



1 Counderdefendant/Counterclaimant/Crossclaimant Elaine P. Wynn (“Ms. Wynn”). J. Stephen  
2 Peek and Robert J. Cassity, Esq. of HOLLAND & HART LLP appeared on behalf of Defendant  
3 Kazuo Okada (“Okada”), and David S. Krakoff, Esq. of BUCKLEY SANDLER LLP and J.  
4 Randall Jones of KEMP, JONES & COULTHARD LLP appeared on behalf of  
5 Defendants/Counterclaimants/Counterdefendants Aruze USA, Inc. (“Aruze USA”) and  
6 Universal Entertainment Corp. (“Universal”) (collectively the “Aruze Parties”).

7 The Court has considered the Motions, the Wynn Parties’ Opposition, the Defendants’  
8 Reply, and the arguments of counsel at the hearing on August 25. The Court has also considered  
9 the 2015 proceedings in which the Court granted the Aruze Parties’ motion to compel  
10 production of documents related to the Defendants’ pretext claim, which the Nevada Supreme  
11 Court declined to overrule on November 12, 2015 for lack of clear legal error in that discovery  
12 determination.

13 After having considered these matters and having carefully reviewed the Supreme  
14 Court’s Opinion in 133 Nevada Advance Opinion 52 (Case No. 70050) filed on July 27, 2017,  
15 directing the Court to determine whether, considering the totality of the circumstances, the  
16 Freeh Report was prepared “because of anticipated litigation,”<sup>1</sup> the Court determines that the  
17 Report was not prepared in anticipation of litigation. It was prepared for a different purpose, a  
18 business purpose—to assess Mr. Okada’s suitability for use by Wynn Resorts’ Compliance  
19 Committee to decide whether the stock of the Aruze Parties should be forcibly redeemed.

20 On the basis of the foregoing, good cause appearing,

21 IT IS HEREBY ORDERED that the Motions are GRANTED as follows:

22 1. Wynn Resorts’ claim that production of the pre-Redemption Freeh Documents is  
23 prohibited by the work-product doctrine is overruled. Wynn Resorts shall produce the  
24 documents identified in Wynn Resorts’ Fifth Amended and Superseding Privilege Log  
25 Regarding Freeh Documents (“Fifth Amended Log”) dated on or before February 22, 2012.

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28 <sup>1</sup> 133 Nevada Advance Opinion 52, page 27, note 7.

