

No.

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**IN THE SUPREME COURT OF  
THE UNITED STATES**

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**SAUL & SHIRLEY LASSOFF, INDIVIDUALLY  
AND ON BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,**  
**PETITIONERS,**

**V.**

**MGM RESORTS INTERNATIONAL,  
RESPONDENT.**

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**On Petition for a Writ of Certiorari to the United  
States Court of Appeals for the Third Circuit**

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

1. Whether the New Jersey District Court (Camden) or Third Circuit Appellate Court erred by denying FIRST TO FILE handicap Petitioners a PRECLUSION ORDER to maintain their chosen venue of Camden New Jersey against an "International" corporation with unlimited resources without Discovery?

2. Whether the New Jersey District Court (Camden) or Third Circuit Appellate Court erred in not allowing FIRST TO FILE Petitioners the opportunity to **RESPOND** before (a) denying their PRECLUSION ORDER and/or (b) issuing its Opinion/Order which transferred venue across the United States from Camden New Jersey to the District of Nevada?

3. Whether the First To File Rule is available and enforceable for Petitioners to maintain their chosen venue and prevent Defendants from forum shopping and creating duplicate litigation?

## **PARTIES TO THE PROCEEDING**

Petitioners Lassoff et al were the First To File Class Action Plaintiffs in the United States District Court of New Jersey (Camden) and the Plaintiffs-appellants in the United States Court of Appeals for the Third Circuit.

Respondent MGM Resorts International was Defendant in the district court and the defendant appellant in the circuit court.

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## **TABLE OF AUTHORITIES**

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Clean Harbors, Inc. v. ACSTAR Ins. Co., 09-5175, 2010 WL 1930579, at \*6 (D.N.J. May 12, 2010).  
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## **PETITION FOR WRIT OF CERTIORARI**

Petitioners seek a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit.

### **OPINIONS BELOW**

The order of the Third Circuit court of appeals is Appendix "E". The district court's final order giving rise to this appeal is Appendix "C".

### **JURISDICTION**

The petition seeks review of the order dated September 20th, 2024 by the Third Circuit Court of Appeals in case No. 24-2060. This petition for a Writ of Certiorari was timely filed on March 10th, 2025. Court has jurisdiction under 28 U.S.C. §1254(1).

### **STATEMENT**

On May 22, 2024, the District Court entered a final ORDER in favor of Defendant MGM Resorts International completely ignoring, denying and ending Petitioners' ability to maintain their First To File venue in the District of New Jersey. No Discovery whatsoever was allowed by Petitioners; or provided by Defendant. The District of New Jersey is where First To File Petitioners are regular gambling, casino credit, and Gold Card member customers of Defendant MGM Resorts International.

FIRST TO FILE Petitioners allege that their personal/private information was



lost/stolen/misused/identity-theft due to negligence/breach of fiduciary duty/fraud of Defendant; see First To File Class Action Complaint attached hereto as Appendix "D".

First To File Petitioners also chose their venue in New Jersey because it is favorable to them as they are both handicap, have their New Jersey licensed attorney there; and have a home in New Jersey. It is unjust and unconscionable to allow MGM Resorts International, a multinational corporation with unlimited resources, to deny all Discovery whatsoever, maliciously delay, disregard, ignore and abuse Petitioners choice of venue in the District of New Jersey.

The Third Circuit Court of Appeals should have also noted handicap Petitioners were required to get the Honorable District Court Judge's advanced written permission to file any Motion whatsoever; per each District Court Judge's individual requirements; and or any Response whatsoever to same; and in this particular circumstance, a RESPONSE was NOT permitted/granted by said Judge; even though lack of same was mentioned as a basis for the District Court Judge's opinion/order.

### **REASONS FOR GRANTING THE PETITION**

On or about Sept 7th, 2023, Petitioners were exposed to identity fraud following the negligent mishandling of personal information by Defendant MGM Resorts International. The Defendant engaged in a scheme to hide their negligent handling of Plaintiffs' personal information.

Petitioners state the FIRST TO FILE rule is based on the principle that "in all cases of federal

concurrent jurisdiction, the court which first has possession of the subject must decide it.” See *EEOC v. University of Pennsylvania*, 850 F.2d 969, 971 (3d Cir. 1988) (citing *Crosley Corp. v. Hazeltine Corp.*, 122 F.2d 925, 929 (3d Cir. 1941)). “The first-filed rule encourages sound judicial administration and promotes comity among federal courts of equal rank.” See *EEOC*, 850 F.2d at 971. The Third Circuit explained: It is of obvious importance to all the litigants to have a single determination of their controversy, rather than several decisions which if they conflict may require separate appeals to different circuit courts of appeals. No party has a vested right to have his cause tried by one judge rather than by another of equal jurisdiction... The party who first brings a controversy into a court of competent jurisdiction for adjudication should, so far as our dual system permits, be free from the vexation of subsequent litigation over the same subject matter. The economic waste involved in duplicating litigation is obvious. Equally important is its adverse effect upon the prompt and efficient administration of justice. In view of the constant increase in judicial business in the federal courts and the continual necessity of adding to the number of judges, at the expense of the taxpayers, public policy requires us to seek actively to avoid the waste of judicial time and energy. See *Crosley*, 122 F.2d at 930. As to the issues presented by the related cases, the *Lassoff* case raises virtually the identical claims and seeks the same relief. To the extent that *Lassoff* seeks additional relief under state statutes, it is clear that *Lassoff* fully encompasses the action pending

before this Court; they are mirror images of each other. A determination in Lassoff would leave nothing to be determined in this action. The real dispute, however, turns on whether the parties in Lassoff are sufficiently similar to the parties in the other actions so that the “first-filed” rule applies. The district courts within this circuit are divided as to whether in a typical individual civil action the parties to successive law suits must be identical in order for the “first-filed” rule to apply. See Compare *Ivy Dry, Inc. v. Zanafel Lab., Inc.*, No. 08-4942, 2009 WL 1851028.

