel, the Development Entities, and Craig Green's Third Set of Requests for Production of Documents, served on August 21, 2020	0257-0291
32	September 10, 2020 Bailey Kennedy, LLP Letter to Pisanelli Bice PLLC	0292-0297
33	Rowen Seibel's First Set of Interrogatories to Paris Las Vegas Operating Company, LLC, served on September 16, 2020	0298-0307
34	Rowen Seibel's Second Set of Interrogatories to PHWLTV, LLC, served on September 16, 2020	0308-0317
35	Rowen Seibel's First Set of Interrogatories to Boardwalk Regency Corporation d/b/a Caesars Atlantic City, served on September 16, 2020	0318-0327
36	September 18, 2020 Email Correspondence between Pisanelli Bice and Bailey Kennedy	0328-0330
37	Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to Rowen Seibel's First Set of Interrogatories, served on October 16, 2020	0331-0339
38	Paris Las Vegas Operating Company, LLC's Responses to Rowen Seibel's First Set of Interrogatories, served on October 16, 2020	0340-0347

Exhibit No.	Document Description	Number Sequence
39	PHWLV, LLC's Responses to Rowen Seibel's Second Set of Interrogatories, served on October 16, 2020	0348-0355
40	October 29, 2020 Email Correspondence between Pisanelli Bice and Bailey Kennedy	0356-0360

VOLUME 3

Exhibit No.	Document Description	Number Sequence
41	Caesars Parties' First Supplemental Responses to Rowen Seibel, The Development Entities, and Craig Green's Third Set of Requests for Production of Documents, served on October 23, 2020	0361-0398
42	Development Entities, Seibel, and Green Notice of Taking Videotaped Deposition of Boardwalk Regency Corporation d/b/a/ Caesars Atlantic City, served on October 29, 2020	0399-0409
43	Development Entities, Seibel, and Green Notice of Taking Videotaped Deposition of Desert Palace, Inc., served on October 29, 2020	0410-0427
44	Development Entities, Seibel, and Green Notice of Taking Videotaped Deposition of Paris Las Vegas Operating Company, LLC, served on October 29, 2020	0428-0438
45	Development Entities, Seibel, and Green Notice of Taking Videotaped Deposition of PHWLV, LLC, served on October 29, 2020	0439-0449
46	November 4, 2020 Email Correspondence between Bailey Kennedy and Pisanelli Bice	0450-0465
47	November 12, 2020 Email Correspondence between Pisanelli Bice and Bailey Kennedy	0466-0468
48	November 18, 2020 Email Correspondence between Bailey Kennedy and Pisanelli Bice	0469-0473
49	Caesars Parties' Second Supplemental Responses to Rowen Seibel, the Development Entities, and Craig Greens Third Set of Requests for Production of Documents, served on November 18, 2020.	0474-0512

VOLUME 4

FILED UNDER SEAL

Exhibit No.	Document Description	Number Sequence
50	Excerpt of Caesars Entertainment Corporation Ethics and Compliance Program – FILED UNDER SEAL	0513-0518
51	Rebuttal Expert Report of Randall E. Sayre – FILED UNDER SEAL	0519-0572
52	April 26, 2014 Email from Gary Selesner to Tom Jenkin - PARIS003669 – FILED UNDER SEAL	0573-0575
53	February 28, 2015 Email from David Hoenemeyer to Tom Jenkin, Gary Selesner, and Michael Grey - CAESARS004452 – FILED UNDER SEAL	0576
54	August 24, 2015 Email from Stuart Gillies to Tom Jenkin - GRH00006772 – FILED UNDER SEAL	0577
55	September 18, 2015 Email from Stuart Gillies to Tom Jenkin - PARIS029689 – FILED UNDER SEAL	0578-0579
56	August 21, 2016 Email from Tom Jenkin to Stuart Gillies and Gordon Ramsay - GRPROD_00002884 - FILED UNDER SEAL	0580
57	September 16, 2016 Letter from Brian K. Ziegler to Mark A. Clayton, Esq. – FILED UNDER SEAL	0581-0585
58	Excerpts of Plaintiffs’ Fourth Supplemental Privilege Log, served on September 28, 2020 – FILED UNDER SEAL	0586-0592

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 20th day of November, 2020, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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/s/ Susan Russo
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EXHIBIT 1

EXHIBIT 1

DECLARATION OF PAUL C. WILLIAMS

I, Paul C. Williams, hereby declare as follows:

1. I am an associate at Bailey ♦ Kennedy, counsel of record for Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”) (collectively, the “Development Entities”), Rowen Seibel (“Seibel”), and Craig Green (“Green”) in the matter entitled *Seibel v. PHWLTV, LLC, et al.*, Case No. A-17-751759-B, as consolidated with Case No. A-17-760537-B, pending in the Eighth Judicial District Court, Clark County, Nevada (the “Matter”).

2. I make this Declaration in support of The Development Entities, Rowen Seibel, and Craig Green’s Motion: (1) for Leave to Take Caesars’ NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time (the “Motion to Compel”).

3. I am competent to testify to the facts stated herein, which are based on personal knowledge unless otherwise indicated, and would do so if requested.

4. On September 24, 2020, I participated in a telephonic meet-and-confer, alongside Joshua P. Gilmore, Esq. and Stephanie J. Glantz, Esq. (attorneys at Bailey ♦ Kennedy), with Debra L. Spinelli, Esq. Brittnie T. Watkins, Esq. and Emily A. Buchwald, Esq. (attorneys at Pisanelli Bice), counsel of record for PHWLTV, LLC (“Planet Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) (collectively, “Caesars”) in the Matter, concerning various deficiencies with Caesars’ responses to the Development Entities, Seibel, and Green’s written discovery requests to Caesars (including the responses addressed in the Motion to Compel).¹ During the call, I discussed the reasons why the Development Entities, Seibel, and Green believed that Caesars needed to fully respond to the requests at issue in the Motion to

¹ Prior to the call, on September 10, 2020, I had prepared and sent a letter to Caesars’ counsel identifying the deficient discovery responses. (See Ex. 32.) On September 17, 2020, Ms. Spinelli prepared and sent an email responding to my letter. (See Ex. 46.)

