

IN THE SUPREME COURT OF THE STATE OF NEVADA

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LAS VEGAS SANDS CORP., a Nevada corporation; SANDS CHINA LTD., a Cayman Islands corporation; SHELDON G. ADELSON, in his individual and representative capacity; VENETIAN MACAU, LTD., a Macau corporation, DOES I-X; and ROE CORPORATIONS I-X,

Petitioners,

vs.

CLARK COUNTY DISTRICT COURT,  
THE HONORABLE DAVID BARKER,  
DISTRICT JUDGE, DEPT. 18,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Case Number:

District Court Case Number:  
A627691-B

**PETITION FOR WRIT OF  
PROHIBITION OR MANDAMUS  
RE ORDERS DENYING MOTION  
TO DISQUALIFY JUDGE  
ELIZABETH GONZALEZ  
WITHOUT A HEARING**

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## RULE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in Nev. R. App. P. 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Petitioner Las Vegas Sands Corp. ("LVSC") is publicly-traded Nevada corporation. Petitioner Sands China Limited ("Sands China") is Cayman Islands corporation publicly traded on the Hong Kong Stock Exchange. Petitioner Venetian Macau Limited ("VML") is a Macau corporation wholly owned by Sands China. LVSC owns the majority of Sands China's stock.

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The Petitioners request the Court to stay this case in the district court while it considers and decides this petition to issue a writ of mandamus to David Barker, Chief Judge of the Eighth Judicial District Court, vacating his January 29, 2016, Order denying disqualification of the Honorable Elizabeth Gonzalez, and his February 17 Order denying reconsideration of his earlier Order, and directing him to grant Las Vegas Sands Corp.'s January 13 Motion to Disqualify Judge Gonzalez.

## I. INTRODUCTION

Late last year the intense press coverage of this breach of contract case took a sharp and unexpectedly improper turn: Judge Elizabeth Gonzalez elected to participate in the coverage. Judge Gonzalez's surprising and prejudicial decision, and her insistence on ruling on the relevance of deposition topics for Patrick Dumont, a non-party to this litigation case, caused defendant Las Vegas Sands Corp. ("LVSC") to move to disqualify her under the Nevada Code of Judicial Conduct ("NCJC") and NRS 1.235.

LVSC sought the Judge's disqualification under the Judicial Code and statute *only after* she rejected LVSC's request that she voluntarily recuse herself from ruling on the propriety and relevance of questions propounded to Mr. Dumont by Jacobs's counsel that directly addressed the Judge's interest in finding out about the Adelson family's purchase of the *Las Vegas Review Journal*. The media's coverage of this case was rife with speculation that the purchase was made to improperly influence her behavior in this case. This bizarre turn of events led to Mr. Dumont's interrogation. Mr. Dumont is an LVSC officer and Sheldon Adelson's son-in-law, who was to be deposed in his personal capacity about his knowledge of the reasons for plaintiff Jacobs's termination. At

his deposition, however, he was extensively questioned about his contact with press representatives who were reporting on the recent change in ownership of the *Las Vegas Review Journal*, which included speculation on the relationship of that transaction to this case that was of interest to Judge Gonzalez.

Instead of recusing herself from ruling on the validity of the objections raised by Mr. Dumont's counsel to wholly irrelevant questions about the purchase of the *Review Journal* and media coverage of this case in which she has become a subject, Judge Gonzalez confirmed her interest in his answers to these irrelevant questions. She set up a procedure for other judicial officers to rule on the propriety of Mr. Dumont's counsel's objections to the questions, without regard to the relevance of the inquiry. This diversionary procedure followed her condemnation of Mr. Dumont's attorney for objecting to the irrelevant line of questioning about media issues and the recent purchase of the *Las Vegas Review Journal* by the Adelson family (headed by Mr. Dumont). She then ruled on counsel's objections, and effectively ordered Mr. Dumont to answer questions about media issues and the newspaper purchase.

The Judge's continuing course of conduct to punish defendants for conduct she has previously sanctioned and her recent rulings not based on the record or reason, such as ordering an unprecedented deposition of defendant Sheldon Adelson for an additional 49 uninterrupted hours, without even a nod to NRCP 30(d)(1), is aberrant and punitively burdensome. If this unjustifiable order is not immediately stayed, Mr. Adelson will have testified for almost *100 hours* in this out-of-control breach-of-employment contract case. Judge Gonzalez's interest in questioning Mr. Dumont about his communications with media

representatives related to the *Review Journal* purchase, are more than sufficient to cause a reasonable person to conclude that she is not impartial. For this reason, she can no longer fairly and impartially preside over this case.

While we believe this Court should, it need not find that Judge Gonzalez is actually prejudiced to replace the Judge for the appearance of partiality under of Nevada Judicial Canon 2.11, which Judge Barker did not address when he failed to consider the Judicial Canons and ruled that she is not personally biased or prejudiced against the defendants. Notwithstanding her denials of actual bias, there is a sufficient basis in fact under the NCJC for an objective person to reasonably doubt the Judge's ability to impartially preside over this case, which NRS 1.230 – 1.235 also supports.

**II. ISSUES PRESENTED BY THIS WRIT PETITION**

(1) Whether a motion for disqualification under the Nevada Code of Judicial Conduct, or under NRS 1.235, for the appearance of partiality can be defeated by the challenged judge's declaration that she is not biased.

(2) Whether a movant seeking disqualification of a judge under the Nevada Code of Judicial Conduct or NRS 1.235 for the appearance of partiality is entitled to close briefing on the motion when it is opposed by sworn testimony and an open hearing to present evidence in support of the motion.

**III. STATEMENT OF FACTS**

Plaintiff Steven C. Jacobs claims to have been wrongfully terminated in Macau without cause under a "contract" that he is unable or unwilling to identify, including the identity of his alleged employer. *See*

PA1453–73. Not one to let the facts get in the way of extortion by smear litigation, Jacobs has made every effort to turn his mundane breach of contract claim into litigation by sanction. The district court has facilitated his efforts, most recently by *electing* to contribute to the media frenzy surrounding the Adelson family's purchase of the Las Vegas *Review Journal*, a transaction that has absolutely nothing to do with this wrongful termination case. PA2214 at ¶¶ 13 & 15; PA2220-24; PA2226-30.

