

**CASE NO. 86462**

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IN THE SUPREME COURT OF NEVADA

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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.*

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

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**APPENDIX OF EXHIBITS TO APPELLANT'S OPENING BRIEF**

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JOHN R. BAILEY  
NEVADA BAR No. 0137  
DENNIS L. KENNEDY  
NEVADA BAR No. 1462  
JOSHUA P. GILMORE  
NEVADA BAR No. 11576  
PAUL C. WILLIAMS  
NEVADA BAR No. 12524  
**BAILEY ♦ KENNEDY**  
8984 SPANISH RIDGE AVENUE  
LAS VEGAS, NEVADA 89148-1302  
TELEPHONE: (702) 562-8820  
FACSIMILE: (702) 562-8821  
JBAILEY@BAILEYKENNEDY.COM  
DKENNEDY@BAILEYKENNEDY.COM  
JGILMORE@BAILEYKENNEDY.COM  
PWILLIAMS@BAILEYKENNEDY.COM

*Attorneys for Appellants*

# APPENDIX OF EXHIBITS TO APPELLANTS' OPENING BRIEF

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<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion to Strike the Seibel-Affiliated Entities' Counterclaims, and/or in the Alternative, Motion to Dismiss, filed February 3, 2021	13	84	AA02640-AA02656
Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 1, filed June 3, 2022	34	134	AA07119-AA07141
Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, filed June 3, 2022	34	135	AA07142-AA07164
Notice of Entry of Findings of Fact, Conclusions of Law, and Order: (1) Denying Craig Green's Motion for Summary Judgment; (2) Granting Caesars' Counter-Motion for Summary Judgment Against Craig Green; and (3) Granting Caesars' Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VII of the First Amended Complaint), filed March 28, 2023	42	169	AA09084-AA09104
Notice of Entry of Omnibus Order Granting the Development Entities, Rowen Seibel, and Craig Green's Motions to Seal and Redact, filed May 27, 2021	31	110	AA06438-AA06452

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Notice of Entry of 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 February 4, 2021	13	86	AA02665-AA02675
Notice of Entry of Order (Omnibus Order Granting the Development Parties' Motions to Seal and Redact), filed February 9, 2022	33	127	AA07039-AA07050
Notice of Entry of Order Denying Motion to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses and Counterclaims, filed November 25, 2019	4	44	AA00763-AA00769
Notice of Entry of Order Granting Craig Green's Motion to Seal Exhibits 1-6 and 9-11 to His Motion for Summary Judgment, filed August 16, 2022	38	149	AA08091-AA08100
Notice of Entry of Order Granting Motion to Redact Caesars' Motion for Summary Judgment No. 1 and Motion for Summary Judgment No. 2 and to Seal Exhibits 1-36, 38, 40-42, 45-46, 48, 50, 66-67, 73, and 76-80 to the Appendix of Exhibits in Support of Caesars' Motions for Summary Judgment, filed January 28, 2022	33	125	AA07017-AA07029

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

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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	153	AA08151-AA08154
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 – <b>FILED UNDER SEAL</b>	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 – <b>FILED UNDER SEAL</b>	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

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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

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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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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 – <b>FILED UNDER SEAL</b>	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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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 – <b>FILED UNDER SEAL</b>	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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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 – <b>FILED UNDER SEAL</b>	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 – <b>FILED UNDER SEAL</b>	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

<b><u>Document Title:</u></b>	<b><u>Vol. No.:</u></b>	<b><u>Tab No.:</u></b>	<b><u>Page Nos.:</u></b>
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 27<sup>th</sup> 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:

JAMES J. PISANELLI

DEBRA L. SPINELLI

M. MAGALI MERCERA

**PISANELLI BICE PLLC**

400 South 7<sup>th</sup> Street, Suite  
300

Las Vegas, NV 89101

Email: JJP@pisanellibice.com

DLS@pisanellibice.com

MMM@pisanellibice.com

*Attorneys for Respondents, Desert Palace, Inc.;  
Paris Las Vegas Operating Company, LLC;  
PHWLV, LLC; and Boardwalk Regency  
Corporation*

/s/ Susan Russo

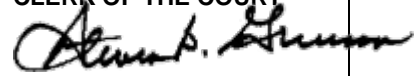
Employee of BAILEY ❖ KENNEDY

TAB 154

Part 2 of 2

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

TAB 155



**RIS (CIV)**

JOHN R. BAILEY

Nevada Bar No. 0137

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSHUA P. GILMORE

Nevada Bar No. 11576

PAUL C. WILLIAMS

Nevada Bar No. 12524

**BAILEY ♦ KENNEDY**

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

Telephone: 702.562.8820

Facsimile: 702.562.8821

JBailey@BaileyKennedy.com

DKennedy@BaileyKennedy.com

JGilmore@BaileyKennedy.com

PWilliams@BaileyKennedy.com

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

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants,

And

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

\_\_\_\_\_  
AND ALL RELATED CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**REPLY IN SUPPORT OF CRAIG GREEN'S  
MOTION FOR SUMMARY JUDGMENT**

**DATE OF HEARING: OCT. 19, 2022**

**TIME OF HEARING: 9:30 A.M.**

**MEMORANDUM OF POINTS AND AUTHORITIES**

Caesars admits that it must present evidence – not argument – in order to successfully oppose summary judgment on its claims against Mr. Green. (Opp. at 12:16-21.) Yet, despite acknowledging its burden of proof, Caesars failed to meet it. *Caesars’ “summary judgment argument is long on inflammatory rhetoric ... and short on evidence establishing genuine issues of material fact as to fundamental elements of [its claims] under [Nevada] law.” Kirby’s Spectrum Collision, Inc. v. Gov’t Employees Ins. Co.*, 744 F. Supp. 2d 1220, 1239 (S.D. Ala. 2010) (emphasis added). As the Nevada Supreme Court has recognized, argument of counsel – without evidence – is insufficient to oppose a summary judgment motion. *SFR Investments Pool 1, LLC v. U.S. Bank, N.A. as Tr. for Certificate Holders of Wells Fargo Asset Sec. Corp., Mortgage Pass-Through Certificates, Series 2006-AR4*, 135 Nev. Adv. Op. 45, 449 P.3d 461, 466 (2019).