1 Compel. Ms. Spinelli discussed the reasons for Caesars’ objections to the discovery requests and,
2 in certain instances, agreed to review our reasoning for the requests with her team and her client and
3 circle back with us. We also agreed to evaluate certain discovery requests in light of the reasons
4 stated for Caesars’ objections.

5 5. As detailed in follow up email correspondence that I exchanged with Ms. Spinelli
6 between October 9, 2020 and November 4, 2020 the parties were unable to reach an agreement
7 concerning certain discovery responses (including those discovery responses addressed in the
8 Motion to Compel). (*See* Ex. 46.)

9 6. Attached to the Appendix of Exhibits to the Motion to Compel (the “Appendix”) as
10 **Exhibit 8** is a true and correct copy/excerpt of Rowen Seibel’s First Set of Interrogatories to
11 PHWLTV, LLC, served on June 30, 2020.

12 7. Attached to the Appendix as **Exhibit 9** is a true and correct excerpt of MOTI
13 Partners, LLC’s First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020.

14 8. Attached to the Appendix as **Exhibit 10** is a true and correct excerpt of MOTI
15 Partners 16, LLC’s First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020.

16 9. Attached to the Appendix as **Exhibit 11** is a true and correct excerpt of LLTQ
17 Enterprises, LLC’s First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020.

18 10. Attached to the Appendix as **Exhibit 12** is a true and correct excerpt of LLTQ
19 Enterprises 16, LLC’s First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020.

20 11. Attached to the Appendix as **Exhibit 13** is a true and correct excerpt of TPOV
21 Enterprises, LLC’s First Set of Interrogatories to Paris Las Vegas Operating Company, LLC, served
22 on June 30, 2020.

23 12. Attached to the Appendix as **Exhibit 14** is a true and correct excerpt of TPOV
24 Enterprises 16, LLC’s First Set of Interrogatories to Paris Las Vegas Operating Company, LLC,
25 served on June 30, 2020.

26 13. Attached to the Appendix as **Exhibit 15** is a true and correct excerpt of FERG,
27 LLC’s First Set of Interrogatories to Boardwalk Regency Corporation d/b/a/ Caesars Atlantic City,
28 served on June 30, 2020.

1 14. Attached to the Appendix as **Exhibit 16** is a true and correct excerpt of FERG 16,
2 LLC's First Set of Interrogatories to Boardwalk Regency Corporation d/b/a/ Caesars Atlantic City,
3 served on June 30, 2020.

4 15. Attached to the Appendix as **Exhibit 17** is a true and correct excerpt of R Squared
5 Global Solutions, LLC, derivatively on behalf of DNT Acquisition LLC's First Set of
6 Interrogatories to Desert Palace, Inc., served on June 30, 2020.

7 16. Attached to the Appendix as **Exhibit 18** is a true and correct excerpt of Rowen
8 Seibel's First Set of Interrogatories to Desert Palace, Inc., served on June 30, 2020.

9 17. Attached to the Appendix as **Exhibit 19** is a true and correct excerpt of The
10 Development Entities, Rowen Seibel, and Craig Green's Third Set of Requests for Production to
11 Caesars, served on June 30, 2020.

12 18. Attached to the Appendix as **Exhibit 20** is a true and correct excerpt of PHWLTV,
13 LLC's Responses to Rowen Seibel's First Set of Interrogatories, served on August 21, 2020.

14 19. Attached to the Appendix as **Exhibit 21** is a true and correct excerpt of Desert
15 Palace, Inc.'s Responses to MOTI Partners, LLC's First Set of Interrogatories, served on August
16 21, 2020.

17 20. Attached to the Appendix as **Exhibit 22** is a true and correct excerpt of Desert
18 Palace, Inc.'s Responses to MOTI Partners 16, LLC's First Set of Interrogatories, served on August
19 21, 2020.

20 21. Attached to the Appendix as **Exhibit 23** is a true and correct excerpt of Desert
21 Palace, Inc.'s Responses to LLTQ Enterprises, LLC's First Set of Interrogatories, served on August
22 21, 2020.

23 22. Attached to the Appendix as **Exhibit 24** is a true and correct excerpt of Desert
24 Palace Inc.'s Responses to LLTQ Enterprises 16, LLC's First Set of Interrogatories, served on
25 August 21, 2020.

26 23. Attached to the Appendix as **Exhibit 25** is a true and correct excerpt of Paris Las
27 Vegas Operating Company, LLC's Responses to TPOV Enterprises, LLC's First Set of
28 Interrogatories, served on August 21, 2020.

24. Attached to the Appendix as **Exhibit 26** is a true and correct excerpt of Paris Las Vegas Operating Company, LLC's Responses to TPOV Enterprises 16, LLC's First Set of Interrogatories, served on August 21, 2020.

25. Attached to the Appendix as **Exhibit 27** is a true and correct excerpt of Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG, LLC's First Set of Interrogatories, served on August 21, 2020.

26. Attached to the Appendix as **Exhibit 28** is a true and correct excerpt of Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG 16, LLC's First Set of Interrogatories, served on August 21, 2020.

27. Attached to the Appendix as **Exhibit 29** is a true and correct excerpt of Desert Palace Inc.'s Responses to R Squared Global Solutions, LLC, Derivatively on behalf of DNT Acquisition LLC's First Set of Interrogatories, served on August 21, 2020.

28. Attached to the Appendix as **Exhibit 30** is a true and correct excerpt of Desert Palace, Inc.'s Responses to Rowen Seibel's First Set of Interrogatories, served on August 21, 2020.

29. Attached to the Appendix as **Exhibit 31** is a true and correct excerpt of Caesars' Responses to Rowen Seibel, the Development Entities, and Craig Green's Third Set of Requests for Production, served on August 21, 2020.

