

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED,

Petitioners,

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,  
DEPT. XI,

Respondent,

and

KAZUO OKADA, UNIVERSAL  
ENTERTAINMENT CORP.  
AND ARUZE USA, INC.,

Real Parties in Interest.

Case No.

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**APPENDIX TO PETITION FOR  
WRIT OF MANDAMUS OR  
ALTERNATIVELY PROHIBITION**

**VOLUME XXIII OF XLIII**

DATED this 20th day of November, 2017.

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1 already on the Internet in February 2012, and also I know  
2 there was a newspaper article. I don't know -- I don't recall  
3 now clearly whether or not the Freeh report itself was in the  
4 article or whether some comments from that were included in  
5 the article. However, I know there was a newspaper article  
6 that was about the Freeh report.

7 Q And just to clarify on your duties, you started as  
8 Foreign Affairs head in January 2013. I believe you testified  
9 earlier, and I just want to confirm this, that you had been  
10 working on the redemption in your duties prior to that time.  
11 Is that correct?

12 A That's correct.

13 Q Now, I want to show you --

14 MR. KRAKOFF: This would be Exhibit 565, Your Honor,  
15 and also 464 [sic] is the translation, Japanese translation.

16 THE COURT: 564 and what?

17 MR. KRAKOFF: And 565.

18 THE COURT: 564 and 565?

19 MR. KRAKOFF: Yeah. Could the --

20 THE COURT: It's okay. I'm just trying to get the  
21 numbers right. They're two sequential numbers you've got?

22 MR. KRAKOFF: Exactly, Your Honor.

23 THE COURT: Okay. Thank you.

24 MR. KRAKOFF: Your Honor, I would move this in for  
25 this proceeding.



1 MR. BICE: No objection.

2 THE COURT: Be admitted.

3 (Defendants' Exhibits 564 and 565 admitted)

4 MR. KRAKOFF: Good. Thank you.

5 THE COURT: Do the interpreters need a break? I  
6 know we've been going about an hour and a half, and that's  
7 usually when I give my interpreters a break. I saw you guys  
8 just switched. If you need a break, you let me know.

9 THE INTERPRETER: Thank you, Your Honor.

10 THE COURT: All right. Keep going.

11 BY MR. KRAKOFF:

12 Q Now, is this an email dated March 11th, 2012, from  
13 Mr. Terada to Mr. Asano and to yourself?

14 A Yes.

15 Q And was this -- March 11, 2012, was this shortly  
16 after the filing of the lawsuit by Wynn Resorts against Mr.  
17 Okada, Universal, and Aruze?

18 A Yes. Yes, it was less than a month later.

19 Q Now, does this -- generally does this email involve  
20 or discuss a meeting in Hong Kong with a representative of the  
21 chairman of PAGCOR and Mr. Okada?

22 A Yes.

23 Q Now, by the way, did you attend this meeting in Hong  
24 Kong yourself?

25 A No, I didn't attend it.

1 Q But you're a recipient of the email; correct?

2 A Yes.

3 Q And generally does this email involve potential --  
4 or discuss potential violations of the MPDPA and a potential  
5 lawsuit?

6 A I think Number 5 in this mail -- in this email  
7 refers to that.

8 Q And tell us what you understand from paragraph  
9 number 5?

10 A Well, first I would just like to say that I don't  
11 remember actually receiving this email. But looking at it  
12 again, this is what I believe it says in Number 5.

13 First of all it says that the chairman Naguiat, who  
14 was then chairman of PAGCOR, was preparing to file a lawsuit  
15 in violation of the Macau Personal Data Protection. That he  
16 was preparing a complaint regarding that violation. The  
17 preparation was going forward, but -- so there are different  
18 ways of interpreting this, but it was saying that the case for  
19 proceeding should be matched together with Chairman Okada. So  
20 in that regard I can read this to be saying that on the part  
21 of Chairman Okada he would come up with some countermeasure  
22 and actually put that countermeasure or those countermeasures  
23 into action and that there would be contact made by Chairman  
24 Okada to Chairman Naguiat.

25 Q Now, and does it indicate that Mr. Okada would

1 examine what steps to take and would inform Chairman Naguiat  
2 promptly when he takes action?

3 A Yes, it can be read to be saying.

4 Q Now, you indicated the that lawsuit brought by  
5 Universal, Aruze, and Mr. Okada in Macau, MPDPA lawsuit, was  
6 filed three years later than this email?

7 A Yes, that lawsuit was filed in 2015, which means  
8 that, yes, it was three years later than this email.

9 Q Now, was Mr. Naguiat a plaintiff in the lawsuit  
10 brought by Universal, Aruze, and Mr. Okada?

11 A No.

12 Q Was Mr. Naguiat involved in the lawsuit brought by  
13 Universal, Aruze, and Mr. Okada?

14 A No, he wasn't involved at all.

15 Q And tell us how you know that from your work.

16 A The complaint in 2015 I believe was written in  
17 Portuguese in the original. And there was an English version  
18 and a Japanese version. And I had seen both of those. And  
19 the plaintiffs were Universal and Aruze and Mr. Okada. But  
20 Chairman Naguiat was not named as a plaintiff.

21 THE INTERPRETER: The interpreter stands corrected.  
22 The plaintiffs were Universal, Aruze USA, and Mr. Okada.  
23 Chairman Naguiat was not named as a plaintiff.

24 BY MR. KRAKOFF:

25 Q Okay. Now, do you know whether Mr. Naguiat ever

1 brought a lawsuit himself for violations of the MPDPA?

2 THE COURT: Can we turn it off, whoever it is.

3 MR. PEEK: Sorry, Your Honor.

4 THE COURT: Mr. Peek, do we need --

5 MR. PEEK: Sorry, Your Honor. I apologize.

6 THE COURT: -- someone younger to help you with the  
7 technology?

8 Mr. Cassity, can you help Mr. Peek with the  
9 technology.

10 MR. PEEK: Taking care of it, Your Honor.

11 THE INTERPRETER: Sorry. Could I please hear the  
12 question again.

13 THE WITNESS: I don't think that he has. I believe  
14 that he has not.

15 BY MR. KRAKOFF:

16 Q Okay. Now, have you heard of the -- do you know of  
17 an individual by the name of Mr. Bangsil from PAGCOR?

18 A I've heard of him.

19 Q And do you know, was Mr. Bangsil a plaintiff in the  
20 lawsuit brought by Universal and Aruze and Mr. Okada?

21 A He was not.

22 Q And if you could tell us who you understand Mr.  
23 Bangsil was at PAGCOR.

24 A I don't know the details, but I first learned of his  
25 name in the Freeh report. I don't remember who I heard this

1 from, but --

2 MR. BICE: Objection, Your Honor. Foundation.

3 THE COURT: Overruled.

4 THE WITNESS: -- but I did hear that Mr. Bangsil had  
5 filed a lawsuit in Macau against Wynn Macau regarding a  
6 violation of the MPDPA. I haven't seen the complaint, so I'm  
7 not familiar with the specifics, and I don't remember who I  
8 got that information from.

9 BY MR. KRAKOFF:

10 Q Did Universal or Aruze or Mr. Okada, to your  
11 knowledge, have any involvement in Mr. Bangsil's lawsuit?

12 A No.

13 Q Did Universal or Aruze pay any legal fees for  
14 Bangsil, to your knowledge?

15 A No, that didn't happen.

16 Q And how do you know that?

17 A Well, one of my jobs pertains to payments overseas,  
18 whether they be for the company or for an individual.

19 Payments overseas are taken care of by my department. And I  
20 said that because I have no knowledge of any such example.

21 Q Do you -- is it part of your job to review legal  
22 bills?

23 A Yes. I review them monthly.

24 Q And you saw no such fees for Mr. Bangsil's lawsuit?

25 A I have never seen them.

1           Q     What is the status of the lawsuit brought by  
2 Universal, Aruze, and Mr. Okada against Mr. Wynn and the other  
3 parties?

4           THE COURT:   The one in Macau?

5           MR. KRAKOFF:   Yes.   The one in Macau.   Excuse me.

6           THE WITNESS:   We're talking about the lawsuit in  
7 Macau; correct?

8 BY MR. KRAKOFF:

9           Q     Yes.

10          A     On the 11th of this month, on July 11th there was  
11 the first ruling of the lower court, and the Macau lower court  
12 dismissed all of our assertions.

13          Q     Now, so, Mr. Takeuchi, is Wynn facing any civil  
14 liability in Macau now from the lawsuit brought by Universal,  
15 Aruze, and Mr. Okada in Macau?

16          THE INTERPRETER:   Excuse me, Your Honor.   The  
17 interpreter is waiting for the screen to catch up.

18          THE COURT:   It's okay.

19          THE WITNESS:   I don't think that there has been any  
20 such thing.   Currently the only ruling has been that  
21 dismissal.

22 BY MR. KRAKOFF:

23          Q     Okay.   Now, finally, Your Honor -- or finally, Mr.  
24 Takeuchi, I want to ask you will Universal or Aruze USA sue  
25 Wynn Macau or anyone affiliated with Wynn Macau for producing

1 documents from Macau in this Nevada litigation?

2 A Are you asking if that would be done from now going  
3 forward?

4 Q Yes.

5 A There is no plan to do so.

6 Q Now I'm going to move to another subject, Mr.  
7 Takeuchi. And I believe this will be my final subject.

8 THE COURT: Some of us don't believe you.

9 MR. KRAKOFF: Excuse me?

10 THE COURT: Some of us don't believe you.

11 MR. KRAKOFF: I promise, Your Honor. I don't have  
12 anything in my outline after this subject.

13 BY MR. KRAKOFF:

14 Q Okay. So I'd like to ask you do you understand, Mr.  
15 Takeuchi, that Wynn Resorts has claimed that Universal and  
16 Aruze and Mr. Okada interfered with Wynn's attempt to obtain  
17 consents under the MPDPA for the disclosure of individuals'  
18 names in this litigation?

19 A Yes.

20 Q Now, has Universal, Aruze, or, to your knowledge,  
21 Mr. Okada interfered in any way with Wynn's -- Wynn Resorts',  
22 Wynn Macau's obtaining consents to disclose anyone's name in  
23 this lawsuit, anyone's name in Macau in this lawsuit?

24 A No. It's our side that has been asking for the  
25 Macau documents to be produced. So there would not have been

1 any interference.

2 Q I want to turn to Mr. Okada for a moment. Do you  
3 know that Wynn Resorts asked for Mr. Okada to provide his  
4 consent to turn over documents from Macau into this  
5 litigation?

6 A Yes.

7 Q Do you know whether Mr. Okada gave a consent or not?

8 A I don't think that he has provided any written  
9 consent.

10 Q And do you know what happened about that consent?  
11 The request for consent. Excuse me.

12 MR. BICE: Objection.

13 THE COURT: Are you objecting on speculation?

14 MR. BICE: Yes.

15 THE COURT: Okay.

16 MR. BICE: And foundation.

17 THE COURT: Sustained. Can you rephrase your  
18 question, please.

19 MR. KRAKOFF: Sure. I'll use an exhibit, Your  
20 Honor, Exhibit 603. I don't know whether that would be in the  
21 same notebook or not. Exhibit 603.

22 THE COURT: No. It's in the next one, I believe.

23 MR. KRAKOFF: I'm sorry?

24 THE COURT: The next notebook.

25 MR. PEEK: It's in Volume 6, if you have it there.



1 May I, Your Honor?

2 THE COURT: You may, Mr. Peek.

3 MR. BICE: This is Exhibit 603; is that correct?

4 MS. SPINELLI: Yes.

5 THE INTERPRETER: I have it. Thank you.

6 BY MR. KRAKOFF:

7 Q Okay. Now, do you have 603 in front of you, the  
8 Japanese translation?

9 A Yes, I have it.

10 Q And have you reviewed this previously?

11 A Yes.

12 Q What do you understand occurred when Wynn Resorts  
13 asked for Mr. Okada's consent?

14 MR. BICE: Objection, Your Honor. Foundation.

15 THE COURT: Sustained. Can you lay some foundation,  
16 please.

17 BY MR. KRAKOFF:

18 Q Is it your job, Mr. Takeuchi, to supervise all of  
19 the litigation and in particular this lawsuit, the redemption  
20 litigation?

21 A It's not only my job, but it is one of my main jobs.

22 Q And do you -- in that capacity do you work with the  
23 lawyers, such as BuckleySandler and Holland & Hart,  
24 specifically, Mr. Peek, throughout this litigation?

25 A Yes.

1           Q     Is that the basis for your understanding about what  
2 occurred when Wynn Resorts requested the consent of Mr. Okada?

3           A     Yes, that's right.

4           MR. KRAKOFF: Your Honor, I submit that we have  
5 established a foundation.

6           THE COURT: Mr. Bice.

7           MR. BICE: Your Honor, he said that he's involved in  
8 the litigation and that he communicates with the law firms.  
9 This is an email between legal counsel that he's not on. If  
10 they want to say that they had forwarded this email to him as  
11 part of the litigation and lay a foundation --

12          THE COURT: Okay.

13          MR. BICE: Otherwise, Mr. Okada would be the witness  
14 to talk about this subject matter.

15          THE COURT: Thank you.

16          MR. KRAKOFF: Excuse me, Your Honor. If I could.  
17 Well --

18          THE COURT: I was going to ask you if you wanted to  
19 say anything else.

20          MR. KRAKOFF: The only thing, Your Honor, is that,  
21 of course, Mr. Bice, you know, raised this issue in his  
22 opening statement.

23          THE COURT: Yes. But the question is does this  
24 witness know about this issue. And if he's not on the email,  
25 how do I know if he knows about it?

1 MR. KRAKOFF: The proffer, Your Honor, would be  
2 that and I thought this came out -- came across from his  
3 testimony, was that he is familiar with this because of his  
4 working with the lawyers and supervising the lawyers who are  
5 representing --

6 THE COURT: That's a general, not a specific.

7 MR. KRAKOFF: I'm sorry?

8 THE COURT: That's a general, not a specific.

9 BY MR. KRAKOFF:

10 Q Did you learn about this -- the Wynn Resorts'  
11 request for consent from the lawyers in the course of your  
12 duties?

13 A I would just like to clarify first of all the reason  
14 that I'm here and the preparation that I have done for my  
15 deposition is all part of my work. Accordingly, the company  
16 pays for my travel expenses. And if I'm not mistaken, this  
17 email I believe was shown to me in the course of my  
18 preparation for my previous deposition.

19 Q And were you asked about this by Mr. Bice in your  
20 deposition?

21 A As I recall, I was. I think I was.

22 MR. KRAKOFF: Your Honor, I think there's a  
23 sufficient foundation. If the Court disagrees, I'll move on.

24 THE COURT: I don't agree. Just because he was  
25 asked about it in a deposition doesn't lay a foundation,

1 Counsel.

2 MR. KRAKOFF: All right. I'll move on. But I would  
3 also say, Your Honor, that are Bice should not be permitted to  
4 ask questions about this issue.

5 THE COURT: I understand your position. I will rule  
6 on objections as they come.

7 BY MR. KRAKOFF:

8 Q Now, has Wynn Resorts, to your knowledge, asked for  
9 consent from anyone else at Universal or Aruze USA other than  
10 Mr. Okada?

11 A I don't think so.

12 Q Has Universal or Aruze tried to stop anyone from  
13 giving a consent under the MPDPA to produce documents from  
14 Macau unredacted in this litigation?

15 A That has never been done. Nor do I think that there  
16 has ever been such a request.

17 Q And how do you know that from your work? Please  
18 explain.

19 A I'm repeating myself regarding this, as well. But  
20 in the course of my day-to-day work, of course, there are  
21 payments to be made and there are agreements. And included in  
22 those agreements are consent agreements. Those are the sorts  
23 of things that are managed within my department. And since  
24 there was no such incidence of that within my work, that's why  
25 I said that.