Due to the absence of evidence supporting essential elements of Caesars’ claims as shown further below and in prior briefing filed by Mr. Green,<sup>1</sup> summary judgment is appropriate in favor of Mr. Green against Caesars. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (noting that if the nonmoving party bears the burden of persuasion at trial, summary judgment is appropriate if the moving party shows the “absence of evidence” supporting the nonmoving party’s claims). The Motion should be granted in its entirety.

**A. Caesars Failed to Present Evidence Supporting its Conspiracy Claim Against Mr. Green.**

In moving for summary judgment on Caesars’ conspiracy claim, Mr. Green demonstrated, with competence, admissible evidence, (i) that he acted at all times in his capacity as an agent of Mr. Seibel *and* various companies that were owned and controlled by Mr. Seibel, and (ii) that Caesars lacks evidence of an agreement between Mr. Seibel and Mr. Green to harm Caesars through alleged concealment of the business relationships between Mr. Seibel, on the one hand, and vendors

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<sup>1</sup> Mr. Green incorporates herein by reference the following: (i) Craig Green’s Opposition to Caesars’ Counter-Motion for Summary Judgment and supporting Appendix of Exhibits, filed August 31, 2022; and (ii) 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 August 31, 2022.

1 of the Restaurants, on the other hand.<sup>2</sup> In response, Caesars argued (i) that Mr. Green was not Mr.  
2 Seibel’s employee but rather, his “friend and business associate,” (ii) that Mr. Green allegedly acted  
3 in furtherance of his own self-interests, and (iii) that Mr. Green agreed with Mr. Seibel to conceal  
4 from Caesars that different vendors were paying marketing fees to BR 23 and Future Star. This  
5 Court should reject Caesars’ arguments for the following reasons.

6 Beginning with the first argument, Caesars *did not dispute* that Mr. Green worked as a  
7 consultant for various companies owned and controlled by Mr. Seibel, including the Development  
8 Entities. And, it is undisputed that the Development Entities were under contract with Caesars.  
9 Absent evidence (as opposed to argument) that Mr. Green was not an agent of the Development  
10 Entities, Caesars is unable to avoid application of the intra-corporate conspiracy doctrine.

11 Further, while Mr. Green may not have been Mr. Seibel’s personal employee, Caesars *did*  
12 *not dispute* that Mr. Green acted as Mr. Seibel’s agent with regard to the Restaurants. Importantly,  
13 Mr. Green did not have to be Mr. Seibel’s employee in order to secure the protections of the intra-  
14 corporate conspiracy doctrine—the doctrine applies to “[a]gents and employees.” *Collins v. Union*  
15 *Fed. Savs. & Loan Ass’n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983).

16 Turning to the second argument, Caesars *did not present evidence* showing that Mr. Green  
17 acted in furtherance of his own self-interest and not in furtherance of his principal’s interest. For  
18 example, Caesars did not show, because it could not show:

- 19 - That Mr. Green benefited – directly or indirectly – from the marketing fees paid by vendors  
20 to BR 23 and Future Star; or
- 21 - That Mr. Green’s compensation as a consultant was dependent on securing or maintaining  
22 business relationships with vendors of the Restaurants.

23 As a result, the evidence before this Court is *undisputed* that Mr. Green (i) acted at the  
24 direction of his principal and (ii) did not personally benefit from Mr. Seibel’s relationships with  
25 vendors. (See, e.g., Mot., Ex. 7, ¶¶ 5-11; *id.*, Ex. 10, at 500:8-15, 534:14-535:4, 536:17-23, 537:21-

26  
27 <sup>2</sup> Mr. Green also demonstrated that as a matter of law, unless Caesars’ other claims survive, summary judgment is  
28 proper on the conspiracy claim. (See Mot. at 8:22 – 9:3 (citing cases holding that a conspiracy claim will not lie where  
the underlying claims are dismissed).)

23, 561:11-12, 583:9-11, 589:20-590:20, 631:11-18.) For these reasons, Mr. Green is entitled to the protections of the intra-corporate conspiracy doctrine. (*See* Mot. at 7:7-25 (citing cases).)

As to the final argument, Caesars ***did not present evidence*** showing an agreement between Mr. Seibel and Mr. Green to harm Caesars. For example, Caesars did not show, because it could not show:

- That Mr. Green actively concealed information from Caesars about the marketing fees.<sup>3</sup> Indeed, despite having the means and ability to do so, Caesars did not present an affidavit from a current or former employee of Caesars describing conversations that he or she had with Mr. Green about vendors for the Restaurants;<sup>4</sup>
- That Mr. Green knew that the Development Entities were contractually precluded from having business relationships with vendors of the Restaurants. Indeed, the Development Agreements do not contain non-circumvention clauses—clauses often seen in contracts between partners, whereby neither partner may unilaterally pursue a business opportunity related to the partnership absent initially presenting it to the other partner; and
- That Mr. Green knew that Caesars was unaware of the marketing fees. Caesars could have presented – but did not present – an affidavit from someone at Caesars attesting to the argument that Caesars was allegedly unaware of the marketing fees.

As a result, the evidence is ***undisputed*** (i) that the Development Entities were not partners with Caesars and (ii) that Mr. Green understood that Caesars was aware of Mr. Seibel's relationships with vendors of the Restaurants, and understood that Mr. Seibel could have those relationships with vendors. (*See* Mot., Ex. 1, § 12.1; *id.*, Ex. 7, ¶ 9; *id.*, Ex. 9, at 9:4-24; *see also* Opp. to Counter-Mot., Ex. E, at 148:1-8, 151:5 – 153:12; *id.*, Ex. G, at 378:1-16; *id.*, Ex. H, ¶ 7.) Because there is no evidence of any agreement between Mr. Seibel and Mr. Green to harm Caesars,

---

<sup>3</sup> Caesars makes much ado of the fact that Mr. Green asked a vendor to pay its marketing fees to BR 23 and not Caesars. The reason is obvious: Caesars was not marketing this (or any other) vendor, and therefore, Caesars had no right to receive or share in a portion of the marketing fees. (*See* Opp. to Counter-Mot., Ex. C, at 234:1-18.)

