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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10
11 PlayUp, Inc., a Delaware corporation,
12 Plaintiff,
13 v.
14 Dr. Laila Mintas, an individual,
15 Defendant.

Case No. 2:21-cv-02129-GMN-NJK

**DR. LAILA MINTAS’ RESPONSE IN
OPPOSITION TO EMERGENCY MOTION
FOR AN EX PARTE TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

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18 Defendant Dr. Laila Mintas (“Dr. Mintas”), by and through her counsel of record, hereby
19 opposes Plaintiff PlayUp, Inc.’s Emergency Motion for an Ex Parte Temporary Restraining Order
20 and Preliminary Injunction. This opposition is supported by the attached memorandum of points
21 and authorities, all exhibits appended hereto, all papers and pleadings on file in this matter, and any
22 arguments that may be entertained at hearing in this matter.

23 Dated: December 27, 2021

NAYLOR & BRASTER

24 By: */s/ Jennifer L. Braster*

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1 **I. INTRODUCTION**

2 After its global CEO torpedoed a \$450 million deal with buyer FTX Limited (“FTX”) would
3 have made the shareholders a substantial sum, PlayUp, Ltd. (“PlayUp Ltd.”), an Australian
4 company, and its wholly owned subsidiary Plaintiff PlayUp, Inc. (“PlayUp Inc.”), sought to make
5 PlayUp Inc.’s CEO, Dr. Laila Mintas, the scapegoat. (PlayUp Inc. and PlayUp Ltd. collectively
6 referred to as the “Company” or “PlayUp”).

7 PlayUp Inc. ran to this Court accusing Dr. Mintas of disparaging PlayUp and causing the
8 FTX deal to fall through. However, PlayUp withheld from this Court two key emails that not only
9 demonstrate that it was not Dr. Mintas that sabotaged the deal but rather PlayUp Ltd.’s global CEO,
10 Daniel Simic (“Simic”) became greedy and caused the deal to fall through. FTX passed on the deal
11 due to Simic’s actions – not Dr. Mintas.

12 In an email from November 9, 2021, Simic disclosed to Dr. Mintas that he wanted to require
13 FTX to acquire a company purportedly unrelated to PlayUp, PlayChip,¹ for an additional \$105
14 million, FTX to pay a \$65 million incentive to Australian “key staff” including \$25 million for
15 himself which increased to total acquisition price to an additional \$170 million (the “side deals”).
16 Dr. Mintas has since learned that PlayChip is controlled by all Australian board members of PlayUp:
17 Simic, Michael Costa (“Costa”), and Richard Sapsford (“Sapsford”). Dr. Mintas expressed her
18 disapproval of those side deals that may harm the shareholders of PlayUp Ltd. and put Simic’s
19 interests above those of PlayUp Ltd. In response, Simic and the other two board members associated
20 with PlayUp and PlayChip freed Dr. Mintas out of the Company and painted a picture of her
21 sabotaging the deal.

22 However, FTX provided an email explaining why they passed on the deal, identifying many
23 demands made by Simic that it would not agree to – including the acquisition of PlayChip. PlayUp
24 conveniently failed to provide this email to the Court and instead accuse Dr. Mintas of disparaging
25 PlayUp, causing the deal to fall through. Nothing could be further from the truth.

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¹ Simic identifies the companies associated with PlayUp in his affidavit, which does not include PlayChip. (Simic Affidavit attached as Exhibit 1 to ECF No. 1 at ¶ 6).

1 During this same period of time, Dr. Mintas' contract was set to expire on November 30,
2 2021. Simic and other members and directors of PlayUp made repeated assurances to her that her
3 contract would be extended and even repeatedly representing the contract was being drafted. All the
4 while, PlayUp sought to use Dr. Mintas to take the fall for the board's misconduct.

5 Dr. Mintas build PlayUp Inc. from the ground up as being the only employee for the first 1
6 ½ years. She invested her entire time and savings into the Company, investing approximately \$1.2
7 million. Then, she found out Simic was putting his interests ahead of those of PlayUp Ltd. and its
8 shareholders, and Dr. Mintas informed the board. However, unbeknownst to her at the time, two
9 other board members (who made up a majority of the board of PlayUp Ltd.) also controlled
10 PlayChip, and they then forced her out.²

11 PlayUp Inc. files this lawsuit before Dr. Mintas' contract even expired, tarnishing Dr.
12 Mintas' reputation and destroying all of her hard work. (ECF No. 2 at 1:25, 3:9). PlayUp Inc. sued
13 their active Chief Executive Officer and locked her out of her email accounts and access because
14 they knew that Dr. Mintas had the evidence to demonstrate it was Simic who killed the deal with
15 FTX and the other PlayChip board members were part of it. PlayUp Inc. seeks to play this out in
16 the court of public opinion, with news articles blasting Dr. Mintas as sabotaging the FTX deal when
17 they know, and have the evidence showing, it was their own global CEO, Simic.

18 Ironically PlayUp Inc. argues, "PlayUp has spent years cultivating its customer and business
19 relationships in the United States." (ECF No. 2 at 2:1-2). PlayUp Inc. then concedes that its
20 "expansion into the United States was led by Dr. Mintas." (*Id.* at 2:8-9). It was Dr. Mintas who spent
21 years cultivating PlayUp Inc.'s customer and business relationships in the United States. Dr. Mintas
22 built PlayUp Inc. and is a shareholder of PlayUp Ltd., investing her savings. She has no reason to
23 motive to see PlayUp fail and every reason to want PlayUp to succeed.

24 The Court need not to compare affidavits or make a credibility determination, the emails
25 speak for themselves. Simic put his interests ahead of those of the shareholders of PlayUp Ltd.,

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27 ² Simic attempts to paint a picture of Dr. Mintas as the irrational woman, stating in his
28 affidavit, "I have found her to be quite irrational in her behavior." (*Id.* at ¶ 36). Dr. Mintas is quite
rational and appropriately reacting to watching her two years of hard work and \$1.2 million
investment go up in flames due to Simic's misconduct.

1 which torpedoed the deal with FTX. In the moment where Dr. Mintas reported the side deals to the
2 entire board, and latest when they received the rejecting FTX email, all the other board members
3 knew about those unethical side deals and acquiesced to them.

4 Dr. Mintas has not breached her fiduciary duties, her employment contract, or violated
5 Nevada trade secret laws. Dr. Mintas attempted in vain to save the FTX deal for everyone's benefit.
6 And now she is being crucified by PlayUp in this Court and in the media and being accused of
7 "irrational" behavior. There is no basis to grant a preliminary injunction when it is PlayUp Inc. that
8 breached its agreements with Dr. Mintas and PlayUp Ltd.'s other board members who breached their
9 fiduciary duties.

10 **II. STATEMENT OF FACTS**

11 **A. Dr. Mintas' Experience and Employment With PlayUp Inc.**

12 Since 2006 Dr. Mintas has worked in this industry and has built an excellent reputation.
13 (Declaration of Dr. Laila Mintas filed concurrently herewith ("Mintas Decl.") at ¶ 3). She received
14 her Ph.D. in Law from Humboldt University Berlin. She has been a law professor and worked in an
15 international law firm, specializing in sports law, gambling law, and compliance and litigation. (*Id.*
16 at ¶ 4).

