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County of San Diego
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Clerk of the Superior Court
By Georgia Dixon-Cosby, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO

11 DARRELL PILANT,

12 Plaintiff,

13 v.

14 CAESARS ENTERPRISE SERVICES, LLC, a
15 limited liability corporation; CAESARS
16 ENTERTAINMENT, INC. a corporation;
17 and DOES 1 through 20, inclusive,

18 Defendants

Case No. 37-2020-00030558-CU-WT-CTL

COMPLAINT

1. Wrongful termination in violation of public policy
2. Violation of Cal. Labor Code § 6310
3. Violation of Cal. Labor Code § 1102.1
4. Breach of written employment agreement

19 Plaintiff Darrell Pilant ("Mr. Pilant" or "Plaintiff") hereby alleges as follows:

20 INTRODUCTION

21 1. This is a "whistleblower" employment law action in which Mr. Pilant, among
22 other things, alleges that CAESARS constructively terminated his employment because he
23 opposed and refused to carry out CAESARS' directive to re-open Harrah's Resort Southern
24 California ("Harrah's Resort SoCal") at a time when Mr. Pilant reasonably believed, and
25 government officials (including California Governor Gavin Newsom) as well as medical and
26 scientific experts also believed, that doing so would endanger the health and safety of
27 employees and the public in light of the wide-spread and dangerous COVID-19 pandemic.
28 Rather than carry out the illegal and dangerous directive of his employer, Mr. Pilant had no
alternative but to resign his long-time employment with CAESARS.

PARTIES AND VENUE

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3. Plaintiff Darrell Pilant is an individual who currently resides in, and at the time of the constructive termination of employment described herein resided in, San Diego County, California.

4. Defendant CAESARS ENTERPRISE SERVICES, LLC ("CEC") is, and at the time of the constructive termination of employment described herein was, a limited liability corporation headquartered in Las Vegas, Nevada, and doing business in San Diego County, California and elsewhere. CEC was Mr. Pilant's employer at the time of the constructive termination of his employment. At that time, Caesars Entertainment Corporation was CEC's ultimate parent company.

5. Defendant CAESARS ENTERTAINMENT, INC. ("CZR") is a Delaware corporation headquartered in Las Vegas, Nevada, and doing business in San Diego County, California and elsewhere. On or about July 20, 2020, CZR (formerly known as Eldorado Resorts, Inc.) completed its acquisition of Caesars Entertainment Corporation and became the ultimate parent company of CEC.

6. CEC and Caesars Entertainment Corporation (now CZR) were the joint employers of Mr. Pilant at the time of the constructive termination of his employment and are collectively referred to herein as "CAESARS" or the "Company". Mr. Pilant is informed and believes that Caesars Entertainment Corporation (and now CZR) controlled the business of CEC and was involved in and/or made the decision to re-open Harrah's Resort SoCal.

7. Mr. Pilant does not know the true names and capacities of the Defendants sued herein as DOES 1 through 20, inclusive, and he therefore sues these Defendants by fictitious names. Mr. Pilant alleges upon information and belief that each of the fictitiously named Defendants is responsible in some manner for the acts or omissions alleged herein and that his damages were proximately caused by the acts or omissions of these Defendants.

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1 North Business Chamber, San Diego Food Bank, and Palomar Health Foundation). For the
2 past two years, Mr. Pilant has been named one of the Top 500 Influential Business Leaders in
3 San Diego by the San Diego Business Journal. In addition, Mr. Pilant served for more than 15
4 years in the United States Naval Reserves, attaining the rank of Lieutenant Commander.

5 14. In short, Mr. Pilant's job performance was extraordinary and his character and
6 veracity are unassailable.

7 FORCED RESIGNATION DUE TO COVID-19 HEALTH AND SAFETY RISKS

8 15. As will be discussed more fully below, Mr. Pilant was forced to resign his
9 employment because he opposed practices that he felt presented a serious risk to the health
10 and safety of employees (including himself) and the public in light of COVID-19. Namely, Mr.
11 Pilant expressed strong opposition to CAESARS' decision to reopen Harrah's Resort SoCal on
12 May 22, 2020, a decision that was contrary to the clear direction and advice of the Governor
13 of California and local government and health experts and officials. Mr. Pilant simply could
14 not, in good conscience, carry out CAESARS' instruction to reopen the facility, and he
15 therefore was compelled to resign.

16 16. Mr. Pilant is informed and believes that Harrah's Resort SoCal is owned by The
17 Rincon Band of Luiseño Indians, and that CEC contracts with the Rincon tribe and is
18 responsible for the management of and operation of Harrah's Resort SoCal and other
19 hotel/casino properties.