First To File Petitioners were FIRST TO FILE their Class Action Complaint in New Jersey Federal District Court. Plaintiffs are both elderly and in poor deteriorating health; handicap; and travel/mobility is extremely limited and difficult; requiring special facilities, arrangements, and equipment. Plaintiff Saul Lassoff is a United States Veteran. New Jersey District Court is the vicinity jurisdiction were representative Plaintiffs and Plaintiffs' witnesses are located; Defendant MGM Resorts International owns and operates its Casino in New Jersey; and Plaintiffs' attorney is licensed in New Jersey District Court, Third Circuit Court of Appeals, and the US Supreme Court. Defendant MGM may have other secondary lawsuits filed against it; however, Plaintiffs were FIRST TO FILE. The Lassoff action is not anticipatory; and the balance of conveniences tilts to the First-Filed action. The factors applied in this analysis are derived from and identical to the factors considered on a motion to transfer venue under 28

U.S.C. § 1404(a): (1) plaintiff's choice of forum, (2) convenience of the witnesses, (3) location of relevant documents and ease to sources of proof, (4) convenience of the parties, (5) operative facts, (6) availability of process to compel the attendance of unwilling witnesses and (7) relative means of the parties. See Sherman v. American Eagle Express, Inc., E.D. Pa. Civ. No. 09-575 (where the District Court transferred a first-filed case to the "First Filed" Court).

Petitioners are FIRST TO FILE and seek to remain and litigate their Class Action in New Jersey District Court. Allowing Defendant to relitigate venue across the United States could result in unscrupulous parallel suits to create time-consuming and expensive court battles over venue. Creating a venue dispute will delay the Court from entering a judgment on the merits and coerce Plaintiffs into settling by dramatically raising their litigation expenses. Litigating in New Jersey District Court will preserve judicial resources and avoid conflicting rulings on the same questions of law or fact. Under the first-filed rule, when two courts have jurisdiction over the same case, the court in which the case was first filed should be the court to hear it. The first-filed rule prevents duplicative litigation. By ensuring that parties to a single controversy handle their dispute in one forum, the rule prevents two courts of equal rank from issuing conflicting rulings and promotes judicial comity. The first-filed rule prevents the wasteful preclusion consequences that may arise from courts exercising concurrent

jurisdiction.

The Appeals Court should have entered Petitioners' PRECLUSION ORDER. A PRECLUSION ORDER constitutes a solution because it is not discretionary; and is preferable because it would not permit a U.S. District Court judge to overturn or ignore the decision of a peer judge in a court of coordinate rank. Granting a PRECLUSION ORDER applying the first-filed rule would not contradict Supreme Court precedent. All levels of the federal court system embrace preclusion as the best way to resolve district court disagreements about venue; and preclusion would prohibit district courts from overturning each other and stop litigants from using venue disputes to force adversaries to relitigate the same question across the country. If district court disagreements over venue reach the U.S. Circuit Courts of Appeal, the circuits generally hold they should have granted preclusive effect to their peers' earlier decisions.

The United States Supreme Court should honor the FIRST TO FILE RULE and prevent duplicative litigation from becoming a tool which wealthy litigants, such as Defendant MGM, bludgeon less wealthy adversaries, such as Petitioners, into settlement. A PRECLUSION ORDER honoring FIRST TO FILE would have best achieved that objective.

## CONCLUSION

The First To File Petition for a Writ of Certiorari

should be granted.

Respectfully submitted.

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## APPENDIX

## **TABLE OF APPENDIX**

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EMERGENCY MOTION TO PRECLUDE ALL OTHER VENUES & DUPLICATE LITIGATION AGAINST DEFENDANT MGM RESORTS INTERNATIONAL ONLY; AND ISSUE PROPOSED FIRST TO FILE PRECLUSION ORDER & TRANSFER REMAINING CASES TO NEW JERSEY DISTRICT COURT (CAMDEN) PURSUANT TO 28 U.S.C. §1404(A) AS TO DEFENDANT MGM RESORTS INTERNATIONAL ONLY" (District Court Document 31)

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### **APPENDIX "E":**

Order of Third Circuit Court of Appeals in case No. 24-2060 dated September 20, 2024. (1:23-cv-20419-JHR-AMD, Document 47)



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**APPENDIX "A"**

**EMERGENCY MOTION TO PRECLUDE ALL  
OTHER VENUES & DUPLICATE LITIGATION  
AGAINST DEFENDANT MGM RESORTS  
INTERNATIONAL ONLY; AND ISSUE PROPOSED  
FIRST TO FILE PRECLUSION ORDER &  
TRANSFER REMAINING CASES TO NEW  
JERSEY DISTRICT COURT (CAMDEN)  
PURSUANT TO 28 U.S.C. §1404(A) AS TO  
DEFENDANT MGM RESORTS INTERNATIONAL  
ONLY" (District Court Document 31)**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**SAUL & SHIRLEY LASSOFF, individually and on  
behalf of all others similarly situated, Plaintiffs, vs.  
MGM Resorts International**

**Civil Action No.: Case 1:23-cv-20419**

**EMERGENCY MOTION**

**BRIEF IN SUPPORT OF PLAINTIFFS  
EMERGENCY MOTION TO PRECLUDE ALL  
OTHER VENUES & DUPLICATE LITIGATION  
AGAINST DEFENDANT MGM RESORTS  
INTERNATIONAL ONLY; AND ISSUE PROPOSED  
FIRST TO FILE PRECLUSION ORDER &  
TRANSFER REMAINING CASES TO NEW  
JERSEY DISTRICT COURT (CAMDEN)  
PURSUANT TO 28 U.S.C. §1404(A) AS TO**

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**DEFENDANT MGM RESORTS INTERNATIONAL  
ONLY**

Pursuant to Local Rules, Plaintiffs, by and through its undersigned counsel, hereby respectfully request the District Court of New Jersey (Camden) to issue an EMERGENCY PRECLUSION ORDER AND TRANSFER REMAINING CASES TO NEW JERSEY DISTRICT COURT (Camden); and take judicial notice to maintain venue, jurisdiction and preclude all other venues and duplicate litigation against Defendant MGM Resorts International only, and state as follows:

1. Plaintiffs filed their Complaint & Amended Complaint on September 18<sup>th</sup> 2023. See Docket 1&2. Plaintiffs served their Summons, Complaint, and their Amended Complaint on September 22, 2022. See Docket 4. Defendants ANSWER was due October 13, 2023. See Docket 5. Plaintiffs voluntarily dismissed Defendant Caesars Entertainment Inc. without prejudice under F.R.C.P. 41(a)(1)(A)(i) on October 9<sup>th</sup>, 2023; before any responsive pleadings were filed by any Defendant; as the events surrounding the Amended Complaint occurred on completely different days/times; and Defendant MGM Resorts International (hereafter "MGM") has a totally different, separate & distinct corporate/computer system(s)/structure(s). Defendant MGM filed a "Motion For Extension Of Time To File Answer" on October 12<sup>th</sup>, 2023. See Docket 9. No responsive pleadings have been filed by Defendant MGM. Defendant MGM admits Plaintiffs

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were First To File.

