

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

THE DISTRICT OF COLUMBIA and  
THE STATE OF MARYLAND,

*Plaintiffs,*

v.

DONALD J. TRUMP, in his official capacity as  
President of the United States of America,

*Defendant.*

Civil Action No. 8:17-cv-01596-PJM

**DECLARATION OF RACHEL J. ROGINSKY, ISHC**

**EXPERT DECLARATION OF RACHEL J. ROGINSKY, ISHC**

**I. Experience and Qualifications**

1. I am currently the Owner and Founder of Pinnacle Advisory Group, Inc. Pinnacle Advisory Group is one of the nation's leading, full-service hospitality consulting firms. Pinnacle Advisory Group is comprised of five divisions: consulting; valuation; development services; litigation support; and asset management. Pinnacle's clients benefit from the services of a total of 14 professionals located in offices in Boston, New York City, Washington, DC, Los Angeles, Tampa, and Portland. Pinnacle Advisory Group clients include local, regional, national, and international financial institutions, REITs, private equity firms, hotel companies, developers, public sector agencies, airport authorities, hotel management companies, attorneys, and colleges/universities. Since 1991, Pinnacle Advisory Group has advised on more than \$60 billion of hotel, resort, and convention assets throughout the United States and Caribbean.
2. I earned my Bachelor of Science degree from Cornell School of Hotel Administration in 1979. Cornell's hotel school is considered the leading hospitality program in the world.
3. I have more than 30 years of experience in hospitality consulting. After graduating from Cornell, I started my career in hospitality operations and then worked with the national accounting firm Pannell Kerr Forster, eventually becoming a Principal, overseeing their Management Advisory Services practice in New England. In 1991, I founded Pinnacle Advisory Group.
4. I have authored and co-authored industry journal articles and several books related to the hospitality business. I am the co-editor and an author for *Hotel Investments - Issues and Perspectives*, published by the American Hotel and Lodging Educational Institute. With five editions (1995, 1999, 2003, 2006, 2011, and 2014), this book is used by most major hotel schools and many hotel industry leaders.
5. I am an adjunct professor at Boston University School of Hospitality Administration. I currently teach Hospitality Market Feasibility and Valuation in the undergraduate program; I will be teaching a similar course in the graduate program in the spring of 2018. I am also a regular guest lecturer at Cornell School of Hotel Administration and other prestigious institutes of higher education, including Johnson & Wales, University of New Hampshire, Massachusetts Institute of Technology, and Florida International University.
6. I am the Chair Emeritus of the International Society of Hospitality Consultants (ISHC). ISHC is a respected source for hospitality expertise and counsel, represented by some two hundred of the industry's most respected professionals from across six continents. I have been a Board Member for over six years, have led numerous committees, and was the Chairman in 2015.
7. I am on the New England Real Estate Journal Hotel Industry Advisory Board and am a long-time Board Member for the Massachusetts Lodging Association.
8. My expertise includes assessing competition in the hotel industry, and I have regularly assessed the nature and extent of competition among hotels throughout most major markets within the United States. Annually, I review and determine competitive sets of hotels for over 150 geographic areas in the United States. My expertise also includes evaluating impact that results from hotel competition. Specifically, I have authored reports and have given presentations on hotel impact issues, and my firm has taken a lead role in preparing impact studies for most major hotel companies.

9. I have been certified as an expert witness on hotel industry issues in numerous state and federal courts.
10. I provided a declaration in August 2017 addressing hotel competition issues for the plaintiffs in a similar case against the defendant pending in the Southern District of New York. (*Citizens for Responsibility and Ethics in Washington v. Donald J. Trump*, No. 1:17-cv-00458-GBD (S.D.N.Y.).)
11. I am regularly sought after as a hotel industry expert by major news organizations, including but not limited to *The New York Times*, *The Wall Street Journal*, and *The Boston Globe*. I have spoken at major hotel events such as the American Lodging Investment Summit, the International Restaurant and Foodservice Show, and events sponsored by the Real Estate Finance Association, New England Women in Real Estate, and the Urban Land Institute.
12. Pinnacle Advisory Group is being compensated for the time I spend on this matter at my normal and customary rate (currently, \$400/hour, except for testimony and trial preparation, which I currently bill at \$500/hour).

## **II. Assignment and Materials Reviewed**

13. I was retained by plaintiffs' counsel in this case to evaluate the nature and extent of any competition, in general and specifically for government business, (a) between the Walter E. Washington Convention Center (the "DC Convention Center") and the event and meeting spaces in the Trump International Hotel Washington, DC (the "Trump Hotel"), (b) between the MGM Hotel and Casino at National Harbor in Oxon Hill, Maryland (the "MGM Hotel") and the Trump Hotel, both for lodging and for events and meetings, and (c) between the Gaylord National Resort & Convention Center at National Harbor (the "Gaylord Hotel") and the Trump Hotel, both for lodging and for events and meetings. In addition, counsel requested that I describe the government demand for high quality special event and meeting spaces and for high quality lodging in the Washington, DC metropolitan area. Finally, counsel asked that I review the Trump Hotel's income statements for February-April 2017 (which include the year-to-date April 2017 income statement) to compare the hotel's actual performance to its budgeted performance and to the performance of a set of competitors defined by the Trump Hotel.
14. The materials that I reviewed include websites with information about: the District of Columbia's conference and event venues; Destination DC; the MGM Hotel; the Trump Hotel; and federal government agencies in the District of Columbia and Prince George's County, Maryland. Additionally, I reviewed George Mason University's Center for Regional Analysis' website, which provides data and research about the Washington, DC regional economy. I also reviewed: catering menus from the Trump Hotel; income statements of the Trump Hotel for the months of February, March and April 2017, originally published on the General Services Administration's website; Smith Travel Research reports about the Washington, DC lodging market; data on U.S. government economic activity in the D.C. area; Macomber International Inc.'s review of ancillary facility elements of casino license applicants, prepared for the Maryland Lottery and Gaming Control Commission's Video Lottery Facility Location Commission; Washington Post and Politico articles about the performance of the Trump Hotel and about events held there; Washington Business Journal articles about the impact of the federal government on the Washington, DC metropolitan area economy; articles about the Washington, DC real estate, hotel, and tourism markets; the 2016 state of downtown report of the Downtown DC Business Improvement District; the Saudi US Relations Information Service website regarding Saudi government events at area hotels; TripAdvisor reviews of the MGM Hotel, the Gaylord Hotel and the Trump Hotel; WeddingWire.com reviews of the Trump Hotel; news and event pages on the website of the Food and Drug Administration; websites of the National Institute

of Standards and Technology and the Department of Treasury; and the Facebook and Twitter pages of Events DC, the MGM Hotel, the Gaylord Hotel, and the Trump Hotel. I also reviewed the defendant's memorandum in support of his motion to dismiss, and the Declaration of Christopher Muller submitted in this case.

15. I consulted with Anne Purcell, Pinnacle's Vice President in the Washington, DC office, for her knowledge of the hotel industry in the Washington, DC metropolitan area. As a hotel expert with over 30 years of experience, I also relied upon my general knowledge of the hotel industry, which is based in part on my regular review of industry publications such as Smith Travel Research reports, reports on office vacancy and office development statistics, employment rates, and job growth and tourism data, such as data on international and domestic visitation to particular geographic areas.

### **III. The Nature of Competition in the Hospitality Industry**

16. Two hotels are competitors if they both offer services or products to the same market, market segment, or customer group. The same may be said for meeting and event space within the hotel, whether it is competing with meeting and event space located within a different hotel or with a free-standing event or meeting venue. To be a competitor, each needs to be considered a viable substitute by a group of consumers. Consumers determine whether lodging and meeting facilities are viable substitutes based on location, facilities, class and image, services, amenities, and price. Competition occurs among lodging and meeting facilities that are similar with respect to these factors.
17. Important attributes in choosing a hotel include location, facilities, services, amenities, class and image, and price. Additional important attributes in choosing a meeting or event facility include: size and configuration of space; available dates; proximity to airports; ease of access to the facility; the reputation of the facility for hosting meetings; and the availability of experienced suppliers such as audiovisual firms and security. In general, meeting and event planners are looking for an attractive, clean, well lit, technologically supported facility with efficient staff that can handle the group's size, offer diverse menus for meals and breaks, and have sufficient equipment to do a variety of room set ups as needed.
18. While hotel and event space competitors often are located near each other, they can be located miles apart or even in different geographic regions, depending on the purpose of a guest's visit. For example, a company planning a retreat might consider hotels in different regions as long as the candidates are within the distance the company is willing to travel for the retreat.
19. Hotels may compete with non-hotels for particular types of services. For example, a hotel's fine-dining restaurant might directly compete with local restaurants, and a hotel spa might compete with a local health club.
20. Hotels and meeting venues that attract a common set of visitors compete with each other even if they also attract customers that are not within this common set. That is, hotels and meeting venues are competitors even if they market to and attract customers from pools of visitors that overlap only in part, or overlap only under special circumstances. If, for whatever reason, demand increases for rooms at one hotel or at a meeting venue, that will result in more customers from its pool of potential customers staying at that hotel or meeting venue, and fewer from that pool staying at competing hotels or renting competing meeting spaces.

21. Events at hotels and other venues are normally arranged by sales staff who earn bonuses for reaching sales goals or by third party planners who earn commissions.
22. The room rental is often only one of several expenses incurred by an event or meeting host. Event and meeting hosts frequently also purchase food, decorations, and various other supplies and services.

#### **IV. Summary of Conclusions**

23. The DC Convention Center in downtown Washington, DC competes with the Trump Hotel to host meetings and special events of up to about 1,200 guests. These venues attract overlapping types of meetings and special events and have several common characteristics.<sup>1</sup>
24. The Gaylord Hotel and the MGM Hotel, both located at National Harbor, a resort development in Oxon Hill, Maryland, compete with the Trump Hotel to host meetings and special events. All three hotels attract overlapping types of meetings and special events, and their respective meeting and event spaces have several common characteristics. In addition, the MGM Hotel and Gaylord Hotel compete with the Trump Hotel for lodging business unassociated with events and meetings. All three hotels attract overlapping pools of overnight guests and provide overnight guests with several common characteristics.
25. A prime attraction at the National Harbor complex is the MGM Casino. Attendees at meetings and special events taking place at the Gaylord Hotel or the MGM Hotel, and guests staying overnight at these hotels, are more likely to spend money at the MGM Casino than they would if their special event or meeting were held at the Trump Hotel or if they stayed overnight at the Trump Hotel.
26. The numerous federal government offices and foreign embassies in the District of Columbia and its surrounding suburbs generate substantial government demand for high quality special events and meeting spaces and for high quality lodging in the Washington, DC metropolitan area. Given this substantial government demand, and the competition between the Trump Hotel and the other venues discussed herein, I conclude that this competition includes competition for government business.
27. In the first four months of 2017, just a few months after the Trump Hotel opened in September 2016, the hotel greatly outperformed its previously projected average daily room rate and its previously projected occupancy, and even exceeded the average daily room rate of a group of far more established hotels that the Trump Hotel, itself, identified as its closest competitors.

