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 18 **UNITED STATES DISTRICT COURT,
 DISTRICT OF NEVADA**

19
 20 DANIEL GONZALEZ and JEFFREY
 HUGHES,

21 Plaintiffs,

22 vs.

23 DIAMOND RESORTS INTERNATIONAL
 24 MARKETING, INC., DIAMOND RESORTS
 INTERNATIONAL, INC., DIAMOND
 25 RESORTS CORPORATION, and WEST MAUI
 RESORTS PARTNERS, L.P.,

26 Defendants.

Case No. 2:18-cv-00979-APG-NJK

**DEFENDANTS' UNOPPOSED MOTION
 PURSUANT TO LOCAL RULE 7-3(C) TO
 FILE A SECOND MOTION FOR
 SUMMARY JUDGMENT THEREBY
 EXCEEDING LOCAL RULE 7-3(A)'S
 MOTION FOR SUMMARY JUDGMENT
 PAGE LIMIT**

1 Pursuant to Local Rule LR 7-3(c), Defendants Diamond Resorts International Marketing,
2 Inc. and West Maui Resorts Partners, L.P. (collectively “Defendants”) file this unopposed motion
3 to file a second Motion for Summary Judgment on grounds separate from their first Motion for
4 Summary Judgment (“First Motion”) and thereby exceed Local Rule LR 7-3(a)’s 30-page limit
5 for motions for summary judgment. This motion is accompanied by the required declaration,
6 attached hereto as Exhibit A. The factors set forth in the declaration, all of which are
7 incorporated herein by reference, establish good cause to allow Defendants to exceed the
8 collective 30-page motion for summary judgment page limit. Thus, Defendants request the Court
9 grant this motion.

10 This is a complex class and collective action involving 620 Hawaii class members and
11 790 Opt-In Plaintiffs who assert wage and hour claims founded in state and federal law. On
12 March 19, 2021, Defendants filed a Motion for Summary Judgment or in the alternative, Partial
13 Summary Judgment addressing Defendants’ procedural defenses relating to the two named
14 plaintiffs and certain Hawaii class members and Opt-In Plaintiffs. (ECF No. 202.) Specifically,
15 Defendants’ First Motion addressed arguments that: (1) named plaintiff Daniel Gonzalez and
16 numerous Opt-in Plaintiffs are barred from participating in this collective action due to their
17 involvement as class members in a prior wage and hour class action settlement that released the
18 federal wage and hour claim at issue in this action, (2) several Opt-in Plaintiffs and Hawaii Class
19 Members are contractually barred from participating in this action by virtue of individual releases
20 they entered into with Defendants, (3) numerous Opt-in Plaintiffs are barred from participating in
21 this collective action because they were not employed by Defendants within the applicable statute
22 of limitations, and (4) named plaintiff Jeffrey Hughes and multiple Hawaii Class Members and
23 Opt-in Plaintiffs are barred from participating in this action due to judicial estoppel and/or a lack
24 of standing because they filed for bankruptcy and did not report their alleged entitlement to
25 overtime wages from Defendants and only the bankruptcy trustee has standing to pursue the
26 claims at issue in this action. Because the foregoing defenses related to numerous parties in this
27 action and Defendants needed to set forth material facts relating to the various individuals, as well
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1 as the applicable law, and apply that law, the First Motion required Defendants to use the
2 maximum 30-page limit LR 7-3(a) sets forth for motions for summary judgment.

3 Defendants intend to file a second Motion for Summary Judgment relating to their wage
4 and hour exemption and good faith defenses – both of which are completely unrelated to the
5 defenses raised in their First Motion - on Monday April 26. As in the First Motion, Defendants
6 will require adequate pages to include a statement of material facts, the applicable law, and to set
7 forth their legal arguments. Defendants anticipate the second Motion for Summary Judgment will
8 be 23-pages long. Because of the complex nature of this class and collective action, as well as the
9 level of factual detail and analysis needed to support Defendants’ defenses, Defendants could not
10 have raised all of their defenses in a single motion confined to 30 pages.

11 Defendants value brevity and this Court’s time. Defendants’ need to exceed the page limit
12 is not due to unnecessarily verbose drafting; rather, it is required to allow Defendants the space
13 necessary to fully argue their defenses and explain why the Court should grant summary
14 judgment in Defendants’ favor. Allowing Defendants to file a second motion for summary
15 judgment and/or exceed the page limit set forth in LR 7-3(a) also serves the interests of efficiency
16 and judicial economy by avoiding litigation of these defenses at trial.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on April 23, 2021, I caused a true and accurate copy of the foregoing,
3 **DEFENDANTS' UNOPPOSED MOTION PURSUANT TO LOCAL RULE 7-3(C) TO**
4 **FILE A SECOND MOTION FOR SUMMARY JUDGMENT THEREBY EXCEEDING**
5 **LOCAL RULE 7-3(A)'S MOTION FOR SUMMARY JUDGMENT PAGE LIMIT** to be
6 filed with the Clerk of the Court via the Court's CM/ECF system, which sent an electronic copy
7 of the same to the following counsel of record:

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24 Dated this 23rd day of April, 2021.

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26 _____
27 Karen Torres
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