The first-filed rule is based on the principle that “in all cases of federal concurrent jurisdiction, the court which first has possession of the subject must decide it.” See *EEOC v. University of Pennsylvania*, 850 F.2d 969, 971 (3d Cir. 1988) (citing *Crosley Corp. v. Hazeltine Corp.*, 122 F.2d 925, 929 (3d Cir. 1941)). To be applicable, the later-filed case must be “truly duplicative of the suit before the court.” [*Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997)]. That is, “the one must be materially on all fours with the other . . . . The issues must have such an identity that a determination in one action leaves little or nothing to be determined in the other.” See *Id. Grider v. Keystone Health Plan Cent., Inc.*, 500 F.3d 322 (3d Cir. 2007) (select internal punctuation and citation omitted). “The first-filed rule encourages sound judicial administration and promotes comity among federal courts of equal rank.” See *EEOC*, 850 F.2d at 971. The Third Circuit explained: It is of obvious importance to all the litigants to have a single determination of their controversy, rather than several decisions which if they conflict may require separate appeals to different circuit courts of appeals. No party has a vested right to have his cause tried by one judge rather than by another of equal jurisdiction... The party who first brings a controversy into a court of competent jurisdiction for adjudication should, so far as our dual system permits, be free from the vexation of subsequent litigation over the same subject matter. The economic waste involved in duplicating litigation is obvious. Equally important is its adverse effect upon

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the prompt and efficient administration of justice. In view of the constant increase in judicial business in the federal courts and the continual necessity of adding to the number of judges, at the expense of the taxpayers, public policy requires us to seek actively to avoid the waste of judicial time and energy. See *Crosley*, 122 F.2d at 930. As to the issues presented by the related cases, the *Lassoff* case raises virtually the identical claims and seeks the same relief. To the extent that *Lassoff* seeks additional relief under state statutes, it is clear that *Lassoff* fully encompasses the action pending before this Court; they are mirror images of each other. A determination in *Lassoff* would leave nothing to be determined in this action. The real dispute, however, turns on whether the parties in *Lassoff* are sufficiently similar to the parties in the other actions so that the “first-filed” rule applies. The district courts within this circuit are divided as to whether in a typical individual civil action the parties to successive law suits must be identical in order for the “first-filed” rule to apply. See *Compare Ivy Dry, Inc. v. Zanzel Lab., Inc.*, No. 08-4942, 2009 WL 1851028. The first-filed rule does not require exact identity of the parties. See *Nature's Benefit, Inc. v. NFI*, No. 06-4836, 2007 WL 2462625, at \*3 (D.N.J. Aug. 27, 2007) (parties must be “similar”). The Third Circuit has repeatedly applied the rule to cases involving the “same parties.” 241 F. Supp. 2d at 245 (citing *Triangle Conduit & Cable Co. v. Nat'l Elec. Prods., Corp.*, 125 F.2d 1008, 1009 (3d Cir. 1942) and *Remington Rand Corp. v. Bus. Sys., Inc.*, 830 F.2d 1274, 1276 (3d Cir. 1987)). “Considering that the

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plaintiffs are essentially the same, the defendants are the same, and the claims are the same, as was noted in *Crosley*, this case presents the potential for waste of judicial resources and the duplication of two court's efforts." See *Alvarez v. Gold Belt, LLC*, No. 08-4871, 2009 WL 1473933 (D.N.J. May 26, 2009).

2. **Plaintiffs were FIRST TO FILE their Class Action Complaint in New Jersey Federal District Court (Camden). Plaintiffs are both elderly and in poor deteriorating health; handicap; and travel/mobility is extremely limited and difficult; requiring special facilities, arrangements, and equipment. Plaintiff Saul Lassoﬀ is a United States Veteran. New Jersey District Court is the vicinity jurisdiction were representative Plaintiffs and Plaintiffs' witnesses are located; Defendant MGM Resorts International owns and operates its Casino in New Jersey; and Plaintiffs' attorney is licensed in New Jersey District Court, Third Circuit Court of Appeals, and the US Supreme Court.** Defendant MGM may have other secondary lawsuits filed against it; however, Plaintiffs were FIRST TO FILE. The Lassoﬀ action is not anticipatory; and the balance of conveniences tilts to the First-Filed action. The factors applied in this analysis are derived from and identical to the factors considered on a motion to transfer venue under 28 U.S.C. § 1404(a): (1) plaintiff's choice of forum, (2) convenience of the witnesses, (3) location of relevant documents and ease to sources of proof, (4) convenience of the parties, (5) operative facts, (6) availability of process to compel the attendance of unwilling witnesses and (7) relative means of the

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parties. We order to show cause by motion and transfer venue under 28 U.S.C. § 1404(a). See Sherman v. American Eagle Express, Inc., E.D. Pa. Civ. No. 09-575 (where the District Court transferred a first-filed case to the "First Filed" Court). Likewise, Plaintiffs are the first to the Court and should win because they actually belong there.

3. There are no circumstances present to allow Defendant an extension to attempt to change venue; as such, Plaintiffs have requested all further communication with Defendant be memorialized in writing. Defendant MGM has already acknowledged that Plaintiffs are FIRST TO FILE. The Appropriate Remedy Once a court finds that the first-filed rule applies, the Court must decide whether the later-filed action should be dismissed, stayed, or transferred pursuant to 28 U.S.C. § 1404(a). See Clean Harbors, Inc. v. ACSTAR Ins. Co., 09-5175, 2010 WL 1930579, at \*6 (D.N.J. May 12, 2010); Keating Fibre Int'l, Inc. v. Weyerhaeuser Co., 416 F. Supp. 2d 1048, 1052-1053 (E.D. Pa. 2006). The Court acknowledges that the first-filed rule is not iron-clad and that even where applicable it need not be applied if there exist "rare or extraordinary circumstances, inequitable conduct, bad faith, or forum shopping." See EEOC v. ..., 850 F.2d at 972. There are no extraordinary circumstances or inequitable conduct justifying an exception to the general First File rule in this case. The Court should find that transfer of this action to the New Jersey District Court is the appropriate remedy. Under 28 U.S.C. § 1404(a), "[f]or the convenience of parties and witnesses, in the

