

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,

Respondents,

and

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Real Party in Interest.

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Elizabeth A. Brown
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District Court
No. A-12-656710-B

REPLY BRIEF ON MOTION TO VOLUNTARILY VACATE PARTIAL STAY

Ms. Wynn sought and was granted the partial stay of discovery to protect her privileges against the discovery orders that are the subject of this writ petition. The orders relate to just two narrow topics: a letter and phone call to Wynn Resorts' independent auditors. (1 App. 80.) Ms. Wynn has now determined that she will comply with those orders. Thus, the petition and accompanying stay are now moot. Regardless of whether this Court believes that conditions should be imposed on that

dismissal (and for the reasons set forth in the reply brief on that motion, they should not), there is no reason to keep the stay in place. It should be vacated.

A. Lifting the Stay will Not Defeat the Object of the Petition

Because Ms. Wynn voluntarily submits to the district-court orders from which she sought this Court’s stay, there is no further need for a stay. If there is any remaining issue to be resolved by the writ petition, as Wynn Resorts claims, it does not involve the discovery orders now subject to the stay. The stay can be lifted without violence to any aspect of the writ petition, should it proceed. *See* NRAP 8(c)(1).

B. Wynn Resorts is Not Harmed by Lifting the Stay

Lifting the stay would cause Wynn Resorts no cognizable harm. *See* NRAP 8(c)(3). Wynn Resorts raises the specter of a “Hobson’s choice” between “exposing itself to further claims of retaliation” or avoiding discovery. (*See* Response 7:25–8:3.) That dilemma is illusory. Because Ms. Wynn voluntarily submits to the district court’s discovery orders, simply resuming that discovery will not expose Wynn Resorts to any claim of retaliation.

**C. Ms. Wynn’s Request to Vacate
the Stay is Unconditional**

The reasons the stay is moot are independent from Ms. Wynn’s request to dismiss her writ petition. Even if this Court decides to proceed with oral argument and a decision on the merits of that petition, this Court need not further delay discovery in the district court. Wynn Resorts’ guess that “Ms. Wynn would in all likelihood seek to reinstate the stay” if the Court declines to dismiss the writ petition is baseless. (Response 6–7 n.5.) Assuming this Court vacates the stay, Ms. Wynn can submit to the discovery orders regardless of the outcome of the petition.

CONCLUSION

The stay is moot, and Wynn Resorts has no reason to resist its termination. Wynn Resorts concedes that the only reason it wants to keep the stay is to protect itself against a claim of future retaliation. But the Court does not need to resolve the motion to dismiss the petition to give Wynn Resorts that protection. Because of Ms. Wynn’s voluntary submission, the parties can safely proceed with discovery regardless of the outcome on her motion to dismiss the petition.

This Court should vacate the stay of discovery.

Dated this 14th day of July, 2017.

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CERTIFICATE OF SERVICE

I certify that on July 14, 2017, 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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