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

11 RONALD TAYLOR, et al.,
12 Plaintiffs,
13 v.
14 MGM RESORTS INTERNATIONAL,
et al.,
15 Defendants.

CASE NO.: Case No. 2:11-cv-01360-APG-CWH

**STIPULATION AND
ORDER RE: MOTIONS IN LIMINE AND
INTRODUCTION OF CERTAIN
EVIDENCE**

17
18 **STIPULATION AND ORDER RE: MOTIONS IN LIMINE AND**
19 **INTRODUCTION OF CERTAIN EVIDENCE**

20 WHEREAS, counsel for Plaintiffs Teresa Hagiya, Shane Schuldt, Krystyn Schuldt, and
21 Maureen Wooley ("Plaintiffs") and counsel for Defendant Aria Resort & Casino, LLC
22 ("Defendant") exchanged proposed lists of Motions in Limine to be filed in this action.

23 WHEREAS, counsel for Plaintiffs and Defendant further participated in multiple meet and
24 confer discussions to reach certain agreements on the proposed Motions in Limine to be filed by
25 each party.

26 WHEREAS, Plaintiffs and Defendant have reached stipulations as to many of the proposed
27 Motions in Limine, thereby avoiding the need for either side to file certain Motions in Limine and

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1 hereby enter into this Stipulation in order to confirm and memorialize the agreements reached by
2 the parties.

3 Accordingly, Plaintiffs, by and through their counsel of record, the Nettles Law Firm, Jules
4 Zacher, P.C., and Behnke, Martin & Schulte, LLC, and Defendant, by and through its counsel of
5 record, the law firm of Wood, Smith, Henning & Berman, LLP, hereby submit their Stipulation as
6 provided below:

7 **STIPULATIONS RE: DEFENDANT'S PROPOSED MOTIONS IN LIMINE**

8 1. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
9 admit any evidence of Plaintiffs' attorney's work product in the form of a chart summarizing any
10 Legionella testing results. (See, Exhibit P6 to Deposition Transcript of Dr. Middaugh and others.)

11 2. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
12 admit any evidence that 1 CFU/mL of Legionella bacteria is too high.

13 3. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
14 admit any evidence of other claims or cases of Legionnaires' disease or Pontiac Fever at MGM
15 Resorts International properties.

16 4. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
17 admit any evidence of claims or cases of Legionnaires' disease or Pontiac Fever pertaining to any
18 non-parties to this action.

19 5. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
20 admit any evidence of any perceived conflict of interest by Timothy Jones.

21 6. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
22 admit any evidence that Defendant Aria owed Plaintiffs and any patron the "highest" duty of care.

23 7. Defendant requests a jury site view of the potable water supply at the Aria Resort &
24 Casino. Plaintiff does not object to a jury site view, however, Plaintiffs request that certain
25 information, including Defendant's subsequent remedial measures, be shared with the jury at the
26 time of the site view. Defendant objects to this request. The parties are currently working to agree
27 upon any instruction provided to the jury as part of the site view.

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1 8. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
2 admit any evidence that the Southern Nevada Health District guidelines were mandatory or that
3 Defendant was required to comply with the Southern Nevada Health District guidelines.

4 9. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
5 admit any evidence of Defendant's wealth, size, financial condition and ability to pay.

6 10. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
7 admit any evidence of other pending claims or cases of either Legionnaires' disease or Pontiac
8 Fever against Defendant.

9 11. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
10 admit any evidence regarding any previously dismissed defendant, including but not limited to, (1)
11 MGM Resorts International, (2) Dubai World, (3) Infinity World Holding Limited, (4) Infinity
12 World (Cayman) L.P., (5) Infinity World Cayman Investments Corporation, (6) Infinity World
13 Investments, (7) Infinity World Investments, LLC, (8) Mirage Resorts, Incorporated, (9) Project
14 CC, LLC, (10) Infinity World Development Corp., (11) CityCenter Holdings, LLC, (12)
15 CityCenter Land, LLC, (13) Aria Resort & Casino Holdings, LLC d/b/a Aria Resort & Casino,
16 (14) Tutor Perini Corporation, (15) Tishman Construction Corporation of Nevada, and (16) Pelli
17 Clarke Pelli Architects, Inc., all as Defendants.

18 12. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
19 admit any evidence of any loss of earnings, wages, or loss of earning capacity for any plaintiff in
20 this action. However, Plaintiffs reserve the right to present evidence of loss of time from work as
21 part of their claim for general damages.

