

In the Supreme Court of Nevada

ELAINE P. WYNN, an individual,
Petitioner,

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,
Respondent,

and

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Real Party in Interest.

Electronically Filed
Jan 11 2017 11:40 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**REPLY IN SUPPORT OF
“MOTION TO FILE UNDER SEAL
PORTIONS OF APPENDIX TO WRIT PETITION”**

Wynn Resorts paints a complicated picture of Ms. Wynn’s supposedly “contradictory position[s]” and “convoluted . . . claims of confidentiality” (Opp. 6:9–10), designed to make her look bad. But that is all irrelevant to the simple reason these appendix volumes should be sealed: everything in them was sealed in the district court.

The issue now is whether those records should be *unsealed*, which is a question best addressed to the district court that sealed them. The sealing issues here are also bound up with the merits of the petition because they implicate Ms. Wynn’s federal privileges and protections. So

this Court should let the district court assess the fact-bound sealing issues after this Court resolves the petition.

1. *Records Sealed in the District Court Should Remain Under Seal*

“Court records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.” SRCR 7. Unsealing a record requires a motion and a hearing. SRCR 4(2), (3).

2. *Ms. Wynn Seeks to File Under Seal only Those Records that are Sealed in the District Court*

As Wynn Resorts acknowledges, the portions of the district-court record at issue were all sealed below. (Opp. 4:3–6, 7:5–8.) Wynn Resorts seems to be arguing that portions of her deposition transcript and the parties’ pleadings are no longer *confidential*. But there is no dispute that these materials, which contain descriptions of Ms. Wynn’s whistleblower activities and attach various exhibits and declarations, remain *sealed*.¹ The district court has not ordered the material un-

¹ Wynn Resorts attached the deposition transcript to a motion to compel Ms. Wynn to answer deposition questions (4 App. 741, 764) and a supplemental opposition to Ms. Wynn’s motion for a protective order (5 App. 984, 1035), then asked the district court to file those exhibits under seal (Ex. A, at 5; Ex. B, at 2). The district court granted that re-

sealed because the disposition of the pending writ petition is relevant to these sealing issues. As SRCR 7 requires, Ms. Wynn simply respected the district court's sealing orders in filing her writ petition.

3. *A Request to Unseal Records Should be Directed to the District Court in the First Instance*

Because this case arises as a writ petition rather than an appeal, the district court maintains jurisdiction over the case, *see Taylor Const. Co. v. Hilton Hotels Corp.*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984), including the power to seal and unseal records, SRCR 5. *Cf. Rust v. Clark County School District*, 103 Nev. 686, 747 P.2d 1380 (1987) (district court does not lose jurisdiction until notice of appeal).

The district court is therefore in the best position to entertain any request to unseal the deposition transcript and the parties' pleadings. So far, the district court has deferred ruling on these sealing issues until this Court rules on the merits of this petition. Wynn Resorts offers no basis for this Court to delve into the minutiae of sealing issues that the district court is capable of addressing at the appropriate time.

quest. (Ex. C, Order on Motions to Seal and/or Redact, at 4–5, ¶¶ 6, 9; *see also* Ex. D, Hr. Tr. 9/15/16, at 4:15–18.)

4. *Wynn Resorts’ Criticism is Irrelevant to the Issue of Sealing*

Wynn Resorts’ criticism of Ms. Wynn’s publicly filed writ petition is irrelevant. An opposition to a motion to seal is no substitute for SRCR 4’s specific process—including a motion and a hearing in the district court—to unseal a record.

The district court, moreover, rejected Wynn Resorts’ argument that the disclosures in Ms. Wynn’s petition were improper. While the petition refers generally to Ms. Wynn’s deposition and uses two *de minimis* quotes to establish her employment status and her fear of retaliation, the petition does not disclose anything that Wynn Resorts had not already raised in public hearings. (See Pet’n at 12-16, 52.) Nor does the petition rely on any information from communications with Wynn Resorts’ auditor that have been designated confidential. Rejecting Wynn Resorts’ request for sanctions based on the content of Ms. Wynn’s petition, the district court correctly noted that any citation to the deposition is “more of a waiver than a sanction issue.” (7 App. 1312:23–25.) Wynn Resorts has not petitioned this Court to overturn that determination.²

² Even if properly asked to unseal the transcript on the basis of waiver, the district court could reasonably decline. Because the information disclosed in the petition was already publicly available from Wynn Resorts’ own statements in open court (*see, e.g.*, 2 App. 268:25–269:1,

CONCLUSION

The appendix volumes containing sealed district-court records should remain sealed pending this Court's resolution of the petition and a motion to unseal in the district court. Ms. Wynn's request should be granted.

Dated this 10th day of November, 2016.

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By: /s/ Abraham Smith

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305:18–20, 309:3–4, 312:9–11, 313:11–14, 315:15–16, 316:18–23, 325:17–19, 327:6–10, 354:14–18, 354:25–11:2, 355:11–13, 357:6–12, 381:1–10, 392:11–14), unsealing the cited portions of the transcript would not increase the public's access to information. Cf. SRCR 4. Wynn Resorts' own public disclosures cannot result in a purported waiver by Ms. Wynn. And the court would be prudent not to presume that federal law permits the unsealing (SRCR 4(a)) when the applicability of federal whistleblower protections is the very question in the petition before this Court. The district court can consider any sealing or waiver issues after it receives guidance regarding the scope of federal protection from this court.

CERTIFICATE OF SERVICE

I certify that on November 10, 2016, I submitted the foregoing reply brief for filing *via* the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

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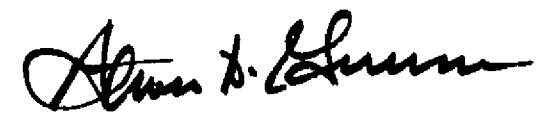
/s/ Gabriela Mercado

An Employee of Lewis Roca Rothgerber Christie LLP

EXHIBIT A

EXHIBIT A

Electronically Filed
08/31/2016 10:15:04 AM



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27 Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 WYNN RESORTS, LIMITED, a Nevada
21 Corporation,

22 Plaintiff,

23 vs.

24 KAZUO OKADA, an individual, ARUZE
25 USA, INC., a Nevada corporation, and
26 UNIVERSAL ENTERTAINMENT CORP., a
27 Japanese corporation,

28 Defendants.

AND RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**MOTION TO (1) REDACT
WYNN RESORTS, LIMITED'S
MOTION TO COMPEL ELAINE P.
WYNN TO ANSWER DEPOSITION
QUESTIONS, TO EXTEND
DEPOSITION TIME AND FOR
SANCTIONS; ON AN ORDER
SHORTENING TIME; AND
(2) SEAL EXHIBIT 1 THERETO; AND**

**APPLICATION FOR AN ORDER
SHORTENING TIME**

Hearing Date:

Hearing Time:

1 Wynn Resorts, Limited ("Wynn Resorts" or the "Company") moves the Court for an order
2 to (1) redact Wynn Resorts, Limited's Motion to Compel Elaine P. Wynn to Answer Deposition
3 Questions, to Extend Deposition Time and for Sanctions; on Order Shortening Time and (2) to
4 seal Exhibit 1 thereto.

5 This Motion is made and based on Rule 3(1) of the Nevada Supreme Court's Rules
6 Governing Sealing and Redacting Court Records, the attached Memorandum of Points and
7 Authorities, the pleadings and papers on file herein, and any argument this Honorable Court
8 allows at any hearing of this matter.

9 DATED this 30th day of August, 2016.

10 PISANELLI BICE PLLC

11 By: 

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25 John A. Moran, Marc D. Schorr, Alvin V.
26 Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
27 and Allan Zeman
28

ORDER SHORTENING TIME

Before this Court is the Request for an Order Shortening Time accompanied by the Declaration of counsel. Good cause appearing, the undersigned counsel will appear at Clark County Regional Justice Center, Eighth Judicial District Court, Las Vegas, Nevada, on the 2nd day of September, 2016, at 10 .m., in Department XI, or as soon thereafter as counsel may be heard, to bring this **MOTION TO (1) REDACT WYNN RESORTS, LIMITED'S MOTION TO COMPEL ELAINE P. WYNN TO ANSWER DEPOSITION QUESTIONS, TO EXTEND DEPOSITION TIME AND FOR SANCTIONS; ON AN ORDER SHORTENING TIME; AND (2) SEAL EXHIBIT 1 THERETO; AND APPLICATION FOR AN ORDER SHORTENING TIME** on for hearing.

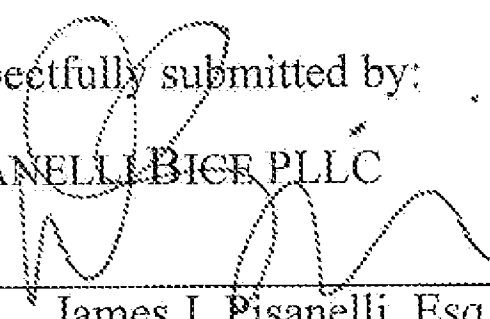
DATED this 30 day of August, 2016.


DISTRICT COURT JUDGE

Respectfully submitted by:

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Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

DECLARATION OF DEBRA L. SPINELLI, ESQ

I, DEBRA L. SPINELLI, Esq., hereby declare as follows:

1. I am one of the attorneys representing Plaintiff Wynn Resorts, Limited ("Wynn Resorts") in above-entitled action. I make this Declaration in support of Wynn Resorts' Motion to (1) Redact Wynn Resorts, Limited's Motion to Compel Elaine P. Wynn to Answer Deposition Questions, to Extend Deposition Time and for Sanctions; on Order Shortening Time and (2) Seal Exhibit 1 thereto (the "Motion to Seal/Redact"). I have personal knowledge of the facts stated herein and I am competent to testify to those facts.

2. Wynn Resorts is submitting this Motion to Seal/Redact simultaneously with the underlying motion to which it is linked. Wynn Resorts is seeking this Motion to Seal/Redact be heard at the same time as the underlying motion so as to handle the matters in an administratively efficient manner, at this Court's request. And, Wynn Resorts has submitted a separate application for an order shortening time related to the underlying motion.

3. I certify that the foregoing Motion to Seal/Redact is not brought for any improper purpose.

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

Executed this 30th day of August, 2016.


DEBRA L. SPINELLI, ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

The Nevada Supreme Court enacted specific rules governing the sealing and redacting of court records. Pursuant to Rule 3(1) of the Nevada Supreme Court's Rules Governing Sealing and Redacting Court Records ("SRCR"), "[a]ny person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion" The Court may order the records redacted or sealed provided that "the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record," which includes findings that "[t]he sealing or redaction is permitted or required by federal or state law" SRCR 3(4).

Specifically, the Motion and Exhibit 1 relate Elaine P. Wynn's limited deposition taken related to the pending motion to disqualify her law firm, Quinn Emanuel and Elaine P. Wynn's refusal to answer questions during the deposition. The redacted portion of the Motion and Exhibit 1 contain materials deemed to be Highly Confidential for a period of twenty (20) days under the Protective Order and, also, at this time remain outside the purview of the Okada Parties or their counsel (absent agreement or future motion practice) because of the potential privilege issues related to the motion to disqualify. Thus, the material, at this current point, is sensitive, confidential material creating a compelling interest in protecting these documents from widespread dissemination to the public. The Wynn Parties request that the Motion remain redacted and Exhibit 1 remain sealed for a reasonable time until the Court rules on the Motion to Seal/Redact.

Based on the foregoing and good cause appearing, Wynn Resorts respectfully requests that this Court allow it to file the Motion in redacted form and seal Exhibit 1 thereto pursuant to SRCR 3(4)(a) and that such information remain under seal until further order of the Court.

DATED this 30th day of August, 2016.

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and Allan Zeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 30th day of August, 2016, I caused to be electronically served through the Court's filing system true and correct copies of the foregoing MOTION TO (1) REDACT WYNN RESORTS, LIMITED'S MOTION TO COMPEL ELAINE P. WYNN TO ANSWER DEPOSITION QUESTIONS, TO EXTEND DEPOSITION TIME AND FOR SANCTIONS; ON AN ORDER SHORTENING TIME; AND (2) SEAL EXHIBIT 1 THERETO; AND APPLICATION FOR AN ORDER SHORTENING TIME to the following:

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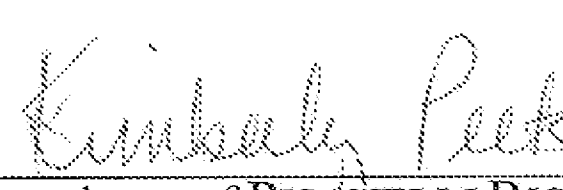
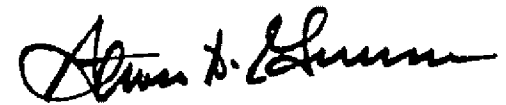

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EXHIBIT 1



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18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 WYNN RESORTS, LIMITED, a Nevada
21 Corporation,

22 Plaintiff,

23 vs.

