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9	DISTRICT COURT	
10	CLARK COUNTY, NEVADA	
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12	CABO PLATINUM, LLC, a Nevada limited liability company,	Case No.: A-24-892991-B Dept. No.: 16
13	Plaintiff,	ORDER GRANTING PRELIMINARY
14	v.	Injunction
15	DAVID OANCEA, an individual; VVD123, LLC, a Nevada limited liability company;	
16	Does 1–10; Roe Entities 1–10,	
17	Defendants.	
18	On May 30, 2024, at 9:30 a.m., this Court heard oral argument on Cabo Platinum,	
19	LLC's Motion for Preliminary Injunction on Order Shortening Time. Cabo Platinum, LLC	
20	appeared through its attorneys of record, McNutt Law Firm, P.C.; David Oancea and VVD123,	
21	LLC appeared through their attorneys of record, TALG, NV, LTD. Cabo Platinum filed its	
22	motion on May 14, 2024. Oancea and VVD123 filed their opposition on May 22, 2024. Cabo	
23	Platinum filed its reply on May 28, 2024. Having reviewed the papers and pleadings on file,	
24	the exhibits attached thereto, having heard the arguments of counsel, being fully advised, and	
25	good cause appearing, this Court finds and rules as follows:	
26	I. FINDINGS OF FACT	
27	1. Cabo Platinum, LLC is a Nevada limited liability company formed on November	
28	15, 2019.	

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The phrase surplus funds refers to a positive balance in one or more of Oancea's Property accounts after crediting all income a Property generated and subtracting any expenses incurred in providing goods or services to the Property.

Oancea directed Cabo Platinum to use surplus funds to pay some or all of

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a.

1	b. VVD2 for April 26–29 and May 1–3 for which Cabo Platinum paid Oan-	
2	cea \$21,120 and \$8,400 respectively.	
3	c. VVD3 for April 27–30, May 2–5, and May 13–17, for which Cabo Plati-	
4	num paid Oancea \$30,000, \$30,000, and \$32,000 respectively.	
5	21. None of these guests were allowed to stay at the Properties they had rented, and	
6	Cabo Platinum had to accommodate them in comparable rental properties at its own expense.	
7	22. At the time Oancea made this statement, Cabo Platinum had already accepted	
8	fifty percent deposits and paid Oancea his portion for the following reservations:	
9	a. Reservations for VVD1	
10	i. May 24–27, \$4,380 paid to Oancea.	
11	ii. June 7–10, \$4,380 paid to Oancea.	
12	iii. June 20–23, \$4,380 paid to Oancea.	
13	iv. July 18–21, \$4,161 paid to Oancea.	
14	b. Reservations for VVD2	
15	i. May 9–12, \$12,600 paid to Oancea.	
16	ii. June 6–9, \$10,200 paid to Oancea.	
17	iii. June 12–16, \$12,800 paid to Oancea.	
18	iv. June 20–23, \$9,000 paid to Oancea.	
19	v. October 3-6, \$5,600 paid to Oancea.	
20	c. Reservations for VVD3	
21	i. June 7–12, \$21,900 paid to Oancea.	
22	ii. June 14–18, \$20,000 paid to Oancea.	
23	iii. June 24–27, \$15,000 paid to Oancea.	
24	iv. June 28–July 3, \$21,900 paid to Oancea.	
25	v. August 29–September 1, \$15,000 paid to Oancea.	
26	vi. December 22–January 1, 2025, \$72,607.50 paid to Oancea.	
27	vii. January 30–February 2, 2025, \$15,000 paid to Oancea.	
28	23. At its own expense, Cabo Platinum has had to re-accommodate some of these	

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of Washoe Cnty., 138 Nev. Adv. Op. 72, 522 P.3d 453, 458 (Nev. Ct. App. 2022).

Restatement (Second) of Contracts § 17(1) (1981).

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Id. § 19(1).

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Mtg. v. McDonald, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981)).

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Topaz Mut. Co. v. Marsh, 108 Nev. 845, 856, 839 P.2d 606, 613 (1992) (quoting Unionamerica

J.J. Industries, LLC v. Bennet, 119 Nev. 269, 274, 71 P.3d 1264, 1267 (2003).

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#### C. Cabo Platinum Will Suffer Irreparable Harm in the Absence of an Injunction.

