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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

RACHEL SHEPPARD, an Individual, et al.,

Plaintiffs,

vs.

MANDALAY BAY, LLC, f/k/a
MANDALAY CORP., a Nevada Domestic
Limited Liability Company; MANDALAY
RESORT GROUP, a Nevada Corporation;
MGM RESORTS FESTIVAL GROUNDS,
LLC, a Nevada Domestic Limited-Liability
Company; MGM RESORTS VENUE
MANAGEMENT, LLC, a Nevada Domestic
Limited-Liability Company; MGM
RESORTS INTERNATIONAL, a Delaware
Corporation; and DOES/ROES 1 through 100

Defendants.

CASE NO.: A-18-769752-C

Judge: Hon. Linda M. Bell
Date of Hearing: September 30, 2020
Time of Hearing: 10:30 AM
Dept.: No.: 7

**ORDER GRANTING JOINT MOTION
FOR DETERMINATION OF GOOD
FAITH SETTLEMENT ON ORDER
SHORTENING TIME**

ORDER

1
2 The Court having heard and considered the Joint Motion for Good Faith Settlement
3 Determination on an Order Shortening Time filed by Plaintiffs and MGM Resorts International,
4 Mandalay Bay, LLC (formerly known as Mandalay Corporation), Mandalay Resort Group, MGM
5 Resorts Festival Grounds, LLC, and MGM Resorts Venue Management, LLC (collectively,
6 “MGM”), and based upon my prior order appointing the Honorable Jennifer Togliatti (Ret.) and
7 the Honorable Louis Meisinger (Ret.) as Special Masters and Claims Administrators to the
8 Settlement Agreement and BrownGreer PLC as Claims Processor to assist the Claims
9 Administrators with carrying out the Claims Administrators’ duties and responsibilities under the
10 Settlement Agreement, and based on my prior *in camera* review of the Settlement Agreement,
11 Claims Administrator Services Agreement, Claims Processor Agreement, Claims Processing
12 Protocol and settlement allocation process, including the Release and the Opt In Form, prepared
13 by the Claims Administrators with the assistance of the Claims Processor, and the draft Informed
14 Consent Letter, having found them all to be fair, reasonable, adequate, negotiated in good faith,
15 and in the best interests of Plaintiffs, and further noting that the implementation of the Settlement,
16 Claims Processing Protocol, and the settlement allocation process also appears fair, reasonable,
17 adequate, in good faith, and in the best interest of all interested parties, and finally noting the
18 extraordinary work and effort by counsel in this case to achieve the maximum amount available
19 to Claimants under the Settlement Agreement, despite having an immensely difficult, unique, and
20 tragic set of circumstances,

21
22 **THE COURT FINDS AS FOLLOWS:**

23 1. The amount of the settlement, eight-hundred million dollars (\$800,000,000.00), which
24 was reached after a lengthy mediation and extensive arms’-length negotiations, considering the
25 damages suffered by the Plaintiffs, the near-unanimous participation in the Settlement among
26 potential claimaints, and the legal complexities in the case, weighs in favor of a finding that the
27 Settlement was reached in good faith. *Doctors Company v. Vincent*, 120 Nev. 644, 98 P.3d 681
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1 (2004) (citing *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356 (1991); *In Re: MGM Grand*
2 *Hotel Fire Litigation*, 570 F. Supp. 913 (D. Nev. 1983)).

3 2. With this Settlement, MGM exhausted its insurance limit of seven-hundred fifty-one
4 million dollars (\$751,000,000.00), which weighs in favor of a finding that the Settlement was
5 reached in good faith. *Id.*

6 3. The allocation of the Settlement proceeds among the Plaintiffs is being facilitated
7 through an intricate, Court approved, Claims Protocol, involving Claims Administrators, the
8 Honorable Jennifer Togliatti (Ret.) and the Honorable Louis Meisinger (Ret.). The Protocol
9 details separate amounts for different types of injuries, and applies different factors, such as a
10 claimant's bills for past medical treatment, future medical treatment estimates, and loss of income,
11 to fairly and appropriately compensate each claimant's individual injuries, thus weighing in favor
12 of a finding that the Settlement was reached in good faith. *Id.*

13 4. Additionally, MGM's financial condition was not a factor in the determination of the
14 Settlement. In addition to MGM's full policy limits contributed to the Settlement, as a result of
15 the near-unanimous participation in the Settlement from potential Claimants, MGM agreed to
16 contribute forty-nine million dollars of its own funds, all weighing heavily in favor of a finding
17 that the Settlement was made in good faith. *Id.*

18 5. There is no evidence of fraud or collusion in this Settlement. The parties negotiated for
19 months, with the assistance of the Honorable Jennifer Togliatti (Ret.) and the Honorable Louis
20 Meisinger (Ret.) as mediators. The parties engaged in hard-fought litigation, reviewed extensive
21 records, and evaluated their respective risks in continued litigation before reaching the Settlement.
22 Plaintiffs' counsel sought input and advice from ethics experts to ensure that the Settlement
23 Agreement and associated documents complied with all ethical rules and guidelines, and the
24 experts concluded that the documents and Settlement complied with all potentially applicable
25 rules of legal ethics. Additionally, the parties appropriately selected the mediators to oversee
26 negotiations—a tactical, non-substantive decision that did not require client consent. Ethics
27 experts agree that Plaintiffs' counsel appropriately communicated with their clients throughout
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1 the course of the Settlement. As there is no evidence of fraud, collusion, or tortious conduct, there
2 is sufficient information to find that the Settlement was reached in good faith.

3 **IT IS ORDERED** that the Joint Motion for Good Faith Settlement Determination is
4 GRANTED;

5 **IT IS FURTHER ORDERED** that the Court finds the settlement between Plaintiffs,
6 MGM, Live Nation, and Contemporary Services Corporation (“CSC”) is a good faith settlement
7 within the meaning of NRS 17.245;

8 **IT IS FURTHER ORDERED** that, based on the Court’s finding of good faith, any and
9 all claims or potential claims against MGM, Live Nation, and/or CSC arising from the One
10 October incident for equitable indemnity and/or contribution by any alleged joint tortfeasor, as
11 well as all other claims seeking damages comparable to those recoverable in a contribution or
12 equitable indemnity action by any alleged joint tortfeasor, regardless of the claims’ actual title,
13 are barred; and
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1 Respectfully Submitted:
2

3 /s/ Bethany W. Kristovich

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