1           Q     Now, did -- and are you referring to consents by  
2 people at Universal or Aruze?

3           A     Well, since there are no employees at Aruze USA, it  
4 -- in actuality it would be Universal.

5           Q     Okay. Now, beyond Universal did -- Universal  
6 employees did Universal, Aruze, or Mr. Okada try to interfere  
7 in any way with anyone -- anyone giving a consent to Wynn  
8 Macau or Wynn Resorts to produce documents in this litigation  
9 that are unredacted, providing their names in this litigation?

10           MR. BICE: Objection, Your Honor, as to the form of  
11 the question.

12           THE COURT: Overruled.

13           MR. BICE: He can't testify for Mr. Okada.

14           THE COURT: Overruled.

15           THE WITNESS: As far as I know, there was no such  
16 thing.

17 BY MR. KRAKOFF:

18           Q     Now, has anyone at Universal or Aruze tried to  
19 convince the Macau Government to prevent Wynn Resorts from  
20 being able to produce documents in this case in Nevada?

21           MR. BICE: Objection, Your Honor. Speculation.  
22 "Anyone"?

23           THE COURT: Sustained. Can you rephrase your  
24 question, please.

25           //

1 BY MR. KRAKOFF:

2 Q Have any -- are there -- do you know if Universal or

3 Aruze has attempted to convince the Macau Government to

4 prevent Wynn Resorts from being able to produce documents in

5 this case?

6 A Do you mean did Universal approach the Macau

7 Government?

8 Q That's right. To convince the Macau Government to

9 prevent Wynn Resorts, that is, stop Wynn Resorts from being

10 able to produce documents in this case from Macau.

11 A No, that did not take place.

12 MR. KRAKOFF: Your Honor, I have no further

13 questions at this time.

14 THE COURT: Thank you.

15 Would this be a good time for a short break?

16 MR. KRAKOFF: It is for us, Your Honor.

17 THE COURT: Okay. Ten minutes.

18 (Court recessed at 3:31 p.m., until 3:42 p.m.)

19 THE COURT: Are you ready, Mr. Bice?

20 MR. BICE: We're waiting for Ms. Spinelli, Your

21 Honor. She'll be right back.

22 We are ready, Your Honor.

23 THE COURT: I have been.

24 MR. BICE: Right. Thank you.

25 //

1 CROSS-EXAMINATION

2 BY MR. BICE:

3 Q Good afternoon, Mr. Takeuchi.

4 A Good afternoon.

5 Q Mr. Takeuchi, do you remember giving your deposition  
6 on June 16th of this year?

7 A Not all, but I think I roughly remember it.

8 Q Do you remember telling us that the law -- that you  
9 understood that the law in Macau was that you couldn't release  
10 documents with people's names in them without their consent?

11 MR. KRAKOFF: Your Honor, I have an objection before  
12 the answer.

13 THE COURT: Okay.

14 MR. KRAKOFF: Regarding his deposition I believe  
15 that -- I submit that Mr. Bice should put the transcript of  
16 that deposition in front of him if he's going to question him  
17 about it. [Inaudible] in Japanese.

18 THE COURT: Doesn't have to under Nevada rules.

19 However, Mr. Bice, if you're going to impeach with  
20 it, we probably should publish it.

21 MR. BICE: I would, Your Honor. It's not my intent  
22 to impeach him. I don't believe he disputes this. If he  
23 does, well, then --

24 THE COURT: All right.

25 MR. BICE: -- I might have to do that. But I don't

1 think he disputes it.

2 THE COURT: Well, then keep going and let's see.

3 THE INTERPRETER: The witness had -- gave an answer  
4 already. May the interpreter --

5 MR. BICE: Yes. Would you repeat the question, Mr.  
6 Interpreter.

7 (Question repeated by interpreter)

8 THE WITNESS: Yes.

9 BY MR. BICE:

10 Q Okay. And it's your testimony to the Court today  
11 that neither Universal, Aruze, or Okada have done anything to  
12 impede documents coming out of Macau; correct?

13 A Yes.

14 Q Do you remember, Mr. Takeuchi, at your deposition  
15 that I asked you whether you personally would be willing to  
16 give a consent under the MPDPA?

17 A Well, as for that I don't remember that.

18 Q Okay. You don't or can't remember refusing to  
19 answer the question because your legal counsel, Mr. Krakoff,  
20 told you not to answer that question, sir?

21 THE COURT: Mr. Krakoff, do you want to say  
22 something?

23 MR. KRAKOFF: Objection to relevance.

24 THE COURT: Overruled.

25 THE WITNESS: I don't remember clearly.



1 BY MR. BICE:

2 Q Mr. Takeuchi, are you willing to give us your  
3 consent today?

4 A For what use?

5 Q Why is that important to you?

6 A Well, I don't know if my personal information is in  
7 Macau, but assuming that it is Macau, isn't it important piece  
8 of information to know that information, you know, will be put  
9 to what use? You know, isn't that an important piece of  
10 information to know to make that decision?

11 Q So you would want to make sure that you knew all of  
12 the pertinent facts before you gave your consent; is that  
13 right?

14 MR. KRAKOFF: Objection, Your Honor. Foundation.

15 THE COURT: Overruled.

16 THE WITNESS: I now recall this now. I think I  
17 talked about this in deposition. There's a similar law in  
18 Japan, as well. Well, it's not the case that I know all the  
19 details in the provisions of the PDPA in Macau, Macau PDPA,  
20 but -- so I can't say for sure. But at least with respect to  
21 the Japanese personal information protection law there's -- in  
22 the consent one is supposed to write a reason for the consent,  
23 in other words, for what use one is consenting is written. I  
24 think that's supposed to be written down.

25 //

1 BY MR. BICE:

2 Q And it's important that you know the facts before  
3 you give the consent; is that fair?

4 A That's correct.

5 Q All right. Now that you've thought about it a  
6 little bit more do you remember at your deposition telling me  
7 that you wouldn't answer the question about whether you would  
8 give a consent or not?

9 A Well, I'm answering this now. But I don't think it  
10 was the case that I didn't -- I wouldn't answer based on my  
11 judgment at my deposition.

12 Q Are you willing to give your consent today, Mr.  
13 Takeuchi?

14 A If there's a consent -- written consent and a reason  
15 for what use is written there and if I make a decision that  
16 there's no problem in particular, I would sign it.

17 Q Okay. But you can't tell us today whether you would  
18 or would not; is that fair? You would need to first evaluate  
19 the scope of that consent; is that right?

20 MR. KRAKOFF: Objection. It's been asked and  
21 answered, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: Yes. That's a matter of course.

24 BY MR. BICE:

25 Q So no one -- no one ever told you that Wynn Macau

1 was requesting consents for Universal employees such as  
2 yourself and others; is that correct?

3 MR. KRAKOFF: Objection. That lacks foundation.

4 THE COURT: Overruled.

5 MR. KRAKOFF: Calls for speculation.

6 THE WITNESS: I never heard that.

7 BY MR. BICE:

8 Q Okay. And you know that Mr. Okada would not give  
9 his consent; correct?

10 A You mean Mr. Okada did not?

11 Q You understand -- let me rephrase. You understand  
12 that Mr. Okada would not give his consent and did not give his  
13 consent?

14 MR. KRAKOFF: Objection, Your Honor. That assumes  
15 facts not in evidence. He couldn't even look at the document  
16 that Mr. Bice objected to.

17 THE COURT: Overruled.

18 THE WITNESS: I understand that he did not give his  
19 consent. However, as for whether or not he would not, it's a  
20 hypothetical question, so I don't know.

21 BY MR. BICE:

22 Q Okay. So even though you knew that Macau law  
23 wouldn't allow documents out of Macau without consents, you  
24 never sought any consents from anyone; is that correct?

25 MR. KRAKOFF: Objection. Assumes facts not in

1 evidence. If there's some evidence that Wynn has --

2 THE COURT: Mr. Krakoff, don't make a speaking  
3 objection. That's the one thing that will get a contempt  
4 finding in this proceeding.

5 MR. KRAKOFF: Sorry, Your Honor.

6 THE COURT: Thank you.

7 The objection's overruled. You may continue, Mr.  
8 Bice.

9 THE WITNESS: I never sought any consent. Did I?  
10 Did I?

11 BY MR. BICE:

12 Q Yes. Did you or anyone else at Universal or Aruze,  
13 to your knowledge?

14 A No one did.

15 Q Okay. But you earlier were telling the Court that  
16 you wanted as many documents to come out of Macau as possible;  
17 correct?

18 A I did.

19 Q And you never -- just so that we're clear, Universal  
20 has a relationship with representatives at PAGCOR, does it  
21 not?

22 MR. KRAKOFF: Objection. Vague. Ambiguous.

23 THE COURT: Can you rephrase your question, please.

24 BY MR. BICE:

25 Q Does Universal or any of its subsidiaries have any

1 form of a business relationship with PAGCOR?

2 A Yes, it did, and it does.

3 Q And you -- so you know the people at PAGCOR and you  
4 could ask them for their consents if you wanted them to  
5 authorize a release of documents out of Macau; correct?

6 MR. KRAKOFF: Objection. Calls for speculation.

7 THE COURT: Overruled.

8 THE WITNESS: If asking for their consent was  
9 necessary, I think would have done so.

10 MR. BICE: Can I get that answer read back to me?

11 (Answer read back)

12 BY MR. BICE:

13 Q Okay. And no one told you that it was necessary; is  
14 that correct?

15 A Correct. No one told me that it would be necessary  
16 or no one asked me to obtain consent. There was no such thing  
17 at all.

18 Q Mr. Takeuchi, as part of your interest in making  
19 sure as many documents come out of Macau as possible did that  
20 also include attempting to institute a criminal prosecution of  
21 Wynn Macau in Macau?

22 MR. KRAKOFF: Objection, Your Honor. Under secrecy  
23 of justice like the grand jury secrecy here. They have the  
24 same kind of rule in Macau.

25 MR. BICE: I'm sorry, Your Honor.

1 THE COURT: Excuse me. I don't understand that  
2 objection, Mr. Krakoff. Can you do it again.

3 MR. KRAKOFF: Your Honor, in -- similar to U.S.  
4 grand jury secrecy rules, Macau criminal law mandates secrecy  
5 of justice to criminal investigations and prohibits sharing  
6 information on criminal investigations in Macau.

7 THE COURT: Okay. And why do you think that binds  
8 me?

9 MR. KRAKOFF: Simply, Your Honor, based upon --  
10 we're making this objection based upon our counsel in Macau  
11 that has advised us that we -- that this is the rule there and  
12 we're supposed to make this objection here.

13 THE COURT: Okay. Overruled.

14 MR. BICE: Well, Your Honor, our problem with that  
15 is --

16 THE COURT: I already overruled the objection.

17 MR. BICE: Okay.

18 THE COURT: Can we keep going.

19 MR. BICE: All right. Thank you.

20 Can the interpreter read him the question, please.

21 THE WITNESS: Well, first of all I'd like to say you  
22 said interest. But it's not the case that I wanted to get  
23 documents from Macau out of my personal interest. Well, I'm  
24 saying I want those documents because -- for the lawsuit that  
25 is going on in Nevada that started in 2012, for this lawsuit

1 I'm saying I want those documents. So that is why I made that  
2 request in 2014. Accordingly, criminal prosecution in Macau,  
3 you know, things like that has nothing to do with us.

4 THE COURT: Okay. Sir, can you please answer the  
5 question.

6 THE WITNESS: What question?

7 MR. BICE: I'll rephrase, Your Honor.

8 BY MR. BICE:

9 Q On March 23 of 2015, Mr. Takeuchi, did Universal,  
10 Aruze, and Mr. Okada commence -- or request a criminal  
11 prosecution of Wynn Macau and Mr. Wynn personally?

12 A I don't know that.

13 Q Who would know that?

14 A Wouldn't the police in Macau know that?

15 Q You're testifying to Her Honor that you don't know  
16 anything about the company attempting to commence criminal  
17 proceedings in Macau against Wynn Macau; is that right?

18 MR. KRAKOFF: Objection. Mischaracterizes  
19 testimony.

20 THE COURT: Objection overruled.

21 THE WITNESS: Correct. Or it could be I don't  
22 recall. I don't know whether such criminal prosecution was  
23 done or being done or -- I don't know.

24 BY MR. BICE:

25 Q Who's your lawyer in Macau? When I say yours,

1 Universal or Aruze's.

2 A Attorney Sa.

3 Q Can you spell that for us? Is that S-I?

4 A S-A.

5 Q Oh. S-A. My apologies.

6 So, Mr. Takeuchi, do you believe it was -- it is a  
7 crime under Macau law to release documents -- for Wynn Macau  
8 to release documents to Wynn Resorts?

9 MR. KRAKOFF: Objection. Calls for a legal  
10 conclusion.

11 THE COURT: Overruled.

12 THE WITNESS: Whether it is illegal for Wynn Macau  
13 to disclose information to Wynn Resorts?

14 BY MR. BICE:

15 Q Yes.

16 A For the purpose of this discovery?

17 Q For any purpose.

18 A I think I said this at my deposition last month. I  
19 think it's case by case.

20 Q Do you believe it was a crime for Wynn Macau to  
21 release documents to Wynn Resorts concerning the PAGCOR  
22 representatives?

23 A Are you referring to a lawsuit -- are you referring  
24 to a lawsuit filed in 2015? I would like to have that  
25 clarified.



1           Q     No. I'm referring to a request for prosecution with  
2 the public prosecutor's office that you all made in Macau in  
3 March of 2015.

4           A     And then what was your first question?

5           Q     Do you believe it was a crime for Wynn Macau to  
6 release documents to Wynn Resorts concerning the PAGCOR  
7 representatives?

8           A     A crime? I don't know whether it would correspond  
9 to a crime, because I think that would be a case by case.

10          Q     Okay. So you don't know whether criminal penalties  
11 are available under the MPDPA; is that right?

12          A     Well, some -- I have some mention that Wynn Macau  
13 paid a fine, some very small amount of money in connection  
14 with MPDPA, but other than that I don't know anything.

15          Q     All right. You have affiliation with -- strike  
16 that. Let me phrase it this way.

17                 Do you sit on the board of any gaming company?

18          A     Well, the -- a project that Universal is conducting  
19 in Macau there is -- Manila, interpretation correction.  
20 There's a project that Universal is implementing in Manila.  
21 It's a casino-resort project, and there's an operating company  
22 for this project. I was made a member of the board of this  
23 operating company last month.

24          Q     Are you a gaming licensee in any jurisdictions?

25          A     I am not.

1 Q Okay. But are other people affiliated with  
2 Universal licensed by any gaming regulators?

3 A I think there is someone, but I don't recall now.

4 Q You understand, Mr. Takeuchi, that it's a very  
5 serious matter for a gaming licensee to be accused of a crime?

6 A Yes, I think so.

7 Q And those matters have to be taken very seriously by  
8 the gaming licensee, do they not?

9 A I would think so.

10 Q And the gaming licensee needs to take all steps that  
11 they can to make sure that they don't do anything that would  
12 constitute a crime anywhere; correct?

13 MR. KRAKOFF: Your Honor, this is questions going to  
14 merits discovery --

15 THE COURT: Overruled.

16 MR. KRAKOFF: -- or merits of the case.

17 THE COURT: Overruled.

18 THE WITNESS: I'd like to hear the question once  
19 again. In Japanese is fine.

20 (Interpreter repeats question in Japanese)

21 THE WITNESS: Well, I don't know details, but I  
22 understand that a report has to be made to somebody like a  
23 gaming control board to the effect one has not committed a  
24 crime or one is not involved in any crime, I think.