<sup>4</sup> It should not be lost on this Court that Caesars cited deposition testimony from Gordon Ramsay and Greg Sherry about alleged ignorance of the marketing fees ***but not deposition testimony from an employee of Caesars***. The omission of such evidence is because the opposite is true: Caesars was aware of the relationships.

1 the conspiracy claim must be dismissed. *See, e.g., Guilfoyle v. Olde Monmouth Stock Transfer Co.*,  
2 130 Nev. 801, 813, 335 P.3d 190, 198-99 (2014).

3 In sum, Caesars' conspiracy claim is barred for two separate, independent reasons: (i) the  
4 intra-corporate conspiracy doctrine; and (ii) the lack of evidence of an agreement between Mr.  
5 Green and Mr. Seibel to harm Caesars. Summary judgment is appropriate in favor of Mr. Green.

6 **B. Caesars Failed to Present Evidence Supporting its Unjust Enrichment Claim**  
7 **Against Mr. Green.**

8 In moving for summary judgment on Caesars' unjust enrichment claim, Mr. Green  
9 demonstrated, with competence, admissible evidence, (i) that Caesars did not confer a benefit on  
10 him, and (ii) that he did not benefit from Mr. Seibel's relationships with different vendors. In  
11 response, Caesars argued (i) that Mr. Green benefited from the Development Agreements, and (ii)  
12 that BR 23 and Future Star were as much Mr. Green's companies as Mr. Seibel's. This Court  
13 should reject Caesars' arguments for the following reasons.

14 Beginning with the first argument, Caesars *did not present evidence* showing that \$1 was  
15 received by Mr. Green as a result of the relationships between Mr. Seibel and vendors of the  
16 Restaurants. Thus, it is *undisputed* that Mr. Green did not benefit from the marketing fees. (*See*  
17 *Mot., Ex. 7, ¶ 11.*) As a result, it would violate Nevada law to subject Mr. Green to liability for  
18 marketing fees that were paid to others and not him. *See Korte Constr. Co. v. State on Rel. of Bd. of*  
19 *Regents of Nevada Sys. of Higher Educ.*, 137 Nev. Adv. Op. 37, 492 P.3d 540, 544 (2021) (noting  
20 that unjust enrichment "will not support the imposition of a liability that leaves an innocent  
21 recipient worse off ... than if the transaction with the claimant had never taken place") (quotation  
22 marks and citation omitted).

23 Further, Caesars *did not dispute* that Mr. Green was compensated as a consultant  
24 irrespective of marketing fees paid by vendors of the Restaurants to BR 23 and Future Star. Absent  
25 evidence showing that Mr. Green was motivated (financially or otherwise) to secure marketing fees  
26 from vendors, Caesars is unable to show a genuine issue of material fact relating to any purported  
27 benefit conferred upon Mr. Green.

1 Finally, Caesars *did not dispute* that Mr. Green is not a party to the Development  
2 Agreements. Caesars cites no authority for the proposition that an employee of a company under  
3 contract with a third party may be held liable, under the doctrine of unjust enrichment, for monies  
4 that allegedly should have been paid by one contracting party to the other. Indeed, the law is to the  
5 contrary. *Cf.* NRS 86.371 (“[N]o member or manager of any limited-liability company formed  
6 under the laws of this State is individually liable for the debts or liabilities of the company”).

7 Turning to the second argument, Caesars *did not present evidence* showing that BR 23 and  
8 Future Star are Mr. Green’s alter egos, or that Mr. Green was an owner of these companies at a time  
9 when they were receiving marketing fees from vendors. In fact, Caesars *did not dispute* that at all  
10 relevant times, BR 23 and Future Star were owned and controlled by Mr. Seibel.

11 Simply put, the facts do not support Caesars’ unjust enrichment claim against Mr. Green.  
12 There is no evidence indicating that Caesars conferred a benefit on Mr. Green; that Mr. Green  
13 accepted and appreciated any benefit conferred upon him by Caesars; or that Mr. Green has retained  
14 a benefit received from Caesars that, under the circumstances, should be returned to Caesars.  
15 Absence evidence supporting the elements of the unjust enrichment claim, summary judgment is  
16 proper in Mr. Green’s favor. *See, e.g., Korte Constr. Co.*, 137 Nev. Adv. Op. 37, 492 P.3d at 544.

17 **C. Caesars Failed to Present Evidence Supporting its Intentional Interference**  
18 **Claim Against Mr. Green.**

19 In moving for summary judgment on Caesars’ intentional interference claim, Mr. Green  
20 demonstrated, with competence, admissible evidence, (i) that he was not a stranger to the  
21 Development Entities, and (ii) that Caesars lacks evidence showing any intent by Mr. Green to  
22 harm Caesars. In response, Caesars argued (i) that Mr. Green was not acting as an agent of the  
23 Development Entities, (ii) that Mr. Green’s actions were wrongful, and (iii) that Mr. Green intended  
24 to harm Caesars. This Court should reject Caesars’ arguments for the following reasons.

25 Beginning with the first argument, Caesars *did not dispute* that Mr. Green acted as an agent  
26 of Mr. Seibel *and* other companies owned and controlled by Mr. Seibel, including the Development  
27 Entities. Mr. Seibel was *the* principal of the Development Entities at the time, which, as noted  
28 above, were under contract with Caesars. Throughout this case, Caesars has imputed Mr. Seibel’s

1 actions to the Development Entities. Indeed, Caesars has a pending claim against the Development  
2 Entities for breach of the implied covenant of good faith and fair dealing related to the marketing  
3 fees. Caesars should not be heard to claim that Mr. Seibel did not act for the Development Entities,  
4 and, in turn, Mr. Green did not act for the Development Entities; yet, claim that both of them were  
5 acting for the Development Entities when communicating with vendors.

