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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 SALLIE SHANNON CHAPMAN, )

8 Plaintiffs, )

9 vs. )

10 FERTITTA ENTERTAINMENT, INC., *et al.*, )

11 Defendants. )  
12

Case No. 2:15-cv-01944-JAD-GWF

**ORDER**

13 This matter is before the Court on Defendants' Motion for Leave to File Exhibit 4 to Their  
14 Motion for Summary Judgment Under Seal (ECF No. 37), filed on November 9, 2016.

15 On November 10, 2016, the Court entered an Order (ECF No. 40) granting Defendants' motion.  
16 However, on November 28, 2016, the parties submitted a Stipulation and Order to Extend Time for  
17 Plaintiff to Respond to Defendants' Motion for Summary Judgment and Motion to File Exhibit #4  
18 Under Seal (ECF No. 41). That same day, the District Court granted the Stipulation. In accordance  
19 with the Stipulation and Order, Plaintiff filed an Opposition (ECF No. 44) to Defendants' Motion to  
20 Seal on January 3, 2017. Defendants' filed a Reply (ECF No. 46) on January 25, 2017. Because the  
21 Court has already entered an Order granting Defendant's motion, the Court will treat Plaintiff's  
22 opposition as a de facto motion for reconsideration.

23 Courts "possess the inherent procedural power to reconsider, rescind, or modify an interlocutory  
24 order for cause seen by it to be sufficient" so long as it has jurisdiction. *City of Los Angeles, Harbor*  
25 *Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001). "A motion to reconsider must  
26 provide a court with valid grounds for reconsideration by: (1) showing some valid reason why the court  
27 should reconsider its prior decision and (2) setting forth facts or law of a strongly convincing nature to  
28 persuade the court to reverse its prior decision." *Frasure v. U.S.*, 256 F.Supp.2d 1180, 1183 (D.Nev.

1 2003). “Reconsideration is appropriate if the district court (1) is presented with newly discovered  
2 evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an  
3 intervening change in controlling law.” *Id.* quoting *School Dist. No. 1J, Multnomah County v.*  
4 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). *See also McGowan v. Credit Management, LP*, 2015  
5 WL 1886706, \*3 (D.Nev. Apr. 23, 2015); *See also* Local Rule 59-1.

6 Defendants request leave to file Exhibit 4 to their Motion for Summary Judgment (ECF No. 36)  
7 under seal because it contains “confidential and proprietary business information concerning the  
8 methods and manner in which it issues complimentary (“comps”) goods and services to certain guests  
9 of the Golden Nugget.” *Motion* (ECF No. 37), 2:21–24. Plaintiff objects to the filing of Exhibit 4  
10 under seal for several reasons. First, Plaintiff argues that Defendant has failed to safeguard Exhibit 4 by  
11 discussing it during Plaintiff’s deposition and attaching it thereto. The deposition transcript (without  
12 the exhibits) was subsequently attached to Defendants’ motion for summary judgment. Plaintiff also  
13 asserts that it is “implausible that any potential guest of Defendant would look at Exhibit 4 and feel  
14 slighted as argued by Defendant...” *Opposition* (ECF No. 44), pg. 4. In addition, Plaintiff argues that  
15 “Defendant has not shown that its business records are any more secret or private than any other  
16 relevant business records that are typically revealed in the course of litigation.” *Id.* at pg. 4. For these  
17 reasons, Plaintiff believes that Defendants have not shown compelling reasons to seal Exhibit 4.

18 Upon review of Plaintiff’s opposition and Defendants’ reply, the Court stands by its prior  
19 decision to seal Exhibit 4 to Defendants’ motion for summary judgment. As argued by Defendants, the  
20 information contained in Exhibit 4 is confidential and proprietary business information, the disclosure  
21 of which could allow Defendants’ competitors to have an unfair advantage by luring guests away with  
22 comparable or greater value comps. This is akin to a trade secret that is typically information subject to  
23 protection from disclosure. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th  
24 Cir. 2006). Defendants’ interest in protecting their trade secrets outweighs the general public interest in  
25 the public filings and Defendants have not waived the confidential and proprietary nature of Exhibit 4.

26 Accordingly,

27 ...

28 ...

1 **IT IS HEREBY ORDERED** that Defendants' Motion for Leave to File Exhibit 4 to Their  
2 Motion for Summary Judgment Under Seal (ECF No. 37) is **granted**.

3 DATED this 1st day of February, 2017.

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6 GEORGE FOLEY, JR.  
United States Magistrate Judge