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 JOHNSON and MICHICA, INC.

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

9 WILLIAM R. HANSON, a Texas resident,

Case No.: 2:10-cv-01649-GMN-LRL

10 **Plaintiff,**

11 vs.

12 MICHAEL JOHNSON, a Florida resident,
 DREAM MAKER LLC, a Florida entity *doing*
 13 *business as* DREAM MAKER SPAS; DOES I-
 XL; and ROE CORPORATIONS XI-XX,

14 **Defendants.**

ORDER


15 MANDALAY CORP., a Nevada corporation,
 16 dba MANDALAY BAY HOTEL & CASINO,

17 **Cross-Claimant,**

18 vs.

19 MICHAEL JOHNSON, a Florida resident,
 DREAM MAKER LLC, a Florida limited
 20 Liability company, dba DREAM MAKER
 SPAS; MICHICA, INC., a Florida corporation;
 21 LEISURE BAY INDUSTRIES, INC., a Florida
 Corporation; LEISURE BAY
 22 MANUFACTURING, INC., a Florida
 Corporation; DOES 1-XL; and ROE
 23 CORPORATIONS XI-XX,

24 **Cross-Defendants.**


RICHARD HARRIS
 LAW FIRM

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1 MICHAEL JOHNSON,
2 Cross-Claimant,
3 vs.
4 DREAM MAKER LLC d/b/a DREAM
5 MAKER SPAS, inclusive,
6 Cross-Defendant

7 **INTRODUCTION**

8 Previously before the Court and ruled upon as GRANTED were the following:

- 9 1. Motion for Good Faith Settlement by Defendant Michael Johnson (ECF No. 52);
10 2. Motion for Good Faith Settlement by Defendant Michica, Inc. (ECF No. 53);
11 3. Conditional Opposition 62 to Defendants Michael Johnson and Michica, Inc.'s
12 Motions for Good Faith Settlement and Countermotion for Good Faith
13 Settlement.

14 **PROCEDURAL BACKGROUND**

15 This case arises out of an altercation that occurred between two parties at a
16 Mandalay Bay Hotel and Casino club, Eye Candy, in Las Vegas Nevada. Plaintiff Hanson, and
17 Defendant Johnson, were both attendees at the National Pool and Spa Convention as
18 representatives of competing companies. Hanson brought suit against Johnson and Dream
19 Maker LLC d/b/a Dream Maker Spas ("Dream Maker"), alleging (1) Assault; (2) battery; (3)
20 intentional infliction of emotional distress; (4) negligence; (5) negligent infliction of emotional
21 distress; (6) respondeat superior; (7) negligent hiring; (8) negligent supervision; (9) negligent
22 training; (10) negligent retention; (11) intentional interference with prospective economic
23 advantage; (12) lost income/wages/earning capacity; and (13) punitive damages.

24 Dream Maker filed a Motion to Dismiss Hanson's Complaint (ECF No. 7) and further
25 moved to dismiss the Cross-claim filed by Johnson (ECF No. 18), which sought (1)
26 implied/equitable indemnity; (2) contractual indemnity; and (3) contribution.

27 Hanson subsequently filed a Motion to Amend/Correct Complaint seeking to clarify
28 some of the existing allegations and identify additional parties. (ECF No. 27) Dream Maker

1 filed a Response (ECF No. 28), and Plaintiff filed a Reply (ECF No. 29 Hanson's Motion to
2 Amend was Granted. Dream Maker's Motion to Dismiss was denied as moot.

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4 As to Dream Maker's Motion to Dismiss Defendant Johnson's Cross-Claim (ECF No.
5 18), this Court dismissed with prejudice Johnson's first cross-claim for equitable indemnity;
6 upheld the Johnson's second cross-claim for contractual indemnity; and upheld Johnson's third
7 cross-claim for contribution ruling that, to the extent Johnson and Dream Maker are found jointly
8 and severally liable to Hanson for the unintentional torts, Johnson can seek contribution from
9 Dream Maker, but that Johnson cannot seek contribution from Dream Maker for any of the
10 intentional torts.

