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**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

19 DONNA CORBELLO, an individual,  
 20 Plaintiff,  
 21 vs.  
 22 THOMAS GAETANO DEVITO, an  
 23 individual, *et al.*,  
 24 Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**PLAINTIFF’S MOTION FOR LEAVE  
 TO FILE CERTAIN EXHIBITS  
 ATTACHED TO PLAINTIFF’S  
 MOTION FOR RECONSIDERATION  
 OF THE NOVEMBER 12, 2010 ORDER  
 (DOC. 345) UNDER SEAL**

25 Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective*  
 26 *Order* (Doc. 94) entered into by the parties, and the Court’s *Protective Order Governing*  
 27 *Confidentiality of Documents* entered on January 5, 2009 (“Order Regarding Sealing  
 28 Requirements”) (Doc. 95), herewith requests leave to file certain documents under seal as

1 exhibits to her motion seeking reconsideration of the Magistrate Judge’s November 12, 2010  
2 Order (Doc. 345).

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding*  
5 *Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents  
6 under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall  
7 Brickman, Eric S. Elice, DSHT, Inc., Dodger Theatricals, Inc., and/or JB Viva Vegas, LP (the  
8 “New Defendants”), and/or by third parties GK Films, Inc., Charles Alexander, and Kevin  
9 Kinsella (collectively, the “Third Parties”), and marked “CONFIDENTIAL” or “HIGHLY  
10 CONFIDENTIAL” thereby, and which she intends to attach as exhibits to her motion seeking  
11 reconsideration of the Magistrate Judge’s November 12, 2010 Order:

- 12 • JB-0041413, JB-0041673, JB-0041752, JB-0045869, consisting of excerpts from  
13 undated *Jersey Boys* scripts;
- 14 • JB-0038554, GKF 000002 through GKF 000006, GKF 000012-000013 & GKF  
15 000038-000040, consisting of excerpts from documents regarding possible *Jersey*  
16 *Boys* films;
- 17 • JB-0027245, JB-0027257, JB-0027275, JB-0027280, JB-0023325, JB-0027448,  
18 JB-0027467 through JB-0027468, JB-0027474, JB-0027505, JB-0027576, JB-  
19 0027590 through JB-0027591, JB-0027629, JB-0033051-0033053, JB-0033055-  
20 0033057, JB-0033059-0033067, JB-0033069 through JB-0033071, JB-0033073,  
21 JB-0033080, JB-0033082 through JB-0033083, JB-0033085, JB-0033087, and  
22 JB-0033150 consisting of copies of selected email exchanges produced by  
23 Defendants Brickman and Elice between Defendant Des McAnuff and various  
24 other New Defendants dated from approximately 2004 through 2006;
- 25 • JB-0027244, JB-0027252, JB-0027265, JB-0027278 through JB-0027279, JB-  
26 0027284, JB-0027290 through JB-0027291, JB-0027293, JB-0027310, JB-  
27 0027314, JB-0027320 through JB-0027321, JB-0027326, JB-0027329, JB-  
28 0027336, JB-0027343, JB-0027358, JB-0027369, JB-0027373, JB-0027375, JB-

1 0027382, JB-0027385, JB-0027403, JB-0027431, JB-0027439, JB-0027453, JB-  
2 0027456, JB-0027459, JB-0027461, JB-0027469, JB-0027588, JB-0027622, JB-  
3 0027625, JB-0027627, JB-0027647, and JB-0027683, consisting of copies of  
4 selected email correspondence produced by Defendants Brickman and Elice  
5 where the email was produced, but the corresponding and referenced attachment  
6 was not produced;

