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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

22 ARTHUR F. COYNE., on behalf of himself
23 and all others similarly situated,

24 Plaintiff,

25 vs.

26 STATION CASINOS LLC, a Nevada
27 Limited Liability Company, RED ROCK
28 RESORTS, INC., a Delaware Corporation,
and DOES 1 through 50, inclusive,
Defendants.

Case No.: 2:17-cv-01603-JAD-PAL

**STIPULATION AND [PROPOSED]
ORDER TO TOLL THE STATUTE OF
LIMITATIONS FOR FLSA CLAIMS
AND TO STAY ALL PROCEEDINGS
PENDING DECISION OF THE
SUPREME COURT OF THE STATE OF
NEVADA IN NEVILLE, JR. V. EIGHTH
JUDICIAL DIST. CT.**

ECF Nos. 10, 13

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Plaintiff, ARTHUR F. COYNE (“Plaintiff”) on behalf of himself and all others similarly situated, by and through his counsel of record, and Defendants STATION CASINOS LLC, a Nevada Limited Liability Company and RED ROCK RESORTS, INC., a Delaware Corporation (collectively, “Defendants”), by and through their counsel of record (Plaintiff and Defendants collectively referred to as the “Parties”), submit the below stipulation to stay all proceedings in the above captioned matter pending the Nevada Supreme Court’s decision in *Neville, Jr. v. Eighth Judicial Dist. Ct. (Terrible Herbst, Inc.)* Supreme Court Case No. 70696 (oral argument held on Monday, July 17, 2017) (“*Neville*”).

The purpose of the requested stay is to promote judicial economy and allow this Court to more effectively control the disposition of this action with economy of time and effort for itself, for counsel, and the litigants. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (U.S. 1936) (“the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants”); *Pate v. DePay Orthopedics, Inc.*, 2012 WL 3532780, at * 2 (D. Nev. Aug. 14, 2012) (“A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case”), citing *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

Resolution of the question presented in *Neville* may impact the Nevada wage and hour law issues in the present case. Accordingly, the Parties agree to and stipulate as follows:

- 1) Plaintiff sets forth various allegations and claims arising under the Fair Labor Standards Act (“FLSA”), Nevada Wage and Hour law, and Nevada contract law (“Plaintiff’s Claims”);
- 2) Plaintiff asserts his claims on behalf of himself and a group of allegedly similarly situated employees as a collective action under the FLSA and a Rule 23 class action under the Federal Rules of Civil Procedure;

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1 3) Defendants dispute and deny Plaintiff’s Claims, including whether the proposed
2 lawsuit can be maintained as either a Rule 23 class action or a FLSA collective action, and
3 specifically contend that Plaintiff does not have a private right of action to assert his Nevada
4 wage and hour law claims for the reasons set forth in Defendants’ Motion to Dismiss (ECF No.
5 10);

6 4) The Parties agree to stay all proceedings until the Nevada Supreme Court issues
7 a decision in *Neville* (the “Stay Period”);

8 5) The Parties further agree that the statute of limitations for all FLSA claims
9 asserted in the Complaint are tolled from the date the Court enters the requested stay in this action
10 until the Nevada Supreme Court a decision in *Neville*;

11 6) The Parties will have fourteen (14) days from the date of the Nevada Supreme
12 Court’s decision in *Neville* to file a status report with this Court to set an updated briefing schedule
13 for Defendants’ pending Motion to Dismiss (ECF No. 10); and

14 7) The Parties reserve all rights and defenses to which they are entitled as of the first
15 day of the Stay Period and this stipulation does not effect and is not intended to effect a waiver of
16 any such right or defense.

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1 This Stipulation is made in good faith and not for the purposes of undue burden or delay.
2 Dated: July 21, 2017.

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20 **ORDER**

21 **IT IS HEREBY ORDERED** that the Parties' Stipulation to stay this action and
22 to toll the statute of limitations for Plaintiff's FLSA claims is **granted**. This case is stayed until
23 further order of the court.

24 **IT IS FURTHER ORDERED** that, once the Nevada Supreme Court has issued the
25 remittitur in *Neville, Jr. v. Eighth Judicial Dist. Ct.*, Case No. 70696, either party may move to
26 lift this stay.
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IT IS FURTHER ORDERED that the pending motion to dismiss and request for judicial notice [ECF Nos. 10, 11] are denied without prejudice to the refileing of the motion to dismiss within 10 days of the order lifting stay. To the extent that the request for judicial notice is necessary to the motion to dismiss, the request for judicial notice should be incorporated into the motion to dismiss; the page limits in LR 7-3 apply.

Dated this 24th day of July 2017.



UNITED STATES DISTRICT COURT JUDGE

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