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interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” In addition to the enumerated 4 factors in §1404(a), the Court of Appeals has laid out both private and public interests that may be considered in ruling on a motion to transfer. See *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995). Among the private interests that the *Jumara* court identified as being significant to the §1404(a) analysis are: plaintiff’s forum preference as manifested in the original choice; the defendant’s preference; whether the claim arose elsewhere; the convenience of the parties as indicated by their relative physical and financial condition; the convenience of the witnesses – but only to the extent that the witnesses may actually be unavailable for trial in one of the forums; and the location of books and records (similarly limited to the extent that the files could not be produced in the alternative forum). See *Id.* at 879 (citations omitted). Among the public interests to be considered are: the enforceability of the judgment; practical considerations that could make the trial easy, expeditious, or inexpensive; the relative administrative difficulty in the forums resulting from court congestion; the local interest in deciding local controversies at home; the public policies of the forums; and the familiarity of the trial judge with the applicable state law in diversity cases. See *Id.* at 879-80 (citations omitted). The private and public factors support transfer to the New Jersey District Court (NJDC); and it is further consistent with the principles behind the first-filed rule, that these

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mirror-image causes of action be litigated in the same forum. The Court should transfer all cases to the NJDC so that it may be coordinated or consolidated with the first-filed Lassoff case. Likewise, Federal courts have dismissed or severed any/the conflicting state-law class action claims. See, e.g., *Hyman v. WM Fin. Servs., Inc.*, No. 06-CV-4038, 2007 WL 1657392 (D.N.J. June 7, 2007); *Himmelman v. Continental Cas. Co.*, No. 06-166, 2006 WL 2347873 (D.N.J. Aug. 11, 2006); *Otto v. Pocono Health Sys.*, 457 F. Supp. 2d 522 (M.D. Pa. 2006). Courts have also crafted the Rule 23 class to include only those people who opt-in. See *Robinson v. Sizes Unlimited, Inc.*, 685 F. Supp. 442, 446 (D.N.J. 1988); *Sperling v. Hoffmann-La Roche, Inc.*, 118 F.R.D. 392, 412 (D.N.J. 1988).

4. Plaintiffs are prejudiced by Defendant MGM's delays; as time is of the essence; and further Discovery has been stalled by Defendant MGM. Plaintiffs are First To File their Class Action Complaint against Defendant MGM. Defendant MGM seeks to subvert and undermine the authority of the New Jersey Federal District Court, the Federal Rules of Civil Procedure, settled case law/rulings, and First To File precedents. As of November 8th, 2023, Defendant MGM stated it has the following nine similar related secondary outstanding remaining cases that need to be transferred to the New Jersey District Court (Camden) pursuant to Rule 28 U.S.C. §1404(A):

Albrigo v. MGM Resorts Int'l	No. 3:23-cv-01797
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Bezak v. MGM Resorts Int'l	No. 2:23-cv-01719
Kirwan v. MGM Resorts Int'l	No. 2:23-cv-01482
Lackey v. MGM Resorts Int'l	No. 2:23-cv-01549
Owens v. MGM Resorts Int'l	No. 2:23-cv-01480
Pircio v. MGM Resorts Int'l	No. 2:23-cv-01550
Rundell v. MGM Resorts Int'l	No. 2:23-cv-01698
Terezo v. MGM Resorts Int'l	No. 2:23-cv-01577
Zussman v. MGM Resorts Int'l	No. 2:23-cv-01537

All the cases *supra* are “truly duplicative” of the Lassoff claim, in that they raise identical issues and seek identical relief on behalf of an identical group of proposed plaintiffs against the identical defendant, MGM Resorts International. Where each set of named plaintiffs intends to represent the other set, the underlying principles of the first-filed rule which seek to avoid “vexation of subsequent litigation over the same subject matter” and “the economic waste involved in duplicating litigation,” and to promote “prompt and efficient administration of justice,” permit this Court to defer to the court of first jurisdiction. See *Crosley*, 122 F.2d at 929-30. The Court sees no need to wait until a decision is made on a motion for class certification in Lassoff before applying the first-filed rule, because both

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cases are already being litigated on behalf of the same set of proposed plaintiffs, making the parties “essentially the same.” See Alvarez, 2009 WL 1473933, at \*2-3. Under the first-filed rule, other Courts should not battle with the Lassoﬀ court over the same case. Likewise, the nine (9) cases were filed later.

5. Plaintiffs are FIRST TO FILE (aka "first-filed") and seek to remain and litigate their Class Action in New Jersey District Court (Camden). Allowing Defendant to relitigate venue across the United States could result in unscrupulous parallel suits to create time-consuming and expensive court battles over venue. Creating a venue dispute will delay the Court from entering a judgment on the merits and coerce Plaintiffs into settling by dramatically raising their litigation expenses. Litigating in New Jersey District Court (Camden) will preserve judicial resources and avoid conflicting rulings on the same questions of law or fact. Under the first-filed rule, when two courts have jurisdiction over the same case, the court in which the case was first filed should be the court to hear it. The first-filed rule prevents duplicative litigation. By ensuring that parties to a single controversy handle their dispute in one forum, the rule prevents two courts of equal rank from issuing conflicting rulings and promotes judicial comity. The first-filed rule prevents the wasteful preclusion consequences that may arise from courts exercising concurrent jurisdiction. PRECLUSION is a term used to group a variety of doctrines which are intended to prevent parties from

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relitigating claims or issues which a court has already adjudicated.

6. The First To File rule operates for all practical purposes as a presumption that a case should proceed where it was first filed. Likewise, the interests of justice and Plaintiffs' witnesses favors New Jersey District Court (Camden). Litigation involving the first-filed rule can also quickly escalate into a very expensive exercise in forum and judge shopping. Disputes over the first-filed rule waste judicial resources by allowing a party which has obtained a decision not to its liking to seek an alternative decision from another judge in another forum. The decisions permit the relitigation of a single question of law: which of two disputes, related to the same common nucleus of operative facts, should take priority under the first-filed rule? From this perspective, permitting the relitigation of the first-filed rule constitutes acceptance of duplicative litigation.

7. The Court should enter a PRECLUSION ORDER on where a case should proceed. A PRECLUSION ORDER prevents duplicative work for courts and litigants and promotes efficiency in the judicial process. A PRECLUSION ORDER should also apply to this Court's decision to deny a motion to stay or transfer this case. All the requirements of a PRECLUSION ORDER are satisfied here; and a ruling applying the first-filed rule constitutes a resolution of "an issue of fact or law actually litigated". A PRECLUSION ORDER constitutes a

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solution because it is not discretionary; and is preferable because it would not permit a U.S. District Court judge to overturn or ignore the decision of a peer judge in a court of coordinate rank.

8. Granting a PRECLUSION ORDER applying the first-filed rule would not contradict Supreme Court precedent. All levels of the federal court system embrace preclusion as the best way to resolve district court disagreements about venue; and preclusion would prohibit district courts from overturning each other and stop litigants from using venue disputes to force adversaries to relitigate the same question across the country. If district court disagreements over venue reach the U.S. Circuit Courts of Appeal, the circuits generally hold they should have granted preclusive effect to their peers' earlier decisions. If this question should arise in litigation before the US Supreme Court, the Court should prevent duplicative litigation from becoming a tool which wealthy litigants, such as Defendant MGM, bludgeon less wealthy adversaries, such as Plaintiffs, into settlement. A PRECLUSION ORDER would best achieve that objective.