30. Attached to the Appendix as **Exhibit 32** is a true and correct copy of a September 10, 2020 Bailey Kennedy, LLP Letter to Pisanelli Bice PLLC.

31. Attached to the Appendix as **Exhibit 33** is a true and correct excerpt of Rowen Seibel's First Set of Interrogatories to Paris Las Vegas Operating Company, LLC, served on September 16, 2020.

32. Attached to the Appendix as **Exhibit 34** is a true and correct excerpt of Rowen Seibel's Second Set of Interrogatories to PHWLTV, LLC, served on September 16, 2020.

33. Attached to the Appendix as **Exhibit 35** is a true and correct excerpt of Rowen Seibel's First Set of Interrogatories to Boardwalk Regency Corporation d/b/a Caesars Atlantic City, served on September 16, 2020.

1 34. Attached to the Appendix as **Exhibit 36** is a true and correct copy of a September
2 18, 2020, email from Debra Spinelli.

3 35. Attached to the Appendix as **Exhibit 37** is a true and correct excerpt of Boardwalk
4 Regency Corporation d/b/a Caesars Atlantic City's Responses to Rowen Seibel's First Set of
5 Interrogatories, served on October 16, 2020.

6 36. Attached to the Appendix as **Exhibit 38** is a true and correct excerpt of Paris Las
7 Vegas Operating Company, LLC's Responses to Rowen Seibel's First Set of Interrogatories, served
8 on October 16, 2020.

9 37. Attached to the Appendix as **Exhibit 39** is a true and correct excerpt of PHWLTV,
10 LLC's Responses to Rowen Seibel's Second Set of Interrogatories, served on October 16, 2020.

11 38. Attached to the Appendix as **Exhibit 40** is a true and correct copy of an October 29,
12 2020, email from M. Magali Mercera.

13 39. Attached to the Appendix as **Exhibit 41** is a true and correct excerpt of Caesars'
14 First Supplemental Responses to Rowen Seibel, The Development Entities, and Craig Green's
15 Third Set of Requests for Production, served on October 23, 2020.

16 40. Attached to the Appendix as **Exhibit 42** is a true and correct copy of the
17 Development Entities, Seibel, and Green's Notice of Taking Videotaped Deposition of Boardwalk
18 Regency Corporation d/b/a/ Caesars Atlantic City, served on October 29, 2020.

19 41. Attached to the Appendix as **Exhibit 43** is a true and correct copy of the
20 Development Entities, Seibel, and Green's Notice of Taking Videotaped Deposition of Desert
21 Palace, Inc., served on October 29, 2020.

22 42. Attached to the Appendix as **Exhibit 44** is a true and correct copy of the
23 Development Entities, Seibel, and Green's Notice of Taking Videotaped Deposition of Paris Las
24 Vegas Operating Company, LLC, served on October 29, 2020.

25 43. Attached to the Appendix as **Exhibit 45** is a true and correct copy of the
26 Development Entities, Seibel, and Green's Notice of Taking Videotaped Deposition of PHWLTV,
27 LLC, served on October 29, 2020.

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3 45. Attached to the Appendix as **Exhibit 47** is a true and correct copy of a November
4 12, 2020, email from M. Magali Mercera.

5 46. Attached to the Appendix as **Exhibit 48** is a true and correct copy of a November
6 18, 2020 email from Joshua P. Gilmore.

7 47. Attached to the Appendix as **Exhibit 49** is a true and correct excerpt of Caesars
8 Parties Second Supplemental Responses to Rowen Seibel, the Developmental Entities and Craig
9 Greens Third Set of Requests for Production of documents, served on November 18, 2020

48. Attached to the Appendix as **Exhibit 58** is a true and correct excerpt of Plaintiffs’
Fourth Supplemental Privilege Log, served on September 28, 2020.

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

13	Executed on November 20, 2020.
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/s/ Paul C. Williams

Paul C. Williams

EXHIBIT 2

EXHIBIT 2

DECLARATION OF JOSHUA P. GILMORE

I, Joshua P. Gilmore, hereby declare as follows:

1. I am a partner at Bailey❖Kennedy, counsel of record for Moti Partners, LLC (“Moti”); Moti Partners 16, LLC (“Moti 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions, LLC (“R Squared”), derivatively on behalf of DNT Acquisition LLC (“DNT”) (collectively, the “Development Entities”), Rowen Seibel (“Seibel”), and Craig Green (“Green”) in the matter entitled *Seibel v. PHWLTV, LLC, et al.*, Case No. A-17-751759-B, as consolidated with Case No. A-17-760537-B, pending in the Eighth Judicial District Court, Clark County, Nevada (the “Matter”).

2. I make this Declaration in support of The Development Entities, Rowen Seibel, and Craig Green’s Motion: (1) for Leave to Take Caesars’ NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time (the “Motion”).

3. I am competent to testify to the facts stated herein, which are based on personal knowledge unless otherwise indicated, and would do so if requested.

4. Prior to September 18, 2020, during telephonic meet-and confers involving other discovery issues in the Matter, I had preliminarily discussed with M. Magali Mercera, Esq., who is of counsel to the law firm of Pisanelli Bice, PLLC, counsel of record for PHWLTV, LLC (“Planet Hollywood”), Desert Palace, Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) (collectively, “Caesars”) in the Matter, the Development Entities, Seibel, and Green’s intent to take the 30(b)(6) depositions of Caesars related to its newly-asserted claims in its First Amended Complaint (and corresponding defenses to those claims) and Caesars’ initial objection to such depositions.

5. On October 27, 2020, I participated in a telephonic meet and confer, alongside Stephanie J. Glantz, Esq. (an associate at Bailey❖Kennedy), with Ms. Mercera, alongside Brittnie T. Watkins, Esq. and Emily A. Buchwald, Esq. (associates of the law firm of Pisanelli Bice PLLC), concerning additional 30(b)(6) depositions of Caesars relating to its new claims in its First Amended Complaint and the Development Entities, Seibel, and Green’s defenses to those claims.

