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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 TONY SHAW,
 11 Plaintiff,
 12 vs.

Case. No.: 2:18-cv-00515-JCM-PAL

[PROPOSED] STIPULATED
PROTECTIVE ORDER

13 NP SANTA FE, LLC DBA SANTA FE
 14 STATION HOTEL & CASINO, a Nevada
 15 Limited Liability Company; STATION
 16 CASINOS, LLC, a Nevada Limited Liability
 17 Company; and RED ROCK RESORTS,
 18 INC., a Delaware corporation,
 19 Defendants.

20 The parties to this action, by their respective counsel, having agreed to the
 21 following, and for good cause shown pursuant to Fed. R. Civ. P 26(c)(1), IT IS HEREBY
 22 ORDERED as follows:

23 **1. PURPOSES AND LIMITATIONS.**

24 Disclosure and discovery activity in this action may involve production of
 25 confidential, proprietary, or private information for which special protection from public
 26 disclosure may be warranted pursuant to Rule 26(c)(1) of the Federal Rules of Civil
 27 Procedure. The parties acknowledge that this Order does not confer blanket protections on
 28 all disclosures or responses to discovery and that the protection it affords extends only to
 the limited information or items that are entitled under law to treatment as confidential.

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1 **2. SCOPE.**

2 All documents produced in the course of discovery, all responses to discovery
3 requests, and all deposition testimony and exhibits and any other materials which may be
4 subject to discovery (hereinafter collectively “Discovery Material”) shall be subject to this
5 stipulated protective order concerning confidential information as set forth below. Any
6 party, or any third party who produces documents in this litigation, may designate
7 documents as CONFIDENTIAL but only after review of the documents by an attorney who
8 has, in good faith, determined that the documents contain “Confidential Information,” as
9 defined below, and pursuant to the procedure set forth below.

10 **3. CONFIDENTIAL INFORMATION.**

11 “Confidential Information” shall mean information meriting special protection
12 under the Federal Rules of Civil Procedure and applicable case law. Confidential
13 Information does not include information that: (a) is in the public domain at the time of
14 disclosure; (b) becomes part of the public domain through no fault of the Receiving Party;
15 (c) the Receiving Party can show was in its rightful and lawful possession at the time of
16 disclosure; or (d) the Receiving Party lawfully receives from a Non-party later without
17 restriction as to disclosure.

18 **4. OTHER DEFINITIONS.**

19 Party: any party to this action, including all of its officers, directors, agents, and
20 attorney(s) of record for a Party in this action (including their associates, paralegals, and
21 support/ clerical staff).

22 Non-party: any individual, corporation, association, or natural person or entity
23 other than a party.

24 Protected Material: any Discovery Material containing Confidential Information
25 that is designated by a Party or Non-party as “CONFIDENTIAL,” unless the Receiving
26 Party challenges the confidentiality designation and (a) the Court decides such material is
27 not entitled to protection as confidential; (b) the Designating Party fails to apply to the Court
28 for an order designating the material confidential within the time period specified below; or

1 (c) the Designating Party withdraws its confidentiality designation in writing.

2 Producing Party: a Party or Non-party that produces Discovery Material in this
3 action.

4 Receiving Party: a Party that receives Discovery Material from a Producing Party.

5 Designating Party: a Party or Non-party that designates Discovery Material as
6 “CONFIDENTIAL”. The Party or Non-party designating information or items as Protected
7 Material bears the burden of establishing good cause for the confidentiality of all such items.

8 Challenging Party: a party that elects to initiate a challenge to a Designating
9 Party’s confidentiality designation.

10 **5. FORM AND TIMING OF DESIGNATION.**

11 Protected Material shall be so designated by the Producing Party by placing or
12 affixing the word “CONFIDENTIAL” on the document in a manner which will not interfere
13 with the legibility of the document and which will permit complete removal of the
14 “CONFIDENTIAL” designation. Documents shall be designated “CONFIDENTIAL” prior
15 to, or contemporaneously with, the production or disclosure of the documents.

16 A Designating Party must exercise restraint and make good faith efforts to limit
17 CONFIDENTIAL designations to specific materials that qualify for protection under the
18 appropriate standard. Further, a Designating Party must use good faith efforts to designate
19 for protection only those parts of material, documents, items, or communications that
20 qualify – so that other portions of the materials, documents, items, or communications for
21 which protection is not warranted are not swept unjustifiably within the ambit of this Order.
22 If only a portion or portions of materials on a page or within a document merit protection, a
23 Producing Party must so indicate by making appropriate markings in the margins but not
24 over text or by redacting protected portions.