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

26 Defendants.

27 AND ALL RELATED CLAIMS
28

Case No.: A-12-656710-B

Dept. No.: XI

**NOTICE OF ENTRY OF
WYNN PARTIES' PROTECTIVE
ORDER WITH RESPECT TO
CONFIDENTIALITY**

1 PLEASE TAKE NOTICE that the "Wynn Parties' Protective Order With Respect to
2 Confidentiality" was entered in the above-captioned matter on February 14, 2013, a true and
3 correct copy of which is attached hereto.

4 DATED this 14th day of February, 2013.

5 PISANELLI BICE PLLC

6 By: 

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21 John A. Moran, Marc D. Schorr, Alvin V.
22 Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
23 and Allan Zeman
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 14th day of February, 2013, I caused to be electronically served through the Court's filing system true and correct copies of the foregoing NOTICE OF ENTRY OF ORDER properly addressed to the following:

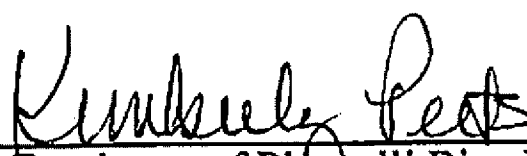
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Kimmie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**WYNN PARTIES' PROPOSED
PROTECTIVE ORDER WITH
RESPECT TO CONFIDENTIALITY**

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LAS VEGAS, NEVADA 89169

1 The Wynn Parties hereby propose that the handling of confidential material in these
2 proceedings shall be governed by the provisions set forth below:

3 1. **Applicability of this Protective Order:** Subject to Section 20 below, this
4 Protective Order does not and will not govern any trial proceedings in this action but will
5 otherwise be applicable to and govern the handling of documents, depositions, deposition
6 exhibits, interrogatory responses, responses to requests for admissions, responses to requests for
7 production of documents, and all other discovery obtained pursuant to Nevada Rules of Civil
8 Procedure or other legal process by or from, or produced on behalf of, a party or witness in
9 connection with this action (this information hereinafter shall be referred to as "Discovery
10 Material"). As used herein, "Producing Party" or "Disclosing Party" shall refer to the parties and
11 nonparties that give testimony or produce documents or other information in connection with this
12 action; "Receiving Party" shall refer to the parties in this action that receive such information, and
13 "Authorized Recipient" shall refer to any person or entity authorized by Sections 10 and 11 of this
14 Protective Order to obtain access to Confidential Information, Highly Confidential Information,
15 or the contents of such Discovery Material.

16 2. **Designation of Information:** Any Producing Party may designate Discovery
17 Material that is in its possession, custody, or control produced to a Receiving Party as
18 "Confidential" or "Highly Confidential" under the terms of this Protective Order if the Producing
19 Party in good faith reasonably believes that such Discovery Material contains nonpublic,
20 confidential information as defined in Sections 4 and 5 below.

21 3. **Exercise of Restraint and Care in Designating Material for Protection:** Each
22 Producing Party that designates information or items for protection under this Protective Order
23 must take care to limit any such designation to specific material that qualifies under the
24 appropriate standards. Indiscriminate designations are prohibited.

25 4. **Confidential Information:** For purposes of this Protective Order, "Confidential
26 Information" means any Protected Data (as defined below) or any information that constitutes,
27 reflects, or discloses nonpublic information, trade secrets, know-how, or other financial,
28 proprietary, commercially sensitive, confidential business, marketing, regulatory, or strategic

1 information (regarding business plans or strategies, technical data, and nonpublic designs), the
2 disclosure of which the Producing Party believes in good faith might reasonably result in
3 economic or competitive, or business injury to the Producing Party (or its affiliates, personnel, or
4 clients) and which is not publicly known and cannot be ascertained from an inspection of publicly
5 available sources, documents, material, or devices. Confidential Information shall also include
6 sensitive personal information that is not otherwise publicly available, such as home addresses;
7 social security numbers; dates of birth; employment personnel files; medical information; home
8 telephone records/numbers; employee disciplinary records; family court documents sealed by the
9 family court pursuant to NRS 125.110 or designated Confidential by agreement of the parties to
10 the family court proceedings at issue; wage statements or earnings statements; employee benefits
11 data; tax records; and other similar personal financial information. A party may also designate as
12 "CONFIDENTIAL" compilations of publicly available discovery materials, which would not be
13 known publicly in a compiled form.

14 (a) Protected Data. The term "Protected Data" shall refer to any information
15 that a party believes in good faith to be subject to federal, state or foreign data protection laws or
16 other privacy obligations. Protected Data constitutes highly sensitive materials requiring special
17 protection. Examples of such laws include, but are not limited to, the Macau Personal Data
18 Protection Act ("MDPA"), Macao Special Administrative Region Law n.º 16/2001 ("Judicial
19 system for operating games of fortune in casinos"), and other state, federal, and/or foreign law(s)
20 that impose special protections.

21 5. **Highly Confidential Information:** For purposes of this Protective Order, Highly
22 Confidential Information is any Protected Data and/or Confidential Information as defined in
23 Section 4 above that also includes (a) extremely sensitive, highly confidential, nonpublic
24 information, consisting either of trade secrets or proprietary or other highly confidential business,
25 financial, regulatory, private, or strategic information (including information regarding business
26 plans, technical data, and nonpublic designs), the disclosure of which would create a substantial
27 risk of competitive, business, or personal injury to the Producing Party, and/or (b) nonpublic
28 documents or information reflecting the substance of conduct or communications that are the

1 subject of state, federal, or foreign government investigations. Certain Protected Data may
2 compel alternative or additional protections beyond those afforded Highly Confidential
3 Information, in which event the parties shall meet and confer in good faith, and, if unsuccessful,
4 the party seeking any greater protection shall move the Court for appropriate relief. A party may
5 re-designate material originally "CONFIDENTIAL" as "HIGHLY CONFIDENTIAL" by giving
6 notice of such a re-designation to all parties.

7 **6. Designating Confidential Information or Highly Confidential Information.** If
8 any party in this action determines in good faith that any information, documents, things, or
9 responses produced in the course of discovery in this action should be designated as Confidential
10 Information or Highly Confidential Information (the "Designating Party"), it shall advise any
11 party receiving such material of this fact, and all copies of such document, things, or responses, or
12 portions thereof deemed to be confidential shall be marked "CONFIDENTIAL" or "HIGHLY
13 CONFIDENTIAL" (whether produced in hard copy or electronic form) at the expense of the
14 designating party and treated as such by all parties. A Designating Party may inform another
15 party that a document is Confidential or Highly Confidential by providing the Bates number of
16 the document in writing. If Confidential or Highly Confidential Information is produced via an
17 electronic form on a computer readable medium (e.g., CD-ROM), other digital storage medium,
18 or via Internet transmission, the Producing Party or Designating Party shall affix in a prominent
19 place on the storage medium or container file on which the information is stored, and on any
20 container(s) for such medium, the legend "Includes CONFIDENTIAL INFORMATION" or
21 "Includes HIGHLY CONFIDENTIAL INFORMATION." Nothing in this section shall extend
22 confidentiality or the protections associated therewith to any information that does not otherwise
23 constitute "Confidential Information" or "Highly Confidential Information" as defined in Sections
24 4 and 5 herein.

25 **7. Redaction Allowed:** Any Producing Party may redact from the documents or
26 things it produces matter that the Producing Party claims is subject to the attorney-client privilege,
27 the work product doctrine, a legal prohibition against disclosure, or any other privilege from
28 disclosure. Any Producing Party also may redact information that is both personal and

1 nonresponsive, such as a social security number. A Producing Party may not withhold
2 nonprivileged, responsive information solely on the grounds that such information is contained in
3 a document that includes privileged information. The Producing Party shall mark each redaction
4 with a legend stating "REDACTED," and include an annotation indicating the specific reason for
5 the redaction (e.g., "REDACTED—Work Product"). All documents redacted based on attorney
6 client privilege or work product immunity shall be listed in an appropriate log in conformity with
7 Nevada law and Nevada Rule of Civil Procedure 26(b)(5). Where a document consists of more
8 than one page, the page on which information has been redacted shall so be marked. The
9 Producing Party shall preserve an unredacted version of such document. In addition to the
10 foregoing, the following shall apply to redactions of Protected Data:

11 (a) Any party may redact Protected Data that it claims, in good faith, requires
12 protections under the terms of this Protective Order.

13 (b) Protected Data shall be redacted from any public filing not filed under seal.

14 (c) The right to challenge and the process for challenging redactions shall be
15 the same as the right to challenge and the process from challenging the designation of
16 Confidential Information or Highly Confidential Information.

17 8. Use of Confidential Information or Highly Confidential Information. Except
18 as provided herein, Confidential Information and Highly Confidential Information designated or
19 marked shall be maintained in confidence, used solely for the purposes of this action, to the extent
20 not otherwise prohibited by an order of the Court, shall be disclosed to no one except those
21 persons identified herein in Sections 10 and 11, and shall be handled in such manner until such
22 designation is removed by the Designating Party or by order of the Court. Confidential or Highly
23 Confidential information produced by another party shall not be used by any Receiving Party for
24 any commercial, competitive or personal purpose. Nothing in this Protective Order shall govern
25 or restrict a Producing Party's use of its own Confidential or Highly Confidential Information in
26 any way.

27 9. Once the Court enters this Protective Order, a party shall have thirty (30) days to
28 designate as Confidential or Highly Confidential any documents previously produced in this

1 action, which it can do by stamping "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on the
2 document, or informing the other parties of the Bates-numbers of the documents so designated.

3 10. **Use of Confidential Information and Highly Confidential Information in**
4 **Depositions.** Counsel for any party shall have the right to disclose Confidential or Highly
5 Confidential Information at depositions, provided that such disclosure is consistent with this
6 Protective Order, including Sections 10 and 11. Any counsel of record may request that all
7 persons not entitled under Sections 10 or 11 of this Protective Order to have access to
8 Confidential Information or Highly Confidential Information leave the deposition room during the
9 confidential portion of the deposition. Failure of such other persons to comply with a request to
10 leave the deposition shall constitute substantial justification for counsel to advise the witness that
11 the witness need not answer the question where the answer would disclose Confidential
12 Information or Highly Confidential Information. Additionally, at any deposition session, (1) upon
13 inquiry with regard to the content of any discovery material(s) designated or marked as
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY;"
15 (2) whenever counsel for a party deems that the answer to a question may result in the disclosure
16 or revelation of Confidential or Highly Confidential Information; and/or (3) whenever counsel
17 for a party deems that the answer to any question has resulted in the disclosure or revelation of
18 Confidential or Highly Confidential Information, counsel to any party may designate portions of a
19 deposition transcript and/or video of any deposition (or any other testimony) as containing
20 Confidential or Highly Confidential Information in accordance with this Order by a statement on
21 the record during the deposition or by notifying all other parties in writing, within thirty (30)
22 calendar days of receiving the transcript or video that it contains Confidential or Highly
23 Confidential Information and designating the specific pages, lines, and/or counter numbers as
24 containing Confidential or Highly Confidential Information. If a designation is made via a
25 statement on the record during a deposition, counsel must follow up in writing within thirty (30)
26 calendar days of receiving the transcript or video, identifying the specific pages, lines, and/or
27 counter numbers containing the Confidential or Highly Confidential Information. If no
28 confidentiality designations are made within the thirty calendar (30) day period, the entire

1 transcript shall be considered nonconfidential. During the thirty (30) day period, the entire
2 transcript and video shall be treated as Confidential Information (or Highly Confidential
3 Information). All originals and copies of deposition transcripts that contain Confidential
4 Information or Highly Confidential Information shall be prominently marked "CONFIDENTIAL"
5 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" on the cover thereof and, if and
6 when filed with the Court, the portions of such transcript so designated shall be filed under seal.
7 Counsel must designate portions of a deposition transcript as "CONFIDENTIAL" or "HIGHLY
8 CONFIDENTIAL – ATTORNEYS' EYES ONLY" within thirty calendar (30) days of receiving
9 the transcript. Any DVD or other digital storage medium containing Confidential or Highly
10 Confidential deposition testimony shall be labeled in accordance with the provisions of
11 Section 6.