25 //

1 BY MR. BICE:

2 Q And if they do commit a crime, even if it's not  
3 intentional, it can still be a serious matter; correct?

4 MR. KRAKOFF: Objection. Speculation.

5 THE COURT: Overruled.

6 THE WITNESS: I think there is a possibility.

7 BY MR. BICE:

8 Q And if in fact they are -- they do something wrong,  
9 the company might have to take action against an employee if  
10 they have committed a crime even unintentionally; right?

11 A Well, if an employee commits a crime, even if it's  
12 unintentional, if that's the case, then at least an  
13 investigation would be conducted.

14 Q And they might have to be removed from the company;  
15 correct?

16 A There is such a possibility.

17 Q Is it fair to say, Mr. Takeuchi, as a board member  
18 -- is it Tiger Resorts that you're on the board of?

19 A That's correct.

20 Q Is it fair to say that you would -- as a board  
21 member would never be willing to vote in a manner that would  
22 allows laws to be broken?

23 MR. KRAKOFF: Objection, Your Honor. That --

24 THE COURT: Sustained. Can you rephrase your  
25 question.

1 MR. BICE: Sure.

2 BY MR. BICE:

3 Q Is it fair to say, Mr. Takeuchi, that as a board  
4 member you believe that the board should follow the laws in  
5 the jurisdictions where it does business?

6 A I think so.

7 Q Is it fair to say you would have never --

8 A I believe so.

9 Q Is it fair to say you would never cast a vote to  
10 violate the law in any jurisdiction where you do business?

11 MR. KRAKOFF: Objection, Your Honor.

12 THE COURT: Okay. And your objection is? You've  
13 got to give me some basis sometimes.

14 MR. KRAKOFF: It's just irrelevant to this  
15 proceeding.

16 THE COURT: Overruled on that basis.

17 THE WITNESS: I'd like to hear the question in  
18 Japanese once again.

19 BY MR. BICE:

20 Q Of course.

21 (Interpreter repeats question in Japanese)

22 THE WITNESS: If it's clearly a violation of a law,  
23 I would oppose it.

24 BY MR. BICE:

25 Q Well, if the government had told you not to do it,

1 you would oppose it; correct?

2 MR. KRAKOFF: Objection. Relevance and speculation.

3 THE COURT: Sustained on speculation. Next?

4 BY MR. BICE:

5 Q All right, Mr. Takeuchi. When you prepared to  
6 testify as the 30(b)(6) designee for Aruze and Universal did  
7 you prepare to testify about any contacts with the  
8 prosecutor's office in Macau?

9 A No, I did not.

10 Q You were telling Her Honor earlier today how the  
11 company hadn't had any contact with anyone in the government  
12 of Macau about the release of documents. Do you know whether  
13 or not anyone at Universal or Aruze had had contact with the  
14 prosecutor's office in Macau?

15 A Prosecutor's office?

16 Q Yes.

17 A No, I don't know.

18 Q Do you even know whether others at Universal or  
19 Aruze have had contact with other government officials in  
20 Macau about the MPDPA, or do you just not know?

21 A When I said I don't know what I meant to say was I  
22 don't know that being the fact, being a truth.

23 Q Do you know whether there has been any contact with  
24 any government officials in Macau about enforcing the MPDPA  
25 against Wynn?

1           A     Government officials or prosecutors? Or are you  
2 asking about both?

3           Q     Both. Either one.

4           A     I don't know such a thing happened.

5           Q     Okay. Did you contact Attorney Sa and ask him  
6 whether he was in contact with any government officials about  
7 the MPDPA?

8                   THE INTERPRETER: The interpreter would like to  
9 start again.

10                  THE COURT: Okay.

11                  THE WITNESS: I have interactions with Attorney Sa  
12 about the lawsuit in Macau, civil lawsuit in Macau, but I've  
13 never had any contact with him with regard -- with regards to  
14 whether he had any contact with Macau Government officials or  
15 prosecutors.

16 BY MR. BICE:

17           Q     Does Mr. Okada have contact with Attorney Sa, do you  
18 know?

19           A     I don't think he does.

20           Q     So who at Universal or Aruze would be authorized to  
21 institute criminal proceedings against Wynn Macau, Steven  
22 Wynn, and others?

23           A     Well, the authorization or authority to file a  
24 lawsuit lies with the board of directors.

25           Q     How about asking for a criminal prosecution? Does

1 that also lie with your board of directors?

2 A When you say asking for criminal prosecution --

3 Q Yes.

4 A -- you mean does Universal say do that itself, or  
5 you mean does Universal file a request for prosecution? Or  
6 does -- you mean Universal asks for prosecution?

7 Q Universal asks for prosecution.

8 A Well, let me see. In actuality there's no policy or  
9 rule that -- as to who has authority to request a criminal  
10 prosecution in actuality. But probably I think it lies with  
11 the board of directors.

12 Q And that included Chairman Okada until very  
13 recently; correct?

14 A Correct.

15 Q All right. On the -- I may come back to that, but  
16 let's go to the civil lawsuit that Universal and Aruze filed  
17 in -- strike that.

18 First I want to go to Exhibits -- they're already in  
19 evidence -- 546 -- or 564 and 565. You should have --

20 THE COURT: I believe that's Volume 3.

21 MR. BICE: He should have those in front of him  
22 still.

23 Dustin, can you pull that up. Pull me up the  
24 English version, please [inaudible].

25 May I approach, Your Honor?

1 THE COURT: You may.

2 BY MR. BICE:

3 Q You don't dispute, do you, Mr. Takeuchi, that you  
4 actually received this email?

5 A I don't remember it, but I think I received it.

6 Q And do you recall protesting what -- the contents of  
7 this email to anyone when you received it?

8 A Protesting?

9 Q Yes. Complaining about it or opposing it.

10 A I have no recollection whatsoever.

11 Q All right. And Mr. Okada was authorized to make  
12 this agreement at the time on behalf of Universal; correct?

13 A Ordinarily there are several levels or steps in  
14 these things, say. The highest level would be that approval  
15 by the board of directors needed, and the next level, at the  
16 next level president's approval would be needed. And so for  
17 Chairman Okada, he cannot enter into contracts or agreements,  
18 some sort of agreements by himself.

19 Q How about Mr. Terada? Could he enter into  
20 agreements?

21 A At the time, if my recollection is correct, back in  
22 2012 I think Terada was a member of the board of Tiger  
23 Resorts. However, of course he did not have such authority or  
24 authorization.

25 Q So it's your understanding, though, this agreement



1 was made in March of 2012 in Hong Kong at a meeting; is that  
2 right?

3 MR. KRAKOFF: Objection to agreement --

4 THE COURT: Overruled.

5 THE WITNESS: Yes. This email said so.

6 BY MR. BICE:

7 Q Okay. And Chairman Naguiat was chairman of PAGCOR  
8 for how many years after -- how long after March 11 of 2012?

9 A I'm sorry. I don't recall.

10 Q Was it number of years?

11 A The changes occur roughly every two years in the  
12 Philippines. Currently Tutalkai [phonetic] -- oh. He is  
13 president. But his administration changes -- administration  
14 changes occur about every two years, say 2016, so 2014,  
15 2012 --

16 Q Okay.

17 A -- 2010. And I -- you know, I'm not -- my  
18 recollection, I'm not sure about my recollection. But in the  
19 Philippines elections are held in June, and Chairman Naguiat,  
20 if he switched at that time -- it's not that I recall clearly,  
21 but if change occurred, if Chairman Naguiat changed at the  
22 time of the election in June, then he would have been chairman  
23 only a sort time, three or four months only.

24 Q Okay. Well, was this agreement that was -- that's  
25 listed here, wasn't it implemented while he was chairman?

1           MR. KRAKOFF: Objection, Your Honor. What agreement  
2 is he speaking of?

3           THE COURT: Sustained. Can you rephrase your  
4 question, please.

5 BY MR. BICE:

6           Q     The agreement that is exhibited in Exhibit 564 and  
7 565, which is the English translation, Mr. Takeuchi, this  
8 agreement was in fact implemented, was it not?

9           MR. KRAKOFF: Same objection, Your Honor.

10          THE COURT: And are you referring to paragraph 1, or  
11 paragraph 2?

12          MR. BICE: I'm talking about the agreement as a  
13 whole, Your Honor. It was in fact implemented.

14          THE COURT: Okay.

15          THE WITNESS: Well, it was not. To say further,  
16 such a contract or agreement was not entered into.

17 BY MR. BICE:

18          Q     Who told you that?

19          A     Well, I touched on this earlier, too. But any  
20 contracts, agreements, all contracts and agreements that  
21 relate to overseas in particular, they all go through the  
22 division I supervise. In the course of such work of mine  
23 there is no record indicating that such a contract or such an  
24 agreement was ever signed.

25          Q     Was paragraph number, as just an example, was that

1 actually completed, Mr. Takeuchi?

2       A     Well, in the Philippines there were some legal  
3 questions, possible legal questions, I recall, concerning the  
4 form of a company that would own land or I should say more  
5 specifically the form of investment. And in actuality such  
6 legal questions were not 100 percent clear back then, and I  
7 think, roughly speaking, about two years ago that became  
8 clear. So I don't think it was resolved, those questions or  
9 doubts were resolved as of this time.

10       Q     Mr. Takeuchi, how long after this meeting in March  
11 of 2012 was the ownership ratio of Eagle 1 [phonetic] changed?

12       MR. KRAKOFF:  Objection, Your Honor.  This is merits  
13 discovery that he's trying to get.

14       THE COURT:  So, Mr. Bice, can you tell me how this  
15 relates to the prejudice issue and my sanctions hearing.

16       MR. BICE:  Absolutely, Your Honor.  This is a single  
17 agreement.  I would also tell the Court I intend to ask this  
18 witness about payments made to Chairman Naguiat and anyone  
19 else at PAGCOR pursuant to this agreement, the reason being  
20 this is a single agreement.  They have an arrangement, and  
21 that arrangement included a number of things that they were  
22 doing.  And one of those arrangements was to coordinate on the  
23 MPDPA and attempting to cause trouble for Wynn Resorts -- or  
24 Wynn Macau in Macau under the MPDPA.  And again, Your Honor,  
25 this witness claims he doesn't know anything about a criminal

1 prosecution, which I'm going to talk to you about after the  
2 witness is excused, because I think that there'd been a  
3 violation of some Court orders. But, nonetheless, with  
4 respect to this issue this is a single agreement. You know,  
5 he comes in and says, well, we didn't implement paragraph 5,  
6 we never -- I mean, he wasn't part of the lawsuit. That  
7 doesn't negate the fact that they have an overall agreement  
8 here and what they're doing is coordinating on all these  
9 various aspects. Look the how they're talking about  
10 coordinating public relations, coordinating the transfer of  
11 the property, coordinating litigation over the MPDPA. This  
12 will confirm that in fact this agreement, which he now says  
13 wasn't implemented, was in fact implemented.

14 MR. KRAKOFF: Objection, Your Honor. This is  
15 straight up merits discovery.

16 THE COURT: So, Mr. Bice, let me go back to what I'm  
17 trying to establish in this hearing.

18 MR. BICE: Yes.

19 THE COURT: I understand your concern long term with  
20 this agreement, but how does that impact my sanctions hearing  
21 I'm currently in?

22 MR. BICE: Your Honor, this -- these parties,  
23 although telling you and offering testimony you today about  
24 how they have done nothing in Macau to elevate the MPDPA or in  
25 any way, shape, or form impede the ability to get documents

1 out of Macau, they have in fact since the beginning of 2012  
2 been doing the exact opposite. They have been -- ten days  
3 after this meeting --

4 THE COURT: Well, then you can -- then you can argue  
5 to me later that this witness lied and I should therefore  
6 disregard all his testimony. That's the remedy. The remedy  
7 isn't, you know, to continue asking him about a issue that I  
8 will resolve in about 12 months when we start the portion of  
9 the trial with a jury; right?

10 MR. BICE: I understand. I'm really not trying to  
11 waste your time, Your Honor, but this witness has been allowed  
12 to, with all due respect, in my view, tell a story of how  
13 innocent -- how innocent they are.

14 THE COURT: Okay, Mr. Bice. I'm able to figure out  
15 when people aren't telling me the truth.

16 MR. BICE: All right.

17 THE COURT: Now, I'm not as good at it as some other  
18 judges, but I can usually tell in a Business Court matter.

19 MR. BICE: So is the Court -- are we stopping at  
20 5:00 today, Your Honor?

21 THE COURT: Yes.

22 MR. BICE: Okay.

23 THE COURT: Please.

24 MR. BICE: I'd like to stop five minutes early,  
25 because I want to talk to you about something before we break

1 for the day.

2 THE COURT: All right. Well, it's 4:44. So  
3 whenever you're ready to break you let me know.

4 MR. BICE: Thank you, Your Honor.

5 THE INTERPRETER: Excuse me, Your Honor.

6 THE COURT: Yes.

7 THE INTERPRETER: The interpreter would like to  
8 bring to the Court's attention that she seems to have a  
9 problem with the real time and we aren't getting anything --  
10 any recent feed on our screen.

11 THE COURT: Okay. So we've got a problem with the  
12 real time, so maybe we should break for the day now and we'll  
13 worry about the technical problem tomorrow. How's that?

14 MR. BICE: Fine, Your Honor.

15 THE COURT: Okay. Thank you, Mr. and Ms.  
16 Interpreter. We appreciate your time and thank you for your  
17 diligence of trying to do a great job.

18 MR. PEEK: Before Mr. Bice has his conversation with  
19 the Court may we take a restroom break, Your Honor?

20 THE COURT: Sure.

21 Ms. Court Reporter, wonderful job keeping them on  
22 track.

23 Okay, guys. If somebody wants a restroom break, go  
24 now, because we're going to get out of here.

25 (Court recessed at 4:49 p.m., until 4:53 p.m.)

1 MR. BICE: Your Honor, I've talked with my -- I've  
2 talked with my folks. What I was going to ask the Court to do  
3 I'm not going to. So my apologies for the delay.

4 THE COURT: Don't make any apologies to me. So can  
5 we be done now? Because I've had a really long day. And it's  
6 not all you guys, it's all my stuff I was doing.

7 MR. BICE: Which courtroom are we in tomorrow, Your  
8 Honor?

9 THE COURT: We're in this courtroom, but we do not  
10 start until 9:30, and you can't leave your stuff here, because  
11 Judge Bonaventure has his homeless folks coming in the  
12 morning.

13 MR. PEEK: You don't mean we have to take all this  
14 stuff, though, Your Honor?

15 THE COURT: No. He only meets down in the well. He  
16 says he doesn't use the bench because I guess he sits down  
17 there with them and talks to them.

18 MR. PEEK: Your Honor, Mr. Krakoff says he has  
19 something.

20 MR. KRAKOFF: Your Honor, I have one --

21 THE COURT: What is it, Mr. Krakoff?

22 MR. KRAKOFF: -- thing quickly, Your Honor. Mr.  
23 Bice is going to --

24 THE COURT: Guys, I have Mr. -- come on.

25 MR. KRAKOFF: Ready?

1 THE COURT: Jill's on. Jill's the record.

2 MR. KRAKOFF: Your Honor, Mr. Bice has been accusing  
3 this witness of lying throughout the last hour. He needs to  
4 make a proffer if he's got any evidence that payments were  
5 made or there was coordination. That is only fair, it's  
6 appropriate, it's -- he should put the evidence out there  
7 without -- because his allegations are nothing more than hot  
8 air. If he's going to confront -- if he's going to tell the  
9 Court there's all this illegality going on, let's see it.