25 A Confidentiality Log must accompany any production of Protected Material that
26 includes the Bates numbers of the documents designated (or the portions thereof) as
27 “Confidential” and the basis for doing so. A certification by the reviewing attorney shall be
28 made concurrently with the disclosure of the document using the form attached hereto as

1 Exhibit A which shall be executed subject to the standards of Rule 11 of the Federal Rules
2 of Civil Procedure, and shall be accompanied by a Confidentiality Log in the form included
3 at Exhibit A. If an unrepresented Non-party is a Producing Party and desires to designate
4 documents as Confidential as a Designating Party, a certification need not be executed but
5 a Confidentiality Log of all confidential designations still must be provided.

6 A Producing Party that makes original documents or materials available for
7 inspection need not designate them for protection until after the inspecting Party has
8 indicated which material it would like copied and produced. During the inspection and
9 before the designation, all of the material made available for inspection shall be deemed
10 “Confidential.” After the inspecting Party has identified the documents it wants copied and
11 produced, the Producing Party must determine which documents, or portions thereof,
12 qualify for protection under this Order, and, before producing the specified documents, the
13 Producing Party must affix the appropriate legend on each page that contains Protected
14 Material. If only a portion or portions of the material on a page qualifies for protection, the
15 Producing Party also must clearly identify the protected portion(s) (e.g., by making
16 appropriated markings in the margins or by redacting protected portions).

17 Portions of depositions shall be designated CONFIDENTIAL when the deposition
18 is taken or within fourteen (14) business days after receipt of the transcript, if feasible. Such
19 designation shall be specific as to the portions to be protected. A Designating Party must
20 exercise restraint and make good faith efforts to limit “CONFIDENTIAL” designations to
21 specific materials that qualify for protection under the appropriate standards.

22 Inadvertent or unintentional production of Protected Material without prior
23 designation as “CONFIDENTIAL” shall not be deemed a waiver, in whole or in part, of the
24 right to designate documents as Protected Material as otherwise allowed by this Order.
25 Further, a Party may assert that disclosures or discovery material produced by another Party
26 constitute Protected Material by informing the opposing Party by following the procedures
27 set forth herein for a Designated Party.

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1 **6. PROTECTION OF PROTECTED MATERIAL.**

2 **a. General Protections.** Protected Material shall not be used or disclosed by the
3 parties or counsel for the parties or any other persons identified below (¶ 6.b.) for any
4 purposes whatsoever other than preparing for and conducting litigation in the above-entitled
5 action (including any appeal).

6 **b. Qualified Receiving Parties and Limited Third Party Disclosures.** Protected
7 Material shall be held in confidence by each qualified Receiving Party to whom it is
8 disclosed, shall be used only for purposes of this action, and shall not be disclosed to any
9 person who is not a qualified recipient. All Protected Material shall be carefully maintained
10 so as to preclude access by persons who are not qualified Receiving Parties.

11 Subject to these requirements, in addition to Parties and the Court, the following
12 categories of persons may be allowed to review Protected Material pursuant to this Order
13 after executing an acknowledgment (in the form set forth at Exhibit B hereto), that he or she
14 has read and understands the terms of this Order and is bound by it:

- 15 (1) Any officers, directors, or designated employees of a Party deemed
16 necessary by counsel of record in this action to aid in the
17 prosecution, defense, or settlement of this action;
- 18 (2) Professional outside vendors for attorneys of record (such as
19 copying services and translators and interpreters),
- 20 (3) Court reporters, deposition notaries and staff;
- 21 (4) The author of any document designated as CONFIDENTIAL or the
22 original source of Confidential Information contained therein;
- 23 (5) Persons other than legal counsel who have been retained or
24 specially employed by a party as an expert witness for purposes of
25 this lawsuit or to perform investigative work or fact research;
- 26 (6) Deponents during the course of their depositions;
- 27 (7) Counsel for issuers of insurance policies under which any issuer
28 may be liable to satisfy part or all of a judgment that may be entered

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in these proceedings or indemnify or reimburse payments or costs associated with these proceedings;

(8) Any private mediator or arbitrator appointed by the Court or selected by mutual agreement of the parties and the mediator or arbitrator’s secretarial and clerical personnel;