17 Dr. Mintas has experience in sports integrity, working as the Integrity Lead for many
18 companies. (*Id.* at ¶ 5). In 2015, she was invited by Victoria Policy in Australia to speak about
19 Integrity in Sports at their symposium and also has had other speaker engagements around the world.
20 (*Id.*). She previously worked as the Director of Sports Integrity with CONCACAF and led the sports
21 integrity efforts with FIFA. (*Id.* at ¶ 6). She lectured at INTERPOL workshops about Integrity topics.
22 (*Id.*). She has served as Guest Professor at several universities such as Columbia University NYC,
23 St John's University NYC, University of New Hampshire, and Humboldt University Berlin on topics
24 such as Sports Betting, Sports Law, and Sports Integrity. (*Id.* ¶ 7). In short, she is an industry leader
25 in this area.

26 Dr. Mintas started with PlayUp Inc. as Chief Executive Officer ("CEO") in December 2019.
27 (*Id.* at ¶ 8). PlayUp Inc. is a wholly-owned subsidiary of PlayUp Ltd., an Australian public company.
28 (*Id.*). During the time period of negotiations, Simic, the global CEO of PlayUp Ltd., made multiple

1 representations to Dr. Mintas that she found out later ultimately were false, including, but not limited
2 to, PlayUp Ltd. was ready to do an IPO in the United States and has finalized all the documents, and
3 that PlayUp Ltd. in Australia operated its own technology platform. (*Id.* at ¶ 9). For that purpose, he
4 showed Dr. Mintas the third-party platform that PlayUp Ltd. was using, misrepresenting that this is
5 the in-house tech platform of PlayUp Ltd. (*Id.*).

6 Dr. Mintas executed an initial employment agreement to be effective December 1, 2019, but
7 thereafter the employment agreement was re-done effective September 30, 2020, which allowed her
8 to receive an equity interest in PlayUp Ltd. earlier. (*Id.* at ¶ 10). Dr. Mintas received that equity
9 interest in PlayUp Ltd. earlier because despite the fact her initial employment agreement provided
10 for monetary compensation, she never received any monetary compensation during her first year of
11 employment. (*Id.*). The employment agreement attached to Simic's affidavit (Exhibit 1 at 115-128
12 to ECF No. 1) is the initial employment agreement. (*Id.*). The initial employment agreement is also
13 attached to the Complaint at Exhibit 2 and serves as the basis for PlayUp Inc.'s breach of contract
14 and breach of the implied covenant of good faith and fair dealing. (ECF No. 1 at Exhibit 2). PlayUp
15 Inc. bases their complaint and motion for preliminary injunction on the wrong, outdated employment
16 agreement. The correct Employment Agreement is attached to the Mintas Decl. at Exhibit 1.

17 In addition to her role as CEO of PlayUp Inc., she is also on the board of PlayUp Ltd. and
18 officers with Simic in several related PlayUp entities. (*Id.* at ¶ 11). At the time she started with
19 PlayUp Inc., the valuation for PlayUp was less than \$50 million USD. (*Id.* at ¶ 12). She was the first
20 U.S. employee (and only employee) of PlayUp Inc. for the following 1 ½ years of her 2 years
21 employment period. (*Id.* at ¶ 13). Dr. Mintas' (now former) residence was the corporate address for
22 PlayUp Inc. and effectively she ran the operations out of her home. (*Id.* at ¶ 14).

23 Dr. Mintas accepted a salary of \$500,000 for her second year of employment, which was
24 approximately half of market value, because otherwise PlayUp Inc. would not have been able to
25 afford her. (*Id.* at ¶ 15; Exhibit 1). Initially, Dr. Mintas had an 11% ownership interest in PlayUp
26 Ltd. but that has been diluted to approximately 7.5% according to PlayUp Ltd. without Simic or
27 PlayUp Ltd. being able to explain to her properly how that had happened. (Mintas Decl. at ¶ 16).
28 She also invested approximately \$1.2 million of her own savings with PlayUp Ltd. (*Id.* at ¶ 18).

1 Dr. Mintas' initial employment agreement for a 2-year period stated that she had to obtain
2 two market access agreements ("skin" agreements) as milestones. In the employment agreement
3 effective September 30, 2020, that requirement was removed because she already achieved the
4 milestone in the first few months of her employment. (*Id.* at ¶ 19). She far exceeded her contractual
5 requirements. During her tenure as CEO, she obtained nine market access agreements for the benefit
6 of PlayUp Inc. and over ten additional market access agreements were pending as of November 30,
7 2021, when PlayUp Inc. shut off her email access. (*Id.* at ¶ 20). Some of them have been signed in
8 the meantime. (*Id.*). This all stemmed from her relationships and hard work. (*Id.*).

9 **B. During Dr. Mintas' Employment, Simic and the Australian Board Members**
10 **Frustrated Dr. Mintas' Work.**

11 Simic controlled the financials of PlayUp Inc and failed to allow Dr. Mintas to exercise her
12 control as CEO. (*Id.* at ¶ 21). Examples of this conduct include Simic deciding which invoices were
13 paid and delays in paying invoices and funding the US subsidiary PlayUp Inc, which sometimes
14 required Dr. Mintas to front the funds and be reimbursed. (*Id.*). His delays frustrated PlayUp Inc.'s
15 success and damaged her reputation with these vendors. (*Id.*). Simic is threatened by Dr. Mintas'
16 success and tried to undermine her authority and humiliate her in front of third parties and her team.
17 (*Id.* at ¶ 22). The Australian board members were always an obstacle instead of a support, e.g. they
18 submitted their licensing documents for New Jersey only after nine months, which took Dr. Mintas
19 two weeks to do. (*Id.* at ¶ 23). This led to significant delays and financial loss to the business.

20 **C. PlayUp Received An Acquisition Offer of \$450 Million From FTX With the**
21 **Requirement Dr. Mintas Remain with the Company.**

22 In August 2021, FTX Trading Limited ("FTX"), a cryptocurrency company, was introduced
23 to PlayUp Ltd. (*Id.* at ¶ 24). FTX was only interested in acquiring the US business, PlayUp Inc.,
24 however, Dr. Mintas was able to negotiate with them to acquire the parent company, PlayUp Ltd.
25 (*Id.* at ¶ 25). FTX's advisor, Chris Grove, informed her that FTX thinks she is the "jewel of the
26 company" and that FTX wanted Dr. Mintas to stay on for at least 24 months, which is reflected in
27 the term sheet for the deal with FTX (*Id.* at ¶¶ 26, 27; Exhibit 1 at 287-293 at ECF No. 1). FTX
28 offered to buy PlayUp Ltd. for \$450 million. (Mintas Decl. at ¶ 28). As part of this transaction,

1 PlayUp created a data room that contained all confidential information, including, but not limited to,
2 salary information and market access agreements. (*Id.* at ¶ 29).

3 **D. Dr. Mintas 2-Year Contract Was Set to Expire During the FTX Deal and PlayUp**
4 **Agreed to a New Contract.**

5 During the time period of negotiating the deal with FTX, Dr. Mintas was negotiating a new
6 contract with PlayUp Inc. as her contract was expiring November 30, 2021. (*Id.* at ¶ 30). Based on
7 objective market studies confirmed by headhunters and the fact that she created a valuation of at
8 least an additional \$400 million for PlayUp, she requested an increased salary from \$500,000 to \$1
9 million. (*Id.* at ¶ 31). Assuming she had approximately 10% in stock as she received 11% when she
10 started and invested an additional \$1.2 million, she was asking for an increase in shares to get topped
11 up to 15% based on her overperformance without support from PlayUp Ltd. (*Id.*). It is also very
12 common to receive more stock for the renewal of a contract in this industry. (*Id.*).