#### **V. The Walter E. Washington Convention Center and the Trump Hotel Compete with Each Other**

28. The DC Convention Center is located at 801 Mount Vernon Place, NW Washington, DC 20001. It is 10 blocks (0.9 miles) from the Trump Hotel. The DC Convention Center has 2.3 million square feet of convention and exhibit space. Included in this space is a 52,000 square foot ballroom that divides into two sections of approximately 19,000 square feet each and one section of 14,000 square feet, and numerous smaller meeting rooms that range from 550 square feet to 4,200 square feet. According to Destination DC's website, the DC Convention Center generates over \$400 million in economic activity for the city annually. In 2016, the DC Convention Center held over 200 events with 1.4 million attendees. The DC Convention Center generates revenue from groups holding conferences, shows, and meetings within its facilities. While the majority of events held at the DC Convention Center have large numbers

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<sup>1</sup> In Appendix A, I have a facilities comparison chart that provides information on room sizes for the event and meeting spaces at the Trump Hotel, the DC Convention Center, the MGM Hotel and the Gaylord Hotel.

of attendees, the DC Convention Center also hosts smaller meetings, including meetings of federal government agencies such as the Food and Drug Administration, the Treasury Department, and the National Institutes of Standards and Technology (within the Department of Commerce).

29. The Trump Hotel is located at 1100 Pennsylvania Avenue, NW, Washington, DC. Formerly the Old Post Office Pavilion, the building was converted to the 263-room Trump International Hotel Washington, DC in September 2016. In addition to its 263 guest rooms, the Trump Hotel has a large portfolio of ballroom, event, and meeting spaces, including: the 13,200 square foot Presidential Ballroom, which is divisible by two and can seat up to 1,200 for a meal or accommodate 1,500 standing for a cocktail reception; the Lincoln Library, which can accommodate 150 people; and the Franklin Study, which can accommodate 110 people. There is also a selection of meeting rooms which can accommodate between 12 and 96 people, including the Madison, Eisenhower, Washington, Roosevelt, Jefferson, Reagan, Wilson, Adams, Kennedy, Grant, and Patton rooms, and the DJT Boardroom.

**A. Location**

30. Both the DC Convention Center and the Trump Hotel are located in downtown Washington, DC and are accessible to the Metro Rail system. They are less than one mile and a 10 minute cab ride (without traffic) apart. Both are in desirable neighborhoods that are close to numerous restaurants, bars, and major tourist attractions such as the National Mall and the Smithsonian museums. The facilities are similarly accessible to the market area's demand generators, such as numerous federal agencies (e.g., Internal Revenue Service, the Federal Bureau of Investigation, the United States Agency for International Development, and the Environmental Protection Agency), law firms (e.g., Hogan Lovells, Covington & Burling, Arnold & Porter, Morgan Lewis, Crowell Moring, and Latham & Watkins), lobbying firms (e.g., Brownstein Hyatt and Podesta Group), and large businesses (e.g., Carlyle Group, Microsoft, and IBM). Both facilities are a 15 minute cab ride (without traffic) or a 20 minute Metro Rail ride from Ronald Reagan Washington National Airport.

**B. Facilities and Services**

31. Both the DC Convention Center and the Trump Hotel have meeting space suitably sized to host events and meetings attended by up to about 1,200 guests. Both the DC Convention Center and the Trump Hotel provide attractive, clean, well lit, and technologically supported facilities with sufficient equipment to do a variety of room set ups as needed, and with an efficient staff that can handle large and small groups. Both venues have meetings rooms with high ceilings which enhance audiovisual projection. Both facilities provide high-end catering such as customized three-course dinners with locally sourced ingredients, themed receptions with cooked-to-order food stations, as well as customized menu planning for lunches, breakfasts, and coffee breaks. Both provide good security to protect attendees. In short, both venues are high quality and offer comparable services with regard to planning and executing special events and meetings.

**C. Class and Image**

32. The DC Convention Center and the Trump Hotel are of similar class and image. The DC Convention Center has a four star rating on TripAdvisor with 81% of 163 review rating the facility 'Excellent' or 'Very Good'. Meetings & Events magazine has rated the DC Convention Center in the top three of 50 convention centers in the U.S. CVent, a global meeting, event and technology company used by meeting planners to find venues, ranks Washington, DC as the sixth best convention city out of 50 that were ranked.
33. The Trump Hotel opened in September 2016 and is in excellent condition. Formerly the Old Post Office Pavilion, an extensive renovation was completed to convert the building from office space and a food court to a hotel. The building, which was constructed in 1899, features a nine-story glass enclosed atrium

and many original details. The Trump Hotel has received a four diamond rating from AAA, a rating that less than 6% of the hotels reviewed are able to obtain. Based on these facts, both venues have a comparable class and image.

**D. Pricing - Banquet and Meeting Space**

34. Convention centers and hotels typically offer different pricing for meetings and special events based on a variety of factors such as the time of year the event is held, the number of attendees, the day of the week the event is held, the event planner's budget, and set up time required. The cost of a plated 3-course dinner at the DC Convention Center is in the range of \$52-\$80; the cost of a 3-course plated dinner at the Trump Hotel is in the range of \$95 to \$105. Even high-end event spaces will negotiate their prices during slower time periods or whenever they are not operating at their capacity goals. Demand for event space is slower from November to February (excluding peak holidays) and on Sunday and Thursday nights. And an event space may have difficulty reaching its capacity goals for any number of reasons. Whatever the reason for weak demand, an event space will typically respond by lowering its rates.
35. I thus expect that event and meeting prices at the Trump Hotel during slow months and slow days of the week, and whenever a particular event and meeting space is open and time is running short to fill it, are comparable to those of the DC Convention Center.

**E. Competition**

36. The DC Convention Center and the Trump Hotel are both venues that provide facilities and services for meetings and special events in downtown Washington, DC. An event planner looking for high quality, high class event space with a full range of available services in downtown Washington for a meeting or event for up to 1,200 people could choose either the DC Convention Center or the Trump Hotel subject to availability and comparable pricing. I conclude, therefore, that subject to availability and comparable pricing, the DC Convention Center and the Trump Hotel compete for meetings and special events for up to 1,200 people.

**VI. The MGM National Harbor Hotel and the Trump International Hotel DC Compete with Each Other**

37. The 308-room MGM Hotel opened in December 2016 at National Harbor in Oxon Hill, Maryland. The MGM Hotel is a \$1.3 billion integrated casino resort complex located approximately 10 miles from downtown Washington, DC and seven miles from Reagan National Airport. The hotel has over 28,000 square feet of meeting space which includes a 16,000 square foot ballroom that seats up to 1000 guests; it has nine restaurants and a 3,000 seat arena. The 125,000 square foot casino has capacity for 9,000 gamblers.
38. The National Harbor complex is a 350-acre mixed-use destination located along 1.5 miles of the Potomac River in Prince George's County, Maryland. In addition to the MGM Hotel, National Harbor includes the Gaylord Hotel, the Tanger Outlets, six additional hotels, hundreds of residential and office units, more than 160 shops, more than 40 restaurants, a marina, and The Capital Wheel – a 180-foot observation wheel featuring panoramic views of the nation's capital.

**A. Location**

39. The MGM Hotel is located in Oxon Hill, Maryland, approximately 10 miles south of the Trump Hotel (a 15-20 minute cab ride without traffic). Although the MGM hotel and the Trump Hotel are in different locations, both facilities are accessible to a common set of demand generators. These demand generators include Washington, DC tourist attractions, federal government agencies or installations in Prince George's County, such as Andrews Air Force Base, and federal agencies in Arlington and Alexandria,

Virginia, and Suitland, Maryland, such as the Pentagon, the U.S Patent & Trademark Office, and the U.S. Census Bureau. Distances to these federal agencies are as follows:

- a. Andrews Air Force Base: 10 miles from the MGM Hotel; 13 miles from the Trump Hotel;
- b. Pentagon: 10 miles from the MGM Hotel; 3.5 miles from the Trump Hotel;
- c. U.S. Patent & Trademark Office: 6 miles from the MGM Hotel; 8.7 miles from the Trump Hotel; and
- d. U.S. Census Bureau: 8 miles from the MGM Hotel; the Trump Hotel is one block from the main office of the Department of Commerce (which (organizationally) includes the Census Bureau). (The Census Bureau could decide to hold a meeting or conference near its office in Suitland, Maryland or near the Commerce Department building in downtown D.C.)

40. The two hotels are accessible to national and local groups seeking meeting or event space in the Washington, DC metropolitan area. Reagan National Airport is located between the two hotels, about four miles from the Trump Hotel and seven miles from the MGM Hotel. Because of its location within National Harbor, the MGM Hotel is within walking distance of numerous restaurants and retail shops, and, as noted, the hotel includes a casino. In addition, National Harbor is a taxi ride from Washington, DC attractions such as the National Mall and many museums. Similarly, given the Trump Hotel's location in downtown Washington, DC, it is also close to numerous restaurants, retail shops, District of Columbia tourist attractions, and federal government agencies.

#### **B. Facilities, Services, and Amenities**

41. Both the MGM Hotel and the Trump Hotel are full-service, higher-end hotel facilities. Both hotels provide luxuriously appointed guest rooms and suites and ample meeting space. The Trump Hotel has a 13,200 square foot ballroom and a total of 38,000 square feet of meeting and event spaces, compared to the MGM's 16,000 square foot ballroom and a total of over 28,000 square feet of meeting and event spaces. Both the MGM Hotel and the Trump Hotel provide attractive, clean, well lit, technologically supported facilities with sufficient equipment to do a variety of room set ups as needed, and with an efficient staff that can handle large and small groups. Both venues have meeting rooms with high ceilings which enhances audiovisual projection. Both hotels provide a minimum of three meals/day at on-site food and beverage facilities. Both provide 24/7 room service, bathrobes, and turn down services to hotel guests. Both include a fitness center and spa. Both provide similar amenities such as high-speed Internet access in all rooms, complimentary Wi-Fi in public areas, laundry and valet services, and a concierge desk. As such, the two hotels provide comparable facilities, services, and amenities.

#### **C. Class and Image**

42. The MGM Hotel and the Trump Hotel are of similar class and image. According to Macomber International's consulting report presented to the Maryland Lottery and Gaming Control Commission's Video Lottery Facility Location Commission in December 2013, the MGM brand is unique and is positioned to serve the "4-star" market. The report states that MGM presents a modern, sophisticated image while offering elements at the 5-star and über, world class quality levels. Both the MGM Hotel and the Trump Hotel offer services typically found in higher-end hotels. For example, both hotels offer deluxe bedding and linens in all guest rooms and suites, business center services, valet, turn down service, and 24/7 concierge. The MGM Hotel and the Trump Hotel are both AAA four diamond hotels; there are currently only 18 hotels with a AAA four diamond rating (including the MGM and the Trump) of approximately 800 hotels in the greater Washington, DC metropolitan area. As of November 6, 2017, the Trump Hotel is ranked 12th of 142 hotels in Washington, DC by TripAdvisor, with a 4.5 star classification based on 539 reviews. As of November 6, 2017, the MGM Hotel is ranked #1 of the 4 Oxon Hill, Maryland hotels ranked on TripAdvisor and has a 3.5 star rating on TripAdvisor based on 268 reviews. The MGM Hotel has nine



restaurants including the first restaurant in the Washington, DC area by celebrity chef Marcus Samuelsson, as well as restaurants by famous local restaurateurs José Andrés and Michael and Bryan Voltaggio. Similarly, the Trump Hotel is home to BLT Prime by Celebrity Chef David Burke. Based on these facts, both venues exhibit comparable class and image.

**D. Pricing – Lodging and Banquet/Meeting Space**

43. Hotels typically offer a variety of room rates, and these rates differ based on facilities, class and image, seasonal factors, business strategies, and locational advantages. Demand for hotel rooms is seasonal, and the slowest months are November to February. Similarly, such demand varies by day of the week, with the slowest days being Sundays and Thursdays. A hotel may have difficulty reaching its occupancy goals for any number of reasons. Whatever the reason for weak demand, a hotel will normally respond by lowering its rates.
44. For a point of comparison, I reviewed standard rooms/best available rate at the Trump Hotel and the MGM Hotel for a series of dates in January, February, and March 2018, a time period of traditionally weak demand. The room rates at the Trump Hotel, including fees and taxes, ranged from \$540 to \$590. During the same time frame, the room rates at the MGM Hotel, including fees and taxes, ranged from \$300 to \$625. Regardless of any price differential between the hotels, guests attending an event at either hotel may stay overnight if they do not want to drive home or drive to another hotel. And if the hotels are competing for group meeting business from the federal government, they would be competing at the same federal government lodging per diem.<sup>2</sup> Prince George's County has the same federal government lodging per diem as downtown Washington, DC. Based on these facts, I conclude that both venues charge comparable prices for overnight rooms when the Trump Hotel is experiencing weaker demand and if and when they are competing for federal government group business.
45. Hotels typically offer a range of prices for meetings and special events based on a variety of factors such as the time of year the event is held, the number of attendees, the day of the week the event is held, the event planner's budget, and set up time required. The cost of a plated 3-course dinner at the MGM Hotel is in the range of \$80 to \$110; the cost of a 3-course plated dinner at the Trump Hotel is in the range of \$95 to \$105. Menu prices for both venues thus are comparable. Hotels may charge a rental fee for event space. Rental fees can vary depending on the time of day, the day of the week, the month of the year, and the amount of food and beverage to be served at the event. Rental fees are usually waived when there are overnight guest rooms utilized in conjunction with the event. Normally, neither the Trump Hotel nor the MGM Hotel charges a room rental fee for events with catered meals such as dinners or receptions if certain revenue thresholds are met. At the MGM Hotel, for smaller meetings of 50 people or fewer with

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<sup>2</sup> The federal government per diem is the daily allowance for lodging, meals, and incidental expenses for federal government employees established by the General Services Administration. Since fiscal year 2005, lodging per diem rates have been based on average daily room rate data collected from properties best representing mid-range hotels in each market and account for seasonality in pricing. For example, the GSA per diem rate for Washington, DC and Prince George's County has been set at \$201 for January and February of 2018 and \$253 for March of 2018. According to Federal Travel Regulations, federal government employees must find lodging at per diem rates. As long as the per diem rate is available, federal government employees can stay at any class of hotel, including a four-diamond hotel. However, if travelers cannot find rooms at the per diem reimbursement rates, the FTR permits reimbursement up to 300% of the applicable maximum per diem rate, pursuant to FTR §§ 301-11.300 through 301-11.306. For example, the per diem multiplier would be granted if a federal government employee travels to a city that is hosting a large, city-wide convention or event, and the only rooms available are priced above the per diem rate.

no overnight lodging, meeting room rental fees range from \$500 to \$1,000 per room per day, depending on the amount of food and beverage ordered for the meeting, the room assigned, and the time of day, the day of the week, and the month of the year in which the event is held. Rental fees at the Trump Hotel for a meeting of 50 people or fewer also depend on these same factors and start at \$750 per room. Thus, both venues charge comparable prices for event and meeting space.

#### **E. Competition**

46. The MGM Hotel and the Trump Hotel both provide overnight lodging accommodations, as well as facilities and services for meetings and special events in the Washington, DC metropolitan area. Because the meeting and event spaces of both venues are of a similar class, are comparable in size and amenities, and offer comparable pricing, a meeting or event planner looking for space in the Washington, DC region to hold a meeting, reception, or special event for up to 1,000 people could choose either the MGM Hotel or the Trump Hotel. I conclude that the two venues compete for meetings and special events for up to 1,000 people. This competition for meetings and special events, in turn, can generate overnight guest business, when attendees at meetings and events choose to spend the night at the hotel. Because of the comparable class and image and amenities of each hotel, I further conclude that the MGM Hotel and the Trump Hotel also compete for overnight guests not associated with an event or meeting when their respective room rates are comparable.

#### **VII. The Gaylord Hotel and the Trump Hotel Compete with Each Other**

47. The 2,000-room Gaylord Hotel opened in April 2008. It is located at National Harbor in Oxon Hill, Maryland approximately 10.5 miles from downtown Washington (a 20 minute cab ride without traffic) and seven miles from Reagan National Airport. The hotel has extensive facilities including 550,000 square feet of meeting space, two restaurants, three bars, a coffee bar, and retail shops. In addition to its meeting space, the hotel has a fitness center, large indoor pool, and parking for a fee.
48. In recent years, the Gaylord Hotel has rented space to foreign and domestic government entities, such as the Internal Revenue Service and the Saudi Arabian Cultural Mission, an agency of the government of Saudi Arabia.

#### **A. Location**

49. The Gaylord Hotel is located in Oxon Hill, Maryland, approximately 10.5 miles south of the Trump Hotel (a 20 minute cab ride without traffic). Although the Gaylord Hotel and the Trump Hotel are in different locations, both facilities are accessible to a common set of demand generators. These demand generators include Washington, DC tourist attractions; federal government agencies; installations in Prince George's County such as Andrews Air Force Base; and federal agencies in Arlington, Virginia, Alexandria, Virginia, and Suitland, Maryland, such as the Pentagon, the U.S Patent and Trademark Office, and the U.S. Census Bureau. Distances to these federal agencies are as follows:
- a. Andrews Air Force Base: 10 miles from the Gaylord Hotel; 13 miles from the Trump Hotel;
  - b. Pentagon: 10 miles from the Gaylord Hotel; 3.5 miles from the Trump Hotel;
  - c. U.S. Patent & Trademark Office: 6 miles from the Gaylord Hotel; 8.7 miles from the Trump Hotel; and
  - d. U.S. Census Bureau: 8 miles from the Gaylord Hotel; the Trump Hotel is one block from the main office of the Department of Commerce.
50. The two hotels are accessible to national and local groups seeking meeting or events space in the Washington, DC metropolitan area. Reagan National Airport is located between the two hotels, about four miles from the Trump Hotel and seven miles from the Gaylord Hotel. Because of its location within National Harbor, the Gaylord Hotel is within walking distance of numerous restaurants, retail shops, and

the MGM Hotel's casino. In addition, it is a taxi ride from Washington, DC attractions such as the National Mall and Smithsonian Museums. Given the Trump Hotel's location in downtown Washington, DC, it is also close to numerous restaurants, retail shops, Washington, DC tourist attractions, and federal government agencies.

**B. Facilities, Services, and Amenities**

51. Both the Gaylord Hotel and the Trump Hotel are full service, higher end hotel facilities. Both hotels provide nicely appointed guest rooms and suites and ample meeting space. The Trump Hotel has a 13,200 square foot ballroom and a total of 38,000 square feet of meeting and event space compared to the Gaylord's 51,000 square foot Potomac ballroom and 550,000 square feet of total event space. The meeting space on the Gaylord's Ballroom level includes two smaller ballrooms, the Cherry Blossom Ballroom (7,957 square feet) and Woodrow Wilson Ballroom (13,780 square feet), as well as smaller breakout space. These smaller rooms are similar in size to meeting spaces at the Trump Hotel. Both the Gaylord Hotel and the Trump Hotel provide attractive, clean, well lit, technologically supported facilities with sufficient equipment to do a variety of room set ups as needed, and with an efficient staff that can handle large and small groups. Both venues have meetings rooms with high ceilings which enhances audiovisual projection. Both hotels provide a minimum of three meals/day at on-site food and beverage facilities; both provide 24/7 room service, bathrobes, and a fitness center and spa. Both provide similar amenities such as high-speed Internet access in all rooms, complimentary Wi-Fi in public areas, laundry and valet services, and a concierge desk. As such, the two hotels provide comparable facilities, services, and amenities.

**C. Class and Image**

52. The Gaylord Hotel and the Trump Hotel are of similar class and image. Both hotels offer services typically found in higher end hotels. For example, both hotels offer deluxe bedding and linens in all guest rooms and suites, business center services, valet parking, room service, and a concierge. The Trump Hotel, given its extensive recent renovation, does have larger bathrooms, many with both a shower and a bathtub. Despite these differences, the Gaylord Hotel and the Trump Hotel are both AAA four diamond hotels. As of November 6, 2017, the Trump Hotel is ranked the 12th best of 142 hotels in Washington, DC by TripAdvisor, with a 4.5 star classification based on 539 reviews. As of November 6, 2017, the Gaylord is ranked #2 of 5 National Harbor hotels ranked on TripAdvisor and has a 4 star rating based on 4,625 reviews. Based on these facts, both venues exhibit comparable class and image.

**D. Pricing – Lodging and Banquet/Meeting Space**

53. Hotels typically offer a variety of room rates, and these rates differ based on facilities, class and image, seasonal factors, business strategies, and locational advantages. Demand for hotel rooms is seasonal, and the slowest months are November to February. Similarly, such demand varies by day of the week, with the slowest days being Sundays and Thursdays. A hotel may have difficulty reaching its occupancy goals for any number of reasons. Whatever the reason for weak demand, a hotel will normally respond by lowering its rates.
54. For a point of comparison, I reviewed standard rooms/best available rate for a series of dates in January, February, and March 2018, a period of traditionally weak demand. The room rates at the Trump Hotel, including fees and taxes, ranged from \$540 to \$590. During the same time frame, the room rates at the Gaylord Hotel, including fees and taxes, ranged from \$325 to \$450. If the hotels are competing for group meeting business from the federal government, they would be competing at the same federal government lodging per diem. Prince George's County has the same federal government lodging per diem as downtown Washington, DC. Based on these facts, I conclude that both venues charge comparable prices

when the Trump Hotel is experiencing weaker demand and if and when they are competing for federal government group business.

55. Hotels typically offer different pricing for meetings and special events based on a variety of factors such as the time of year the event is held, the number of attendees, the day of the week the event is held, the event planner's budget, and set up time required. The cost of a plated 3-course dinner at the Gaylord Hotel is in the range of \$87 to \$120; the cost of a 3-course plated dinner at the Trump Hotel is in the range of \$95 to \$105. Menu prices for both venues thus are comparable. Hotels may charge a rental fee for the use of its event space. Rental fees can vary depending on the time of day, the day of the week, the month of the year, and the amount of food and beverage to be served at the event. Rental fees are usually waived when there are overnight guest rooms utilized in conjunction with the event. Normally, neither the Trump Hotel nor the Gaylord Hotel charges a room rental fee for events with catered meals such as dinners or receptions if certain revenue thresholds are met. At the Gaylord Hotel, for smaller meetings of 50 people or fewer with no overnight lodging, meeting room rental fees range from \$500 to \$1,000 per room per day, depending on the amount of food and beverage ordered, the room assigned, and the time of day, the day of the week, and the month of the year in which the event is held. Rental fees at the Trump Hotel for meetings of 50 people or fewer also depend on these same factors and start at \$750 per room. Thus, both venues charge comparable prices for event and meeting space.

#### **E. Competition**

56. The Gaylord Hotel and the Trump Hotel both provide overnight lodging accommodations, as well as facilities and services for meetings and special events in the Washington, DC metropolitan area. Because the meeting and event spaces of both venues are of a similar class, are comparable in size and amenities, and offer comparable pricing, a meeting or event planner looking for space in the Washington, DC region to hold a meeting, reception, or special event for up to 1,200 people could choose either the Gaylord Hotel or the Trump Hotel. I conclude that the two venues compete for meetings and special events for up to 1,200 people. This competition for meetings and special events, in turn, can generate overnight guest business, when attendees at meetings and events choose to spend the night at the hotel. Because of the comparable class and image and amenities of each hotel, I further conclude that the Gaylord Hotel and the Trump Hotel also compete for overnight guests not associated with an event or meeting when their respective room rates are comparable.

#### **VIII. There Is Substantial Government Demand for High-Quality Lodging and High-Quality Special Event and Meeting Space in the Washington, DC Metropolitan Area**

57. Within a 4.5-mile radius of downtown District of Columbia, where both the Trump Hotel and the DC Convention Center are located, there are 177 foreign embassies and 61 federal buildings, including 15 Cabinet department buildings such as the Department of Justice and the Department of the Treasury. In addition, there are eight federal agencies in Prince George's County within a seven-mile radius of National Harbor, home of the MGM Hotel and the Gaylord Hotel.

58. The federal government spends hundreds of millions of dollars each year on conferences and meetings. According to data published by each federal agency on conferences costing more than \$100,000 each, in FY 2016 (October 1, 2015 to September 30, 2016), the federal government spent approximately \$177 million on 579 conferences costing over \$100,000 each. The government paid the attendance costs for 194,000 attendees, who constitute only a fraction of the total attendance. These data are tracked as a result of the Office of Management and Budget's Memorandum M-12-12 issued in May 2012, which requires federal agencies to report on conferences costing more than \$100,000. These reports must include the location of the conference, the date of the conference, and the total number of individuals

whose travel expenses or other conference expenses were paid by the agency. Office of Management and Budget does not require federal agencies to report on meetings where less than \$100,000 is spent; therefore, the total amount the federal government spent on meetings in FY 2016 is much higher than \$177 million, and the total number of such meetings and attendees far exceeds 579 and 194,000, respectively.

59. The District of Columbia hosted 88 federal meetings (costing over \$100,000) in FY 2016, more than any other city. In FY 2016, the Washington, DC metropolitan area hosted approximately 30% of the 579 federal meetings that cost over \$100,000.
60. Federal government agencies hold meetings and conferences in the Washington, DC metropolitan area on many topics. These meetings and conferences have included education and training seminars, research and scientific symposiums, job orientations, federal agency meetings with small businesses, meetings and receptions with and for foreign diplomats, and meetings to roll out new government initiatives such as healthcare reform.
61. These meetings and events generate substantial demand for high end hotels and high end meeting spaces, as well for quality lodging and event space at federal government per diem rates, in the District of Columbia, and Prince George's County, Maryland. For example, the annual and spring meetings of the World Bank and the International Monetary Fund are held in the District of Columbia and generate demand for overnight lodging and meeting space at many hotels and event spaces throughout the city. The annual meeting is held in the District of Columbia two out of every three years, while the spring meeting is held every year in the District of Columbia. About 10,000 people attend the meetings, including about 3,500 members of delegations from the member countries of the World Bank and the IMF, and approximately 1,000 representatives of both domestic and international media. These meetings generate government demand for high end hotels and high quality event spaces in the Washington, DC metropolitan area.
62. According to the Bureau of Labor Statistics, in the Washington, DC metropolitan region, there are over 700,000 workers directly or indirectly employed by the federal government or federal government contractors. According to the Brookings Institution, the Washington DC metropolitan area has a \$400 billion economy which substantially consists of the provision of services, particularly by the federal government. Through direct employment and other spending, the federal government accounts for 38 percent of economic output in the Washington, DC metropolitan area. Hotels and event facilities garner the majority of their transient and conference demand through employers, large and small, located in their immediate area. Because the federal government and its contractors generate a substantial portion of the economic activity in the Washington, DC metropolitan area, government activities are a very important source of demand for both hotels and restaurants in the area.
63. Foreign embassies in the District of Columbia use meeting and event space at hotels and other venues in the District of Columbia for a variety of purposes including meetings, dinners, and receptions. Most foreign embassies in the District of Columbia host a "National Day." National Day is a designated date to celebrate the nation's Independence Day or its founding as a republic, or to honor a patron saint or revered ruler. Many embassies do not have the space to host celebrations on-site and frequently use hotels. For example, Albania celebrated its Independence Day at the Marriott Wardman Park in November 2012, Oman celebrated its National Day at the Four Seasons in the District of Columbia in November 2012, and the Philippines hosted its National Day at the Hay Adams in the District of Columbia in June 2013. The Bahrain and Kuwaiti embassies celebrated their National Days at the Trump Hotel in

December 2016 and February 2017, respectively. The Trump Hotel hosted the Prime Minister of Malaysia and a retinue of Malaysian diplomats in September 2017.

64. In sum, the federal government and foreign embassies generate substantial meeting, special event, and lodging demand, including high-end demand and federal government per diem demand, in the District of Columbia and in the adjacent suburbs, including Prince George's County. Given this substantial government demand, and the competition between the Trump Hotel and the other venues discussed above, I conclude that this competition includes competition for government business.

**IX. The Trump Hotel Has Outperformed Both Its Budget and Its Competitive Set**

65. A hotel's monthly Income Statement, prepared by the hotel manager, typically compares the hotel's budgeted income to actual income, by month and year-to-date. A hotel's annual budget is typically prepared prior to the beginning of the budget year.

66. I have reviewed the monthly income statement for April 2017 for the Trump Hotel. This statement shows that actual year-to-date performance substantially exceeded the budgeted year-to-date performance for all key factors: Occupancy; Average Daily Room Rate; Rooms Revenue; Food and Beverage Revenue; Gross Operating Profit; and Net Operating Income. The following table presents this data.

	<b>April 2017 Year-To-Date Actual</b>	<b>April 2017 Year-To-Date Budget</b>	<b>Variance %</b>
Occupancy	44.9%	40.6%	4.3%
Average Daily Room Rate	\$652.98	\$416.19	56.9%
Rooms Revenues	\$9,254,000	\$5,333,000	73.5%
Food & Beverage Revenue	\$8,236,000	\$6,002,000	37.2%
Gross Operating Profit	\$3,750,000	(\$395,000)	>500%
Net Operating Income	\$1,965,000	(\$2,137,000)	192%

67. In addition to comparing their actual and budgeted operating performance, hotels often compare their actual occupancy and average daily room rate to the average occupancy and average daily room rate of a set of hotels they select as their closest competitors. Hotels determine the occupancy and average daily rate of his set of rivals by requesting Smith Travel Research reports that provide this information aggregated across these rivals. Smith Travel Research collects data monthly from a large number of hotels nationwide. The April 2017 year-to-date Smith Travel Research report obtained by the Trump Hotel shows

that the hotel underperformed its closest rivals in occupancy, but far exceeded the rivals' average daily room rates. A low occupancy is typical for hotels in their first two to three years of operation as they ramp up their business. The Trump Hotel's low occupancy rate relative to its closest rivals in the first four months of 2017 is not surprising given that it opened in September 2016. A new hotel also often has a lower average daily room rate compared to its more established rivals. Yet, in the first four months of 2017, the Trump Hotel far exceeded the average daily room rate of the set of more established hotels that it identified as its closest rivals.

68. The following table provides the occupancy and average daily room rate figures as reported to Smith Travel Research for the Trump Hotel and for the set of rivals selected by the Trump Hotel:

Year-To-Date April 2017	Trump Hotel	Competitive Set
Occupancy	44.4%	69.5%
Average Daily Room Rate	\$660.28	\$495.91

This comparison shows that the guests staying at the Trump Hotel have been willing to pay a premium price above the rates of the Trump Hotel's closest competitors, as defined by the Trump Hotel.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of November, 2017 in Boston, Massachusetts.

*Rachel J Roginsky*

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**APPENDIX A**

**Facilities Comparison Chart**

	Total Meeting Space (SF)	Largest Meeting/Ball room	Largest Room Seated Meal Capacity	Largest Room Reception Capacity	Largest Room Meeting Capacity	Other Meeting Space (SF)
<b>Trump Hotel</b>	<b>20,479</b>	<b>13,200</b>	<b>1,200</b>	<b>1,335</b>	<b>660</b>	<b>7,279</b>
DC Convention Center	2,300,000	52,000	2,780	4,000	2,460	2,248,000
Gaylord Hotel Nat'l Harbor	546,889	51,402	3,000	5,100	5,500	495,487
MGM National Harbor	27,231	16,137	840	1,000	1,000	11,094

(A) All measurements are in square feet

Source: Hotel & venue websites

	Host Meal for 1000	Host Reception for 1000	Host Meeting for 500	Breakout Meeting space for 500
<b>Trump Hotel</b>	✓	✓	✓	✓
DC Convention Center	✓	✓	✓	✓
Gaylord Hotel Nat'l Harbor	✓	✓	✓	✓
MGM National Harbor	✓	✓	✓	✓

Source: Hotel & venue websites



**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

THE DISTRICT OF COLUMBIA and THE  
STATE OF MARYLAND,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as  
President of the United States of America,

Defendant.

Civil Action No. 8:17-cv-01596-PJM

**EXPERT DECLARATION OF CHRISTOPHER C. MULLER, PH.D.**

**I. Experience and Qualifications**

1. I am currently Professor of the Practice and former Dean of the Boston University School of Hospitality Administration with more than 30 years of experience in multi-unit restaurant management, consulting, and teaching.
2. I obtained my Ph.D. from Cornell University's School of Hotel Administration in 1992 in the disciplines of Finance, Marketing, and Organizational Behavior. From 1985 to 1999, I served on the undergraduate and graduate faculties at Cornell where I taught courses on a broad range of restaurant subjects, with a specialty in the area of Multi-Unit Restaurant Brand and Operations Management.
3. In 1999, I became a founding faculty member and Full Professor in the Rosen College of Hospitality Management at the University of Central Florida. There I was the founding Director of the Center for Multi-Unit Restaurant Management specializing in subject areas including Restaurant Brand Management, Restaurant Marketing and Advertising, and Corporate Restaurant Operations. I was on the faculty for more than a decade, leaving to become Dean at Boston University in 2010.
4. Over the past three decades, I have written more than fifty peer reviewed and industry journal articles, two books, and numerous case studies all related to the restaurant and hospitality business.
5. I have been a consultant to many leading U.S. and international restaurant companies on topics relating to branding, trademark and trade dress, operations, and leadership. These include but are not limited to: McDonald's, Burger King, Darden Restaurants, Wendy's, Hooter's, Buffalo Wild Wings, and Panera Bread.
6. I have owned my own full service and quick service restaurant companies and have over 49 years of practical work experience in the restaurant industry.
7. I have been certified as an expert witness in multiple restaurant cases brought before Federal Courts in Los Angeles, Kansas City, Orlando, Charlottesville, Minneapolis, and Boston. I provided a declaration in August

2017 addressing restaurant competition issues for the plaintiffs in a similar case against the defendant pending in the Southern District of New York. (*Citizens for Responsibility and Ethics in Washington v. Donald J. Trump*, No. 1:17-cv-00458-GBD (S.D.N.Y.).)

8. I am regularly sought after as a restaurant industry expert by most major news organizations, including but not limited to: ABC, CNN, CBS, FOX, NPR, The New York Times, The Wall Street Journal, Reuters, USA Today, Miami Herald, Orlando Sentinel, Bloomberg News, Los Angeles Times, Boston Globe, Time Magazine, and the BBC.
9. I am retained in this case at my normal and customary rate of \$ 600 per hour.

## **II. Assignment and Materials Reviewed**

10. I was retained by plaintiffs' counsel in this case to identify a number of the locally-owned restaurants in Washington, D.C. that I conclude compete with the defendant's restaurant, BLT Prime, and the Trump International Hotel catering and event staff and to describe the facts and analysis on which I rely for that opinion. Plaintiffs' counsel also asked me to identify the restaurants at National Harbor in Oxon Hill, Maryland that compete with BLT Prime and the Trump International Hotel catering and event staff, and to set out the facts and analysis that underlie my conclusion. In addition, plaintiffs' counsel asked me to identify examples of other restaurants in suburban Maryland that compete with BLT Prime and the Trump International Hotel catering and event staff, and to present the underlying facts and analysis. Finally, plaintiffs' counsel requested that I describe the nature and extent of the demand for the restaurants discussed herein by foreign, federal, state, and local government officials.
11. The materials that I reviewed include websites with information about the restaurants discussed herein. In addition, I reviewed defendant's memorandum in support of his motion to dismiss, the Declaration of Rachel Roginsky in this case, the listings on the Open Table App, materials supplied by Events DC, and the document entitled "A Review of the

Ancillary Facility Elements of Applicant Proposals For the Prince George's County, Maryland Casino License, Dec. 2013" prepared by Macomber International Inc. Finally, I used the Google Search and Google Maps applications.

12. I also reviewed research studies conducted by independent analysis organizations and individuals concerning the economic effects of local, small, and independent retail enterprises in comparison to large corporate chain organizations. These studies are listed in Appendix A.
13. As a recognized restaurant industry expert for more than 35 years, I also relied in formulating my opinions herein on my accumulated knowledge, experience, training, and research in the field.

### **III. The Nature of Restaurant and Event Competition**

14. A restaurant will draw customers from a "catchment" area, which is unique for each establishment and is based on a broad array of attributes including but not limited to:
  - a. location, specifically distance from targeted customers to the enterprise; in an urban environment, this usually is:
    - i. a 10-15 minute walk
    - ii. a 15-20 minute taxi or Uber ride
    - iii. or a 20-30 minute subway or bus ride away
  - b. location, specifically distance from targeted customers to the enterprise; in a suburban environment, this usually is:
    - i. a 5-10 mile radius
    - ii. a 15-45 minute drive
    - iii. a 15-30 minute taxi or Uber ride
  - c. location, specifically distance from targeted customers to the enterprise; for commuters from the surrounding metropolitan area, this usually is:
    - i. a 10-50 mile radius
    - ii. a 30-90 minute morning and evening commute
    - iii. similar distances as apply to an urban patron but from an office or work location,
  - d. consumer search costs associated with a purchase,
  - e. restaurant brand name affiliation,
  - f. pricing strategies, including premiums and discounts,

- g. selection of food and beverage products (the menu) and services offered, and
  - h. ownership or brand reputation.
15. The restaurant industry can be separated into distinct segments or types. From lowest price and quality perception to highest price and quality perception these currently are:
- a. **Snack** (single item impulse purchase, e.g., ice cream, donuts, cookies, takeout only, typically items under \$5.00)
  - b. **Coffee Shop** (counter service, brewed coffee, espresso drinks, light pastries, mostly takeout, some seating, typically items \$2.00-\$8.00)
  - c. **QSR** (Quick Service Restaurant or “fast food” such as hamburgers, pizza, fried chicken, sandwiches, mostly takeout, some seating, typically items \$1.00-\$8.00)
  - d. **Fast Casual** (counter service, customized, fresh, made to order, some takeout, dining area, typically items \$3.00-\$10.00)
  - e. **Midscale** (counter and full service, broad “all day” menu, some take-out, served meals, typically items \$5.00-\$15.00)
  - f. **Casual Theme** (full table service, broad menu, bar service, typically items \$8.00-\$20.00)
  - g. **Premium Casual** or **Casual Elegance** (full table service, customized meals, freshly prepared, full bar and wine service, typically items \$15.00-\$50.00)
  - h. **Fine Dining** (formal tablecloth service, chef-driven menu, multiple courses, full bar, wine list, typically items \$30.00-\$100.00)
  - i. **Luxury** (formal tablecloth service, elegant décor, celebrity chef-driven, exclusive seating, full bar, extensive wine list, typically items over \$75.00)
16. Restaurants within the same geographic area that fall within the same restaurant segment (or similar restaurant segments) will draw from a common or similar pool of customers, and thus compete with each other. This is true whether or not two restaurants serve the same type of cuisine.

When choosing a restaurant, customers often are willing to consider multiple types of cuisine, as long as the restaurants are within their desired segment and geographic area. Special circumstances may make two restaurants competitive even when they are a category or two apart from each other. For example, a restaurant in the Premium Casual category can compete with a Luxury restaurant if the former's brand is associated with celebrity or luxury. Similarly, restaurants a category or two apart can compete as to parts of their menu or for particular meals. For example, an ice cream shop in the Snack category can compete for dessert with a restaurant in the Midscale category, even though they do not compete as to the rest of the Midscale restaurant's menu. Because the qualities of the physical venue can be as important or even more important for private events and meetings than food quality, private rooms in desirable venues can compete with event spaces serving higher quality food.

17. In general, the higher end a restaurant is, the further diners are willing to travel to patronize it.
18. If, for whatever reason, the demand for meals at a restaurant increases, that will result in more customers from the pool of potential customers patronizing that restaurant and will result in fewer customers from the pool patronizing its competitors' restaurants.
19. While there are hundreds of restaurants in Washington, D.C., they are not all in competition with each other. As noted, only restaurants within the same geographic area and the same or similar restaurant segment(s) compete with each other. Thus, for example, restaurants within a 3-10 mile radius (depending on how urbanized their respective locations are) and within the Fine Dining category compete with each other, but generally not with restaurants 20 miles away, and not with Fast Casual restaurants. Within a given restaurant category and geographic area in and around the District of Columbia (or in or around any city), only a small fraction of the total restaurants in the metropolitan area compete with each other.

**IV. Impact of Locally Owned Businesses on the Local Economy**

20. Over the past few decades, multiple studies have shown that local, independent retail enterprises, dollar for dollar, have a larger beneficial impact on a local or regional economy than an enterprise with its corporate headquarters located in a different city. A list of these studies is contained in Appendix A.
21. Multiple studies analyzing Dun & Bradstreet, the later National Establishment Time Series databases, and U.S. Census and Bureau of Labor Statistics have also demonstrated that small businesses create jobs at a faster rate than large corporate or chain organizations. This research was first conducted by Dr. David Birch, whose seminal 1987 book, *Job Creation in America*, has been used to set economic policy. A list of Dr. Birch's studies along with the 2008 study by Neumark, Wall & Zhang substantially confirming Dr. Birch's findings are listed in Appendix A.
22. These studies show that, compared to nationally owned or controlled businesses, locally owned businesses generate more local economic activity per dollar of revenue and more jobs. The studies conclude that these positive effects are driven by multiple factors, including but not limited to the fact that:
  - a. as local entrepreneurial companies such as local restaurants succeed, they train, mentor, encourage, and enhance other local entrepreneurial start-ups by helping to advance their employees' management, culinary, and service skills;
  - b. local businesses tend to purchase a greater proportion of input goods and services locally; in the restaurant environment, this translates into locally provided or grown food, beverages, and ancillary services such as banking, accounting, and construction contracts;
  - c. local businesses tend to hire more employees per dollar of sales and offer to higher wages and better benefits to their employees;
  - a. local businesses tend to donate a greater share of their charitable dollars and organizational support to local charitable organizations;

- b. a greater proportion of a local businesses' taxes are paid to its state and local jurisdictions;
- c. state and local governments often seek to entice non-local enterprises to move to the state or locality or open new business operations there with incentives such as tax abatements, land grants, and favorable leases; local businesses tend to receive less of these public subsidies and government incentives; and
- d. local businesses tend to feature lower pricing of retail goods and services which is an economic benefit to the local consuming public.

V. **Summary of Conclusions Regarding Restaurant and Event Space Competition**

- 23. As discussed below, there are many restaurants in the District of Columbia and Maryland that compete with the Trump International Hotel and its restaurant, BLT Prime. To summarize:
- 24. I conclude there are at least 32 restaurants in the District of Columbia that compete directly with BLT Prime based on their location, class, pricing, and association with celebrity chefs. I also conclude that there are at least 24 restaurants in the District of Columbia that compete with the Trump International Hotel for event and meeting spaces, based on those same features, as well as room availability.
- 25. I also conclude there are five high-end restaurants at National Harbor that compete directly with BLT Prime and the Trump International Hotel for restaurant patrons as well as meeting and event offerings, based on their location, class, pricing, space availability, and association with celebrity chefs.
- 26. I further analyzed a selection of restaurants in the Maryland suburbs of Chevy Chase and Bethesda and concluded that there are at least ten such restaurants that compete with BLT Prime based on based on their location, class, pricing, space availability, and association with celebrity chefs. In addition, there are at least 5 restaurants in Bethesda and Chevy Chase that compete with the Trump International Hotel for event and meeting spaces,



spaces, based on those same features, as well as room availability. These restaurants are only a subset of the ones in existence and I estimate that there are considerably more competitors than the selection I have identified in this declaration.

**VI. BLT Prime by David Burke, Competes with Numerous Locally Owned Restaurants in the District of Columbia**

***A. Location***

27. The Trump International Hotel Washington, D.C., 1100 Pennsylvania Avenue, NW, is located in the Old Post Office Building, leased from the General Services Administration. BLT Prime by David Burke, a celebrity chef-operated fine dining/luxury steak house is located in the lobby of the Trump International Hotel. Defendant, through various business entities, owns the restaurant, licenses the name from BLT Prime, and pays BLT Prime to operate it.
28. The following chart describes some of the locally owned restaurants in the District of Columbia that are located close enough to BLT Prime to compete with it (i.e., they are in BLT Prime's "trade area"):

<b>Restaurant</b>	<b>Address</b>	<b>Walking Time to Trump International Hotel<sup>1</sup></b>	<b>Taxi/Uber Ride Time to Trump International Hotel<sup>2</sup></b>
The Dabney	122 Blagden Alley, NW	20 minutes	5-15 minutes
Equinox	818 Connecticut Ave., NW	20 minutes	5-15 minutes
Rasika	633 D St. NW	8 minutes	5-10 minutes
701	701 Pennsylvania Ave., NW	6 minutes	3-8 minutes
Bibiana Osteria Enoteca	1100 New York Ave., NW	9 minutes	3-9 minutes
The Bombay Club	815 Connecticut Ave., NW	18 minutes	5-15 minutes
NOPA Kitchen+Bar	800 F St., NW	7 minutes	3-9 minutes
Ristorante Tosca	1112 F St., NW	5 minutes	2-6 minutes
Thally	1316 9 <sup>th</sup> St., NW	22 minutes	5-15 minutes
Iron Gate	1734 N St., NW	More than 20 minutes	6-18 minutes
Bistro Lopic & Wine Bar	1736 Wisconsin Ave., NW	More than 20 minutes	15-35 minutes
1789	1226 36 <sup>th</sup> St., NW	More than 20 minutes	12-22 minutes
The Old Ebbit Grill	675 15 <sup>th</sup> St., NW	10 minutes	3-8 minutes
Fiola	601 Pennsylvania Ave. NW	8 minutes	4-12 minutes
Fiola Mare	3050 K St., NW	More than 20 minutes	10-22 minutes
Cafe Milano	3251 Prospect St., NW	More than 20 minutes	12-22 minutes
Del Campo	777 I St., NW	14 minutes	5-14 minutes
Kinship/Métier	1015 7 <sup>th</sup> St., NW	17 minutes	6-16 minutes
Komi	1509 17 <sup>th</sup> St., NW	More than 20 minutes	7-18 minutes
Marcel's by Robert Widmaier	2401 Pennsylvania Ave., NW	More than 20 minutes	8-20 minutes
Brasserie Beck	1101 K St., NW	12 minutes	3-10 minutes
BlackSalt Fish Market & Restaurant	4883 MacArthur Blvd., NW	More than 20 minutes	20-40 minutes

The Riggsby in the Carlyle Hotel	1731 New Hampshire Ave., NW	More than 20 minutes	9-24 minutes
Minibar by José Andrés	855 E St., NW	6 minutes	3-8 minutes
Casolare Ristorante + Bar	2505 Wisconsin Ave., NW	More than 20 minutes	15-26 minutes
Zaytinya	701 9 <sup>th</sup> St., NW	9 minutes	5-10 minutes
Slate Wine Bar + Bistro	2404 Wisconsin Ave., NW	More than 20 minutes	15-28 minutes
I Ricchi	1220 19 <sup>th</sup> St., NW	More than 20 minutes	8-24 minutes
Petit Plats	2653 Connecticut Ave., NW	More than 20 minutes	12-24 minutes
Urbana	2121 P St., NW	More than 20 minutes	9-24 minutes
Bar à Vin/Chez Billy Sud	1035 31 <sup>st</sup> St., NW	More than 20 minutes	10-22 minutes
Acadiana	901 New York Ave., NW	12 minutes	5-12 minutes
Corduroy	1122 9 <sup>th</sup> St., NW	16 minutes	5-14 minutes
Graffiato	707 6 <sup>th</sup> St., NW	13 minutes	4-12 minutes
Kapnos	2201 14 <sup>th</sup> St., NW	More than 20 minutes	9-26 minutes

***B. Comparable Restaurant Offerings***

29. BLT Prime by David Burke is located in the Trump International Hotel. It is a luxury steakhouse by Celebrity Chef David Burke, which serves daily breakfast, lunch, and dinner.<sup>3</sup> BLT Prime features specialty menus for Sunday brunch and daily late afternoons. Breakfast prices range from \$16.00 to \$29.00, lunch prices range from \$19.00 to \$110.00 (for an entrée designed for two people), and dinner menu prices range from \$33.00 to \$120.00 (for an entrée designed for two people).

<sup>1</sup> Walking time is based on the Google Maps estimate at 7:00 p.m. on a weekday.

<sup>2</sup> Driving time is based on the Google Maps estimated range, depending on traffic, at 7:00 p.m. on a weekday.

<sup>3</sup> On Sunday, BLT Prime serves brunch instead of its daily lunch menu.

30. Minibar is a 2018 2-Star Michelin award winning luxury restaurant by Chef José Andrés with a Prix Fixe menu of 20 to 25 tasting courses for \$275.00. Optional wine and beverage pairings are available for an extra charge.
31. The Riggsby is a fine dining full service bar and grill by award-winning Celebrity Chef Michael Schlow, with a la carte dinner entrée prices ranging from \$17.00 to \$46.00.
32. Casolare Ristorante + Bar is a premium casual restaurant by award-winning Celebrity Chef Michael Schlow which daily serves breakfast and dinner and serves lunch on week days. The restaurant also features specialty menus for Saturday and Sunday brunch and daily late afternoon Happy Hour. Prices range for a la carte breakfast entrees from \$12.00 to \$17.00, for lunch from \$14.00 to \$18.00, and for dinner from \$15.00 to \$44.00.
33. Zaytinya is a fine dining Mediterranean restaurant by the multiple Michelin star-awarded Celebrity Chef José Andrés. The restaurant offers two Prix Fixe dinner options costing \$55.00 and \$65.00.
34. Komi is a 2018 1 Star Michelin award winning luxury Greek restaurant owned by local Chef Johnny Monis. The prix fixe menu is \$150.00 per person, with an optional wine pairing for \$75 per person.
35. The Dabney is a 1 Star Michelin award winning fine dining/luxury modern American restaurant which specializes in small, tapas style plates with shared menu items from \$48.00 to \$68.00.
36. Equinox is a fine dining/luxury modern American restaurant by Celebrity Chef Todd Gray. Prices range for a la carte dinner entrees from \$31.00 to \$38.00.
37. Rasika is a fine dining modern Indian restaurant, locally owned by the Knightsbridge Group with a la carte dinner entrees range from \$18.00 to \$36.00. The restaurant also offers two six course tasting menu options for \$60.00 or \$75.00.
38. 701 is a fine dining American restaurant, locally owned by the Knightsbridge Group with entrees ranging between \$22.00 to \$38.00.

39. Bibiana Osteria Enoteca is a fine dining/luxury Italian restaurant, locally owned by The Knightsbridge Group, with a la carte dinner entrees ranging from \$22.00 to \$70.00 (for an entrée designed for two people).
40. The Bombay Club is a fine dining Indian restaurant, locally owned by The Knightsbridge Group, with non-vegetarian, a la carte dinner entrees ranging from \$18.00 to \$36.00.
41. NOPA Kitchen+Bar is a fine dining American brasserie, locally owned by The Knightsbridge Group. Prices range for a la carte dinner entrees from \$22.00 to \$36.00.
42. Tosca is a fine dining/luxury Italian restaurant. Prices range for a la carte dinner entrees from \$38.00 to \$52.00.
43. Iron Gate is a fine dining American restaurant. Prices for small and large dinner plates range from \$15.00 to \$75.00 (for an entrée designed for two people). The restaurant also features a multi-course “family table” menu for 55.00.
44. Occidental Grill is a fine dining/luxury American restaurant. Prices range for a la carte dinner entrees from \$25.00 to \$49.00.
45. Bistrot Lepic is a fine dining French restaurant. Prices range for a la carte dinner entrees from \$22.00 to \$45.00.
46. 1789 is a fine dining/luxury All American restaurant. Prices range for a la carte dinner entrees from \$30.00 to \$57.00.
47. Fiola is a 1-Star Michelin award winning luxury Italian restaurant owned by Celebrity Chef Fabio Trabocchi. Prices for prix fixe dinners range from \$115.00 to \$150.00.
48. Fiola Mare is a fine dining/luxury Italian restaurant. Prices range for a la carte dinner entrees from \$28.00 to \$75.00.
49. Cafe Milano is a fine dining/luxury Italian restaurant. Prices range for a la carte dinner entrees from \$25.00 to \$65.00.
50. Del Campo is a fine dining/luxury Spanish restaurant. Prices range for a la carte dinner entrees from \$28.00 to \$110.00.

51. Kinship/Métier are both 2018 1 Star Michelin award winning fine dining/luxury American-French restaurants. These restaurants share a single address. Prices at Kinship for shared dinner entrees range from \$56.00 to \$168.00. Métier features a Fixe Prix menu for \$200.00.
52. Marcel's by Robert Wiedmaier, is a Celebrity Chef driven fine dining/luxury French restaurant. Prices range for Prix Fixe dinners from \$105.00 to \$155.00.
53. BlackSalt Fish Market & Restaurant is a fine dining/luxury seafood restaurant. Prices range for a la carte dinner entrees from \$36.00 to \$40.00 with Prix Fixe dinners from \$80.00 to \$110.00.
54. Brasserie Beck is a premium casual/fine dining Belgian restaurant by Celebrity Chef Robert Wiedmaier. Prices range for a la carte dinner entrees from \$22.00 to \$95.00.
55. Slate Wine Bar + Bistro is a fine dining American restaurant. Prices range for a la carte dinner entrees from \$20.00 to \$26.00 and Prix Fixe dinner options are \$35.00 or \$55.00.
56. I Ricchi is a fine dining Italian restaurant. Prices range for a la carte dinner entrees from \$29.00 to \$40.00.
57. Petit Plats is a premium casual/fine dining French restaurant. Prices range for a la carte dinner entrees from \$22.00 to \$29.00 with Prix Fixe dinners from \$48.00 to \$85.00.
58. Urbana is a fine dining Italian restaurant and bar. Prices range for a la carte dinner entrees from \$23.00 to \$42.00.
59. Bar a Vin/Chez Billy Sud is a premium casual/fine dining French restaurant. Prices range for a la carte dinner entrees from \$24.00 to \$38.00.
60. Acadiana is a premium casual/fine dining Cajun/New Orleans restaurant. Prices range for a la carte dinner entrees from \$25.00 to \$50.00.
61. Corduroy, a fine dining modern American restaurant. Prices range for a la carte dinner entrees from \$27.00 to \$35.00 with Prix Fixe dinners from \$70.00.

62. Given the above-described characteristics of the restaurants listed in this section, I conclude that they each compete with BLT Prime. I reach this conclusion because the restaurants listed above are located in BLT Prime's trade area; like BLT Prime, they are in the fine dining and/or luxury dining market segment; and they have comparable pricing to BLT Prime for some or all of their menu items. In addition, several of these restaurants are, like BLT Prime, associated with a celebrity chef. Association with a celebrity chef adds a luxury value to a restaurant.

***C. Comparable Event, Meeting, and Catered Offerings***

63. The Trump International Hotel has a large portfolio of ballroom, event, and meeting spaces, all catered by the hotel's banquet chef. These spaces include the 13,200 square foot Presidential Ballroom and two spaces with more than 3,000 square feet each, the Lincoln Library which can accommodate 150 and the Franklin Study which can accommodate 110. In addition to these spaces, the Trump International Hotel has a selection of rooms which can accommodate between 12 and 96 guests, including the Madison, Eisenhower, Washington, Roosevelt, Jefferson, Reagan, Wilson, Adams, Kennedy, Grant, and Patton, and the DJT Boardroom.
64. The Riggsby offers a range of event and meeting spaces in the restaurant and caters events and meetings held in the Carlyle Hotel, where The Riggsby is located. These event and meeting spaces in the restaurant and hotel can accommodate between 6 and 200 guests. The spaces include the Ellington accommodating up to 50 guests; The Fitzgerald, which can accommodate up to 12; and the Taylor ballroom, which can accommodate up to 88.
65. Casolare offers a range of event and meeting spaces, which it caters, both in the restaurant and in partnership with the Glover Park Hotel, including their newly renovated Walnut Ballroom for up to 200 guests. The Walnut Ballroom may be split into two smaller spaces, Walnut East and Walnut West. In addition, Casolare offers the Cocktail Garden, which accommodates up to 150 guests.

66. Zaytinya by award-winning Celebrity Chef José Andrés offers a selection of event and meeting spaces, which it caters, including an outside Terrace. The Terrace seats 70 people and can accommodate up to 100 for receptions.
67. The Equinox offers a range of private and semi-private dining and function rooms, including The Wine Room seating up to 12 guests, The Front Atrium seating up to 30, and The Atrium seating up to 60 guests.
68. Rasika offers a private dining room that seats up to 16 guests.
69. 701 offers private dining rooms including the Admiral Room, which seats up to 6-12 guests, State Room, which seats up to 40 guests, Memorial View, which seats up to 40 guests, and Window Alcove, which seats up to 10 guests.
70. Bibiana Osteria Enoteca offers a private dining room that seats up to 48 guests.
71. The Bombay Club offers a private dining room that seats up to 20 guests.
72. Tosca offers semi-private dining that seats 12-32 guests and a private dining room that seats up to 14 guests.
73. The Occidental Grill offers a range of private dining and function rooms, including the Monument Room seating up to 120 guests, the Presidential Room seating up to 56 guests, and The Willard Atrium seating up to 100 guests.
74. Bistrot Lepic has a private Wine Room, seating up to 14 guests.
75. 1789 has three private dining rooms. The John Carroll Room features seating for up to 60 guests, the Middleburg Room features seating for up to 56 guests, and the Garden Room features seating for up to 18 guests.
76. Fiore offers a range of private and semi-private dining and function rooms, including Aliche seating up to 25 guests, Luca seating up to 15 guests, Toto seating up to 60 guests, Lounge seating up to 18 guests, Rooftop seating up to 70 guests, and Patio seating up to 65 guests.
77. Fiore Mare offers a range of private and semi-private dining and function rooms, including Panerai seating up to 14 guests, Marea seating up to 36



guests (or 45 standing), Bar Piccolo seating 20 guests, Mermaid seating up to 18 guests, the Veranda seating up to 40 guests, and the Marina seating up to 40 guests.

78. Cafe Milano offers three private and semi-private dining and function rooms. These are the Domingo Room seating up to 30 guests, the Wine Room seating up to 70 guests, and the Garden Room seating up to 25 guests.
79. Del Campo offers a private dining room that seats up to 22 guests and a Mezzanine room that seats up to 32 guests.
80. Kinship has a private dining room that seats up to 20 guests.
81. Marcel's has a private room, the Palladin Room, which accommodates 15 to 60 guests.
82. Brasserie Beck has two private dining rooms, Brabo which seats up to 32 guests and Waterloo, which also seats up to 32 guests. They can be combined to seat up to 64 guests.
83. I Ricchi has two private spaces, the Tuscan Palm Room which seats up to 50 guests and the Wine Room which seats up to 20 guests.
84. Petit Plats has five private dining rooms that can accommodate 26, 32, 50, 20, and 20 guests, respectively.
85. Acadiana has two private dining rooms, the Lake room can accommodate up to 30 guests and the Bayou room that can accommodate up to 60.
86. Corduroy has two private dining rooms, Private Dining Room 1 can accommodate up to 16 guests and Private Dining Room 2 can accommodate up to 24.
87. NOPA Kitchen+Bar has three private dining rooms, the Adam Room can accommodate up to 12 guests, the Gallery Room can accommodate up to 36 guests, and the Ledroit Room can accommodate up to 20.
88. The private dining, event, and meeting spaces of the restaurants (or the hotels they cater) listed in this section each compete with comparably-sized private dining, event, or meeting spaces at Trump International Hotel. I reach this conclusion because these restaurants are located within

the trade area of the Trump International Hotel’s private dining, event, and meeting spaces, and because these restaurants, like the Trump International Hotel, offer event sites that are customized, specialized, unique, authentic, elegant, or new to the market, and thus that are appealing to both casual and professional event planners.

**VII. BLT Prime by David Burke Competes with Restaurants at National Harbor in Suburban Maryland**

***A. Location***

89. The Trump International Hotel Washington, D.C., 1100 Pennsylvania Avenue, NW, is located in the Old Post Office Building, leased from the Government Services Administration. BLT Prime by David Burke, a Celebrity Chef-operated fine dining/luxury steak house is located in the lobby of the Trump International Hotel.

90. The National Harbor waterfront resort is located on the Potomac River in Oxon Hill, Maryland. The MGM National Harbor, which features a casino, and the Gaylord National Resort and Convention Center are both located here. The following fine dining/luxury and celebrity chef-owned restaurants are located at the National Harbor complex:

<b>Restaurant</b>	<b>Address</b>	<b>Taxi/Uber Ride Time to Trump International Hotel<sup>4</sup></b>
Voltaggio Brothers Steakhouse	MGM National Harbor 101 MGM National Ave. Oxon Hill, MD	15-20 minutes
Fish by José Andrés	MGM National Harbor 101 MGM National Ave. Oxon Hill, MD	15-20 minutes
Marcus National Harbor by Marcus Samuelsson	MGM National Harbor 101 MGM National Ave. Oxon Hill, MD	15-20 minutes
Old Hickory Steakhouse	Gaylord National Resort and Convention Center 201 Waterfront St., Oxon Hill, MD	15-24 minutes

<sup>4</sup> Driving time is based on the Google Maps estimated range, depending on traffic, at 7:00 p.m. on a weekday.

Bond 45	National Harbor 149 Waterfront St., Oxon Hill, MD	15-20 minutes
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***B. Comparable Restaurant Offerings***

91. BLT Prime by David Burke is located in the Trump International Hotel. It is a luxury steakhouse by Celebrity Chef David Burke, which serves daily breakfast, lunch, and dinner.<sup>5</sup> BLT Prime features specialty menus for Sunday brunch and daily late afternoons. Breakfast prices range from \$16.00 to \$29.00, lunch prices range from \$19.00 to \$110.00 (for an entrée designed for two people), and dinner menu prices range from \$33.00 to \$120.00 (for an entrée designed for two people).
92. The Voltaggio Brothers Steakhouse is a locally owned, fine dining/luxury steakhouse, operated by Michael and Bryan Voltaggio, two competitors on the Top Chef reality television show. Prices for a la carte dinner menu items range from \$40.00 to \$85.00 and prices for a Prix Fixe tasting menu range from \$85.00 to \$195.00.
93. Fish by José Andrés is a locally owned, fine dining/luxury seafood restaurant operation by the multiple Michelin star-awarded Celebrity Chef José Andrés. Prices range for a la carte from \$35.00 to \$75.00.
94. Marcus is a fine dining/luxury Modern American restaurant operated by the James Beard award winning Celebrity Chef, Marcus Samuelson. Prices range for a la carte dinner entrée range from \$18.00 to \$70.00.
95. The Old Hickory Steakhouse, is a fine dining/luxury steakhouse in the lobby of the Gaylord National Resort and Conference Center. Prices range for a la carte dinner entrees range from \$30.00 to \$98.00.
96. Bond 45 is a fine dining/luxury steak and seafood restaurant. Prices for a la carte dinner entrees range from \$22.00 to \$96.00.
97. Given the characteristics of the restaurants described in this section, I conclude that they each compete with BLT Prime. I reach this conclusion

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<sup>5</sup> On Sunday, BLT Prime serves brunch instead of its daily lunch menu.

because the restaurants listed above are located with BLT Prime's trade area; like BLT Prime, are in the fine dining and/or luxury dining market segment; and they have comparable pricing to BLT Prime for some or all of their menu items. In addition, several of the restaurants are, like BLT Prime, associated with a celebrity chef. Association with a celebrity chef adds a luxury value to a restaurant.

***C. Comparable Event, Meeting, and Catered Offerings***

98. The Trump International Hotel has a large portfolio of ballroom, event, and meeting spaces, all catered by the hotel's banquet chef. These spaces include the 13,200 square foot Presidential Ballroom, and two spaces with more than 3,000 square feet each, the Lincoln Library which can accommodate 150, and the Franklin Study which can accommodate 110. In addition to these spaces, the Trump International Hotel features a selection of rooms which can accommodate between 12 and 96 guests, including the Madison, Eisenhower, Washington, Roosevelt, Jefferson, Reagan, Wilson, Adams, Kennedy, Grant, and Patton, and the DJT Boardroom.
99. The Voltaggio Brothers Steakhouse has two private dining areas. The Private Dining Room seats up to 16 guests, and the Kitchen Dining Room seats up to 25 guests.
100. Marcus National Harbor by Marcus Samuelsson has a Private Dining Room, Sammy's, with seating for up to 24 guests.
101. Fish by José Andrés has a selection of semi-private and private spaces including the Raw Bar with 16 seats, the Cocktail Bar with 20 seats, and the Patio with 93 seats.
102. Bond 45 has a selection of private spaces including the Veranda Chef's Table with 18 seats, Veranda Marina with 20 seats, Veranda Toscana with 20 seats, and the Wine Room with 32 seats.
103. The private dining, event, and meeting spaces of the restaurants listed in this section each compete with the comparably-sized private dining, event, or meeting spaces at Trump International Hotel. I reach this conclusion because these restaurants are located within the trade area of the Trump

International Hotel's private dining, event and meeting spaces, and because these restaurants, like the Trump International Hotel, offer event sites that are customized, specialized, unique, authentic, elegant, or new to the market, and thus that are appealing to both casual and professional event planners.

**VIII. BLT Prime by David Burke Competes with Restaurants in Suburban Maryland Adjacent to Washington, D.C.**

104. There likely are dozens of restaurants in suburban Maryland that compete with BLT Prime. I do not attempt to identify and describe each restaurant. Rather, I analyze a subset of restaurants located in Chevy Chase, MD and Bethesda, MD.

**A. Location**

<b>Restaurant</b>	<b>Address</b>	<b>METRO Rail Time to Trump International Hotel<sup>6</sup></b>	<b>Taxi/Uber Ride Time to Trump International Hotel<sup>7</sup></b>
Morton's The Steakhouse	Hyatt Regency Hotel 7400 Wisconsin Ave. Bethesda, MD	23 minutes	25-55 minutes
Ruth's Chris Steak House	7315 Wisconsin Ave., Bethesda, MD	25 minutes	28-45 minutes
The Capital Grille	5310 Western Ave. Chevy Chase, MD	20 minutes	22-45 minutes
Sushiko	5455 Wisconsin Ave., Chevy Chase, MD	24 minutes	22-45 minutes
Le Vieux Logis	7925 Old Georgetown Rd. Bethesda, MD	33 minutes	26-40 minutes
Black's Bar & Kitchen	7750 Woodmont Ave. Bethesda, MD	30 minutes	28-45 minutes
Bistro Provence	4933 Fairmont Ave. Bethesda, MD	30 minutes	28-40 minutes

<sup>6</sup> Metro Rail time is based on the Google Maps estimate at 7:00 p.m. on a weekday.

<sup>7</sup> Driving time is based on the Google Maps estimated range, depending on traffic, at 7:00 p.m. on a weekday.

Mon Ami Gabi	7239 Woodmont Ave. Bethesda, MD	27 minutes	28-45 minutes
Kapnos Kouzina	4900 Hampden Lane Bethesda, MD	27 minutes	28-45 minutes
La Ferme	7101 Brookville Rd. Chevy Chase, MD	Not accessible to Metro rail	24-55 minutes

***B. Comparable Restaurant Offerings***

105. BLT Prime by David Burke is located in the Trump International Hotel. It is a luxury steakhouse by Celebrity Chef David Burke, which serves daily breakfast, lunch, and dinner.<sup>8</sup> BLT Prime features specialty menus for Sunday brunch and daily late afternoons. Breakfast prices range from \$16.00 to \$29.00, lunch prices range from \$19.00 to \$110.00 (for an entrée designed for two people), and dinner menu prices range from \$33.00 to \$120.00 (for an entrée designed for two people).
106. Morton's The Steakhouse is a fine dining/luxury steakhouse. Prices for a la carte dinner entrees range from \$23.00 to \$114.00.
107. Ruth's Chris Steak House is a fine dining/luxury steakhouse. Prices for a la carte dinner entrees range from \$28.00 to \$115.00.
108. The Capital Grille is a fine dining/luxury steakhouse. Prices for a la carte dinner entrees range from \$31.00 to \$60.00.
109. Sushiko is a fine dining Japanese sushi restaurant locally co-owned by Chefs Daisuke Utagawa, Handry Tjan, and Piter Tjan. Prices for dinner sushi, sashimi, and complete omakase or dinner items run from \$28.00 to \$45.00.
110. Le Vieux Logis is a fine dining, traditional French restaurant. Prices for a la carte dinner entrees range from \$26.00 to \$38.00.
111. Black's Bar & Kitchen is a fine dining American restaurant. Prices for a la carte dinner entrees range from \$27.00 to \$38.00.

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<sup>8</sup> On Sunday, BLT Prime serves brunch instead of its daily lunch menu.

112. Bistro Provence is a fine dining, traditional French restaurant owned by James Beard-nominated chef Yannick Cam. Prices for a la carte dinner entrees range from \$28.00 to \$39.00.
113. Mon Ami Gabi is a fine dining French bistro and steakhouse. Prices range for a la carte dinner entrees range from \$18.00 to \$40.00.
114. Kapnos Kouzina is a fine dining Greek restaurant owned by Celebrity Chef Mike Isabella. The price of a Chef's Tasting menu is \$65.00.
115. La Ferme, is a fine dining/luxury French restaurant. Prices for a la carte dinner entrees range from \$24.00 to \$85.00.
116. Given the above-described characteristics of the restaurants listed in this section, I conclude that they each compete with BLT Prime. I reach this conclusion because the restaurants listed above are located in BLT Prime's trade area; like BLT Prime, they are in the fine dining and/or luxury dining market segment; and they have comparable pricing to BLT Prime for some or all of their menu items. In addition, several of these restaurants are, like BLT Prime, associated with a celebrity chef. Association with a celebrity chef adds a luxury value to a restaurant.

***C. Comparable Event, Meeting, and Catered Offerings***

117. The Trump International Hotel has a large portfolio of ballroom, event, and meeting spaces, all catered by the hotel's banquet chef. These spaces include the 13,200 square foot Presidential Ballroom, and two spaces with more than 3,000 square feet each, the Lincoln Library which can accommodate 150, and the Franklin Study which can accommodate 110. In addition to these spaces, the Trump International Hotel features a selection of rooms which can accommodate between 12 and 96 guests, including the Madison, Eisenhower, Washington, Roosevelt, Jefferson, Reagan, Wilson, Adams, Kennedy, Grant, and Patton, and the DJT Boardroom.
118. The Capital Grille has a portfolio of private meeting spaces including the Board Room with dinner seating for up to 12 guests, the Chevy Chase Room with dinner seating for up to 30 guests, and the Wine Room with seating dinner seating for up to 30 guests.

119. Morton's The Steakhouse three private dining rooms that seat up to 16 guests each. These rooms can be combined to seat up to 72 guests, if all three are combined, or 40 guests when two rooms are combined.
120. Sushiko has a private dining room with seating for 35 to 40 guests.
121. Bistro Provence has a private dining room with seating for 30 to 40 guests.
122. Mon Ami Gabi has "The Right Bank" private dining room with seating for up to 40 guests.
123. The private dining, event, and meeting spaces of the restaurants listed in this section each compete with the comparably-sized private dining, event, or meeting spaces at Trump International Hotel. I reach this conclusion because these restaurants are located within the trade area of the Trump International Hotel's private dining, event and meeting spaces, and because these restaurants, like the Trump International Hotel, offer event sites that are customized, specialized, unique, authentic, elegant, or new to the market, and thus that are appealing to both casual and professional event planners.

***D. Foreign and Domestic Government Clientele***

124. Within a 4.5-mile radius of BLT Prime and the Trump International Hotel's event and meeting spaces, there are 177 foreign embassies and 61 Federal Buildings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed the 6th day of November, 2017



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Christopher C. Muller, Ph.D.



**Appendix A to Declaration of Christopher C. Muller, Ph.D.**

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