10 THE COURT: All right. Thank you, Mr. Krakoff.  
11 Anything else? I'll let you guys work it out tomorrow.

12 MR. BICE: Thank you, Your Honor.

13 THE COURT: Anything else?

14 MR. PEEK: I share Mr. Krakoff's concerns, Your  
15 Honor, because I heard the same refrain in another proceeding  
16 that I'm hearing echoed here today by Mr. Bice.

17 THE COURT: I'm having flashbacks today.

18 MR. PEEK: I am having flashbacks, as well, Your  
19 Honor. And they're actually not good flashbacks. Since  
20 [inaudible] group here to help us.

21 MS. SPINELLI: So do we.

22 MR. BICE: We're having flashbacks, too, Your Honor.

23 THE COURT: All right. So everybody's having  
24 flashbacks about Jacobs-Sands and the evidentiary hearings in  
25 that. But at least we didn't screw up the review of documents



1 that were used to refresh recollection in this case, because  
2 we knew that the Supreme Court wanted us to stop and do it  
3 right then and not keep going.

4 MR. PISANELLI: I don't think we screwed it up that  
5 time, either, Judge.

6 THE COURT: Well, they did.

7 MR. PISANELLI: Theirs is the only opinion that  
8 counts.

9 THE COURT: It is. Anything else before we break?

10 MR. PISANELLI: Thank you.

11 THE COURT: Anybody else have a problem that I need  
12 to know about?

13 MR. PEEK: Hope my flashbacks go away tomorrow.

14 THE COURT: And, Mr. Campbell, you're going to do  
15 your meeting at lunchtime?

16 MR. CAMPBELL: No, Your Honor. I'm going to do it  
17 on the break. I'm going to do it at 9:00 o'clock tomorrow  
18 morning.

19 THE COURT: All right. So you're going to do it  
20 before we start. All right. Okay. Is there anything else I  
21 need to do from your planning perspective? Remember we're  
22 starting after Judge Bonaventure finishes, whatever time that  
23 is.

24 (Court recessed at 4:56 p.m., until the following day,  
25 Thursday, July 27, 2017, at 9:30 a.m.)

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EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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DEFENDANTS' EXHIBIT NO.

512A	96
564, 565	112
568	96
577	96

\* \* \*

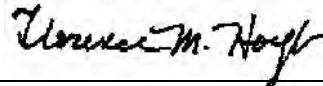
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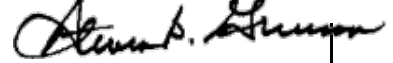
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DATE



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

WYNN RESORTS LIMITED	.	
	.	
Plaintiff	.	CASE NO. A-12-656710-B
	.	
vs.	.	
	.	
KAZUO OKADA, et al.	.	DEPT. NO. XI
	.	
Defendants	.	<b>Transcript of</b>
	.	<b>Proceedings</b>
. . . . .	.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING - DAY 2**

THURSDAY, JULY 27, 2017

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 L. SPINELLI, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.  
ROBERT J. CASSITY, ESQ.  
BRYCE KUNIMOTO, ESQ.  
DAVID KRAKOFF, ESQ.  
LAURA RANDELL, ESQ.  
DONALD JUDE CAMPBELL, ESQ.

ALSO PRESENT:

MR. SADAANKI MATSUTANI  
MS. LINDA RUBENSTEIN-BLEDSTEIN  
Interpreters

1 LAS VEGAS, NEVADA, THURSDAY, JULY 27, 2017, 9:34 A.M.

2 (Court was called to order)

3 MR. BICE: I wouldn't have had Schall in the  
4 courtroom, Your Honor. Actually, I think yesterday Your Honor  
5 asked if anybody was invoking the rule of exclusion, and --

6 THE COURT: I did ask that yesterday. Nobody  
7 responded.

8 MR. PEEK: I didn't hear, Your Honor.

9 MR. BICE: I actually think we did respond, because  
10 I think everybody said no.

11 MR. PEEK: I did not, Your Honor.

12 MR. BICE: And I wouldn't have had Mr. --

13 THE COURT: Guys, don't -- Mr. Peek, let him finish.

14 MR. PEEK: I'm invoking the rule of exclusion. He  
15 can [inaudible].

16 MR. BICE: I wouldn't have had Mr. Schall come over  
17 here to just sit if that was going to be the maneuver. So I  
18 object to it. I think it's highly inappropriate. You asked  
19 yesterday, and they said no. If it was going to be invoked --  
20 I don't know who else they've had sitting in this room,  
21 because they didn't invoke the rule. So I think it's  
22 completely inappropriate.

23 THE COURT: Okay. So if there's anybody who is a  
24 witness who is not a party representative and anticipates  
25 being called, if you'll please wait in the hallway. I know

1 it's not very comfortable. You may actually want to leave  
2 your cell phone number with somebody and go down to the coffee  
3 shop downstairs.

4 MR. BICE: Well, I don't know who I'm going to call  
5 as rebuttal in this, so I would like all of their personnel to  
6 leave the room.

7 THE COURT: Okay. Then tell me who those people  
8 are, Mr. Bice.

9 MR. BICE: Well, I don't know. They'll have to tell  
10 us.

11 MR. PEEK: We have no witnesses here, Your Honor.  
12 We have --

13 THE COURT: So, Mr. Peek --

14 MR. PEEK: There are lawyers [inaudible].

15 THE COURT: Is anyone here on your side of the room  
16 not an employee of a law firm?

17 MR. KRAKOFF: Other than our translator --

18 THE COURT: Besides your interpreter. Because she's  
19 not going to be a witness.

20 MR. BICE: Right.

21 THE COURT: All right.

22 MR. BICE: Yep. Okay.

23 THE COURT: So I did that --

24 MR. BICE: Thank you, Your Honor.

25 THE COURT: -- inquiry for you. Are we ready to

1 resume?

2 MR. BICE: No. I'm waiting for Mr. Pisanelli and  
3 Ms. Spinelli, Your Honor. My apologies.

4 THE COURT: It's okay. It's only 9:31. For the  
5 record, Judge Bonaventure got done at 9:05 and said we could  
6 come up and start.

7 MR. BICE: All right.

8 THE COURT: I was pretty sure was going to be early  
9 because of what he was telling me. He felt awful that I had  
10 reserved it 45 days in advance and he matters on calendar.

11 MR. BICE: Okay.

12 (Pause in the proceedings)

13 THE COURT: Hold on a second.

14 MR. PEEK: Okay.

15 (Pause in the proceedings)

16 THE COURT: Okay. Mr. Peek, you wanted to say  
17 something.

18 MR. PEEK: Your Honor, this is just a heads up. I'm  
19 actually waiting for Mr. Cassity. But late --

20 THE COURT: So you're stalling.

21 MR. PEEK: Pardon?

22 THE COURT: So you're now stalling.

23 MR. PEEK: I'm not stalling anything, Your Honor.  
24 I'm just giving the Court a heads up, because Mr. Cassity is  
25 putting the finishing touches on a supplemental --



1 THE COURT: Is Mr. Bice even in the room?

2 MR. KRAKOFF: No. Nobody's there, Your Honor.

3 MR. PEEK: I didn't know that he left.

4 THE COURT: I can't have a discussion with you. I  
5 mean, I can about your daughter and college and stuff like  
6 that.

7 MR. PEEK: Yeah.

8 THE COURT: But I can't talk to you about the case.

9 MR. PEEK: I thought he was still here. I didn't  
10 see him leave.

11 THE COURT: He's not. I see nobody except Mr.  
12 Campbell, and he doesn't represent them all.

13 MR. PEEK: He does not. So we'll wait.

14 THE COURT: Thank you.

15 MR. BICE: Your Honor, Mr. Schall was our 30(b)(6)  
16 witness. Mr. Schall will be the company's representative, so  
17 he could be in the courtroom, I assume.

18 MR. PEEK: If he's going to be company's  
19 representative, if he is the company's representative --

20 THE COURT: Is he the company's representative for  
21 purposes of this hearing?

22 MR. BICE: Yes.

23 THE COURT: Because you only get one company  
24 representative for the company.

25 MR. BICE: I understand, Your Honor.

1 THE COURT: Okay. Then he can stay.

2 MR. PEEK: May I have a moment, Your Honor?

3 [Inaudible].

4 THE COURT: Yeah.

5 MR. BICE: Your Honor, we're just going to have him  
6 stay outside. We're not going to --

7 THE COURT: I don't care.

8 MR. BICE: We're not going to participate in this  
9 nonsense that went on this morning.

10 THE COURT: All right. So --

11 MR. BICE: Thank you.

12 THE COURT: -- sir, go get coffee. Leave us your  
13 cell phone number. We'll call you.

14 MR. SCHALL: Thank you.

15 (Pause in the proceedings)

16 THE COURT: Just stop arguing amongst yourselves.  
17 Is it possible for us to begin this morning? It's 9:35.

18 Mr. Peek, is it possible for us to begin this  
19 morning?

20 MR. PEEK: I am ready, Your Honor.

21 THE COURT: Great. Can we swear the interpreter  
22 team in, please.

23 INTERPRETERS SWORN

24 THE CLERK: Thank you. Will you please state and  
25 spell your name for the record.

1 MR. MATSUTANI: Sadaaki Matsutani, S-A-D-A-A-K-I,  
2 last name M-A-T-S-U-T-A-N-I.

3 MS. RUBENSTEIN-BLEDSTEIN: Linda, L-I-N-D-A,  
4 Rubenstein, R-U-B-E-N-S-T-E-I-N B-L-E-D-S-T-E-I-N.

5 THE COURT: Thank you.

6 If we could have the witness stand up and swear him  
7 in now, please.

8 TOJI TAKEUCHI, DEFENDANTS' WITNESS, SWORN

9 THE CLERK: Thank you. Please state and spell your  
10 name for the record.

11 THE WITNESS: Toji Takeuchi.

12 THE INTERPRETER: T-O-J-I, another word,  
13 T-A-K-E-U-C-H-I. The interpreter spelled that name.

14 THE COURT: Thank you.

15 Mr. Peek, why are you standing up?

16 MR. PEEK: I just wanted to give the Court a heads  
17 up on Mr. Okada. Yesterday at the end of the day I received a  
18 -- I can wait. Mr. Bice doesn't seem to want to hear this.  
19 I'll wait.

20 THE COURT: Well, we were going to talk about it  
21 before, but I didn't have a representative from Wynn. So now  
22 I'm ready to go with the witness. Is it okay if we go with  
23 the witness?

24 MR. PEEK: It's fine with me, Your Honor.

25 THE COURT: Great.

1 MR. PEEK: I could wait. I just wanted to --

2 THE COURT: So maybe --

3 MR. PEEK: I didn't want to delay giving the Court a  
4 heads up.

5 THE COURT: Awesome. So maybe at 11:45 or a break  
6 you could update, because grand jury will return at 11:45 this  
7 morning, just like every other Wednesday and Thursday.

8 So, Mr. Bice, you're up.

9 CROSS-EXAMINATION (Continued)

10 BY MR. BICE:

11 Q Good morning, Mr. Takeuchi.

12 A Good morning.

13 Q I want to make sure I understand some of your  
14 testimony from yesterday. I'm going to just clarify a couple  
15 points, okay?

16 A Yes.

17 Q All right. I understood yesterday that there were  
18 two areas of concern where you were claiming the most  
19 prejudice, and that was the Cotai land deal and the University  
20 of Macau donation. Is that true?

21 A The first one is correct. The second one is not  
22 correct. The second one was a donation to the University of  
23 Macau Development Fund.

24 Q Okay. So just so that the record's clear, Cotai  
25 land and donation to the development fund, those two items;

1 right?

2 A Yes.

3 Q You claim that you're suspicious about those two  
4 transactions; is that right?

5 A Correct.

6 Q And so you believe that those are the documents that  
7 you are most in need of; is that correct?

8 MR. KRAKOFF: Objection. Mischaracterizes his  
9 testimony.

10 THE COURT: Overruled.

11 THE WITNESS: That's -- yes, the information and  
12 documents that relate to those two matters.

13 BY MR. BICE:

14 Q Okay. Do you recall --

15 MR. BICE: Dustin, can you pull up Volume 2 of his  
16 deposition transcript.

17 THE COURT: Do we have a copy that's been published,  
18 or the original maybe?

19 (Pause in the proceedings)

20 THE COURT: Mr. Takeuchi, I am bringing you the  
21 original of Volume 2 of your deposition. This is in English.  
22 You may before or after the portions that Mr. Bice directs you  
23 to to give yourself context and have the interpreter assist  
24 you with understanding it. Okay?

25 THE WITNESS: Yes.

1 BY MR. BICE:

2 Q All right. Mr. Takeuchi, do you dispute that you  
3 claim that the greatest harm is your suspicion that there may  
4 be some inconvenient truth, that there may be something in  
5 these documents that supposedly -- that is not supposedly to  
6 be disclosed possibly. Do you remember telling us that?

7 MR. KRAKOFF: Your Honor, what's the page we're on  
8 that he's quoting from?

9 THE COURT: He doesn't have to give you a page.

10 MR. BICE: 222.

11 MR. PEEK: Your Honor, he doesn't have to give us a  
12 page is what you're saying?

13 THE COURT: No, he does not.

14 MR. BICE: Your Honor, may I approach the witness?

15 THE COURT: You can.

16 MR. BICE: He's now looking at the page, which I was  
17 trying to avoid. Lines 16 through 20, for the record.

18 THE WITNESS: Yes, I recall testifying to this  
19 effect.

20 BY MR. BICE:

21 Q That was your -- that's what you told us under oath  
22 is the greatest harm; correct?

23 A I have a sense that it's slightly different what I  
24 intended. Well, in sum what meant was the fact that the  
25 documents that we requested did not come out, perhaps there

1 was a reason why they didn't want to produce them. And I call  
2 that reason inconvenient truth.

3 Q Okay. But you're just -- you're just speculating  
4 that there might be something in these documents; is that  
5 right?

6 A Well, rather than speculation, that's the suspicion  
7 that I harbor based on several pieces of information.

8 Q Just suspicion; is that right? Is that the word you  
9 used?

10 A You talk about suspicion, you said; right?

11 Q Speculation. Suspicion.

12 A Correct.

13 Q And who was the -- let's deal with the Cotai land  
14 deal. Who was the purchaser of that property?

15 MR. KRAKOFF: Objection.

16 THE INTERPRETER: Could the interpreter have this  
17 question once again, please.

18 MR. KRAKOFF: I'm sorry.

19 BY MR. BICE:

20 Q With respect to the Cotai land deal who was the  
21 purchaser of the property?

22 MR. KRAKOFF: Objection. That's merits discovery,  
23 Your Honor.

24 THE COURT: Overruled.

25 THE WITNESS: Well, as for the land it was in the

1 sense that the right to use the land was obtained. I recall  
2 that several companies were involved in that.

3 BY MR. BICE:

4 Q And Wynn Macau was ultimately who got the land  
5 concession; is that right?

6 A Ultimately I think that's right.

7 Q And you want to -- I think your words were yesterday  
8 you wanted to investigate Wynn Macau's acquisition of that  
9 land; is that right?

10 A I said I wanted to find out the facts regarding the  
11 circumstances involving the acquisition of that right to use  
12 the land.

13 Q Okay. But Universal, Aruze, and Mr. Okada haven't  
14 sued Wynn Macau over that transaction in this case, have they?

15 A When you say a lawsuit what sort of a lawsuit are  
16 you referring to?

17 Q Did -- in this lawsuit right here did Aruze,  
18 Universal, or Mr. Okada sue Wynn Macau?

19 A When you say this lawsuit -- I'd like to clarify.  
20 When you say this lawsuit you mean the lawsuit that was  
21 commenced in February 2012?

22 Q Yes.

23 A Wynn Macau is directly not a subject of the lawsuit.

24 Q Okay. Let's turn just briefly, then, to the Macau  
25 University donation. Do you know who made that contribution



1 or donation?

