

1 **ORDR**

2 Robert T. Eglet
3 Nevada Bar No. 3402
4 Robert M. Adams
5 Nevada Bar No. 6551
6 Angel P. Getsov
7 Nevada Bar No. 14525
8 **Eglet Adams**
9 400 S. Seventh St., Suite 400
10 Las Vegas, NV 89101
11 (702) 450-5400; Fax: (702) 450-5451
12 eservice@egletlaw.com

13 Kevin R. Boyle, *pro hac vice*
14 Rahul Ravipudi
15 Nevada Bar No. 14750
16 Gregorio V. Silva
17 Nevada Bar No. 13583
18 **PANISH SHEA & BOYLE LLP**
19 8816 Spanish Ridge Avenue
20 Las Vegas, NV 89148
21 (702) 560-5520; Fax: (702) 975-2515
22 boyle@psblaw.com

23 *Additional Counsel on Signature Page*

Mark P. Robinson, Jr., *pro hac vice*
Daniel S. Robinson, *pro hac vice*
ROBINSON CALCAGNIE, INC.
19 Corporate Plaza Drive
Newport Beach, CA 92660
(949) 720-1288; Fax (949) 720-1292
mrobinson@robinsonfirm.com
drobinson@robinsonfirm.com

Brad D. Brian, *pro hac vice*
Bethany W. Kristovich, *pro hac vice*
John M. Gildersleeve, *pro hac vice*
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, Fiftieth Floor
Los Angeles, CA 90071-3426
(213) 683-9100; Fax: (213) 687-3702
Attorneys for MGM

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 RACHEL SHEPPARD, an Individual, et al.,

17 Plaintiffs,

18 vs.

19 MANDALAY BAY, LLC, f/k/a
20 MANDALAY CORP., a Nevada Domestic
21 Limited Liability Company; MANDALAY
22 RESORT GROUP, a Nevada Corporation;
23 MGM RESORTS FESTIVAL GROUNDS,
24 LLC, a Nevada Domestic Limited-Liability
25 Company; MGM RESORTS VENUE
26 MANAGEMENT, LLC, a Nevada Domestic
27 Limited-Liability Company; MGM
28 RESORTS INTERNATIONAL, a Delaware
Corporation; and DOES/ROES 1 through 100

Defendants.

CASE NO.: A-18-769752-C

Judge: Hon. Linda M. Bell
Date of Hearing: September 30, 2020
Time of Hearing: 10:30 AM
Dept.: No.: 7

**ORDER GRANTING JOINT MOTION
FOR DETERMINATION OF GOOD
FAITH SETTLEMENT ON ORDER
SHORTENING TIME**

ORDER

1
2 The Court having heard and considered the Joint Motion for Good Faith Settlement
3 Determination on an Order Shortening Time filed by Plaintiffs and MGM Resorts International,
4 Mandalay Bay, LLC (formerly known as Mandalay Corporation), Mandalay Resort Group, MGM
5 Resorts Festival Grounds, LLC, and MGM Resorts Venue Management, LLC (collectively,
6 “MGM”), and based upon my prior order appointing the Honorable Jennifer Togliatti (Ret.) and
7 the Honorable Louis Meisinger (Ret.) as Special Masters and Claims Administrators to the
8 Settlement Agreement and BrownGreer PLC as Claims Processor to assist the Claims
9 Administrators with carrying out the Claims Administrators’ duties and responsibilities under the
10 Settlement Agreement, and based on my prior *in camera* review of the Settlement Agreement,
11 Claims Administrator Services Agreement, Claims Processor Agreement, Claims Processing
12 Protocol and settlement allocation process, including the Release and the Opt In Form, prepared
13 by the Claims Administrators with the assistance of the Claims Processor, and the draft Informed
14 Consent Letter, having found them all to be fair, reasonable, adequate, negotiated in good faith,
15 and in the best interests of Plaintiffs, and further noting that the implementation of the Settlement,
16 Claims Processing Protocol, and the settlement allocation process also appears fair, reasonable,
17 adequate, in good faith, and in the best interest of all interested parties, and finally noting the
18 extraordinary work and effort by counsel in this case to achieve the maximum amount available
19 to Claimants under the Settlement Agreement, despite having an immensely difficult, unique, and
20 tragic set of circumstances,

21
22 **THE COURT FINDS AS FOLLOWS:**

23 1. The amount of the settlement, eight-hundred million dollars (\$800,000,000.00), which
24 was reached after a lengthy mediation and extensive arms’-length negotiations, considering the
25 damages suffered by the Plaintiffs, the near-unanimous participation in the Settlement among
26 potential claimaints, and the legal complexities in the case, weighs in favor of a finding that the
27 Settlement was reached in good faith. *Doctors Company v. Vincent*, 120 Nev. 644, 98 P.3d 681
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1 (2004) (citing *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356 (1991); *In Re: MGM Grand*
2 *Hotel Fire Litigation*, 570 F. Supp. 913 (D. Nev. 1983)).