1 During the meet-and-confer, I indicated that because Caesars had added new claims and named a
2 new party to those claims in its First Amended Complaint, the Development Entities, Seibel, and
3 Green were entitled to take additional 30(b)(6) depositions of Caesars concerning the newly-
4 asserted claims and all related defenses. I further explained that the topics sought to be addressed at
5 the depositions were limited to the newly-asserted claims and corresponding defenses to those
6 claims.¹ In response to concerns raised by Ms. Mercera and Ms. Buchwald about certain topics
7 being overly broad, I offered to set a minimum dollar threshold (such as \$250) below, which the
8 Development Entities, Seibel, and Green would not seek to discover information related to benefits
9 during the 30(b)(6) depositions. That way, in regard to those topics seeking information about
10 benefits received by Caesars from vendors for the restaurants involved in the Matter and related
11 communications about those benefits, Caesars' designee would not have to testify regarding
12 benefits received, if any, by employees where the monetary value of such benefits was less than
13 \$250 (the example discussed being a cup of coffee purchased by a vendor for an employee during
14 an on-site visit to a restaurant). I otherwise stated that the Development Entities, Seibel, and Green
15 did not intend to repeat topics from the prior 30(b)(6) depositions of Caesars, and supplied legal
16 authority confirming that the depositions are permitted in light of the filing of Caesars' First
17 Amended Complaint. Ms. Mercera indicated that she and her team would internally review the
18 authority cited and discuss whether Caesars would agree to sit for the additional 30(b)(6)
19 depositions, alongside whether Caesars would formally object to certain topics listed in the draft
20 notices. To that end, she asked that we prepare and serve actual notices of depositions with
21 placeholder dates so that the parties could move forward with motion practice, if need be, related to
22 the depositions.

23 6. On November 18, 2020, Ms. Glantz and I participated in a telephonic meet and
24 confer with Ms. Mercera, Ms. Watkins, and Ms. Buchwald concerning the additional 30(b)(6)
25 depositions of Caesars. During the call, Ms. Mercera confirmed that Caesars would only agree to
26 sit for additional 30(b)(6) depositions if certain topics were removed from the notices (which had

27 _____
28 ¹ Prior to the call, on September 16, 2020, I had sent draft topic lists for the 30(b)(6) depositions, via email, to
Caesars' counsel, to which I received a response on October 22, 2020. (See Ex. 40.)

1 since been served); otherwise, the Development Entities, Seibel, and Green would need to seek
2 leave of Court to take the depositions. I restated the Development Entities, Seibel, and Green's
3 position that the topics listed in the notices were properly related to the newly-asserted claims in
4 Caesars' First Amended Complaint and corresponding defenses to those claims. Because the
5 parties were unable to reach an agreement regarding the topics to be addressed at Caesars' 30(b)(6)
6 depositions, I informed Ms. Mercera that the Development Entities, Seibel, and Green would move
7 forward with motion practice. (*See* Exs. 47-48.)

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

9 Executed on November 20, 2020.

10 /s/ Joshua P. Gilmore
11 Joshua P. Gilmore
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EXHIBIT 3

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ***

4
5 TPOV ENTERPRISES 16, LLC,

6 Plaintiff,

7 vs.

8 PARIS LAS VEGAS OPERATING COMPANY,
9 LLC,

10 Defendant.

11 And all related matters.

2:17-cv-00346-JCM-VCF

ORDER

MOTION TO COMPEL DISCOVERY [ECF No. 56]
AND MOTION TO SEAL [ECF No. 62]

12 Before the Court are Plaintiff TPOV Enterprise 16, LLC's ("TPOV 16") Motion to Compel
13 Responses to Interrogatories (ECF No. 56), Defendant Paris Las Vegas Operating Co., LLC's ("Paris")
14 redacted Response (ECF No. 58), and redacted appendix (ECF No. 59).¹ Paris also filed a Motion to
15 Redact Portions of its Opposition to Motion to Compel Responses to Interrogatories and Seal Exhibits
16 (ECF No. 62) and an un-redacted response and appendix (ECF Nos. 60 and 61). For the following reasons,
17 the Court grants the motion to compel in part and grants Paris's motion to seal.

18 **I. BACKGROUND**

19 In November 2011, TPOV, a Delaware limited liability corporation, and its then principal, Rowan
20 Siebel, contracted with Paris to develop Gordon Ramsey's Steakhouse ("Steakhouse") in the Paris Las
21 Vegas hotel. (ECF No. 56 at 2). The contract contained a provision that gave Paris "the right to terminate
22 this Agreement and its relationship with TPOV" if TPOV associated with an unsuitable person.² (ECF
23 No. 57-2 at 24).

24
25 ¹ To promote transparency, the Court will cite Paris's unsealed motions, ECF Nos. 58 and 59.

² The parties' definition of "unsuitable" can be found at ECF No. 57-1 at 11.

1 In April 2016, Siebel was charged with one count of tax fraud. (ECF No. 58 at 3). Shortly
2 thereafter, TPOV assigned all of its interests in the Steakhouse to TPOV 16, managed solely by Craig
3 Green, and Siebel assigned his shares in TPOV to The Siebel Family 2016 Trust (an irrevocable trust), of
4 which Siebel is neither a trustee nor beneficiary. (ECF No. 1 at 1, 3; ECF No. 56 at 4).³ TPOV and Siebel
5 did not inform Paris of the tax fraud charge at that time. (ECF No. 58 at 3). Paris learned about the charge
6 in August 2016, when the media reported Siebel pled guilty and was sentenced for the charge. (*Id.*).

7 In September 2016, Paris terminated the contract without buying TPOV 16's shares or closing the
8 restaurants, contrary to the termination provision in the contract. (ECF No. 56 at 2). Paris determined
9 TPOV 16 is "unsuitable" because of its affiliation with Siebel. (*Id.* at 4). Paris also determined The Siebel
10 Family 2016 Trust is "unsuitable" for the same reason. (*Id.*). TPOV 16 claims Paris breached the contract
11 and violated the implied covenant of good fair and fair dealing. (*Id.* at 5). Paris counterclaimed, alleging
12 that TPOV 16 breached the contract and implied covenant of good faith and fair dealing. (ECF No. 33 at
13 18-19).