- 50. Acts that "unreasonably interfere with a business or destroy its credit or profits"—including acts that create confusion or harm a business's goodwill or reputation—cause irreparable harm. 11
- 51. Oancea and VVD123 have created confusion and harmed Cabo Platinum's reputation by (i) advertising the Properties for rent on days for which Cabo Platinum has already booked and paid deposits for rentals; (ii) causing a guest to cancel her reservation; (iii) contacting a guest and telling her Cabo Platinum had not paid her for her reservation; (iv) telling this guest to demand a refund from Cabo Platinum and then pay them directly (even though Oancea had already been paid); (v) causing a guest to lose confidence in Cabo Platinum and inform other potential guests of his doubts about Cabo Platinum; and (vi) causing a guest to doubt he will ever use Cabo Platinum again and state that the last minute uncertainty and change in his reservation had damaged Cabo Platinum's reputation in his mind.
- 52. Cabo Platinum's principals have heard from other industry operators that its reputation has been harmed by Oancea and VVD123's actions.
- 53. Cabo Platinum will continue to suffer irreparable harm to its reputation in the absence of an injunction, and there is no adequate remedy at law for this harm.

#### D. The Public Interest and Balance of the Harms Favor Injunctive Relief.

- In determining whether to issue an injunction, the Court may also "weigh the 54. public interest and the relative hardships of the parties in deciding whether to grant a preliminary injunction."12
- 55. The public interest favors the enforceability of contracts such as the Rental Contract.13

<sup>11</sup> Sobol, 102 Nev. at 446, 726 P.2d at 337.

<sup>12</sup> Clark Cnty. Sch. Dist. v. Buchanan, 112 Nev. 1146, 1150, 924 P.2d 716, 719 (1996).

Lowe Enters. Residential Partners v. Eighth Jud. Dist. Ct., 118 Nev. 92, 100, 40 P.3d 405, 410 (2002).

56. The balance of the harms favors injunctive relief because Oancea would benefit from the additional payments for Property rentals, while Cabo Platinum will continue to suffer damages without injunctive relief.

## E. Oancea's Arguments Do Not Support Denying Injunctive Relief.

## 1. The first-to-file rule does not bar this Court from ruling on this motion.

- 57. Oancea argues that his complaint against Cabo Platinum bars this Court from ruling on Cabo Platinum's motion because it was filed in another department of the Eighth Judicial District of Nevada a day before Cabo Platinum's complaint.
- 58. Oancea's citation to the first-to-file rule does not support this position because this doctrine only applies when competing complaints are filed in different districts.<sup>14</sup>
- 59. Under EDCR 2.50, the potential consolidation of Oancea's action with this one does not affect this Court's ability to rule on Cabo Platinum's motion.

# 2. The Court has jurisdiction to grant Cabo Platinum's motion.

- 57. Oancea argues that this Court cannot grant Cabo Platinum's motion because it has no *in rem* jurisdiction over the Properties.
- 58. This action is not *in rem* because it does not seek to affect the title to Oancea's Properties.
- 59. This Court needs only personal jurisdiction over Oancea to enjoin his actions affecting property under his control or ownership, regardless of the property's location. <sup>15</sup>

Mesi v. Mesi, 136 Nev. 748, 752, 478 P.3d 366, 370 (2020) (analyzing the "first-to-file" rule where competing complaints for divorce had been filed in California and Nevada).

Lewis v. Lewis, 71 Nev. 301, 306, 289 P.2d 414, 417 (1955) (stating the court has control over out-of-state property because it had personal jurisdiction over the property's owner); Buaas v. Buaas, 62 Nev. 232, 236, 147 P.2d 495, 496 (1944) ("A court of equity having authority to act upon the person may indirectly act upon real estate in another state . . .") (quoting Fall v. Eastin, 215 U.S. 1, 8 (1909)); French v. Hay, 89 U.S. 250, 252–53 (1874) ("The court having jurisdiction in personam had power to require the defendant to do or to refrain from doing anything beyond the limits of its territorial jurisdiction which it might have required to be done or omitted within the limits of such territory.); U.S. v. First Nat. City Bank, 379 U.S. 378, 384 (1965) ("Once personal jurisdiction of a party is obtained, the District Court has authority to order it to 'freeze' property under its control, whether the property be within or without the United States."); see also Gucci America, Inc. v. Weixing Li, 768 F.3d 122, 129 (2d Cir. 2014) (noting "personal jurisdiction over the defendants, not the Bank, is all that was needed for the district court to restrain the defendants' assets pending trial").