Wherefore, Plaintiffs respectfully request that the Court issue the proposed EMERGENCY PRECLUSION ORDER & transfer remaining cases to the New Jersey District Court (Camden) pursuant to 28 U.S.C. §1404(A); to maintain Plaintiffs' First To File venue and take judicial notice to maintain venue and jurisdiction in New Jersey District Court (Camden); and hereby preclude all other venues &

Appendix A

duplicate litigation against Defendant MGM Resorts International only.

Dated: November 14th, 2023

Respectfully submitted,

Samuel Lassoff, Esq /s  
Unit 2343  
5006 Wellington Ave  
Ventnor, NJ 08406

Appendix B

**APPENDIX "B"**

District Court's Opinion (District Court Document 42)

Case 1:23-cv-20419-JHR-AMD Document 42 Filed  
05/23/24 Page 1 of 1 PageID: 1359 9

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

SAUL AND SHIRLEY LASSOFF, Plaintiffs

v.

MGM RESORTS INTERNATIONAL, Defendant

Hon. Joseph H. Rodriguez  
Civil Action No. 23-20419

OPINION

Presently before the Court is Defendant's motion to transfer venue pursuant to 28 U.S.C. § 1404. [Dkt. No. 41.]. Plaintiffs allege claims of negligence, breach of contract, and unjust enrichment against Defendant MGM Resorts International ("MGM") arising from a cybersecurity incident in September 2023.<sup>1</sup> Defendant moves to transfer this matter to

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<sup>1</sup> Plaintiffs bring claims against MGM, a Nevada Corporation, on behalf of themselves and a putative class. The allegations stem from a September 2023 cybersecurity incident on MGM's information technology systems which exposed personal identifying information of its customers. Plaintiffs claim that MGM "mishandled" and "compromised" their personal information. (See Am. Compl., ¶¶ 4, 13 [Dkt. No. 25]).

## Appendix B

the District of Nevada where fourteen similar putative nationwide class actions (collectively, the “Nevada Matters”) are pending against MGM. Plaintiffs have aggressively prosecuted this action and have filed a motion to secure first-to-file status and to compel transfer of the pending Nevada Matters to the District of New Jersey.<sup>2</sup> Despite the fervent pace of Plaintiffs’ filings, Plaintiffs have not filed an opposition brief to this motion to transfer. For that reason, and because the merits of this case dictate transfer, MGM’s motion will be granted and the matter will be transferred to the District of Nevada.<sup>3</sup>

## I. Background

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<sup>2</sup> Plaintiffs have filed several letters and motions seeking to compel the Nevada Matters transfer to this District. [Dkt. Nos. 11, 18, 23, 26, 28, 31]. A number of these motions were dismissed due to several deficiencies. Currently, Plaintiffs’ Motion at Dkt. No. 31 is pending and this motion does not include any affidavits, declarations, or other attachments relevant to the Court’s analysis.

<sup>3</sup> The Court has considered the arguments set forth in the Plaintiffs’ brief in support of its Motion to secure first-to-file status as well as the arguments and exhibits submitted in Defendant’s opposition to that Motion as these arguments relate to Plaintiffs’ choice of forum. [Dkt. Nos. 31, 40]. The “first-to-file” or “first-filed” rule “gives a court ‘the power’ to enjoin the subsequent prosecution of proceedings involving the same parties and the same issues already before another district court. *E.E.O.C. v. Univ. of Pennsylvania*, 850 F.2d 969, 971–72 (3d Cir. 1988), *aff’d*, 493 U.S. 182, 110 S. Ct. 577, 107 L. Ed. 2d 571 (1990) (citation omitted).

## Appendix B

Plaintiffs, Pennsylvania citizens, filed the present matter on September 18, 2023. [Dkt. No. 1]. That same day, Plaintiffs filed an amended complaint. [Dkt. No. 2].<sup>4</sup> The Court found the amended complaint deficient and granted leave to amend. [Dkt. No. 21]. On November 13, 2023, Plaintiffs filed another amended complaint and the Court found it deficient and subsequently granted leave to amend. [Dkt. No. 22]. The operative complaint was filed on November 15, 2023. [Dkt. No. 25].

In the meantime, Plaintiffs filed several letter requests and motions, styled as “Motion to Preclude all other venues & duplicate litigation against Defendant MGM Resorts International only; and issue proposed first to file preclusion order as to Defendant MGM Resorts International only by Saul Lassoff, Shirley Lassoff.” [Dkt. Nos. 11, 18, 23, 28, 31]. Plaintiffs also refused to give consent to Defendant’s requests for extensions of time to respond, filed opposition to Defendant’s requests, and then filed a preemptive Motion for Default [Dkt. No. 38]. Defendant filed the present motion to transfer on January 16, 2024. [Dkt. No. 41].

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<sup>4</sup> Both the Complaint and Amended Complaint filed on September 18, 2023 include claims against Defendant Caesars Entertainment, Inc. (“Caesars”). Plaintiffs voluntarily dismissed the claims against Caesars on October 9, 2023. [Dkt. No. 7]. That same day, Plaintiffs filed a separate action against Caesars alleging identical claims. See *Lassoff v. Caesars Entertainment, Inc.* Civ. No. 23-20997 (D.N.J. Oct. 9, 2023). That matter was assigned to a different judge and Counsel for Plaintiffs, Samuel Lassoff, substituted himself as the sole Plaintiff on November 18, 2023. The Caesars matter was transferred to the District of Nevada on January 18, 2024.



## Appendix B

## II. Discussion

Pursuant to Section 1404, a court may transfer a civil action to any other district where the case might have been brought if the transfer serves “the convenience of parties and witnesses, [and is] in the interest of justice.” 28 U.S.C. § 1404(a). The moving party bears the burden of establishing that the transfer is appropriate and must establish that the alternate forum is more convenient than the present forum. *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995). The Court has broad discretion in making determinations under Section 1404(a), and convenience and fairness are considered on a case-by-case basis. *Commodity Futures Trading Comm’n v. Perkins*, No. 06-4674, 2007 WL 2122029, at \*3 (D.N.J. July 18, 2007).