(9) Any other person as to whom the Producing Party has consented to disclosure in advance and in writing, on notice to each Party hereto.

c. Control of Documents. Counsel for Parties shall take reasonable efforts to prevent unauthorized disclosure of Protected Material pursuant to the terms of this Order. No copies of Protected Material shall be made except by or on behalf of attorneys of record, in-house counsel or the parties in this action.

d. Copies. Any person making copies of Protected Material shall maintain all copies within their possession or the possession of those entitled to access to such information under the Protective Order. All copies shall be immediately affixed with the designation “CONFIDENTIAL” if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

7. UNAUTHORIZED DISCLOSURE.

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosure(s), (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosure(s) were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound by Stipulated Protective Order” (Exhibit A).

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1 “for sealed materials attached to a discovery motion unrelated to the merits of a case.”
2 Chrysler Group, 809 F. 3d at 1097 (citing Phillips ex rel. Estates of Byrd v. Gen. Motors
3 Corp., 307 F.3d 1206, 1213–14 (9th Cir.2002).). Further, the Court should make an
4 independent determination regarding whether documents merits sealed status, and thus
5 expressly reserves the right to do. Kamakana, 447 F.3d at 1186-87.

6 **9. CHALLENGES TO PROTECTED MATERIAL.**

7 Any designation of Protected Material is subject to challenge. The following
8 procedures shall apply to any such challenge:

9 **a. Burden.** The burden of proving the necessity of a “CONFIDENTIAL”
10 designation remains with the party asserting confidentiality.

11 **b. Notice; Opportunity to Challenge.** A party who contends that Protected
12 Material is not entitled to confidential treatment shall give written notice to the party who
13 affixed the “CONFIDENTIAL” designation of the specific basis for the challenge. The party
14 who so designated the documents shall have ten (10) days from service of the written notice
15 to determine if the dispute can be resolved without judicial intervention and, if not, to move
16 for an Order confirming the “CONFIDENTIAL” designation, and the status as Protected
17 Material.

18 **c. Treatment as Protected Material until Order or Withdrawal.**
19 Notwithstanding any challenge to the designation of documents as such, all material
20 previously designated “CONFIDENTIAL” shall continue to be treated as Protected Material
21 subject to the full protections of this Order until one of the following occurs: (1) the Party
22 who claims that the documents are Protected Material withdraws such designation in
23 writing; (2) the Party who claims that the documents are confidential fails to move timely
24 for an Order designating the documents as confidential as set forth in paragraph 9.b. above;
25 or (3) the Court rules that the documents are not Protected Material and/or should no longer
26 be designated as “CONFIDENTIAL.”

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1 **d. No Waiver.** Challenges to the confidentiality of documents may be made at any
2 time and are not waived by the failure to raise the challenge at the time of initial disclosure
3 or designation.

4 **10. DURATION; CONCLUSION OF LITIGATION.**

5 All provisions of this Order restricting the use of Protected Material shall continue
6 to be binding after the conclusion of the litigation unless otherwise agreed or ordered.
7 However, the dismissal of this action will terminate the jurisdiction of this Court, including
8 over this Order.

9 Within thirty (30) days of the final termination of in the above-entitled action,
10 which would be either a final judgment on all claims or stipulation and order for dismissal
11 with prejudice, all documents and information designated as CONFIDENTIAL by a
12 Designating Party and which has not been challenged, including any copies, or documents
13 containing information taken therefrom, shall be returned to the Designating Party. In the
14 alternative, within thirty (30) days of the final termination of this case, which would be
15 either a final judgment on all claims or stipulation and order for dismissal with prejudice,
16 all such documents, including copies, may be shredded or disposed of in a manner to ensure
17 the destruction thereof and a declaration certifying such destruction or disposal provided to
18 the Designating Party. To the extent a party has designated portions of a deposition
19 transcript as CONFIDENTIAL, the non-designating party is under no obligation or duty to
20 shred or dispose of the deposition transcript, however, the CONFIDENTIAL designation
21 will remain.

22 **11. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
23 **PRODUCED IN OTHER LITIGATION.**

24 If a Party is served with a subpoena or an order issued in other litigation that would
25 compel disclosure of Protected Material designated by another Party or Non-party, the Party
26 must so notify the Designating Party, in writing (by e-mail or fax, if possible) within three
27 (3) court days after receiving the subpoena or order. Such notification must include a copy
28 of the subpoena or court order.

