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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 SUSAN MARIE BANKOSZ, )

8 Plaintiff, )

Case No. 2:12-cv-01502-JCM-PAL

9 vs. )

**ORDER**

10 BIG DADDY'S ICHABOD'S 1, INC., et al., )

11 Defendants. )  
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13 The court conducted a dispute resolution conference on January 22, 2013, at the request of the  
14 parties. Andre Lagomarsino appeared on behalf of the Plaintiff, and Deverie Christensen appeared on  
15 behalf of the Defendants.

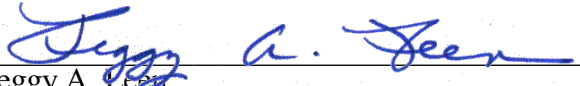
16 The Complaint (Dkt. #1) in this case was filed August 23, 2012, and arises out of claims related  
17 to Plaintiff's employment with the Defendant between August 2009, and September 2012. Plaintiff has  
18 asserted claims for violations of: (1) the Fair Labor Standards Act ("FLSA") (failure to pay overtime);  
19 (2) defamation; (3) intentional infliction of emotional stress; (4) breach of contract; (5) quantum meruit;  
20 (6) FMLA interference; and (7) FMLA retaliation. Plaintiff alleges that she worked 24 holidays  
21 between 2009, and 2012, without receiving appropriate federally mandated holiday pay. She also  
22 alleges she worked in excess of 3,400 hours of overtime in excess of 40 hrs./wk. for which we was not  
23 compensated.

24 This discovery dispute involves the scope of subpoenas duces tecum Defendants served on  
25 various Las Vegas gaming establishments to obtain records. Defendants seek "any an all documents  
26 and records" in whatever format, that relate to Plaintiff's participation in any "Total Rewards"  
27 program, and other documents and records which establish the dates and times Plaintiff was engaged in  
28 non-work related activities at these gaming establishments. Plaintiff served objections to the subpoenas

1 duces tecum, and counsel for both sides agreed to submit this matter to the court for decision on the  
2 parties' joint dispute resolution memo.

3 Having reviewed and considered the matter, the court finds that the subpoena duces tecum  
4 attached as Exhibit "1" to the parties' Joint Request for Discovery Dispute Resolution Conference (Dkt.  
5 #1) is patently overbroad on its face. Compliance with the subpoena would require the custodian of  
6 records for the receiving entities to produce "any and all" records concerning Plaintiff's gaming,  
7 tournament play, credit requests, spa and fitness appointments, salon appointments, shopping,  
8 restaurant visits, etc. Discovery of what spa treatments the Plaintiff may have received and what she  
9 may have ordered from restaurants or room service while off work is grossly disproportionate to the  
10 articulated basis for which Defendants claims they need the information-- to establish whether Plaintiff  
11 was actually working during the time she claims she was not compensated for overtime, or engaged in  
12 other extracurricular activities. See Rule 26 (b)(2). The broad discovery sought outweighs its likely  
13 benefit. *Id.* Plaintiff claims she was not compensated for overtime and holiday pay between September  
14 2009, when she was promoted to Accounting Manager, and September of 2012, when she was  
15 terminated. The court will authorize issuance of a subpoena duces tecum to gaming establishments for  
16 business records which establish the dates and times the Plaintiff was on the property between  
17 September 2009, and September 2012.

18 Dated this 23 day of January, 2013.

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21 Peggy A. Lee  
22 United States Magistrate Judge  
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