Section 1404 requires a two-pronged analysis. The threshold inquiry is whether the proposed forum is one in which Plaintiffs could have originally brought suit. In this case, jurisdiction is predicated on the diversity of the parties under 28 U.S.C. § 1332. Where jurisdiction is based on diversity of citizenship, a civil action may be brought in:

- (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant is

## Appendix B

subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought.

28 U.S.C. § 1391. Venue would be proper in the District of Nevada, as the Defendant transacts business there, has its headquarters there, and at least part of the events giving rise to this cause of action occurred there. (See generally, Decl. of Haley D. Torrey).

Next, this Court must consider whether transfer would be in the interest of justice and for the convenience of the parties and witnesses. See 28 U.S.C. § 1404(a). In deciding motions to transfer venue, “courts have not limited their consideration to the three enumerated factors in § 1404(a) (convenience of parties, convenience of witnesses, or interests of justice).” *Jumara*, 55 F.3d at 879. In addition, courts consider other relevant public and private interests:

The private interest factors incorporate the preferences of the parties in the context of the litigation, and include (1) the choice of forum of the plaintiff; (2) the defendant's preference; (3) the ease of access to sources of proof; (4) the convenience of the witnesses—only to the extent that a witness may actually be unavailable for trial in one of the fora; and (4) where the claim arose. The second category analyzes the public interest including (1) practical considerations which could make the litigation easier and more expeditious, or inexpensive; (2) court

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congestion and administrative difficulties; (3) the local interest in resolving local controversies at home; and (4) the public policies of the fora.

*Mendoza v. U. S. Custom & Border Protection*, No. 05-6017, 2007 WL 842011, at \*3 (D.N.J. March 19, 2007) (citing *Jumara*, 55 F.3d at 879) (internal citations omitted). Below the Court applies this analytical framework to the facts before it.

A. Plaintiff's Choice of Forum

"Plaintiffs' choice of forum is a paramount consideration that should not lightly be disturbed." *Clark v. Burger King Corp.*, 255 F.Supp.2d 334, 338 (D.N.J. 2003) (quoting *Ayling v. Travelers Prop. Casualty Corp.*, No. 99-3243, 1999 WL 994403, at \*2 (E.D.Pa. Oct. 28, 1999)). Unless the defendant can show that the inconvenience to the parties strongly favors its preference, plaintiff's choice of forum should prevail. *Shutte v. Armco Steel Corp.*, 431 F.2d 22, 25 (3d Cir. 1970). However, courts give substantially less weight to a plaintiff's forum choice when, as here, the dispute at the heart of a lawsuit occurred almost entirely in another state. See e.g., *NCR Credit Corp. v. Ye Seekers Horizon, Inc.*, 17 F.Supp.2d 317, 321 (D.N.J. 1998); *Ricoh Co., Ltd. v. Honeywell, Inc.*, 817 F. Supp. 473, 481-82 (D.N.J. 1993).

Here, Plaintiffs filed in the District of New Jersey and chose this forum because their counsel is licensed to practice in this district, that some of their witnesses reside here, and because they are unable to travel. (See Am. Comp., at ¶ 1, Plaintiffs' Motion to Preclude, Dkt. No. 31, at p. 7). However, the action is

## Appendix B

based on operative facts that bear little connection to New Jersey and none of the parties to this action are citizens of this State. The parties agree that Plaintiffs initiated their putative class action lawsuit first, before the other Nevada Matters. However, sufficient reasons exist to justify departure from the “first-to-file” rule, including “the location of a large number of relevant witnesses and documents in [Nevada], as well as the total lack of any such evidence in New Jersey, the enhanced convenience offered by trial in [Nevada.]” *Ricoh Co.*, 817 F. Supp. at 487 (granting transfer).<sup>5</sup> Thus, although it is entitled to deference, the weight of Plaintiffs’ forum preference is reduced because New Jersey has few, if any, significant contacts with the parties and the underlying cause of action.

B. Where the Claim Arose

The events giving rise to the claims appear to

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<sup>5</sup> Plaintiffs claim that because they are the first-to-file their preferred choice of forum should be given priority. *Univ. of Pennsylvania*, 850 F.2d at 971–72. This argument lacks sufficient foundational support. Plaintiffs’ haste to achieve first-to-file status resulted in Plaintiffs amending their complaint the same day they originally filed, then filing several deficient pleadings thereafter, and the voluntary dismissal of a defendant. The Court agrees with Defendants and finds that Plaintiffs’ contention that their deficient filings warrant application of the first-to-file rule is at odds with both the law and the purposes of the first-to-file rule itself. Thus, while Plaintiffs won the race to the courthouse, they failed to sufficiently set forth claims regarding jurisdiction and venue and the *Jumara* factors do not tip in their favor. Thus, given the circumstances of this case, the Court will exercise its discretion to depart from the first-to-file rule. *Univ. of Pennsylvania*, 850 F.2d at 972.

## Appendix B

have occurred in Nevada and there are no facts to challenge this assertion. (See generally, Decl. of Haley D. Torrey). Accordingly, this factor weighs in favor of the Defendant.

C. Convenience of the Parties and Witnesses

In considering the “convenience of the parties” district courts should focus on the relative physical and financial condition of the parties. See *Jumara*, 55 F.3d at 879. Plaintiffs argue in other filings that they are elderly and unable to travel. [Dkt. No. 31] On the other hand, Defendant is a large corporation, but is already involved in fourteen related putative class actions in the District of Nevada and has worked with that court to streamline the cases. The fact that Defendant has substantially more resources than Plaintiffs should not be the sole reason for refusing a transfer, see *Nat’l Mortgage Network, Inc. v. Home Equity Ctrs., Inc.*, 683 F.Supp. 116, 119 (E.D.Pa. 1988), but the Court acknowledges that litigating in a distant forum would weigh more heavily on Plaintiffs. However, Plaintiffs did not choose their home state of Pennsylvania to pursue this action and appear to rest their arguments solely on their chosen counsel’s licensing status. Moreover, the Nevada Matters bear significant contacts to the District of Nevada and the operative facts, evidence, and witnesses mostly reside in that district. (See Decl. of Haley D. Torrey, ¶¶ 4-5). Transferring the Nevada Matters to this District, as Plaintiffs seek, is neither efficient nor economical for the resolution of these issues and is unwarranted in this instance. The relative inconvenience to the parties does not favor Plaintiffs for this reason.

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In assessing the private interests of the parties, the convenience of potential witnesses also must be balanced. In *re Consolidated Parlodel Litig.*, 22 F. Supp.2d 320, 323 (D.N.J. 1998). Defendant is headquartered in Nevada and almost all its potential witnesses are located there. (See Decl. of Haley D. Torrey, ¶¶ 4-5). Plaintiffs themselves appear to be their only witnesses. Convenience of the witnesses is a neutral factor, at best, that will not impact the Court's decision.

