

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED,

Case No. 70452

Petitioners,

Electronically Filed
Aug 30 2016 09:11 a.m.

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,

**SUPPLEMENTAL APPENDIX IN
SUPPORT OF WYNN RESORTS,
LIMITED'S REPLY IN SUPPORT
OF PETITION FOR WRIT OF
PROHIBITION OR
ALTERNATIVELY, MANDAMUS**

Respondent,

VOLUME V

and

(PORTIONS FILED UNDER SEAL)

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

Real Parties in Interest.

DATED this 29th day of August, 2016.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice

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Excerpts from the Deposition Transcript of Robert J. Miller, Volume II FILED UNDER SEAL	02/10/2016	V	APP_0722-APP_0725
Excerpts from the Deposition Transcript of Louis J. Freeh, Esq. FILED UNDER SEAL	06/03/2016	V	APP_0726-APP_0733
Notice of Entry of Interim Order on Wynn Resorts' Motion for Disqualification	07/29/2016	V	APP_0734-APP_0741

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Notice of Entry of Interim Order on Wynn Resorts' Motion for Disqualification	07/29/2016	V	APP_0734- APP_0741

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 29th day of August, 2016, I electronically filed and served by electronic mail and U.S. Mail true and correct copies of the above and foregoing **SUPPLEMENTAL APPENDIX IN SUPPORT OF WYNN RESORTS, LIMITED'S REPLY IN SUPPORT OF PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS** to the following:

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Eighth Judicial District court, Dept. XI
Regional Justice Center
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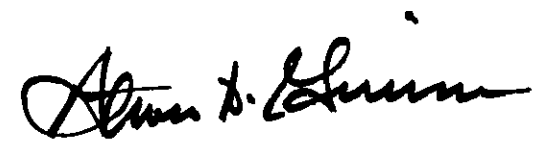
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/s/ Kimberly Peets
An employee of Pisanelli Bice PLLC

FILED UNDER SEAL
APP_0722-725

FILED UNDER SEAL
APP_0726-733



CLERK OF THE COURT

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John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
16 Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 WYNN RESORTS, LIMITED, a Nevada
Corporation,

20 Plaintiff,

21 vs.

22 KAZUO OKADA, an individual, ARUZE
USA, INC., a Nevada corporation, and
23 UNIVERSAL ENTERTAINMENT CORP., a
Japanese corporation,

24 Defendants.

25 _____
26 AND RELATED CLAIMS
27 _____
28

Case No.: A-12-656710-B
Dept. No.: XI

**NOTICE OF ENTRY OF INTERIM
ORDER ON WYNN RESORTS' MOTION
FOR DISQUALIFICATION**

Hearing Date: June 23, 2016

Hearing Time: 10:00 a.m.

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

1 PLEASE TAKE NOTICE that an "Interim Order on Wynn Resorts' Motion for
2 Disqualification" was entered in the above-captioned matter on July 29, 2016, a true and copy of
3 which is attached hereto.

4 DATED this 29th day of July, 2016.

5 PISANELLI BICE PLLC

6 By: /s/ Debra L. Spinelli

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 29th day of July, 2016, I caused to be **electronically served through the Court's filing system** true and correct copies of the foregoing **NOTICE OF ENTRY OF ORDER** to the following:

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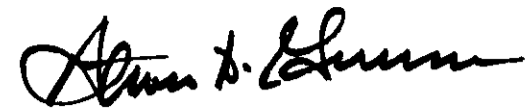
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17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 **WYNN RESORTS, LIMITED, a Nevada**
20 **Corporation,**

21 **Plaintiff,**

22 vs.

23 **KAZUO OKADA, an individual, ARUZE**
24 **USA, INC., a Nevada corporation, and**
UNIVERSAL ENTERTAINMENT CORP.,
a Japanese corporation,

25 **Defendants.**

Case No.: A-12-656710-B

Dept. No.: XI

**INTERIM ORDER ON WYNN RESORTS'
MOTION FOR DISQUALIFICATION**

Date of Hearing: June 23, 2016

Time of Hearing: 10:00 a.m.