12 11. **Persons Authorized to Receive Confidential Information.** Confidential
13 Information produced pursuant to this Protective Order may be disclosed or made available only
14 to the Court, its employees, other court personnel, any discovery referee, mediator or other
15 official who may be appointed by the Court, and to the persons below:

16 (a) A party, or officers, directors, employees, and agents of a party deemed
17 necessary by counsel to aid in the prosecution, defense, or settlement of this action;

18 (b) Counsel for a party (including in house attorneys, outside attorneys
19 associated with a law firm(s) of record, and paralegal, clerical, and secretarial staff employed by
20 such counsel);

21 (c) Persons retained by a party to provide litigation support services
22 (photocopying, videotaping, translating, preparing exhibits or demonstrations, organizing, storing,
23 retrieving data in any form or medium, etc.);

24 (d) Consultants or expert witnesses (together with their support staff) retained
25 for the prosecution or defense of this litigation, provided that such an expert or consultant is
26 not a current employee of a direct competitor of a party named in this action, (fn)

27 (e) Court reporter(s) and videographers(s) employed in this action;

28 (f) Any authors or recipients of the Confidential Information;

(fn) A party may seek leave of court to provide information to a consultant employed by a competitor

1 (g) A witness at any deposition or other proceeding in this action, who shall
2 sign the Confidentiality Agreement attached as "Exhibit A" to this Protective Order before being
3 shown a confidential document; and

4 (h) Any other person as to whom the parties in writing agree or that the Court
5 in these proceedings so designates.

6 Any person to whom Confidential Information is disclosed pursuant to subparts (a)
7 through (g) hereinabove shall be advised that the Confidential Information is being disclosed
8 pursuant to an order of the Court, that the information may not be disclosed by such person to any
9 person not permitted to have access to the Confidential Information pursuant to this Protective
10 Order, and that any violation of this Protective Order may result in the imposition of such
11 sanctions as the Court deems proper. Any person to whom Confidential Information is disclosed
12 pursuant to subpart (c), (d), (g) or (h) of this section shall also be required to execute a copy of the
13 form Exhibit A. The persons shall agree in writing to be bound by the terms of this Protective
14 Order by executing a copy of Exhibit A (which shall be maintained by the counsel of record for
15 the party seeking to reveal the Confidential Information) in advance of being shown the
16 Confidential Information. No party (or its counsel) shall discourage any persons from signing a
17 copy of Exhibit A. If a person refuses to execute a copy of Exhibit A, the party seeking to reveal
18 the Confidential Information shall seek an order from the Court directing that the person be bound
19 by this Protective Order. In the event of the filing of such a motion, Confidential Information
20 may not be disclosed to such person until the Court resolves the issue. Proof of each written
21 agreement provided for under this Section shall be maintained by each of the parties while this
22 action is pending and disclosed to the other parties upon good cause shown and upon order of the
23 Court.

24 12. **Persons Authorized to Receive Highly Confidential Information.** "HIGHLY
25 CONFIDENTIAL – ATTORNEYS' EYES ONLY" documents and information may be used only
26 in connection with this case and may be disclosed only to the Court and the persons listed in
27 subsections (b) to (e) and (g) to (h) of Section 10 above, but shall not be disclosed to a party, or
28 an employee of a party, unless otherwise agreed or ordered. With respect to sub-section (f), the

1 parties will consider disclosure of Highly Confidential Information to an author or recipient
2 on a case by case basis. Any person to whom Highly Confidential Information is disclosed
3 pursuant to sub-sections (c), (d), (g) or (h) of Section 10 above shall also be required to execute a
4 copy of the form Exhibit A.

5 13. **Filing of Confidential Information or Highly Confidential Information With**
6 **Court.** Any party seeking to file or disclose materials designated as Confidential Information or
7 Highly Confidential Information with the Court in this Action must seek to file such Confidential
8 or Highly Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing
9 and Redacting Court Records. The Designating Party will have the burden to provide the Court
10 with any information necessary to support the designation as Confidential Information.

11 14. **Notice to Nonparties.** Any party issuing a subpoena to a nonparty shall enclose a
12 copy of this Protective Order and advise the nonparty that it may designate any Discovery
13 Material it produces pursuant to the terms of this Protective Order, should the nonparty producing
14 party wish to do so. This Order shall be binding in favor of nonparty designating parties to the
15 maximum extent permitted by law. Any nonparty invoking the Protective Order shall comply
16 with, and be subject to, all applicable sections of the Protective Order.

17 15. **Knowledge of Unauthorized Use or Possession.** If a party receiving Confidential
18 Information or Highly Confidential Information learns of any possession, knowledge, use or
19 disclosure of any Confidential Information or Highly Confidential Information in violation of the
20 terms of this Protective Order, the Receiving Party shall immediately notify in writing the party
21 that produced the Confidential Information or Highly Confidential Information. The Receiving
22 Party shall promptly furnish the Producing Party the full details of such possession, knowledge,
23 use or disclosure. With respect to such unauthorized possession, knowledge, use or disclosure the
24 Receiving Party shall assist the Producing Party in remedying the disclosure (e.g., by retrieving
25 the Confidential Information from an unauthorized recipient) and/or preventing its recurrence.

26 16. **Copies, Summaries or Abstracts.** Any copies, summaries, abstracts or exact
27 duplications of Confidential Information or Highly Confidential Information shall be marked
28 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL-ATTORNEYS' EYES ONLY" and shall be

1 considered Confidential Information or Highly Confidential Information subject to the terms and
2 conditions of this Protective Order. Attorney-client communications and attorney work product
3 regarding Confidential Information or Highly Confidential Information shall not be subject to this
4 section, regardless of whether they summarize, abstract, paraphrase, or otherwise reflect
5 Confidential Information or Highly Confidential Information.

6 17. **Information Not Confidential.** The restrictions set forth in this Protective Order
7 shall not be construed to apply to any information or materials that:

8 (a) Were lawfully in the Receiving Party's possession prior to such
9 information being designated as Confidential or Highly Confidential Information in this action,
10 and that the Receiving Party is not otherwise obligated to treat as confidential;

11 (b) Were obtained without any benefit or use of Confidential or Highly
12 Confidential Information from a third party having the right to disclose such information to the
13 Receiving Party without restriction or obligation of confidentiality;

14 (c) Were independently developed after the time of disclosure by persons who
15 did not have access to the Producing Party's Confidential or Highly Confidential Information;

16 (d) Have been or become part of the public domain by publication or
17 otherwise and not due to any unauthorized act or omission on the part of a Receiving Party; or

18 (e) Under law, have been declared to be in the public domain.

19 18. **Challenges to Designations.** Any party may object to the designation of
20 Confidential Information or Highly Confidential Information on the ground that such information
21 does not constitute Confidential Information or Highly Confidential Information by serving
22 written notice upon counsel for the Producing Party within sixty (60) calendar days of the date
23 the item(s) was designated, specifying the item(s) in question and the grounds for the objection.
24 If a party objects to the designation of any materials as Confidential Information or Highly
25 Confidential Information, the party challenging the designation shall arrange for an EDCR 2.34
26 conference to be held within ten (10) calendar days of service of a written objection to the
27 designation to attempt to informally resolve the dispute. If the parties cannot resolve the matter,
28 the party challenging the designation may file a motion with the Court to resolve the dispute.

1 Such motions must be filed within ten (10) calendar days of the EDCR 2.34 conference. This
2 Protective Order will not affect the burden of proof on any such motion, or impose any burdens
3 upon any party that would not exist had the Protective Order not been entered; as a general
4 matter, the burden shall be on the person making the designation to establish the propriety of the
5 designation. Any contested information shall continue to be treated as confidential and subject to
6 this Protective Order until such time as such motion has been ruled upon.

7 19. Use in Court. If any Confidential Information or Highly Confidential Information
8 is used in any pretrial Court proceeding in this action, it shall not necessarily lose its confidential
9 status through such use, and the party using such information shall take all reasonable steps
10 consistent with the Nevada Supreme Court Rules Governing Sealing and Redacting Court
11 Records to maintain its confidentiality during such use.

12 20. No Waiver. This Protective Order is entered solely for the purpose of facilitating
13 the exchange of documents and information among the parties to this action without involving the
14 Court unnecessarily in the process. Nothing in this Protective Order, nor the production of any
15 information or document under the terms of this Protective Order, nor any proceedings pursuant
16 to this Protective Order shall be deemed to be a waiver of any rights or objections to challenge the
17 authenticity or admissibility of any document, testimony or other evidence at trial. Additionally,
18 this Protective Order will not prejudice the right of any party or nonparty to oppose production of
19 any information on the ground of attorney-client privilege; work product doctrine or any other
20 privilege or protection provided under the law.

21 21. Reservation of Rights. The parties each reserve the right to seek or oppose
22 additional or different protection for particular information, documents, materials, items or things.
23 This Stipulation shall neither enlarge nor affect the proper scope of discovery in this Action. In
24 addition, this Stipulation shall not limit or circumscribe in any manner any rights the Parties (or
25 their respective counsel) may have under common law or pursuant to any state, federal, or foreign
26 statute or regulation, and/or ethical rule.

27 22. Inadvertent Failure to Designate. The inadvertent failure to designate
28 information produced in discovery as Confidential or Highly Confidential shall not be deemed, by

1 itself, to be a waiver of the right to so designate such discovery materials as Confidential
2 Information or Highly Confidential Information. Within a reasonable time of learning of any
3 such inadvertent failure, the Producing Party shall notify all Receiving Parties of such inadvertent
4 failure and take such other steps as necessary to correct such failure after becoming aware of it.
5 Disclosure of such discovery materials to any other person prior to later designation of the
6 discovery materials in accordance with this section shall not violate the terms of this Protective
7 Order. However, immediately upon being notified of an inadvertent failure to designate, all
8 parties shall treat such information as though properly designated, and shall take any actions
9 necessary to prevent any future unauthorized disclosure, use, or possession.

10 23. **No Waiver of Privilege:** Disclosure (including production) of information after
11 the parties' entry of this Protective Order that a party or nonparty later claims was inadvertent and
12 should not have been disclosed because of a privilege, including, but not limited to, the
13 attorney-client privilege or work product doctrine ("Privileged Information"), shall not constitute
14 a waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or
15 other ground for withholding production as to which the Disclosing or Producing Party would be
16 entitled in this action.

17 24. **Effect of disclosure of Privileged Information:** The Receiving Party hereby
18 agrees to promptly return, sequester, or destroy any Privileged Information disclosed or produced
19 by Disclosing or Producing Party upon request by Disclosing or Producing Party regardless of
20 whether the Receiving Party disputes the designation of Privileged Information. The Receiving
21 Party may sequester (rather than return or destroy) such Privileged Information only if it contends
22 that the information itself is not privileged or otherwise protected and it challenges the privilege
23 designation, in which case it may only sequester the information until the claim of privilege or
24 other protection is resolved. If any party disputes the privilege claim ("Objecting Party"), that
25 Objecting Party shall object in writing by notifying the Producing Party of the dispute and the
26 basis therefore. The parties thereafter shall meet and confer in good faith regarding the disputed
27 claim within seven (7) court days after service of the written objection. In the event that the
28 parties do not resolve their dispute, the Objecting Party may bring a motion for a determination of

1 whether a privilege applies within ten (10) court days of the meet and confer session, but may
2 only contest the asserted privileges on ground other than the inadvertent production of such
3 document(s). In making such a motion, the Objecting Party shall not disclose the content of the
4 document(s) at issue, but may refer to the information contained on the privilege log. Nothing
5 herein shall relieve counsel from abiding by applicable ethical rules regarding inadvertent
6 disclosure and discovery of inadvertently disclosed privileged or otherwise protected material.
7 The failure of any party to provide notice or instructions under this Paragraph shall not constitute
8 a waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or
9 other ground for withholding production as to which the Disclosing or Producing Party would be
10 entitled in this action.

11 **25. Inadvertent Production of Non-Discoverable Documents.** If a Producing Party
12 inadvertently produces a document that contains no discoverable information, the Producing Party
13 may request in writing that the Receiving Party return the document, and the Receiving Party will
14 return the document. A Producing Party may not request the return of a document pursuant to
15 this section if the document contains any discoverable information. If a Producing Party
16 inadvertently fails to redact personal information (e.g., a social security number), the Producing
17 Party may provide the Receiving Party a substitute version of the document that redacts the
18 personal information, and the Receiving Party shall return the original, unredacted document to
19 the Producing Party.

20 **26. Return of Information.** Within thirty (30) calendar days after the final
21 disposition of this action, all Confidential Material and/or Highly Confidential Material produced
22 by an opposing party or nonparty (including, without limitation, any copies, extracts or
23 summaries thereof) as part of discovery in this action shall be destroyed by the parties to whom
24 the Confidential Material and/or Highly Confidential Material was produced, and each counsel
25 shall, by declaration delivered to all counsel for the Producing Party, affirm that all such
26 Confidential Material and/or Highly Confidential Material (including, without limitation, any
27 copies, extracts or summaries thereof) has been destroyed; provided, however, that each counsel
28 shall be entitled to retain pleadings, motions and memoranda in support thereof, declarations or

1 affidavits, deposition transcripts and videotapes, or documents reflecting attorney work product or
2 consultant or expert work product, even if such material contains or refers to Confidential
3 Material and/or Highly Confidential Material, but only to the extent necessary to preserve a
4 litigation file with respect to this action.

5 27. **Attorney's Fees.** Nothing in this Protective Order is intended to either expand or
6 limit a prevailing party's right under the Nevada Rules of Civil Procedure or other applicable state
7 or federal law to pursue costs and attorney's fees incurred related to confidentiality designations
8 or the abuse of the process described herein.