13 In mid-October 2021, Simic approved Dr. Mintas' contract terms and stated PlayUp Inc.
14 would move forward with her contract extension and wanted to get "joint board approval." (*Id.* at ¶
15 32). In a message to Dr. Mintas dated October 25, 2021 in response to her deal points, Simic writes,
16 "lets do a joint board approval" and "asap." (*Id.*; Exhibit 2). On October 27, 2021 at 5:25 p.m.,
17 Simic messaged, "I will speak with Ash [PlayUp's general counsel] today as he is in the officve
18 [*sic*]." (*Id.*). In the following weeks, Dr. Mintas followed up at least once a week and Simic told her
19 that the contract was in the works. (Mintas Decl. at ¶ 32). On November 4, 2021, at 5:33 p.m.,
20 Simic says "I am waiting on Ash. Will chase him up now." (Exhibit 2).

21 From the date of Simic's message on October 25, 2021, Dr. Mintas' understanding was
22 PlayUp Ltd. was working on her new contract as they had a verbal agreement on the contract terms
23 that were documented in the messages with Simic. (*Id.* ¶ 33). Simic reassured her that her contract
24 would be completed. (*Id.*). For example, Simic messaged on November 8, 2021, at 1:06 a.m., "Yep.
25 Let's speak tomorrow about how we close it..." (Exhibit 2). Despite those agreements, PlayUp Inc.
26 did not sign a renewed contract with her.

1 **E. Simic Destroys the Deal with FTX.**

2 On November 6, 2021, FTX invited Dr. Mintas, Simic, and Costa, to meet with them in
3 person in the Bahamas, where they are headquartered. (Mintas Decl. at ¶ 34). On November 9, 2021,
4 Simic emailed Dr. Mintas a proposal that he wanted to present to FTX. (*Id.* at ¶ 35). To her surprise,
5 as part of the proposal to the \$450 million valuation that FTX agreed on, Simic wanted to include
6 another company PlayChip, that has nothing to do with PlayUp, in the acquisition for an additional
7 \$105 million. Simic said he wants “to use PlayChip as a vehicle to get more money to certain people
8 that are involved with PlayChip.” (*see id.* at ¶ 37) and also for FTX to pay 8 Australian “key staff”
9 an additional \$65 million as incentive, including \$25 million for himself which increased the total
10 acquisition price to an additional \$170 million to line their own pockets. (*Id.* at ¶ 35; Exhibit 3).

11 Dr. Mintas only recently found out that the three Australian PlayUp Ltd. board members are
12 directors and beneficiaries of PlayChip. (Mintas Decl. at ¶ 17). She was told that PlayChip declared
13 bankrupt years ago but now suddenly owned over 5% in PlayUp. (*Id.*). She has concerns as they are
14 all board members and act in both companies. (*Id.*). Because Simic, Costa, and Sapsford make up
15 the majority of the PlayUp Ltd. board, they can make decisions in fact by themselves. (*Id.*). She has
16 concerns about the legitimacy of the process and their conflicts of interests, as Simic was putting
17 their interests ahead of those of the shareholders of PlayUp Ltd. (Mintas Decl. at ¶ 38). This could
18 lead to the dilution of the shareholders’ interests. (*Id.*). She believes through the side deals they tried
19 to defraud the PlayUp Ltd. shareholders and destroyed the deal with FTX. (*See id.* at ¶ 36).

20 Simic verbally told Dr. Mintas that he wanted to negotiate \$25 million for her, too. She told
21 Simic that he could not do that as it is their shareholders’ money and that he cannot negotiate
22 anything with FTX on her behalf. (*Id.*). In a message to Simic on November 9, 2021, Dr. Mintas
23 wrote, “Why are you still talking about Ftx? Those are t]wo separate items. ***I don’t allow you to***
24 ***negotiate with them about me.*** And to be honest, I still don’t understand what you are saying. I am
25 talking about my contract extension- this gas [*sic*] absolutely nothing to do with Ftx. If there is
26 anything to negotiate about me and ftx, I will do it on my own.” (Exhibit 2) (emphasis added).
27 Further, her contract negotiation needed to be separate from the FTX discussions because her
28 contract expired November 30, 2021, and the deal with FTX could close after. (*Id.* at ¶ 39).

1 Also, when PlayUp was first introduced to FTX, it was going through a fundraising round of
2 \$35 million. (*Id.* at ¶ 40). FTX stated they would fulfill the fundraising goal of \$35 million and wire
3 money immediately. (*Id.*). Simic accepted those funds against Dr. Mintas' advice without first
4 ensuring the necessary paperwork was completed as required by the audit and internal controls. (*Id.*).
5 Dr. Mintas believes this led Simic to believe FTX would buy PlayUp anyway as he told Dr. Mintas
6 that FTX's average trade volumes were about \$14 billion per day so a few \$100s of millions more
7 would not matter to them. (*Id.*). This made Simic greedy and wanted more. (*Id.*).

8 **F. PlayUp Starts to Freeze Dr. Mintas Out of Negotiations With FTX and Meets**
9 **with FTX Without Her, Ruining the Deal, and Reneges on her Contract.**

10 Costa emailed Dr. Mintas on November 13, 2021, stating it was "inappropriate" for her to
11 attend the FTX meeting in Bahamas. (*Id.* at ¶ 41; Exhibit 4). Now, Dr. Mintas realizes that Costa did
12 not want her to attend because Costa, Simic, and Sapsford all sought to negotiate their side deals
13 involving PlayChip, as she subsequently learned they are all also involved with PlayChip, hold
14 director positions with PlayChip and would have been direct beneficiaries of the side deals. (Mintas
15 Decl. at ¶ 41). She has requested the ownership information about PlayChip several times but the
16 board has not provided her with all the information she requested. (*Id.*).

17 After talking to United States board member Dennis Drazin ("Drazin") about this integrity
18 issue of Simic and Costa, Drazin encouraged Dr. Mintas to travel to the Bahamas. (*Id.* at ¶42). As
19 FTX invited Dr. Mintas to the meeting, she met with FTX separately in the Bahamas to speak about
20 the U.S. business as this was their main focus. (*Id.*). FTX confirmed Simic and Costa were asking in
21 the Bahamas meeting for an additional \$105 million for PlayChip. (*Id.*). FTX stated they could build
22 something like PlayChip in two days and it was worthless to them. (*Id.*). Simic also presented a list
23 of 8 Australian "key employees" that must be retained by FTX for hefty salaries. (*Id.*). FTX told her
24 that they looked those employees up in the data room and they make all small salaries. (*Id.*).
25 However, Simic told them they need to stay motivated after the sale and therefore need to get all
26 over a million in salaries each. (*Id.*). One of them was Scott Simic, Daniel's brother, who does not
27 play any key role within PlayUp Ltd. (*Id.*). They were all Australians with PlayUp Ltd., not even
28 one US employee was on the list. (*Id.*). FTX had previously expressed that they were not interested

1 in the Australian business and felt fooled when Simic made this demand. (*Id.*). Simic also told them
2 that they hired a new PlayUp Inc. CEO, as Dr. Mintas' contract was expiring November 30, 2021.
3 (*Id.*). FTX expressed confusion to her as she was to stay on as part of the sale. (*Id.*; Exhibit 1 at 287-
4 293 to ECF No. 1). FTX told her that they will skip on the deal because Simic's proposal was too
5 "messy." (Mintas Decl. at ¶ 44). They also referred to Simic as "dodgy" and did not want to deal
6 with him, but only would tell Simic and Costa "once they have left the island, so they won't come
7 back and knock on their door." (*Id.* at ¶ 42).

8 Despite previously informing Dr. Mintas that he agreed to her contract terms and that PlayUp
9 was working on it with outside counsel, Simic had no intention to seek board approval of her new
10 contract. (*Id.* at ¶ 43). PlayUp Ltd.'s General Counsel, Ashley Kerr ("Kerr"), also further these
11 misrepresentations as he told Dr. Mintas that their attorneys were working on her contract. (*Id.*).
12 Looking back, that was not true and they simply sought to string her along. (*Id.*).