Although the underlying case has been highly publicized since it began in October 2010, media coverage of the case in the past three months has greatly intensified. *See* PA1978–79; PA2001–65; PA2092–94; *see also* PA2726–2814 (compilation of publicly available media coverage between Jan. 13, 2016 and February 20, 2016). While media coverage alone does not erode the ability of a court to remain impartial and avoid even the appearance of impropriety, the assigned judge here **chose** to participate in and contribute to the coverage outside of court in a manner that suggested her comments were about one of the defendants in this case, Sheldon Adelson. The court's personal interest in learning Mr. Dumont's answers to irrelevant questions about media coverage appears to have influenced her to indulge Jacobs's efforts to make that media coverage and the acquisition of the *Review Journal* an issue by authorizing him to question third-party deponent Patrick Dumont on that subject. PA1960–63. Jacobs and the district court want to know about Mr. Dumont's communications with *Review Journal* personnel and others associated with the purchase of the newspaper, all of whom are media representatives. None of them, however, has any relevant information bearing on Mr. Jacobs's loss of employment in Macau in 2010, whether wrongful or not.

Although the media's coverage of the *Review Journal* transaction and continuing media ruminations about its relationship to this case are irrelevant to Mr. Jacobs's claims, his counsel made an issue of this activity by questioning Mr. Dumont on the subject, apparently to contend that he and/or the Las Vegas Sands is interfering through the media with prosecution of his claims. PA1950–51. The district court supported these efforts by providing an interview to *Time* Magazine—despite being fully aware that the press was attempting to connect the purchase of the *Review Journal* to her rulings in this case—that included suggestive remarks that added fuel to the media's speculation about the newspaper purchase being tied to this case. PA2214 at ¶¶ 13 & 15; PA2220–24; PA2226–30.

Judge Gonzalez admittedly accepted the *Time* interview on January 6, 2016 (PA2214 at ¶ 15) *after* she learned that the Adelson family was alleged to be involved in the purchase of the *Review Journal*, and *after* media reports speculatively linking the purchase to this case. PA2214 at ¶ 13. Yet she chose to categorize her earlier mid-November exchange with a *Review Journal* reporter in her courtroom in terms that would add fuel to the ongoing media frenzy surrounding the purchase of the newspaper. She described the *Review Journal* reporter watching proceedings in her courtroom as "seem[ing] upset." PA2227. She then made the decision to **approach** him to ask why he was "sitting in this [unidentified] very boring proceeding," and he replied, because "The boss said I had to be here." PA2227. Although Judge Gonzalez did not identify "the boss," given the timing and context of her interview, she had to be aware when speaking to *Time* that a reasonable person familiar with these proceedings would reasonably equate "the boss" with Sheldon Adelson, a party before her. PA2213–15 ¶¶ 11–17.

Although the district court justified her contributions to *Time* as being simply "background" (PA1953), her election to contribute to a *Time* Magazine story, titled "**Meet the Judge at the Center of Sheldon Adelson's Strange Deal to Buy a Newspaper,**" subtitled, "**Elizabeth Gonzalez has emerged as a key figure in the casino magnate's surprising purchase,**" (emphasis added), in the midst of the media's efforts to connect the newspaper purchase to this breach of contract case before her raises reasonable doubts about her impartiality. *Id.*; PA2214 at ¶15; PA2226-30. She was sufficiently aware of the conflict to ensure she had witnesses to her discussions with the media. PA1953 ("I had witnesses for every background conversation I had with a reporter for a reason"). For these reasons, LVSC asked that she recuse herself from addressing matters regarding the Adelson family's purchase of the newspaper. PA1946:13; PA1953:9-12. Only after she refused to recuse did LVSC's proceed with a narrowly-focused motion under Nevada's Judicial Code and NRS 1.235 for disqualification based on her embrace of the media. PA1975-94.

In response, Judge Gonzalez offered a sworn declaration denying actual bias. PA2212–32. The declaration failed to address LVSC's clearly-articulated concern that her election to feed the story being told in the press created an appearance of partiality. *Id.* Given her empty but sweeping proclamations of impartiality, LVSC set about preparing a reply to rebut them by presenting evidence of how her actions belied her expressions of neutrality. PA2319–64. Defendants' reply also intended to address the "in-chambers" scheduling and request the oral hearing that NRS 1.235<sup>1</sup> requires. PA1984; PA2319–64. Judge Barker, however, appears

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<sup>1</sup> Defendants' motion for disqualification was based on the Nevada Code of Judicial Conduct as set forth in *Towbin Dodge, L.L.C. v. Eighth Judicial Dist.*,

to have fully accepted Judge Gonzalez's declaration of no actual bias as incontestable and issued an order on January 29 denying the motion to disqualify without affording LVSC an opportunity to respond to it or schedule a hearing. PA2291–96. Thus, LVSC sought reconsideration, PA2319 and an open hearing. PA2633–36.

Judge Gonzalez again chose to respond to the motion for reconsideration with a second sworn declaration. PA2390–2632. In her second declaration, Judge Gonzalez again failed to address LVSC's contentions that her conduct would, under Nevada Judicial Canon 2.11, require her disqualification for the appearance of partiality. *Id.* The defensive tone and choice of language in the second declaration, however appears to support LVSC's point that she has departed from the neutral role expected of members of the Nevada district court bench. *See* PA2656 at ¶ 14. For example, in attempting to justify her disparate application of the Macau Data Privacy Act to the defendants in this case and the parties represented by Jacobs's counsel in the *Wynn Resorts, Ltd. v. Kazuo Okada*, (District Court Case No. A-12-656710-B) case, Judge Gonzalez points to acts for which she previously sanctioned defendants as the differentiating factor. PA2393-94 at ¶ 12 n.8 and n.9. This statement substantiates defendants' claim that despite her denials, she is not finished punishing them for the perceived slights that led to her 2012 sanctions order. PA228–36.