#### D. Location of the Relevant Documents

The “relative ease of access to sources of proof” is another private interest district courts may consider when evaluating a motion to transfer. See *Clark*, 255 F. Supp.2d at 339. It is not clear to the Court how great of a burden it would be to move the necessary documents to New Jersey. “[W]hen documents can be transported and/or easily photocopied, their location is entitled to little weight.” *Id.* It is unclear what documents might be needed at trial for Plaintiffs. Based on the record before the Court, it appears the relevant evidence is located in Nevada. (See Decl. of Haley D. Torrey, ¶¶ 4-5). This factor weighs slightly in favor of transfer.

#### E. Public Factors

Next, the Court turns to the public interests at stake: (1) practical considerations which could make the litigation easier and more expeditious, or inexpensive; (2) court congestion and administrative difficulties; (3) the local interest in resolving local controversies at home; and (4) the public policies of the fora. *Jumara*, 55 F.3d at 879. There is no evidence that either court poses administrative

## Appendix B

difficulties or serious practical considerations. However, there is a question as to whether New Jersey has an interest in this case. Accordingly, this public factor favors transfer.

### III. Conclusion

Pursuant to 28 U.S.C. § 1404(a), the Court finds that transfer of this action is appropriate because the federal court in Nevada will provide a more convenient forum in which to efficiently coordinate between and manage multiple overlapping cases involving different plaintiffs and counsel of record. MGM is headquartered in Nevada, and Plaintiffs are Pennsylvania citizens. Plaintiffs have failed to demonstrate that there is a nexus between any alleged action in this District and/or that any activity or exposure took place in this District. Moreover, most of the evidence will be in Nevada and the other named plaintiffs in the Nevada action have already begun working toward a proposal for efficiently pursuing these claims without the need for the Court to duplicate its efforts in multiple actions.

The Court further finds that transfer of this action will promote the just and efficient resolution of these matters for all parties and preserve the judiciary's resources by streamlining both motion practice and discovery. Accordingly, MGM's motion to transfer this action to the District of Nevada pursuant to 28 U.S.C. § 1404(a) will be granted and the Court will grant MGM's request for a thirty-day stay to its obligation to respond to the Plaintiffs' complaint. The relief sought in Plaintiffs' Motion to Preclude [Dkt. No. 31] is denied.

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An appropriate Order shall issue.

Dated: May 22, 2024

s/ Joseph H. Rodriguez  
HON. JOSEPH H. RODRIGUEZ,  
United States District Judge



Appendix C

**APPENDIX "C"**

District Court's Order (District Court Document 43)

Case 1:23-cv-20419-JHR-AMD Document 43 Filed  
05/22/24

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

SAUL AND SHIRLEY LASSOFF, Plaintiffs

v.

MGM RESORTS INTERNATIONAL, Defendant

Hon. Joseph H. Rodriguez  
Civil Action No. 23-20419

**ORDER**

This matter having come before the Court on Motion of Defendant MGM Resorts International seeking to transfer this case to the District of Nevada [Dkt. No. 41]; and the Court having considered the written submissions of the parties; and the Court noting that although Plaintiffs did not submit opposition papers, the Court considered the arguments advanced in the Motion to Preclude all other Venues [Dkt. No. 31]; and for the reasons set forth in the Court's Opinion of even date, and good cause having been shown

IT IS on this 22nd day of May, 2024 hereby  
ORDERED that Defendant's Motion to Transfer [Dkt. No. 41] is granted and Plaintiffs' Motion to

## Appendix C

Preclude other Venues [Dkt. No. 31] is denied; and it is further

ORDERED that Defendant's obligation to file a responsive pleading is STAYED for thirty days following assignment in the District of Nevada and that this matter be transferred to the District of Nevada.

s/ Joseph H. Rodriguez  
HON. JOSEPH H. RODRIGUEZ,  
United States District Judge

Appendix D

**APPENDIX "D"**

Petitioners' (First To File Appellants') Amended  
Complaint  
(District Court Document 25)

SAMUEL LASSOFF, ESQ  
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LAWFIRM25@AOL.COM

COUNSEL FOR PLAINTIFFS AND THE  
PROPOSED CLASS

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**SAUL & SHIRLEY LASSOFF, individually and on  
behalf of all others similarly situated, Plaintiffs, vs.  
MGM Resorts International**

**Civil Action No.: 1:23-cv-20419**

**AMENDED CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiffs make the following allegations, except as to  
allegations specifically pertaining to plaintiffs and  
plaintiffs' counsel, based upon the investigation  
undertaken by plaintiffs' counsel, which

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investigation included analysis of publicly-available news articles and reports, public filings, press releases and other matters of public record.

**NATURE OF THE ACTION**

1. This is a CLASS ACTION on behalf of several million Pennsylvania and United States customers exposed to identity fraud following the negligent mishandling of personal information by Defendant MGM Resorts International.

**JURISDICTION AND VENUE**

2. Jurisdiction is based on the Class Action Fairness Act of 2005 (“CAFA”) 28 U.S.C. §1332, §1332(d)(2) and §1332(d)(2)(A). The aggregate amount in controversy exceeds \$5,000,000 million, including any statutory and punitive damages, exclusive of interest and costs. The class of persons Plaintiffs seek to represent includes persons who are citizens of different states from which Defendant are a citizen. The members of the class Plaintiffs seeks to represent are more than 50,000, affected persons of the proposed class are geographically dispersed located throughout the United States; joinder of all members in this action is impracticable. The Class members, moreover, can be readily identified and notified in an administratively feasible manner using, among other information, the electronic transactional records of Defendant. Per 28 U.S.C. §1332(d)(2)(A), there is diversity of citizenship between the parties. Plaintiffs, Saul and Shirley Lassoff, are individuals with citizenship in

## Appendix D

Pennsylvania. Defendant, MGM Resorts International, is a corporation with citizenship in the State of Delaware. Therefore there is diversity between the parties; and the amount in controversy exceeds the required amount. 28 U.S.C. §1332(d)(2) states, "the district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which— (A) any member of a class of plaintiffs is a citizen of a State different from any defendant; (B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or (C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state." This Court may also have personal jurisdiction over Defendant under Federal Rule of Civil Procedure 4(h)(1)(A), and New Jersey's long-arm statute, N.J. CT. R. 4:4-4. 60. **Venue** is also proper in this District pursuant to the federal venue statute (28 U.S.C. § 1391), because Defendant maintains business facilities, have agents, transact business, and are otherwise found within this District and certain unlawful acts alleged herein were performed and had effects within this District.