6 Turning to the second argument, Caesars *did not present evidence* indicating that Mr. Green  
7 committed one or more wrongful acts. For example, Caesars did not show, because it could not  
8 show:

- 9 - That Mr. Green actively concealed information from Caesars about the marketing fees. As  
10 noted above, missing from Caesars' Opposition to Mr. Green's Motion is an affidavit from  
11 any current or former employee of Caesars indicating that Caesars was unaware that vendors  
12 were paying marketing fees to companies owned and controlled by Mr. Seibel. Whether  
13 Mr. Ramsay or Mr. Sherry knew of Mr. Seibel's business relationships with vendors of the  
14 Restaurants is entirely beside the point—Caesars knew, and that is what matters;<sup>5</sup>
- 15 - That Mr. Green knew that the Development Entities were contractually precluded from  
16 having business relationships with vendors of the Restaurants;
- 17 - That Mr. Seibel did not actually provide services, including market activation, brand  
18 building, and strategic product placement and development, to vendors of the Restaurants in  
19 exchange for marketing fees;
- 20 - That Mr. Green actually threatened any vendor. Indeed, Caesars did not produce an  
21 affidavit from an owner or employee of either Pat LaFrieda or Innis & Gunn attesting to  
22 allegedly being threatened by Mr. Green absent payment of marketing fees; and
- 23 - That Mr. Green knew that Caesars was unaware of the marketing fees.

24 ///

25 ///

26  
27 <sup>5</sup> As shown with the Opposition to the Countermotion, irrespective of testimony from Messrs. Seibel and Green  
28 concerning Caesars' knowledge of the relationships, there are two emails proving that Caesars was aware of the  
relationships. (See Opp. to Counter-Mot., Exs. A-1, L.)

1 As a result, the evidence is **undisputed** (i) that Mr. Seibel was providing valuable services to  
2 vendors of the Restaurants in exchange for marketing fees,<sup>6</sup> (ii) that Mr. Green did not threaten or  
3 coerce any vendor, (iii) that Mr. Green understood that Caesars was aware of Mr. Seibel's  
4 relationships with vendors, and (iv) that it is common and widespread in the hospitality industry for  
5 vendors to pay marketing fees for market activation, brand building, and strategic product  
6 placement and development. (See Mot., Ex. 7, ¶¶ 7-9; *id.*, Ex. 8, at 315:12-20; *id.*, Ex. 9, at 7:1-  
7 8:17; *see also* Opp. to Counter-Mot., Ex. A, ¶ 5; *id.*, Ex. C, at 227:5 – 232:2; *id.*, Ex. D, at 672:8 –  
8 673:6, 681:2-6; *id.*, Ex. E, at 146:24 – 150:12, 151:5 – 153:12; *id.*, Ex. G, at 378:1-16; *id.*, Ex. H, ¶¶  
9 5-7.)

10 Because Caesars failed to create a genuine issue of material fact (through evidence, as  
11 opposed to argument) related either to Mr. Green's capacity as an agent of Mr. Seibel and the  
12 Development Entities or the purpose underlying Mr. Green's actions, Mr. Green is entitled to the  
13 benefits of the stranger doctrine, which, as set forth in the Motion, prohibits interference claims  
14 brought against agents of contracting parties. (See Mot. at 10:15 – 11:8 (citing cases).)

15 As to the final argument, Caesars **did not present evidence** showing that Mr. Green intended  
16 to harm Caesars. In his mind, Mr. Green was doing what he was told to do, which he understood is  
17 common and widespread in the hospitality industry, with the understanding that Caesars was aware  
18 of the relationships. Indeed, the relationship with Pat LaFrieda preexisted Mr. Green's retention as  
19 a consultant for Mr. Seibel and, by then, Pa LaFrieda had already been paying marketing fees to  
20 Future Star. (Mot., Ex. 7, ¶ 9; *id.*, Ex. 9, at 7:9-20.)

21 Further, Caesars **did not present evidence** showing that Mr. Green knew that the  
22 Development Agreements prohibited or prevented Mr. Seibel from creating and maintaining  
23 relationships with vendors of the Restaurants. Because there is no evidence of an intent by Mr.  
24 Green to cause the Development Entities to breach the Development Agreements, the intentional  
25 interference claim must be dismissed. *See, e.g., Lake at Las Vegas Invs. Grp., Inc. v. Pac. Malibu*  
26 *Dev. Corp.*, 867 F. Supp. 920, 925 (D. Nev. 1994), *aff'd*, 78 F.3d 593 (9th Cir. 1996).

27 \_\_\_\_\_  
28 <sup>6</sup> Caesars falsely argues – without citation to anything in the record – that the vendors who agreed to pay  
marketing fees to BR 23 and Future Star were already supplying products to the Restaurants.

1 In sum, Caesars’ intentional interference claim is barred for two separate, independent  
2 reasons: (i) the stranger doctrine; and (ii) the lack of evidence of intent by Mr. Green to interfere  
3 with Caesars’ rights under the Development Agreements. Summary judgment is appropriate in  
4 favor of Mr. Green.

5 **D. Caesars Failed to Present Evidence Supporting its Fraud Claim Against Mr.**  
6 **Green.**

7 In moving for summary judgment on Caesars’ fraud claim, Mr. Green demonstrated, with  
8 competence, admissible evidence, (i) that he did not have a special or confidential relationship with  
9 Caesars, (ii) that Caesars lacks evidence of an intent by Mr. Green to harm Caesars, and (iii) that  
10 Caesars lacks evidence that Mr. Green concealed from Caesars Mr. Seibel’s relationships with  
11 vendors of the Restaurants. In response, Caesars argued (i) that it could not have learned of the  
12 marketing fees, such that Mr. Green owed a fraud-based duty to disclose to Caesars, (ii) that Mr.  
13 Green intended to harm Caesars, and (iii) that Mr. Green concealed the marketing fees from  
14 Caesars. This Court should reject Caesars’ arguments for the following reasons.

15 Beginning with the first argument, Caesars failed to show that information about the  
16 marketing fees were “peculiarly within the knowledge of the party sought to be charged and not  
17 within the fair and reasonable reach of the other party.” *Villalon v. Bowen*, 70 Nev. 456, 273 P.2d  
18 409 (1954).<sup>7</sup> Unlike in *Villalon*, where “[n]o ordinary investigation could have been expected to”  
19 reveal the material facts withheld by the defendant, *see id.* at 468, 273 P.3d at 415, here, Caesars  
20 had the time, staff, and resources to thoroughly investigate Mr. Seibel’s relationships with different  
21 vendors—not only by asking Mr. Seibel but also by asking its vendors (who had their own,  
22 independent obligations to make various disclosures to Caesars pursuant to Caesars’ Ethics and  
23 Compliance Program). (*See Opp. to Counter-Mot., Ex. J*, at 51:7 – 52:21.) Stated differently,  
24 Caesars ***did not present evidence*** showing that it was unable to discover that vendors were, for a  
25 short period of time, paying marketing fees to BR 23 and Future Star.<sup>8</sup> Because the information

26 <sup>7</sup> Caesars did not argue that it had a special or confidential relationship with Mr. Green. Instead, Caesars relied  
27 on the holding in *Villalon* to impose a fraud-based duty to disclose upon Mr. Green.