1 **12. ORDER SUBJECT TO MODIFICATION.**

2 This Order shall be subject to modification on motion of any Party or any other
3 person who may show an adequate interest in in the above-entitled action to intervene for
4 purposes of addressing the scope and terms of this Order. The Order shall not, however, be
5 modified until the Parties shall have been given notice and an opportunity to be heard on
6 the proposed modification.

7 **13. NO JUDICIAL DETERMINATION.**

8 This Order is entered based on the representations and agreements of the Parties
9 and for the purpose of facilitating discovery. Nothing herein shall be construed or presented
10 as a judicial determination that any specific document or item of information designated as
11 CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the Federal Rules
12 of Civil Procedure or otherwise until such time as a document-specific ruling shall have
13 been made.

14 **14. MISCELLANEOUS.**

15 **a. Public Health and Safety.** Nothing in this Order is intended to prevent any
16 Party from raising with the Court any concern that the non-disclosure of certain Protected
17 Material may have a possible adverse effect upon the general public health or safety, or the
18 administration or operation of government or public office.

19 **b. Right to Further Relief.** Nothing in this Order abridges the right of any person
20 to seek its modification by the Court in the future.

21 **c. Right to Assert Other Objections.** By stipulating to the entry of this Order, no
22 Party waives any right it otherwise would have to object to disclosing or producing any
23 information or item on any ground not addressed in this Order. Similarly, no Party waives
24 any right to object on any ground to use in evidence of any of the material covered by this
25 Protective Order.

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15. **PERSONS BOUND UPON ENTRY OF ORDER.**

This Order shall take effect when entered and shall be immediately binding upon the Parties (as defined herein).

IT IS SO STIPULATED.

DATED this 3rd day of December, 2018.

DATED this 3rd day of December, 2018.

/s/ Alina M. Shell
Margaret A. McLetchie, NBN 10931
Alina M. Shell, NBN 11711
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Las Vegas, NV 89101

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Attorneys for Defendants

ORDER

IT IS SO ORDERED.

Dated this 17th day of December, 2018.


U.S. DISTRICT MAGISTRATE JUDGE

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EXHIBIT A

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**CERTIFICATION BY COUNSEL OF DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONY SHAW,

Plaintiff,

vs.

NP SANTA FE, LLC DBA SANTA FE
STATION HOTEL & CASINO, a Nevada
Limited Liability Company; STATION
CASINOS, LLC, a Nevada Limited
Liability Company; and RED ROCK
RESORTS, INC., a Delaware corporation,

Defendants.

Case No.: 2:18-cv-00515-JCM-PAL

**CERTIFICATION BY
COUNSEL OF DESIGNATION
OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith, whose Bates numbers have been listed on the attached Confidentiality Log, have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated _____, 2018.

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

I am a member of the Bar of the United States District Court for the District of Nevada. My Nevada Bar number is _____.

_____ Date

_____ Signature of Counsel

_____ Printed Name of Counsel

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EXHIBIT B

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**ACKNOWLEDGMENT OF UNDERSTANDING
AND AGREEMENT TO BE BOUND**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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6 TONY SHAW,

7 Plaintiff,

8 vs.

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10 NP SANTA FE, LLC DBA SANTA FE
11 STATION HOTEL & CASINO, a Nevada
12 Limited Liability Company; STATION
13 CASINOS, LLC, a Nevada Limited Liability
14 Company; and RED ROCK RESORTS,
15 INC., a Delaware corporation,

16 Defendants.

Case. No.: 2:18-cv-00515-JCM-PAL

**ACKNOWLEDGMENT OF
UNDERSTANDING
AND AGREEMENT TO BE
BOUND**

17 The undersigned hereby acknowledges that he or she has read the Confidentiality
18 Order dated _____, 2018, in the above-captioned action, understands the terms
19 thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction
20 of the United States District Court for the District of Nevada relating to the Confidentiality
21 Order during the pendency of the above-entitled action, the undersigned further agrees to
22 submit to the jurisdiction of the United States District Court for the District of Nevada for
23 the purpose of enforcing the terms of this Stipulated Protective Order, even if such
24 enforcement proceedings occur after termination in this action, and understands that the
25 terms of said Order obligate him/her to use discovery materials designated
26 CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose
27 any such Protected Material to any person, firm, entity, or concern.

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The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties for contempt of court.

Name: _____
Job Title: _____
Employer: _____
Business Address: _____

Date

Signature

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