9 28. **Injunctive Relief and Sanctions Available for Unauthorized Disclosure or Use**
10 **of Confidential Information or Highly Confidential Information.** The Parties and/or
11 nonparties shall not utilize any Confidential Information and/or Highly Confidential Information
12 for their own personal and/or business advantage or gain, aside from purpose(s) solely related to
13 the instant litigation. The Parties and nonparties acknowledge and agree that unauthorized use
14 and/or disclosure of Confidential Information and/or Highly Confidential Information beyond this
15 litigation shall subject the offending party or nonparty to sanctions contemplated in
16 NRCp 37(b)(2)(A)-(D), up to and including entry of judgment against the offending party in
17 circumstances involving willful disobedience with this order. Further, the Parties and/or
18 nonparties receiving or being given access to Confidential Information and/or Highly Confidential
19 Information acknowledge that monetary remedies would be inadequate to protect each party in
20 the case of unauthorized disclosure or use of Confidential Information or Highly Confidential
21 Information that the Receiving Party only received through discovery in this action and that
22 injunctive relief would be necessary and appropriate to protect each party's rights in the event
23 there is any such unauthorized disclosure or use of Confidential Information or Highly
24 Confidential Information. The availability of injunctive relief to protect against the unauthorized
25 disclosure or use of Confidential Information or Highly Confidential Information shall not be
26 exclusive.

27 29. **Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in
28 another action, investigation, or proceeding, (b) is served with a demand in another action,

1 investigation, or proceeding, or (c) is served with any legal process by one not a party to this
2 Protective Order, seeking materials which were produced or designated as Confidential or Highly
3 Confidential pursuant to this Protective Order, the Receiving Party shall give prompt actual
4 written notice by electronic transmission to counsel of record for such Producing Party within
5 five (5) business days of receipt of such subpoena, demand or legal process, or such shorter notice
6 as may be required to provide other parties with the opportunity to object to the immediate
7 production of the requested discovery materials to the extent permitted by law. The burden of
8 opposing enforcement of the subpoena shall fall upon the party or nonparty who produced or
9 designated the Discovery Material as Confidential or Highly Confidential Information. Unless
10 the party or nonparty who produced or designated the Confidential or Highly Confidential
11 Information obtains an order directing that the subpoena not be complied with, and serves such
12 order upon the Receiving Party prior to production pursuant to the subpoena, the Receiving Party
13 shall be permitted to produce documents responsive to the subpoena on the subpoena response
14 date. Compliance by the Receiving Party with any order directing production pursuant to a
15 subpoena of any Confidential or Highly Confidential Information shall not constitute a violation
16 of this Protective Order. Nothing in this Protective Order shall be construed as authorizing a
17 party to disobey a lawful subpoena issued in another action.

18 30. **Execution in Counterparts.** This Protective Order may be signed in counterparts,
19 and a fax or "PDF" signature shall have the same force and effect as an original ink signature.

20 31. **Order Survives Termination.** This Protective Order shall survive the termination
21 of this action, and the Court shall retain jurisdiction to resolve any dispute concerning the use of
22 information disclosed hereunder.

23 DATED this 7th day of February 2013.

24 PISANELLI BICE PLLC

25 By: /s/ James J. Pisanelli
26 James J. Pisanelli, Esq., Bar # 4027
27 Todd L. Bice, Esq., Bar # 4534
28 Debra L. Spinelli, Bar # 9695
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169

DATED this 7th day of February, 2013.

CAMPBELL & WILLIAMS

By: /s/ J. Colby Williams
Donald J. Campbell, Esq., Bar # 1216
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and

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Boone Wayson, and Allan Zeman

DATED this 7th of day of February, 2013.

JOLLY URG A WIRTH WOODBURY &
STANDISH

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Attorneys for Elaine P. Wynn

ORDER

IT IS SO ORDERED.

DATED: February 13, 2013

Elizabeth Gonzalez
THE HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE

EXHIBIT A

CONFIDENTIALITY AGREEMENT

I, _____ do hereby acknowledge and agree, under penalty of perjury, as follows:

1. I have read the Stipulated Confidentiality Agreement and Protective Order ("the Protective Order") entered in *Wynn Resorts, Limited v. Kazuo Okada, et al.*, Eighth Judicial District Court Case No. A-12-656710-B on _____, _____, and I fully understand its contents.

2. I hereby agree and consent to be bound by the terms of the Protective Order and to comply with it in all respects, and to that end, I hereby knowingly and voluntarily submit and subject myself to the personal jurisdiction of the Eighth Judicial District Court of Nevada so that the said court shall have the power and authority to enforce the Protective Order and to impose appropriate sanctions upon me for knowingly violating the Protective Order, including punishment for contempt of court for a knowing violation of the Protective Order.

3. I understand that by signing this instrument, I will be eligible to receive "Confidential Information" and/or "Highly Confidential Information" under the terms and conditions of the Protective Order. I further understand and agree that I must treat any "Confidential Information" and/or "Highly Confidential Information" in accordance with the terms and conditions of the Protective Order, and that, if I should knowingly make a disclosure of any such information in a manner unauthorized by the Protective Order, I will have violated a court order, will be in contempt of court, and will be subject to punishment by the court for such conduct.

DATED: _____

(Signature)

(Printed Name)

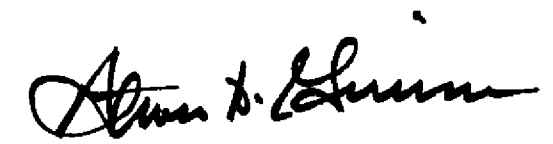
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EXHIBIT B

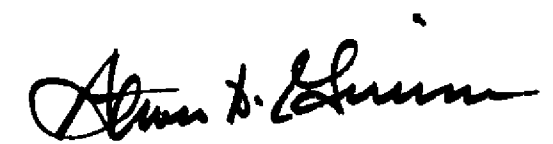
EXHIBIT B

PISANELLIBICE PLLC
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LAS VEGAS, NEVADA 89101

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09/07/2016 09:06:41 PM


CLERK OF THE COURT

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CLERK OF THE COURT

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15 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
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
21 Plaintiff,
22 vs.
23 KAZUO OKADA, an individual, ARUZE
USA, INC., a Nevada corporation, and
24 UNIVERSAL ENTERTAINMENT CORP., a
Japanese corporation,
25 Defendants.
26
27 AND RELATED CLAIMS
28

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

**MOTION TO SEAL WYNN RESORTS,
LIMITED'S SUPPLEMENTAL
OPPOSITION TO ELAINE P. WYNN'S
MOTION FOR PROTECTIVE ORDER,
OR IN THE ALTERNATIVE, MOTION
FOR STAY OF DISCOVERY AND TO
SEAL EXHIBITS I-K**

Hearing Date:

Hearing Time:

Wynn Resorts, Limited ("Wynn Resorts" or the "Company") and Counterdefendants Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman (collectively, the "Wynn Parties") move the Court for an order to seal Wynn Resorts, Limited's Supplemental Opposition to Elaine P. Wynn's Motion for Protective Order, or in the Alternative motion for Stay of Discovery (the "Supplemental Opposition"). Specifically, the Supplemental Opposition discusses purported confidential whistleblower protections under the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Sarbanes-Oxley Act of 2002, among other federal and state statutes. At a hearing on September 2, 2016, Ms. Wynn's counsel maintained that the entirety of the pleadings should remain sealed. And, since that time, Ms. Wynn has threatened to take action against Wynn Resorts related to the filings in this matter that Ms. Wynn continues to believe should not be made public. Out of an abundance of caution and to avoid any dispute with Ms. Wynn related to whether this Supplemental Opposition should be filed under seal, Wynn Resorts seeks an order from this Court to allow it file the entirety of the Supplemental Opposition under seal until this issue can be determined by the Court. Wynn Resorts further seeks an order from this Court allowing it to file Exhibits I through K to the Supplemental Opposition under seal as they contain sensitive, confidential material creating a compelling interest in protecting these documents from widespread dissemination to the public.

...

...

...

1 This Motion is made and based on Rule 3(1) of the Nevada Supreme Court's Rules
2 Governing Sealing and Redacting Court Records, the attached Memorandum of Points and
3 Authorities, the pleadings and papers on file herein, and any argument this Honorable Court
4 allows at any hearing of this matter.

5 DATED this 7th day of September, 2016.

6 PISANELLI BICE PLLC

7 By:  #17742

8 James J. Pisanelli, Esq., Bar No. 4027
9 Todd L. Bice, Esq., Bar No. 4534
10 Debra L. Spinelli, Esq., Bar No. 9695
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

11 and

12 Robert L. Shapiro, Esq. (*pro hac vice* admitted)
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15 and

16 Mitchell J. Langberg, Esq.
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19 Attorneys for Wynn Resorts, Limited, Linda Chen,
20 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
21 John A. Moran, Marc D. Schorr, Alvin V.
Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

PISANELLI BICE PLLC
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LAS VEGAS, NEVADA 89101


NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned counsel will appear at Clark County Regional Justice Center, Eighth Judicial District Court, Las Vegas, Nevada, on the 14 day of OCTOBER 2016, at CHAMBERS .m., in Department XI, or as soon thereafter as counsel may be heard, to bring this **MOTION TO SEAL WYNN RESORTS, LIMITED'S SUPPLEMENTAL OPPOSITION TO ELAINE P. WYNN'S MOTION FOR PROTECTIVE ORDER, OR IN THE ALTERNATIVE, MOTION FOR STAY OF DISCOVERY AND TO SEAL EXHIBITS I-K** for hearing.

DATED this 7th day of September, 2016.

PISANELLI BICE PLLC

By:


James J. Pisanelli, Esq., Bar No. 4027
Todd L. Bice, Esq., Bar No. 4534
Debra L. Spinelli, Esq., Bar No. 9695
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and

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Attorneys for Wynn Resorts, Limited, Linda Chen,
Russell Goldsmith, Ray R. Irani, Robert J. Miller,
John A. Moran, Marc D. Schorr, Alvin V.
Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

MEMORANDUM OF POINTS AND AUTHORITIES

The Nevada Supreme Court enacted specific rules governing the sealing and redacting of court records. Pursuant to Rule 3(1) of the Nevada Supreme Court's Rules Governing Sealing and Redacting Court Records ("SRCR"), "[a]ny person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion" The Court may order the records redacted or sealed provided that "the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record," which includes findings that "[t]he sealing or redaction is permitted or required by federal or state law" SRCR 3(4).

Wynn Resorts' Supplemental Opposition and the exhibits thereto discuss purported confidential whistleblower protections under the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Sarbanes-Oxley Act of 2002, among federal and state statutes. On or about September 6, 2016, this Court ordered certain redactions to Elaine Wynn's Motion for Protective Order Regarding Wynn Resorts Violation of the Dodd-Frank and Sarbanes-Oxley Act, filed on August 8, 2016 and Wynn Resorts Opposition to Elaine Wynn's Motion for Protective Order, or in the Alternative, Motion for Stay of Discovery, filed on August 11, 2016 would be permitted. (Minute Order, Sept. 6, 2016, on file.) However, the Court ordered that the pleadings be served on the Okada Parties without redactions. (*See id.*) Nevertheless, Ms. Wynn has threatened to take action against Wynn Resorts related to the filings in this matter that Ms. Wynn continues to argue should not be made publicly available or even given to the Okada Parties.

On September 7, 2016, Wynn Resorts advised Ms. Wynn that it intends to comply with the Court's September 6, 2016 minute order and serve the pleadings on the Okada Parties, and asked if Ms. Wynn intended to seek a stay or challenge the order. (Ex. 1, E-mail from Debra L. Spinelli, Esq. to Dan Polsenberg, Esq., Sept. 7, 2016.) Ms. Wynn's counsel has not yet responded. Given Ms. Wynn's position that the entirety of the pleadings related to this issue should remain under seal and her threats to take action against Wynn Resorts for disclosure of such information, it is necessary for Wynn Resorts to seek an order from this Court to file the Supplemental Opposition under seal until the Court can resolve this issue. Additionally, Wynn

1 Resorts seeks to file Exhibits I through K to the Supplemental Opposition under seal as
2 they contain sensitive, confidential material creating a compelling interest in protecting these
3 documents from widespread dissemination to the public.

4 Exhibit K is the transcript from Elaine Wynn's deposition held on August 15, 2016. Wynn
5 Resorts designated limited portions as Confidential and/or Highly Confidential. However, Ms.
6 Wynn has designated the entire transcript as Highly Confidential and will not provide any portion
7 to the Okada Parties. Therefore, at this time, Wynn Resorts has not provided any portion of the
8 transcript to the Okada Parties. In the event that the Court rules that Ms. Wynn cannot force
9 Wynn Resorts to maintain the entirety of the Supplemental Opposition under seal, Wynn Resorts
10 requests that this Court allow it to redact only those limited portions of the Supplemental
11 Opposition that relate to privilege issues and the pending Motion to Disqualify Quinn Emmanuel
12 pursuant to the Court's directive at the July 7, 2016 telephonic hearing. Wynn Resorts will
13 prepare a redacted version of the Supplemental Opposition at the Court's direction.