Another example of her apparent partiality is Judge Gonzalez's effort to justify her deep-rooted belief that the "client" is behind efforts to deceive the court, which has no evidentiary basis unless negative

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121 Nev. 251; 112 P.3d 1063 (2005), following the procedure outlined in NRS 1.235.

inferences are drawn from the invocation of privilege at the 2012 hearing in which she compelled defendants' lawyers to testify, when privilege was appropriately invoked a number of times. PA233–34 ¶¶ 29, 30, 32; PA287:11–14; PA302:13–17. Judge Gonzalez denies that she drew any negative inferences from the invocation of the attorney-client privilege (PA229 at n.1; PA2392 at ¶8), and points to testimony of a LVSC executive to justify her finding, although the testimony she references in no way supports her conclusion that the "client" or "management" intentionally deceived her. PA144; PA148.<sup>2</sup>

Defendants filed a short reply to the sworn assertions offered by Judge Gonzalez in her second declaration to present the testimony of Manjit Singh. PA2664–75. They also submitted a sworn declaration from Professor Leslie Abramson, a recognized authority on judicial ethics. PA2652–63. Nevertheless, Judge Barker summarily denied the motion for reconsideration without considering either document and without addressing the appearance of partiality that requires disqualification under NCJC 2.11(A). PA2676–81. Moreover, Judge Barker does not appear to have considered the hostile circumstances under which Judge Gonzalez chose to speak to media representatives (PA2213–15 at ¶¶ 11–17) or her

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<sup>2</sup> Manjit Singh simply testified as follows:

"[T]here was action taken *in Macau* in July 2011 in order to make sure that there was compliance with our current understanding of the [Macau Data Privacy Act]." PA144.

....

"I indicated there were two changes, one was a clarification that no data in Macau should be accessed unless approval was granted explicitly by Macau. There was access that some individuals had to some systems in Macau that were removed." PA148.

disparate treatment of two similarly situated parties before her in different cases (*Wynn* and *Las Vegas Sands*). PA2342–43.

Judge Gonzalez's hostility appears to have been prompted by the August 26, 2011 Supreme Court decision reversing her conclusory, wholly unsupported finding of personal jurisdiction over co-Defendant Sands China Ltd. ("SCL" or "Sands China"). PA1. Then the following year, after attorneys for LVSC self-reported a mistake made by lawyers representing LVSC who did not understand or appreciate the reach of Macau's Data Privacy Act, PA7–10, she *sua sponte* convened an evidentiary hearing at which she determined the company made a concerted effort to conceal evidence from her – despite the fact that the supposed "concealment" was *self-reported*.

In fact, after defendants filed a motion for summary judgment based on *Daimler A.G. v. Bauman*, 134 S. Ct. 746 (2014), as directed by this Court (Case No. 58294), Judge Gonzalez *rejected Daimler* as controlling because she did not believe this Court would follow it (as the Court ultimately did in its November 4, 2015 Order [Case No. 68265] overturning the district court's second finding of general jurisdiction over Sands China). She said:

*"But the Nevada Supreme Court is the boss of me [and]*

....

*You know, the Nevada Supreme Court doesn't do what the Federal Courts say they should do . . . and so I am very aware that frequently it doesn't matter what they say in the Ninth Circuit, the U.S. Supreme Court; I've got to go with what the Nevada Supreme Court says because they will send it back and tell me to do it over again."*

PA553:11; PA553:22–54:3.

Rather than put Jacobs to his burden of showing personal jurisdiction over Sands China, as the Court mandated in August 2011 and reiterated in May 2014, when the *Daimler* decision was presented to her, the district court required defendants to spend millions of dollars and suffer two sets of sanctions hearings in the process of meeting the unreasonable and irrelevant discovery burdens imposed on them. PA228–36; PA1293–1333. Judge Gonzalez's desire to encourage Jacobs's litigation-by-sanction efforts is also demonstrated by examples from four recent decisions to:

(1) take diametrically opposed positions on relevancy objections during depositions in two different but issue similar cases pending before her. She threatened Mr. Dumont's counsel for instructing Mr. Dumont not to answer when he believed the questions irrelevant and far beyond the "scope" of deposition while not condemning the same instruction in a similar corporate case involving Wynn Resorts, also represented by Jacobs's counsel. *Compare* PA1948:5–10 *with* PA2361:1–13 and PA2363:10–14;

(2) not only brush off Jacobs's failure to comply with her recent oral order to sign a medical records release because it had not been reduced to writing, but aggressively encouraging Jacobs to seek sanctions of LVSC for not having complied to her satisfaction with her oral discovery ruling on December 18, 2012. PA319:23–24. She ultimately sanctioned LVSC in 2015 for violating terms of her September 14, 2012 sanctions order that do not appear in the order. PA228-36; PA322:10–12. For Jacobs, she arbitrarily set up a special procedure for review of his medical records, which she had previously ruled were made relevant by his claims and should be produced. PA1657–66.

(3) protect plaintiff from having to sign the form of consent required by the Macau Office of Data Privacy, thereby depriving defendants of discovery of key documents in his name in Macau that are germane to this case. PA2702:12-03:21; 2706:9-16; 2707:12-16; and

(4) require Mr. Adelson to provide plaintiff 49 *more* hours of testimony over 7 days of deposition, disregarding the nearly 49 hours of testimony he has already provided to Jacobs while Jacobs provided none to the defendants in this case. PA2714:7-18.

Each of these examples is more fully discussed *infra* Section IV. B.

Judge Gonzalez's aberrant judicial conduct in this case does not comport with the Canons of Judicial Conduct or with due process of law. Her recent decision to participate in national press coverage of a transaction she knew the press had speculatively linked to this case is a sound basis for an objective person to doubt her impartiality. NCJC 2.11. Her uneven management of the case, as described in part below and in LVSC's Motion for Withdrawal and Reconsideration of Order Prematurely Denying Its Motion To Disqualify Judge, PA2319-64, simply confirms and increases a reasonable person's doubt about Judge Gonzalez's lack of objectivity. Her one-sided rulings, including her most recent order requiring Mr. Adelson to provide yet another 49 hours of interrupted testimony, bringing his total to nearly 100 hours of testimony *in a routine wrongful termination case* involving a person that was employed for less than a year in Macau, drives her lack impartiality home.

#### **IV. REASONS THIS WRIT SHOULD ISSUE**

"This court has original jurisdiction to issue writs of prohibition and mandamus" and "also all writs necessary or proper to the complete

exercise of its appellate jurisdiction." Nev. Const. Art. 6, § 4. The Court has previously recognized that "a writ of mandamus is the appropriate vehicle to seek disqualification of a judge." *Ivey v. Eighth Jud. Dist. Ct.*, 129 Nev. Adv. Op. 18, at \*7, 299 P.3d 354, 357 (2013) (quoting *Towbin Dodge, LLC v. Dist. Ct.*, 121 Nev. 251, 254–55, 112 P.3d 1063, 1066 (2005)). Mandamus is available when a petitioner has no "plain, speedy, and adequate remedy in the ordinary course of law." NRS 34.170; *see also* NRS 34.330; *Smith v. Eighth Judicial Dist. Ct.*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Defendants have no legal remedy available here.

