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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TPOV ENTERPRISES 16, LLC, a Delaware
Limited Liability Company,

Plaintiff,

vs.

PARIS LAS VEGAS OPERATING
COMPANY, LLC, a Nevada limited liability
company,

Defendant.

PARIS LAS VEGAS OPERATING
COMPANY, LLC, a Nevada limited liability
company,

Counterclaimant.

vs.

TPOV ENTERPRISES, LLC, a Delaware
Limited Liability Company, TPOV
ENTERPRISES 16, LLC, a Delaware Limited
Liability Company, Rowen Siebel, an
individual.

Counter-defendants.

CASE NO. 2:17-cv-00346-JCM-VCF

**STIPULATION AND ORDER TO
EXTEND DISCOVERY (Sixth
Request)**

Plaintiff/Counterdefendants TPOV Enterprises 16, LLC ("TPOV 16"), TPOV Enterprises, LLC ("TPOV"), and Rowen Seibel ("Seibel") and Defendant/Counterclaimant Paris Las Vegas Operating Company, LLC ("Paris") by and through their undersigned counsel of record, request an

1 order modifying the parties' Joint Discovery Plan and Scheduling Order, (ECF No. 17), as amended
2 November 3, 2017 (ECF No. 47), May 10, 2018 (ECF No. 55), November 13, 2018 (ECF No. 68),
3 and February 6, 2019 (ECF 84). This is the sixth stipulation to extend discovery. In compliance
4 with LR IA 6-1 and LR 26-4, the parties submit as follows:

5 **1. STATEMENT OF DISCOVERY COMPLETED TO DATE.**

- 6 • The parties both served their initial disclosures on June 12, 2017.
- 7 • Paris served its first supplemental disclosures on June 14, 2017.
- 8 • TPOV 16 served its first supplemental disclosures on June 20, 2017.
- 9 • On September 22, 2017, the parties exchanged proposed search terms for
10 electronic discovery.
- 11 • On October 4, 2017, the parties met and conferred on proposed search terms.
- 12 • On October 12, 2017, the parties exchanged revised search terms for electronic
13 discovery.
- 14 • On October 12, 2017, the parties met and conferred on revisions to the proposed
15 search terms.
- 16 • On October 23, 2017, TPOV 16 provided further revisions to search terms for
17 electronic discovery.
- 18 • On October 31, 2017, Paris represented to TPOV 16 that Paris would be
19 proceeding with running TPOV 16's search terms for electronic discovery and
20 would present preliminary results to TPOV 16 in the near future.
- 21 • On November 9, 2017 TPOV 16 served its First Set of Request for Production of
22 Documents on Paris.
- 23 • On December 4, 2017 TPOV 16 served its First Set of Interrogatories on Paris.
- 24 • On December 13, 2017, Paris served its Responses to TPOV 16's First Set of
25 Request for Production of Documents.
- 26 • On January 9, 2017, Paris served its Responses to TPOV 16's First Set of
27 Interrogatories.

- 1 • On January 16, 2018, TPOV 16 issued a subpoena to third-party Trisha
2 Thompson.
- 3 • On January 16, 2018, TPOV 16 issued a subpoena to third-party Markita Thompson.
- 4 • On February 1, 2018, Trisha Thompson served her objections to TPOV 16's
5 subpoena.
- 6 • On February 1, 2018, Markita Thompson served her objections to TPOV 16's
7 subpoena.
- 8 • On February 9, 2018, Paris requested additional revisions to the proposed search
9 terms due to the volume of results.
- 10 • On February 12, 2018, TPOV 16 provided further revisions to search terms for
11 electronic discovery.
- 12 • On February 22, 2018, Paris proposed categories of documents to respond to
13 TPOV 16's discovery requests.
- 14 • On February 28, 2018, Paris served its First Set of Requests for Production of
15 Documents to Seibel.
- 16 • On February 28, 2018, Paris served its First Set of Requests for Production of
17 Documents to TPOV.
- 18 • On February 28, 2018, Paris served its First Set of Requests for Production of
19 Documents to TPOV 16.
- 20 • On March 2, 2018, TPOV 16 agreed to Paris' proposed categories of documents
21 to respond to TPOV 16's discovery requests.
- 22 • On April 3, 2018, TPOV served its Response to Paris' First Set of Requests for
23 Production of Documents.
- 24 • On April 3, 2018, TPOV 16 served its Response to Paris' First Set of Requests for
25 Production of Documents.
- 26 • On April 3, 2018, Seibel served his Response to Paris' First Set of Requests for
27 Production of Documents.
- 28

