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

3 WYNN RESORTS, LIMITED,

4 Petitioner,

5 v.

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

13 Respondent,

14 and

15 ELAINE P. WYNN,

16 Real Party in Interest.

Case No.: 74063

Electronically Filed

Oct 17 2017 02:29 p.m.

**NOTICE OF RELATED PENDING  
WRIT PETITION AND REQUEST  
TO COORDINATE**

17 On October 12, 2017, this Court granted Petitioner Wynn Resorts, Limited  
18 ("Wynn Resorts" or the "Company") emergency motion for a temporary stay, and  
19 directed an answer from Real Party in Interest, Elaine P. Wynn ("Ms. Wynn") to  
20 address the District Court's interpretation of the work product standard recently  
21 adopted by this Court in *Wynn Resorts, Limited v. Eighth Judicial District Court*,  
22 133 Nev. Adv. Op. 52 (2017).

23 In its motion to stay, Wynn Resorts explained that its Petition set forth the  
24 District Court's Order compelling the production of work product protected  
25 materials over which Wynn Resorts claims privilege. The District Court concluded  
26 that the underlying documents were not protected materials, and applied an  
27 interpretation of the work product standard recently adopted by this Court that is at  
28 odds with this Court's decision and reasoning. Wynn Resorts also explained in its  
motion to stay that the District Court's same interpretation of this Court's work

1 product decision in *Wynn Resorts* is the subject of another writ petition pending  
2 before this Court, No. 73949 (filed on September 11, 2017).

3 In Case No. 73949, Wynn Resorts challenges the District Court's ruling  
4 (entered on the same day, during the same hearing as the order underlying the  
5 petition in this case) that the Freeh Report was created for a business purpose and  
6 that any dual purpose is not to be considered when assessing work product. These  
7 two pending writ petitions concern the same legal issue and challenge; namely, did  
8 this Court reject all consideration of the dual purpose nature of a document when  
9 considering whether a document constitutes protected work product under the  
10 totality of the circumstances standard under the "because of" test. Given that this  
11 Court expressly stated in its *Wynn Resorts* decision that "'a document . . . does not  
12 lose protection under this formulation merely because it is created in order to assist  
13 in a business decision,'" 133 Nev. Adv. Op. 52, pp. 25-26 (citing *United States v.*  
14 *Adlman*, 134 F.3d 1194, 1202 (2d Cir. 1998), Wynn Resorts believes that its  
15 position and petition are meritorious.

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Given that both petitions challenge District Court orders entered by the same court on the same day, interpreting the same work product standard, Wynn Resorts requests that these two petitions be coordinated for this Court's consideration.

DATED this 17th day of October, 2017.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 17th day of October, 2017, I electronically filed and served by electronic mail a true and correct copy of the above and foregoing **NOTICE OF RELATED PENDING WRIT PETITION, AND REQUEST TO COORDINATE** to the following:

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