13 **G. FTX Details the Reasons It is Passing on the Deal – Which Are All Because of**
14 **Simic.**

15 After this meeting with FTX and under those circumstances, Dr. Mintas relayed to the board
16 of PlayUp Ltd. what FTX told her. (*Id.* at ¶ 45). Simic denied it to the board and the entire board did
17 not react. (*Id.*). As of today, the entire board has not taken any action to clean up the Company to
18 make sure this does not happen again. (*Id.*).

19 The board did not believe her, however, FTX shortly thereafter sent an email confirming
20 what she told the board. (*Id.* at ¶ 46). Even though she was a board member and CEO of PlayUp Inc.
21 at the time of the email, the Australian Board members never shared the email with her despite her
22 requesting it several times. (*Id.*). Drazin forwarded her the email unofficially. (*Id.*; Exhibit 5).

23 1. In their email, FTX explained:

24 1. A large part of the value of the business is coming from the US licensure
25 and market access agreements. Any potential acquirer would want to make sure
26 these agreements are full proof. The current *US team has been incredibly*
27 *important* to getting the market access agreements. *To our surprise, key personnel*
28 *from the US business are not a part of the future plans of the business.*

2. There seems to be mistrust and lack of communication between the US and
Global business.

1 3. ***The Global leadership has conflicts of interest with other business***
 2 ***activities, for example, PlayChip.*** This could be competitive with PlayUp and may
 3 have legal ramifications.

4 4. There is discontent within the team and the board on the valuations. We
 5 don't want employees to feel that they've had to forgo better options and therefore
 6 aren't motivated to work under FTX.

7 (Exhibit 5) (emphasis added).

8 The first point raised by FTX references Simic's statement to FTX that PlayUp Inc. was
 9 going to have a new CEO. (Mintas Decl. at ¶ 48). The "current US team" referenced by FTX is Dr.
 10 Mintas and the team that she created. (*Id.*). "[K]ey personnel" refers to her. (*Id.*). The second point
 11 raised by FTX references the disparity from FTX asking from day 1 that Dr. Mintas stay on for at
 12 least 24 months as part of the deal and then Simic, the global CEO, stating that PlayUp Inc. would
 13 have a new CEO. (*Id.* at ¶ 49). FTX received different information from Simic than previously
 14 conveyed and in contradiction to the terms FTX required. (*Id.*). The third point references PlayChip,
 15 which both Dr. Mintas and Benson informed Simic he should not request from FTX and would be
 16 against the shareholders' interests in PlayUp Ltd.³ (*Id.* at ¶ 50). The fourth point cannot have
 17 anything to do with Dr. Mintas as Simic conveyed that she was not going to be an "employee" any
 18 longer, e.g. there would be a new CEO. (*Id.* at ¶ 51). This presumably references the 8 Australian
 19 "key" employees that Simic was insisting must be part of the deal with high salaries to stay
 20 motivated. (*Id.*). In short, **FTX did not pass on the deal because Dr. Mintas disparaged PlayUp**
 21 **but because Simic made unreasonable and unethical demands.**

22 **H. While Dr. Mintas Tried to Save the Deal with FTX and PlayUp's Future, PlayUp**
 23 **Impeded Those Efforts and Aligned with Simic.**

24 For the next weeks, Dr. Mintas tried in vain to salvage the deal with FTX, which meant she
 25 needed to negotiate with FTX and Simic would need to be removed. (*Id.* at ¶ 52). Simic's conduct
 26 in attempting to negotiate a side deal for PlayChip for \$105 million, involving his demand to retain
 27 8 Australian employees for \$65 million (including \$25 million for himself) for a total increase of

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 29 ³ Simic attests that "The discussion about the PlayChip was abandoned before PlayUp met
 30 with FTX in the Bahamas." (Exhibit 1 to ECF No. 1 at ¶ 33(e)). The FTX email disproves this; Simic
 31 did discuss Playchip with FTX and it was a reason FTX passed on the deal. (Exhibit 5).

1 \$170 million, and informing FTX that PlayUp Inc. was going to have a new CEO had ruined the
2 deal and Dr. Mintas wanted to save the deal with FTX. (*Id.*).

3 The board of PlayUp Ltd. continued to impede her efforts to rescue the deal with FTX. (*Id.*
4 at ¶ 53). This was because the 3 Australian board members of PlayUp Ltd. – Simic, Costa, and
5 Sapsford - were also associated with PlayChip. (*Id.*). The only U.S. board members are Dr. Mintas
6 and Drazin, who Dr. Mintas recommended. (*Id.*).

7 During this same time, Dr. Mintas still had not received her new contract despite Simic’s
8 agreement to the terms since mid-October and PlayUp Ltd.’s General Counsel, Kerr, representing
9 two weeks prior that their US attorneys were working on the contract. (*Id.* at ¶ 54). Kerr emailed on
10 November 10, 2021, “I instructed DLA yesterday to pull together the core of the contract and
11 explained the urgency.” (*Id.*; Exhibit 6). Dr. Mintas repeatedly followed up and was always told
12 her contract was in the works. (Mintas Decl. at ¶ 55).

13 After FTX sent its rejection email, Ross Benson (“Benson”), a 10% shareholder and advisor
14 to PlayUp Ltd., told her that he informed Simic before Simic travelled to the Bahamas that he could
15 not ask FTX for \$105 million for PlayChip because it would harm the PlayUp Ltd.’s shareholder’s
16 interests. (*Id.* at ¶ 56). After the FTX meeting in the Bahamas, at one point, Simic did agree to
17 resign but required a \$10 million severance package. (*Id.* at ¶ 57). Dr. Mintas rejected it saying it
18 was not justified and it is shareholder money. (*Id.*). His resignation never came to fruition. (*Id.*).

19 On November 25, 2021, Farshad Amirbeaggi, an attorney for PlayUp Ltd., stated that he’s
20 “on [her] side” in a message and asked Dr. Mintas to call him. (*Id.* ¶ 58; Exhibit 7). He sought to
21 glean information from her to use in this litigation. (Mintas Decl. at ¶ 58). She did call Amirbeaggi
22 on November 25, 2021, which was Thanksgiving. (*Id.*). He said he wanted to see how she was
23 doing and was calling as a “friend.” (*Id.*). He also said that he does not work for PlayUp anymore.⁴
24 (*Id.*). The last work he had done was her employment contract almost two years ago. (*Id.*). However,
25
26

27 ⁴ Dr. Mintas will not further comment at this time regarding the ethical issues of attorney
28 Amirbeaggi representing to her that he did not work for PlayUp anymore and was “on her side” and
thereafter filing an affidavit as counsel for PlayUp and against her.

1 just five days later, he submits an affidavit in these court proceedings against her and representing
2 of PlayUp Inc. as legal counsel, which contains untrue statements of Dr. Mintas. (*Id.*).

3 **I. PlayUp Breaches Its Agreement to Renew Dr. Mintas' Contract and Engages in**
4 **Fraudulent Conduct and Damages Its Reputation.**

5 Despite agreements to Dr. Mintas' contract terms, PlayUp Ltd. repeatedly cancelled board
6 meetings to approve her contract. The November 29, 2021, board meeting, in which her contract
7 was to be discussed, was cancelled. (*Id.* at ¶ 60). From November 30, 2021, on, PlayUp Inc. shut
8 off her access to her PlayUp email account and informed people that she was "on vacation," which
9 was not true. (*Id.* at ¶ 61) as her contract had expired. (*Id.*). During that time, they got signed certain
10 market access deals that Dr. Mintas had in the pipeline. (*Id.* at ¶ 62). Because of her email being
11 shut off, she had voluminous emails sent to her mintas.net email account and some emails did not
12 get through. (*Id.* at ¶ 63; Exhibit 8).

