

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 WYNN RESORTS LIMITED,

4 Petitioner,
5 vs.

6 THE EIGHTH JUDICIAL DISTRICT
7 COURT OF THE STATE OF
8 NEVADA, IN AND FOR THE
9 COUNTY OF CLARK; AND
10 THE HONORABLE ELIZABETH
11 GONZALEZ, DISTRICT JUDGE,
12 DEPT. XI

13 Respondent,

14 KAZUO OKADA; UNIVERSAL
15 ENTERTAINMENT CORP. AND
16 ARUZE USA, INC.,

17 Real Parties in Interest.

Case No. 71638

Electronically Filed
Dec 02 2016 03:25 p.m.

**MOTION TO REOPEN THE
DISTRICT COURT'S STAY
PENDING WRIT PETITION AND
RULE 27(E) EMERGENCY
MOTION FOR INTERIM
EXTENSION OF STAY**

**(Action Required By December 5,
2016)**

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

18 **I. INTRODUCTION**

19 Currently pending before this Court is Wynn Resorts, Limited ("Wynn
20 Resorts") petition for Writ of Prohibition or Alternatively Mandamus filed with this
21 Court on November 4, 2016. Wynn Resorts' Petition challenges the District Court's
22 October 31, 2016 Order which seeks to compel discovery from foreign entities that
23 are neither parties to the case nor subject to jurisdiction in Nevada. As noted in Wynn
24 Resorts' Petition, the District Court has entered a temporary stay of its Order for 30
25 days or pending this Court's determination of whether to require an answer from the
26 Real Parties in Interest. (Petition at 18). The District Court indicated that it would
27 extend the stay if this Court called for an answer. (Ex. A at 10). In essence, the
28 District Court and Wynn Resorts anticipated that this Court would determine whether
to call for an answer within the time frame of the District Court's 30-day stay.

However, that stay is due to expire on December 5, 2016 unless this Court calls
for a response to the Petition. As of today, this Court has not acted yet on Wynn

1 Resorts' Petition. Accordingly, Wynn Resorts submits this motion for a temporary
2 extension of the District Court's stay until this Court determines whether to call for a
3 response to the Petition. The NRAP 27(E) Certificate is attached hereto.

4 **II. ANALYSIS**

5 The grounds for a stay are well known to this Court and form the basis for the
6 District Court's original stay. NRAP 8; *Mikohn Gaming Corp. v. McCrea*, 120 Nev.
7 248, 252, 89 P.3d 36, 39 (2004):

8 **1. The Petition's Purpose would be Defeated.**

9 As the Petition seeks to enjoin the District Court's Order as exceeding its
10 jurisdiction, the purpose of the Petition would be interfered with absent a temporary
11 stay while the Court considered whether to call for an answer to the Petition.

12 **2. Wynn Resorts faces the potential for Irreparable Harm.**

13 Similarly, denying the stay of the Order exposes Wynn Resorts to serious and
14 irreparable harm. The Order purports to threaten Wynn Resorts with sanctions if it
15 does not provide information that is in the possession, custody and control of a
16 foreign non-party to this case, where a foreign government has threatened potential
17 criminal liability for violations of its laws.

18 **3. A Stay will not harm the Real Party in Interest.**

19 As set forth in the Petition, the District Court has otherwise stayed discovery
20 in the case below and thus the Okada Parties face no serious harm by a temporary
21 continuance of the stay

22 **4. The Petition has Substantial Merit.**

23 As set forth in detail in the Petition, the District Court's Order exceeds its
24 jurisdiction, by extending its jurisdictional reach into a foreign country and asserting
25 control over documents that are within the possession, custody and control of a
26 foreign non-party.

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III. CONCLUSION.

The District Court recognized the far-reaching nature of this Order and agreed to a temporary stay, for 30 days pending this Court's determination whether to call for a response. As that has not yet happened, the temporary stay will otherwise expire on December 5. Wynn Resorts accordingly requests a brief extension of the stay from this Court until it decides whether to call for an answer from the Real Parties in Interest.

DATED this 2nd day of December, 2016.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice
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Attorneys for Real Party in Interest
Wynn Resorts, Limited

1 **NRAP 27(E) CERTIFICATE**

2
3 **A. Contact Information**

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B. Nature of Emergency

The District Court has entered a temporary stay for 30 days pending this Court's determination as to whether to call for an answer. However, as the Court has not yet acted upon Wynn Resorts Petition, that stay will expire on December 5, absent action from this Court. Wynn Resorts simply asks for a temporary extension of the stay pending this Court's ability to act on its Petition.

C. Notice and Service

I, Todd L. Bice, personally called the offices of Holland & Hart, notifying them of this motion. On filing, I will email copies to each of the attorneys for Real Party in Interest.

DATED this 2nd day of December, 2016.

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Attorneys for Real Party in Interest
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 2nd day of December, 2016, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **MOTION TO EXTEND THE DISTRICT COURT'S STAY PENDING WRIT PETITION AND RULE 27(E) EMERGENCY MOTION FOR INTERIM EXTENSION OF STAY** properly addressed to the following:

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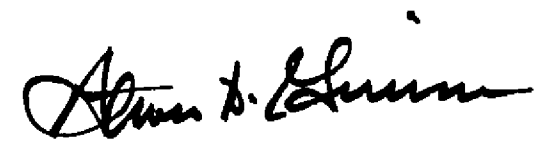
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The Honorable Elizabeth Gonzalez
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Regional Justice Center
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/s/ Shannon Thomas
An employee of PISANELLI BICE PLLC

EXHIBIT A



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

WYNN RESORTS LIMITED .
Plaintiff .
vs. .
KAZUO OKADA, et al. .
Defendants .
.

CASE NO. A-656710

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTIONS

THURSDAY, NOVEMBER 3, 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:

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COLBY WILLIAMS, ESQ.

1 when you ordered these documents produced for the first time.
2 We've had to fight this over and over and over again. I would
3 ask, however, Your Honor -- Mr. Bice says he has the writ
4 filed within 10 days, and, as you did with Mr. Polsenberg on
5 Elaine Wynn, unless they have an answer -- an order from the
6 Supreme Court ordering an answer within 30 days that the stay
7 expire if you do grant it.

8 THE COURT: Thank you.

9 The motion to stay is granted. I'm going to grant
10 the stay for a period of 30 days. If we do not have a
11 response from the Supreme Court ordering an answer at that
12 time, the stay will expire, or you can ask them.

13 MR. BICE: All right.

14 MR. PEEK: Thank you, Your Honor.

15 THE COURT: And the motion to seal this motion, any
16 objection? It's granted.

17 'Bye. Have a nice day. Wonderful to see you.

18 How are you doing with your special master?

19 MR. ZELLER: We spoke with him yesterday, so we have
20 our plan in place, and we're moving forward with it.

21 THE COURT: Plans are good.

22 THE PROCEEDINGS CONCLUDED AT 9:06 A.M.

23 * * * * *

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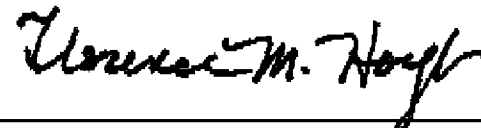
CERTIFICATION

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
Las Vegas, Nevada 89146**



FLORENCE M. HOYT, TRANSCRIBER

11/11/16

DATE