14 ...

15 ...

16 ...

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

1 Based on the foregoing and good cause appearing, the Wynn Parties respectfully request
2 that this Court allow them to file the Opposition and the exhibits thereto under seal pursuant to
3 SRCR 3(4)(a) and that such information remain under seal until further order of the Court.

4 DATED this 7th day of September, 2016.

5 PISANELLI BICE PLLC

6 By:  11742

7 James J. Pisanelli, Esq., Bar No. 4027
8 Todd L. Bice, Esq., Bar No. 4534
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19 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
20 John A. Moran, Marc D. Schorr, Alvin V.
Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 7th day of September, 2016, I caused to be electronically served through the Court's filing system true and correct copies of the foregoing MOTION TO SEAL WYNN RESORTS, LIMITED'S SUPPLEMENTAL OPPOSITION TO ELAINE P. WYNN'S MOTION FOR PROTECTIVE ORDER, OR IN THE ALTERNATIVE, MOTION FOR STAY OF DISCOVERY AND TO SEAL EXHIBITS I-K to the following:

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An employee of PISANELLI BICE PLLC

EXHIBIT 1

From: Debra Spinelli
Sent: Wednesday, September 07, 2016 12:53 PM
To: dpolsenberg@lrrc.com; Michael T. Zeller; Ian Shelton; William R. Urga; David J. Malley
Cc: James Pisanelli; Todd Bice; Ava M. Schaefer; 'Donald J. Campbell'; J. Colby Williams Esq. (jcw@campbellandwilliams.com); Philip Erwin (perwin@campbellandwilliams.com)
Subject: Wynn/Okada -- Court's minute order re redacted pleadings
Attachments: A-12-656710-B-8559137_Service Only_Minute_Order__Proposed_Redaction__9_6_16_.pdf

Dan –


You may have seen the judge's minute order yesterday (attached) regarding the proposed redactions to the briefing related to Ms. Wynn's motion for protective order. While she approved the redactions, she apparently did not approve that any redactions be kept from the Okada Parties.

The minute order did not expressly state that a formal order was necessary, and I anticipate that Mr. Peek, et al., may be soon inquiring about the delivery of the unredacted filings.

While certain filings do contain information Wynn Resorts believes is protected by the attorney client privilege or work product doctrine, we do not believe that any of the proposed redactions in the two subject filings do. That said, we understand from your articulated positions that Ms. Wynn believes these filings do contain information that she does not want the Okada Parties to have at this time. Given that Wynn Resorts is not going to violate an order of the Court, please let us know how you intend to proceed, e.g., move to stay the order, and when.

Thanks,
Debbie

Debra L. Spinelli
Pisanelli Bice PLLC
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Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

 Please consider the environment before printing.

This transaction and any attachment is privileged and confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

September 06, 2016

A-12-656710-B Wynn Resorts, Limited, Plaintiff(s)
vs.
Kazuo Okada, Defendant(s)

September 06, 2016 4:30 PM Minute Order: Proposed Redaction

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

PARTIES None. Minute order only – no hearing held.
PRESENT:

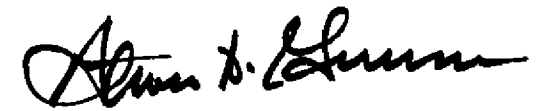
JOURNAL ENTRIES

- The Court reviewed in camera the proposed redaction by Wynn of Elaine Wynn's Motion for Protective Order Regarding Wynn Resorts Violation of the Dodd-Frank and Sarbanes-Oxley Act and Wynn Resorts Opposition to Elaine Wynn's motion for Protective Order, or in the Alternative, Motion for Stay of Discovery and the submission filed 8/23 (Wynn) and 8/31 (Aruze), APPROVES the redactions for purposes of filing with the Clerk's Office and PERMITS sealing because the information is commercially sensitive, pending hearing on Motion to Seal. Both pleadings should be served in an unredacted and unsealed form upon all counsel for all parties in the litigation who are bound by the stipulated protective order entered in this matter.

CLERK'S NOTE: A copy of the above minute order was distributed via the E-Service Master List. / dr
9-6-16

EXHIBIT C

EXHIBIT C



CLERK OF THE COURT

ORDR

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John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,

Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

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

**ORDER ON MOTIONS TO SEAL
AND/OR REDACT**

Date of Hearing: September 15, 2016

Time of Hearing: 8:30 a.m.

1 The following Motions came before this Court for a hearing on September 15, 2016:

2 1. Motion to Seal Wynn Resorts, Limited's (1) Response Memorandum Re:
3 Wynn Resorts' Waiver Arguments and (2) Opposition to Elaine P. Wynn's Motion Requiring
4 Wynn Resorts' Reciprocal Compliance with Protocol and for Orders Requiring Turnover of
5 Privileged Matter, Injunctive Relief, Protection and Other Appropriate Relief and Appendix
6 Thereto; filed on July 18, 2016.

7 2. Motion to (1) Redact Certain Portions of Wynn Resorts, Limited's *Ex Parte*
8 Application for Temporary Restraining Order, Motion for Preliminary Injunction, and Motion for
9 Sanctions for Violations of the Protective Order and (2) Seal Exhibits 3 and 5; filed on July 21,
10 2016.

11 3. Motion to (1) Redact Certain Portions of Wynn Resorts, Limited's Motion for
12 Limited and Specific Relief Related to the Protective Order with Respect to Confidentiality and
13 (2) Seal Exhibit 1; filed on August 1, 2016.

14 4. Motion to Seal Wynn Resorts, Limited's Opposition to Elaine P. Wynn's Motion
15 for Protective Order, or in the Alternative, Motion for Stay of Discovery and Seal All Exhibits
16 Thereto; filed on August 10, 2016.

17 5. Motion to (1) Redact Wynn Resorts, Limited's Notice of Submission of Materials
18 for *In Camera* Review and (2) Seal Exhibit 3 Thereto; filed on August 23, 2016.

19 6. Motion to (1) Redact Wynn Resorts, Limited's Motion to Compel Elaine P. Wynn
20 to Answer Deposition Questions, to Extend Deposition Time and for Sanctions, on an Order
21 Shortening Time; and (2) Seal Exhibit 1 Thereto; and Application for an Order Shortening Time,
22 filed on August 31, 2016.

23 7. Motion to (1) Redact Wynn Resorts, Limited's Motion to Preserve
24 Highly Confidential Designation of Testimony; Application for Order Shortening Time; and
25 (2) Seal Exhibit 1-4 Thereto; and Application for an Order Shortening Time; filed on August 31,
26 2016.

27 8. Motion to (1) Redact Wynn Resorts, Limited's Opposition to Elaine P. Wynn's
28 Motion for Protective Order, or in the Alternative, for Preliminary Injunction, to Prevent

1 Wynn Resorts from Reviewing Ms. Wynn's Privileged Information on Order Shortening Time;
2 and (2) Seal Exhibits A-E Thereto; filed on September 1, 2016.

3 9. Motion to Seal Wynn Resorts, Limited's Supplemental Opposition to Elaine P.
4 Wynn's Motion for Protective Order, or in the Alternative, Motion for Stay of Discovery and to
5 Seal Exhibits I-K; filed on September 7, 2016.

6 Upon review of the papers and pleadings on file in this matter, as proper service of the
7 above-listed motions (collectively, the "Motions") have been provided, this Court notes no
8 oppositions were filed. Accordingly, pursuant EDCR 2.20(e), the Motions are deemed
9 unopposed.

10 The Court finding the exhibits and portions of the Motions contain sensitive commercial
11 information creating a compelling interest in protecting these documents from widespread
12 dissemination to the public in furtherance of the Wynn Parties' Protective Order with Respect to
13 Confidentiality entered by this Court therein on February 14, 2013, which outweighs the public
14 disclosure of said information in accordance with Rule 3(1) of the Nevada Supreme Court's Rules
15 Governing Sealing and Redacting of Court Records. Therefore, good cause appearing therefor:

16 THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES that:

17 1. Plaintiffs' Motion to Seal Wynn Resorts, Limited's (1) Response Memorandum Re:
18 Wynn Resorts' Waiver Arguments and (2) Opposition to Elaine P. Wynn's Motion Requiring
19 Wynn Resorts' Reciprocal Compliance with Protocol and for Orders Requiring Turnover of
20 Privileged Matter, Injunctive Relief, Protection and Other Appropriate Relief and Appendix
21 Thereto is GRANTED as follows: The Motion and Appendix are ordered SEALED given the
22 sensitive commercial information contained in the documents.

23 2. Plaintiffs' Motion to (1) Redact Certain Portions of Wynn Resorts, Limited's
24 *Ex Parte* Application for Temporary Restraining Order, Motion for Preliminary Injunction, and
25 Motion for Sanctions for Violations of the Protective Order and (2) Seal Exhibits 3 and 5 is
26 GRANTED as follows: Exhibits 3 and 5 are ordered SEALED given the sensitive commercial
27 information contained in the documents, and the identified portions of the redacted version, filed
28 on July 21, 2016, is APPROVED.

1 3. Plaintiffs' Motion to (1) Redact Certain Portions of Wynn Resorts, Limited's
2 Motion for Limited and Specific Relief Related to the Protective Order with Respect to
3 Confidentiality and (2) Seal Exhibit 1 is GRANTED as follows: Exhibit 1 is ordered SEALED
4 given the sensitive commercial information contained in the document, and the identified portions
5 of the redacted version, filed on August 1, 2016, is APPROVED.

6 4. Plaintiffs Motion to Seal Wynn Resorts, Limited's Opposition to Elaine P. Wynn's
7 Motion for Protective Order, or in the Alternative, Motion for Stay of Discovery and Seal All
8 Exhibits Thereto is GRANTED as follows: The Motion and Exhibits A through I are ordered
9 SEALED given the sensitive commercial information contained in the documents.

10 5. Plaintiffs' Motion to (1) Redact Wynn Resorts, Limited's Notice of Submission of
11 Materials for *In Camera* Review and (2) Seal Exhibit 3 Thereto is GRANTED as follows:
12 Exhibit 3 is ordered SEALED given the sensitive commercial information contained in the
13 document, and the identified portions of the redacted version, filed on August 23, 2016, is
14 APPROVED.

15 6. Plaintiffs' Motion to (1) Redact Wynn Resorts, Limited's Motion to Compel
16 Elaine P. Wynn to Answer Deposition Questions, to Extend Deposition Time and for Sanctions,
17 on an Order Shortening Time; and (2) Seal Exhibit 1 Thereto; and Application for an Order
18 Shortening Time is GRANTED as follows: Exhibit 1 is ordered SEALED given the sensitive
19 commercial information contained in the document, and the identified portions of the redacted
20 version, filed on August 31, 2016, is APPROVED.

21 7. Plaintiffs' Motion to (1) Redact Wynn Resorts, Limited's Motion to Preserve
22 Highly Confidential Designation of Testimony; Application for Order Shortening Time; and
23 (2) Seal Exhibit 1-4 Thereto; and Application for an Order Shortening Time is GRANTED as
24 follows: Exhibits 1-4 are ordered SEALED given the sensitive commercial information contained
25 in the documents, and the identified portions of the redacted version, filed on August 31, 2016, is
26 APPROVED.

27 8. Plaintiffs' Motion to (1) Redact Wynn Resorts, Limited's Opposition to Elaine P.
28 Wynn's Motion for Protective Order, or in the Alternative, for Preliminary Injunction, to Prevent

Wynn Resorts from Reviewing Ms. Wynn's Privileged Information on Order Shortening Time;
and (2) Seal Exhibits A-E Thereto is GRANTED as follows: Exhibits A-E are ordered SEALED
given the sensitive commercial information contained in the documents, and the identified
portions of the redacted version, filed on September 1, 2016, is APPROVED.

9. Plaintiff's Motion to Seal Wynn Resorts, Limited's Supplemental Opposition to
Elaine P. Wynn's Motion for Protective Order, or in the Alternative, Motion for Stay of Discovery
and to Seal Exhibits I-K is GRANTED as follows: The Supplemental Opposition and
Exhibits I-K are ordered SEALED given the sensitive commercial information contained in the
documents.

