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15 **UNITED STATES DISTRICT COURT**
 16 **DISTRICT OF NEVADA**

17 DONNA CORBELLO,

18 Plaintiff

19 v.

20 THOMAS GAETANO DEVITO et al.,

21 Defendants.

Case No. 2:08-cv-867-RCJ-PAL

NEW DEFENDANTS'
MOTION TO SEAL EXHIBIT 1 IN
SUPPORT OF THEIR SUR-REPLY TO
PLAINTIFF'S "EMERGENCY"
OBJECTION TO MAGISTRATE
JUDGE'S APRIL 15, 2011, ORDERS

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 23 Pursuant to the *Stipulated Protective Order (Doc. 94)* and the Court's *Order Regarding*
 24 *Sealing Requirements (Doc. 95)*, New Defendants Frankie Valli, Robert J. Gaudio, Marshall
 25 Brickman, Eric S. Elice, Des McAnuff, DSHT, Inc., Dodger Theatricals, Ltd. and JB Viva Vegas
 26 request leave to file certain documents under seal as Exhibit 1 to their Sur-Reply in response to
 Plaintiff's "Emergency" Objection to Magistrate Judge's April 15, 2011, Order (Dkt. #533).

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POINTS & AUTHORITIES

Pursuant to the *Stipulated Protective Order (Doc. 94)* and the Court's *Order Regarding Sealing Requirements (Doc. 95)*, New Defendants seek to file the following documents under seal as Exhibit 1 to their Sur-Reply in response to Plaintiff's "Emergency" Objection to Magistrate Judge's April 15, 2011, Order:

- 1) Spreadsheet regarding confidential and sensitive financial information.

As mentioned, the proposed sealed documents are being filed in connection with non-dispositive discovery motions. "The public policies that support the right of access to dispositive motions, and related materials, do not apply with equal force to non-dispositive materials." *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)(*quoting Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002)). Indeed, the Ninth Circuit has "carved out an exception to the presumption of access to judicial records ... for a sealed discovery document [attached] to a non-dispositive motion, such that the usual presumption of the public's right of access is rebutted." *Kamakana*, 447 F.3d at 1179 (*internal quotations and citations omitted*).

Because the proposed documents are being filed in connection with non-dispositive motions, they fall within the exception carved out by the Ninth Circuit and leave to file them under seal should be granted. Moreover, there is good cause to seal the proposed financial documents because they are being filed pursuant to the *Order Regarding Sealing Requirements (Doc. 95)*. "[W]hen a district court grants a protective order to seal documents during discovery, it already has determined that 'good cause' exists to protect this information from being disclosed to the public by balancing the needs for discovery against the need for confidentiality." *Kamakana*, 447 F.3d at 1179-1180 (*quoting Philips*, 307 F.3d at 1213).

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Certificate of Service

I certify that on June 2, 2011, I electronically filed the foregoing
**NEW DEFENDANTS' MOTION TO SEAL EXHIBIT 1 IN SUPPORT OF THEIR SUR-
REPLY TO PLAINTIFF'S "EMERGENCY" OBJECTION TO MAGISTRATE JUDGE'S
APRIL 15, 2011, ORDERS** and this certificate of service with the clerk of the Court using the
ECF system which will send notification of such filing to the following:

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