

1 ADAM K. BULT, ESQ., Nevada Bar No. 9332  
[abult@bhfs.com](mailto:abult@bhfs.com)  
 2 EMILY A. ELLIS, ESQ., Nevada Bar No. 11956  
[eellis@bhfs.com](mailto:eellis@bhfs.com)  
 3 MACKENZIE WARREN, ESQ., Nevada Bar No. 14642  
[mwarren@bhfs.com](mailto:mwarren@bhfs.com)  
 4 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
 100 North City Parkway, Suite 1600  
 5 Las Vegas, NV 89106-4614  
 Telephone: 702.382.2101  
 6 Facsimile: 702.382.8135

7 Attorneys for Defendants Five Star Restaurants, LLC; Westbury  
 Manor Enterprises, Inc.; Vincent Scotto; and Michelina Scotto  
 8

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 PHILADELPHIA INDEMNITY  
 INSURANCE COMPANY, a Pennsylvania  
 12 Corporation;

13 Plaintiff,

14 v.

15 FIVE STAR RESTAURANTS, LLC, a  
 Nevada limited liability company;  
 WESTBURY MANOR ENTERPRISES,  
 16 INC., a Delaware foreign business  
 corporation; VINCENT SCOTTO, an  
 17 individual; MICHELINA SCOTTO, an  
 individual; DOE INDIVIDUALS 1 through  
 18 10, inclusive; ROE BUSINESS ENTITIES  
 11 through 20, inclusive;

19 Defendants.  
 20

CASE NO.: 2:17-cv-00871-APG-PAL

**STIPULATION AND [PROPOSED]  
 ORDER TO CONTINUE HEARING ON  
 MOTION TO COMPEL**

**(Second Request)**

21 Defendants Five Star Restaurants, LLC, Westbury Manor Enterprises, Inc., Vincent  
 22 Scotto, and Michelina Scotto ("Defendants"), by and through their counsel of record the law firm  
 23 of Brownstein Hyatt Farber Schreck, LLP; and Plaintiff Philadelphia Indemnity Insurance  
 24 Company ("Plaintiff", together with Defendants, the "Parties"), by and through its counsel of  
 25 record The Faux Law Group, hereby stipulate and jointly request that the Court continue the  
 26 hearing on Philadelphia's Motion to Compel and For Sanctions (the "Motion") set for March 6,  
 27 2018 at 9:00 A.M. and extend the deadline for the Indemnitors to respond to the Motion.  
 28

**STIPULATION**

1  
2 1) On December 13, 2017, Philadelphia filed its Motion. (ECF No. 52).

3 2) The Parties extended the time for the Indemnitors to respond twice via Stipulation  
4 and Order. (ECF No. 56 and ECF No. 59).

5 3) During that time, the Parties worked diligently to resolve the discovery dispute.  
6 The Indemnitors provided additional Interrogatory Responses and Verifications. Additionally, the  
7 Parties worked towards mutually agreeable deposition dates and resolution of the fee issue raised  
8 in Philadelphia's Motion.

9 4) On January 31, 2018, the Indemnitors filed an Emergency Motion for Status  
10 Conference. (ECF No. 60).

11 5) On February 1, 2018, Judge Andrew P. Gordon held a Status Conference wherein  
12 he instructed, among other things, that \$676,189.00 be placed in escrow from a loan to be  
13 obtained by Westbury Manor Enterprises, Inc. (the "Loan"), that Philadelphia file any UCC  
14 releases necessary for the Loan to close, and that the Parties would negotiate in good faith  
15 regarding the distribution of the escrow funds.

16 6) Philadelphia provided a UCC-3 to Indemnitors and Indemnitors provided an  
17 executed copy of the escrow instructions, which reflect Judge Gordon's instructions. The Loan  
18 closed and the \$676,189.00 was placed in escrow. At that time, the Parties were hopeful that they  
19 could agree upon a distribution plan, and that the lawsuit, including the Motion, would be  
20 resolved.

21 7) As such, on February 5, 2018, the Parties filed a Stipulation and Order to Continue  
22 Hearing on Motion to Compel ("Stipulation"), seeking that the hearing on the Motion be  
23 continued for another 30 days to provide the Parties time to negotiate in good faith towards  
24 resolution.

25 8) The Court issued a Minute Order on February 5, 2018, granting the Stipulation and  
26 continuing the hearing on the Motion to March 6, 2018.

27 9) Thereafter, the Parties attempted to agree upon a distribution plan, but were  
28 unsuccessful.

**BROWNSTEIN HYATT FARBER SCHRECK, LLP**  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106-4614  
702.382.2101

1 10) Thus, the District Judge ordered the Parties to submit briefs on the issue on or  
2 before Thursday, March 8, 2018, and scheduled a hearing on the issue for March 13, 2018, at  
3 9:00 a.m.

4 11) Because the Parties have not reached a resolution of this issue, they hereby  
5 stipulate and jointly request that the Court continue the hearing on the Motion thirty (30) days,  
6 and that the Court set a briefing schedule for the Indemnitors to file a response to the Motion and  
7 Philadelphia to file a reply in support of the Motion.

8 12) Both Parties reserve all rights and defenses.

9  
10 DATED this 5th day of March, 2018.

DATED this 5th day of March, 2018.

11 BROWNSTEIN HYATT FARBER  
12 SCHRECK, LLP

THE FAUX LAW GROUP

13 By: /s/ Emily A. Ellis  
14 ADAM K. BULT, ESQ., #9332  
15 EMILY A. ELLIS, ESQ., #11956  
16 MACKENZIE WARREN, ESQ., #14642  
17 100 North City Parkway, Suite 1600  
18 Las Vegas, NV 89106-4614

By: /s/ Jordan F. Faux  
KURT C. FAUX, ESQ., #3407  
JORDAN F. FAUX, ESQ., #12205  
1540 W. Warm Springs Road, Suite 100  
Henderson, NV 89014

Attorneys for Plaintiff

Attorneys for Defendants

17 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the foregoing  
18 Stipulation is APPROVED.

19 IT IS FURTHER ORDERED that defendants shall have until **March 19, 2018**, to file a  
20 response to the motion, and plaintiff shall have until **March 26, 2018**, to file a reply. The hearing  
21 in this matter is **CONTINUED** from March 6, 2018, to **10:00 a.m., April 3, 2018**, in Courtroom  
22 3B.

23 Dated: March 5, 2018



Peggy A. Leen  
United States Magistrate Judge