2 A I understand Wynn Macau carried out the donation to  
3 the University of Macau Development Fund.

4 Q Okay. And, again, in this lawsuit here you haven't  
5 sued Wynn Macau over that donation; right?

6 A Correct, we have not.

7 Q But you actually have -- when I say you, Universal,  
8 Aruze, and Mr. Okada have actually sued Wynn Macau over both  
9 of those transactions, haven't you?

10 A Universal has sued Wynn Macau?

11 Q Yes.

12 A With respect to the land transaction?

13 Q Yes.

14 A I don't recall that.

15 Q Do you remember the lawsuit that Aruze, Universal,  
16 and Mr. Okada filed in Macau in February of 2015?

17 A You're not talking about the issue of protection of  
18 personal information, are you?

19 Q Well, do you -- did you review the complaint that  
20 you -- that Aruze, Universal, and Mr. Okada filed in the Macau  
21 courts seeking relief in February of 2015?

22 A I'm sorry. The only thing I recall is the lawsuit  
23 which was dismissed and the lower court rendered a judgment in  
24 that case dismissing the case. That's the only case I recall.

25 Q Okay. Do you remember bringing a copy of that

1 complaint with you to your deposition?

2 A Yes, I recall that.

3 Q And it was in English; correct?

4 A Correct.

5 MR. BICE: All right. Let's pull out, if we can --  
6 can somebody get Exhibit 1, our Proposed Exhibit 1.

7 THE COURT: Any objection to Proposed Exhibit 1?

8 MR. KRAKOFF: No, Your Honor.

9 THE COURT: Proposed Exhibit 1 will be admitted as  
10 Exhibit 1.

11 (Plaintiff's Exhibit 1 admitted)

12 BY MR. BICE:

13 Q Mr. Takeuchi, would Exhibit Number 1 --

14 MR. BICE: Your Honor, may I approach again?

15 THE COURT: You may.

16 BY MR. BICE:

17 Q I want to turn your attention to page -- Bates-  
18 stamped page 70. Now, I know this is in English, so I'll have  
19 the interpreter translate for you.

20 MR. BICE: Dustin, will you pull up page 70. Go to  
21 the bullet points on the bottom half.

22 BY MR. BICE:

23 Q All right. The paragraph starts with, "As has been  
24 stated, the first defendant committed --"

25 And you understand that the first defendant is Wynn

1 Resorts Macau SA?

2 A Yes.

3 Q And if you'd look at the first bullet point, that's  
4 the -- you sued for releasing personal data; right?

5 A Yes.

6 Q And then the second bullet you allege that it  
7 carried out -- "It carried out contractual transactions  
8 contrary to the public order, common decency, and the law."

9 A Yes.

10 Q Do you -- can you tell the Court do you remember  
11 what the contractual transactions were that you claimed were  
12 contrary to public order, common decency, and the law?

13 A I'm not an attorney, so I don't know such things as  
14 legal terminology that well. However, what it says here is  
15 perhaps Wynn Macau is violating the law in Macau. I think  
16 that's what I think it says.

17 Q Who were all the attorneys that were involved in the  
18 preparation of this complaint in Macau, this lawsuit in Macau?

19 A Well, first of all, Macau Attorney Sa.

20 Q Who else?

21 A And then I think Mr. Arai, Attorney Arai, a Japanese  
22 attorney, was also involved, I think. A-R-A-I.

23 Q Who else?

24 A Well, let me see. Other than those two, I think  
25 mainly those two attorneys, and I don't recall now who else

1 may have been involved.

2 Q Did they get assistance from the U.S. attorneys  
3 representing Aruze, Universal, and Mr. Okada?

4 A Uh-huh. Probably I think some pieces of information  
5 were exchanged. I think.

6 Q Okay. If you'd take a look -- let's go to page --  
7 let's just start at 51 as an example.

8 MR. BICE: Approach again, Your Honor?

9 THE COURT: You may.

10 MR. BICE: Thank you.

11 BY MR. BICE:

12 Q Do you see the names of the companies and some of  
13 the individuals listed on this page, paragraph 51?

14 A Yes.

15 Q And these are -- these are people and entities that  
16 you allege were involved in the Cotai land transaction;  
17 correct?

18 A I understand that these are not all companies that  
19 were involved, but some -- the main companies that were  
20 involved. That's my understanding.

21 Q Okay. And how many of those companies have you  
22 deposited in this action?

23 THE COURT: And by "this action" are you referring  
24 to the one in Macau, or the one here?

25 MR. BICE: I'm -- let me rephrase.

1 BY MR. BICE:

2 Q In this lawsuit here.

3 A I understand none of these companies listed have  
4 been deposed yet.

5 Q Okay. And you filed this lawsuit, again, in 2015;  
6 correct?

7 A Correct.

8 Q And in this lawsuit in Macau do you recall claiming  
9 that this land transaction was illegal and that you -- the  
10 relief you were seeking included having Wynn Macau dissolved  
11 as a corporation?

12 A Yes.

13 Q Okay. And let's go, then, to page 60, the bottom  
14 paragraph. You also filed suit in Macau over the donation to  
15 the University of Macau Development Fund, did you not?

16 A Yes, that's correct.

17 Q And, again, one of the things that you claimed is  
18 that Wynn Macau should be dissolved as a corporation because  
19 of the donation to the University of Macau Development  
20 Foundation; right?

21 A Rather than the donation itself, I think I might  
22 have said this yesterday, as well, but I think it's a series  
23 of actions that were taken, and it was merely a part of such a  
24 series of actions that Wynn Macau and Wynn Resorts were  
25 engaged in that may be illegal activities. You know, it was

1 such -- part of such activities. That's what is claimed.

2 Q And you sued in the Macau courts and sought relief  
3 for those two transactions; right?

4 A Yes.

5 Q And in addition to seeking to have Wynn Macau  
6 dissolved as a legal entity you also sought a billion dollars,  
7 a billion U.S. dollars in damages, did you not?

8 A Correct.

9 Q And the Macau court ruled against you on those  
10 claims, did it not?

11 A Correct.

12 Q You also claim in this lawsuit, as we've talked  
13 about, that it was improper for Wynn Macau to have given out  
14 any documents containing personal data of anyone without their  
15 consent; correct?

16 A Correct.

17 Q Do you recall telling us in your deposition that  
18 just for this lawsuit in Macau where you sought -- where you  
19 challenged these transactions and you challenged the MPDPA  
20 violations that you have spent a little over \$1.5 million U.S.  
21 on just Attorney Sa?

22 A Yes, I recall that.

23 Q Do you know how much money you have spent in paying  
24 BuckleySandler for their assistance in that Macau lawsuit?

25 A As for that I don't know that now.

1           Q     You somewhere would have billing records, though,  
2 that would show their contacts with Attorney Sa; is that  
3 right?

4           A     There are.

5           Q     And is Attorney Sa the same attorney that instituted  
6 the criminal prosecution request?

7           A     Well, as for the criminal prosecution not much  
8 information is in my division. However, if such a request had  
9 been made, I think it would have been through Attorney Sa.

10          Q     Because -- is Attorney Sa the only attorney in Macau  
11 representing Universal, Aruze, and Okada?

12          A     Well, the attorney, it was Attorney Sa who filed the  
13 lawsuit in February 2015, this lawsuit. And I don't have any  
14 other record -- any other record indicating that other  
15 attorneys were paid in Macau in my workplace. That's why --  
16 that's simply why I thought it might have been Attorney Sa.

17          Q     And you -- but you did not ask Attorney Sa about  
18 what efforts or what his involvement was in instituting  
19 attempted criminal prosecutions of Wynn Macau and certain  
20 executives; right?

21          A     Correct, I did not ask.

22          Q     Yesterday -- I want to turn back now, change  
23 subjects a little bit, and I'm going to go back to this issue  
24 about consents real quick. Okay?

25          A     Yes.

1           Q     All right.  Isn't it true, Mr. Takeuchi, that the  
2 reason that you haven't sought consents from anyone is because  
3 lawyers told you that no consents were needed?

4           MR. KRAKOFF:  Objection, Your Honor.

5           THE COURT:  Sustained.

6           MR. BICE:  He --

7           THE COURT:  Please do not answer the question.

8           MR. BICE:  He testified to this in his deposition  
9 already, Your Honor.  So if there was a --

10          THE COURT:  So has there been a waiver?

11          MR. BICE:  Well, but you can't -- he can't  
12 testify to it in his deposition -- he testified at page 197,  
13 Volume 2 --

14          THE COURT:  Now I'll take the copy, Mr. Campbell.  
15 Hold on a second.

16          Thank you.

17          What page, Mr. Bice?

18          MR. BICE:  197 on the bottom onto page 198.

19          THE COURT:  Hold on.  I have to put on my cheaters.

20                   (Pause in the proceedings)

21          THE COURT:  Where's the question?

22          MR. BICE:  Your Honor, the question starts I believe  
23 on line 7, because he was talking about the fact that he was  
24 claiming that it's not necessary to give a consent.

25          MR. KRAKOFF:  Your Honor, when this was all done --



1 the document the Court would not permit us to use yesterday,  
2 it's about Mr. Okada's consent. It has nothing to do --

3 THE COURT: Hold on a second. Question, "I'm going  
4 through -- back, because I don't think the question that I was  
5 cited to was the one I was asking about." Hold on. I'm going  
6 another page.

7 So it looks like the question is at line 4, is where  
8 it starts. Mr. Krakoff, I actually started reading on 193,  
9 and I've read all the way to 198. Do you want to respond to  
10 the position the privilege has been waived on this issue?

11 MR. KRAKOFF: It has not, Your Honor. What the  
12 questioning here was about a nonprivileged email exchange with  
13 Mr. Bice's firm, with Ms. Spinelli. Sorry. And so this has  
14 nothing to do with communications by Mr. Takeuchi with my firm  
15 whatsoever. Mr. Bice is abusing the record that he made in  
16 the deposition. Of course we allowed him to ask questions  
17 about a nonprivileged document that's about Mr. Okada not  
18 giving consent, the same issue we tried to bring up yesterday  
19 because we anticipated that he would get into the Okada  
20 consent or nonconsent. I'm happy to proffer this document to  
21 you, Your Honor. It is not privileged. We tried to use it  
22 yesterday. And that's what this is all about, apples and  
23 oranges.

24 THE COURT: So, Mr. Bice, this appears to be a  
25 question that related to an issue about the consent by Mr.

1 Okada that may have slightly morphed during your questioning.  
2 Do you want to respond?

3 MR. BICE: Yes, Your Honor. As Mr. Takeuchi  
4 actually testified is I specifically was asking him about  
5 that, and then he did talk about the email that he was shown.  
6 And then he asked me, "Perhaps I can give you a better answer  
7 if you specify the case better, if you can pinpoint the case  
8 more specifically." And I asked him pinpoint what case for  
9 him. Then he goes on to explain that he this understanding  
10 that there is no consent that's necessary. And, by the way,  
11 he testified to this in other aspects of his deposition, that  
12 under Japan law he understands that if there's a court  
13 proceeding that consents aren't necessary, but if there is not  
14 a court proceeding, then consents would be necessary. What  
15 he's testifying here about is not limited to just Mr. Okada.

16 THE COURT: So you're referring to his response on  
17 197, line 16, which doesn't really relate to a question where  
18 he says, "No consent is necessary." And you say, "Who told  
19 you that?" He says, "Attorneys told me that." You say,  
20 "Which?" And he says, "BuckleySandler."

21 MR. BICE: That's right. He did not say, I'm  
22 relying on this email. He said attorneys told him that  
23 consents aren't necessary.

24 THE COURT: Okay. Anything else, Mr. Krakoff?

25 MR. KRAKOFF: Your Honor, I would ask to proffer the

1 nonprivileged email exchange. That's what he was talking  
2 about. And what Mr. Bice just asked him about here is about  
3 his preparation between him, the witness, and us. Not about  
4 this -- what he was asking about below -- or in the  
5 deposition.

6 THE COURT: Well, I just read the portion of the  
7 transcript, Mr. Krakoff, and it's pretty clear he's not  
8 limiting it to Mr. Okada, which is what deals with the email  
9 you have in your hand. He says on line 22, 197, "No consent  
10 is necessary." Mr. Bice makes inquiry as to why he believes  
11 that, and eventually the answer is his attorneys,  
12 BuckleySandler told him.

13 MR. KRAKOFF: There's no -- absolutely no waiver of  
14 attorney-client privilege there. He was asking about his  
15 preparation for the deposition.

16 THE COURT: That does not appear to be what the  
17 transcript says, Mr. Krakoff, and I went all the way back to  
18 193.

19 MR. KRAKOFF: If taken in context, that is the  
20 only --

21 THE COURT: So show me why you think that is.  
22 Because I went all the way back to 193 to give myself context.

23 MR. KRAKOFF: [Inaudible], Your Honor, what this is  
24 about was that in preparation for his deposition we showed him  
25 this unprivileged email. And that's what this whole -- this

1 whole exchange is all about.

2 THE COURT: I don't read the transcript that way. I  
3 wasn't at the deposition, which is why I'm trying to find out  
4 from you why you think what is printed on this page does not  
5 operate as a waiver.

6 MR. PEEK: Your Honor, may we have just a few  
7 moments --

8 THE COURT: You sure can.

9 MR. PEEK: -- to look at this? Because this is a  
10 really important issue for us.

11 THE COURT: I know it is, which is why we're getting  
12 up and walking around. Can we take 10 minutes?

13 MR. BICE: That's fine.

14 MR. PEEK: Yes, Your Honor. Thank you.

15 THE INTERPRETER: Your Honor --

16 THE COURT: Yes.

17 THE INTERPRETER: Excuse me, Your Honor. It's the  
18 interpreter speaking. Would it be possible during this 10-  
19 minute break to investigate why once again we're having  
20 difficulty with our feed?

21 THE COURT: I'm sure you and the court reporter will  
22 work it out. But you guys may want to get up and use the  
23 restroom, too. It's your break, too.

24 THE INTERPRETER: Thank you.

25 THE COURT: Okay.

1 (Court recessed at 10:28 a.m., until 10:40 a.m.)

2 THE COURT: I'm back. Did you want to tell me  
3 something else?

4 MR. KRAKOFF: Yes, Your Honor. Your Honor, looking  
5 -- the context for this is all about the questions about Mr.  
6 Okada's consent, that's the context. And if you start at the  
7 bottom of 196 it reads -- the witness -- well, let's go to the  
8 question.

9 "Now the only reason that you and Mr. Okada won't  
10 consent, won't give consent is because it's unnecessary?"

11 The witness, this is at 21 on page 196, "I heard  
12 that Chairman Okada was asked for his consent. As for that,  
13 what I believe is that he did not give any consent because it  
14 was not necessary."

15 That's the context for the next question. "Who said  
16 it wasn't necessary, who told you that?"

17 "I was shown by attorneys a certain email. There it  
18 did say that it was not necessary as attorneys words."

19 Okay. If I could tell you, Your Honor, about our  
20 preparation. We are preparing a 30(b)(6) witness. We showed  
21 him this email, I'm going to proffer it to the Court. It's an  
22 email from Mr. Peek to Ms. Spinelli on June 18th, 2015. Ms.  
23 Spinelli had asked whether Mr. Okada would give his MPDPA  
24 consent.

25 In responding, Mr. Peek said, "As you are aware, WRL

1 and WRM previously transferred documents related to  
2 Mr. Okada and other individuals out of Macau to  
3 Louis Freeh in connection with Mr. Freeh's  
4 investigation to support the purported and improper  
5 redemption of Aruze USA's stock. The Aruze parties'  
6 position is that WRL and WRM having used the  
7 transferred documents from Macau as a sword against  
8 Mr. Okada may not now rely on the MPDPA as a shield  
9 to the production of unredacted documents that  
10 relate to the Aruze parties claims concerning the  
11 redemption. Therefore, and given the Court's ruling  
12 on our motion to compel Mr. Okada's consent is  
13 unnecessary, because we expect you to produce  
14 documents from Macau in an unredacted form. And we  
15 do not see any basis for WR and WRM to request  
16 Okada's consent."