- 1 • On April 4, 2018, Paris filed a Motion to Stay Pending Resolution of Parallel State
- 2 Court Action (ECF No. 49).
- 3 • On April 4, 2018, TPOV 16 requested to provide categories of documents to
- 4 respond to Paris' discovery requests.
- 5 • On April 4, 2018, Paris responded to TPOV 16's request regarding proposed
- 6 categories of documents to respond to Paris' discovery requests.
- 7 • On April 6, 2018, TPOV and Seibel served their first production of documents.
- 8 • On May 4, 2018, Paris served its second supplemental disclosures.
- 9 • On May 7, 2018, Paris served its First Supplemental Responses to TPOV 16's First
- 10 Set of Interrogatories.
- 11 • On May 24, 2018, TPOV 16 filed its Motion to Compel Responses to Interrogatories
- 12 (ECF No. 56).
- 13 • On June 21, 2018, the Court granted, in part, and denied, in part, TPOV 16's Motion
- 14 to Compel Responses to Interrogatories (ECF No. 64).
- 15 • On July 12, 2018, Paris served its Second Supplemental and Amended Responses
- 16 to Plaintiffs' Interrogatories.
- 17 • On August 3, 2018, TPOV and Seibel served eight (8) notices of deposition on Paris.
- 18 • On August 3, 2018, TPOV and Seibel served its Second Supplemental Initial
- 19 Disclosures.
- 20 • On October 19, 2018, Paris served its Third Supplemental and Amended Responses
- 21 to Plaintiffs' Interrogatories.
- 22 • On October 22, 2018, the Court denied Paris' Motion to Stay Pending Resolution
- 23 of Parallel State Court Action (ECF No. 65).
- 24 • On December 5, 2018, TPOV 16 served its First Set of Requests for Production of
- 25 Documents to Paris.
- 26 • On December 5, 2018, TPOV 16 issued a subpoena to third-party Gordon Ramsay.
- 27 • On December 5, 2018, TPOV 16 issued a subpoena to third-party Gordon Ramsay
- 28 Holdings, Ltd.

- 1 • On December 12, 2018, TPOV 16 filed its Motion to Compel Responses to
- 2 Subpoenas Duces Tecum (ECF No. 69).
- 3 • On December 12, 2018, Trisha Thompson and Markita Thompson filed their
- 4 Motion to Quash Deposition Subpoenas or for Protective Order (ECF No. 71).
- 5 • On December 13, 2018, TPOV 16 served its third supplemental disclosures.
- 6 • On December 20, 2018, Paris served its First Set of Requests for Admission to
- 7 TPOV.
- 8 • On December 20, 2018, Paris served its First Set of Requests for Admission to
- 9 Rowen Seibel.
- 10 • On December 20, 2018, Paris served its First Set of Interrogatories to TPOV 16.
- 11 • On December 20, 2018, Paris served its First Set of Interrogatories to TPOV.
- 12 • On December 20, 2018, Paris served its First Set of Interrogatories to Rowen
- 13 Seibel.
- 14 • On December 31, 2018, Gordon Ramsay served his objections to TPOV 16's
- 15 subpoena.
- 16 • On December 31, 2018, Gordon Ramsay Holdings, Ltd. served its objections to
- 17 TPOV 16's subpoena.
- 18 • On January 4, 2019, Paris served its responses to TPOV 16's Second Set of
- 19 Requests for the Production of Documents.
- 20 • On January 22, 2019, TPOV served its responses to Paris' first set of requests for
- 21 admission.
- 22 • On January 22, 2019, Rowen Seibel served his responses to Paris' first set of
- 23 requests for admission.
- 24 • On January 22, 2019, TPOV 16 served its responses to Paris' first set of
- 25 interrogatories.
- 26 • On January 22, 2019, TPOV served its responses to Paris' first set of
- 27 interrogatories.
- 28