- 7 • KINSELLA-007310, KINSELLA-007650, and KINSELLA-007654 consisting of  
8 excerpts from the Jersey Boys Broadway Limited Partnership Agreement and the  
9 JB Viva Vegas LP Agreement;
- 10 • JB-0027248, JB-0027250, JB-0027260 through JB-0027261, JB-0027264, JB-  
11 0027277, JB-0027287, JB-0027306, JB-0027323, JB-0027410, JB-0027540, JB-  
12 0027553, JB-0027266 through JB-0027268, and JB-0033185 consisting of copies  
13 of selected email correspondence produced by Defendants Brickman and Elice  
14 addressing the development of *Jersey Boys*;
- 15 • ALEX-000134 and JB-0054382 consisting of copies of selected email  
16 correspondence produced by Mr. Charles Alexander (in response to a subpoena  
17 duces tecum and subject to the *Order Regarding Sealing Requirements*) and  
18 Defendant Elice;
- 19 • JB-0027301, JB-0055526 through JB-0055528, and JB-0069866 consisting of  
20 copies of documents produced by Defendants Brickman and Elice regarding  
21 issues related to the *Jersey Boys* script;
- 22 • JB-0027286, JB-0027292, JB-0027322, JB-0027408, JB-0027434, JB-0027464,  
23 JB-0027556, JB-0027670, and JB-0027668 consisting of copies of email  
24 correspondence produced by Defendant Brickman referring to the use of  
25 MovieMagic® screenwriter software;
- 26 • JB-0027295, JB-0027334 through JB-0027335, and JB-0027602 consisting of  
27 copies of email correspondence produced by Defendant Brickman related to  
28

1 Defendants Brickman’s and Elice’s knowledge of the Work in question and co-  
2 authorship of the same;

- 3 • JB-0027395, JB-0027538, JB-0057092, JB-0059796, JB-0067603, and JB-  
4 0069802 consisting of selected documents produced by Defendants Brickman and  
5 Elice demonstrating that cut off of January 2007 would deprive Plaintiff of  
6 valuable information relevant to her claims; and
- 7 • ALEX-000012 through ALEX-000016 consisting of email correspondence  
8 produced by Mr. Alexander pursuant to subpoena and subject to the *Order*  
9 *Regarding Sealing Requirements* addressing his limited communication with  
10 Plaintiff’s counsel, Mr. Greg Guillot.

11 **I. ARGUMENT**

12 There is an exception to the normal presumption of access to judicial records, for “sealed  
13 discovery document[s] [attached] to a non-dispositive motion,” such that “the usual presumption  
14 of the public’s right of access is rebutted.” *Kamakana v. City & County of Honolulu*, 447 F.3d  
15 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213  
16 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-  
17 dispositive motions because those documents are often “unrelated, or only tangentially related,  
18 to the underlying cause of action.” *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,  
19 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, “public policies that support the right of  
20 access to dispositive motions, and related materials, do not apply with equal force to non-  
21 dispositive materials.” *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court  
22 grants a protective order to seal documents during discovery, “it already has determined that  
23 ‘good cause’ exists to protect this information from being disclosed to the public by balancing  
24 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”  
25 exists for the filing of the foregoing documents under seal.

26 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain  
27 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY  
28 CONFIDENTIAL” by either an opposing party or a third party who has produced documents

1 subject to a subpoena duces tecum, and the documents identified above were so marked by the  
2 New Defendants and the Third Parties, who were served with the *Stipulated Protective Order*.  
3 Accordingly, Plaintiff may not file the documents with the Court without obtaining an Order  
4 and/or filing them under seal. Whereas, Plaintiff's motion for reconsideration is not a dispositive  
5 motion, the filing of these documents under seal falls within the exception to the general  
6 presumption of public access carved out by the courts of this Circuit for documents attached to  
7 non-dispositive motions. Accordingly, leave to file the subject documents under seal should be  
8 granted.

9 **II. CONCLUSION**

10 IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her *Motion for Leave to*  
11 *File Certain Exhibits to Plaintiff's Motion for Reconsideration of the November 12, 2010 Order*  
12 *(Doc. 345) Under Seal* be granted.

13 Dated: November 29, 2010

14 RESPECTFULLY SUBMITTED:

15  
16 /s/John L. Krieger  
17 Gregory H. Guillot  
18 George L. Paul  
19 John L. Krieger  
20 Robert H. McKirgan  
21 Attorneys for Plaintiff, Donna Corbello

22  
23  
24 IT IS SO ORDERED:

25  
26  
27   
28 UNITED STATES MAGISTRATE JUDGE  
DATED: November 30, 2010

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Fed. R. Civ. P. 5(b), I, Gregory H. Guillot, hereby certify that on November  
3 29, 2010, I electronically filed the foregoing document and this *Certificate of Service* with the  
4 Clerk of Court using the CM/ECF system which will send notifications of such filing to the  
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28 /s/Gregory H. Guillot