A writ is also appropriate here because clarifying whether the appearance of partiality can be overcome by the challenged judge's sworn declarations that she is impartial, and whether a party moving for judicial disqualification under the Nevada Code of Judicial Conduct or NRS 1.235 is entitled to an opportunity to brief the issues and have an opportunity to be heard, are both novel issues of importance not only to defendants in this case, but to the bar and bench. Maintenance of the public's confidence in an impartial judiciary requires these issues to be addressed and resolved.

**A. The Nevada Code of Judicial Conduct Requires Disqualification.**

Nevada Code of Judicial Conduct Rule 1.2 provides that Nevada judges have an obligation to "act all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety," which Judge Barker failed to consider: Unless the judiciary scrupulously follows the prescribed rules and processes in recusal/disqualification cases, the public the judiciary serves will conclude that there is a self-serving double standard for evaluating the conduct of

judges and the conduct of others. This admonition, not addressed by Judge Barker, is prescribed by the Nevada Code of Judicial Conduct: Judges in Nevada, as in most jurisdictions, "should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code." NCJC Rule 1.2, at Comment 2.

The "appearance of impropriety" is "necessarily cast in general terms," NCJC Rule 1.2, at Comment 3, because the "test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge." NCJC Rule 1.2, at Comment 5; *see also*, *Edelstein v. Wilentz*, 812 F.2d 128, 131 (3d Cir. 1987) (the objective standard examines whether a "reasonable man knowing all the circumstances would harbor doubts concerning the judge's impartiality"); *Ivey*, 129 Nev. at \_\_\_\_, 299 P.3d at 357 ("Determining whether a judge's recusal is compelled by the Due Process Clause does not require proof of actual bias; instead a court must objectively determine whether the probability of actual bias is too high to ensure the protection of a party's due process rights").

The Connecticut Supreme Court summed up the sense of self-awareness a judge must have and exercise to honor the Judicial Canons and avoid the appearance of impropriety at *all times*:

The broad injunction against the "appearance of impropriety" relates to the entire spectrum of judicial conduct. That no unethical or untoward act may occur is implicit in the canon's emphasis on "appearance." The conduct under scrutiny must therefore be evaluated from the perspective of the "eye of the beholder." *In the Matter of Lonschein*, 50 N.Y.2d 569, 572, 408 N.E.2d 901, 430 N.Y.S.2d 571 (1980). Avoiding the appearance of impropriety is as important to developing public confidence

in the judiciary as avoiding impropriety itself. The responsibility of the judge extends not only to the business of the courts in its technical sense, such as the disposition of cases, but also to the business of the judge in an institutional sense, such as the avoidance of any stigma, disrepute, or other element of loss of public esteem and confidence in respect to the court system from the actions of a judge. In short, a judge must conduct himself or herself in such a fashion as to promote and preserve the integrity of the judiciary.

*In re Dean*, 717 A.2d 176, 184 (Conn. 1998). Judge Barker, in his haste to decide LVSC's disqualification motion, entirely overlooked and thus failed to evaluate Judge Gonzalez's conduct under the appropriate provisions of the Code of Judicial Conduct. This Court should, by entertaining this Petition and granting the requested writ, correct Judge Barker's error.

This Rule 1.2 recognizes the constitutional significance of a party's interest in having an impartial judge to preside over a proceeding. The Rule also recognizes the need for an impartial tribunal to help preserve public confidence in the judicial system. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980); *Ivey*, 129 Nev. at \_\_\_, 299 P.3d at 357 (citations omitted) (observing that "[t]he Due Process Clause guarantees the right to a fair trial before a fair tribunal."). An impartial and disinterested tribunal "helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law," while at the same time "it preserves *both* the appearance and reality of fairness, 'generating the feeling, so important to a popular government, that justice has been done.'" *Marshall*, 446 U.S. at 242 (emphasis added) (quoting *Anti-Fascist Committee v. McGrath*, 341 U.S. 123, 172 (1951) (Frankfurter, J., concurring)).

NCJC Rule 2.11 *requires* that a judge recuse under pain of disqualification, "in any proceeding in which the judge's impartiality might reasonably be questioned." Although the Rule lists examples of

circumstances where such doubt is reasonable, NCJC 2.11(A)(1)– (6), Comment 1 expressly recognizes that "a judge is disqualified *whenever* the judge's impartiality might reasonably be questioned, *regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply*. Rule 2.11 at Comment 1 (emphasis added).

The declarations offered by Judge Gonzalez merely deny actual bias and profess her subjective belief that she can preside over these proceedings in an impartial manner, which Judge Barker appeared to have accepted as dispositive. PA2291–96; PA2676–81. The appropriate inquiry, however, is not to establish the challenged judge's subjective belief, as Judge Barker did. It is irrelevant whether the challenged judge professes or believes that she can preside impartially. PA2655 at ¶ 10 (Professor Abramson's opinion that Judge Gonzalez continuing to preside over this case violates Rule 2.11); PA2656 at ¶ 13 (judge's disclaimer of bias irrelevant).

The appropriate "standard for measuring *the appearance of partiality* is whether a reasonable person knowing all the facts could conclude that the judge's impartiality might reasonably be questioned." PA2657 at ¶ 17 (emphasis in original). That is an objective standard. The Court has recognized that the importance of judges being free not only from actual bias, but from the appearance of bias. *Matter of Ross*, 99 Nev. 1, 13, 656 P.2d 832, 840 (1983) (quoting *Commonwealth Coat. Corp. v. Continental Cas. Co.*, 393 U.S. 145, 150 (1968) ("any tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias."); *see also Ivey*, 129 Nev. at \_\_\_, 299 P.3d at 360-61 (Saitta, J. concurring) (test for an appearance of impropriety is "whether the conduct *would create in reasonable minds a perception* that

the judge violated [the Nevada] Code [of Judicial Conduct] or engaged in other conduct that reflects adversely on the judge's honesty, *impartiality*, temperament, or fitness to serve as a judge." (emphasis added)).