- 60. There is no dispute that the Court has personal jurisdiction over Oancea as he admits he is a Clark County, Nevada resident.<sup>16</sup>
- 61. Oancea has not presented any evidence that issues of comity would deprive this Court of jurisdiction to grant Cabo Platinum's motion.
- 62. The prior exclusive jurisdiction doctrine is inapplicable because it only applies to competing actions *in rem*.

#### F. The Bond.

- 63. A bond protects a party "from damages incurred as a result of a wrongful injunction." <sup>17</sup>
  - 64. Oancea has presented no evidence supporting his request for a \$2,000,000 bond.
- 65. The Court finds minimal, if any, risk of harm to Oancea from an injunction because Oancea will get paid for the rentals he must permit.
  - 66. The Court finds a bond of \$10,000 is adequate.

ACCORDINGLY, IT IS ORDERED that Cabo Platinum's Motion for Preliminary Injunction on Order Shortening Time is granted in its entirety. IT IS FURTHER ORDERED that Oancea and VVD 123, LLC are enjoined from (i) blocking Cabo Platinum's employees and guests from accessing the Properties on the dates that Cabo Platinum has already confirmed and paid deposits for rentals; <sup>18</sup> and (ii) from any action, directly or indirectly, that would interfere with the already agreed-upon rentals at the Properties, including but not limited to listing or booking the Properties for rent with other agencies on dates Cabo Platinum already booked. <sup>19</sup>

IT IS FURTHER ORDERED that Cabo Platinum shall staff the booked rentals as has been customary under the Rental Contract and as reflected in the monthly statements for each Property, and shall be compensated at the rates already agreed upon.

<sup>&</sup>lt;sup>16</sup> Compl. and Demand for Jury Trial, Case No. A-24-892924-B, Dkt.1 ¶ 1 (May 8, 2024).

<sup>&</sup>lt;sup>17</sup> Am. Bonding v. Roggen Enters., 109 Nev. 588, 591, 854 P.2d 868, 870 (1993)).

See  $\P20$ , supra. This injunction applies only to future rentals in this paragraph.

<sup>&</sup>lt;sup>19</sup> *Id*.

A-24-892991-B Order Granting Preliminary Injunction 1 IT IS FURTHER ORDERED that Cabo Platinum shall post a \$10,000 bond. Dated this 17th day of June, 2024 2 IT IS SO ORDERED Junt C. W.C. 3 4 D70 D0D 4F29 B24B **Timothy C. Williams** 5 **District Court Judge** Respectfully Submitted by: 6 7 MCNUTT LAW FIRM, P.C. 8 9 /s/ Dan McNutt Daniel R. McNutt, Esq., Bar No. 7815 10 Matthew C. Wolf, Esq., Bar No. 10801 Mark D. Hesiak, Esq., Bar No. 12397 11 11441 Allerton Park Drive, Suite 100 12 Las Vegas, Nevada 89135 Counsel for Plaintiff Cabo Platinum, LLC 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27

1 **CSERV** 2 DISTRICT COURT 3 CLARK COUNTY, NEVADA 4 5 Cabo Platinum, LLC, Plaintiff(s) CASE NO: A-24-892991-B 6 DEPT. NO. Department 16 VS. 7 8 David Oancea, Defendant(s) 9 10 **AUTOMATED CERTIFICATE OF SERVICE** 11 This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Granting Preliminary Injunction was served via the court's 12 electronic eFile system to all recipients registered for e-Service on the above entitled case as 13 listed below: 14 Service Date: 6/17/2024 15 Ismail Amin, Esq. iamin@talglaw.com 16 Lisa Heller lah@mcnuttlawfirm.com 17 drm@mcnuttlawfirm.com Dan McNutt 18 Matt Wolf mcw@mcnuttlawfirm.com 19 Peter Gilmore pgilmore@talglaw.com 20 21 Marian Massey mmassey@talglaw.com 22 Jaklin Guyumiyan jguyumjyan@talglaw.com 23 Kavita Narh knarh@talglaw.com 24 Eran Forster eforster@talglaw.com 25 Mark Hesiak mdh@mcnuttlawfirm.com 26 Holland Hudson hhudson@talglaw.com 27