14 In the present motion, TPOV 16 seeks an order to compel Paris to answer in full Interrogatory No.
15 4 and reimburse them for the fees and costs associated with the motion. (ECF No. 56 at 2). The
16 interrogatory states: "Identify each instance in the past 15 years in which the Compliance Committee has
17 determined a person to be unsuitable by name of the person, the date the determination was made, the
18 basis or grounds on which the determination was made." (*Id.*). TPOV 16 argues that the question is
19 relevant to the implied covenant of good faith and fair dealings claim and believes the parties' protective
20 order (ECF No. 29) mitigates the privacy concerns of third parties. (*Id.* at 8-11).

21 Paris contends that the question is an overbroad "attempt to gain irrelevant, private, third-party
22 information." (ECF No. 58 at 1). According to Paris, TPOV agreed the interrogatory was overbroad
23 during the meet and confer process and "agreed to narrow the time frame of the interrogatory to 10 years."
24 (*Id.* at 2). Paris and TPOV/TPOV 16 were only in business for seven years, making some of the previous

25 _____
³ Craig Green and Brian K. Ziegler are the trustees for The Siebel Family 2016 Trust.

1 eight years irrelevant. (*Id.*). Paris offered to provide TPOV 16 “with unsuitability determination
2 information for the past 10 years including the date of such determinations, the category (*i.e.*, whether it
3 was a restaurant, retail, joint venture, etc.), and the reason why particular individuals/entities were found
4 unsuitable.” (*Id.*). Paris requests that TPOV 16’s motion be denied or narrowed to the terms offered
5 during the meet and confer process. (*Id.* at 11-12).

6 The Court issued an order regarding the stipulated confidentiality agreement and protective order
7 that allows parties to file documents that contain confidential or highly confidential information with the
8 Court under seal, pursuant to LR IA 1-5. (ECF No. 29 at 10) Paris filed redacted and un-redacted
9 responses and a motion to seal under the terms of the protective order. (ECF No. 62). The motion to seal
10 argues that ECF Nos. 60 and 61, the un-redacted responses, contain non-public, confidential business
11 information and should remain under seal. ECF Nos. 58 and 59 contain almost all of the information in
12 the sealed versions.

13 II. LEGAL STANDARDS

14 A. Motion to Compel

15 When considering a motion to compel, the Court assesses if the information is privileged and the
16 proportionality of the request. Federal Rule of Civil Procedure 26(b)(1) states that, “Parties may obtain
17 discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and
18 proportional to the needs of the case.” Rule 26 is liberally construed. *See Seattle Times Co. v. Rhinehart*,
19 467 U.S. 20, 33 (1984). Federal Rule of Civil Procedure 33(a)(2) allows a party to use interrogatories to
20 ask about “any subject that may be inquired into under Rule 26(b).” Each question “must, to the extent it
21 is not objected to, be answered separately and fully in writing under oath.” Fed. R. Civ. P. 33(b)(3).

22 If a party objects to an interrogatory, the opposing party “may move for an order compelling an
23 answer.” Fed. R. Civ. P. 37(a)(3)(B)(iii). The moving party must certify that the parties, in good faith,
24 conferred and attempted to resolve the dispute without assistance from the court. Fed. R. Civ. P. 37(a)(1).

25 B. Motion to Seal

1 “Courts have recognized a general right to inspect and copy public records and documents,
 2 including judicial records and documents.” *Kamakana v. City & County of Honolulu*, 447 F.3d, 1172,
 3 1178 (9th Cir. 2006) (internal citations and quotations omitted). The Ninth Circuit begins with “a strong
 4 presumption in favor of access.” *Id.* However, the public’s right to access is “not absolute.” *Id.*

5 Federal Rule of Civil Procedure 26(c) allows the Court to issue a protective order to govern
 6 discovery, as necessary to protect a party from “annoyance, embarrassment, oppression, or undue burden
 7 or expense.” The protective order can require parties to file documents or information under seal. Fed.
 8 R. Civ. P. 26(c)(1)(H). Under LR IA 10-5(a), a party must file documents under seal alongside a motion
 9 for leave to file under seal. The court may then grant the motion or direct the unsealing of the documents.
 10 LR IA 10-5(b).

11 **III. DISCUSSION**

12 **A. Motion to Compel**

13 TPOV 16 wants to know the exact identities of individuals and entities Paris has deemed unsuitable
 14 to see if Paris treated TPOV 16 the same as other similarly situated individuals/entities: entities with whom
 15 the Paris had an existing contractual relationship, were not involved in gaming activities or revenues, were
 16 assigned a contract by an allegedly unsuitable person, and/or was owned by an irrevocable trust where the
 17 unsuitable person did not have a role. (ECF No. 56 at 9). The exact identities of the parties are not
 18 necessary nor proportional to the needs of this case because the information TPOV 16 seeks can be
 19 provided without identifying the third parties. While the privacy concerns of third parties are addressed
 20 by the protective order, there is no reason to disclose the individuals/entities when it is irrelevant to the
 21 case.

22 In addition to the information Paris proposed providing at the parties’ meet and confer
 23 (unsuitability determination information for the past ten years, date of the determinations, category of the
 24 individual/entity’s business, and the reason why particular individuals/entities were found unsuitable,
 25 including association with unsuitable parties), Paris must also provide TPOV 16 with the following:

- 1 1. The timing of the unsuitability determination—whether it came prior to establishing
- 2 contractual relationship or after creating a contractual relationship and what happened to the
- 3 contract;
- 4 2. Assignment of the contract from an allegedly unsuitable party to another entity; and
- 5 3. Ownership by trusts potentially affiliated with unsuitable persons.