The Court also recognized in *Matter of Ross* that applying an objective standard might result in recusal or disqualification of judges who have no actual bias. 99 Nev. at 14, 656 P.2d at 840 (quoting *In re Murchison*, 349 U.S. 133, 136 (1955):

Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered. \* \* \* Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way, 'justice must satisfy the appearance of justice.' *Offutt v. United States*, 348 U.S. 11, 14 (1954)).

Public integrity in the judicial system can be maintained only when proceedings are free from both actual or reasonably perceived bias. *Id.* As Professor Abramson noted in paragraph 16 of his declaration, the United States Supreme Court in *Liljeberg v. Health Services Acquisition Corporation*, 486 U.S. 847 (1988), "upheld the importance of a recusal standard based upon the appearance of partiality":

If it would appear to a reasonable person that a judge has knowledge of the facts that would give him an interest in the litigation, then an appearance of partiality is created *even though* no actual partiality exists because the judge does not recall the facts, because the judge actually has no interest in the case or because the judge is pure in heart and incorruptible.

Here, disqualification is especially appropriate because Judge Gonzalez knowingly elected to contribute personal material to a story she knew was being written about active proceedings before her. See *Hayes v. Forman*, 93 Nev. 490, 492, 568 P.2d 579, 580 (1977) (reiterating that "*In Ham v. District Ct.*, 93 Nev. 409, 566 P.2d 420 (1977), we recognized that there may be circumstances where the appearance of impropriety may require disqualification if the judge created that appearance"); see also *United States v. S. Fla. Water Mgmt. Dist.*, 290 F. Supp. 2d 1356, 1358 (S.D. Fla. 2003) ("judges should neither give interviews to the media about a matter then pending before that judge nor comment about the merits of the case or the parties thereto"); *In re Boston's Children First*, 244 F.3d 164, 169–70 (1st. Cir. 2001) (reiterating that "in newsworthy cases where tensions may be high, judges should be particularly cautious about commenting on pending litigation."). Judge Gonzalez's desire to invite press coverage about her personally for inclusion in a story about this case raises substantial reasonable doubt about her impartiality. This, the NCJC and the cases (state and federal) tell us, warrants her disqualification.

**B. Judge Gonzalez's One-Sided Decisions, Which Continue to this Day, Demonstrate That She Is Not Impartial.**

Four recent examples of Judge Gonzalez's questionably partial decisions are discussed below. Defendants believe these suggest actual bias, but more to the point here, they certainly create an appearance of partiality. The Nevada Code of Judicial Conduct expressly requires judges to conduct themselves in an impartial manner. Comment 1 to Rule 2.2 explains that "[t]o ensure impartiality and fairness to all parties, a judge must be objective and open-minded." The examples below demonstrate a lack of objectivity.

Rule 2.3(1) and (2) also require that judges perform their duties "without bias or prejudice." This is crucial, because as recognized in Comment 1 to Rule 2.3: "A judge who manifests bias or prejudice in a proceeding **impairs the fairness of the proceeding and brings the judiciary into disrepute.**" (Emphasis added).

Whether or not the Court agrees that these examples, and others described in LVSC's motion to reconsider Judge Barker's January 29 Order, constitute actual bias, the examples are clear evidence of apparent partiality that would cause a reasonable person to doubt Judge Gonzalez's impartiality in this case. See NCJC 2.11 (discussed *supra* Section IV.A); see also NCJC Rule 1 (requiring that "[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety *and the appearance of impropriety*" (emphasis added)). When a judge's conduct creates the appearance of partiality or impropriety, "[p]ublic confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety." *Id.* at Comment 1.

Example 1, below, violates these Rules by showing disparate treatment of similarly situated parties. Example 2 violates these Rules by showing disparate treatment of Jacobs and defendants. Example 3 violates the Rules against a judge making decisions on extra-judicial sources or personal opinions. Example 4 also violates these Rules for lack of proportionality in the district court's management of deposition discovery consistent with NRCP 30(d)(1).

1. **The district court rules inconsistently on the same issue in different cases pending before her at the same time.**

In this case, Jacobs's lawyer claimed a need to depose Mr. Dumont about his personal knowledge about Jacobs's termination. PA1811–13. He, however, questioned Mr. Dumont about the purchase of the *Review Journal*, a topic tied by the media to the district court's handling of this case, but which is irrelevant to this employment case. Mr. Dumont's counsel objected and instructed the witness not to answer until he could bring the matter to the district court to ask for consideration by a judge not involved in the issue. But before Mr. Dumont's counsel could bring the matter to the district court, Jacobs's counsel complained about the instruction in an after-hours email to the district court (PA2067), who immediately addressed it at a hearing scheduled on another matter the following morning. Recognizing the conflict she faced ruling on issues regarding media reports she contributed to, Judge Gonzalez set up a window-dressing procedure to have other judicial officers consider disputes relating "to the litigation, as opposed to Jacobs." PA1948:21–1949:4; PA1954–56. This procedure to distinguish "the litigation" from "Jacobs" is a distinction without a difference given the way the media articles she contributed to have merged the two. PA2214–15; PA2220–24; PA2226–30. Jacobs is the litigation; the litigation is Jacobs. The creation of such a procedure would suggest to an objective person that Judge Gonzalez lacks impartiality. NCJC 2.11.

Judge Gonzalez then issued a harsh condemnation of Mr. Dumont's lawyer for instructing him not to answer on relevancy grounds. PA1948:5-10. ("To the extent you attempt to instruct a witness, sir, not to answer a question [on relevancy grounds] it is inappropriate

under Nevada law. And regardless of whether you are appearing for a party or not, you may be subject to sanctions which may include the withdrawal of your permission to appear pro hac. Do you understand that?")

Judge Gonzalez's sharp rebuke of Mr. Dumont's counsel was markedly different from her indifference a month earlier in the *Okada* Case, where she did nothing about the lawyer suggesting to his deponent that he not answer "irrelevant" questions 38 times. PA2361:11–13; PA2363:10–16 (accepting *Wynn's* counsel's relevancy objection in *Okada* and declining to sanction him because "there was a good faith [but unidentified] basis for the objections"). She added that "[her] determination of the scope [of a deposition] is one that is made on a case-by-case basis," which apparently means that parties other than LVSC can object and instruct a witness not to answer on relevancy grounds pending the opportunity to debate the "scope" with her, but the defendants in this case cannot. PA2363:10–16; *see also* PA2712:17–25 (warning Mr. Adelson's counsel not give instructions not to answer based on relevance, or make speaking objections at upcoming depositions).