- 1 • On January 22, 2019, Rowen Seibel served his responses to Paris' first set of
- 2 interrogatories.
- 3 • The parties filed their Joint Interim Status Report on February 11, 2019.
- 4 • On January 24, 2019, Paris served its fourth supplemental disclosures.
- 5 • On February 28, 2019 Paris and nonparties Trisha Thompson and Markita
- 6 Thompson served declarations to TPOV 16 pursuant to the Court's Order entered
- 7 on January 29, 2019 (ECF 83).
- 8 • On March 5, 2019, TPOV, TPOV 16, and Seibel served their final supplemental
- 9 disclosures.
- 10 • The parties have also discussed scheduling dates for 20 witnesses¹:

11 2. **SPECIFIC DESCRIPTION OF DISCOVERY THAT REMAINS TO BE**
12 **COMPLETED.**

13 The parties anticipate completing the production of documents, serving privilege logs,
14 propounding and responding to additional written discovery, conducting depositions, engaging in
15 expert discovery, and conducting third-party document and deposition discovery.

16 3. **DISCOVERY REMAINING CANNOT BE COMPLETED WITHIN THE TIME**
17 **LIMITS SET BY THE DISCOVERY PLAN.**

18 Initially, the parties agreed to extend the discovery cut-off deadline because a stay order was
19 in place from the outset of the action. (ECF No. 23.) In particular, this Court's order provided for a
20 stay of all discovery except initial disclosures and jurisdictional discovery. The stay was lifted on
21 July 5, 2017, when the Court ruled on Paris' Motion to Dismiss. (ECF No. 30.) Since the stay was
22 lifted, the parties entered into a Stipulated Protocol Governing Production of Electronically Stored
23 Informed (ESI) and a Stipulated Confidentiality Agreement and Protective Order. (See ECF No. 26
24 and ECF No. 29.) Additionally, the parties have exchanged search terms, continued to make rolling
25 productions of supplemental documents, served and responded to written discovery, met and
26 conferred on multiple occasions to resolve discovery disputes, engaged in motion practice regarding

27
28 ¹ The parties reserve all rights as to specific objections to these depositions.

1 discovery disputes, and begun discussing and noticing depositions. In addition, on or about August
2 9, 2018, the parties agreed to attempt to resolve this action, as well as a number of related actions
3 through mediation. The mediation was held on October 12, 2018. This action was not resolved.

4 The parties previously agreed to tiered discovery, so that expert discovery would proceed
5 after fact discovery was completed. To that end, the parties are in the process of scheduling 20
6 depositions before the close of fact discovery. While scheduling is ongoing, there are several factors
7 that have hampered the parties' efforts, including the witnesses' availability, the location of the
8 witnesses (several witnesses are located outside of the jurisdiction and will require travel), and
9 counsel's availability. In order to allow sufficient time to complete fact discovery, the parties
10 propose extending the present deadlines by 30 days to provide both parties with the time needed to
11 complete fact discovery in advance of expert discovery.

