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10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF NEVADA**

12 ION BAROI, et al.,
 13 Plaintiffs,

14 vs.

15 PLATINUM CONDOMINIUM
 16 DEVELOPMENT, LLC,
 17 MARCUS HOTELS, INC., AND
 18 MARCUS MANAGEMENT LAS
 19 VEGAS, LLC,

20 Defendants.

Case No.: 2:09-CV-00671-PMP-GWF

THIS DOCUMENT APPLIES TO:
 ALL RELATED ACTIONS

**PLAINTIFFS STEPHEN AND CATHEY
 GOODMAN'S MOTION TO
 SUBSTITUTE BANKRUPTCY TRUSTEE
 AS PARTY IN INTEREST AND
 MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT THEREOF**

21 COME NOW two of the Plaintiffs, Stephen and Cathey Goodman, and move this
 22 Honorable Court for entry of an Order substituting the trustee in their Chapter 7 bankruptcy
 23 proceeding in the United States Bankruptcy Court for the District of Arizona, No. 2-09-bk-21580-
 24 SSC, S. William Manera, as a plaintiff in this proceeding, as any proceeds realized in this
 25 proceeding will inure to the benefit of the Goodmans' bankruptcy estate. Mr. Manera has retained
 26 Plaintiffs' counsel listed below to represent the interest of the Goodman bankruptcy estate in this
 27 proceeding.

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1 WHEREFORE, premises considered, Stephen and Cathey Goodman pray this Honorable
2 Court will enter an Order substituting the trustee, S. William Manera, as a plaintiff in this matter.
3 Stephen and Cathey Goodman seek such other further and different relief that the Court deems
4 appropriate, premises considered. Oral argument is not requested.

5
6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 Stephen and Cathey Goodman filed a Chapter 7 bankruptcy proceeding in the United
8 States Bankruptcy Court for the District of Arizona, No. 2-09-bk-21580-SSC. S. William Manera
9 is the trustee in bankruptcy. Mr. Manera has retained the undersigned as counsel to represent the
10 bankruptcy estate's interest in this action, with approval of the United States Bankruptcy Court for
11 the District of Arizona by Order dated September 2, 2011.

12 "The interests of the debtor [in bankruptcy] in property include causes of action." *In re*
13 *Van Dresser Corp.*, 128 F.3d 945, 948 (6th Cir. 1997). The trustee becomes the representative of
14 the estate, 11 U.S.C. § 323(a), responsible for "collect[ing] and reduc[ing] to money the property
15 of the estate," 11 U.S.C. § 704(a)(1). The trustee has the capacity to sue. 11 U.S.C. § 323(b). A
16 debtor in a Chapter 7 bankruptcy imparts upon the trustee the exclusive right to assert the debtor's
17 claims, *Van Dresser*, 128 F.3d at 948, thereby rendering the trustee the only real party in interest
18 under Fed. R. Civ. P. 17(a) if the trustee elects to pursue the claim. *Maerki v. Wilson*, No. 93-
19 3857, 1995 WL 242004, at * 2 (6th Cir. Apr. 25, 1995); *In re Bard*, 49 F. App'x 528, 529 (6th
20 Cir. 2002).

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22
23 WHEREFORE, premises considered, Stephen and Cathey Goodman pray this Honorable
24 Court will enter an Order substituting the trustee, S. William Manera, as a plaintiff in this matter.
25 Stephen and Cathey Goodman seek such other further and different relief that the Court deems
26 appropriate, premises considered.

1 RESPECTFULLY SUBMITTED this 4th day of November, 2011.

2 /s/ Don Springmeyer

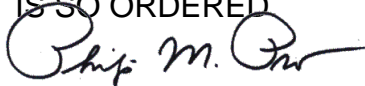
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27 Attorneys for Plaintiffs

28 IT IS SO ORDERED



PHILIP M. PRO, UNITED STATES DISTRICT JUDGE

Dated: November 28, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, and that I served a true and correct copy of the foregoing on this 4th day of November, 2011 via the Court's ECF system, which will serve notice of the above, upon the following:

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