17 Signed, "Steve." So that's what we showed him.

18 That's what this --

19 THE COURT: But that's not what this whole question  
20 is on 197. The witness says on line 11, "Perhaps I can give  
21 you a better answer because they've been talking about the Mr.  
22 Okada consent before that." On page 11 the witness changes  
23 the subject. "Perhaps I can give you a better answer if you  
24 specify a case better, if you pinpoint a case more  
25 specifically." And then Mr. Bice says, "Pinpoint what case

1 more?" And then the witness says, "Well, whether consent is  
2 necessary or not, well then I will give you -- I will talk  
3 more specifically, say whether or not a consent is necessary.  
4 For example, if something -- if by a court order if something  
5 has to be provided if that is said by the court then I believe  
6 that there is no consent that is necessary. No consent is  
7 necessary. I said that this morning, as well." "Who told you  
8 that?" "Attorneys told me that." "Which attorneys?"  
9 "BuckleySandler."

10 MR. PEEK: That's what the email says.

11 MR. KRAKOFF: That's exactly what the email says.  
12 That's exactly what he's referring to, Your Honor. That is  
13 precisely what he is referring to. And by the way, Your  
14 Honor, they didn't ask for any other consents. They never  
15 have asked for any other consent whatsoever.

16 THE COURT: I'm the one who asked for the consents.  
17 Remember? This all started because somebody delivered, what,  
18 17 boxes of redacted documents with companion documents and a  
19 log to my office. And as I started randomly going through  
20 those documents I noticed how many times it appeared that it  
21 was Mr. Okada's name that was the one that was redacted. So I  
22 made an inquiry of counsel. Gosh, wouldn't it be nice if Mr.  
23 Okada would consent so that I can get through what is really  
24 the important part of these documents.

25 And then I was told eventually that no, Mr. Okada

1 wasn't going to consent. I never knew exactly why, so.

2 Mr. Peek?

3 MR. PEEK: And remember what your order said, Your  
4 Honor, when you finally did address it in an order?

5 THE COURT: I don't remember, Mr. Peek.

6 MR. PEEK: Okay. And I mean that's important,  
7 because on November 1st in your order --

8 THE COURT: Which year?

9 MR. PEEK: November 1st, 2016, the order upon which  
10 we're now engaged in this sanction hearing compelling them to  
11 produce certain documents --

12 THE COURT: Uh-huh.

13 MR. PEEK: -- in an unredacted form. You said it in  
14 paragraph 4, "The Court is now requiring Mr. Okada to  
15 waive --"

16 THE COURT: That's true.

17 MR. PEEK: " -- the MPDPA nor finding that Mr. Okada  
18 has waived any protections of the MPDPA that he believed  
19 benefited him as a non-Macau citizen."

20 THE COURT: That's true. I did say that.

21 MR. PEEK: I know --

22 THE COURT: Because it was different than the Sands  
23 case.

24 MR. PEEK: May I finish, Your Honor.

25 THE COURT: Sure.



1           MR. PEEK: "Accordingly, and notwithstanding  
2 paragraph 2 --" which is paragraph 2 about documents existing  
3 in the U.S. -- " -- Mr. Okada's personal data may remain  
4 redacted pursuant to the MPDPA in the documents that are the  
5 subject of the Aruze's motion if the Wynn parties believe,  
6 because of the litigation in Macau, that Mr. Okada has taken  
7 the position that the MPDPA provides benefit to him as a non-  
8 Macau citizen."

9           THE COURT: Sure. And I know that, Mr. Peek. But  
10 the issue is prejudice. Prejudice is different than what's in  
11 the order on the order to compel. If Mr. Okada is the one who  
12 is controlling, at least in large part, the production of the  
13 documents himself, then I have to weigh that as part of the  
14 prejudice.

15           MR. PEEK: Well, perhaps you're already convinced of  
16 that, but Mr. Okada --

17           THE COURT: No, I'm not convinced of it.

18           MR. PEEK: May I please finish, Your Honor. Mr.  
19 Okada is not holding up the production of the documents by  
20 Wynn Resorts Macau. That is their theory, that is their  
21 thematic. We will show Your Honor that that is not the basis  
22 -- and so certainly he may --

23           THE COURT: Sure.

24           MR. PEEK: -- explore that. But the other thing  
25 about this, Your Honor, is with respect to this statement.

1 "Mr. Takeuchi cannot weigh Mr. Okada's privilege."  
2 THE COURT: No, he can't. He also can't --  
3 MR. PEEK: He cannot waive Mr. Okada's privilege.  
4 THE COURT: No, he can't. But this is not Mr.  
5 Okada's privilege.  
6 MR. PEEK: It is, because It's his consent. So if  
7 there was --  
8 THE COURT: Wait.  
9 MR. PEEK: -- advice to Mr. Okada from his counsel  
10 then that's different. But --  
11 THE COURT: No. This is --  
12 MR. PEEK: When you look at that, Your Honor --  
13 THE COURT: Okay. Wait. Let's all be clear on what  
14 my ruling is. I have read the deposition transcript. I have  
15 listened to you. I have allowed you to caucus. I find that  
16 Mr. Takeuchi said that the communication that he had that told  
17 him no consent is necessary was a communication between Mr.  
18 Takeuchi and BuckleySandler. That is not a waiver as to  
19 Universal, it's not a waiver as to Mr. Okada, it's a waiver  
20 only as to Mr. Takeuchi and his conversations with  
21 BuckleySandler as to whether a consent is or is not necessary.  
22 So, you may proceed.  
23 MR. BICE: Thank you, Your Honor.  
24 MR. PEEK: I don't even remember what the question  
25 is, Your Honor, anymore.

1 BY MR. BICE:

2 Q Mr. Takeuchi, isn't it true that the reason you did  
3 not seek consents from anyone is because you were told by  
4 lawyers that consents weren't necessary because there was a  
5 court order?

6 MR. KRAKOFF: Objection. What consents, Your Honor?  
7 Vague and ambiguous.

8 THE COURT: Overruled.

9 THE WITNESS: It's a fact that that was discussed  
10 during the preparation for my deposition.

11 BY MR. BICE:

12 Q And do you recall telling us yesterday, Mr.  
13 Takeuchi, that you would have sought consents from people such  
14 as the people at PAGCOR if in fact you thought it necessary;  
15 correct?

16 MR. KRAKOFF: Objection. Mischaracterizes.

17 THE COURT: Overruled.

18 THE WITNESS: I would seek them if they were  
19 necessary.

20 BY MR. BICE:

21 Q Okay. And is it fair to say, Mr. Takeuchi, one of  
22 the reasons you did not seek any consents is because the  
23 lawyers had told you it wasn't necessary for you to obtain  
24 consents from anyone?

25 MR. KRAKOFF: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: No, that's not right.

3 BY MR. BICE:

4 Q Well, don't you know -- you know who Edmund Ho is,  
5 don't you?

6 A Mr. Edmund Ho was a prior administrator in Macau.

7 Q Okay. Have you sought to depose him?

8 A No, I don't think that was done.

9 Q Why not?

10 A Well, I'll get back to the same discussion that we  
11 had yesterday. I don't think there's any point in taking a  
12 deposition just for the purpose of taking a deposition. It's  
13 nothing more than a waste of time. By which I need to say  
14 that by gathering information and obtaining information will I  
15 believe result in a deposition that is more fruitful and more  
16 legal. As an example, yesterday among the emails that we  
17 looked at there were some that had redactions. And let's say  
18 for example, if there were information revealed concerning,  
19 for example, meetings between Steve Wynn and Edmund Ho and  
20 where those meetings took place, when and why, if that  
21 information were available, then I believe it would be  
22 meaningful to conduct the deposition.

23 Q Okay. You're unaware that Mr. Wynn's already  
24 testified that he meets with the chief executive almost every  
25 time he goes to Macau?

1           A     I haven't heard that.

2           Q     Okay. But you know that Mr. Ho -- Mr. Edmund Ho, as  
3 chief executive, did he have some involvement in the Cotai  
4 land -- the transaction that you've claimed that you want to  
5 investigate?

6           A     Yes. I am aware of the fact that Edmund Ho, as  
7 chief executive, has the authority to issue the land  
8 concession as well as the sales rights.

9           Q     So for all the years that this litigation has been  
10 ongoing, Mr. Takeuchi, what steps have you taken to contact  
11 Edmund Ho or make arrangements trying to depose Edmund Ho, if  
12 any?

13               MR. KRAKOFF: Your Honor, excuse me. May I make an  
14 objection.

15               THE COURT: You may.

16               MR. KRAKOFF: The fact is that China doesn't allow  
17 foreign depositions.

18               THE COURT: I'm aware of that, but not from this  
19 case, from other cases involving people who thought it was  
20 great to set up subsidiaries of Chinese corporations in Nevada  
21 and do public financing, and then they get into shareholder  
22 derivative litigation. So not from this case. From other  
23 cases.

24               MR. KRAKOFF: Right.

25               MR. BICE: Our point on this of course, Your Honor,

1 is that yesterday we heard a story out of this witness  
2 about --

3 THE COURT: But Mr. Krakoff made an objection. I'm  
4 waiting for him to tell me the rest of it.

5 MR. BICE: Okay.

6 THE COURT: He says it's hard to take a deposition  
7 in China.

8 MR. KRAKOFF: Yeah.

9 THE COURT: It's really hard to serve people in  
10 China, too.

11 MR. KRAKOFF: Exactly.

12 THE COURT: Okay.

13 MR. KRAKOFF: And that's our objection.

14 THE COURT: All right.

15 MR. KRAKOFF: It's unfair to the witness.

16 THE COURT: Overruled.

17 THE WITNESS: May I answer.

18 BY MR. BICE:

19 Q Yes, please.

20 A Well, there were no particular efforts made  
21 specifically to take his deposition. But hypothetically  
22 speaking had the documents that we had requested been produced  
23 then based upon that we might have been inclined to make those  
24 efforts.

25 Q Have you contacted -- has anybody on behalf of

1 Universal or Aruze or Mr. Okada even contacted Edmund Ho -- it  
2 should even be broader, strike that. Has Aruze, Universal or  
3 Mr. Okada contacted any government officials concerning the  
4 Cotai land transaction and the University of Macau donation at  
5 all?

6 THE COURT: Mr. Peek, do you have an objection?

7 MR. PEEK: Yeah, I do on behalf of Mr. Okada, Your  
8 Honor. That would invade the attorney-client privilege and  
9 work product privilege, because the only information he would  
10 have would have come from a lawyer.

11 THE COURT: Sir, we don't want you to tell us  
12 anything that came from a lawyer. But if you have any other  
13 source of information as to efforts by Aruze or Universal to  
14 contact government officials I'm entitled to receive it.

15 Hold on, Mr. Bice, let's get this answer first.

16 MR. BICE: Okay.

17 MR. PEEK: We need to get your -- translate what you  
18 said to him.

19 THE COURT: Okay. I'm waiting.

20 THE WITNESS: It's not clear to me whether or not  
21 this actually took place. I don't know. But quite some time  
22 ago I did hear that there had been an attempt made to contact  
23 Edmund Ho. I'm sorry, this is vague information, and I'm not  
24 sure whether or not this had to do with the attorney in Macau.  
25 And furthermore I don't know whether or not this actually took

1 place. And, also -- and another thing that I recall having  
2 heard pertained to an effort or efforts made to contact a  
3 person named Juan Chi Sin. But I don't know whether or not  
4 that actually took place.

5 BY MR. BICE:

6 Q Do you know who Fernando Choi is?

7 A I've heard of him, but I don't know who he is.

8 Q Okay. Going back to my earlier question. Has there  
9 been any attempt to interview, talk to, or get any information  
10 out of any of these government officials in Macau on the Cotai  
11 land transaction or the University of Macau donation?

12 MR. PEEK: Your Honor, same objection. If you would  
13 ask the question other than from a lawyers have you --

14 THE COURT: So, sir, if you could answer the  
15 question for me yes or no. And then if you answer yes then we  
16 will explore whether there is any information that does not  
17 relate to attorneys. And then I'll have a discussion with Mr.  
18 Bice about what he can inquire into.

19 THE WITNESS: So is the question whether or not  
20 there had been any contact made with any Macau government  
21 official including the chief executive? Or is the question  
22 whether or not any attempt was made?

23 BY MR. BICE:

24 Q Either one, any attempt or any contact?

25 A I don't know whether or not there was any contact



1 actually made. As to whether any attempt was made to make  
2 contact, I think the answer to that is yes.

3 Q Okay. And when was that attempt made? Well, strike  
4 that. Who was attempted to be contacted?

5 A So you're asking who was -- someone was trying to  
6 make contact with?

7 Q Yes.

8 MR. PEEK: Again, Your Honor, I think that invades  
9 attorney-client privilege.

10 THE COURT: Overruled. This is a factual issue.

11 THE WITNESS: The two people that I remember are  
12 Edmund Ho and Juan Chi Sin when mentioned earlier.

13 BY MR. BICE:

14 Q Okay. No one else to your knowledge? There's been  
15 no attempt to contact any other government officials to your  
16 knowledge?

17 A Well, those are the two people that I remember. But  
18 I don't know whether or not Juan Chi Sin is a government  
19 official or not.

20 Q Okay. Have you had the Attorney Sa in Macau take  
21 any steps to try and gain evidence from any government  
22 officials in Macau?

23 MR. PEEK: Yeah. It's simply yes or no.

24 THE COURT: That is correct. It's a yes or no.

25 MR. KRAKOFF: Your Honor, I don't believe that the

1 instruction -- your Court's instruction was translated.

2 THE INTERPRETER: Oh. Excuse me. The interpreter  
3 stands corrected.

4 THE COURT: Thank you.

5 THE WITNESS: I don't know about that.

6 BY MR. BICE:

7 Q Have you instructed him to do so?

8 MR. PEEK: Your Honor, that's attorney-client  
9 privilege.

10 THE COURT: Sustained. Can we rephrase the  
11 question.

12 BY MR. BICE:

13 Q Has anyone instructed him to your knowledge?

14 MR. KRAKOFF: Same objection, Your Honor.

15 THE COURT: Mr. Bice, can you ask it a little more  
16 narrowly.

17 BY MR. BICE:

18 Q Let me look, Your Honor. Do you -- maybe I'll  
19 phrase it this way. Do you know whether Attorney Sa has taken  
20 any steps?

21 MR. PEEK: Your Honor, we've instructed to answer  
22 yes or no.

23 THE COURT: Please only have a yes or no on that.

24 THE WITNESS: I don't know.

25 THE COURT: I don't know's okay, too.

1 MR. PEEK: Or an I don't know.

2 THE COURT: Thank you, sir.

3 BY MR. BICE:

4 Q If I could have you look at page 136 of Volume 2 of  
5 your deposition.

6 A Page 136. Yes, I have it open.

7 Q Okay. Do you remember yesterday I asked you, you  
8 said you didn't recall whether you were asked whether you  
9 would consent to disclosure of your name in any of the  
10 documents, and you said you don't remember that?

11 A Can I get the question again, please.

12 THE INTERPRETER: The interpreter will just re-ask  
13 the question.

14 THE WITNESS: I'm sorry. I don't quite understand  
15 the question.

16 BY MR. BICE:

17 Q Well, as you look at page 136 of your deposition if  
18 you would look at lines 7 through 8. Do you see there that I  
19 asked you, "Do you consent to disclosure of your name in any  
20 of the documents that we have?" Do you see that?