28 <sup>8</sup> To the contrary, the evidence shows that the relationships were discoverable by Caesars. (*See Opp. to Counter-*  
*Mot., Exs. A-1, L.*)

1 was readily accessible to Caesars, Caesars is unable to show that Mr. Green owed a fraud-based  
2 duty to disclose to Caesars. *See also Epperson v. Roloff*, 102 Nev. 206, 213, 719 P.2d 799, 804  
3 (1986) (noting that a duty to disclose may arise where “material facts [] are not accessible to the  
4 plaintiff”). And, the absence of a fraud-based duty to disclose warrants summary judgment in favor  
5 of Mr. Green. *See, e.g., Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1487, 970 P.2d 98, 111 (1998),  
6 *abrogated on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11 (2001); *see also Peri*  
7 *& Sons Farms, Inc. v. Jain Irr., Inc.*, 933 F. Supp. 2d 1279, 1293-94 (D. Nev. 2013); *Nevada Power*  
8 *Co. v. Monsanto Co.*, 891 F. Supp. 1406, 1417 (D. Nev. 1995).

9 Turning to the second argument, as discussed above, Caesars ***did not present evidence***  
10 showing that Mr. Green acted with an intent to harm Caesars. To the contrary, the evidence is  
11 ***undisputed*** that Mr. Green was acting solely at the direction of his principal in a matter that he  
12 understood to be appropriate and consistent with industry standards and with full awareness on  
13 Caesars’ part. (Mot., Ex. 7, ¶¶ 5-9; Opp. to Counter-Mot., Ex. H, ¶¶ 5-7.) Caesars needed to  
14 present clear and convincing evidence of an intent to defraud on the part of Mr. Green in order to  
15 avoid summary judgment on its fraudulent concealment claim. *See, e.g., Bulbman, Inc. v. Nev.*  
16 *Bell*, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992). It did not do so.

17 As to the final argument, Caesars ***failed to present evidence*** showing that Mr. Green  
18 concealed the marketing fees. Again, where is the affidavit from a Caesars employee attesting to  
19 the fact that it was allegedly unknown to Caesars that vendors were paying marketing fees to  
20 companies owned and controlled by Mr. Seibel? Such an omission is fatal to Caesars’ claim,  
21 because the time was now, in response to Mr. Green’s request for summary judgment, for Caesars  
22 to come forward with such evidence. *See Cuzze*, 123 Nev. at 602, 172 P.3d at 134.

23 In sum, Caesars’ fraudulent concealment claim is barred for three separate, independent  
24 reasons: (i) the absence of a fraud-based duty to disclose on the part of Mr. Green; (ii) the lack of  
25 evidence of any intent by Mr. Green to harm Caesars; and (iii) the lack of evidence that Mr. Green  
26 concealed material information from Caesars.

27 \* \* \* \*

1 In moving for summary judgment, Mr. Green (i) set forth evidence supporting his defenses  
2 to Caesars' claims and (ii) explained the legal bases for dismissal of Caesars' claims based on the  
3 evidence presented. Despite opposing summary judgment, Caesars did not (i) present evidence  
4 supporting the elements of its claims against Mr. Green and (ii) show that Mr. Green is legally  
5 liable for the alleged wrongs. Accordingly, this Court should enter summary judgment in favor of  
6 Mr. Green against Caesars with respect to the Fourth, Sixth, Seventh, and Eighth Causes of Action  
7 in Caesars' First Amended Complaint.

8 The Motion should be granted in its entirety.

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

10 BAILEY ♦ KENNEDY

11 By: /s/ Joshua P. Gilmore

12 JOHN R. BAILEY  
13 DENNIS L. KENNEDY  
14 JOSHUA P. GILMORE  
15 PAUL C. WILLIAMS

16 *Attorneys for Rowen Seibel; Moti Partners, LLC; Moti*  
17 *Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises*  
18 *16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16,*  
19 *LLC; FERG, LLC; FERG 16, LLC; Craig Green; R Squared*  
20 *Global Solutions, LLC, Derivatively on Behalf of DNT*  
21 *Acquisition, LLC; and GR Burgr, LLC*  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 12<sup>th</sup> day of October, 2022, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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

Email: JJP@pisanellibice.com  
DLS@pisanellibice.com  
MMM@pisanellibice.com  
*Attorneys for Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWL, LLC; and Boardwalk Regency Corporation*

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

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

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

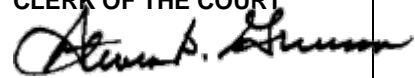
Email: alan.lebensfeld@lsandspc.com  
Brett.schwartz@lsandspc.com  
*Attorneys for Plaintiff in Intervention The Original Homestead Restaurant, Inc.*

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

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

/s/ Susan Russo  
Employee of BAILEY ♦ KENNEDY

TAB 156



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

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

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

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

Consolidated with A-17-760537-B

**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)**

AND ALL RELATED MATTERS

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")) hereby, by and through their counsel, hereby

respond to Craig Green ("Green"), Rowen Seibel ("Seibel"), and the Seibel-Affiliated Entities'<sup>1</sup> Objections to Caesars' Appendix of Exhibits to the 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-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint).

1. **Exhibit 29** of Caesars' Appendix of Exhibits, Caesars' Sixteenth Supplemental NRCP 16.1 Disclosure, is admissible as the evidence is not used for the truth of the matters asserted, thus, the hearsay rule does not apply. NRS 51.035 (defining hearsay as "a statement offered in evidence to prove the truth of the matter asserted"). In 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-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint) ("Caesars' Opposition, Counter-Motion and Cross-Motion") the pleading indirectly cites to – but does not reference the substance of – the NRCP 16.1 Supplemental Disclosure. Specifically, Caesars' Opposition, Counter-Motion and Cross-Motion states the discovery revealed "Seibel, and Green has solicited and received illegal kickbacks totaling \$320,046.87." To this end, Caesars' Sixteenth Supplemental NRCP 16.1 Disclosure merely provides a breakdown of the computation of damages it seeks which is supported by Exhibit 28. Accordingly, there is no inadmissible hearsay and the Court should admit the exhibit. As such, Exhibit 29 does not constitute inadmissible argument of counsel.