22 13. Plaintiffs and Plaintiffs' counsel agree not to call either Esteban Cabello or Robert
23 Hulsey as witnesses in this action.

24 **STIPULATIONS RE: PLAINTIFFS' PROPOSED MOTIONS IN LIMINE**

25 14. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
26 seek to admit any evidence of Legionella testing at Fort McMurray Queen Street Building. (See,
27 Exhibit 7 to deposition transcript of Maureen Wooley.)

28 15. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or

1 seek to admit any evidence of outdoor safety for residents of Alberta, Canada. (See, Exhibit 6 to
2 deposition transcript of Maureen Wooley.)

3 16. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
4 seek to admit any evidence of Plaintiff Shane Schuldt's misdemeanor arrest record. However,
5 Defendant reserves the right to admit evidence of any felony conviction by Plaintiff Shane
6 Schuldt.

7 17. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
8 seek to admit any evidence of prior motor vehicle accidents of Plaintiff Shane Schuldt and any
9 attendant litigation.

10 18. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
11 seek to admit any evidence of a Facebook posting in 2011 referring to "Legionnaires' disease, but
12 it sounds like a late night herpes commercial". (See, Deposition Transcript of Plaintiff Shane
13 Schuldt at pp. 32-33, lines 20-13.) However, Defendant reserves the right to admit evidence of
14 other Facebook postings by Plaintiff Shane Schuldt pertaining to his alleged contraction of
15 Legionnaires' disease and his stay at the Aria Resort & Casino, to the extent such postings exist.

16 19. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
17 seek to admit any evidence of Plaintiff Shane Schuldt's demand of \$5 trillion. (See, Deposition
18 Transcript of Plaintiff Shane Schuldt at p. 116, lines 5-20.)

19 20. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
20 seek to admit any evidence of Plaintiffs' medical bills being on lien or unpaid or paid by insurance.

21 21. Defendant, Defendant's counsel, and Defendant's witnesses and Plaintiffs,
22 Plaintiffs' counsel, and Plaintiffs witnesses shall not refer to or seek to admit any evidence of the
23 out-of-state residency of any counsel in this action.

24 22. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
25 seek to admit any evidence that Plaintiffs' recovery is or is not subject to tax assessment.

26 23. Defendant, Defendant's counsel, and Defendant's witnesses and Plaintiffs,
27 Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to admit any evidence from
28 any expert that exceeds those opinions set forth in any report authored by such expert and any

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1 opinion provided at the expert's deposition. This stipulation does not impact or waive in any way
2 whatsoever Defendant's objections to any opinion proffered by any of Plaintiffs' experts, but
3 simply provides an outermost limit of the scope of such expert opinion.

4 **IT IS SO STIPULATED.**

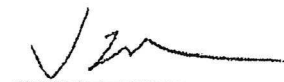
5 DATED this 14th day of May, 2015.

DATED this 14 day of May, 2015.

7 Wood, Smith, Henning & Berman, LLP

Jules Zacher, P.C.

9 By 



10 VICTORIA L. ERSOFF

JULES ZACHER, ESQ.

11 Pro Hac Vice

Pro Hac Vice

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*Attorneys for Defendant Aria Resort &
Casino, LLC*

21 Pursuant to the above stipulation by the parties, and good cause appearing, the Court rules
22 as follows:

23 **IT IS HEREBY ORDERED** that:

24 1. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
25 admit any evidence of Plaintiffs' attorney's work product in the form of a chart summarizing the
26 Legionella testing results. (See, Exhibit P6 to Deposition Transcript of Dr. Middaugh and others.)

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28

1 2. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
2 admit any evidence that 1 CFU/mL of Legionella bacteria is too high.

3 3. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
4 admit any evidence of other claims or cases of Legionnaires' disease or Pontiac Fever at MGM
5 Resorts International properties.

6 4. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
7 admit any evidence of claims or cases of Legionnaires' disease or Pontiac Fever pertaining to any
8 non-parties to this action.

9 5. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
10 admit any evidence of any perceived conflict of interest by Timothy Jones.

11 6. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
12 admit any evidence that Defendant Aria owed Plaintiffs and any patron the "highest" duty of care.

13 7. Plaintiffs and Defendant agree and jointly request a jury site view of the potable
14 water supply at the Aria Resort & Casino. However, the parties have a disagreement on the
15 context of such site view as Plaintiffs request that certain information, including Defendant's
16 subsequent remedial measures, be shared with the jury. The parties are currently working to agree
17 upon any instruction provided to the jury as part of the site view.