6 This information will allow TPOV 16 to make the relevant comparisons.

7 TPOV 16 did not explain why it needs information dating back fifteen years instead of the ten year
8 period proposed by Paris during the meet and confer and its response. The Court finds information dating
9 back more than ten years is not proportional to the case and will limit the disclosures to the past ten years.

10 When a motion to compel is granted in part, Federal Rule of Civil Procedure 37(a)(5)(C) allows
11 the Court to give parties an opportunity to be heard and then apportion reasonable expenses for the motion.
12 In this case, given that the Court’s decision largely mirrors the terms Paris offered TPOV 16 in the meet
13 and confer process, awarding attorneys’ fees and costs would be unreasonable.

14 B. Motion to Seal

15 Paris seeks to seal ECF Nos. 60 and 61, pursuant to Sections 5 and 7 of the protective order, (ECF
16 No. 29), because ECF Nos. 60 and 61 discuss Exhibits 1, 4, and 6.⁴ Paris alleges that the exhibits contain
17 confidential, non-public information. TPOV 16 did not file a response to Paris’s motion. Under LR 7-
18 2(d), the Court will assume that TPOV 16 consents to the motion.

19 After reviewing Exhibits 1 and 6, the Court agrees that the exhibits include confidential, non-
20 public communication between Paris and the Nevada Gaming Board. Exhibit 4, the Development,
21 Operation, and License Agreement with Gordon Ramsay Limited, is non-public business information.

23 ⁴ Section 5 of the Protective Order defines “confidential information” as “all information that constitutes, reflects, or discloses
24 nonpublic information, trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential business,
25 marketing, regulatory, or strategic information (regarding business plans or strategies, technical data, and nonpublic designs),
the disclosure of which the Producing Party believes in good faith might reasonably result in economic or competitive, or
business injury to the Producing Party ... and which is not publicly know and cannot be ascertained from an inspection of
publically available sources, documents or material.” (ECF No. 29 at 3).

1 Therefore, the Court will allow ECF Nos. 60 and 61 to be filed under seal. Because most of the
2 information is included in the unsealed versions (ECF Nos. 58 and 59), sealing the documents will protect
3 confidential information without denying the public access to court documents unnecessarily.

4 IV. CONCLUSION

5 Paris must provide TPOV 16 with information about unsuitability determinations made over the
6 past ten years, including: the date of the determination, the category; the reasons for the unsuitability
7 determinations; already-existing contractual relationships between Paris and the unsuitable party;
8 assignment of the contract; and ownership by trusts. This information will allow TPOV 16 to compare
9 Paris's treatment of it to the treatment of other similar entities. Paris's reply and appendix (ECF Nos. 60
10 and 61) include confidential information and will remain sealed.

11 ACCORDINGLY, and for good cause shown,

12 IT IS ORDEDED that TPOV 16's Motion to Compel Responses to Interrogatories (ECF No. 56)
13 is GRANTED IN PART.

14 IT IS FURTHER ORDERED that, on or before July 12, 2018, Paris must provide TPOV 16 with
15 the following information about all unsuitability determinations made in the past ten years: the date of the
16 determination, the category of the individual/entity, the reasons for the unsuitability determination, any
17 contracts with entities owned by trusts potentially affiliated with unsuitable persons, any already-existing
18 contractual relationships between Paris and unsuitable parties and the status of those contracts.

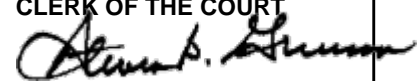
19 IT IS FURTHER ORDERED that Paris's Motion to Redact Portions of its Opposition to Motion
20 to Compel Responses to Interrogatories and Seal Exhibits (ECF No. 62) is GRANTED.

21 DATED this 21st day of June, 2018.

22 
23 CAM FERENBACH
24 UNITED STATES MAGISTRATE JUDGE
25

EXHIBIT 4

EXHIBIT 4



NDEP

David A. Carroll, Esq. (NSB #7643)

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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;
TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing
derivatively by one of its two members, R Squared Global Solutions, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B

Dept. No. 16

Consolidated with:

Case No.: A-17-760537-B

**NOTICE OF VIDEOTAPED
DEPOSITION OF DESERT
PALACE INC.**

PLEASE TAKE NOTICE THAT, on September 12, 2019, commencing at 9:00 AM, at the
law office of Pisanelli Bice PLLC, located at 400 South 7th Street, Las Vegas, Nevada 89101,

1 Plaintiffs, Rowen Seibel; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; FERG, LLC; FERG
2 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC; TPOV Enterprises, LLC; and TPOV
3 Enterprises, LLC (collectively, "Plaintiffs"), by and through their counsel, will take the videotaped
4 deposition of Desert Palace Inc., upon oral examination, pursuant to Rules 26 and 30 of the Nevada
5 Rules of Civil Procedure, before a Notary Public, or before some other office authorized by law to
6 administer oaths.

7 Pursuant to NRCP 30(b)(6), Desert Palace Inc. is required to identify and designate
8 individual(s) to provide testimony on all of the following topics:

9 1. Any requests, considerations, discussions, communications or determinations
10 regarding capital contribution to be made by Desert Palace Inc. for any of the following restaurants
11 (collectively, the "Restaurants"):

- 12 A. Gordon Ramsay Steak—Las Vegas;
- 13 B. Gordon Ramsay Pub & Grill—Las Vegas;
- 14 C. Gordon Ramsay Fish & Chips--Las Vegas;
- 15 D. Old Homestead—Las Vegas;
- 16 E. Gordon Ramsay Pub & Grill—Atlantic City;
- 17 F. Gordon Ramsay Steak—Atlantic City;
- 18 G. Serendipity 3—Las Vegas.

19 2. Any requests, considerations, discussions, communications or determinations
20 regarding capital contribution that would be sought by any other investor(s) in the Restaurants,
21 including but not limited to Plaintiffs.

22 3. The financial contributions of Plaintiffs to the development, construction, and
23 operation of the Restaurants.