13 Dr. Mintas continued to engage in communications with several individuals with PlayUp
14 Ltd. in an effort to salvage the FTX deal as well as finalize her contract. (*Id.* at ¶ 64). She had
15 several messages with Benson. In one message from December 4, 2021, Benson states, "Hi Laila,
16 *when Daniel finishes airing his laundry let's try to continue.*" (*Id.* at ¶ 65; Exhibit 9) (emphasis
17 added). Benson also confirmed the need to have Dr. Mintas negotiate with FTX, telling her and
18 Simic in a group message from December 4, 2021, "As FTX have stated..our big concern is
19 systematic' management risk. Nothing better than a face to face meeting with them to demonstrate
20 this is not present. *It is implicit that Leila [sic] should be entitled to what she was promised(verbal*
21 *or otherwise). It's time to move forward.*" (Mintas Decl. at ¶ 66; Exhibit 10) (emphasis added).
22 Benson recognized that PlayUp Ltd. had already made promises to Dr. Mintas for her continued
23 employment and she was instrumental to save the deal. (Mintas Decl. at ¶ 67).

24 Dr. Mintas repeatedly explained to others within PlayUp Ltd. why she felt Simic should step
25 down. (*Id.* at ¶ 68). In one email to Kerr, the General Counsel of PlayUp Ltd., on December 5,
26 2021, she explained,

27 *I strongly believe that the business would be more successful if Dan stepped down*
28 *completely but I believe that the board is not ready for this decision yet and in*
order to move forward quickly and focus on closing the FTX deal, I would be fine

1 with him being responsible for AU only; that also removes the interference with
2 him in the US; I believe that someone has put a proposal forward that includes
3 Dennis as the Chairman for the US which I would support as well.

4 (Exhibit 11) (emphasis in original). In response, Kerr tells her that he will include this with the
5 board package and circulate information he receives from the other board members so a board
6 meeting can take place to approve her contract. (Mintas Decl. at ¶ 68).

7 Even after they did not renew her contract by November 30th, Dr. Mintas still wanted to make
8 the FTX deal work and her contract work. (*Id.* at ¶ 69). On December 7, 2021, in an email from
9 board member Drazin, he confirms he also wants to move forward with the FTX deal and wants to
10 get a decision at the board meeting that evening regarding her contract. (*Id.* at ¶ 70; Exhibit 12). He
11 stated that he will “try to finalize a contract.” (*Id.*). Then, the December 7, 2021 board meeting was
cancelled 30 minutes prior. (*Id.* at ¶ 71).

12 Dr. Mintas held off telling people in the industry that she was no longer with PlayUp Inc.
13 because she did not want to damage PlayUp’s reputation. (*Id.* at ¶ 72). On the December 9, 2021,
14 email, she states, “***I have to move forward shortly to inform people that I am not with PlayUp***
15 ***anymore. I just try to avoid an irreversible damage to PlayUp but I cannot wait longer.***” (Exhibit
16 13) (emphasis added). Despite being sued by PlayUp Inc. and watching PlayUp Inc. spread false
17 information through the litigation, she continued to try to work with them.

18 Then, on December 9, 2021, Kerr, the General Counsel of PlayUp Ltd, wrote her “In order
19 to reach a final decision on the proposals and to put these matters behind us, the Board kindly ask
20 that you respond to Farshad’s emails so that all materials be included in the Board Pack...” (Mintas
21 Decl. at ¶ 73). As Dr. Mintas had responded to all their questions already, she gave them a deadline
22 until end of December 13, 2021 for the board to give her a final response on the extension of her
23 contract. (Exhibit 13). When Dr. Mintas woke up on December 13, 2021, she saw all the headlines
24 in the news blaming her for “sabotaging the FTX deal.” (Mintas Decl. at ¶ 73).

25 She further explained in her December 9, 2021, email that she was “looking for a friendly
26 solution in the interest of the company and the shareholders.” (Exhibit 13). She further stated,

27 Also, to clarify – ***I am not threatening you guys with anything.*** I attached to this
28 email my entire email conversation with you. Everything which you may

1 understand as “threatening” is marked in yellow. If you read carefully, you will
 2 see that I am always consider taking legal actions such as telling the regulators the
 3 truth or to start a litigation process. In terms of regulators, I even have an obligation.
 4 ***I never said to anybody that I would tell a regulator or anybody else anything that
 is wrong.*** I will always stay with the truth, and it will be up to them to judge about
 it. So there is nothing for you to be concerned about if you did everything correct
 so I am not sure why you afraid?

5 ***

6 I am not getting tired of telling you that my intention is not to threaten anybody but
 7 has always been to make you aware of the consequences that will occur. ***I am the
 one trying to find compromises to rescue the FTX deal in the interest of our
 8 shareholders even though I didn’t get what Daniel promised me 3 months ago (I
 have it in writing).*** Instead of finding a solution, I think you are just trying to create
 9 more problems. I also think you are not getting the right legal advice from your
 10 outside lawyers. ***Once this goes into litigation, this will be public information in
 the US and FTX will be thrown into this as witness etc. You can be assured that
 11 this will kill any deal immediately, not only with FTX.*** And again for you guys as
 you seem not to understand it, that’s not a threat, this will be the consequence out
 of those facts.

12 (Exhibit 13).

13 Dr. Mintas also spoke with Drazin who stated he had dinner with Simic on December 14th in
 14 New Jersey. (*Id.* at ¶ 75). Simic conveyed to Drazin that they received bad legal advice from their
 15 lawyer, Amirbeaggi, and he advised them that they had to take action against Dr. Mintas because
 16 otherwise they would get sued by the shareholders. (*Id.*). Simic told him that they did not think this
 17 court order would get so much attention and they should not have listened to his advice. (*Id.*).

18 In early December 2021, Dr. Mintas and her husband sold their house in Henderson, Nevada,
 19 and moved out. (*Id.* at ¶ 76). The intention was to move to the Bahamas, however, that has been
 20 delayed with these court proceedings.⁵ (*Id.*).

21
 22 **J. PlayUp Has Irreparably Damaged Dr. Mintas’ Reputation By Spreading
 Falsehoods.**

23 Dr. Mintas learned about this litigation as it is all over the news and her reputation is being
 24 destroyed. (*Id.* at ¶ 77). She would have preferred that this dispute be handled outside of publicized
 25 litigation as it would likely further risk a deal with FTX, however, she must respond to the
 26

27 ⁵ Dr. Mintas never sought to evade service; rather as a result of PlayUp Inc.’s complaint, her
 28 family’s plan to move to the Bahamas has been derailed and they needed to move out of the house
 they sold. PlayUp even tried to serve her to her Playup email that they shut down themselves.

1 accusations made against her. (*Id.*). It is being reported in the media by PlayUp that Dr. Mintas
2 sabotaged the FTX deal because she was unhappy over her own compensation, which is not true.
3 (*Id.*). Drazin also informed her that he told the board of PlayUp Ltd. not to proceed with litigation
4 against her as it would become public information and would risk the FTX deal. (*Id.* at ¶ 78).