**2. Judge Gonzalez sanctioned defendants for allegedly disobeying an oral discovery order but excused Jacobs's compliance with another oral discovery order because it was not in writing!**

Another example of her uneven, disparate treatment of the plaintiff and the defendants is the manner in which Judge Gonzalez handled the motion to compel Jacobs to provide a release for defendants to obtain his medical records (relevant to the "delusional" aspect of his defamation claim). PA1474–95. Jacobs refused to provide a medical release, based on his attempt to parse Mr. Adelson's alleged defamatory

statement to contend he is not disputing the "delusional" aspect of it.

PA1497. In its entirety, the statement is:

While I have largely stayed silent on the matter to this point the allegations must be addressed. We have a substantial list of reasons why Steve Jacobs was fired for cause and interestingly he has not refuted a single one of them. *Instead, he has attempted to explain his termination by using outright lies and fabrications which seem to have their origins in delusion.*

PA1469 (emphasis added).

The court initially ruled he was required to execute a release for his medical records, which she acknowledged were relevant to his defamation claim and the defense of it. PA1548:16–21. But Jacobs did not sign the release, although defendants requested him to do so, because, he said weeks later, no written order had yet been entered to memorialize the Court's oral ruling. PA1633–34. After Judge Gonzalez issued a written order, PA1579, Jacobs still refused to sign the release. Defendants then moved for contempt, and Jacobs moved to reconsider, which the Judge granted. PA1591–1631; PA1580–90.

Her ready and uncritical acceptance of Jacobs's contention that he was not obligated to produce medical records and tax return releases under an oral ruling of the Court, but only in response to a written order was diametrically opposed to her sanctioning defendants for not fully complying with an oral ruling in December 2012 that cost SCL millions of dollars to accommodate and comply with. *See* PA1633–34 (Where Jacobs argued that at least as to him: "Contempt requires proof of a knowing violation of a written order. Awaiting the entry of a written order so that Jacobs could raise his challenges to it . . . is hardly contempt"). The Court not only declined to hold Jacobs in contempt, but "*reconsidered*" her order

that he was required to produce medical and tax releases because the medical release proposed by defendants [which Jacobs made no effort to discuss or modify] was allegedly "*too broad*" [although the Court also said that "*No, it's not too broad. It's not what I ordered.*" PA1652:13–14.

Because of her disagreement with the form of release, Judge Gonzalez *reconsidered* her prior order requiring Jacobs to sign a medical records release and replaced it with a secret in-camera review process to protect him from the discovery she had already ruled *was relevant*:

*"THE COURT: Okay, the motion [to reconsider] is granted in part. Because of the issues related to the breadth of the release that was provided, I am going to do an in-camera review after being provided with records that Mr. Jacobs will obtain . . .*

. . . .

*THE COURT: And if I have questions related to a medical diagnosis issue that appears to me not to relate to the delusion . . .*

. . . .

*MR. RANDALL JONES: So, in other words, Your Honor, we will also receive those records . . .*

*THE COURT: No, you will not receive those records until I have made a review and determination as to whether those records should be provided . . .*

. . . .

*MR. RANDALL JONES: There's a less harsh remedy than [judge taking over the discovery], Your Honor.*

*THE COURT: What's that, Mr. Jones?*

*MR. RANDALL JONES: That is to go back through the consent [that Jacobs refused to discuss or suggest should be modified], as I offered to do and as you ordered . . .*

*THE COURT: Sometimes when you overreach it causes things to go the other way."*

PA1657–66; *see also* PA2305–06; (announcing her decision that the limited medical records submitted to her by Jacobs under claim of privilege but without a privilege log, are not relevant and therefore defendants cannot review them).

This treatment partial to Jacobs is markedly different from an oral ruling compelling discovery of documents Judge Gonzalez made on December 18, 2012 which required compliance by January 4, 2013 although no written order issued until weeks later on January 16, 2013. Nevertheless, the defendants spent more than \$2 million to comply with her oral order *and* obey the law of Macau where the discovery took place. She was dissatisfied with the defendants' "attempt" to comply with her oral ruling, so she *invited* Jacobs to renew his earlier motion for sanctions and thereafter sanctioned defendants for not violating the December 18 oral order, but for violating her September 14, 2012 sanctions order by redacting personal data, as Macau law requires, although the September order does not even address redactions. PA1293–1333.

In other words, Judge Gonzalez did not believe the lack of a written order articulating her December 18, 2012 oral rulings—or the absence of a prohibition against redactions in her September 12, 2012 sanctions order—were an impediment to holding LVSC and Sands China in contempt and imposing substantial fines on them. An objective reasonable person would conclude that a judge who seeks out and creates opportunities to sanction the defendants for conduct she excuses when Jacobs is the perpetrator is not an impartial judge. How can the public have any confidence that the rule of law is being impartially administered when the rule can arbitrarily "go the other way?" PA1666. How can this Court?

**3. Judge Gonzalez's decisions based on personal views or extra-judicial efforts also suggest partiality.**

The district court's refusal to compel Jacobs to sign a consent to permit defendants to lawfully produce documents from Macau that bear his name also suggests partiality to Jacobs. At the same times as he has stridently denounced defendants for their failure obtain wholesale consents from all Sands China employees in Macau to produce unredacted documents, Jacobs has personally refused to provide the consent he demands others should provide. PA871. In 2014, his refusal was allegedly based on the Court's order that, for jurisdictional discovery purposes, Sands China could not obey the MPDPA, the law of its home country. PA2250–51.

Once the case moved past jurisdiction over SCL and merits discovery got underway, Jacobs's 2014 excuse for refusing to provide a MPDPA consent was inapplicable. He agreed to produce a consent *provided* the consent form was modified to meet *his* requirements, which he declined to identify. PA2235 at ¶¶ 5–8. When defendants moved for an order compelling him to sign the same form of consent signed by LVSC and Sands China executives to produce unredacted documents (on the same form defendants were informed was approved by the Macau Office of Data Privacy ("OPDP")), Judge Gonzalez said the form was unacceptable for Jacobs. PA2248.

Rather than address his unfulfilled agreement to provide the consent, or address any modification to the form of the consent he had been provided, Jacobs's opposition to consent rehashed the 2012 sanctions proceedings and attributed other bad acts to defendants to excuse his willful failure to consent to the production of documents bearing his name.