11 Hanson resolved his claims against Johnson and his insurer, State Farm Insurance
12 Company on November 27, 2011, as evidenced by the Release of All Claims and Agreement to
13 Indemnify, Defend, and Hold Harmless (the "Johnson Release"), attached as Exhibit B to the
14 Addendum to Motion for Good Faith Settlement (ECF No. 58). The Johnson Release
15 specifically stated that it did not affect Hanson's right to pursue claims against Dream Maker,
16 Leisure Bay Industries, Inc., Michica, Inc., and Mandalay Corp.

17 Hanson resolved his claims against Michica, Inc. on November 27, 2011, as evidence by
18 the Release of All Claims and Agreement to Indemnify, Defend, and Hold Harmless (the
19 "Michica Release"), attached as Exhibit A to the Addendum to Motion for Good Faith
20 Settlement (ECF No. 58). The Michica Release, likewise, did not affect Hanson's right to pursue
21 claims against Dream Maker, Leisure Bay Industries, Inc., and Mandalay Corp.

22 Hanson resolved his claims against Mandalay Corp. on April 29, 2012, as evidenced by
23 the Release of All Claims and Confidential Settlement Agreement, (the "Mandalay Release")
24 attached hereto as Exhibit 1.

25 In Summary, Hanson's claims against Johnson have been resolved and released.
26 Hanson's claims against Michica have been resolved and released. Hanson's claims against
27 Mandalay Bay have been resolved and released released. Hanson reserves his right to pursue
28 claims against Dream Maker.

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CONCLUSION AND ORDER

IT IS HEREBY ORDERED that Hanson's claims against Johnson are hereby dismissed; and it is

FUTHER ORDERED that Hanson's claims against Michica, Inc., are hereby dismissed; and it is

FURTHER ORDERED that Hanson's claims against Mandalay Bay are hereby dismissed.

IT IS SO ORDERED this 4th day of June, 2012.




Gloria M. Navarro
United States District Judge

Respectfully submitted by:

RICHARD HARRIS LAW FIRM

By:



BRYAN A. BOYACK, ESQ.
Nevada Bar No. 9980
801 South Fourth St
Las Vegas, NV 89101
Attorney for Plaintiff

EXHIBIT 1

RELEASE OF ALL CLAIMS AND CONFIDENTIAL SETTLEMENT AGREEMENT

For and in consideration of the issuance of drafts in the total amount of TWO THOUSAND DOLLARS (\$2,000.00), payable as follows: WILLIAM R. HANSON, and his attorneys, RICHARD HARRIS LAW FIRM

I, WILLIAM R. HANSON (“Releasor”), the undersigned, do hereby fully release, acquit and forever discharge, MANDALAY CORP., individually and in its professional capacity, as well as its parent, subsidiaries and affiliates, its officers, directors, shareholders, their representatives, including without limitation their agents, servants, employees, assigns and successors, heirs, executors, administrators and persons, firms, corporations, associations or partnerships, insurers and reinsurers (“Releasees”), from all known and unknown claims, actions, causes of action, demands, rights, suits for damages, at law and in equity, filed or otherwise, including loss of compensation, profits, interest and use, services, society, contribution and support, loss and diminishment of estate, attorneys fees and costs and expenses and property damage, or other damages, whether known or unknown, (“Claims”) which I/we now have or may hereafter acquire from the beginning of time through the Effective Date of this Release, including but not limited to bodily and personal injuries and/or property damage and the consequences thereof as a result of the November 11, 2009, incident that occurred at the Mandalay Bay Hotel & Casino, in the City of Las Vegas, Clark County, Nevada.

IT IS ALSO UNDERSTOOD AND AGREED AND MADE A PART HEREOF:

That the issuance of said draft is not, nor is it to be construed as an admission of liability on the part of any Releasee, but is in compromise settlement, accord and satisfaction and discharge of loss, damages, claims, actions, causes of action, suits and liability which are each and all uncertain, and disputed.