5 If one conducts a search for Dr. Mintas' name, you will see numerous news stories in
6 different languages such as French, Dutch and even in Thai etc. reporting the false narrative of
7 PlayUp that she sabotaged the FTX deal. (*Id.* At ¶ 79; Exhibit 14). Dr. Mintas also had a
8 conversation with a headhunter and after the news broke, he told her that under these circumstances
9 there is no way for her to get hired. (Mintas Decl. at ¶ 80). Dr. Mintas' life has been put on hold.
10 (*Id.* At ¶ 81). She and her family have not yet relocated to the Bahamas as a result due to the
11 upcoming court hearing on January 3, 2022, and the need to correct the statements being made
12 against her. (*Id.*).

13 Dr. Mintas has reviewed the affidavits of Simic, Benson, and Armirbeaggi attached to the
14 Motion for Preliminary Injunction. (*Id.* At ¶ 82). She denies saying those things they stated that she
15 said during the telephone calls.⁶ (*Id.*). These calls all surrounded "how do we save the FTX deal."
16 Dr. Mintas never said she would take the company into bankruptcy or burn it down. (*Id.* at ¶ 83).
17 She said as soon as PlayUp has a pending lawsuit, e.g. the shareholders sue or she sues PlayUp, it
18 will be very difficult to find investors, which will ultimately lead to bankruptcy. (*Id.*). She also said
19 she has to report what she knows to the regulators if they do not clean up the Company because she
20 is holding a gambling key license. (*Id.*). She never said she would report false information, only
21 what is true, as she has an obligation to do so.⁷ (*Id.*).

22 **K. Dr. Mintas Has Not Breached her Employment Agreement.**

23 Dr. Mintas has not disparaged PlayUp. (*Id.* at ¶ 84). Her comments regarding the future of
24 PlayUp were not threats but rather what she believed would occur if she was not given the

25 ⁶ Simic's affidavit containing statements purportedly made by Dr. Mintas to other individuals
26 contains inadmissible hearsay. NRS 51.035.

27 ⁷ The Representative Compliance Certificate form attached to Simic's affidavit supports this
28 point. That form obligates Dr. Mintas to report any possible violation of the Code of Ethics and
Business Conduct policy, FCPA, the Bribery Act, and CFPOA or any applicable anti-corruption law.
(Exhibit 1 at 286 attached to ECF No. 1).

1 opportunity to salvage the FTX deal and by virtue, the extension of her contract. (*Id.*) She has not
2 disclosed any confidential information of PlayUp per the terms of her Employment Agreement,
3 except in the performance of her duties as officer and board member. (*Id.* at ¶ 85). She has not
4 threatened to misappropriate or actually misappropriated any trade secrets of PlayUp. (*Id.* at ¶ 86).

5 Dr. Mintas has invested approximately \$1.2 million of her own savings into PlayUp Ltd. and
6 forewent a salary for a year to see PlayUp Inc. succeed. (*Id.* at ¶ 87). It is to her benefit for PlayUp
7 to succeed and for the FTX deal to be completed – as a shareholder and officer and for her future
8 reputation. (*Id.*) FTX made it clear that she was an integral part of the deal, and she was needed
9 for the deal to be completed. (*Id.* at ¶ 88).

10 Dr. Mintas was repeatedly assured that her contract was in the works. (*Id.* at ¶ 89). For
11 example, Simic had agreed to her terms in October 2021 and PlayUp Ltd.’s General Counsel
12 represented that attorneys were working urgently on her contract. (*Id.*; Exhibits 2, 6, and 13 at 070,
13 080, and 101). Kerr expressly stated on November 10, 2021, “Once we complete the market
14 analysis, we will increase Laila’s salary under Director Resolution to the permissible amount (ideally
15 \$1 m, subject to market research.” (Exhibit 13 at 101) (emphasis added). Even after PlayUp Inc.
16 filed this lawsuit against her, accusing her of breaching her fiduciary duties and disparaging PlayUp,
17 they continued to engage with her, leading her to believe her contract would be extended and she
18 would be given an opportunity to salvage the deal with FTX. (Mintas Decl. at ¶ 90; Exhibits 9, 10,
19 11, 12, and 13). Several individuals with PlayUp Ltd., including Benson and Drazin, have expressed
20 to her the need to have her contract renewed to salvage the deal with FTX. (Mintas Decl. at ¶ 90).
21 However, she has not received a renewed contract, but instead is responding to these accusations
22 against her which harm her reputation in the industry and PlayUp. (*Id.* at ¶ 91).

23 On December 22, 2021, Kerr, emailed her directly, not through her legal counsel, and
24 informed her that her appointment “as both US CEO and as Director of PlayUp has ceased,” despite
25 the provisions in her Employment Agreement regarding her board membership. (*Id.* at ¶ 92). She
26 has not received any formal or appropriate documentation informing her that she is no longer a board
27 member of PlayUp Ltd. (*Id.*) Further, this email from Kerr is the first time PlayUp officially
28 notified her that they are not extending her contract. (*Id.*) She has not received any board

1 information or requested information, and she has not been treated like a board member since she
2 rejected to take part in the side deals on November 9, 2021. (*Id.*; Exhibit 3).

3 Regarding employment with FTX, Dr. Mintas has not taken any position with FTX as an
4 employee or consultant. (Mintas Decl. at ¶ 93).

5 As of today, the entire board has not taken any action to clean up PlayUp to make sure this
6 does not happen again. (*Id.* at ¶ 94). The unethical behavior and integrity issues of the entire board
7 financially damaged the shareholders as they lost the FTX deal and further deals. (*Id.*).

8 The PlayUp Ltd. board members have intentionally tried to manipulate the Court by
9 submitting 417 pages to the Court but not including the two most important, determining emails of
10 the entire case: (1) email from Simic dated November 9, 2021, confirming that he wanted to do side-
11 deals only a few days before travelling to the Bahamas meeting; and, (2) the November 24, 2021
12 email from FTX that explains the four reasons why FTX skipped on the deal and confirms that Simic
13 and Costa have asked for the side deals involving PlayChip and the massive incentives for Australian
14 “key employees” and destroyed the FTX deal. (*Id.* at ¶ 95; Exhibits 3 and 5).

15 **III. LEGAL ARGUMENT**

16 Federal Rule of Civil Procedure 65 governs preliminary injunctions and requires that a
17 motion for preliminary injunction include “specific facts in an affidavit or a verified complaint [that]
18 clearly show that immediate and irreparable injury, loss, or damage will result to the movant before
19 the adverse party can be heard in opposition,” as well as written certification from the movant’s
20 attorney stating “any efforts made to give notice and the reasons why it should not be required.”
21 *Rosetto v. HSBC Bank USA, N.A.*, Case No. 2:13-CV-00813-GMN, 2013 WL 2153100, at *1 (D.
22 Nev. May 15, 2013) (citing Fed. R. Civ. P. 65(b)).

23 When a Court’s jurisdiction is based on diversity of citizenship, “the Court must apply state
24 law regarding the availability of preliminary injunctive relief rather than federal law if the state law
25 is outcome-determinative.” *Hellerstein v. Desert Lifestyles, LLC*, Case No. 2:15-cv-01804-RFB-
26 CWH, 2015 WL 6962862, at *5 (D. Nev. Nov. 10, 2015) (citing *Sims Snowboards, Inc. v. Kelly*,
27 863 F.2d 643, 646-47 (9th Cir. 1988)). This is because “a federal court adjudicating a State-created
28 right solely because of diversity of citizenship is for that purpose, in effect, only another court of the

1 State,” and therefore cannot “substantially affect the enforcement of the right as given by the State.”
2 *Id.* (quoting *Guaranty Trust Co. v. York*, 326 U.S. 99, 108-09 (1945)).

