

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON



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NICHOLAS J. SANTORO, ESQ.
Nevada Bar No. 00532
nsantoro@nevadafirm.com
JAMES D. BOYLE, ESQ.
Nevada Bar No. 08384
jboyle@nevadafirm.com
SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

DAVID J. STEWART, ESQ.
Georgia Bar. No. 681149
David.Stewart@alston.com
NADYA SAND, ESQ.
Georgia Bar No. 156051
Nadya.Sand@alston.com
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Telephone: 404/881-7000
Facsimile: 404/881-7777

Admitted Pro Hac Vice

Attorneys for Caesars World, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CAESARS WORLD, INC., a Florida
corporation,

Plaintiff,

v.

MARCEL JULY, an individual; and
OCTAVIUS TOWER LLC, a Nevada limited
liability company,

Defendants.

CASE NO.: 2:11-cv-00536-GMN-(CWH)

**PLAINTIFF'S MEMORANDUM OF FEES
AND COSTS IN SUPPORT OF MOTION
TO COMPEL**



1 Pursuant to the Court’s Minute Order of December 19, 2011 (Docket No. 49) (the
2 “December 19th Order”), Plaintiff Caesars World, Inc. (“Caesars”) hereby submits its
3 Memorandum of Fees and Costs In Support of Motion to Compel (the “Memorandum”). This
4 Memorandum relates to (a) Caesars’ attempts to resolve a discovery dispute with Defendants
5 Marcel July and Octavius Tower LLC (collectively “Defendants”), and (b) the preparation and
6 submission of Caesars’ Motion to Compel Defendants To Respond to Caesars’ First Set of
7 Interrogatories and Document Requests (the “Motion to Compel”) (Docket No. 42) and related
8 documents, the preparation and submission of Caesars’ Notice of Defendants’ Non-Opposition to
9 Caesars’ Motion to Compel that highlighted Defendants’ subsequent discovery production and
10 its continuing inadequacies (“Reply Brief”) (Docket No. 46) and related documents, and
11 preparation for and participation in the hearing conducted before this Court on December 19,
12 2011 regarding the Motion to Compel (the “December 19th Hearing”).

13 This Memorandum is supported by the pleadings and documents on file herein, the
14 Affidavit of James D. Boyle, Esq. of the law firm of Santoro, Driggs, Walch, Kearney, Holley &
15 Thompson (“SDW”) (the “Boyle Aff.”), attached hereto and incorporated herein by this
16 reference as **Exhibit A**, the Affidavit of David J. Stewart, Esq., of the law firm of Alston & Bird
17 LLP (“A&B”) (the “Stewart Aff.”), attached hereto and incorporated herein by this reference as
18 **Exhibit B**, and any oral argument entertained by this Court in support of the Memorandum.

19 **STATEMENT OF ATTORNEYS’ FEES**

20 At the December 19th Hearing and in the December 19th Order, this Court concluded that,
21 pursuant to Fed. R. Civ. P. 37(a)(5), Caesars is entitled to recover its reasonable attorneys fees
22 and costs related to (a) Caesars’ attempts to resolve a discovery dispute with Defendants, and (b)
23 the preparation and submission of Caesars’ Motion to Compel and related documents and
24 preparing for and arguing the December 19th Hearing.

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A. Fees and Costs Incurred With Santoro, Driggs, Walch, Kearney, Holley & Thompson.

1. Fees and Cost Incurred In Attempting to Obtain Discovery From Defendants.

To date, Caesars has incurred attorneys’ fees in the amount of \$462.50 from SDW in its attempts to obtain discovery from Defendants, with work performed by James D. Boyle, Esq. (“Mr. Boyle”) and support provided by a paralegal, Ms. Joy Jones (“Ms. Jones”). Boyle Aff., at ¶¶ 4-9, and Ex. A-1. More particularly, Mr. Boyle conferred with co-counsel regarding attempts to obtain discovery from Defendants. Ms. Jones assisted with the analysis of and research regarding Defendants’ answers to Caesars’ discovery requests.

Caesars also incurred the following costs with SDW related to the attempts to obtain discovery from Defendants:

Photocopies\$ 6.40

Boyle Aff., at ¶¶ 10-11, and Ex. A-2.

2. Fees and Cost Incurred In Prosecuting the Motion to Compel and Arguing the December 19th Hearing.

Further, Caesars incurred attorneys’ fees to date in the amount of \$2,255.00 with SDW related to preparing and prosecuting the Motion to Compel. Boyle Aff., at ¶¶ 12-14, and Ex. A-3. More particularly, Mr. Boyle conferred with co-counsel, assisted in the preparation of the Motion to Compel and related documents, assisted in the preparation of the Reply Brief and related documents, and prepared for and argued the December 19th Hearing. Ms. Jones was involved in the preparation and assembly of the Motion to Compel and the Reply Brief, including preparation of exhibits and subsequent submission to this Court and coordination of service.

Caesars also incurred the following costs with SDW related to prosecuting the Motion to Compel and the December 19th Hearing:

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Boyle Aff., at ¶¶ 15-16, and Ex. A-4.

1 As attested to and explained in detail in the Boyle Aff., the attorney and paralegal fees
2 charged by SDW are customary fees for such work, given the experience, reputation, and
3 abilities of Mr. Boyle and Ms. Jones, and said fees and costs were actually billed to Caesars, or,
4 for December 2011 time, will be billed to Caesars, were necessarily incurred, and are reasonable
5 (see Boyle Aff., at ¶¶ 6, 18-19).