21 A I understand this question.

22 Q And you were instructed not to answer that question  
23 by your attorney; correct?

24 A Yes, that's right.

25 Q And you've never answered that question even to this

1 day; is that correct?

2 MR. KRAKOFF: Objection. We went over this  
3 yesterday, Your Honor.

4 THE COURT: Mr. Bice?

5 MR. BICE: I wanted to refresh his --

6 MR. KRAKOFF: That's a mischaracterization. And he  
7 did answer.

8 THE COURT: Okay. Can we stop arguing with each  
9 other.

10 Mr. Bice?

11 MR. BICE: I wanted to refresh his recollection,  
12 Your Honor. And if the Court would see from the discussion in  
13 the transcript his lawyer, Mr. Krakoff, instructed him not to  
14 answer and said that he would think about it. And he would  
15 let me know whether the witness was ever going to change his  
16 mind on that subject matter. I just wanted the witness to  
17 confirm he actually never came back and told us, never changed  
18 his mind.

19 THE COURT: Well, we can ask him if he's changed his  
20 mind today.

21 MR. BICE: Okay. I'll rephrase.

22 THE COURT: All right. That's --

23 MR. PEEK: From yesterday, Your Honor? Because he  
24 testified to this yesterday.

25 THE COURT: Mr. Peek, don't help. You're Mr. Okada,

1 not --

2 MR. PEEK: I understand.

3 THE COURT: Okay.

4 MR. PEEK: But I still get a -- I still have a right

5 to object, because it has to --

6 THE COURT: You do. But this is Mr. Krakoff's

7 issue.

8 MR. PEEK: The sanctions are also Mr. Okada's.

9 THE COURT: No. This particular question is Mr.

10 Krakoff's issue.

11 MR. PEEK: Oh. Okay.

12 THE COURT: I'm not saying you can't object.

13 MR. PEEK: Oh. Okay. I --

14 THE COURT: I'm saying stop piling on.

15 MR. PEEK: I'm not trying to pile on, Your Honor.

16 THE COURT: Okay.

17 MR. KRAKOFF: I'm not trying to pile on either. But

18 I just want to make one point of reference to the Court. Mr.

19 Bice never asked him whether he accepted the instruction of

20 counsel.

21 THE COURT: Okay. So, Mr. Bice, if you could ask

22 him if he changed his mind.

23 MR. BICE: No. I'll rephrase this question, Your

24 Honor.

25 //

1 BY MR. BICE:

2 Q Mr. Takeuchi, did you follow the advice that Mr.  
3 Krakoff gave you at that deposition to not answer my question?

4 MR. KRAKOFF: Objection, Your Honor. That is  
5 totally misleading.

6 THE COURT: It's an instruction. It's did you  
7 follow the instruction counsel gave you, not advice.

8 BY MR. BICE:

9 Q Did you follow the instruction that Mr. Krakoff gave  
10 not to answer the question at your deposition?

11 A Yes.

12 Q Okay. Have you changed your mind? Are you willing  
13 to give a consent now, or do you still -- would you still need  
14 to think about it?

15 A There is no particular need for me to think about  
16 this. I think that there was a similar question yesterday.  
17 And if it were necessary to have a consent, depending on how  
18 it was to be used, I might provide that consent. What I said  
19 was that if it was clear how that was going to be used and I  
20 judged that that was acceptable then I would consent.

21 Q Okay. Tell me, if you would, Mr. Takeuchi, which  
22 depositions have you delayed taking because of the redactions  
23 in the documents. Testified yesterday that you had delayed  
24 taking depositions. Tell me which ones.

25 A When you say depositions were delayed are you

1 referring to depositions that were planned but weren't taken?

2 Q I don't know, Mr. Takeuchi. You told Her Honor  
3 yesterday that depositions had been delayed because of the  
4 redactions in these documents. So I'm asking which ones,  
5 since you told her yesterday they had been delayed?

6 MR. KRAKOFF: Your Honor, asked and answered.

7 THE COURT: Overruled.

8 THE WITNESS: Well, I think if my recollection is  
9 correct my answer was referring to the fact that because of  
10 those redactions and not knowing, because of the redactions,  
11 what kind of negative impact they could have or what kind of  
12 harm there would be if for example, there were to be a  
13 deposition there was insufficient information because of the  
14 redactions as to who should be called for a deposition or if a  
15 deposition were to take place what questions should be asked.  
16 So I think that was the sense in which I was answering. And,  
17 also -- and so in the case of the legal proceeding -- in the  
18 case of the proceeding of the lawsuit that could result in an  
19 overall delay as well as an increase in the expenses as I  
20 mentioned yesterday.

21 BY MR. BICE:

22 Q My question was, sir, which depositions are you  
23 claiming were delayed? Please tell us which ones.

24 A So I think that yesterday I named two people  
25 specifically such as William Coughlan and Linda Chen.

1 THE INTERPRETER: I'm sorry. The interpreter stands  
2 corrected.

3 THE WITNESS: I think there were two people that  
4 were named specifically yesterday. For example, Ian Coughlan  
5 and Linda Chen.

6 BY MR. BICE:

7 Q Okay.

8 A And, also, if the name doesn't appear in the  
9 document then we can't know who to call. And therefore Mr.  
10 Bice is asking specifically whose deposition we would request,  
11 but we don't know who that would be.

12 Q Just so that we're clear. You're representing to  
13 the Court that the reason that you haven't taken Ian Coughlan  
14 and Linda Chen's depositions up to this point is because of  
15 these documents -- these redactions; is that correct?

16 MR. KRAKOFF: Objection. That mischaracterizes his  
17 testimony, Your Honor.

18 MR. PEEK: Yeah. It also lacks complete foundation.  
19 Mr. Bice knows that the discovery in this was stayed for a  
20 year.

21 THE COURT: Mr. Peek, don't make a speaking  
22 objection. All right. Anything else?

23 MR. PEEK: May I approach, then, Your Honor, to be  
24 able to --

25 THE COURT: Sure, you can approach.



1 MR. PEEK: -- do that?

2 THE COURT: Absolutely.

3 Jill, do we have white noise?

4 THE COURT RECORDER: No. No, Your Honor.

5 MR. PEEK: I'll try to keep my voice down, Your  
6 Honor.

7 THE COURT: I don't know how that's going to work,  
8 but okay.

9 MR. BICE: Your Honor, can we excuse the witness?

10 THE COURT: Just let's try and do it here without  
11 it.

12 (Bench conference)

13 MR. PEEK: Mr. Bice [inaudible]

14 THE COURT: Well, but that's argument, Mr. Peek.  
15 That's argument. He's allowed to ask these questions, and  
16 then you argue about it.

17 So how are we going to deal with Footnote 7 in this  
18 opinion?

19 MR. BICE: We're going to deal --

20 MR. PEEK: [Inaudible].

21 THE COURT: Footnote 7 is killing me.

22 MR. PEEK: I haven't even read it yet.

23 THE COURT: Oh, my gosh.

24 MR. PEEK: I understand [inaudible].

25 THE COURT: The District Court -- hold on. The

1 witness is leaving. So let's wait until he finishes leaving.

2 "The District Court order required production of documents  
3 compiled in preparation of the Freeh report. However, this  
4 ruling was made after a review of 25 percent of the documents  
5 submitted to the Court in camera. If the District Court  
6 concludes that, the Freeh report was created in anticipation  
7 of litigation, it must undertake a complete examination of the  
8 underlying documents...." So send them over, all of them.

9 MR. PEEK: Do I get to finish my index, Your Honor?

10 THE COURT: As soon as the witness is out. Is he  
11 out?

12 Okay, Jill. Mr. Peek wanted to finish. I was  
13 stalling while the witness left.

14 MR. PEEK: She was reading the opinion.

15 THE COURT: Footnote 7 of the opinion.

16 MR. PEEK: Yeah. I haven't read it, Your Honor.

17 THE COURT: It's okay.

18 MR. PEEK: As I said, Your Honor, so we can have  
19 this on the record, Mr. Bice well knows that the discovery was  
20 stayed for a long period of time as a result of the Quinn  
21 Emanuel dispute with Wynn Resorts. We also know that even  
22 before that occurred we had already been in negotiations to  
23 take the depositions of Mr. Coughlan, Ms. Chen and everybody  
24 else. We also know that the order of the Court ordering them  
25 to produce these documents certainly happened over a period of

1 time beginning in April of '16 to November 1st of '16, and  
2 then our request for sanctions, which was in May, I think, of  
3 this year, which lead up to this hearing. They also know that  
4 we have been talking to them about taking the depositions of  
5 Linda Chen, Ian Coughlan, Allan Zeman and others in Hong Kong.  
6 They're all the Macanese individuals associated with Wynn  
7 Resorts Macau.

8           So, yeah, you can ask a leading question. But when  
9 you know that that's a false premise upon which you're asking  
10 that question, or two, that that question would only go to  
11 what it is I have told the witness about depositions in Hong  
12 Kong.

13           THE COURT: So the witness came back. So I'm going  
14 to say what I said before we had the witness go to the  
15 restroom. This is an issue for argument. So I'm going to  
16 allow Mr. Bice to make the inquiry. I understand your  
17 position, Mr. Peek, and I look forward to hearing it in your  
18 argument.

19           MR. PEEK: Okay. And I just want to make sure that  
20 we're not getting into attorney-client privilege issue, as  
21 well, Your Honor.

22           THE COURT: We're trying real hard not to. And I --  
23 can I give a general instruction to the witness.

24           MR. BICE: Yes, Your Honor. We'll make our record  
25 on this. We'd like to make our record on these

1 representations, because --

2 THE COURT: Mr. Bice, we'll have plenty of time to  
3 do that when the witness isn't sitting here.

4 MR. BICE: Thank you. I appreciate that.

5 THE COURT: So if the interpreters could assist me.  
6 I'd like to help the witness navigate attorney-client  
7 privilege.

8 Sir, we are trying very hard to keep you from  
9 disclosing any confidential information you've received from  
10 your attorney. So when the answer to a question requires you  
11 to respond with information you obtained from attorneys it's  
12 important you let us know so that we can help you navigate  
13 when it is appropriate for you to tell us the substantive  
14 information the attorneys gave us. Frequently that  
15 information is protected from further disclosure but not  
16 always.

17 So please try and be careful. I know that sometimes  
18 it's hard, the general questions that counsel is asking you,  
19 but keep it in your mind that if your source of information is  
20 from attorneys that we have to make an inquiry as to whether  
21 it's a factual information that you've been given by attorneys  
22 or something else. Okay? Thank you, sir.

23 Mr. Bice you may continue.

24 THE WITNESS: Understood, Your Honor.

25 //

1 BY MR. BICE:

2 Q All right. So, Mr. Takeuchi, my question was that  
3 you were representing to the Court that the reason that you  
4 haven't taken Ian Coughlan and Linda Chen's depositions up to  
5 this point is because of the redactions; is that right?

6 A Well, because of the redactions, that's not the only  
7 reason.

8 Q But the redactions are part of the reason that you  
9 haven't taken their depositions up to this point; is that  
10 right?

11 A Yes, that's right.

12 Q All right. Well, tell me what were the other  
13 reasons that you haven't taken depositions up to this point.

14 A Well, in addition to whether or not redactions are  
15 there, there are some documents that were not produced at all.  
16 That is my understanding. So we don't know what documents  
17 there were that were not produced. So because of the non  
18 production we don't know until production occurs we don't know  
19 what documents there are. So we made that request -- document  
20 redaction request as long as three years ago. So if proper  
21 production is made then we would know, not until then. We  
22 would have been -- if the proper production had been made we  
23 would have been able to take these depositions at an earlier  
24 point in time.

25 Q So you would have taken all the depositions at an

1 earlier point in time but for the redactions? Is that what  
2 you're telling the Court?

3 MR. KRAKOFF: Objection. That mischaracterizes the  
4 testimony.

5 THE COURT: Overruled.

6 THE WITNESS: Well, I'm not just talking about the  
7 documents that had the redactions, as I said earlier. If the  
8 documents that we requested had been produced earlier, much  
9 sooner, then we would have been able to take the depositions  
10 much earlier, much sooner. And also this trial would have  
11 made much more progress sooner.

12 BY MR. BICE:

13 Q Well, who told you that this case would have gone --  
14 that this case would have progressed sooner if the documents  
15 hadn't been redacted? Where'd you get that information?

16 MR. PEEK: Objection, Your Honor. Attorney-client  
17 privilege, attorney work product privilege.

18 THE COURT: I've already counseled the witness. So  
19 let's wait and see what he says.

20 MR. PEEK: Your Honor, he says lawyer.

21 THE COURT: Mr. Peek, I don't know if you heard me,  
22 but when he came back in the room I told him how important it  
23 was that if he got information from an attorney that he give  
24 us that answer before he told us the substance of that  
25 information so that we could make an inquiry. I'm trying real

1 hard to help him. Now I recognize that one source of his  
2 information may be from an attorney, but it is not the  
3 exclusive source.

4 MR. BICE: Your Honor, we need to be -- we want to  
5 be heard on this, as well. Because what's gone on here is --

6 THE COURT: Counsel, let's keep going and see what we  
7 can do. We're going to break in 15 minutes, and then at 1:00  
8 o'clock you guys are going to come back and we're going to  
9 have a nice hearing before the witness takes the stand.

10 MR. BICE: Thank you, Your Honor.

11 THE WITNESS: Well, first of all I say this over and  
12 over again, but I'm not -- I'm not talking about just the  
13 redacted documents. It is a part of it, but I'm not just  
14 talking about it only. So, you know, lest there be no  
15 misunderstanding I would like it translated first. I'm  
16 continue. Well, certainly, when I saw a document or documents  
17 that were redacted for the first time, that was either the  
18 previous day of my deposition or the day before that.  
19 However, what sort of documents redacted documents are, I said  
20 that at my deposition, too. But I've seen such many such  
21 documents in the past. And I think during the deposition I  
22 showed for example, it was this. Well, such a thing, there's  
23 no need for the attorneys to tell me something like that. I  
24 can think of such a thing on my own. Well, of course, I'm not  
25 sure if I should say this or not in discussions with

1 attorneys, such a thing does come up in discussions.

2 MR. KRAKOFF: Objection, Your Honor. He's getting  
3 into attorney-client privilege.

4 THE COURT: Overruled.

5 BY MR. BICE:

6 Q Mr. Takeuchi, do you have any evidence other than  
7 your communications with your lawyers, do you have any  
8 evidence whatsoever that the redactions have delayed anything  
9 -- rephrase that. That they have delayed any deposition  
10 whatsoever, do you have any evidence other than talking to  
11 your lawyers?

12 A Evidence for the delay?

13 Q Yes. Other than what your lawyers have told you.

14 A Well, what the attorneys told me, well, there are  
15 redacted documents --

16 THE COURT: Sir, he said, other than what the  
17 attorneys told you.

18 THE WITNESS: Well, in that sense there is none.

19 BY MR. BICE:

20 Q Okay. So all the testimony you gave to the Court  
21 yesterday about delay was something that you had simply been  
22 told by the lawyers; correct?

23 MR. KRAKOFF: Objection. That mischaracterizes --

24 THE COURT: Overruled.

25 THE WITNESS: Well, as I said earlier, I also



1 understand that what was received thus far has been inadequate  
2 information. Of course I was told this or to this effect by  
3 the attorneys, as well. That is because I have not myself  
4 seen -- I have not reviewed all the information that -- the  
5 information that was produced in the discovery. Based on such  
6 information this is strictly my thinking, you know, if the  
7 situations like this then that would lead to the delay in the  
8 legal proceeding, as well. I can think of something like that  
9 on my own myself.