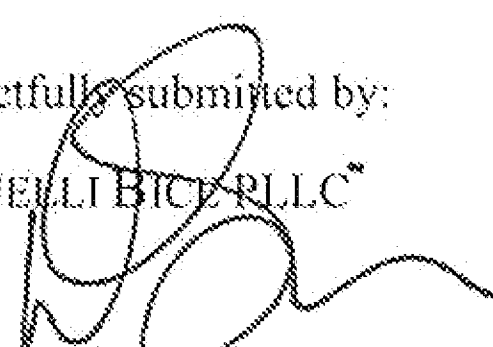
DATED: 10/9/16


THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT
JW

Respectfully submitted by:

PISANELLI BICE PLLC

By:


James J. Pisanelli, Esq., Bar No. 4027
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Attorneys for Wynn Resorts, Limited, Linda Chen,
Russell Goldsmith, Ray R. Irani, Robert J. Miller,
John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

EXHIBIT D

EXHIBIT D

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTIONS

THURSDAY, SEPTEMBER 15, 2016

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:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD L. BICE, ESQ.
DEBRA SPINELLI, ESQ.

FOR THE DEFENDANTS:

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ROBERT J. CASSITY, ESQ.
WILLIAM R. URGAS, ESQ.
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1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 15, 2016, 8:50 A.M.

2 (Court was called to order)

3 THE COURT: Okay. Let's go to Wynn-Okada. Good
4 morning.

5 Good morning. How are you?

6 Mr. Peek, I didn't get any oppositions to any of the
7 motions to seal. So that means to me that you've had a chance
8 to examine those and for those particular motions you don't
9 have any objection to me sealing and redacting to the extent
10 they include commercially sensitive information.

11 MR. PEEK: We've had two meet and confers, Your
12 Honor, which attempted to address the motions to seal/redact
13 that we have not yet seen.

14 THE COURT: I did those separately. I did a minute
15 order where I ordered those documents produced.

16 MR. PEEK: You ordered some of the documents, Your
17 Honor, but there are a number of other documents --

18 THE COURT: I understand.

19 MR. PEEK: -- that are still not made available to
20 the Aruze parties.

21 THE COURT: I have 16 motions to seal that I moved
22 to the oral calendar today to see if you had an objection to
23 the redaction or sealing on any of those particular ones. I'm
24 trying to address those 16, not the other broader issue which
25 is mentioned in the status reports of the disqualification and

1 arguable whistleblower issues.

2 Your Honor, we had prepared an opposition to those.
3 As a result, however, of the meet confers that we had on
4 Monday and Wednesday, we elected not to file an opposition at
5 this time in anticipation that we'd work out a procedure
6 whereby we would be able to have access to those briefs --
7 those filings that have not been made available to Aruze
8 parties. So -- although when the Court says to me am I okay
9 with the sealing and redacting of information of a
10 commercially sensitive matter, no, I wouldn't have an
11 opposition to that.

12 THE COURT: All right.

13 MR. PEEK: But, again, as to --

14 THE COURT: I'll get to the other issue in a minute.

15 So, Dulce, as to the 16 motions to seal and/or
16 redact that are on calendar today, those are granted because
17 they include commercially sensitive information that is being
18 protected. To the extent that we have an issue about service
19 of the Aruze parties related to those, we're going to discuss
20 that later in the hearing.

21 MR. PEEK: Thank you, Your Honor.

22 THE COURT: But this is for my purposes of the
23 Clerk's Office, Mr. Peek.

24 MR. PEEK: Okay.

25 THE COURT: I'm trying to juggle many balls today.

1 All right. I spoke to Judge Wall Tuesday morning, I
2 think before you guys talked to him, to -- after he called me
3 to tell him that it was a limited scope based upon whatever
4 you guys negotiated. I read in the status reports that you
5 guys have had a conference call with him, so I will leave it
6 to you to either finish your negotiations on the scope of that
7 order or reach an impasse, in which case I will assist you.

8 So let me go to --

9 Is there someone on the phone for Wynn, Kevin?

10 THE MARSHAL: That person didn't call in, Judge.

11 THE COURT: All right. Hold on. I'm just checking
12 off motions, guys.

13 So I think we're back to the motion to -- protective
14 order motion for stay and issues related to that. Is that
15 where we are?

16 Mr. Bice is nodding no.

17 MR. BICE: No. That hearing I believe, Your Honor,
18 is set for the 20th, and their reply brief on that is -- we
19 gave them a day extension till today to file their reply
20 brief. So that hearing is set for the 20th, I believe, on
21 your calendar, Your Honor.

22 MR. PEEK: Afternoon calendar, as I recall, too,
23 Your Honor.

24 THE COURT: It's the 1:00 o'clock setting.

25 MR. BICE: I think that's right.

1 THE COURT: Okay. Then in addition to the issues
2 raised in the status report what do you want to talk to me
3 about? Because I can't find a particular motion on the
4 calendar because I've got so many others that I've now checked
5 off.

6 MR. POLSENBERG: I don't think on that issue we need
7 to talk to you.

8 THE COURT: Okay.

9 MR. PISANELLI: The issues on my mind are embodied
10 in the status report. So I'm not sure if you're looking for
11 additional things.

12 MR. POLSENBERG: Yeah. I don't know if we need to
13 take that up today or take it up on 20th.

14 THE COURT: Let's talk about the timing of the
15 deposition, because that's the one thing that impacts me here
16 in the courtroom. And while I didn't mean to call Mr.
17 Pisanelli out in front of everybody else, sometimes I have to
18 ask those questions.

19 MR. PISANELLI: Not a worry. Not a worry, Your
20 Honor.

21 THE COURT: Part of what we had discussed at the
22 last hearing was having a special master assist you by sitting
23 through the deposition of Elaine Wynn so that -- in a normal
24 case if it wasn't a privilege issue I would have the
25 deposition occur in my courtroom, is what I told you. But

1 under the circumstances here it appears, given the privileged
2 nature of some of the communications, it may be better to have
3 that occur in a more private environment. And so if there is
4 an issue about that deposition going as we had originally
5 discussed on September 22 and 23 because of the unavailability
6 of your chosen special master, that makes it hard for me to
7 have a hearing on September 29th and September 30th.

8 MR. PISANELLI: Sure. So here's our position on
9 that, Your Honor. In our meet and confer, actually meeting
10 with the special master, Ms. Wynn's counsel expressed a
11 disagreement that there was ever any expectation that he would
12 actually sit in the deposition. And so, you know, we weren't
13 on the same page right from the beginning. So we went
14 forward, we each explained our respective positions to him and
15 then talked about scheduling. And, you know, in the end
16 scheduling was more important than what our debate was, in our
17 mind. If Judge Wall is not available until November
18 potentially to sit in our deposition, we would just as soon go
19 forward without him in the room. We can call you. We don't
20 need to put this person in the middle during the deposition
21 for these foundational-type questions or when we think that
22 the -- an obstructionist behavior is resurfacing again. We
23 can just simply call you. That doesn't mean that there's
24 going to be a need for briefing, doesn't mean that there's
25 going to be a waiver of any privilege by calling you. For

1 instance, I asked someone for a foundational question of who
2 are the participants of this alleged privileged discussion.
3 That's foundational, there's nothing anywhere in the law that
4 would say otherwise. If she won't answer it, I'll just get
5 you on the phone and tell you what's going on.

6 THE COURT: I'll say, please answer the question.

7 MR. PISANELLI: Yeah. That's it. So we'd prefer,
8 rather than have the schedule disrupted so severely by how
9 busy Judge Wall is --

10 THE COURT: Okay.

11 MR. PISANELLI: -- we'd rather just go forward.
12 We'll have the deposition as you originally said last week.
13 We'll do it next week, and we'll keep the schedule on the
14 hearing.

15 THE COURT: Mr. Polsenberg.

16 MR. POLSENBERG: I think that's great.

17 THE COURT: Really?

18 MR. POLSENBERG: Yeah. Because --

19 THE COURT: I'm going to keep track of when you and
20 Pisanelli agree.

21 MR. POLSENBERG: Well, the two of us have agreed
22 more than anyone has ever agreed with Mr. Peek. But, you
23 know, he and I didn't talk about this in advance, too. But
24 that's what I was thinking when we were talking to Judge Wall.
25 I don't think we need Judge Wall at the deposition for a

1 number of reasons. One of them is, as I said, all my
2 predicate objections to confidentiality protection, and I will
3 always use the word "privileged" to include those, that's
4 something that you will probably rule on on the 20th.

5 Secondly, if we had a special master telling my
6 witness to testify to something over my objection on
7 privilege, with all respect, there's no way I'm going to go
8 along with that.

9 THE COURT: You've got to run a writ.

10 MR. POLSENBERG: Well, I would certainly want to go
11 to the District Judge, rather than --

12 THE COURT: Then you'll run a writ?

13 MR. POLSENBERG: And then run a writ, yes. Okay.

14 THE COURT: Okay.

15 MR. POLSENBERG: We all -- somehow I show up and we
16 all figure out why.

17 So, yeah. I don't think we need to move the
18 deposition to November when --

19 THE COURT: Okay. So you guys are going to go
20 through the deposition. If there's foundational issues where
21 there's an objection, somebody's going to call me, I will
22 evaluate what you said, I will then tell you the answer to the
23 question you ask me, and then you will proceed until you ever
24 finish.

25 MR. POLSENBERG: Okay. But -- as long as we

1 understand the example that Jim raised today, that's something
2 I do think is privileged. But we can discuss that on the
3 20th.

4 THE COURT: We can discuss that some other time.

5 MR. POLSENBERG: I don't think it's a foundational
6 question. I think it's actually privileged. But we'll talk
7 about that next week.

8 THE COURT: Okay. So you guys are going to go
9 forward with the deposition on 9/22 and 9/23, you're going
10 to --

11 MR. URGAS: Wait a minute. It's only one day.

12 THE COURT: Well, 9/22 or 9/23.

13 MR. POLSENBERG: I have a memorial -- Bar
14 Association memorial service on the 23rd that I just found out
15 about last night. We could work her --

16 THE COURT: That's been on my calendar for months.

17 MR. POLSENBERG: I was just asked last night to
18 speak at it.

19 THE COURT: Okay. That's different.

20 MR. PISANELLI: Sorry. Can't help you.

21 MS. SPINELLI: Including for the record the sarcasm
22 and laughter.

23 MR. POLSENBERG: Mr. Peek would have said yes.

24 THE COURT: So you guys are going to take the
25 deposition on probably the 22nd, it sounds like. Is that --

1 is that what the answer is?

2 MR. PISANELLI: Yes.

3 THE COURT: Did the client say she would be there
4 that day?

5 MR. POLSENBERG: I haven't checked with her on
6 whether the 22nd versus the 23rd. But I'm sure we can work
7 around my issue.

8 THE COURT: Okay. Good. So you're going to take
9 the deposition, and then you're going to finish doing whatever
10 you need to do, and then I'm going to see you on the 29th and
11 30th.

12 MR. POLSENBERG: Yes.

13 THE COURT: Is that fair?

14 MR. PISANELLI: Yes.

15 THE COURT: Okay.

16 MR. POLSENBERG: I have a problem on one of those
17 days, though.

18 THE COURT: Well, luckily, at 2:00 o'clock on the
19 30th you guys will either be done or I'll take a break and
20 deal with the other case.

21 MR. POLSENBERG: See I thought we were doing -- I
22 thought we were doing that the 28th.

23 THE COURT: No. The 28th I'm still talking to the
24 people in the Swarovski case. I'm trying to finish a
25 preliminary injunction I started on the Wednesday before

1 Thanksgiving in the parking garage at McCarran Airport.

2 MR. POLSENBERG: I just have the Appellate Academy,
3 which starts Thursday. But I suppose I could miss Thursday.
4 I don't think I could miss Friday.

5 MR. PEEK: Friday's the 1st, isn't it?

6 THE COURT: No. Friday's the 30th.

7 So how about you guys do your deposition, you
8 continue to see if you can negotiate on your stipulated
9 agreement with your special master related to the work that
10 he's going to do, and you continue to work on your stipulation
11 and include Ms. Wynn in the stipulation related to the
12 disclosure of information to Mr. Peek. Because I don't think
13 your position is unreasonable. The Wynn -- Elaine Wynn's
14 counsel have already seen what I said about the motion in the
15 minute order that I did, so I don't think it's a surprise what
16 I would say if it doesn't reach a solution.

17 Anything else? Can I see you guys and Mr. Ferrario
18 in my office. That takes Ms. Spinelli, too, as "guys." And
19 Mr. Ferrario.

20 (Court recessed at 9:02 a.m., until 9:15 a.m.)

21 THE COURT: So, Dulce, if you could advance the
22 motions that are on the chambers calendar on October 4th and
23 October 17th to -- October 14th and October 7th to today.
24 Based upon the same ruling that I made on the other 16 motions
25 these are also granted.

1 All right. There was some discussion about
2 scheduling issues. Did you find Mr. Polsenberg, or lose him?

3 MR. URGAL: They're coming.

4 THE COURT: Okay. You wanted to talk about
5 scheduling issues, and then Mr. Peek wanted to mention
6 something else about the status conference.