That this Release extends and applies to and also covers and includes all unknown, unforeseen, unanticipated and unsuspected injuries, damages, loss and liability, and the consequences thereof, as well as those now disclosed and known to exist.

The undersigned also agrees to assume the responsibility, liability and obligation to pay any and all medical and/or Medicare liens, including Federal liens, known and unknown, filed or unfiled, which were incurred as a result of the November 11, 2009 incident.

The undersigned warrants and represents that the liens or medical bills or other charges related to this claim or related to the injuries arising from the incident will be paid out of the settlement monies; the undersigned agrees that the monies will first be applied to any and all medical and Medicare liens known and unknown; the undersigned agrees to indemnify and hold harmless the Releasee(s) from any and all claims, actions, and suits for damages, arising out of the failure to pay such liens or charges.

It is not the purpose of this settlement agreement to shift to Medicare the responsibility for payment of medical expenses for the treatment of injury-related conditions. Instead, this settlement agreement is intended to provide the claimant with a lump sum payment which will foreclose Mandalay Corp.'s responsibility for future payment of all medical expenses related to the work accident.

The claimant acknowledges, affirms, and agrees that he/she is not Medicare eligible has not applied for SSDI, has never been approved or denied SSDI, is less than 62 ½ years of age and does not have any expectation of becoming a Medicare Beneficiary, for any reason, within thirty (30) months of the date of this Release. Claimant acknowledges that he/she has been advised and is aware that should he/she become a Medicare Beneficiary within thirty (30) months of the date of this Release, CMS (Medicare) may require the Claimant to expend up to the entire settlement amount on Medicare covered expenses related to the injury before Medicare will provide coverage for the injury. Claimant voluntarily accepts this risk and waives any claims against the respondent and the respondent's carrier should Medicare take such action.

The claimant further acknowledges, understands and agrees that portions of or the entire settlement amount must be expended for future medical expenses related to the injury before any such claims are submitted to Medicare. The claimant further acknowledges, understands and agrees that proof of these expenditures must be maintained in the event that The Centers for Medicare and Medicaid Services requires this

at a later time and that failure to utilize these funds for their intended purpose may jeopardize the claimant's future Medicare benefits.

That this Release is the entire, complete, sole and only understanding and agreement by and between the undersigned and Releasee(s) pertaining to and concerning the subject matter and things expressed herein; and there are no independent, collateral, different, additional or other understandings or agreements, oral or written, or obligations to be performed, things to be done, or payments to be made; and, further, no promise, inducement or consideration other than the issuance of said draft has been made or agreed upon by or on behalf of the Releasee(s).

That each Releasee shall be held harmless of and from and indemnified for and against all loss, damages, costs and expenses, including reasonable attorneys' fees, and all other sums which said Releasee(s) may hereafter incur, pay, be required or become obligated to pay on account of any and every further, additional, or other demand, claim, or suit by or on behalf of any undersigned or any other person, firm, or corporation for any loss of or damage to any property, property right, injuries to, or the death of any person as provided in this Release, or for any contest or attempt to modify, change, reform, break, set aside, nullify, cancel, or negate this release or any part or provision of said release for any reason whatsoever.

As further consideration for the payment of the above-stated sum of money and as an essential part of this Release in Full, the undersigned party hereby agrees to keep confidential the facts of the allegations, and settlement terms and conditions of this Release in Full, including all terms and provisions thereof. The undersigned further agrees and acknowledges that this settlement is a confidential matter and that the performance of the parties being released herein is conditioned upon strict honoring of this confidentiality and not disclosing, discussing, or commenting on any of the facts, circumstances, injuries, claims, or settlement terms to any newspaper reporters or employees of any newspapers and/or news organizations or agencies and attorneys (with the exception of the retained attorney for the undersigned in this case) any of the facts and terms hereof.