2. **Exhibit 30** of Caesars' Appendix of Exhibits, the Decision After Trial, dated May 11, 2022, in *Seibel v. Ramsay*, Index No. 651046/2014, Supreme Court of the State of New York, New York County (the "New York Litigation"), is appropriately included as an exhibit for the purpose of issue preclusion. Contrary to the Seibel Parties' assertions, the fact the New York court found Siebel solicited "kickbacks" from various vendors is not a contested fact. Any attempts to

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<sup>1</sup> GR Burgr, LLC, ("GRB"), LLTQ Enterprises, LLC ("LLTQ"), FERG, LLC ("FERG"), MOTI Partners, LLC ("MOTI"), TPOV Enterprises, LLC ("TPOV, and DNT Acquisition, LLC, appearing derivatively by one of its two members, R Squared Global Solutions, LLC ("DNT"), are collectively referred to herein as the "Seibel-Affiliated Entities." Seibel, Green, and the Seibel-Affiliated Entities are collectively referred to herein as the "Seibel Parties."

1 relitigate issues decided in the New York Litigation would be improper under Nevada law  
2 concerning issue preclusion. Additionally, the probative value of this evidence is not substantially  
3 outweighed by the danger of unfair prejudice. "Because all evidence against a [party] will on some  
4 level 'prejudice' (i.e., harm) the [party], NRS 48.035(1) focuses on 'unfair' prejudice." *State v. Dist.*  
5 *Ct. (Armstrong)*, 127 Nev. 927, 933, 267 P.3d 777, 781 (2011). Although not the exclusive factor,  
6 the "focus" of unfair prejudice "commonly refers to decisions based on emotion." *Id.* Seibel may  
7 not seek to have evidence offered against him declared inadmissible solely on the basis it would be  
8 harmful to his case and prevent him from relitigating the positions previously argued (and lost) in  
9 other courts.

10 3. **Exhibit 34** of Caesars' Appendix of Exhibits, inadvertently excluded the verification  
11 of Dwayne Morgan, which is attached hereto as Exhibit 1.

12 Based on the foregoing, Caesars respectfully requests that this Court deny Seibel Parties'  
13 Objections to Caesars' Appendix of Exhibits to the Opposition to Craig Green's Motion for  
14 Summary Judgment; Counter-Motion for Summary Judgment Against Craig Green; and Cross-  
15 Motion for Summary Judgment Against Rowen Seibel-Affiliated Entities (Related to Counts IV-  
16 VIII of the First Amended Complaint).

17 DATED this 12th day of October 2022.

18 PISANELLI BICE PLLC

19  
20 By: /s/ M. Magali Mercera  
James J. Pisanelli, Esq., #4027  
Debra L. Spinelli, Esq., #9695  
M. Magali Mercera, Esq., #11742  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12th day of October 2022, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **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)** to the following:

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

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

John D. Tennert, Esq.  
Wade Beavers, Esq.  
FENNEMORE CRAIG, P.C.  
7800 Rancharrah Parkway  
Reno, NV 89511  
[jtennert@fclaw.com](mailto:jtennert@fclaw.com)  
[wbeavers@fclaw.com](mailto:wbeavers@fclaw.com)

*Attorneys for Gordon Ramsay*

/s/ Cinda Towne  
An employee of PISANELLI BICE PLLC

# EXHIBIT 1

PISANELLI BICE PLLC  
400 SOUTH 7TH STREET, SUITE 300  
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Esq., Bar No. 4027  
JJP@pisanellibice.com  
Debra L. Spinelli, Esq., Bar No. 9695  
DLS@pisanellibice.com  
M. Magali Mercera, Esq., Bar No. 11742  
MMM@pisanellibice.com  
Brittnie T. Watkins, Esq., Bar No. 13612  
BTW@pisanellibice.com  
PISANELLI BICE PLLC  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89101  
Telephone: 702.214.2100  
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)  
JZeiger@kirkland.com  
William E. Arnault, IV, Esq. (admitted *pro hac vice*)  
WArnault@kirkland.com  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: 312.862.2000

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

**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**VERIFICATION OF DWAYNE MORGAN**

AND ALL RELATED MATTERS

**VERIFICATION**

I, Dwayne Morgan, am an authorized representative of Desert Palace, Inc., Paris Las Vegas Operating Company, LLC, PHWLTV, LLC, and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (collectively, "Caesars"), plaintiffs in the action entitled *Desert Palace, Inc., et al., v. Rowen Seibel, et al.*, Case No. A-17-760537-B, consolidated with *Rowen Seibel v. PHWLTV, LLC, et al.*, Case No. A-17-751759-B. I have read the following sets of interrogatories, and verify that the matters stated in the responses are based upon my personal knowledge or knowledge gained from information gathered from testimony of present or former employees and from documents produced in this case; and that there is no individual employee that has personal knowledge of all such matters. These Responses, subject to inadvertent and undiscovered error, are based upon and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of preparation of such Responses. I further state that Caesars reserves the right to make any changes in the Responses if it appears at any time that omissions or errors have been made therein or that more accurate information is available. Subject to the limitations set forth herein, such Responses are true and correct to the best of my knowledge, information and belief.

- Desert Palace, Inc.'s Responses to Craig Green's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to Moti Partners 16, LLC's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to LLTQ Enterprises 16, LLC's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to R Squared Global Solutions LLC, Derivatively on Behalf of DNT Acquisition LLC's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to Rowen Seibel's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to Moti Partners, LLC's First Set of Interrogatories
- Desert Palace, Inc.'s Responses to LLTQ Enterprises, LLC's First Set of Interrogatories
- Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG, LLC's First Set of Interrogatories
- Boardwalk Regency Corporation d/b/a Caesars Atlantic City's Responses to FERG 16, LLC's First Set of Interrogatories
- Paris Las Vegas Operating Company, LLC's Responses to TPOV Enterprises 16, LLC's First Set of Interrogatories
- Paris Las Vegas Operating Company, LLC's Responses to TPOV Enterprises, LLC's First Set of Interrogatories

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- PHWL.V. LLC's Responses to Rowen Seibel's First Set of Interrogatories
- PHWL.V. LLC's Responses to Craig Green's First Set of Interrogatories

DATED this 24th day of August 2020.