3. Plaintiff(s) will fairly and adequately will protect and represent the interests of Class members. The interests of Plaintiff(s) and Plaintiff(s)' counsel are fully aligned with, and not antagonistic to, the interests of the Class members. Plaintiff(s) is willing and able to dispatch the duties incumbent upon a

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class representative to protect the interests of all Class members. Plaintiff(s)'s counsel will vigorously litigate the case to the greatest extent necessary for the Class.

**PARTIES**

4. Plaintiffs Saul & Shirley Lassoff are INDIVIDUALS with State of Citizenship in PENNSYLVANIA. Mr. and Mrs. Lassoff were MGM Resorts International loyalty member customers and Credit customers of Defendant during the Class Period when their name, address, email, phone number, social security, driver's license, bank account and credit card information was negligently mishandled.

5. Defendant MGM Resorts International is a Delaware corporation doing business in New Jersey. Defendant's principal place of business is Nevada.

6. Defendant is liable for their negligent handling of Plaintiffs' personal information and for a failure to immediately warn Plaintiffs of their negligence.

**PLAINTIFFS' CLASS ACTION ALLEGATIONS**

7. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of Pennsylvania and United States customers whose personal information was negligently handled by Defendants between March 1st, 2023 and October 20th, 2023, inclusive (the "Class Period"), and who

## Appendix D

were damaged thereby. Excluded from the Class are Defendant, members of the immediate family of each of the individual Defendant, any subsidiary or affiliate of Defendant and the directors, officers and employees of Defendant or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors and assigns of any excluded person.

8. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are millions of members of the Class located throughout Pennsylvania and the United States. Pennsylvania and United States customer members of the Class may be identified from records maintained by Defendants and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in class actions.

9. Plaintiffs' claims are typical of the claims of the other members of the Class as all members of the Class were similarly affected by Defendants' wrongful conduct.

10. Plaintiffs will fairly and adequately protect the interests of the members of the Class.

11. Common questions of law and fact exist as to all

## Appendix D

members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- ✓ whether Defendants negligently handled Plaintiffs personal information
- ✓ whether Defendants failed to adequately protect Plaintiffs once they discovered Plaintiffs' personal information had been stolen
- ✓ whether defendants participated in and pursued the common course of conduct complained of herein
- ✓ whether statements made by Defendants to the public during the Class Period misrepresented and/or omitted to disclose material facts about the negligent mishandling of Plaintiffs' personal information
- ✓ whether Defendants made material misrepresentations and or failed to correct the material misrepresentations; and
- ✓ the extent to which the members of the Class have sustained damages and the proper measure of damages.

12. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in



## Appendix D

the management of this suit as a class action.

**SUBSTANTIVE ALLEGATIONS**

13. On or about Sept 7th, 2023, Defendant announced the negligent mishandling of customers personal information. The announcement stated that Plaintiffs personal information (i.e. name, address, email, phone number, social security, driver's license, bank account and credit card numbers) had been compromised.

14. The September 7, 2023 public announcement from Defendant to Plaintiffs stated that Plaintiffs were to immediately:

- A. Contact the Pennsylvania Department of Motor Vehicles and issue a fraud alert.
- B. Contact each credit card company and issue a fraud alert; change pin numbers and close the affected account(s).
- C. Order a credit report
- D. Register for credit monitoring
- E. Contact the Federal Trade Commission
- F. File a local police report
- G. Place a fraud alert on credit file with the national credit bureaus (Equifax, Experian, and TransUnion).
- H. Close affected bank account; reopen new bank accounts

## Appendix D

15. The foregoing required tasks are/were extremely burdensome and time consuming for Plaintiffs to complete and require over eight (8) hours over several days.

16. The Defendant engaged in a scheme to hide their negligent handling of Plaintiffs' personal information.

**COUNT I****BREACH OF FIDUCIARY DUTY**

17. Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

18. Defendant owed a fiduciary duty to plaintiffs and the Class, as MGM Resorts International casino customers. Specifically, Plaintiffs had a Casino Credit account and loyalty account with the Defendant.

19. Defendant, by their negligent handling of Plaintiffs' personal information, and means of their making the foregoing false and misleading statements, breached their fiduciary duty to Plaintiffs and the Class, causing damages to Plaintiffs and the Class.

**COUNT II****NEGLIGENCE**

20. Plaintiffs repeat and reallege each and every allegation contained above.

## Appendix D

21. Defendant acted as controlling persons of Plaintiffs' personal information and, as a direct and proximate result of their negligent conduct, plaintiffs and the other members of the Class suffered damages in connection with their relationship with Defendant.

**WHEREFORE**, plaintiffs pray for relief and judgment, as follows:

1. Determining that this action is a proper class action and certifying Plaintiffs as class representative under Rule 23 of the Federal Rules of Civil Procedure;
2. Awarding compensatory damages in favor of Plaintiffs and the other Class members against defendant, jointly and severally, for all damages sustained as a result of defendant's wrongdoing, in an amount to be proven at trial, including interest thereon;
3. Pre-judgment interest and post judgment interest from the date of entry until the date of satisfaction at the highest rates allowable by law
4. Punitive and exemplary damages to the extent permitted by law;
5. Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including attorneys fees and expert fees; and
6. Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiffs hereby demand a trial by jury.

Appendix D

DATED: November 15th, 2023

Respectfully submitted:

**SAMUEL LASSOFF /S**

DATED: November 15th, 2023

Appendix E

**APPENDIX "E"**

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT  
No. 24-2060**

**SAUL & SHIRLEY LASSOFF, et al, Appellants**  
v.  
**MGM RESORTS INTERNATIONAL**  
(D.N.J. No. 1-23-cv-20419)

**Present: HARDIMAN, MONTGOMERY-REEVES  
and AMBRO, Circuit Judges**

- 1. Clerk Listing for Possible Dismissal due to  
Jurisdictional Defect;**
- 2. Response by Appellee to Clerk Listing;**
- 3. Opposed Motion to Stay District Court  
Judgment/Order Pending Appeal;**
- 4. Response by Appellee to Motion to Stay**
- 5. Reply by Appellant.**

Respectfully, Clerk/sb

**\_\_\_\_\_ORDER\_\_\_\_\_**

**The foregoing Clerk Listing for Possible Dismissal  
due to Jurisdictional Defect is dismissed due to lack  
of jurisdiction. Opposed Motion to Stay District  
Court Judgment/Order Pending Appeal is denied.**

By the Court,  
s/THOMAS L. AMBRO Circuit Judge,  
Dated: September 20, 2024  
Lmr/cc: All Counsel of Record