FRIEDMAN KAPLAN SEILER & ADELMAN LLP

PHILIPPE ADLER
padler@fklaw.com
212.833.1119

February 3, 2016

BY ECF

Hon. Shira A. Scheindlin
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *MeehanCombs Global Credit Opportunities Master Fund, LP v. Caesars Entertainment Corporation*, 14-cv-7091

BOKF, N.A. v. Caesars Entertainment Corporation, 15-CV-1561

UMB Bank, N.A. v. Caesars Entertainment Corporation, 15-CV-4634

Dear Judge Scheindlin:

We represent defendant Caesars Entertainment Corporation ("CEC"). On January 27, 2016, CEC filed a pre-motion letter requesting the Court's permission to move immediately to strike two of Plaintiffs' so-called "rebuttal" experts – Roberta S. Karmel and Michael W. Phillips. Plaintiffs responded by letter dated January 29, 2016. CEC submits this brief response to address three points raised by Plaintiffs' letter.

First, Plaintiffs' suggestion that the issues presented by CEC's letter should be briefed "as part of an overall *Daubert* briefing process" (Pl. Ltr. at 2) should be rejected because a motion to strike improper "rebuttal" expert testimony is not a *Daubert* motion. As the Court is aware, challenges to expert testimony under the *Daubert* framework principally concern the sufficiency of an expert's qualifications and/or the substantive bases of the expert's proffered opinion(s). CEC's proposed motion is not based on the sufficiency of the experts' qualifications or the substantive basis of their testimony, but upon the fact that their reports are not proper rebuttal, and were served in violation of Rule 26 and the Court's scheduling orders. Contrary to Plaintiffs' assertion, there is no need for these individuals to be deposed prior to briefing the issue; the issue can be decided based solely on the contents of their reports and the reports of the CEC experts that Plaintiffs' experts purport to rebut.

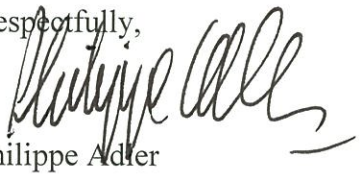
Second, Plaintiffs make no serious effort to respond to the key point in CEC's pre-motion letter that the testimony of these two purported experts is not appropriate rebuttal because the issue they address – the meaning of "substantially all" under Rule 1.02 of SEC Regulation S-X – is not the subject of any opinion offered by CEC's experts. Even apart

from the fact that the interpretation of a federal regulation is not an appropriate subject for expert opinions, there is no testimony on this issue for Plaintiffs to "rebut" (as Plaintiffs claim) from CEC's experts. Plaintiffs' reliance on the fact that the definition of "wholly owned subsidiary" under Rule 1.02 of Regulation S-X is incorporated by reference in the 2006 Indenture is neither here nor there. CEC's expert reports offer no opinions about the meaning of this language or the phrase "substantially all" under Rule 1.02 or otherwise.

Finally, Plaintiffs' contention that CEC has not demonstrated any prejudice is incorrect. CEC would have had the chance to retain experts to rebut Ms. Karmel and Mr. Phillips' affirmative opinions, had those opinions been offered by the deadline for affirmative expert disclosures. CEC is also prejudiced because, with 14 days left to finish expert discovery and six weeks left until trial, it must devote time to discovery and/or motion practice regarding these improper experts.

For the reasons stated above and in CEC's pre-motion letter, CEC respectfully requests the Court's permission to move immediately to strike the expert reports of Ms. Karmel and Mr. Phillips and to preclude each from testifying at trial. In the interests of time, and given the straightforward nature of the issue, CEC is also prepared to have the Court rule on the issue based on the parties' letters.

Respectfully,



Philippe Adler

cc: Plaintiffs' Counsel