/s/ Dwayne Morgan  
DWAYNE MORGAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 24th day of August 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 **VERIFICATION OF DWAYNE MORGAN** to the following:

John R. Bailey, Esq.  
Dennis L. Kennedy, Esq.  
Joshua P. Gilmore, Esq.  
Paul C. Williams, Esq.  
Stephanie J. Glantz, Esq.  
BAILEY KENNEDY  
8984 Spanish Ridge Avenue  
Las Vegas, NV 89148-1302  
[JBailey@BaileyKennedy.com](mailto:JBailey@BaileyKennedy.com)  
[DKennedy@BaileyKennedy.com](mailto:DKennedy@BaileyKennedy.com)  
[JGilmore@BaileyKennedy.com](mailto:JGilmore@BaileyKennedy.com)  
[PWilliams@BaileyKennedy.com](mailto:PWilliams@BaileyKennedy.com)  
[SGlantz@BaileyKennedy.com](mailto:SGlantz@BaileyKennedy.com)

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

John D. Tennert, Esq.  
FENNEMORE CRAIG, P.C.  
300 East 2<sup>nd</sup> Street, Suite 1510  
Reno, NV 89501  
[jtennert@fclaw.com](mailto:jtennert@fclaw.com)

*Attorneys for Gordon Ramsay*

Alan Lebensfeld, Esq.  
Lawrence J. Sharon, Esq.  
LEBENSFELD SHARON &  
SCHWARTZ, P.C.  
140 Broad Street  
Red Bank, NJ 07701  
[alan.lebensfeld@lsandspc.com](mailto:alan.lebensfeld@lsandspc.com)  
[lawrence.sharon@lsandspc.com](mailto:lawrence.sharon@lsandspc.com)

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

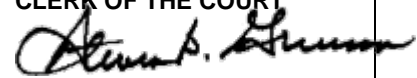
*Attorneys for Plaintiff in Intervention  
The Original Homestead Restaurant, Inc.*

Aaron D. Lovaas, Esq.  
NEWMAYER & DILLION LLP  
3800 Howard Hughes Pkwy., Suite 700  
Las Vegas, NV 89169  
[aaron.lovaas@ndlf.com](mailto:aaron.lovaas@ndlf.com)

*Attorneys for Nominal Plaintiff GR Burgr  
LLC*

/s/ Cinda Towne  
An employee of PISANELLI BICE PLLC

TAB 157



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

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

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS.

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

Consolidated with A-17-760537-B

**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**

Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"),  
PHWLTV, LLC ("Planet Hollywood") and Boardwalk Regency Corporation d/b/a Caesars  
Atlantic City ("CAC") (collectively "Caesars") hereby object to the exhibits offered in support of  
Craig Green's Opposition to Caesars' Counter-Motion for Summary Judgment and Rowen Seibel's

1 Opposition to Caesars' Cross Motion for Summary Judgment. The individual exhibits are taken in  
2 turn.

3 1. Caesars objects to **Exhibit A** on the following grounds: relevance (NRS 48.025(2));  
4 probative value substantially outweighed by the danger of unfair prejudice, of confusion of the  
5 issues, or of misleading the jury (NRS 48.035(1)); probative value substantially outweighed by  
6 other considerations (NRS 48.035(2)); hearsay (NRS 51.035).

7 2. Caesars objects to **Exhibit A-1**, on the following grounds: probative value  
8 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
9 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035).

10 3. Caesars objects to **Exhibit B**, on the following grounds: probative value  
11 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
12 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

13 4. Caesars objects to **Exhibit C**, on the following grounds: probative value  
14 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
15 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

16 5. Caesars objects to **Exhibit D**, on the following grounds: probative value  
17 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
18 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

19 6. Caesars objects to **Exhibit E**, on the following grounds: probative value  
20 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
21 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

22 7. Caesars objects to **Exhibit F**, on the following grounds: probative value  
23 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
24 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

25 8. Caesars objects to **Exhibit G**, on the following grounds: probative value  
26 substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of  
27 misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

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9. Caesars objects to **Exhibit H** on the following grounds: relevance (NRS 48.025(2)); probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); probative value substantially outweighed by other considerations (NRS 48.035(2)); hearsay (NRS 51.035).

10. Caesars objects to **Exhibit I**, on the following grounds: probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); and speculation.

11. Caesars objects to **Exhibit J**, on the following grounds: relevance (NRS 48.025(2)); probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035); speculation.

12. Caesars objects to **Exhibit L**, on the following grounds: relevance (NRS 48.025(2)); probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035).

13. Caesars objects to **Exhibit M**, on the following grounds: relevance (NRS 48.025(2)); probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035).

14. Caesars objects to **Exhibit N**, on the following grounds: relevance (NRS 48.025(2)); probative value substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury (NRS 48.035(1)); hearsay (NRS 51.035).

DATED this 12th day of October 2022.

PISANELLI BICE PLLC

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

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12th day of October 2022, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **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** to the following:

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

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

John D. Tennert, Esq.  
Wade Beavers, Esq.  
FENNEMORE CRAIG, P.C.  
7800 Rancharra Parkway  
Reno, NV 89511  
[jtennert@fclaw.com](mailto:jtennert@fclaw.com)  
[wbeavers@fclaw.com](mailto:wbeavers@fclaw.com)

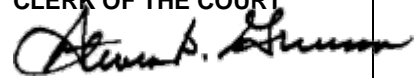
*Attorneys for Gordon Ramsay*

/s/ Cinda Towne  
An employee of PISANELLI BICE PLLC

TAB 158

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

TAB 159



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

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

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability  
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

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

Consolidated with A-17-760537-B

**DECLARATION OF M. MAGALI  
MERCERA, ESQ. IN SUPPORT OF 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)**

I, M. MAGALI MERCERA, ESQ., declare as follows:

1. I am a resident of the State of Nevada, and an attorney with the law firm of  
Pisanelli Bice PLLC, counsel for PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc.  
("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency

1 Corporation d/b/a Caesars Atlantic City ("CAC," and collectively, with Caesars Palace, Paris, and  
2 Planet Hollywood, "Caesars") in the above-captioned action.