26 **AND ALL RELATED CLAIMS**
27

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1 Before this Court are the following additional submittals related to
2 Wynn Resorts, Limited's ("Wynn Resorts" or the "Company") Motion to Disqualify
3 Quinn Emanuel and for Order Requiring Turnover of Privileged Matter, Injunctive Relief,
4 Protection and Other Appropriate Relief on an Order Shortening Time (the "Disqualification
5 Motion"):

- 6 1. Elaine Wynn's Notice of Submission of Materials for *In Camera* Review;
- 7 2. Elaine P. Wynn's Request for a Ruling on Wynn Resorts, Limited's Motion to
8 Disqualify Quinn Emanuel;
- 9 3. List of communications submitted by Elaine P. Wynn and Quinn Emanuel
10 Urquhart & Sullivan, LLP *In Camera* Pursuant to the Court's June 7, 2016 and June 17, 2016
11 Orders;
- 12 4. Elaine Wynn's *In Camera* Submission of Materials by Quinn Emanuel Urquhart &
13 Sullivan, LLP and Elaine P. Wynn Pursuant to the Court's June 7, 2016 and June 17, 2016 Orders;
- 14 5. Notice of Declarations of Aruze Attorneys in Response to Wynn Resorts' Motion
15 to Disqualify Quinn Emanuel;
- 16 6. Wynn Resorts' Response to *In Camera* Submission; and
- 17 7. Declaration of Ian S. Shelton, Esq. (Quinn Emanuel of counsel) in Support of
18 Elaine P. Wynn's Opposition to Wynn Resorts' Motion to Disqualify Quinn Emanuel.

19 In its Response to *In Camera* Submission, Wynn Resorts asks this Court to impose a
20 protocol to protect and preserve its privileges. Specifically, Wynn Resorts asks this Court to
21 implement four protocols to address its privileged communications which may be in the
22 possession of its adversary, Elaine Wynn, including that which may be in the possession of her
23 counsel.

24 Based upon the Disqualification Motion and the recent submittals by the respective
25 parties, the Court concludes that it will convene an evidentiary hearing on Wynn Resorts'
26 Disqualification Motion. Before doing so, the Court finds it appropriate to implement the
27 protocol requested by Wynn Resorts, subject to certain modifications, to establish and catalogue
28 all information over which Wynn Resorts may claim privilege. As the Nevada Supreme Court

1 has held in *Las Vegas Sands v. Eighth Judicial District Court*, 331 P.3d 905, 910-11 (Nev. 2014),
2 Wynn Resorts' current management is the holder of the Company's privileges, and current
3 management is entitled to determine who may possess and use such information. While she may
4 be a former director of Wynn Resorts, Elaine Wynn has no rights relative to the Company's
5 privileged and protected information.

6 Accordingly, IT IS HEREBY ORDERED:

7 1. Elaine P. Wynn and her counsel shall deposit all documents, including any
8 electronic hard drives or other electronic storage devices that contain any type of company
9 information, including Elaine Wynn's use of Wynn Resorts' email, with a Court-approved
10 third-party ESI administrator. Elaine Wynn and Wynn Resorts are directed to meet and confer to
11 see if they can reach an agreement on a third-party administrator that has an agreed protocol on
12 how all data deposited with the third-party administrator can thereafter be searched for claims of
13 privilege. If Elaine Wynn and Wynn Resorts cannot reach agreement, the Court will select a
14 vendor and establish a protocol based upon the parties' submissions.

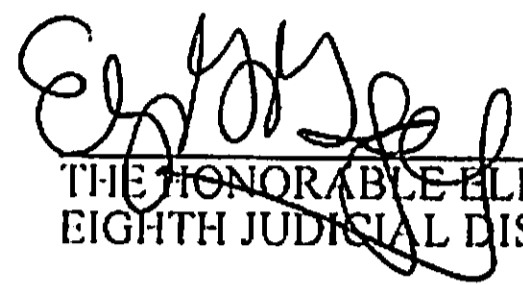
15 2. Elaine Wynn and Wynn Resorts shall meet and confer and establish a briefing
16 schedule, if any, to resolve any claims of privilege by Elaine Wynn as to her use of Wynn Resorts'
17 email and computer to communicate with her separate counsel.

18 3. At this point, the Court has not yet determined whether it will appoint a special
19 master to address communications between Elaine Wynn and her counsel to determine if and to
20 what degree she has disseminated privileged information. The Court will take up this issue again
21 as the soon-to-be-established protocol for viewing Elaine Wynn's data is implemented and
22 progressing.

23 4. The Court will await setting the date for an evidentiary hearing upon an assessment
24 of the progress and satisfaction of the other provisions of this Order.

1 IT IS FURTHER ORDERED that because of the potential for irreparable harm stemming
2 from a potential misuse of privileged information, a stay of discovery in this proceeding is
3 required at this time, except as otherwise ordered by the Court.

4
5 DATED: 28 Aug 16


THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT

8 Respectfully submitted by:

9
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11 By: 

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