3 2. With this Settlement, MGM exhausted its insurance limit of seven-hundred fifty-one
4 million dollars (\$751,000,000.00), which weighs in favor of a finding that the Settlement was
5 reached in good faith. *Id.*

6 3. The allocation of the Settlement proceeds among the Plaintiffs is being facilitated
7 through an intricate, Court approved, Claims Protocol, involving Claims Administrators, the
8 Honorable Jennifer Togliatti (Ret.) and the Honorable Louis Meisinger (Ret.). The Protocol
9 details separate amounts for different types of injuries, and applies different factors, such as a
10 claimant's bills for past medical treatment, future medical treatment estimates, and loss of income,
11 to fairly and appropriately compensate each claimant's individual injuries, thus weighing in favor
12 of a finding that the Settlement was reached in good faith. *Id.*

13 4. Additionally, MGM's financial condition was not a factor in the determination of the
14 Settlement. In addition to MGM's full policy limits contributed to the Settlement, as a result of
15 the near-unanimous participation in the Settlement from potential Claimants, MGM agreed to
16 contribute forty-nine million dollars of its own funds, all weighing heavily in favor of a finding
17 that the Settlement was made in good faith. *Id.*

18 5. There is no evidence of fraud or collusion in this Settlement. The parties negotiated for
19 months, with the assistance of the Honorable Jennifer Togliatti (Ret.) and the Honorable Louis
20 Meisinger (Ret.) as mediators. The parties engaged in hard-fought litigation, reviewed extensive
21 records, and evaluated their respective risks in continued litigation before reaching the Settlement.
22 Plaintiffs' counsel sought input and advice from ethics experts to ensure that the Settlement
23 Agreement and associated documents complied with all ethical rules and guidelines, and the
24 experts concluded that the documents and Settlement complied with all potentially applicable
25 rules of legal ethics. Additionally, the parties appropriately selected the mediators to oversee
26 negotiations—a tactical, non-substantive decision that did not require client consent. Ethics
27 experts agree that Plaintiffs' counsel appropriately communicated with their clients throughout
28

1 the course of the Settlement. As there is no evidence of fraud, collusion, or tortious conduct, there
2 is sufficient information to find that the Settlement was reached in good faith.

3 **IT IS ORDERED** that the Joint Motion for Good Faith Settlement Determination is
4 GRANTED;

5 **IT IS FURTHER ORDERED** that the Court finds the settlement between Plaintiffs,
6 MGM, Live Nation, and Contemporary Services Corporation (“CSC”) is a good faith settlement
7 within the meaning of NRS 17.245;

8 **IT IS FURTHER ORDERED** that, based on the Court’s finding of good faith, any and
9 all claims or potential claims against MGM, Live Nation, and/or CSC arising from the One
10 October incident for equitable indemnity and/or contribution by any alleged joint tortfeasor, as
11 well as all other claims seeking damages comparable to those recoverable in a contribution or
12 equitable indemnity action by any alleged joint tortfeasor, regardless of the claims’ actual title,
13 are barred; and
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1 Respectfully Submitted:
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3 /s/ Bethany W. Kristovich

4 BRAD D. BRIAN, *pro hac vice*
5 BETHANY W. KRISTOVICH, *pro hac vice*
6 JOHN M. GILDERSLEEVE, *pro hac vice*
7 **MUNGER, TOLLES & OLSON LLP**
8 350 South Grand Avenue, Fiftieth Floor
9 Los Angeles, California 90071-3426
10 Telephone: (213) 683-9100
11 Facsimile: (213) 687-3702

12 -and-

13 JAMES J. PISANELLI, State Bar No. 4027
14 JJP@pisanellibice.com
15 **PISANELLI BICE PLLC**
16 400 South 7th Street
17 Las Vegas, NV 89101
18 Telephone: (702) 214-2100

19 -and-

20 KAREN L. BASHOR, State Bar. No. 11913
21 Karen.Bashor@wilsonelser.com
22 **WILSON, ELSER, MOSKOWITZ,**
23 **EDELMAN & DICKER LLP**
24 6689 Las Vegas Blvd. South, Suite 200
25 Las Vegas, NV 89119
26 Telephone: (702) 727-1400
27 Facsimile: (702) 727-1401

28 ***Attorneys for MGM***

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Rachel Sheppard, Plaintiff(s)

CASE NO: A-18-769752-C

7 vs.

DEPT. NO. Department 7

8 MGM Resorts International,
9 Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/30/2020

15 Paul Eisinger

pfe@thorndal.com

16 Jenn Alexy

Jenn@nettlesmorris.com

17 Christian Morris

christian@nettlesmorris.com

18 Master Calendar

calendar@thorndal.com

19 Todd Bice

tlb@pisanellibice.com

20 Debra Spinelli

dls@pisanellibice.com

21 Robert Adams

badams@egletlaw.com

22 Alexis Portillo

APortillo@egletlaw.com

23 Karen Bashor

karen.bashor@wilsonelser.com

24 E Service

eservice@egletlaw.com

25 Efile LasVegas

efilelasvegas@wilsonelser.com

26
27
28

1	Angela Clark	angela.clark@wilsonelser.com
2	Faith Radford	fradford@efstriallaw.com
3	Kimberly Peets	lit@pisanellibice.com
4	Annemarie Gourley	annemarie.gourley@wilsonelser.com
5	Michelle Karony	mdk@thorndal.com
6	Rahual Ravipudi	ravipudi@psblaw.com
7	Kevin Boyle	boyle@psblaw.com
8	Maria Alegria	alegria@psblaw.com
9	Karen Bennett	bennett@psblaw.com
10	Ellin Mardirosian	mardirosian@psblaw.com
11	Gregorio Silva	gsilva@psblaw.com
12	Mark Robinson	mrobinson@robinsonfirm.com
13	Daniel Robinson	drobinson@robinsonfirm.com
14	James Pisanelli	lit@pisanellibice.com
15	Justin Hepworth	jhepworth@efstriallaw.com
16	Jay Schuttert	jschuttert@efstriallaw.com
17	Alexi Layton	alayton@efstriallaw.com
18	Sandy Sell	ssell@nevadafirm.com
19	Michelle Anderson	michellea@bighornlaw.com
20	Brad Brian	Brad.Brian@mto.com
21	Bethany Kristovich	Bethany.Kristovich@mto.com
22	John Gildersleeve	john.gildersleeve@mto.com
23		
24		
25		
26		
27		
28		