12 4. **PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY.**

13 The parties have agreed to a fact discovery cut-off date of May 9, 2019 and an expert
14 discovery cut-off date of July 8, 2019, with corresponding deadlines as follows:

	Current Deadline Date	Proposed Deadline Date
Fact Discovery Cut-off	April 9, 2019	May 9, 2019
Amend Pleadings/Add Parties	April 10, 2018	No Change
Expert Disclosures	May 9, 2019	June 7, 2019
Rebuttal Expert Disclosures	June 7, 2019	July 8, 2019
Dispositive Motions	August 9, 2019	September 6, 2019
Interim Status Report	February 11, 2019	No Change
Pre-Trial Order	September 6, 2019	October 6, 2019

23
24 If dispositive motions are filed, the joint pre-trial order shall be due thirty (30) days from the
25 entry of the court's rulings on the motions or by further order of the court. *See* LR 26-1(b)(5).
26
27
28

1 **5. GOOD CAUSE EXISTS TO EXTEND TIME TO COMPLETE DISCOVERY.**

2 A stipulation to extend discovery deadlines must be supported by a showing of good cause.
3 LR 26-4; *Branch Banking & Tr. Co. v. D.M.S.I., LLC*, 871 F.3d 751, 764 (9th Cir. 2017). "The good
4 cause inquiry focuses primarily on the [parties'] diligence." *Derosa v. Blood Sys., Inc.*, No. 2:13-CV-
5 0137-JCM-NJK, 2013 WL 3975764, at *1 (D. Nev. Aug. 1, 2013) (citation omitted). If, despite the
6 parties' diligence, discovery cannot reasonably be completed within the deadlines, good cause to
7 extend discovery exists. *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). Where
8 an extension is requested less than twenty-one (21) days before expiration of a deadline, a showing
9 of excusable neglect must be made. LR 26-4; *Derosa*, 2013 WL 3975764, at *1. "[W]hether neglect
10 is excusable is an equitable [question] that depends on at least four factors: (1) the danger of prejudice
11 to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the
12 reason for the delay; and (4) whether the movant acted in good faith." *Bateman v. U.S. Postal Serv.*,
13 231 F.3d 1220, 1223–24 (9th Cir. 2000); *Derosa*, 2013 WL 3975764, at *1 (applying Rule 60(b)(1)'s
14 definition of excusable neglect to LR 26-4).

15 The parties have been diligent in pursuing discovery. As stated above, a stay order prohibited
16 the parties from doing all but producing initial disclosures and engaging in jurisdictional discovery.
17 Since the stay was lifted and the previous scheduling order was entered, the parties have agreed to
18 the form of production for ESI, refined specific search terms in furtherance of ESI production, served
19 thousands of pages of documents, propounded to and responded to written discovery, engaged in
20 meet and confers regarding certain discovery disputes, engaged in motion practice regarding
21 discovery disputes, and served deposition notices. Additionally, the parties agreed to a mediation in
22 October 2018 to attempt resolve this action as well as related action. After the mediation was
23 unsuccessful, the parties are reengaging in discovery. Despite the diligence of all parties, the parties
24 have determined that more time than originally anticipated is necessary to complete fact discovery.
25 Indeed, despite the parties' diligence, discovery cannot reasonably be completed within the
26 deadlines, and good cause to extend discovery deadlines exists.

1 Any neglect assigned to the parties is excusable. First, there is no danger of prejudice. Both
2 parties agree that it is in their best interests to extend discovery deadlines. Second, the length of the
3 delay will not substantively impact the proceedings as the parties have been and continue to actively
4 conduct discovery. Third, the parties' delay in submitting the stipulation is excusable as they have
5 continued to actively engage in discovery. Finally, this proposed Stipulation and Order to extend
6 deadlines for discovery is made in good faith, with good cause, and not for purposes of unduly
7 delaying discovery or trial. Therefore, the parties respectfully request that this Court grant the
8 requested discovery extension.

9 DATED this 18th day of March, 2019.

DATED this 18th day of March, 2019.

10 PISANELLI BICE PLLC

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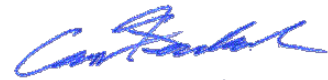
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Attorneys for TPOV Enterprises 16, LLC,
TPOV Enterprises, LLC and Rowen Seibel

ORDER

22 IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 3-19-2019