PA2311-18. Jacobs has never identified the language he found problematic for him in the OPDP consents executed by defendants' personnel, probably because he believed Judge Gonzalez will eventually address that dilemma for him, *id.*, as she has done on other occasions, *e.g.*, the medical records release.

In fact, she did: she challenged not only the language of the consent, but SCL's counsel's explanation for it. PA2702-07. The language she questioned says:

Notwithstanding my consent, the disclosure and communication of the above-referenced records and emails to Las Vegas Sands Corp. (unintelligible) shall at all times be subject to the laws of Macau.

PA2703:1-6. Sands China's counsel explained that this language was included because it is "our understanding that it is what is required for a consent under Macanese law." *Id.* at l. 7-10. Judge Gonzalez then challenged his understanding:

THE COURT: Isn't one of the ways that the Macau Data Privacy Act allows your client to produce information is when it is subject to an order from other jurisdiction?

MR. RANDALL JONES: No, actually, Your Honor. At least my understanding. Because that's the whole problem we've had. We have taken your orders and actually gave them specifically to the OPDP, and we've got letters back that said, this is not sufficient. If VML was sued –

PA2706:9-16. After brief discussion Judge Gonzalez proceeded to deny the request, saying:

Okay. The motion is denied. However, you may submit an order asking me to find that Mr. Jacobs has waived the ability to object to any release of that information by the bringing of this lawsuit which puts in issue those documents which are in Macau.

PA2707:12–16.

Plaintiff has not briefed the requirements of Macau law on consent to personal data releases. There is no evidence in the record to contradict defendants' counsel's understanding of the consent requirements derived from defendants' direct contact with Macau OPDP. PA2706:9–16. Judge Gonzalez's decision to deny defendants this straightforward release based on her personal view of what should suffice to satisfy Macanese law is merely her way of expressing her partiality for Jacobs and her antipathy to defendants.

4. **Judge Gonzalez's recent order compelling Sheldon Adelson to provide an *additional* 49 uninterrupted hours of testimony is evidence of her inability to impartially manage this case.**

Within 24 hours of Judge Barker's denial of reconsideration of his January 29 order, Judge Gonzalez resumed her partial management of this case and ordered that defendant Sheldon Adelson's deposition would be extended from the one-day for seven-hours required by NRCP 30(d)(1) to 7 days of 7 hours each, notwithstanding that she had previously ordered him to provide over 33 hours of sworn testimony over six days in this case, and the fact he had been deposed by Jacobs for over 15 hours in a related Florida action. PA2714. Requiring the company's top executive to provide nearly 100 hours of testimony in a routine wrongful termination case involving a single plaintiff, along with hundreds of hours of testimony by other executive is abusive, and it is arbitrary in the extreme. *See USF Ins. Co. v. Smith's Food & Drug Ctrs. Inc.*, No. 2:10-cv-01513-RLH-LRL, 2012 WL 1106939, \*3 (D. Nev. Apr. 2, 2012) (allowing 3 additional hours where the deponent was only deposed for 5 hours and the deponent's testimony was

"highly relevant to the action"); *Spear v. Fenkell*, No. 13-02391, 2014 U.S. Dist. LEXIS 100028, at \*14 (E.D. Pa. July 23, 2014) (denying request for 20 hours of deposition testimony in case involving multiple claims, multiple parties, and voluminous documents); *Somerset Studios, LLC v. Sch. Specialty, Inc.*, No. C 10-5527 MEJ, 2011 U.S. Dist. LEXIS 103927, at \*11 (N.D. Cal. Sep. 14, 2011) (denying request to extend deposition time limit to 14 hours in complex construction case involving hundreds of projects, complex issues, and voluminous documents); *In re Sulfuric Acid Antitrust Litig.*, 230 F.R.D. 527, 532 (N.D. Ill. 2005) (denying motion for additional deposition time in a *complex multi-district antitrust suit* where key witness had already been deposed for 17 hours) (emphasis added)).

Although Rule 26(b)(2) permits district courts to alter the presumptive one-day limit in Rule 30 under certain circumstances, "[a]utomatic extensions eviscerate the rule." *Roberson v. Blair*, 242 F.R.D. 130, 138 (D.D.C. 2007) (permitting an additional seven hours – for a total of 14). In *Roberson* the court went on to point out, "the court should begin with the presumption that the seven-hour limit was carefully chosen and that extensions should be the exception, not the rule." *Id.*

We know from Judge Gonzalez's invariable practice that she does not recognize or apply the seven-hour rule expressed by this Court in NRCP 30(d)(1) for *all* Nevada courts to follow. She has announced that the "[o]ne day rule hasn't applied in my court since it passed." *Okada v. Eighth Judicial District Court*, 131 Nev. Adv. Op. 83, 359 P.3d 1106, 1113 (2015) (citing Judge Gonzalez's statement and allowing a deposition for more than one day "because Okada acknowledges that more than one day will be 'needed to fairly examine [him].'"). There is no similar acknowledgement

in this case that more than one day in addition to the six already used are needed by Jacobs to determine what Mr. Adelson knows about Jacobs's termination that he has not already testified to.

If this order to impose another 7 days of deposition for 49 hours is allowed to stand by this Court, we will regress in the administration of just, speedy, and inexpensive impartial justice, which NRCP 30(d)(1) was amended by this Court to foster. As one court aptly observed, "the rules do not allow for endless depositions, the modern form of trial by ordeal." *In re Sulphuric Acid Antitrust Litig.*, 230 F.R.D. at 532.

NRCP 26(b)(2) permits trial courts to extend depositions but it also requires proportionality. The court may limit discovery if

(i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive; (ii) the party seeking the discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burden or expensive, taking into account the needs of the case, the amount in controversy, limitations of the parties' resources, the importance of the issues at stake in the litigation.

Nev. R. Civ. P. 26(b)(2).

The Court's recent decision in *Okada*, reiterated at the proportionality requirements in Rule 26(b)(2) are the appropriate factors to be considered when considering extending the presumptive seven-hour limit in Rule 30(d). 131 Nev. \_\_\_\_, 359 P.3d at 1113. Judge Gonzalez did not consider any of these factors; she said only that "[g]iven her observations of Mr. Adelson's testimony during the jurisdictional hearing and [counsel's estimates]" she was extending the deposition to 49 uninterrupted hours. PA2714:7-15.

This irrational, punitive decision completely failed to consider the cumulative and duplicative nature of the testimony sought.