6 **B. Fees and Costs Incurred With Alston & Bird, LLP.**

7 1. Fees and Cost Incurred In Attempting to Obtain Discovery From
8 Defendants.

9 To date, Caesars has incurred attorneys' fees in the amount of \$2,340.50 from A&B in
10 attempts to obtain discovery from Defendants, with work performed by David J. Stewart, Esq.
11 and Nadya Sand, Esq. Stewart Aff., at ¶¶ 4-5, 11-12, and Ex. B-1. More particularly, Mr.
12 Stewart and Ms. Sand conferred with opposing counsel in writing and by telephone in attempts
13 to secure compliance with Caesars' discovery requests, including a meet and confer conference
14 prior to the filing of the Motion to Compel.

15 2. Fees and Cost Incurred In Prosecuting the Motion to Compel and Arguing
16 the December 19th Hearing.

17 Caesars has incurred attorneys' fees to date in the amount of \$16,075.50 from A&B
18 related to prosecuting the Motion to Compel and preparing for the December 19th Hearing.
19 Stewart Aff., at ¶¶ 11-12, and Ex. B-1. These fees are higher than they would otherwise have
20 been because of Defendants' conduct after the Motion to Compel was filed. Two weeks after
21 Caesars filed the Motion, Defendant July finally served responses to Caesars' interrogatories and
22 the Defendants produced additional documents in response to Caesars' document requests.
23 These responses failed to legitimately respond to Caesars' outstanding discovery requests.
24 Caesars therefore needed to invest meaningful time in identifying the continuing deficiencies in
25 Defendants' responses to demonstrate in its Reply Brief that the responses did not moot Caesars'
26 Motion to Compel and to be prepared to address each of the continuing deficiencies, if
27 necessary, at the December 19th Hearing. The fees set forth above do not include any time
28 incurred in reviewing the discovery responses and documents produced by Defendants because



1 this time would have been incurred whether a motion to compel was pending or not. Had
2 Defendants produced this discovery prior to the filing of the initial motion, Caesars would have
3 been able to more efficiently evaluate the information at the outset and tailor its initial motion
4 appropriately. Accordingly, Defendants' choice to delay providing any meaningful discovery
5 until after the filing of the Motion to Compel increased the fees Caesars was forced to incur in
6 connection with the Motion to Compel.

7 With regard to the specific time incurred by the attorneys at A&B in connection with the
8 Motion to Compel, Mr. Stewart was involved in the preparation of Caesars' Motion to Compel
9 and Reply Brief, the review of Defendants' late-served discovery responses and identifying the
10 continuing deficiencies in the same, and helping prepare Mr. Boyle for the December 19th
11 Hearing. Ms. Sand researched and drafted Caesars' Motion to Compel and Reply Brief,
12 identified the continuing deficiencies in Defendants' late-served discovery responses, and helped
13 prepare Mr. Boyle for the December 19th Hearing by identifying each continuing discovery
14 response deficiency. To save fees and travel costs incurred in connection with the Motion to
15 Compel, Mr. Stewart requested that Mr. Boyle argue the Motion.

16 As attested to and explained in detail in the Stewart Aff., the attorneys' fees charged by
17 A&B are customary fees for such work, given the experience, reputation, and abilities of Mr.
18 Stewart and Ms. Sand, and were actually billed to Caesars, were necessarily incurred, and are
19 reasonable (*see* Stewart Aff., at ¶¶ 6, 13).

20 Caesars further incurred reasonable attorneys' fees in the amount of \$1,052.50 and costs
21 of \$16.80 with SDW in preparing and filing the instant Memorandum of Fees and Costs.
22 Affidavit of Boyle, at ¶ 17. Caesars incurred reasonable attorneys' fees in the amount of \$1,550
23 with A&B in preparing and filing the instant Memorandum of Fees and Costs. Affidavit of
24 Stewart, at ¶ 14.

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C. Conclusion.

Therefore, Caesars hereby requests that this Court enter an Order granting Caesars an award of reasonable attorneys' fees in the amount of \$23,736.00, and reasonable costs in the amount of \$64.30.

Caesars has attached a [Proposed] Order Granting Caesars' Memorandum of Fees and Costs hereto as **Exhibit C**.

DATED this 29th day of December, 2011.

**SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON**

/s/ James D. Boyle

NICHOLAS J. SANTORO, ESQ.

Nevada Bar No. 00532

JAMES D. BOYLE, ESQ.

Nevada Bar No. 08384

400 South Fourth Street, Third Floor

Las Vegas, Nevada 89101

ALSTON & BIRD LLP

DAVID J. STEWART, ESQ.

Georgia Bar. No. 681149

NADYA MUNASIFI, ESQ.

Georgia Bar No. 156051

1201 West Peachtree Street

Atlanta, Georgia 30309-3424

Admitted Pro Hac Vice


Attorneys for Caesars World, Inc.

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify that on the 29th day of December, 2011, I caused the document entitled **PLAINTIFF'S MEMORANDUM OF FEES AND COSTS IN SUPPORT OF MOTION TO COMPEL**, to be served as follows:

Attorneys of Record	Parties Represented	Method of Service
Michael W. Sanft, Esq. Sanft Law Group 520 South Fourth St. Suite 320 Las Vegas, Nevada 89101		<input type="checkbox"/> Personal Service <input checked="" type="checkbox"/> Email/E-File <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service

DATED this 29th day of December, 2011.


 An employee of Santoro, Driggs, Walch, Kearney,
 Holley & Thompson

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON

