IN THE SUPREME COURT OF THE

STATE OF NEVADA

WYNN RESORTS, LTD.,

Petitioner-Plaintiff,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK AND THE HONORABLE ELIZABETH GONZALEZ, DISTRICT JUDGE, DEPT. XI,

Respondent,

and

KAZUO OKADA, UNIVERSAL ENTERTAINMENT CORP., and ARUZE USA, INC.,

Real Parties in Interest.

Supreme Court Case Number: 68439

District Court Case Number: A-12-656710-B

REAL PARTIES' RESPONSE TO PETITIONER'S EMERGENCY MOTION UNDER NRAP 27(e) FOR STAY OF ORDER GRANTING MOTION TO COMPEL PENDING WRIT PURSUANT TO NRAP 8

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Pursuant to NRAP 27(a)(3)(A), Real Parties in Interest Aruze USA, Inc., Universal Entertainment Corporation and Kazuo Okada (the "Aruze Parties") respectfully submit this Response to the Emergency Motion Under NRAP 27(e) for Stay of Order Granting Motion to Compel Pending Writ Pursuant to NRAP 8 (the "Motion"), filed on September 25, 2015 by Petitioner Wynn Resorts, Limited ("WRL").

I. INTRODUCTION

Nearly four months ago, the District Court ordered WRL to produce the documents at issue in this matter. This was a routine discovery order, well within the District Court's broad discretion, and squarely based on the District Court's agreement with Aruze Parties' straightforward explanation as to why the documents sought were reasonably calculated to lead to the discovery of admissible evidence. WRL then waited six weeks to file a writ petition challenging the discovery order, and the District Court granted a temporary stay to ensure that this Court would have an opportunity to consider the petition. The stay expired on September 1, after which WRL waited two more weeks to move to extend it. The District Court held that additional delay was unwarranted unless this Court intended to grant relief, and so it renewed the stay only until October 2, leading to WRL's Motion.

WRL's Motion should be denied for two reasons. *First*, WRL's challenge to the District Court's discovery order is unlikely to succeed because it is premised on nothing more than a bare assertion, unsupported by explanation or authority, that the documents sought are not reasonably calculated to lead to the discovery of admissible evidence. *Second*, WRL will not suffer irreparable harm absent a stay, but a stay will irreparably harm the Aruze Parties by depriving them of critical documents necessary to prepare for upcoming depositions and trial. For these

reasons, and as further set forth below, the Aruze Parties respectfully request that this Court deny WRL's motion for a further stay and allow discovery to proceed.[1]

II. ARGUMENT

WRL correctly states the factors that this Court should consider in determining whether to grant the stay under NRAP 8(c). Motion at 6. WRL focuses its arguments on the likelihood of success of the underlying writ petition and the relative balance of the harms that each side would suffer depending on the Court's ruling. We do the same.

A. WRL's Writ Petition is Not Likely to Succeed

WRL must climb a steep hill to carry its burden of showing that it is entitled to writ relief. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). First, it must overcome the rule that discovery orders generally are not subject to writ review. *Valley Health Sys., LLC v. Eighth Judicial Dist. Court*, 127 Nev. Adv. Op. 15, 252 P.3d 676, 677 (2011). Then, it must also demonstrate that the District Court "clearly abused its discretion" in granting the motion. *Club Vista Fin. Servs. v. Eighth Judicial Dist. Court*, 128 Nev. Adv. Op. 21, 276 P.3d 246, 249 (2012). This will be particularly difficult given that the discovery rules "are designed to afford parties broad access of information." *Palmer v. Pioneer Inn Assocs., Ltd.*, 118 Nev. 943, 952, 59 P.3d 1237, 1243 (2002). For the reasons that follow, WRL's writ petition is not likely to succeed.

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[1] Regrettably, WRL also continues its now-familiar tactic of distraction by personally attacking the integrity of its opponents and opposing counsel. Motion at 3 ("scorched-earth campaign of deflection"); *id.* ("ill-motivated litigants"); *id.* at 4 ("they will endeavor to inflict as much damage upon [WRL] as possible"); *id.* at 4 n.2 ("their goal is to damage the Company and all of its actual shareholders"); *id.* at 8 ("seeking to abuse the discovery process"). *See also* Kazuo Okada's Reply in Support of Petition for Writ of Prohibition or Mandamus, Case No. 68310 (Aug. 4, 2015), at 14 n.7 (quoting numerous examples of the same type of vituperative rhetoric in WRL's Answer to Mr. Okada's writ petition). Indeed, Chief Justice Hardesty admonished WRL's counsel during the arguments held on September 1 that "acrimony among counsel . . . certainly is not in the best interests of the legal profession as a whole," but the Court's observation was apparently ignored.

1. WRL Has an Adequate Appellate Remedy

This Court has repeatedly held that "[t]he law reserves extraordinary writ relief for situations where there is not a plain, speedy and adequate remedy in the ordinary course of law. Because most discovery rulings can be adequately reviewed on appeal from the eventual final judgment, extraordinary writs generally are not available to review discovery orders." *Mitchell v. Eighth Judicial Dist. Court*, 131 Nev. Adv. Op. 21, 348 P.3d 675, 677 (2015) (internal quotation marks omitted); *Aspen Fin. Servs. Inc. v. Eight Judicial Dist. Court*, 129 Nev. Adv. Op. 93, 313 P.3d 875, 878 (2013) ("Extraordinary relief is generally unavailable to review discovery orders because such orders may be challenged in an appeal from an adverse final judgment.").

The discovery order at issue here is a routine discretionary discovery order that can be challenged in an appeal from an adverse final judgment. Indeed, the order only requires WRL to produce certain non-privileged documents in discovery. If WRL is right that the documents are irrelevant, they should not be admitted at trial and, if they are, then WRL will have grounds for an appeal.

2. The Exception to the Rule Against Writ Review of Discovery Orders for "Blanket Discovery Orders" Applies Only to Private Personal Information, Not Corporate Business Records

WRL claims that its petition fits within a narrow exception to the rule against writ review of discovery orders for "blanket discovery orders without regard to relevance." Motion at 6. WRL misapprehends the nature of this exception, which is intended to protect only truly private personal information.

The only cases that have applied the "blanket discovery orders" exception, as opposed to simply reciting it, have involved discovery orders that threatened the disclosure of a natural person's tax returns or private medical information. *Schlatter v. Eighth Judicial Dist. Court*, 93 Nev. 189, 192, 561 P.2d 1342, 1343-44

(1977) (overturning district court order that "permitted carte blanche discovery of all information contained in [tax and medical] materials without regard to relevancy. Our discovery rules provide no basis for such an invasion into a litigant's private affairs merely because redress is sought for personal injury."); *Clark v. Second Judicial Dist. Court*, 101 Nev. 58, 64, 692 P.2d 512, 516 (1985) ("The district court exceeded its jurisdiction under our ruling in *Schlatter* in ordering the production of the decedent's entire tax returns without specifying the items requested and the relevancy thereof.").

As this Court has recognized, tax and medical information raise unique privacy concerns that warrant special protection in discovery – concerns that are not applicable to the corporate business records at issue here. *Hetter v. Eighth Judicial Dist. Court*, 110 Nev. 513, 519, 874 P.2d 762, 765-66 (1994) ("[B]ecause of the policy considerations of protecting taxpayer privacy and encouraging the filing of full and accurate tax returns, both state and federal courts have subjected discovery requests for income tax returns to a heightened scrutiny."); *id.* at 515, 874 P.2d at 763 ("This discovery order seeks to intrude into one of the most private areas of a person's existence – his relationship with his doctor.").

These cases demonstrate the falsity of WRL's argument that "once it is forced to search for and produce the irrelevant and otherwise protected information, the damage will be done" because "one cannot unring the bell." Motion at 8. This line of reasoning made sense for the truly private personal information at issue in *Schlatter*, *Clark*, and *Hetter*, but not for the ordinary corporate business records at issue here. The privacy interests are simply not comparable. As explained above, if the documents are irrelevant, WRL will have

ample remedies in the form of motions to exclude them from evidence at trial or as grounds for an appeal.[2]

3. The District Court Did Not Disregard Relevance

Even if the rationale underlying the "blanket discovery order" cases applied to corporate business records, the District Court manifestly did not disregard the question of relevance when ordering the production of the documents at issue.

WRL claims that the District Court's order was "untethered to the concepts of relevancy or proportionality." Motion at 7. WRL offers nothing to support this position other than its own bare assertions and a few phrases cherry-picked from the Aruze Parties' briefs. Contrary to WRL's assertions, relevance was the primary issue debated in the motion to compel. PA 003841 (Aruze Parties' Reply in Support of Motion to Compel at 3) ("The parties are in agreement that this Motion turns on whether the document requests at issue are reasonably calculated to lead to the discovery of admissible evidence.").[3]

WRL's real complaint is that it does not like the District Court's ruling, arguing the District Court got it wrong – but that is not a ground for writ relief. For purposes of this Court's review, the key point is that it is abundantly clear that the District Court carefully considered the relevance issue. Indeed, as noted above, that was the central thrust of the motion to compel. The Aruze Parties devoted the majority of their briefs to explaining why their requests were reasonably calculated to lead to the discovery of admissible evidence, and WRL devoted the majority of its brief to arguing the opposite. PA 001913-30 (Aruze Parties' Motion to Compel at 6-23); PA 003095-97, 003099-003108 (WRL Opposition to Motion to Compel

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[2] To the extent that any of the documents at issue include confidential business information, the District Court's protective order ensures that such documents will be adequately protected.

[3] Citations to "PA" are to the appendix submitted by WRL with its writ petition.

at 2-4, 6-15); PA 03848-57 (Aruze Parties' Reply in Support of Their Motion to Compel at 10-19).[4]

Based on those arguments, and in light of the broad scope of pretrial discovery, the District Court granted the motion to compel. During the hearing, the Court specifically asked counsel for the Aruze Parties about the relevance of particular Requests for Production, further demonstrating that the Court fully and carefully considered the key question of relevance in exercising its discretion. PA 003819 (June 4 Transcript at 42) ("Requests Number 89, 114, 123 through 124, 126, and 249. I understand the other issues that are categorized, but that particular group, tell me how that relates or could lead to the discovery –"). The District Court later confirmed its relevance determination during the recent hearing on WRL's motion to extend the stay, stating that "[b]ecause the issues of suitability are *central to the resolution of this case*, I'm going to deny the request for stay." Ex. A (Sept. 18 Hearing Transcript) at 26 (emphasis added).

This Court need not address the underlying question whether the document requests are reasonably calculated to lead to the discovery of admissible evidence. But they clearly are. The requests focus on specific transactions undertaken by WRL in Macau. These transactions are directly related to the Aruze Parties' basic

[4] Contrary to WRL's claims, the Aruze Parties do not seek discovery into "every transaction [WRL] has engaged in since before its actual formation in 2002." Motion at 3. To the contrary, the Aruze Parties' motion to compel focused on a discrete set of issues, including several specifically identified suspicious payments to individuals and entities connected to senior Macau government officials that may have been used to obtain valuable government benefits; WRL's efforts to promote governmental investigations of the Aruze Parties; WRL's treatment of suitability concerns involving persons other than Mr. Wynn's enemies; and materials prepared for meetings of WRL's Board of Directors. WRL's complaints about the sheer number of discovery requests are similarly misplaced. WRL fails to inform the Court that the vast majority of the document requests are duplicates served on each of the 12 individual counter-defendants. The Aruze Parties specifically noted in those requests that the individuals need not produce documents in the possession of the company.

theory of the case, which is that WRL's stated rationale for the redemption was a pretext designed to protect the company and its Chairman/CEO, Steve Wynn.

Mr. Wynn and Mr. Okada founded the company together in 2002 and each owned roughly the same amount of stock. Mr. Wynn ran the company, while Mr. Okada was on the Board of Directors but not involved in day-to-day operations. Years later, the two had a falling out. First, Mr. Okada became the largest shareholder by far when Mr. Wynn lost half his stock in a divorce, threatening Mr. Wynn's control over the company. Then, Mr. Okada challenged the propriety of Mr. Wynn's plan to "donate" $135 million to an entity connected to senior government officials in Macau, where WRL had long been seeking a government license to build a lucrative new casino. Immediately thereafter, Mr. Wynn and his hand-picked Board retaliated against Mr. Okada by questioning the propriety of Mr. Okada's own separate business dealings in the Philippines. The relationship rapidly deteriorated from there, leading each to accuse the other of misconduct. Mr. Okada's accusations focused on the company's misconduct in Macau, including but not limited to the $135 million "donation."[5]

At trial, the Aruze Parties will argue to the jury that WRL had much to hide in Macau, and that is why WRL forced them out. Thus, WRL's conduct in Macau is directly connected to the dispute over the validity of the redemption, and

[5] The Aruze Parties' claims about WRL's suspicious transactions in Macau are based on known facts, not wild speculation. As just one example, the Aruze Parties noted that a WRL subsidiary paid $50 million to Tien Chiao, a small Macau company with undeniable links to senior Macau government officials, in 2005. WRL claimed at the time that the payment was to obtain rights to land on which it sought to build a new casino, but years later independent reports emerged that Tien Chiao never had such rights in the first place, raising suspicions about the true purpose of the $50 million payment. PA 001919 (Aruze Parties' Motion to Compel at 12). The Aruze Parties will argue to the jury that this is exactly the type of suspicious transaction that Mr. Wynn and WRL wanted to keep Mr. Okada from finding out about, providing a motive for Mr. Wynn and WRL to remove Mr. Okada from his position in the Company and seize his stock.

requests for discovery about that conduct are reasonably calculated to lead to the discovery of admissible evidence. NRCP 26(b)(1).

WRL argues that the Aruze Parties have not articulated a sufficiently specific theory of relevance. Motion at 7. But that misstates the burden, which is on the party resisting discovery. *F.T.C. v. AMG Servs., Inc.*, 291 F.R.D. 544, 553 (D. Nev. 2013). It also fails to account for the broad scope of pretrial discovery, which does not require that the information sought definitely be relevant, but only that it be "reasonably calculated to lead to the discovery of admissible evidence." NRCP 26(b)(1); *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

Moreover, the two cases that WRL cites are plainly inapplicable because they involved situations where a party sought discovery on an ***issue*** not relevant to the litigation. *Micro Motion, Inc. v. Kane Steel Co.*, 894 F.2d 1318, 1326 (Fed. Cir. 1990) (denying discovery related to patent infringement claim sought from third party because no such claim had been asserted against the third party); *Bristol v. Trudon*, 2014 WL 1390808, *4 (D. Conn. April 9, 2014) (precluding discovery into claims not asserted in the pleadings). Here, by contrast, the ***issue*** on which the Aruze Parties seek to take discovery – WRL's motive for the redemption – is clearly relevant. Indeed, it is the heart of the case. The only question is whether the facts to be discovered will ultimately support the Aruze Parties' pretext theory. Whether they do or not, the issue is relevant. As one of the cases WRL cited states, "[c]learly, discovery is allowed to flesh out a pattern of facts already known to a party relating to an issue necessarily in the case." *Micro Motion*, 894 F.2d at 1326. Accordingly, the District Court's order was not a clear abuse of discretion; indeed, it was correct.

B. The Balance of the Harms Weighs Against a Stay

To obtain a stay, WRL also must demonstrate that it will suffer irreparable harm without it. *Vanguard Piping Sys., Inc. v. Eighth Judicial Dist. Court*, 129

Nev. Adv. Op. 63, 309 P.3d 1017, 1019 (2013) ("[T]his court typically will not exercise discretion to review a pretrial discovery order unless the order could result in irreparable prejudice."). WRL's primary argument – that it will be harmed by the mere disclosure of irrelevant information – is incorrect for the reasons explained at length above. Absent significant personal privacy interests like those at stake in *Schlatter* and *Clark*, the mere disclosure of irrelevant corporate business records (subject to a protective order) will cause WRL no legally cognizable harm.

WRL also implicitly complains about the cost of complying with the District Court's order, claiming that it "compel[s] [WRL] to search through what will certainly be hundreds of thousands if not millions of pages of documents." Motion at 2. However, this Court has specifically held that litigation costs do not constitute irreparable harm. *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 253, 89 P.3d 36, 39 (2004) ("We have previously explained that litigation costs, even if potentially substantial, are not irreparable harm."); *Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 658, 6 P.3d 982, 986-87 (2000) (rejecting stay motion where petitioner disputed court's jurisdiction because "the expense of lengthy and time-consuming discovery, trial preparation, and trial . . . while potentially substantial, are neither irreparable nor serious").

The Court also must consider the harm that a stay will cause the Aruze Parties. The motion to compel was filed in April and granted during a hearing on June 4. Since then, WRL has sought to delay its production obligations at every turn. It did not immediately appeal, instead waiting six weeks to file its writ petition. Then, when the District Court's original stay expired on September 1, WRL waited two more weeks before filing its motion to renew the stay on September 14. The District Court agreed to extend the stay until October 2 – mere days before WRL takes the first deposition in this case, of Aruze USA's NRCP 30(b)(6) designee.

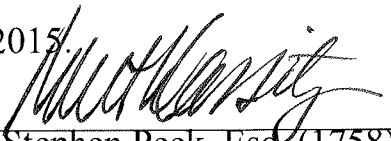
The topics to be addressed in the upcoming Rule 30(b)(6) deposition include matters relating to the Aruze Parties' factual basis for claims about the redemption, and so WRL's delay tactics have effectively deprived the Aruze Parties of documents they need to be able to fully articulate their position. Similarly, WRL will take the deposition of Mr. Okada later in October. Again, Mr. Okada will be forced to testify and take positions without the benefit of being able to review these clearly relevant documents in his preparation.

As WRL argued in opposing Mr. Okada's writ petition, "interference with timely discovery through [a stay issued by this Court] rewards the noncompliant party. They can buy time to stave off their own discovery obligations but continue to enlist the discovery process for their own benefit." WRL's Answer to Kazuo Okada's Writ Petition, Case No. 68310 (July 22, 2015) at 13 n.5. That is exactly what WRL seeks to do here. The Aruze Parties have waited many months for the documents at issue, which are critical to their preparations for upcoming depositions and trial. Any further delay will constitute irreparable harm.

III. CONCLUSION

For the foregoing reasons, the Aruze Parties respectfully request that WRL's Motion for Stay be denied.

DATED this 28th day of September 2015.

By 

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of Holland & Hart; that, in accordance therewith and on the 28th day of September 2015, I caused a copy of the **REAL PARTIES' RESPONSE TO PETITIONER'S EMERGENCY MOTION UNDER NRAP 27(e) FOR STAY OF ORDER GRANTING MOTION TO COMPEL PENDING WRIT PURSUANT TO NRAP 8** to be delivered, in a sealed envelope, on the date and to the addressee(s) shown below (as indicated below):

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An Employee of Holland & Hart LLP

Exhibit A

Exhibit A

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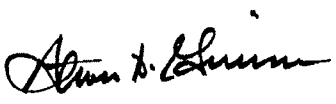

CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

WYNN RESORTS LIMITED Plaintiff vs. KAZUO OKADA, et al. Defendants	CASE NO. A-656710 DEPT. NO. XI **Transcript of Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON ARUZE USA'S MOTION FOR PROTECTIVE ORDER AND PLAINTIFF'S MOTION TO EXTEND STAY PENDING WRIT

FRIDAY, SEPTEMBER 18, 2015

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

APPEARANCES:

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FOR THE DEFENDANTS:	J. STEPHEN PEEK, ESQ. ROBERT CASSITY, ESQ. WILLIAM R. URGA, ESQ. COLBY WILLIAMS, ESQ.

LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 17, 2015, 8:44 A.M.

(Court was called to order)

THE COURT: Ready on Wynn-Okada. Apparently they're not calling.

MR. PEEK: So I can stay here?

THE COURT: You can stay there.

Starting with Ms. Sinatra if we can identify ourselves and come across the room.

MS. SINATRA: Kim Sinatra, Wynn Resorts.

THE COURT: Thank you.

MR. URGA: William Urga on behalf of Elaine Wynn.

MS. CALDERON: Good morning, Your Honor. Magali Calderon on behalf of Wynn Resorts and the director defendants.

MR. PISANELLI: Good morning, Your Honor. James Pisanelli on behalf of Wynn Resorts and the director defendants.

MR. WILLIAMS: 'Morning, Your Honor. Colby Williams on behalf of Steve Wynn.

MR. PEEK: And good morning, Your Honor. Stephen Peek on behalf of the Aruze parties.

MR. CASSITY: Good morning, Your Honor. Robert Cassity on behalf of the Aruze parties.

THE COURT: So can I ask a question. Mr. Peek, when we've discussed rescheduling the appearance date for the

gentleman who's appearing as the 30(b)(6) I don't recall you ever telling me it was because of a funeral. I recall you telling me it was personal business, but I don't remember anyone ever telling me it was for a funeral. Did I miss that the last time we discussed this issue?

MR. PEEK: I think you did, Your Honor. I'd have to go back and look at the transcript, but it was because --

THE COURT: Did you know it was for a funeral?

MR. PISANELLI: After the hearings that issue came up.

THE COURT: Okay. If it's for a funeral, I'm going to grant it every day of the week. All you've got to say, he has to go to a funeral and as a result he can't leave for another day or two after that.

MR. PEEK: Well, one of the issues that came up during the course of that hearing was the -- your statement to me is, will there be more than one witness, if there --

THE COURT: That was part of my question.

MR. PEEK: Yeah, that was part of it. Because I had at least addressed Mr. Takeuchi's issue, and you said, well, let me know what those issues are and I will then consider it as to who the witness is.

THE COURT: All right.

MR. PEEK: So -- but we worked it out anyway.

THE COURT: Did you?

MR. PEEK: It's part of the stipulation, Your Honor.

THE COURT: So can I take that motion off calendar?

MR. PEEK: No, you cannot, Your Honor, because there --

THE COURT: Darn.

MR. PEEK: You can take that part of the motion off calendar which addresses the time, because we worked that out over the course of the last couple of days.

THE COURT: When I was complimenting you on how well we were doing and that we needed to send this to Justice Hardesty.

MR. PISANELLI: That's the one.

MR. PEEK: That's the one, Your Honor. There were actually three depositions that were the subject of that stipulation.

THE COURT: Okay.

MR. PEEK: This was just one of the three. So that topic with respect to my motion for protective order is certainly off calendar.

THE COURT: Well, I'm so glad that everybody was able to do the right thing by recognizing.

MR. PEEK: And I think that Mr. Pisanelli did recognize that issue with respect to --

THE COURT: And you're going to compliment him two days in a row, so he's going to order two transcripts.

MR. PISANELLI: There's going to be two frames I need for my office.

THE COURT: Okay. So let's go to the rest.

MR. PEEK: Your Honor, we want to give credit where credit is due.

THE COURT: Okay. So I want to start on the protective order, then I want to go to your motion to stay, then I want to go to your update on the documents that you were going to give. You had a homework assignment; right?

MR. PISANELLI: We did?

THE COURT: Aspirational goals, where we were. You were going to give me some more information today.

MR. PISANELLI: I apologize, Your Honor. I didn't know that you were expecting that today. Ms. Spinelli is out of town. I am certainly willing to do that. No way we go forward without her input on this. And my only point is this. I can give you a status report, I'll give you what you need with our best aspirational goal, and I'll ask the same of the Okada parties. Just last night and the day before we entered into something --

THE COURT: No, no, no. No. I asked you yesterday if you could give me -- you told me you couldn't give me that information, and I said, can you look at it overnight and tell me tomorrow. And so you're telling me you can't tell me today.

MR. PISANELLI: I misunderstood you. I didn't expect that.

THE COURT: Okay. It's all right. Sometimes teachers give out homework assignments students don't understand. And so we're going to keep at it.

MR. PISANELLI: And can I expect the same from the Okada parties? Just yesterday we received an email that denied that they had ever committed to an aspirational goal. It's a little shocking to us, since we talked about it in this courtroom. And so I imagine, Your Honor, if there's an aspirational goal for one party, as we've all understood, there's an aspirational for the other.

THE COURT: Well, we all have aspirational goals, because if I give you hard deadlines you never meet them.

So let's go to the motion for protective order first.

MR. PEEK: Thank you, Your Honor. And I'll address the other issue in the motion for stay.

THE COURT: Well, I'm trying to finish my bench trial, so I'm trying to push you guys. You've noticed nobody's gotten a reply argument yet today.

MR. PISANELLI: Your Honor, before we start, so I don't misunderstand you a second time, how do you want us collectively to handle the aspirational goal to you?

THE COURT: I'm going to tell you that after I rule

on your motion for stay --

MR. PISANELLI: Okay.

THE COURT: -- since you don't have the answer from my homework assignment.

MR. PISANELLI: Okay.

THE COURT: So I'm going to have to approach it from a different tack.

MR. PISANELLI: Okay.

THE COURT: You're up, Mr. Peek, on your motion for protective order.

MR. PEEK: Yes, Your Honor. And there certainly is an issue that has been raised now that the Court has entered an order on my previous motion for protective order with respect to the topics upon which the PMK of Aruze USA will be examined. The Court did enter an order yesterday -- actually the day before yesterday, my apologies, and did adopt the proposed order of the Wynn parties. And it still, respectfully, Your Honor, does raise questions in my mind that -- I don't want to run afoul during the course of the deposition of my 30(b)(6) witness.

THE COURT: The primary difference between your order and their order was the language related to the inquiry about facts that related to certain claims for relief.

MR. PEEK: And I understand that, Your Honor. And that's what I want to address. When we made our objections in

our -- well, through the I guess submission of our order we did point out to the Court that there is little, if no, difference between a statement of testify on the factual basis for your twenty-ninth affirmative defense, let's say, and now it's reversed to say, the facts and circumstances surrounding your twenty-ninth affirmative defense.

THE COURT: No. I anticipate that Mr. Pisanelli or whoever is asking the question -- if the twenty-ninth affirmative defense, for instance is an issue related to setoff, they will ask questions as to why you think you're entitled to a setoff promise.

MR. PEEK: Okay.

THE COURT: The subject matter, not the --

MR. PEEK: I understand, Your Honor. It is subject matter. I don't want to create an issue where none exists, so if the question is, why do you think you're entitled to an offset or setoff, as you say, Your Honor, that really does go to, if you will, the factual basis for that affirmative defense. And so I don't want to create tension within the 30(b)(6) where none should exist. So I guess what I'm trying to understand is gaining some clarity from the Court so that I don't have this tension during the course of a 30(b)(6) deposition. Because one where you say the factual basis shall be by interrogatory and one where you say the facts and circumstances that give rise to your twenty-ninth affirmative

defense, let's say --

THE COURT: Well, here's what my thinking was, just so we're clear, and the reason I adopted the order that was phrased the way it was. I do not think it is fair even to a 30(b)(6) deposition witness to ask them what the legal facts and bases for the twenty-ninth affirmative defense are. However, if the twenty-ninth affirmative defense is, for instance, unclean hands, they are perfectly entitled to inquire related to the facts and circumstances that support the claim for unclean hands. But I don't think it's fair to frame it as a contention interrogatory, which is, tell me all the facts and circumstances that support your twenty-ninth affirmative defense. Because that's not fair to a witness. But if the witness is being presented to address the issues related to the unclean hands which you allege the other party is guilty of, then they're perfectly entitled to ask about those substantive issues.

Do you understand the difference? It's a language issue for me.

MR. PEEK: I understand the Court's articulation, and I don't mean to, one, be obtuse, nor do I want to argue with the Court. I respect the Court's clarification, and I appreciate the clarification. I still think it's going to create issues within the deposition.

THE COURT: There are going to be issues in the depo

no matter what I do.

MR. PEEK: There are, Your Honor. And I certainly, as I said, I don't want to have phone calls to this Court. I don't want to have to --

THE COURT: I'm not answering the phone for the next three weeks.

MR. PEEK: I know you're not, because you'll be in the Brazilian Amazon, Your Honor, or in the Galapagos, one or the other. But I don't want to have to bring my witness back because there certainly is not an opportunity to seek emergency relief from a court in order to get clarification or get rulings on that question that will be asked. I understand -- I hear the Court's clarification. I will certainly be respectful of the Court's clarification, and I will conduct myself accordingly. And I appreciate the Court making an effort to clarify for me the distinction between factual basis and the distinction of why do you think that you're entitled to unclean or the facts and circumstances that you think, you, the witness, which is really the company now --

THE COURT: The 30(b)(6) for the company.

MR. PEEK: It's the 30(b)(6) --

THE COURT: Why does the company think.

MR. PEEK: So it is the company's --

THE COURT: Absolutely. Binds the company.

MR. PEEK: -- position that they will be adopting

one way or the other in support of this. So I guess where I'm going is it's going to be very limited, and there will still be an opportunity for the company to present -- once given an interrogatory, to state what it is is the factual basis. Because that's where I'm kind of getting confused, is, one, you're asking the 30(b)(6) witness to say facts and circumstances that you believe, and one is an interrogatory of the factual basis for that affirmative defense. So there will still be, if you will, two responses.

THE COURT: One would hope they're not in conflict.

MR. PEEK: That's a -- you know, I like that point that the Court makes. Because that's exactly my point. When you say one would hope that they're not in conflict really does highlight the fact that it has become a contention interrogatory by stating facts and circumstances for the twenty-ninth affirmative defense, as opposed to factual basis for. So --

THE COURT: There may be different legal issues that are addressed in the answer to interrogatory that are not addressed by the Rule 30(b)(6) deponent. But from a factual standpoint one would hope that they're not inconsistent, because it's the company's position in both cases.

MR. PEEK: But so then what you're saying to me, Your Honor, and, again, I don't mean to be obtuse, I don't want to argue with the Court, I don't want to create

tension --

THE COURT: It's okay, Mr. Peek. I've known you for however many years, and you've always been like this, even when I was private practice.

MR. PEEK: I do like clarity, Your Honor, and I do like explanation. If you say to me that one would hope that they would not be inconsistent, that really is highlighting to me the fact that they really are form over substance. Because the substance really is a contention interrogatory, and you're now saying form is facts and circumstances. And I know you're nodding negatively to me, so --

THE COURT: I am.

MR. PEEK: And I appreciate you making the effort to give me clarity.

THE COURT: The deponent is responding to factual issues on behalf of the company.

MR. PEEK: Factual basis, factual issues. Same thing.

THE COURT: Facts. There may be other legal issues that are responded to in the contention interrogatories, and you and I have both seen circumstances where there are additional factual issues that come up in the answers to contention interrogatories that are different than in the 30(b)(6) deposition, and then I have a quagmire that I wade through. That's why I said one would hope. Because it never

goes the way we plan.

MR. PEEK: One would hope, Your Honor. So thank you for that clarification. And that's really all I have to say on the --

THE COURT: All right. So the motion for I guess it was clarification has been provided. I've tried to have a discussion with Mr. Peek. Hopefully you won't have any issues. I've explained why I selected the order I did, and I've explained why I've used the language I did.

Anything else, Mr. Pisanelli, before I go to your motion to stay?

MR. PISANELLI: I guess my only thing is to be --

MR. PEEK: Before you start --

Your Honor, there was the issue of the 21 or so invitations to respond by interrogatory. That has not been addressed by the Court. I want to make sure that I'm not ordered to provide -- or accept the invitation and then if the invitation -- we do give that answer in the so-called 20 days before the deposition that they still get to inquire. So I guess I want some clarification. Because that topic is still up in the air.

THE COURT: Are you going to answer the interrogatories on those topics we discussed, or are you going to present the witness?

MR. PEEK: I will certainly -- when I receive an

interrogatory I will answer the interrogatory with --

THE COURT: I thought we were treating them as interrogatories. I thought that was how I'd framed it so that we didn't have to go through the process of re-serving them, have the 30 days, then get into a position where the date has passed before the 30(b)(6) depo -- or the 30(b)(6) depo has occurred before you've responded. And so I thought we were treating them as interrogatories. If you don't want to do it that way, that's okay. But then I've got to switch my timing.

MR. PEEK: I certainly would like to do it in that manner, Your Honor, because -- but I perhaps misunderstood the Court's order. I thought that they were to be served on me as interrogatories and then I would certainly address them in the ordinary course. If the Court is saying to me that it wants answers to those -- or wants me to treat them as interrogatories and provide answers to them, that's certainly one thing. So I --

THE COURT: Here's the deal. If you ask to serve you with interrogatories, you will not be answering them before the 30(b)(6), so you won't have accepted the invitation, so you will then have to answer them at the 30(b)(6) deposition, because your time will have expired.

MR. PEEK: Because you now set a time that I didn't understand that I was required to answer them by. It's not in the order.

THE COURT: Okay. That was because it was sort of like suggestion of an invitation as a way to avoid that -- to treat them as interrogatories and answer them before the 30(b)(6). If you don't want to do it that way, I was not compelling you to make that choice. That's why it's not in the order. It was an option. You had control.

MR. PEEK: So what you're -- well, but I only have control now on 21 of them that they've offered the invitation as opposed to all of those that I understood to be interrogatories.

THE COURT: I didn't say they were all interrogatories when you were here before. I had a group that I said you could treat as interrogatories.

MR. PEEK: Right. And that was the group that I outlined in my motion, which was I think Topics 20 and 21, and I think 55 through the balance of that. So those were the ones that we understood from the motion that we made would be treated as contention interrogatories. So if you're telling me I have -- that if I choose to accept the Court's statement that those would be answered by interrogatory and if I don't do it before the 30(b)(6) deposition --

THE COURT: Well, you don't have time anymore. Because the deposition's going on -- what day is --

MR. PEEK: October 5th and 6th, Your Honor. And it's going to continue on the --

THE COURT: October 5th and 6th. So I don't think you have -- I don't think you have time anymore. Because it's -- today's 18th. So you're getting really close.

MR. PEEK: So I guess what you're telling me if I have -- since I have not accepted their invitation nor have I complied with what the Court considered to be its order --

THE COURT: It wasn't an order. It was providing you with an option of two ways to proceed. You got to pick.

MR. PEEK: That's not what you said, Your Honor. You said, the motion is granted in part and they'll be treated as contention interrogatories. That's what you said.

THE COURT: I think I said you may treat them as contention interrogatories.

MR. PEEK: Your Honor, I can look at the --

THE COURT: I don't know, Mr. Peek. I was trying to give you the option so that you had some control. And --

MR. PEEK: If I look at what the Court's order was, and I will recite from the Court order, Your Honor.

I'm sorry, Jim, that you're frustrated at the fact that I'm at the lectern, but I'll be done.

MR. PISANELLI: It's okay.

MR. PEEK: The sighs.

THE COURT: Well, it's also the lawyers standing at the door for my trial, too.

MR. PEEK: Let me just get to the transcript, Your

Honor. And this is on page 20 of the transcript. My apologies, Your Honor. I don't think that's -- it's part of that -- line -- well, it doesn't have lines, but towards the bottom, that "The motion is granted in part. With respect to all of the subparts designated for the 30(b)(6) deposition of the Nevada corporation who has told the Court in pleadings that it's principal place of business is Nevada they will answer everything except those items that begin with 'the factual basis.' All of the items that begin with the words 'The factual basis' are contention requests, which you may ask questions related to facts and circumstances, and you've got a number that talk about facts and circumstances. But the factual basis of the claims is not an appropriate topic -- an appropriate 30(b)(6) designation topic. While you can talk about the issues related to those, you can't just ask him, can you tell me the factual basis for your thirty-fourth affirmative defense." Some of those --

THE COURT: I've been consistent today.

MR. PEEK: Your Honor, I guess I'm getting -- you know, maybe I'm having -- I don't want to say a senior moment, but I'm certainly not -- and I'm not obtuse.

THE COURT: You're not having a senior moment, Mr. Peek.

MR. PEEK: But as I read this I don't see you're saying, accept their answer by interrogatory. What I see is

that those are contention interrogatories or contention topics and they'll be addressed by interrogatory, as opposed to other. So I have 21 topics --

THE COURT: So here's what I've said. And I'm really sorry if it's confusing. If Mr. Pisanelli wants to ask what the factual basis is for the thirty-fourth affirmative defense, it will be done by interrogatory.

MR. PEEK: Thank you.

THE COURT: And I was treating those topics as interrogatories. If instead he wants to make inquiry about the facts of the equitable estoppel affirmative defense that he's raised, he can ask the 30(b)(6) deponent why he thinks Wynn is equitably estopped. You understand? I just am trying to not have an unfair situation for a witness who -- even though they're the 30(b)(6) designee who's being asked to tell answers based on numbers and claims.

MR. PEEK: Well, you haven't said "the legal basis for your twenty-ninth affirmative defense," which is the example that we were using. It's because the inquiry was the factual basis. And you said he may inquire into the facts and circumstances.

THE COURT: Absolutely. The legal basis is a different issue that needs to be addressed in interrogatories.

MR. PEEK: Okay. But the question that was raised was factual basis. So I guess I take, then, what the facts

are that are elicited and I say, I'm going to apply the law of equitable estoppel or apply the law of setoff or apply the law to these facts and circumstances, these are the facts and circumstances which I would outline in my interrogatory response, and I would say that that gives rise to an affirmative defense of setoff, equitable estoppel, unclean hands, whichever one of those topics you identify. And I see you nodding affirmatively, so I --

THE COURT: Absolutely, Mr. Peek.

MR. PEEK: -- appreciate that.

THE COURT: Absolutely.

MR. PEEK: So I will be doing that by answers to contention interrogatories. To those I will see if I can get that done before the 5th and 6th so that they have them. And if they want to inquire at that time, they certainly are entitled to contest, if you will, or challenge, if you will. So I'm going to take all of those that were treated previously as factual basis and provide that response, and then they can inquire.

MR. PISANELLI: No. No.

THE COURT: See, there's a different -- you and I -- the disconnect is the facts that support those legal bases are a fair matter of inquiry. The fact are a fair matter of inquiry. The legal basis is a fair matter of inquiry for a contention interrogatory, which is why I said those could be

treated as contention interrogatories. Did not limit Wynn from asking questions related to the factual basis that underlies those claims; they just can't use the word "tell me all the facts and circumstances related to your thirty-fourth affirmative defense," because that is confusing and unfair and to the witness.

MR. PEEK: Well, I -- and I appreciate the clarification, Your Honor. But, as I said, I will treat those that begin with "the factual basis" that the Court previously ruled, because I don't know whether Wynn is giving up on those and is now changing it based upon what the Court is saying. I will treat them as contention interrogatories, and if I can get answers to them before the hearing -- because I have to be able to put forth the factual basis to then apply the law to the facts.

THE COURT: Absolutely. But they -- the factual basis is fair inquiry at the time of the deposition.

MR. PEEK: I understand.

THE COURT: Okay.

MR. PEEK: But I may well -- as I said, I'll put out the -- if I can get it before that on all of the contention -- all of those which the Court said were contention interrogatories, not just those on which I've been invited.

THE COURT: You're welcome to do it for any of them. But what I'm trying to convey to you is even if you do that

the factual basis that is mentioned in your answers to those interrogatories is still the subject of fair inquiry at the 30(b)(6) deposition, but not the application of the law to those facts.

MR. PEEK: I get that, Your Honor.

THE COURT: Okay.

MR. PEEK: Thank you.

THE COURT: Mr. Pisanelli, did you have anything else you wanted to say before I go to your motion to stay?

MR. PISANELLI: This shouldn't be confusing. It's really not. And I'm worried --

THE COURT: I'm not confused.

MR. PISANELLI: I'm not talking about you.

MR. PEEK: I'm glad to be the brunt of a joke, Your Honor.

THE COURT: It's okay, Mr. Peek. You guys have been doing so well today, so that's why I didn't really want to have this discussion with Mr. Pisanelli.

How about we go to the motion to stay? Because I think I've been pretty clear. And, if you want, I'll have this video given to Commissioner Bulla so she'll have it in case you guys call during the deposition.

Okay. Let's go to your motion to stay.

MR. PISANELLI: Okay.

THE COURT: You haven't heard from the Supreme

Court, huh?

MR. PISANELLI: No.

THE COURT: Okay. Anything else?

MR. PEEK: I do have something else to address, though, Your Honor, after he's finished. It is his motion.

MR. PISANELLI: So, Your Honor, correct, we have not heard from the Supreme Court, and in connection with what we all either attended or watched, I assume, or heard, so, in other words they haven't ruled on the petitions that were fully briefed and argued, and they have not given a response to our sole writ that we have put up there in relation to what we have characterized respectfully to Your Honor as a blanket discovery order. And so we accept -- we would be here even without your invitation, but you set forth a general framework for how you would like us to behave and respond with the unknowns that were present at the time. In other words, if we didn't have an answer by September 1st, either denying or actually ordering briefing, that you would hear us out on why this stay should be extended. And that's, of course, why we're here.

So, Your Honor, I don't imagine that you want us to go through all of the finer detail, but we do come to you asking for a fair opportunity to have our petition heard at the Supreme Court and not to render it moot. We think that the discovery order that applies here causes many, many

prejudices to us in this case. Probably the best glaring example of this, as I have characterized it, this bad-faith -- or bad-act audit that the Okada parties has asked for is the thousands of investigations we've done with employees, vendors, people we do business with. They want to see every document we've ever investigated for every person to determine that they're suitable, having no connection whatsoever to this case on this fishing expedition to try and find out, hey, that guy looks like he maybe had a traffic ticket six years ago, how come you didn't throw him out. And, of course, I'm being facetious on that example. But a different debate would have occurred before you then and now had they said, Your Honor, we would like the documentation on their suitability investigation about Mr. X because we have reason to believe that Mr. X has engaged in identical or worse conduct that Mr. Okada has and we'd like to know how they treated that one so that they could continue to formulate this disparate treatment argument. But all they said to you openly and I think frankly is that there's what ifs, what if we find something, what if there's somebody out there that doesn't look so savory and he made it through the filtering system, maybe we can parlay that into a pretext argument that it wasn't Mr. Okada's illegal behavior that was the cause of his ouster from the company but some other pretext from Mr. Wynn or the board itself.

So my point is this. They've asked us to turn this

company upside down to disclose these investigations of countless people who never intended by doing business with Wynn that these investigations would end up being aired in court or even given to third parties. And --

THE COURT: Subject to a confidentiality order.

MR. PISANELLI: Well, be that as it may, that doesn't change the fact of what it is by way of burden, what it is by way of privacy concerns of other people, what it is by way of confidentiality entitlements we have or have to preserve by way of gaming laws here and in Macau. In other words, there's a whole host of issues here that are at stake all based upon a what-if type of presentation to you, never once tying any of these claims back to this case.

We have 78-something different broad categories that ask us to shake this company upside down, and I could give you examples like that of why this fishing expedition just doesn't comport with Nevada law or really law anywhere. But that is -- as I said, I don't think it necessary to rehash all that detail.

What I do ask you for is a fair opportunity to be heard. You know it is not the practice of the Wynn parties or even counsel for Wynn parties to take every one of your rulings and go up North and treat this as just a Discovery Commissioner's report and recommendation. We take this issue and this option very, very seriously and use it judiciously.

This is the one time that we've used it, and we ask Your Honor just give us an opportunity to be heard.

The fact that the Supreme Court hasn't ruled is not, as the Okada parties would suggest, that it means that they're disinterested or that there's no merit to our position. I think the exact opposite conclusion is available.

THE COURT: No. But denying it I give them another opportunity to decide if they think it's important. Because then they have to make the decision as to whether they want to stay it.

MR. PISANELLI: That's true. But, unfortunately, that puts us on a clock. And so what I would ask, if Your Honor is not inclined to grant us a stay until they resolve it, to grant us a stay with a reasonable deadline to tell them, give us an opportunity to tell the Supreme Court, Judge Gonzalez has told us we have 30 days left, whatever number you put on there, please let us know what your answer's going to be. By just putting us on a clock puts us in that unfair position of now having to balance your order with trying to nudge a court in Carson City that doesn't like nudging.

THE COURT: Because the issues of suitability are central to the resolution in this case, I'm going to deny the request for stay. Two weeks from today my stay will expire. So you have two weeks to go nudge politely.