7 MR. PISANELLI: We had a question or two for you, as
8 well.

9 MR. URGAL: And we have maybe one more comment, just
10 minor. Just so that he doesn't get the last last word.

11 THE COURT: It's so nice to see you all.

12 Who wants to start?

13 MR. PISANELLI: I'll go first. That way Mr. Urga
14 gets the last word.

15 So we feel like we're in a little bit of -- on the
16 horns of a dilemma, as it may be, and just seeking a little
17 clarification from you as it relates to your September 6th
18 minute order. Your Honor, we have read your order as
19 directing two things. One is the production of the briefs to
20 the Okada parties with no redactions so that they can see
21 everything that was filed, and step number two is to redact
22 the briefs for public filing purposes. And we intend to do
23 what you tell us to do, but we're also under threat, as you
24 have heard -- and I don't mean that pejoratively, it's just a
25 fact --

1 THE COURT: But usually when you're acting in
2 accordance with a court's order the fact somebody's
3 threatening you for something really isn't that big a deal.

4 MR. PISANELLI: No, it's not. But I want to make
5 sure that I do what you told me and not more and that become
6 paragraph 145 of some future Federal Court complaint that's
7 been threatened.

8 So my question to you is this. On Item Number 1,
9 serve the Okada parties with the briefs with no redactions, we
10 have interpreted your order as telling both of us to do it.
11 In other words, Wynn serve everything, including Elaine Wynn's
12 briefs. But if your intention was simply to say, Wynn, you
13 serve your briefs; Ms. Wynn, you serve your own brief, then
14 that's fine. We will give the Okada parties our briefs and
15 we'll let Ms. Wynn and her counsel decide whether they're
16 going to comply with your order or not. Obviously we can't
17 redact her brief. She has to do that.

18 THE COURT: I didn't order you to serve hers. Both
19 pleadings should be served in an unredacted and unsealed form
20 upon all counsel for all parties in the litigation. That
21 means they serve theirs, you serve yours.

22 MR. PISANELLI: That's all I need to hear. Thank
23 you very much.

24 MR. POLSENBERG: I don't think that's what you said.

25 THE COURT: That is exactly what I said. "Both

1 pleadings should be served in an unredacted and unsealed form
2 upon all counsel for all parties in the litigation who are
3 bound by the stipulated protective order entered in this
4 matter." That's what I said. It's right there.

5 MR. POLSENBERG: Well, it's passive impersonal. I
6 had interpreted --

7 THE COURT: Passive impersonal?

8 MR. POLSENBERG: You're saying it should be -- it
9 says, "pleadings should be served."

10 THE COURT: Yes.

11 MR. POLSENBERG: Right. And during the hearing when
12 that took place I was under the distinct impression -- and why
13 I sat here and said nothing is because you were ordering Wynn
14 Resorts to serve Mr. Peek.

15 THE COURT: No. I ordered Wynn Resorts to provide
16 me with the information so I could evaluate the redactions,
17 and they provided me the opposition that you had -- they
18 provided me your filings, as well as theirs. I reviewed the
19 requests that were filed from Aruze and Wynn, I evaluated what
20 was in the actual briefs, and based upon that I said, you
21 gotta serve Mr. Peek.

22 MR. POLSENBERG: All right. All I'm saying is I was
23 under -- and I think my co-counsel also were the under the
24 distinct impression you were ordering Wynn Resorts to serve
25 Mr. Peek. And I think that's why Mr. Pisanelli asked the

1 question, because he was wondering which way it was.

2 If you're -- because -- if you're ordering us to
3 serve them, I have to think about what my position is.

4 THE COURT: Okay. What I said was both pleadings
5 should be served in an unredacted and unsealed form upon all
6 counsel for all parties in the litigation who are bound by the
7 stipulated protective order. Because after reviewing them
8 they did not appear to relate to the issues that I had
9 addressed at the conference call where I said issues related
10 to disqualification and privilege issues weren't to be served
11 on Mr. Peek's parties. I understand that you believe there
12 are different issues that protect this, but I have not granted
13 relief related to the service of those. And after reviewing
14 those briefs that were provided to me that I specifically
15 identified in the minute order it did not appear to me to be
16 appropriate not to serve all parties in the litigation who
17 have signed the stipulated protective order.

18 MR. POLSENBERG: I understand what you're saying
19 now. As long as you understand that's not what I thought you
20 were saying before now.

21 THE COURT: I understand you're saying that now.
22 And if you've got to do something, Mr. Polsenberg, it's okay.

23 MR. POLSENBERG: Uh-huh. All right. I have to
24 think about what to do.

25 THE COURT: Okay. If you're going to do something,

1 that's okay. I understand.

2 MR. POLSENBERG: Right.

3 THE COURT: But what I'm trying to say is I'm trying
4 to prevent the disclosure of attorney-client privileged
5 material that's in the briefing by disclosing it to Mr. Peek.
6 That doesn't apply to these briefs which relate to the
7 potential violation of Dodd-Frank and Sarbanes-Oxley. They're
8 different concepts.

9 MR. POLSENBERG: They are different concepts. And I
10 think you know my position on that.

11 THE COURT: I do.

12 MR. POLSENBERG: And I'm going to save arguing that
13 for the 20th.

14 THE COURT: Okay.

15 MR. POLSENBERG: All right. Thank you, Your Honor.

16 MR. BICE: Your Honor, one additional point from our
17 side. Should we set a -- since we're going to be here on the
18 20th, could we set a timetable by Monday at whatever point in
19 time if we don't have an agreement on the special master order
20 that each side submit their positions to the Court to get that
21 issue resolved on the 20th? We'd like to get that resolved.

22 MR. POLSENBERG: Sure.

23 THE COURT: Okay. Can you give them to me the day
24 before by noon?

25 MR. BICE: Yeah. Noon on Monday will be fine.

1 THE COURT: Day before by noon.
2 MR. PEEK: So on the 19th?
3 MR. BICE: The 19th. On Monday.
4 THE COURT: Whatever the day before is before noon.
5 That way I can read them in the evening after I finish trial.
6 MR. BICE: Thank you, Your Honor.
7 THE COURT: Okay. Now, was there something else,
8 Mr. Urga?
9 MR. URGA: Well, I just had a couple of minor
10 points. First of all, this minute order, nothing --
11 THE COURT: Which minute order?
12 MR. URGA: The one you did on September 6th. I
13 think it needs a formal order before anything can be done.
14 THE COURT: Great.
15 MR. PEEK: I'll prefer a formal order, Your Honor.
16 THE COURT: Lovely, Mr. Peek. Thank you.
17 MR. PEEK: We'll get it circulated today.
18 THE COURT: And then if Mr. Polsenberg needs to do
19 something, he can ask for a stay or whatever he thinks needs
20 to be done. Okay.
21 MR. URGA: The other is a minor point. They agreed
22 to give us another day to respond to -- on our supplemental
23 reply. Do we need a stip and order, or is it sufficient --
24 THE COURT: You guys agreed.
25 MR. URGA: We agreed. So I prepared one, but just

1 in case we needed it and you wanted it, we could it signed.

2 THE COURT: If you guys agree, I trust you to agree
3 with each other.

4 MR. URGAS: I do, too. But I just wanted to make
5 sure that you --

6 THE COURT: Remember the old days you didn't even
7 have to do a confirming letter.

8 MR. URGAS: I understand that. I remember that from
9 47 years ago --

10 THE COURT: It's only been 30 for me.

11 MR. URGAS: -- Mr. Keefer told me in no uncertain
12 terms when I sent a letter that I didn't trust him and he went
13 on. And I learned my lesson real fast.

14 MR. POLSENBERG: I've got some Rex stories.

15 MR. URGAS: The last point was on our special -- or
16 on our status report. The de-designation issue. It is
17 becoming very difficult -- we have got, I don't know, maybe
18 80 emails and stuff that have not been able to go to Quinn
19 Emanuel that have to do with something that -- they were
20 already in the depositions, they were there, they took the
21 depositions. We should be allowed to have Quinn Emanuel look
22 through and do the de-designations the same time as everybody
23 else instead of having this --

24 THE COURT: And you're referring to the change from
25 highly confidential?

1 MR. URGAL: Yes. When they go through those
2 processes. Now, I'd like to have an agreement, or maybe you
3 can say we can do that versus filing a motion. Because if
4 they were there, it's not like it's something that's brand
5 new, and it would make --

6 THE COURT: There were there at the deposition?

7 MR. URGAL: Yeah. It makes everything much faster
8 and easier if we can do that together.

9 MR. PISANELLI: Here's the problem, Your Honor. We
10 had a counsel participating in this case who in our view
11 doesn't belong in this case. And so that doesn't mean now
12 that they get -- they get to take that license and move it
13 forward for more participation where they shouldn't be here
14 from day one. So, no, I can't agree because they were in the
15 deposition they never should have been in that they can now
16 come in and do more harm in this case when they don't belong
17 here at all. That's our position. I can't agree to that.

18 MR. URGAL: We'll just file a motion and we'll argue
19 it, then.

20 THE COURT: Okay. Mr. Peek, did you want to add
21 anything?

22 MR. PEEK: On the topic of --

23 THE COURT: Anything.

24 MR. PEEK: Yes, I do, Your Honor.

25 THE COURT: Okay.

1 MR. PEEK: I just want to at least report to the
2 Court where we are.

3 THE COURT: Okay.

4 MR. PEEK: That will give at least Mr. Polsenberg
5 more opportunity to have humor at my expense.

6 THE COURT: He finds humor at everyone's expense,
7 Mr. Peek.

8 MR. PEEK: I know.

9 MR. POLSENBERG: Especially Mr. Peek, though, Your
10 Honor.

11 THE COURT: How many years has he been doing that to
12 you?

13 MR. POLSENBERG: Not nearly enough.

14 MR. PEEK: Thankfully, Your Honor, I guess we're
15 both getting of an age where it will stop at some point.

16 So we started this process, as I recall, at a
17 hearing sometime in June of 2016, when a motion for
18 disqualification was filed and the Court had some preliminary
19 discussions over some in-camera documents that had been
20 submitted by Quinn Emanuel over whether or not -- I think at
21 that time Mr. Kunimoto called into that call as to whether he
22 should or should not be involved. That didn't resolved.

23 Then fast forward to I think a hearing on July 7th
24 of this year where the Court had another conference call with
25 counsel. I participated, Mr. Krakoff participated, Mr.

1 Kunimoto participated from the Aruze parties' side. Of
2 course, Pisanelli Bice was on the phone, the Quinn Emanuel
3 folks. Can't remember if Mr. Urga was on the phone or not,
4 but at least we had another hearing on again the
5 disqualification issue, and it was primary the
6 disqualification issue. And at that time the Court was
7 concerned as to whether or not pleadings submitted by either
8 Elaine Wynn or the Wynn parties that may or may not contain or
9 potentially contained confidential attorney-client
10 communications could be -- you know, what would happen to
11 those pleadings that might have that information.

12 The Court then I think more just stated -- I don't
13 know that it was a formal order, but I guess we could now
14 convert it to a formal order -- said that pleadings related to
15 the disqualification issue that might potentially contain
16 attorney-client privileged communications would not be shared
17 with the Aruze parties for fear of contaminating the Aruze
18 parties and for fear of waiving the privilege. Understood.

19 THE COURT: And it's my understanding somebody is
20 working on drafting a written order from that hearing.

21 MR. PEEK: Yes. And that's -- I'm sorry to take so
22 long, Your Honor. My apologies.

23 THE COURT: Okay. It's all right.

24 MR. PEEK: So that, of course, we didn't get an
25 order. So the Court told us on September 2nd, somebody needs

1 to draft an order. Ms. Spinelli has made that effort, we have
2 had discussions about it, and it also came up as a result of
3 my refusal to return a -- return a pleading, as opposed to
4 sequester a pleading. So Ms. Spinelli and I had a
5 conversation on Monday about the process and also discussed a
6 little bit the order that the Court had entered orally yo in
7 July 7th.

8 My concern from the beginning has been whether or
9 not those pleadings related to disqualification, in the
10 entirety of those do they contain attorney-client
11 communications such that, whether it be the legal arguments,
12 whether it be the inferences that would be drawn, whether or
13 not there are in fact attorney-client disclosures or work
14 product disclosures within the body of those pleadings, that
15 should be shared with the Aruze parties. There should be a
16 process by which if they want to file these documents related
17 to what they claim to be an attorney-client communication or a
18 work product communication, then there ought to be a process
19 of just redacting those portions that relate to it. So we've
20 had a discussion about that, and we're working towards that
21 process. Because I'm not agreeing that wholesale, as the
22 Court said on July 7th, that wholesale pleadings related to
23 disqualification would not be shared with the Aruze parties.
24 What I'm saying is there ought to be a process, and I'm trying
25 to work through that process whereby issues related to

1 privilege could be worked out between Elaine Wynn and the Wynn
2 parties. Hopefully they could then decide which of those
3 provisions within the pleadings would be redacted and then
4 serve those redacted pleadings on us, provide us a log so that
5 we could at least contest or not contest those claims of
6 privilege as to whether they are entitled to any privilege at
7 all within those pleadings. But at lease we would be able to
8 see those nonprivileged portions of the pleadings. Because
9 there are going to be nonprivileged portions of the pleadings.