24 4. The financial contributions of Desert Palace Inc. to the development, construction,
25 and operation of the Restaurants.

26 ///

RICE REUTHER SULLIVAN & CARROLL, LLP
3800 Howard Hughes Pkwy, Suite 1200
Las Vegas, Nevada 89169
(702) 732-9099

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Rice Reuther Sullivan & Carroll, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing document **NOTICE OF VIDEOTAPED DEPOSITION OF DESERT PALACE INC.** to be submitted via U.S. mail and/or electronically for service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 6th day of September, 2019, to the following:

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Attorney for Defendant J. Jeffrey Frederick

Allen Wilt, Esq.

John Tennert, Esq.

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Attorneys for Plaintiff in Intervention

The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse

/s/ Gayle McCrea

An Employee of Rice Reuther Sullivan & Carroll, LLP

EXHIBIT 5

EXHIBIT 5

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FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC;

*TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; DNT Acquisitions, LLC, appearing
derivatively by one of its two members, R Squared Global Solutions, LLC; and Rowen Seibel*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants.

AND ALL RELATED MATTERS

Case No. A-17-751759-B

Dept. No. 16

Consolidated with:

Case No.: A-17-760537-B

**NOTICE OF VIDEOTAPED
DEPOSITION OF DESERT PALACE
INC. COMPLIANCE COMMITTEE
REPRESENTATIVE**

PLEASE TAKE NOTICE THAT, on November 5, 2019, commencing at 8:30 AM, at the
law office of Pisanelli Bice PLLC, located at 400 South 7th Street, Las Vegas, Nevada 89101,

1 Plaintiffs, LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; FERG, LLC; FERG 16, LLC;
2 MOTI Partners, LLC; MOTI Partners 16, LLC; TPOV Enterprises, LLC; TPOV Enterprises,
3 LLC; and Rowen Seibel (collectively, "Plaintiffs"), by and through their counsel, will take the
4 videotaped deposition of a representative of the Compliance Committee of Desert Palace, Inc.
5 ("Desert"), upon oral examination, pursuant to Rules 26 and 30 of the Nevada Rules of Civil
6 Procedure, before a Notary Public, or before some other officer authorized by law to administer
7 oaths.

8 Pursuant to NRCP 30(b)(6), Desert is required to identify and designate individual(s) to
9 provide testimony on all of the following topics:

10 1. Any investigation by (or at the direction of) Desert with respect to the suitability of
11 the Plaintiffs, and/or the Seibel Family 2016 Trust.

12 2. Any requests for information by (or at the direction of) Desert with respect to any
13 investigation or determination of suitability of the Plaintiffs and/or the Seibel Family 2016 Trust.

14 3. Any determination by (or at the direction of) Desert that the Plaintiffs and/or the
15 Seibel Family 2016 Trust were or are unsuitable.

16 4. Any determination by (or at the direction of) Desert that the transfer of interests to
17 the Seibel Family 2016 Trust, and related transactions, did not suffice to resolve potential
18 suitability issues.

19 5. Any communications between Desert (or at the direction of Desert) and the
20 Nevada Gaming Control Board with respect to the suitability of the Plaintiffs and/or the Seibel
21 Family 2016 Trust.

22 6. Any suitability guidelines, procedures, precedents, and/or criteria used by Desert
23 to determine the suitability or unsuitability of individuals and/or entities.

24 7. Any guidelines, procedures, precedents, and/or criteria used by Desert to
25 determine whether transfer of interests to a trust may suffice to resolve potential suitability issues.

26 8. Any investigation by (or at the direction of) Desert with respect to the suitability of
27 Gordon Ramsay and/or any entity affiliated with Gordon Ramsay.
28

9. Any requests for information by (or at the direction of) Desert with respect to any investigation or determination of suitability of Gordon Ramsay and/or any entity affiliated with Gordon Ramsay.

10. Any determination by (or at the direction of) Desert that Gordon Ramsay and/or any entity affiliated with Gordon Ramsay were or are unsuitable.

DATED this 19th day of October, 2019.

RICE REUTHER SULLIVAN & CARROLL, LLP

By:

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Attorneys for LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; MOTI Partners, LLC; MOTI Partners 16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; and DNT Acquisition, LLC, appearing derivatively by one of its two members, R Squared Global Solutions, LLC; and Rowen Seibel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Rice Reuther Sullivan & Carroll, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing document entitled **NOTICE OF VIDEOTAPED DEPOSITION OF DESERT PALACE INC. COMPLIANCE COMMITTEE REPRESENTATIVE** to be submitted via U.S. mail and/or electronically for service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 14th day of October, 2019, to the following:

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Attorney for Defendant J. Jeffrey Frederick

Allen Wilt, Esq.

John Tennert, Esq.

FENNEMORE CRAIG, P.C.

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Alan M. Lebensfeld (*Admitted Pro Hac Vice*)

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Attorneys for Plaintiff in Intervention

The Original Homestead Restaurant, Inc., d/b/a the Old Homestead Steakhouse

/s/ Gayle McCrea

An Employee of Rice Reuther Sullivan & Carroll, LLP

EXHIBIT 6

EXHIBIT 6

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

and

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

Nominal Plaintiff.)
_____)

AND ALL RELATED MATTERS)
_____)

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

Consolidated with

A-17-760537-B

VIDEOTAPED DEPOSITION OF THE

30(b)(6) OF THE CAPITAL COMMITTEE - MATT JENSEN

LAS VEGAS, NEVADA

TUESDAY, OCTOBER 15, 2019

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 3677

1 VIDEOTAPED DEPOSITION OF THE 30(b)(6) OF THE
2 CAPITAL COMMITTEE - MATT JENSEN, held at Pisanelli
3 Bice, located at 400 South 7th Street, Suite 300,
4 Las Vegas, Nevada, on Tuesday, October 15, 2019, at
5 9:02 a.m., before Monice K. Campbell, Certified
6 Court Reporter, in and for the State of Nevada.