3 Here, Nevada law applies.⁸ In Nevada, “[a] preliminary injunction is proper where the
4 moving party can demonstrate that it has a reasonable likelihood of success on the merits and that,
5 absent a preliminary injunction, it will suffer irreparable harm for which compensatory damages
6 would not suffice.” *Id.* (citing *Excellence Cmty. Mgmt., LLC v. Gilmore*, 351 P.3d 720, 722 (Nev.
7 2015)); *see also* N.R.S. 33.010. The district court may also weigh the public interest and the relative
8 hardships of the parties in deciding whether to grant a preliminary injunction. *Clark County Sch.*
9 *Dist. v. Buchanan*, 112 Nev. 1146, 1150, 924 P.2d 716, 719 (1996). Whether to grant a motion for
10 preliminary injunction is left to the discretion of the court. *Excellence Cmty. Mgmt.*, 351 P.3d at 722.

11 **A. Plaintiff Cannot Establish Any Likelihood of Success on the Merits.**

12 **i. Plaintiff Will Not Likely Succeed on its Breach of Contract and Breach**
13 **of the Implied Covenant of Good Faith and Fair Dealing Claims.**

14 The elements of a breach of contract claim are: (1) existence of a contract; (2) breach by the
15 defendant; and (3) damages as a result of the breach. *Contreras v. Am. Fam. Mut. Ins. Co.*, 135 F.
16 Supp. 3d 1208, 1224 (D. Nev. 2015). A claim for contractual breach of the implied covenant of
17 good faith and fair dealing will arise “[w]here the terms of a contract are literally complied with but
18 one party to the contract deliberately countervenes the intention and spirit of the contract, that party
19 can incur liability for breach of the implied covenant of good faith and fair dealing.” *Hilton Hotels*
20 *Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922–23 (1991).

21 PlayUp Inc. alleges in the Complaint that Dr. Mintas has “communicated an intent to work
22 directly with FTX in violation of the Non-Competition provision in her Agreement.” (ECF No. 1 at
23 ¶ 20). Of note, Dr. Mintas is currently not employed but regardless, FTX is based in the Bahamas
24 and the non-competition provision in her Employment Agreement is limited to the United States.
25 Thus, there cannot be any violation of her Employment Agreement based on the “intent to work
26 directly with FTX.” Also, any conversation could have been taken place for the future, after the six
27 month non-compete provision is expired.

28 ⁸ The Employment Agreement provides that Nevada law applies. (Exhibit 1 at 026).

1 Regarding the confidentiality and non-disparagement provisions in the Employment
2 Agreement, Dr. Mintas has not disparaged PlayUp. PlayUp alleges that Dr. Mintas has “already
3 used such information to disparage PlayUp and its officers to FTX, which has resulted in termination
4 of the sale of its assets to FTX...” (ECF No. 2 at 11:19-20). Nothing could be completely from the
5 truth. Simic is the one who torpedoed the deal because he put the interests of his company, PlayChip,
6 which he required FTX to buy for \$105 million as part of the deal, ahead of his fiduciary duties to
7 PlayUp, asked for another \$65 million incentive payment (thereof \$25 million for himself) and
8 dictated to FTX that they must take on those 8 Australian “key employees” as part of the deal.
9 (Exhibit 3). Dr. Mintas sought to save the deal and to do so, Simic needs to be removed. Dr. Mintas
10 conveyed to the Company what could happen if Simic was allowed to remain and her advice proved
11 true. That is not disparagement but expertise.

12 The irony is that PlayUp is disparaging her and ruining her reputation in the industry, making
13 her toxic to future employers by doing exactly what they pretended to be concerned Dr. Mintas
14 would do, but she has not. She waited to inform people of her departure from PlayUp so as not to
15 harm PlayUp, and PlayUp took advantage of her trust and dictated the narrative in the media.

16 PlayUp itself provided confidential information to FTX through the data room and as part of
17 the deal. She has not improperly disclosed any confidential information of PlayUp and PlayUp has
18 presented no evidence that she has. PlayUp has failed to establish it will likely succeed on its breach
19 of contract and breach of the implied covenant of good faith and fair dealing claims. PlayUp
20 essentially is asking for a gag order as it is concerned about the information Dr. Mintas could report
21 to regulators.⁹ The Court appropriately limited the TRO to exclude statements required or permitted
22 by law.

23 [A] nondisparagement clause ... cannot hinder [a party's] cooperation with
24 government officials.” *Edwards v. Arthur Andersen LLP*, No. B178246, 2008 WL
25 5255805, *9 (Cal. App. Dec. 18, 2008); see also *E.E.O.C. v. Severn Trent Services,*
26 *Inc.*, 358 F.3d 438, 442–43 (7th Cir. 2004) (“[A] nondisparagement clause can no
more trump a subpoena issued by a government agency than any private contract

27 ⁹ Similarly, the Australian order, which has not been domesticated, is being used by PlayUp
28 as a gag order to prevent Dr. Mintas from speaking with United States regulators. While the order
states that it does not prevent “Plaintiff from making any disclosure required or permitted by law to
be made,” they are attempting to silence Dr. Mintas.

1 could.... Indeed, [breach of contract suits based on disclosures in response to
2 government subpoenas] would be beyond frivolous; they would be obstructions of
justice”).

3 *Bakst v. Cmty. Mem'l Health Sys., Inc.*, No. CV0908241MMMFFMX, 2011 WL 13214303, at *13
4 (C.D. Cal. Jan. 31, 2011); *Camp v. Eichelkraut*, 246 Ga. App. 275, 285, 539 S.E.2d 588, 597 (2000)
5 (finding no violation of nondisparagement provision when speaking with police as “reporting
6 criminal behavior is expected and even demanded of the ordinary citizen, who should not be
7 discouraged from reporting what he knows to the authorities and from lending his aid to secure
8 evidence of a crime”); *Lee v. Diet Ctr., LLC*, No. Case No. 2:19-cv-00628-GMN-EJY, 2020 WL
9 1638457, at *6 (D. Nev. Mar. 31, 2020) (explaining the release could not be used to “violate legally
10 required duties” nor was there any evidence the other contracting party intended it to do so). PlayUp
11 cannot use the preliminary injunction to silence Dr. Mintas from reporting to regulators.

12 **ii. Plaintiff Will Not Likely Succeed on its Breach of Fiduciary Duties**
13 **Claim.**

14 A breach of fiduciary duty requires: (1) defendant owed a fiduciary duty to plaintiff, (2)
15 defendant breached that duty: and (3) plaintiff sustained damages as a proximate cause of the breach.
16 *Stalk v. Mushkin*, 125 Nev. 21, 28, 199 P.3d 838, 843 (2009) (internal citation omitted).

17 Dr. Mintas did not breach any fiduciary duties. She fully acted with integrity and to satisfy
18 her fiduciary duties. Knowing the harm that could occur to the PlayUp shareholders if the interests
19 of PlayChip are put ahead of PlayUp, she sought to prevent Simic from putting his personal interests
20 and those of PlayChip in front of his fiduciary duties to PlayUp. Even after Simic destroyed the deal
21 by attempting to line his own pockets and those of the two other Australian board members of
22 PlayUp Ltd. and PlayChip, Dr. Mintas still sought to repair the deal with FTX. She continued to do
23 so even after PlayUp made material misrepresentations about her to this Court, to the media, and
24 failed to disclose the FTX email identifying the reasons they passed on the deal. Dr. Mintas had no
25 motivation to sabotage the FTX deal. She herself invested \$1.2 million into PlayUp Ltd. and acquired
26 shares in the Company in lieu of compensation. Dr. Mintas received no salary for a year. If the
27 Company fails, she has lost her \$1.2 million in savings. The Company has a very significant cash
28

1 need and a very limited source of cash. It will need to continue to raise more funds to survive.
2 However, under those circumstances it will be difficult to find investors.

