

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELAINE P. WYNN, an individual,
Petitioner,

Case No. 71432

vs.

Electronically Filed
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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,

Elizabeth A. Brown
Clerk of Supreme Court
**WYNN RESORTS, LIMITED'S
MOTION TO FILE EXHIBIT D
TO OPPOSITION TO ELAINE P.
WYNN'S MOTION TO EXTEND
DISTRICT COURT'S STAY
PENDING WRIT PETITION
UNDER SEAL**

Respondent,
and
WYNN RESORTS, LIMITED, a
Nevada Corporation,
Real Party in Interest.

I. INTRODUCTION

Pursuant to Part VII of the Supreme Court Rules Governing Sealing and Redacting Court Records, Real Party In Interest Wynn Resorts, Limited ("WRL") hereby moves this Court for an order to file under seal Exhibit D to its Opposition to Elaine P. Wynn's Motion to Extend District Court's Stay Pending Writ Petition (the "Opposition") under seal. Exhibit D to the Opposition was filed under seal in the District Court pursuant to a protective order, and relates to Ms. Wynn's claims she is entitled to whistleblower protections. The subject matter of a pending motion before this Court is whether these District Court filings should be filed under seal in this matter, rather than redacting the confidential and highly confidential portions. WRL has prepared a redacted version of the filing. However, until the Court has decided the pending motion, WRL requests that Exhibit D be filed under seal pursuant to SRCR 3(4).

1 **II. ANALYSIS**

2 Rule 7 of Part VII of the Supreme Court Rules provides that sealed
3 District Court records shall be made available to this Court on appeal but that those
4 records "shall be sealed from public access" subject to further order of this Court.
5 This Court will keep the documents under seal if there is an appropriate basis to do
6 so under SRCR 3(4). SRCR 3(4) permits the sealing or redaction of the record
7 when justified by compelling privacy or safety interests that outweigh the public
8 interest in access to the court record. The public interest in privacy outweighs the
9 public interest in open court records when the sealing or redaction furthers a
10 protective order entered under NRCP 26(c). SRCR 3(4)(b).

11 Here, the District Court, after briefing from the parties, entered a Protective
12 Order with Respect to Confidentiality under NRCP 26(c) (the "Protective Order")
13 (1 APP. 001-017.) Pursuant to the Protective Order, the parties are permitted to
14 designate materials that contain "information that constitutes, reflects, or discloses
15 nonpublic information, trade secrets, know-how, or other financial, proprietary,
16 commercially sensitive, confidential business, marketing, regulatory, or strategic
17 information (regarding business plans or strategies, technical data, and nonpublic
18 designs)" as Confidential. (*Id.* at 2-3.) And, information that is designated as
19 confidential may be filed with the Court and kept under seal and/or redacted upon
20 motion of the filing party. (*Id.* at 9.)

21 In the present case, Ms. Wynn demanded that all filings relating to her claim
22 she is entitled to whistleblower protections be filed under seal. Although WRL
23 does not believe Ms. Wynn is entitled to whistleblower protections, it has complied
24 with her demands, and the filings were filed under seal with the District Court.
25 Ms. Wynn has since changed her position, arguing that only the substance of the
26 communications between her and the Audit Committee or Ernst & Young cannot be
27 disclosed. WRL has prepared redacted versions of these filings, including Exhibit
28 D, but these filings are still under seal at the District Court, and Ms. Wynn's Motion

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moves to seal these filings in her appendix to her writ petition. Thus, in order to avoid running afoul of the Protective Order, WRL seeks an order from this Court allowing it to file Exhibit D, which contains an unredacted version of the filing, under seal. An Order permitting WRL to file these documents under seal will facilitate the Court's review of WRL's Opposition.

III. CONCLUSION

Based upon the foregoing, WRL respectfully requests that this Court permit it to file Exhibit D to its Opposition under seal.

DATED this 1st day of November, 2016.

PISANELLI BICE PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 1st day of November, 2016, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **WYNN RESORTS, LIMITED'S MOTION TO FILE EXHIBIT D TO OPPOSITION TO ELAINE P. WYNN'S MOTION TO EXTEND DISTRICT COURT'S STAY PENDING WRIT PETITION UNDER SEAL** properly addressed to the following:

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