10 THE COURT: Absolutely. Captions and signature
11 lines.

12 MR. PEEK: But we don't even get to see that.
13 Pardon?

14 THE COURT: Captions and signature lines at least.

15 MR. PEEK: Well, Your Honor, I would hope there'd be
16 more than that.

17 THE COURT: There may be.

18 MR. PEEK: I don't think that just a --

19 THE COURT: It was a joke, Mr. Peek.

20 MR. PEEK: Okay. I'm sorry.

21 THE COURT: Didn't you see everybody else --
22 everybody else in the courtroom laughed.

23 MR. PEEK: I'm sorry, Your Honor. I --

24 THE COURT: It's okay, Mr. Peek. It's been a long
25 morning.

1 MR. PEEK: I missed that portion of the humor.
2 But I know the Court appreciates that that is the
3 case, and so we're trying to work through that process in the
4 form of a stipulation -- a stipulated procedure. We discussed
5 that yesterday with Pisanelli Bice, as well as with Quinn
6 Emanuel. And we'll try to work through that. If we don't
7 work through that, we'll at least come back to the Court and
8 ask for the Court for some form of relief.
9 THE COURT: So if you're unable to work through
10 that, can you get it to me by noon the day before the 20th?
11 MR. PEEK: Get before you a proposed procedure?
12 THE COURT: Your proposed procedure --
13 MR. PEEK: Yes, Your Honor, we can.
14 THE COURT: -- and their proposed procedure.
15 MR. PEEK: We already have it -- we already have it
16 in place. I mean, we sent it in the form of --
17 THE COURT: Right.
18 MR. PEEK: -- orders to --
19 THE COURT: You're either going to reach an
20 agreement or you're not.
21 MR. PEEK: Right.
22 THE COURT: And the day before the 20th by noon if
23 you don't reach an agreement can you send me your version,
24 send me your version, if you care, send me your version, and
25 I'll look at them.

1 MR. PEEK: Okay. Well -- all right. So that was at
2 least one step in the process. But, as you know, there's now
3 a second step in the process, and that has to do with the
4 claims of Elaine Wynn that they are entitled to some
5 protection under Dodd-Frank and Sarbanes-Oxley, that that
6 protection protects them from even serving any pleadings at
7 all related to their status as a whistleblower. I'd asked
8 counsel for -- I'd asked Quinn Emanuel, what sections of DFA,
9 what sections of SOX are you claiming give you the protection
10 where you do not have to now serve a pleading on me. I've not
11 had an answer to that. There probably will be no process with
12 the Quinn Emanuel folks as to whether they will share any of
13 their pleadings with us related to the Dodd-Frank and
14 Sarbanes-Oxley and her status as a whistleblower. That's fine
15 with us, but I just want to make it clear that, you know,
16 there's been no order by the Court that permits them to
17 withhold those documents from us.

18 I know that Mr. Polsenberg said at the hearing on
19 September 2nd, I don't want them to have the documents. The
20 Court said, okay, well, submit me an order and we'll take a
21 look at it. I'm still waiting to look at that form of order.
22 It's now been almost two weeks.

23 THE COURT: So I think this is what's going to
24 happen. And this is just pure speculation on my part.

25 MR. PEEK: Okay. Good.

1 THE COURT: You're going to draft an order in
2 accordance with my September 6th minute order that orders him
3 to provide you with a brief that does these issues. He's then
4 going to say, gosh, Judge, give me a stay while I go to the
5 Supreme Court about this issue.

6 MR. PEEK: And you're either going to give him a
7 stay or not give him a stay on that issue.

8 THE COURT: One or the other. And then he's going
9 to go do something.

10 MR. PEEK: But I would certainly like to see it
11 briefed at least at some time, Your Honor, as to whether or
12 not there is a provision under Dodd-Frank or Sarbanes-Oxley
13 that protects him. I would like to see a motion, and maybe
14 that's the form that you're talking about, is --

15 THE COURT: That's my best guess as when you're
16 going to see it. Because he's asked for a written order, you
17 said you're going to do it, he says he's going to think about
18 it after he sees the order, which is a signal to me that he's
19 going to then ask for a stay while he does something. And
20 assuming when he files the motion to stay, he's going to do
21 some briefing that tells us why.

22 MR. PEEK: You know, certainly I appreciate that,
23 Your Honor. But the problem that I have is there's never been
24 any kind of a motion or due process granted me where the Quinn
25 Emanuel folks have said to you, I don't -- I believe that I'm

1 entitled to some protection under Sarbanes-Oxley and Dodd-
2 Frank which allows me not to have to serve on the party in the
3 -- one of the parties in the litigation pleadings related to
4 my claim of whistleblower. Because we're not going to
5 retaliate. There's no retaliation related to the Aruze
6 parties that could happen here.

7 THE COURT: Yes. There is no retaliation that could
8 occur --

9 MR. PEEK: That's what I'm --

10 THE COURT: -- from you.

11 MR. PEEK: But I haven't seen any form of a pleading
12 that would articulate their position so that I would at least
13 have an opportunity of due process to be able to address the
14 Court so when the Court heard the arguments could make a fully
15 reasoned decision --

16 THE COURT: I'd love to.

17 MR. PEEK: -- as opposed to just Mr. Polsenberg
18 saying, I don't want to serve them on him, and the Court then
19 ordering, and I do an order.

20 THE COURT: And then he takes a writ.

21 MR. PEEK: And he takes a writ. But the basis of a
22 writ when there's been no motion, no hearing --

23 THE COURT: You'd be surprised how many times
24 somebody takes a writ and the stuff that's in the writ has
25 nothing to do with what happened in front of me.

1 MR. PEEK: It certainly hasn't happened with these
2 parties, Your Honor, here.

3 But anyway, that's --

4 THE COURT: I understand your frustration.

5 MR. PEEK: -- that's my report, at least, Your
6 Honor. We made an effort. We're working I think closely on
7 the disqualification privilege issues. I think we'll get that
8 resolved. We're probably not going to resolve the issues
9 related to Sarbanes-Oxley and Dodd-Frank.

10 THE COURT: Well, I resolved it already.

11 MR. PEEK: You did resolve it with the minute order,
12 and we've already seen an exchange of emails back and forth
13 because Ms. Spinelli has attempted to get the pleadings to me.
14 Mr. Zeller has --

15 THE COURT: I've ordered them to provide their
16 pleading to you.

17 MR. PEEK: I know. There was a belief, Your Honor,
18 I think at one time with the Wynn parties that included them
19 serving on us the Elaine Wynn brief, as well. But now that
20 that's been resolved, that certainly is no longer an issue.

21 THE COURT: All right. Mr. Polsenberg, was I
22 correct in my speculation?

23 MR. POLSENBERG: Yeah.

24 THE COURT: Okay.

25 MR. POLSENBERG: But also it's my impression -- and,

1 again, I've been proven wrong even today -- you had excluded
2 the Aruze parties from Elaine Wynn's deposition.

3 THE COURT: On the disqualification issues.
4 Remember, that deposition was originally set up to deal with
5 the disqualification issues. Then we got the issues related
6 to Ernst & Young. And I said, okay, you can ask about those
7 issues in the Ernst & Young, and I told Mr. Peek that he
8 couldn't go but if he wanted a copy of the transcript he would
9 ask and I would consider it.

10 MR. POLSENBERG: Right.

11 THE COURT: So it's not like I've excluded him
12 forever from the deposition.

13 MR. POLSENBERG: Right. But I think -- I got that,
14 but my impression was that you told him if he wanted to have
15 things he had to make a motion. Because Mr. Peek is in here
16 today saying I have to make a motion. It was my impression
17 that you were putting the burden on him to make a motion --

18 THE COURT: No.

19 MR. POLSENBERG: -- to be included on these other
20 than the pleadings that you've already made an order about.

21 THE COURT: Well, the burden is on anybody who's
22 seeking the protection. I've not granted protection on the
23 Dodd-Frank, Sarbanes-Oxley alleged whistleblower issues.

24 MR. POLSENBERG: All right. We can probably take --

25 THE COURT: If want protection, you could ask me in

1 a very well-reasoned written brief. Because I know you know
2 how to do them.

3 MR. POLSENBERG: Yeah. Let me see we can put one
4 together. I don't know if we can take this up on Tuesday. I
5 know everybody's going to go, geez, he's adding something
6 else.

7 THE COURT: Well, I'm still in trial on Tuesday, so
8 remember you guys have got a half-hour slot on Tuesday.

9 MR. POLSENBERG: We have a half-an-hour slot? Okay.

10 THE COURT: That's more than your 10 minutes each
11 that you're ignoring.

12 MR. POLSENBERG: I've been under 10 minutes on
13 everything.

14 THE COURT: You get 10 minutes total per side.

15 MR. POLSENBERG: I've been under 10 minutes on
16 everything.

17 THE COURT: Anything else?

18 MR. POLSENBERG: Scheduling.

19 THE COURT: I scheduled. I scheduled for Elaine
20 Wynn's --

21 MR. POLSENBERG: I know. And I apologize.

22 THE COURT: -- depo to occur on either September 22
23 or 23, and then I --

24 MR. POLSENBERG: Got that.

25 THE COURT: -- pencilled you in for September 29th

1 and 30 because somebody said they thought it would take more
2 than a day. I have allocated part of the afternoon of the
3 30th to a Regional Judicial Council meeting at 1:30, and at
4 2:00 Mr. Hutchison and issues related to 51 percent and
5 whether a statute implies disinterested or not.

6 MR. POLSENBERG: I recall that, as well. I'm just
7 seeing if there are times available in the next week if we
8 could do that.

9 THE COURT: The next week being when?

10 MR. POLSENBERG: The week after the 29th, which
11 would be the week of October 3rd.

12 THE COURT: Currently the week of October 3rd --
13 hold on a second; let me look at my calendar. I have now this
14 other calendar for the transition I have to look at.

15 MR. POLSENBERG: And here's why I ask.

16 THE COURT: Well, wait. Let me look first before
17 you start.

18 MR. POLSENBERG: Sure.

19 THE COURT: I have two bench trials that are
20 scheduled for that week that are sequential, one to follow the
21 other. And, unfortunately, I believe both are going to go.

22 MR. POLSENBERG: Do you think they'll take combined
23 more than a few days?

24 THE COURT: I have a hope that the afternoon of
25 October 5th may be available. I think Dan offered that to

1 someone as a settlement conference. I do not know if they
2 confirmed. Because I think the case -- the first case, which
3 is called Green One, which is a contempt trial, I believe it
4 will finish on Tuesday. But I've been known to be wrong. And
5 I know the other one they think they can finish in one day,
6 but I gave them two. So the 7th has arguably got some time on
7 it.

8 MR. POLSENBERG: And the only reason that I've
9 raised this, I've cancelled a lot of Bar things for court
10 hearings. It's just --

11 THE COURT: I'm not trying to keep you from going to
12 your Academy of Appellate Lawyer thing.

13 MR. POLSENBERG: Right. I know. And I appreciate
14 that. And everybody said they'll work with me. That's why
15 I'm looking for available days. I also think from things that
16 you've said about my Sarbanes-Oxley arguments that you may not
17 agree with me when we come in on the 20th.

18 THE COURT: Really?

19 MR. POLSENBERG: Yes. You're not a good poker
20 player.

21 THE COURT: No. I always -- well, I won once, but I
22 never played again after that.

23 MR. POLSENBERG: So I'm thinking I'm going to be
24 moving for a stay anyway on Tuesday, and I really would hate
25 to cancel a trip for a hearing that may not go forward.

1 THE COURT: Okay.

2 MR. PISANELLI: I'm appreciative of the candor. I

3 mean, that's frankly what I was expecting to happen. So I'd

4 like to keep the schedule as is and let's, you know, see what

5 happens.

6 MR. POLSENBERG: Don't cancel your trip. How's

7 that?

8 MR. POLSENBERG: All right. Thank you, Your Honor.

9 THE COURT: Anything else on the very short Wynn

10 versus Okada case?

11 MR. PEEK: Your Honor, just the last thing on Elaine

12 Wynn's deposition. Is that a motion, or can I just ask now

13 for the Elaine Wynn deposition?

14 THE COURT: You have to do a motion on it.

15 MR. PEEK: Okay. Thank you.

16 MR. POLSENBERG: Thank you, Your Honor.

17 MR. PEEK: Thank you, Your Honor.

18 THE PROCEEDINGS CONCLUDED AT 9:40 A.M.

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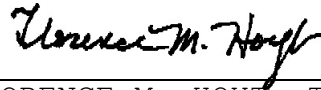
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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

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

FLORENCE HOYT
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FLORENCE M. HOYT, TRANSCRIBER

9/15/16

DATE