3 When the PlayUp board members associated with PlayChip realized she was privy to their
4 side deals and motives, they undertook efforts to make her the scapegoat for the failed FTX deal and
5 also to string her along after her contract expired and even after the filing of this Complaint.
6 Unfortunately for PlayUp, the emails speak for themselves and show: (1) FTX terminated the deal
7 after meeting with Simic and Costa and due to their conduct; and (2) FTX no longer wanted to pursue
8 the deal after learning that Dr. Mintas was no longer with PlayUp. It is the remaining board members
9 and not Dr. Mintas, who breached their fiduciary duties. Dr. Mintas quite frankly is likely the only
10 board member at this time that did satisfy her fiduciary duties.

11 Dr. Mintas has reporting obligations to the regulators. As stated in one email: “This is not
12 threatening. *I must act ethically. I only try to save the company and make the FTX deal.* Because
13 of my reputation and being a key license holder and key signatory of PlayUp, I can only stay with
14 the company if you give me the opportunity *to clean up* the company so that no more damage is
15 caused by you to the shareholders/company.” (Exhibit 1 at 302-03 to ECF No. 1) (emphasis added).

16 This lawsuit is a mere ploy. Otherwise, there is no reason that this board would continue to
17 work with Dr. Mintas and negotiate with her after filing this lawsuit. Either PlayUp engaged in fraud
18 in misrepresenting to Dr. Mintas that they were still working towards a contract or did intend to enter
19 into a contract with her even after filing this lawsuit, despite attesting in their affidavits their beliefs
20 that she had breached her fiduciary duties. Neither situation paints a credible picture of the
21 leadership of PlayUp. PlayUp Inc. is not likely to prevail on its breach of fiduciary duties claim.

22 **iii. Plaintiff Will Not Likely Succeed on its NRS 600A Claim.**

23 Pursuant to NRS Chapter 600A, a party may obtain an injunction for the actual or threatened
24 misappropriation of trade secrets. As the Court has detailed at length in its order (ECF No. 11),
25 which is further supported by the declaration of Dr. Mintas attached hereto, there is no evidence that
26 Dr. Mintas has misappropriated or will misappropriate trade secrets. PlayUp provided its own trade
27 secrets and confidential information to FTX, including the market access agreements that PlayUp
28

1 sought to seal in this court proceeding. (ECF No. 9). In short, there is no basis for a claim of breach
2 of NRS 600A.

3 **B. Plaintiff Is Not Likely to Suffer Irreparable Harm Absent an Injunction.**

4 To satisfy the irreparable harm factor, the movant must demonstrate a reasonable probability
5 of irreparable harm if the improper conduct is allowed to continue for which compensatory damages
6 is an inadequate remedy. *S.O.C., Inc. v. Mirage Casino-Hotel*, 117 Nev. 403, 408, 23 P.3d 243, 246
7 (2001). There is no irreparable harm absent an injunction and Dr. Mintas herself has every
8 motivation to see PlayUp succeed and as stated in her declaration, preferred that this be handled
9 outside publicized litigation but must respond to the false allegations against her. The Court order
10 found that, without the benefit of counter-evidence, Dr. Mintas purportedly disclosing to FTX about
11 conflict within PlayUp's management and other systemic issues at PlayUp "appear to have
12 negatively impacted PlayUp during its crucial negotiations with FTX Limited." (ECF No. 11 at
13 10:14-15). It was Simic who informed FTX that Dr. Mintas is no longer "a part of the future plans
14 of the business." (Exhibit 5). As set forth above, PlayUp Inc. failed to present to this Court the
15 essential and clear email from FTX explaining why it was passing on the deal. The email from FTX
16 was sent to Simic and Costa after meeting with Simic and Costa and laid out exactly why FTX was
17 passing on the deal, which had nothing to do with any statements by Dr. Mintas. It was due to Simic's
18 unethical conduct. Dr. Mintas is being used as the scapegoat for Simic's misconduct and the board's
19 refusal to allow Dr. Mintas an opportunity to save the deal with FTX to hide their unethical intention.
20 Thus, any hardship is not from the absence of an injunction but the board's acceptance of Simic's
21 misconduct and refusal to satisfy their own fiduciary obligations.

22 **C. The Balance of Hardships Favors Denial of the Requested Injunction.**

23 The Court must also consider the potential hardships to the parties. *Univ. & Cmty. Coll. Sys.*
24 *of Nevada v. Nevadans for Sound Gov't*, 120 Nev. at 721, 100 P.3d at 187. Since filing this lawsuit,
25 PlayUp Inc. has eviscerated Dr. Mintas' reputation in the media. She cannot obtain employment.
26 PlayUp Inc. has no evidence of any misconduct and the email from Simic detailing his side deals
27 and email from FTX explaining why they are passing on the deal shows the truth. Dr. Mintas was
28 shut out when Simic and the other two board members of PlayUp and PlayChip realized she found

1 out about their breaches of fiduciary duties. She has no motive to harm PlayUp. In two years, she
2 received a salary of \$320,000 after tax and invested \$1.2 million. In other words, if PlayUp fails, she
3 has lost at least \$880,000 and in fact worked two years for free, night and day to achieve PlayUp's
4 success, not taking one single day of vacation. She has every incentive to see PlayUp succeed but
5 cannot sit idly by as PlayUp makes false statements about her and to her detriment. Dr. Mintas will
6 continue to suffer severe hardship if an injunction is issued.

7 **D. The Public Interest Does Not Favor an Injunction.**

8 Finally, “[t]he public interest analysis for the issuance of [injunctive relief] requires [district
9 courts] to consider whether there exists some critical public interest that would be injured by the
10 grant of preliminary relief.” *V’Guara Inc. v. Dec.*, 925 F.Supp.2d at 1127 (internal quote omitted).
11 Public interest does not favor an injunction here. Dr. Mintas has information showing the
12 misconduct of the board members of PlayUp, which has harmed herself and the other shareholders.
13 Public interest does not favor forcing her to remain silent. Moreover, as set forth above, she has
14 reporting obligations as part of gaming key licenses. PlayUp is trying to use this lawsuit to protect
15 their board from derivative actions and further legal liability due to their misconduct.

16 **E. If Granted, the Bond Should Be Substantial.**

17 In Nevada, the “expressed purpose of posting a security bond is to protect a party from
18 damages incurred as a result of the wrongful injunction, not from damages existing before the
19 injunction was issued.” *Am. Bonding Co. v. Roggen Enter.*, 109 Nev. 588, 591, 854 P.2d 686, 870
20 (1993). If the injunction is granted, Dr. Mintas requests a bond of \$4 million, which is the two years
21 of her salary that PlayUp Inc. agreed to pay under the new contract, as well as takes into
22 consideration her \$1.2 million investment into PlayUp and reputational damage.

23 **IV. CONCLUSION**

24 Based on the foregoing, Dr. Mintas respectfully requests the Court deny PlayUp Inc.’s
25 motion for preliminary injunction.

26 Dated this 27th day of December 2021.

NAYLOR & BRASTER

/s/ Jennifer L. Braster

Jennifer L. Braster, NBN 9982

Attorneys for Dr. Laila Mintas

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 4(b), I hereby certify that I am an employee of NAYLOR & BRASTER and that on this 27th day of December 2021, I caused the document **DR. LAILA MINTAS’ RESPONSE IN OPPOSITION TO EMERGENCY MOTION FOR AN EX PARTE TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** to be served through the Court’s CM/ECF system to those persons designated by the parties that have appeared in the matter.

/s/ Jennifer L. Braster

An Employee of NAYLOR & BRASTER