20 17. In early May 2020, Mr. Pilant was contacted by Rincon Tribal Chairman Bo
21 Mazzetti and was told that the San Diego tribes were going to inform California Governor
22 Gavin Newsom that they were planning to reopen all of their casinos on or after May 18,
23 2020. On May 8, 2020, the tribal leaders sent a letter to Governor Newsom and San Diego
24 County Board of Supervisors Chairman Greg Cox setting forth their plan. Throughout this
25 time frame, Mr. Pilant was repeatedly assured that the Governor and the County were "on
26 board" with the reopening.

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1 18. However, on May 17, 2020, Mr. Pilant saw a May 15, 2020 letter from
2 Governor Newsom which responded to the tribal leaders' letter. In his letter, Governor
3 Newsom strongly advised that the casinos not be reopened. Among other things, Governor
4 Newsom's letter states:

5 "[The plan to reopen casinos] deeply concerns me, and I urge tribal governments to
6 reconsider. ... I cannot stress enough that the risk of COVID-19 transmission remains a
7 serious threat for all Californians. ... [It] is in the best interest of public health to move
8 toward a reopening in concert [with California's phased reopening plan]."

9 19. The next day, May 18, 2020, Mr. Pilant forwarded Governor Newsom's letter
10 to CAESARS' management, including N. Lynne Hughes (VP Legal Affairs and Chief Legal
11 Officer), Robert Livingston (Regional President and Mr. Pilant's immediate supervisor) and
12 Tom Jenkin (Global President). Mr. Pilant expressed his health and safety concerns about
13 reopening in contravention of advice and counsel of Governor Newsom. Later that evening,
14 Mr. Pilant had a telephone call with Ms. Hughes and Mr. Livingston and was told that
15 CAESARS was going to proceed with the reopening on May 22, 2020. Mr. Pilant continued to
16 express his opposition to that decision, making it clear that he felt the reopening would be a
17 danger to the health and safety of CAESARS employees and the public.

18 20. Later that evening, on May 18, 2020, Mr. Livingston sent an email to Mr.
19 Pilant, with copies to Ms. Hughes and Mr. Jenkin, stating: "Did anyone else open today
20 besides Viejas and Jamul? I feel better about opening in defiance of the Governor with
21 others open." (Emphasis added.)

22 21. On May 19, 2020, Mr. Pilant telephoned Mr. Livingston and again reiterated
23 his concerns that reopening the casino posed a serious health and safety risk. Mr. Pilant told
24 Mr. Livingston that in good conscience he could not carry out the reopening and he felt he
25 had no choice but to resign. Mr. Livingston confirmed that he knew CAESARS' plan to reopen
26 was contrary to the advice of the Governor and he never once disagreed with Mr. Pilant
27 regarding his concerns about employee and public health and safety. Nevertheless, Mr.
28 Livingston urged Mr. Pilant to stay on and carry out the reopening. Mr. Pilant was resolute

1 that he could not execute a plan that he felt was unsafe for employee and the public. Mr.
2 Pilant submitted his resignation shortly after that telephone call.

3 22. On May 20, 2020, Mr. Jenkins contacted Mr. Pilant and had a telephone call
4 with him to try to persuade him to reopen the casino. Mr. Pilant again conveyed his
5 understanding that Governor Newsom was being advised by top health official and experts
6 who had far more data, knowledge and experience on these issues than CAESARS or the
7 tribes had. In the end, Mr. Pilant reiterated that it was a matter of "right and wrong" and
8 what CAESARS was doing was wrong, and that he could carry out the reopening and go back
9 to work at an unsafe workplace.

10 23. Mr. Pilant spent the next two days working with his resort executive team to
11 prepare for the reopening. He did so in order to try to mitigate the risks as best as he could
12 prior to the reopening. Mr. Pilant handed in his gaming badge and other company materials
13 to Mr. Livingston on May 21, 2020.

14 24. CAESARS opened Harrah's Resort SoCal on May 22, 2020, notwithstanding the
15 Governor's clear warnings and the serious health and safety risk to employees and the
16 public.

17 25. As discussed above, Mr. Pilant repeatedly expressed opposition to CAESARS'
18 reopening of Harrah's SoCal Resort, made complaints to management that the reopening
19 created a health and safety risk for employees, the public, and himself, and warned CAESARS
20 that reopening would likely lead to an outbreak of COVID-19 among employees who worked
21 at the facility and the public who patronized the facility. Mr. Pilant was forced to resign
22 because CAESARS continued to insist that he reopen the facility despite the health and safety
23 risks.