Mr. Adelson has already testified for nearly 49 hours in this and a related case. LVSC and Sands China company representatives have already been required to testify for over nine additional days under Rule 30(b)(6), and those depositions are not yet complete. Other executives have been deposed, too, for hours and days on Jacobs's claim that he was not fired for cause. Other than to harass Mr. Adelson, there is little new testimony Jacobs can obtain from him that has not been, or cannot be, obtained from company witnesses.

The endless-deposition decision for Mr. Adelson also disregards the more than "ample opportunity" that Judge Gonzalez has already provided Jacobs to obtain the information about his wrongful termination claim. Requiring nearly 100 hours of testimony from one person in addition to the lengthy and overbroad depositions required of and given by other company representatives is disrespectful of the rules and is outrageous! *In re Sulfuric Acid Antitrust Litig.*, 230 F.R.D. at 532 (refusing additional time where key witness had already been deposed for 17 hours); *USF Ins. Co.*, 2012 WL 1106939 at \*3 (permitting only a total of 8 hours); *Spear*, 2014 U.S. Dist. LEXIS 100028 at \*14; (denying request for 20 hours in a much more complex case); *Somerset Studios*, 2011 U.S. Dist. LEXIS 103927 at \*11 (denying request for 14 hour extension in case with complex issues involving hundreds of projects and voluminous documents).

The district court also ignored Rule 26(b)(2)'s proportionality requirement in ordering Mr. Adelson to be deposed for an additional 49 hours of deposition. This case is not similar to *Okada*, which involved a

non-English speaking deponent and two interpreters and three monitors. There is no reason other than indulging Jacobs's wish to harass Mr. Adelson for Judge Gonzalez to have ordered him to sit for 49 more hours of deposition. That, on its face, is unduly burdensome discovery, unnecessarily expensive, and wholly disproportionate in a single-plaintiff wrongful termination case.

**5. The district judge's desire to participate as an advocate and her intemperate remarks also demonstrate her inability to preside in an impartial manner.**

The district court's indulgement of every fanciful, shadowy conspiracy theory imagined by Jacobs and his creative counsel has caused this mundane employment case to spin out of control. PA1192:1–5 (over \$4.4 million spent on discovery as of early 2015). Judge Gonzalez's desire to encourage and help shape plaintiff's litigation strategy by directing or suggesting motions and additional briefing has unnecessarily and unreasonably expanded the litigation. PA743:1–7 (directing briefing on particular issues); PA319:23–24 (inviting Jacobs to renew his sanctions motion if defendants did not comply with her oral ruling by January 4, 2013); *see also* PA2331–51 (for additional examples with record citations). The district court's involvement in directing Jacobs's strategy violates Rule 2.2 and 2.3 of the NCJC.

The Court's intemperate and inappropriate comments, which have been solely directed at the defendants also demonstrate that she has lost objectivity in this case. PA841:19 (declaring "*This is bullshit.*" in response to Sands China's inability to provide an earlier date on which she could set a hearing); PA1785 (twice categorizing defendants' work product as "*really crappy*"); PA2394 at ¶ 13 (defending her description of the logs as

"really crappy" because she says the comment was true); PA1974A (JAVS record of Jan. 12, 2016 Hrg. at 07:58:38 (emphasis in original) (inviting chuckles by declaring in front of Jacobs and his counsel, but outside of defendants' presence, that: "*It's always better to stay on record because shit happens!*"). These intemperate statements directed against the defendants are also contrary to NCJC Rule 2.3. *See* NCJC Rule 2.3, Comment 2 (judge shall not exhibit bias by epithets, slurs, etc).

Defendants' Due Process right to a fair trial before an impartial tribunal cannot be achieved with a judge that has conducted herself in a manner that establishes partiality.

## V. CONCLUSION

Petitioners respectfully ask the Court to grant the Petition and issue a Writ of Mandate clarifying that parties seeking disqualification under the Code and statute are entitled to full briefing and the opportunity to present evidence at an open hearing, and directing Judge Barker to vacate his January 29 and February 17, 2016 Orders and issue an order disqualifying Judge Elizabeth Gonzalez from continuing to preside over this case to preserve public confidence in the administration of justice in Nevada's courts, as well afford the defendants an impartial forum in which to conduct discovery and present their defenses.

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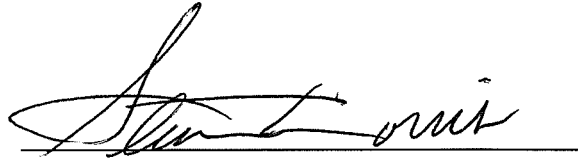
Attorneys for Petitioners

## CERTIFICATE OF COMPLIANCE

1. I hereby certify that I have read this **PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE ORDERS DENYING MOTION TO DISQUALIFY JUDGE ELIZABETH GONZALEZ WITHOUT A HEARING**, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

2. I also certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the tpestyle requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Palatino 14 point font and contains 8,836 words.

3. Finally, I certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular Nev. R. App. P. 28(e), which requires every section of the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied is to be found.

  
STEVE MORRIS

## VERIFICATION

1. I, Steve Morris, declare:
2. I am one of the attorneys for the Petitioners herein;
3. I verify that I have read the foregoing **PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE ORDERS DENYING MOTION TO DISQUALIFY JUDGE ELIZABETH GONZALEZ WITHOUT A HEARING** that the same is true my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true.

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

  
STEVE MORRIS

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. App. P. 25, I certify that I am an employee of MORRIS LAW GROUP; that, in accordance therewith, I caused a copy of the **PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE ORDERS DENYING MOTION TO DISQUALIFY JUDGE ELIZABETH GONZALEZ WITHOUT A HEARING** to be hand delivered, in a sealed envelope, on the date and to the addressee(s) shown below:

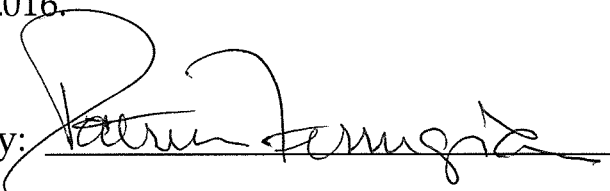
Chief Judge David Barker  
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Real Party in Interest**

DATED this 22nd day of February, 2016.

By: 

**Courtesy Copy To:**

Judge Elizabeth Gonzalez  
Eighth Judicial District Court of  
Clark County, Nevada  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155