18 8. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
19 admit any evidence that the Southern Nevada Health District guidelines were mandatory or that
20 Defendant was required to comply with the Southern Nevada Health District guidelines.

21 9. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
22 admit any evidence of Defendant's wealth, size, financial condition and ability to pay.

23 10. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
24 admit any evidence of other pending claims or cases of either Legionnaires' disease or Pontiac
25 Fever against Defendant.

26 11. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
27 admit any evidence regarding any previously dismissed defendant, including but not limited to, (1)
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1 World (Cayman) L.P., (5) Infinity World Cayman Investments Corporation, (6) Infinity World
2 Investments, (7) Infinity World Investments, LLC, (8) Mirage Resorts, Incorporated, (9) Project
3 CC, LLC, (10) Infinity World Development Corp., (11) CityCenter Holdings, LLC, (12)
4 CityCenter Land, LLC, (13) Aria Resort & Casino Holdings, LLC d/b/a Aria Resort & Casino,
5 (14) Tutor Perini Corporation, (15) Tishman Construction Corporation of Nevada, and (16) Pelli
6 Clarke Pelli Architects, Inc., all as Defendants.

7 12. Plaintiffs, Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to
8 admit any evidence of any loss of earnings or loss of earning capacity for any plaintiff in this
9 action. However, Plaintiffs reserve the right to present evidence of loss of time from work as part
10 of their claim for general damages.

11 13. Plaintiffs and Plaintiffs' counsel shall not to call either Esteban Cabello or Robert
12 Hulseley as witnesses in this action.

13 14. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
14 seek to admit any evidence of Legionella testing at Fort McMurray Queen Street Building. (See,
15 Exhibit 7 to deposition transcript of Maureen Wooley.)

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17 seek to admit any evidence of outdoor safety for residents of Alberta, Canada. (See, Exhibit 6 to
18 deposition transcript of Maureen Wooley.)

19 16. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
20 seek to admit any evidence of Plaintiff Shane Schuldt's misdemeanor arrest record. However,
21 Defendant reserves the right to admit evidence of any felony conviction by Plaintiff Shane
22 Schuldt.

23 17. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
24 seek to admit any evidence of prior motor vehicle accidents of Plaintiff Shane Schuldt and any
25 attendant litigation.

26 18. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
27 seek to admit any evidence of a Facebook posting in 2011 referring to "Legionnaires' disease, but
28 it sounds like a late night herpes commercial". (See, Deposition Transcript of Plaintiff Shane

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1 Schuldt at pp. 32-33, lines 20-13.) However, Defendant reserves the right to admit evidence of
2 other Facebook postings by Plaintiff Shane Schuldt pertaining to his alleged contraction of
3 Legionnaires' disease and stay at the Aria Resort & Casino to the extent such postings exist.

4 19. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
5 seek to admit any evidence of Plaintiff Shane Schuldt's demand of \$5 trillion. (See, Deposition
6 Transcript of Plaintiff Shane Schuldt at p. 116, lines 5-20.)

7 20. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
8 seek to admit any evidence of Plaintiffs' medical bills being on lien or unpaid or paid by insurance.

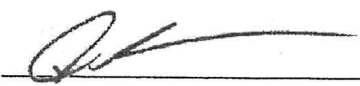
9 21. Defendant, Defendant's counsel, and Defendant's witnesses and Plaintiffs,
10 Plaintiffs' counsel, and Plaintiffs witnesses shall not refer to or seek to admit any evidence of the
11 out-of-state residence of any counsel in this action.

12 22. Defendant, Defendant's counsel, and Defendant's witnesses shall not refer to or
13 seek to admit any evidence that Plaintiffs' recovery is or is not subject to tax assessment.

14 23. Defendant, Defendant's counsel, and Defendant's witnesses and Plaintiffs,
15 Plaintiffs' counsel, and Plaintiffs' witnesses shall not refer to or seek to admit any evidence from
16 any expert that exceeds those opinions set forth in any report authored by such expert and any
17 opinion provided at the expert's deposition. This stipulation does not impact or waive in any way
18 whatsoever Defendant's objections to any opinion proffered by any of Plaintiffs' experts, but
19 simply provides an outermost limit of the scope of such expert opinion.

20 **IT IS SO ORDERED.**

21 DATED this 18th day of May, 2015.

22
23 

24 UNITED STATES DISTRICT JUDGE