24 26. Under California law, when an employer intentionally creates or knowingly
25 permits working conditions to exist that are so intolerable that a reasonable person in the
26 plaintiff's position would have had no reasonable alternative except to resign, a
27 "constructive discharge" has occurred. There is no difference between an actual discharge
28 and a constructive discharge in the eyes of the law. Here, by insisting that Mr. Pilant reopen

1 the Harrah's Resort SoCal facility before it was safe and healthy to do so, and by requiring
2 Mr. Pilant to work in the Harrah's Resort SoCal facility after the reopening and expose
3 himself to serious health and safety risks, CAESARS created intolerable working conditions
4 which left Mr. Pilant with no reasonable alternative but to resign.

5 27. Mr. Pilant is informed and believes that the premature reopening of Harrah's
6 SoCal Resort and other hotel/casino properties owned and/or operated by CAESARS did in
7 fact result in serious adverse health and safety consequences involving employees and
8 customers contracting COVID-19.

9 FIRST CAUSE OF ACTION

10 (Wrongful Termination in Violation of Public Policy)

11 28. Mr. Pilant realleges and incorporates by reference the allegations of each of
12 the other paragraphs set forth in this Complaint.

13 29. Mr. Pilant reported and opposed conduct on the part of CAESARS that he
14 reasonably believed presented serious health and safety risks to employees, to the public,
15 and to himself.

16 30. The health and safety risks that Mr. Pilant reported and/or opposed as set
17 forth herein violated various state and federal statutes and regulations, including but not
18 limited to:

- 19 • Cal. Labor Code § 6400(a) which provides: "Every employer shall furnish
20 employment and a place of employment that is safe and healthful for the
21 employees therein."
- 22 • Regulations promulgated by the California Occupational Safety and Health
23 Administration ("Cal-OSHA").
- 24 • The General Duty Clause of the federal Occupational Safety and Health Act
25 ("OSHA") which provides that employers have the responsibility to provide a safe
26 and healthful workplace (see 29 U.S.C. § 654(a)(1)), as well as various OSHA
27 regulations.

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1 • California premises liability laws and regulations, including the general duty to
2 exercise due care codified in Cal. Civil Code § 1714(a) which provides: “Everyone is
3 responsible, not only for the result of his or her willful acts, but also for an injury occasioned
4 to another by his or her want of ordinary care or skill in the management of his or her
5 property or person.”

6 31. Mr. Pilant was forced to resign his employment rather than follow CAESARS’
7 directive to prematurely reopen the Harrah’s Resort SoCal facility despite the health and
8 safety risks presented by COVID-19. Accordingly, CAESARS constructively terminated Mr.
9 Pilant’s employment.

10 32. The constructive termination of Mr. Pilant’s employment with CAESARS was in
11 violation of the public policy of the State of California, embodied in the statutes and
12 regulations referenced above. The public policy violation was a substantial motivating
13 reason, if not the only reason, for the constructive discharge.

14 33. As a proximate result of Defendants’ conduct, Mr. Pilant has suffered and will
15 continue to suffer special damages (including, but not limited to, past and future losses in
16 compensation and employment benefits) in an amount exceeding the jurisdictional
17 minimum of this court, the exact amount to be proven at trial.

18 34. As a proximate result of Defendants’ conduct, Mr. Pilant has suffered and will
19 continue to suffer emotional distress and other general damages in an amount exceeding
20 the jurisdictional minimum of this court, the exact amount to be proven at trial.

21 35. Defendants’ conduct was oppressive, fraudulent and malicious, and was done
22 with a willful and conscious disregard for Mr. Pilant’s rights and the consequences of
23 Defendants’ actions. Mr. Pilant is therefore entitled to an award of punitive damages against
24 Defendants, and each of them, for the sake of example and by way of punishing Defendants.

25 36. If Mr. Pilant is the prevailing party, he is entitled to recover reasonable
26 attorney’s fees under Cal. Code of Civil Procedure § 1021.5 in that this action will have
27 resulted in the enforcement of an important right affecting the public interest.

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1. Special damages according to proof, including, but not limited to, past and future lost compensation and employment benefits.
2. General damages according to proof, including, but not limited to, damages for emotional distress and pain and suffering;
3. Punitive damages in an amount to be determined at trial;
4. Costs of suit pursuant to California Code of Civil Procedure § 1032 or within the discretion of the Court;
5. Attorney's fees pursuant to Cal. Code of Civil Procedure § 1021.5; and
6. Such other and further relief as is deemed proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all causes of action.

Dated: August 28, 2020

Respectfully submitted,

By  _____
Anthony F. Pantoni
Attorney for Plaintiff
Darrell Pilant