Anything else?

MR. PEEK: I do have something else, Your Honor. I'll --

THE COURT: Can you be brief?

MR. PEEK: I can be brief, because it really goes to the issue of document production and what the Court's going to hear, I hope. But the problem is the Court's going to be gone. We were told in May of last year that the Wynn parties had collected 3.8 million documents locally and 2.1 million documents in Macau. Less than 6,000 of those document totals have been produced, many of which were produced even before our requests for production. Since April of 2015, when they began commencement of the production pursuant to the RFP's, they've produced a total of 3,171 documents out of the 6 million. And they gave you an aspirational goal of August 31. Of those --

THE COURT: So now it is time for you to file your motion to compel.

MR. PEEK: Okay. That's where I'm going, Your Honor.

THE COURT: That's really what I'm telling you, Mr. Peek, because I --

MR. PEEK: That's fine. Because I have -- only 394 documents have been produced by the Wynn parties out this 6 million, 2,000 from the WRM documents out of the 2.1 million have been produced, and the balance are the Stern production.

So we will do motions to compel so when you get back.

THE COURT: If you want me to hear it the first week I'm back, I'm happy to have it set that first week I'm back. But the issue of aspirational goals that have been assigned to both of you cuts both ways.

MR. PEEK: I understand that, Your Honor.

THE COURT: I anticipate --

MR. PEEK: We may have competing motions to compel -- or, excuse me, corresponding motions to compel.

THE COURT: Well, and they may not just be motions to compel anymore, because I've already entered orders related to some of these issues, but I've given you aspirational goals because I understand the volume of information you're dealing with.

My concern is we continue to push these dates out on both sides, and I -- it's time for those to be framed in the motion setting.

MR. PEEK: And the problem I have is, Your Honor, I'm respectful of parties' aspirational goals, so I --

THE COURT: I know you both are.

MR. PEEK: -- try not to --

THE COURT: I know you both are.

MR. PEEK: -- make motions to compel, and I know that Mr. Pisanelli is also respectful and he has the same issue that he's going to address to this Court. So we will

probably be back that first week when you return.

THE COURT: Laura's going to set them, if it works for you guys, that first week for us to address. Because I understand Ms. Spinelli's out of town and she's integral to Mr. Pisanelli being able to answer that question. I'm not going to put him on the spot today to try and give me information, since he misunderstood what I asked him to do and she as his resource is out of town.

MR. PEEK: Thank you, Your Honor.

THE COURT: Okay. So send them over. Laura will sign the OST -- Laura will have someone sign the OST or stamp them and set from for that first week.

MR. PEEK: I hope Laura won't --

MR. PISANELLI: So help me make clarification. We intend to file maybe as early as today motions to compel which are going to make these statistics that you have been hearing from Mr. Peek about our production kind of pale in comparison.

THE COURT: Why do you think I said file the motions? Because I know where you guys are.

MR. PISANELLI: But here's a couple questions I have about it. I am -- we planned -- and I think now I'm hearing this is what you want from us -- that things like this should wait till you get back and not be burdened with orders shortening --

THE COURT: I'm not going to get --

MR. PISANELLI: -- with Commissioner Bulla.

THE COURT: It will be on an OST, but it will not be set until October 12th or 13th.

MR. PEEK: And I think if Mr. Pisanelli reads his emails when he gets back he'll understand that perhaps the motion he contemplates is moot. But we'll deal with that.

THE COURT: Well, whatever.

MR. PISANELLI: I've read that email, and it's --

THE COURT: Guys. Will you stop arguing with each other. You were doing so well.

I'm not going to force Commissioner Bulla to rule on a motion that has been on a low boil for months.

MR. PISANELLI: Fair enough. That's my point.

THE COURT: If it's a true emergent issue, I want her to be able to be there to address those issues or, if for some reason she doesn't feel comfortable doing it, have Judge Togliatti, who be acting as Civil Presiding do it, which may be more dangerous for you, because --

MR. PISANELLI: Makes sense. So the last thing is you've made the point that this aspirational goal concept cuts both ways. How do you want that presented to you, by way of these motions to compel the opposite party and let you know what our expectation is for our own production? How do you want both parties to respond on that topic?

THE COURT: I really think that would be a good

thing, because it's like when you -- they used to say people who live in glass houses don't throw stones -- shouldn't throw stones.

MR. PISANELLI: Right.

THE COURT: So if you've got a problem of your own and it's similar to the issue you want to raise in the motion, you should get your house in order before you file the motion, and then all they can say is, Judge, they were late, too --

MR. PISANELLI: Could not agree more.

THE COURT: -- not, Judge, they still haven't done it.

MR. PISANELLI: I could not agree more.

MR. PEEK: And another time, Your Honor, on the video you can see that I would agree with Mr. Pisanelli to get your house in order.

THE COURT: And me? Did you agree with me, too? Because that doesn't happen very often.

MR. PEEK: I'm not being obtuse, Your Honor, this time. I did agree with you.

THE COURT: Thank you.

MR. URGA: Your Honor, you asked to have us update on our 30(b)(6). I talked to Mr. Pisanelli and after your comments yesterday I can understand he's not willing to give up any of those times on the 13th.

I spoke with Mr. Peek, and rightfully so, he's not

willing to agree to something at this point. But we're going to talk about it and we'll go forward.

THE COURT: So I will direct you to put your 30(b)(6) topics together, provide those to Mr. Peek, and if you are unable to agree on a schedule, then that's an issue Judge -- Commissioner Bulla can handle while I'm gone. Because that's a scheduling issue, okay.

MR. URGA: I think you'll be back in time, because we're looking at the end of the November time frame for --

THE COURT: Then you're fine.

MR. URGA: Right.

MR. PEEK: Yeah. This is the November -- he wants to add a date, whether it be Saturday or Monday, so my issue is trying to talk to the representative of the company as to Saturday or Monday.

THE COURT: 'Bye.

MR. PEEK: Thank you, Your Honor.

MR. URGA: Thank you, Your Honor. Have a nice trip.

MR. PEEK: Have a good vacation.

THE COURT: Thank you.

THE PROCEEDINGS CONCLUDED AT 9:42 A.M.

* * * * *

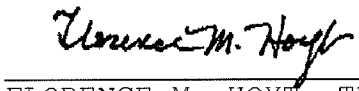
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146



FLORENCE M. HOYT, TRANSCRIBER

9/18/15

DATE