

18-2948, 18-3162

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

MARINA DISTRICT DEVELOPMENT CO., L.L.C.,
d/b/a BORGATA HOTEL CASINO & SPA,
Appellee Cross-Appellant,

—v.—

PHILLIP D. IVEY, JR.; GEMACO, INC.; CHENG YIN SUN; and JANE
DOE,

PHILLIP D. IVEY, JR.; CHENG YIN SUN,
Appellants Cross-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOINT MOTION TO STAY AND FOR PARTIAL REMAND

Appellant and Cross-Appellee Phillip D. Ivey, Jr. (“Ivey”) and Appellee and Cross Appellant Marina District Development Co., LLC D/B/A Borgata Hotel Casino and Spa (“Borgata,” and together with Ivey, the “Parties”) respectfully move for a stay of these appellate proceedings and for a partial remand to the District Court. In support, they state:

1. Following oral argument in this case on September 17, 2019, this matter was referred to the Third Circuit’s Appellate Mediation Program. The Parties participated in the mediation program, and they have now reached a settlement.

2. The Parties' settlement is conditioned on the District Court's vacatur of certain orders and decisions that it entered in the lower court proceedings.

3. If the District Court grants the vacatur, then the Parties' settlement can proceed and the Parties would stipulate to a dismissal of this appeal.

4. If the District Court fails to grant the vacatur, then the settlement may fail, and the Parties may seek this Court's adjudication of this appeal.

For the foregoing reasons, the Parties respectfully request the Court to stay these appellate proceedings and partially remand this matter to the District Court to consider and adjudicate Defendant-Appellant Ivey's motion to vacate.

July 2, 2020

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2020, I electronically filed the foregoing Motion for Leave to File Supplemental Appendix with the United States Court of Appeals for the Third Circuit by using the CM/ECF system. I certify that counsel of record for Appellants Cross-Appellees are registered as ECF Filing Users and that they will be served by the CM/ECF system through the Notice of Docket Activity.

By: /s/ Jonathan S. Massey