3 2. I am competent to testify to the matters stated herein based on personal knowledge,  
4 except for those matters stated upon information and belief, and to those matters, I believe them  
5 to be true. If called as a witness, I would testify competently thereto.

6 3. I make this declaration in support of the Reply in Support of (1) Counter-Motion  
7 for Summary Judgment Against Craig Green and (2) Cross-Motion for Summary Judgment  
8 Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First  
9 Amended Complaint) (the "Counter-Motion") filed concurrently herewith.

10 4. Attached as Exhibit 38 to the Appendix in Support of the Counter-Motion  
11 (the "Appendix") filed concurrently herewith is a true and correct copy of hearing transcript  
12 excerpts from the February 12, 2020 hearing on Caesars' Motion for Leave to File First Amended  
13 Complaint; and Ex Parte Application for Order Shortening Time; Motion to Seal Certain Exhibits  
14 to Opposition to Caesars' Motion for Leave to File First Amended Complaint that took place on  
15 February 12, 2020, before the Honorable Judge Timothy C. Williams, at the Regional Justice  
16 Center, Department 16, located at 200 Lewis Avenue, Las Vegas, Nevada 89101. The exhibit  
17 contains an executed certificate of reporter. *Orr v. Bank of Am.*, NT & SA, 285 F.3d 764, at 774  
18 (9th Cir. 2002) (citations omitted).

19 5. Attached to the Appendix as Exhibit 39 is a true and correct copy of an email  
20 exchange between Craig Green and Tom Johnson, dated October 25, 2013, bearing Bates number  
21 RS-00188686-95 which was produced by the Seibel Parties to Caesars during discovery. *See Orr*,  
22 285 F.3d at 777 n.20 (citations omitted) (documents produced by a party in discovery were  
23 deemed authentic when offered by a party-opponent).

24 6. Attached to the Appendix as Exhibit 40 is a true and correct copy of an email  
25 exchange between Danielle Abraham and Debbie Graham dated February 5, 2015, bearing  
26 Bates number RS-00193308-21, which was produced by the Seibel Parties to Caesars during  
27 discovery. *Orr*, 285 F.3d 764, 777 n.20.

28

1           7.       Attached to the Appendix as Exhibit 41 is a true and correct copy of transcript  
2 excerpts from the deposition of Rowen Seibel, that took place on December 1, 2020, via Zoom  
3 videoconferencing. The exhibit contains an executed certificate of reporter. *Orr*, 285 F.3d at  
4 774.

5           8.       Attached to the Appendix as Exhibit 42 is a true and correct copy of transcript  
6 excerpts from the deposition of Caesars' NRCP 30(b)(6) Designee, Jessica Medeirosman, that  
7 took place on April 14, 2021, via Zoom videoconferencing. The exhibit contains an executed  
8 certificate of reporter. *Orr*, 285 F.3d at 774.

9           9.       Attached to the Appendix as Exhibit 43 is a true and correct copy of an email  
10 exchange between Craig Green and Donna Bimbo dated August 9, 2013, bearing Bates number  
11 RS-00193167, which was produced by the Seibel Parties during discovery. *Orr*, 285 F.3d 764,  
12 777 n.20.

13          10.       Attached to the Appendix as Exhibit 44 is a true and correct copy of transcript  
14 excerpts from the deposition of Craig Green, that took place on September 4, 2019, at the offices  
15 of Pisanelli Bice, PLLC, located at 400 South 7<sup>th</sup> Street, Suite 300, Las Vegas, Nevada. The  
16 exhibit contains an executed certificate of reporter. *Orr*, 285 F.3d at 774.

17          11.       Attached to the Appendix as Exhibit 45 is a true and correct copy of an email  
18 exchange between Craig Green and Emerson Elcock dated November 19, 2015, bearing  
19 Bates number RS-00124566-844, which was produced by the Seibel Parties to Caesars during  
20 discovery. *Orr*, 285 F.3d 764, 777 n.20.

21          12.       Attached to the Appendix as Exhibit 46 is a true and correct copy of an email from  
22 Craig Green to Becky Creaven, dated January 8, 2016, bearing Bates number RS-00125031-64,  
23 which was produced by the Seibel Parties during discovery. *Orr*, 285 F.3d 764, 777 n.20.

24          13.       Attached to the Appendix as Exhibit 47 is a true and correct copy of an email  
25 exchange between Craig Green and Tom Johnson dated October 25, 2013, bearing Bates number  
26 RS-00188686-95, which was produced by the Seibel Parties to Caesars during discovery. *Orr*,  
27 285 F.3d 764, 777 n.20.

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I declare under penalty of perjury that the foregoing is a true and correct and that I signed  
this declaration on this 12th day of October 2022.

/s/ M. Magali Mercera  
M. MAGALI MERCERA, ESQ.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 12th day of October 2022, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **DECLARATION OF M. MAGALI MERCERA, ESQ. IN SUPPORT OF 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)** to the following:

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Paul C. Williams, Esq.  
BAILEY KENNEDY  
8984 Spanish Ridge Avenue  
Las Vegas, NV 89148-1302  
[JBailey@BaileyKennedy.com](mailto:JBailey@BaileyKennedy.com)  
[DKennedy@BaileyKennedy.com](mailto:DKennedy@BaileyKennedy.com)  
[JGilmore@BaileyKennedy.com](mailto:JGilmore@BaileyKennedy.com)  
[PWilliams@BaileyKennedy.com](mailto:PWilliams@BaileyKennedy.com)

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

John D. Tennert, Esq.  
Wade Beavers, Esq.  
FENNEMORE CRAIG, P.C.  
7800 Rancharrah Parkway  
Reno, NV 89511  
[jtennert@fclaw.com](mailto:jtennert@fclaw.com)  
[wbeavers@fclaw.com](mailto:wbeavers@fclaw.com)

*Attorneys for Gordon Ramsay*

/s/ Cinda Towne  
An employee of PISANELLI BICE PLLC