7
8 APPEARANCES:

9 For Rowen Seibel; DNT Acquisition LLC; Moti Partners,
10 LLC, Moti Partners 16, LLC; LLTQ Enterprises, LLC;
11 LLTQ Enterprises 16, LLC; FERG, LLC; TPOV
Enterprises, LLC; and TPOV Enterprises 16, LLC:

12 SCAROLA ZUBATOV SCHAFFZIN PLLC
13 BY: STEVEN C. BENNETT, ESQ.
14 1700 Broadway, 41st Floor
New York, New York 10019
217.757.0007
steve.bennett@szslaw.com

15 For Desert Palace, Inc; Paris Las Vegas Operating
16 Company, LLC; PHWLTV, LLC; and Boardwalk Regency
17 Corporation d/b/a Caesars Atlantic City:

18 PISANELLI BICE PLLC
19 BY: M. MAGALI MERCERA, ESQ.
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702.214.2100
mmm@pisanellibice.com

1 APPEARANCES:

2 For Gordon Ramsay:

3 FENNEMORE CRAIG
4 BY: JOHN D. TENNERT III, ESQ.
5 300 East Second Street, Suite 1510
6 Reno, Nevada 89501
7 775.788.2212
8 jtennert@fclaw.com

9 Also Present:

10 CHRISTINE CHANG

11 JARED MAREZ, VIDEOGRAPHER
12
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CERTIFICATE OF REPORTER

STATE OF NEVADA)

) SS:

COUNTY OF CLARK)

I, Monice K. Campbell, a duly
commissioned and licensed court reporter, Clark
County, State of Nevada, do hereby certify: That I
reported the taking of the deposition of the
witness, MATT JENSEN, commencing on Tuesday,
October 15, 2019, at 9:02 a.m.;

That prior to being examined, the witness
was, by me, duly sworn to testify to the truth.
That I thereafter transcribed my said shorthand
notes into typewriting and that the typewritten
transcript of said deposition is a complete, true,
and accurate transcription of said shorthand notes.

I further certify that I am not a relative or
employee of an attorney or counsel or any of the
parties, nor a relative or employee of an attorney or
counsel involved in said action, nor a person
financially interested in the action; that a request
has not been made to review the transcript.

1
2 IN WITNESS THEREOF, I have hereunto set my hand
3 in my office in the County of Clark, State of Nevada,
4 this 20th day of October, 2019.

5 

6 _____
7 Monice K. Campbell, CCR No. 312
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EXHIBIT 7

EXHIBIT 7

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,)

vs.)

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

Defendants.)

and)

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

Nominal Plaintiff.)
_____)

AND ALL RELATED MATTERS)
_____)

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

Consolidated with

A-17-760537-B

VIDEOTAPED DEPOSITION OF

THE 30(b)(6) OF THE COMPLIANCE COMMITTEE

SUSAN CARLETTA

LAS VEGAS, NEVADA

TUESDAY, NOVEMBER 5, 2019

Reported by: Monice K. Campbell, NV CCR No. 312
Job No.: 3752

1 VIDEOTAPED DEPOSITION OF SUSAN CARLETTA, held at
2 Pisanelli Bice, located at 400 South 7th Street,
3 Suite 300, Las Vegas, Nevada, on Tuesday, November 5,
4 2019, at 8:40 a.m., before Monice K. Campbell,
5 Certified Court Reporter, in and for the State of
6 Nevada.

7
8 APPEARANCES:

9 For Rowen Seibel; DNT Acquisition LLC; Moti Partners,
10 LLC, Moti Partners 16, LLC; LLTQ Enterprises, LLC;
11 LLTQ Enterprises 16, LLC; FERG, LLC; TPOV
Enterprises, LLC; and TPOV Enterprises 16, LLC:

12 SCAROLA ZUBATOV SCHAFFZIN PLLC
13 BY: STEVEN C. BENNETT, ESQ.
14 1700 Broadway, 41st Floor
New York, New York 10019
217.757.0007
steve.bennett@szslaw.com

15 For Desert Palace, Inc; Paris Las Vegas Operating
16 Company, LLC; PHWLTV, LLC; and Boardwalk Regency
17 Corporation d/b/a Caesars Atlantic City:

18 PISANELLI BICE PLLC
19 BY: JAMES J. PISANELLI, ESQ.
BY: M. MAGALI MERCERA, ESQ.
BY: EMILY BUCHWALD, ESQ.
20 400 South 7th Street, Suite 300
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22 eab@pisanellibice.com

1 For Gordon Ramsay:

2 FENNEMORE CRAIG
3 BY: ALLEN WILT, ESQ.
4 300 East Second Street, Suite 1510
5 Reno, Nevada 89501
6 775.788.2212
7 awilt@fclaw.com

8 Also Present:

9 CHRISTINE CHANG

10 JARED MAREZ, THE VIDEOGRAPHER
11
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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

3) SS:

4 COUNTY OF CLARK)

5
6 I, Monice K. Campbell, a duly
7 commissioned and licensed court reporter, Clark
8 County, State of Nevada, do hereby certify: That I
9 reported the taking of the deposition of the
10 witness, SUSAN CARLETTA, commencing on Tuesday,
11 November 5, 2019, at 8:40 a.m.;

12
13 That prior to being examined, the witness
14 was, by me, duly sworn to testify to the truth.
15 That I thereafter transcribed my said shorthand
16 notes into typewriting and that the typewritten
17 transcript of said deposition is a complete, true,
18 and accurate transcription of said shorthand notes.

19
20 I further certify that I am not a relative or
21 employee of an attorney or counsel or any of the
22 parties, nor a relative or employee of an attorney or
23 counsel involved in said action, nor a person
24 financially interested in the action; that a request
25 has been made to review the transcript.

1
2 IN WITNESS THEREOF, I have hereunto set my hand
3 in my office in the County of Clark, State of Nevada,
4 this 16th day of November, 2019.

5 

6
7 Monice K. Campbell, CCR No. 312