10 BY MR. BICE:

11 Q Mr. Takeuchi, your testimony to the Court yesterday  
12 where you told the Court how depositions had been delayed and  
13 the case had been delayed because of the redactions, is that  
14 something you know other than if you -- the lawyers telling it  
15 to you?

16 A Well, I say this again, but there are documents that  
17 Wynn Resorts produced, and there are documents that we  
18 requested. And I understand the content or substance of our  
19 document production request, although not all of it. And all  
20 such documents have not been produced. I understand that  
21 without attorneys telling me that. Well, so I don't want you  
22 to misunderstand this, you know, all such information I have  
23 is not the information that I get from attorneys. There's a  
24 variety of information that comes to me in the course of my  
25 daily work. Certainly, there's no doubt that part of such

1 information that I get includes some information from  
2 attorneys, I admit that.

3 Q What documents haven't been produced that you just  
4 told us that you understand that documents haven't been  
5 produced, what documents?

6 A There are several documents that I believe there  
7 should be. In other words, I don't know exactly what the  
8 substance of those documents are since I have not seen them,  
9 they were not provided. But there are several such documents.

10 Q Well, tell me what you believe them to be.

11 A For example, concerning the documents relating to  
12 Cotai land concession for example, in 2005 I think a company  
13 called Chinese Entertainment Company I think was the name,  
14 between that company and Wynn Macau or Wynn affiliated company  
15 there's -- I believe there's supposed to be a contract between  
16 those companies. In that written contract I think, if I'm not  
17 mistaken, there's -- with respect to the acquisition of the  
18 land use say the -- there's a commission to be paid say \$35  
19 million commission is to be paid -- \$35 million is to be paid,  
20 and upon the successful Wynn completion of Wynn Cotai say  
21 profits of Wynn Cotai -- out of the profits 12.5 percent of  
22 the profits will be paid to it per year. There were some  
23 provisions like that in that written contract supposedly.

24 Q And that's the contract that you sued on in Macau?

25 A It's not just that. There's other -- there are

1 other things for example. For example, there should be a  
2 contract I think it was in 2006 if I'm not mistaken. There  
3 should be a written contract between a company called Tien  
4 Chao and the Chinese Entertainment Company that I mentioned  
5 earlier. Between them there's supposed to be a written  
6 agreement that Tien Chao is going to take over the contractual  
7 rights of Chinese Entertainment.

8 THE COURT: Mr. Bice, is this a good place to take  
9 our break?

10 MR. BICE: I can take a hint, yes.

11 THE COURT: I was just wondering if you could take a  
12 hint.

13 MR. BICE: Okay. Sometimes I can.

14 THE COURT: All right. So we'll see counsel at 1:00  
15 o'clock to continue our discussion about the waiver of the  
16 attorney-client privilege and associated issues. And then the  
17 witness and the interpreters can come back at 1:15 if you'd  
18 like.

19 MR. PEEK: Thank you, Your Honor. We'll be here at  
20 1:00 o'clock. Thank you.

21 THE COURT: And, Mr. Peek, I did receive your brief,  
22 and we'll discuss that sometime, maybe at 1:00-ish.

23 MR. PEEK: Oh. There's the supplemental one.

24 THE COURT: I haven't read it, but it was handed to  
25 me. And then all of you should have read the decision from

1 the Supreme Court on the privilege issues on the Brownstein  
2 Hyatt documents and the Freeh documents. I've already  
3 directed the Wynn parties to deliver the Freeh documents,  
4 because I had previously already made a but for analysis when  
5 I did the analysis. So --

6 MR. PEEK: Thought you did, Your Honor.

7 THE COURT: -- now I'm going to look at more than  
8 25 percent.

9 MS. SPINELLI: Your Honor, do you want those in hard  
10 copy format?

11 THE COURT: Absolutely. But I'd like the privilege  
12 log in electronic version in an Excel spreadsheet so I can add  
13 a column and make the findings --

14 MS. SPINELLI: That might take --

15 THE COURT: -- since I've got to go through every  
16 single one.

17 MS. SPINELLI: I've already instructed my team. I  
18 guess they're waiting on a hard copy. I'm just not sure when  
19 we can get them to you. I'll talk to my vendors.

20 THE COURT: I know, Ms. Spinelli. I've got other  
21 things I'm trying to do, too.

22 MS. SPINELLI: Me, too.

23 (Court recessed at 11:49 a.m, until 1:14 p.m.)

24 THE COURT: Mr. Bice, you're up.

25 MR. BICE: Thank you. Your Honor. Your Honor, the

1 claims -- the arguments that are being made that somehow this  
2 witness should be allowed to testify, as the Court will  
3 recall, on direct examination I maintain that he essentially  
4 just had a script placed in front of him with a bunch of  
5 points to make that he was given by lawyers, and he was then  
6 allowed to testify about that. He made claims about the  
7 delays, he made claims about depositions that couldn't be  
8 taken. He testified to all those facts on direct examination.  
9 Now when we want to get him to establish and we wanted to  
10 challenge his claims, show that in fact he doesn't know  
11 anything other than what lawyers have told him -- let me give  
12 you this prime examples. The latest sets of documents that he  
13 said haven't been produced, those were produced long ago.  
14 They had them the whole time. He's just, with all due  
15 respect, making it up on the fly, because he's now off the  
16 script.

17           So I'm entitled to show that he actually doesn't  
18 know anything about depositions being delayed. He doesn't know  
19 anything about documents not being produced. And, in fact,  
20 he's simply been given a script to testify from by attorneys,  
21 and now they're saying don't allow them, Your Honor, to  
22 impeach him and show that all he's doing is regurgitating what  
23 we gave him. That's not privileged. If you put him up on the  
24 stand and you allow him to testify that this is his  
25 understanding I'm entitled to know where he got that

1 understanding. If he's going to tell the Court here are the  
2 depositions that have been delayed I'm entitled to show that  
3 he, in fact, doesn't know that except some lawyer told him to  
4 say that to the Court.

5 And to sit there and say, well, we know that these  
6 depositions have been scheduled, that's right, we do. But  
7 they're the ones who allowed him to get up on the stand and  
8 start testifying about how they've been prejudiced because  
9 they've been delayed. These depositions couldn't be taken,  
10 and it's just simply not true, and I'm entitled to show that  
11 it's not true.

12 THE COURT: Thank you, Mr. Bice. Mr. Peek -- Mr.  
13 Krakoff?

14 MR. KRAKOFF: Yes. Your Honor, this is quite  
15 remarkable what Mr. Bice is saying. First of all he can try  
16 to impeach him however he wants, number one. Number two, he  
17 forgets or neglects that his testimony that Mr. Takeuchi has  
18 been involved in this litigation running the litigation  
19 internally on behalf of the company for five years. He  
20 testified to that repeatedly on direct examination. Mr. Bice  
21 has chosen not to even address that. So, third --

22 THE COURT: I have a question.

23 MR. KRAKOFF: Yes.

24 THE COURT: It is hard for me as your fact finder  
25 when I have a witness -- and this is not the first witness

1 who's done it -- who cannot separate for me the information  
2 there [inaudible] that comes from counsel [inaudible]. Over  
3 the years [inaudible]. He's making it more difficult by the  
4 way he is answering the question and by the way he first  
5 answered the questions in his deposition when I reviewed  
6 [inaudible], because he's not giving us information that came  
7 from other places. And then if you ask him where else it came  
8 from, well, it came from lawyers. But then a few minutes  
9 later in another part he goes, well, but I also had a  
10 [inaudible], but he can't give it to you. And I don't know  
11 that it's an interpreter issue, because we're dealing with him  
12 through an interpreter, or if it's just the way he as as an  
13 individual responds. But it's clearly making things much more  
14 close a call than it typically would when I deal with  
15 privilege issues.

16 MR. KRAKOFF: Understood. And I totally get the  
17 Court's concern. I think it likely is in part the way he  
18 testifies, because he's testified a lot, and I've seen him  
19 testify a lot, Wynn Resorts' counsel has seen him testify a  
20 lot, and I think it's in part translation. I think what  
21 happens is that he's answering questions somewhat narrowly  
22 based upon the question and doesn't reach to what -- to remind  
23 the Court as part of his answer that, you know, I've read a  
24 lot of these documents, I've read a lot of the pleadings, I  
25 was running the investigation. And, you know, I mean, I can

1 try to list that on redirect, but I think in reality that's  
2 kind of what we're dealing with. I recognize the Court's  
3 concern, and it would be good to have a more fullsome answer  
4 particularly on those issues. And, you know, perhaps Mr. Bice  
5 would like to give him the opportunity on cross-examination.  
6 He seems to not want to do that. But I can do it on redirect,  
7 also, Your Honor. It's not a whole lot of questions, but I do  
8 share -- I understand the Court's concern.

9 THE COURT: So what I'm going to do is I'm going to  
10 continue to handle the way I have. I'm going to try and get  
11 the witness to focus and tell me whether it's information  
12 that's coming in exclusively from the attorneys or -- if it's  
13 information coming exclusively from an attorney source, then  
14 I'm going to try and determine if it's factual information or  
15 whether it's something else.

16 And, Mr. Bice, you are entitled to impeach him all  
17 you want up and down about the [inaudible]. And then we'll  
18 deal with that [inaudible]. But I am not going to find there  
19 has been a wholesale waiver of every single privilege that  
20 could possibly have been [inaudible].

21 Okay. Next? Mr. Peek, do you want to talk to me  
22 about Mr. Okada's medical condition?

23 MR. PEEK: Your Honor, there's not a lot more that I  
24 can add than what I have submitted to the Court. I received  
25 this medical note, and I -- apology, I don't have the brief



1 myself in front of me, so I forget the doctor's name.

2 THE COURT: A-K-A-S-U.

3 MR. PEEK: Yeah. Akasu. Dr. Yukio Akasu  
4 [phonetic]. But I received this late yesterday afternoon as  
5 we were finishing court. But I received it in Japanese, and  
6 it wasn't until later in the evening after I got back from my  
7 office that I actually had a rough translation of it from two  
8 Japanese translators and also commissioned the Court  
9 TransPerfect-approved translator to translate it for me, as  
10 well. Which I didn't get that until the morning. But you can  
11 say that the doctor's conclusion after identifying to you the  
12 seven diagnosis that he has found -- I don't know what it  
13 means. It says, attack of unconsciousness, but it doesn't  
14 sound good to me. I certainly know what sclerosis is both in  
15 the brain as well as in the heart. I know what lumbar pain is  
16 in sciatica. So I know those things, but what's compelling to  
17 me is the statement, urgent examination and treatments for the  
18 above diagnosis required. Therefor traveling overseas is not  
19 recommended. I don't know that this is even going to be an  
20 issue, because we haven't even finished one witness. I can  
21 assure the Court that Jay Schall is going to take the balance  
22 of today and tomorrow, so we wouldn't even get to Mr. Okada.

23 THE COURT: Well, we're not done with the first  
24 witness yet, so I don't know that you're going to get to start  
25 with --

1 MR. PEEK: That's what I said. We're still on the  
2 first witness. So the chances of this even being an issue --  
3 but I have brought it to the Court's attention --

4 THE COURT: I appreciate it.

5 MR. PEEK: -- in anything, Your Honor, whether or  
6 not Mr. Okada would or would not have been here tomorrow,  
7 because we weren't going to be using him. It's important for  
8 me to bring it to --

9 THE COURT: I appreciate that.

10 MR. PEEK: -- the Court's attention, because if I  
11 gave it to you and you had suggested to me, look, if there's  
12 something real I'll consider it, this is what I found out,  
13 this is all I know, Your Honor. I have no reason to believe  
14 that Dr. Akasu id not an MD. I have no reason to believe that  
15 this diagnosis is anything other than what it says it is.

16 THE COURT: Thank you, Mr. Peek. Did anybody on the  
17 Wynn side get a chance to look through this document?

18 MR. BICE: We have looked at it, Your Honor.

19 THE COURT: Okay.

20 MR. BICE: We've looked at it. I have no idea, it  
21 doesn't -- as I understand it, it doesn't say when he was  
22 supposedly examined by this doctor. He was able to travel  
23 here to Las Vegas for his court order deposition. And we were  
24 told yesterday that he was going to be here on Friday, and  
25 that he was essentially -- I understood that he was en route.

1 Seems that -- I guess maybe it's a coincidence when the Court  
2 told him yesterday that he wasn't going to be allowed to jump  
3 ahead of Mr. Schall, that we now get a certification saying  
4 that it's recommended that he not travel. And, again, there's  
5 just no indication that this is any different than issues he's  
6 had where he travels otherwise.

7 THE COURT: Okay. Given the upcoming appointment  
8 that's identified in the note from the doctor, which is on  
9 Exhibit A of the supplement, I am going to grant the request  
10 that Mr. Okada be excused from this week's proceedings only.  
11 Okay? So that does not quash the subpoena, Mr. Peek. It  
12 means he's excused from this week's proceedings only.

13 MR. PEEK: And, Your Honor, you'll note that I  
14 didn't ask for quashing

15 THE COURT: I know.

16 MR. PEEK: You'll note that. Because I was  
17 cognizant of the Court's ruling so I didn't ask the Court to  
18 quash. What I asked the Court was to excuse him from  
19 tomorrow.

20 THE COURT: And I did.

21 MR. PEEK: And I do want to respond to a few things,  
22 because I frankly -- sort of my wits' end because this is a  
23 real deja vu for me when these facts get made up along the way  
24 by Mr. Bice. But I did not say to this Court that he was in  
25 route. What I said to the Court when I spoke to the Court

1 earlier this week is that I wanted to catch him before he  
2 would be en route, because I didn't know. And that's what I  
3 said to the Court -- I did not say he was en route.

4 THE COURT: Okay. Anything else?

5 MR. PEEK: So I want to make that clear, because I  
6 want the record to be clear that when I say what I say and I  
7 mean what I say, and I don't like it when lawyers frankly get  
8 up in an disingenuous matter misquote me and misrepresent what  
9 I have said. It frankly tiring and too much of a deja vu for  
10 me.

11 THE COURT: I recall you saying you wanted to try  
12 and catch him before he got on the airplane. All right.  
13 Anything else before I have my witness come back in?

14 MR. PISANELLI: Your Honor, just so we know from a  
15 planning perspective can we ask Mr. Okada's counsel and the  
16 defendants generally whether they intend to call him or is  
17 this simply an issue of us calling him and his availability  
18 for our examination of him?

19 THE COURT: They told us yes on Monday that they did  
20 not have an intent to call him, and we were going to call him  
21 out of order in your case. And I said we were going to try  
22 and do that, because I was trying to avoid witnesses who had  
23 traveled from the Far East wasting their time by coming here.

24 MR. PISANELLI: Okay.

25 THE COURT: And that if there were local people we

1 were going to try and accommodate them. Has anything changed?

2 MR. PEEK: No, Your Honor.

3 THE COURT: Okay.

4 MR. PEEK: Again, I appreciate the Court remembering  
5 the way I do. I'm sorry that Mr. Pisanelli and Mr. Bice  
6 don't.

7 THE COURT: All right. Anything else? Guys, let's  
8 stop fighting. I mean it's only going to add time to this,  
9 and we're already short of time. It has become apparent that  
10 we are not going to finish in the three days that we'd  
11 originally set aside, so I'm going to try and find you more  
12 time --

13 MR. BICE: Your Honor, we don't agree that that's  
14 apparent. The reason that we asked for that clarification is  
15 that when they rest we'll decide whether or not --

16 THE COURT: Okay. So you may be done?

17 MR. BICE: -- when we may be done. Yeah.

18 THE COURT: All right. That's lovely. I like  
19 hearing that.

20 MR. PEEK: I'm sorry. I didn't hear what he said.

21 THE COURT: He said he may be done this week.

22 MR. PEEK: I don't think I'll finish with Mr.  
23 Schall.

24 THE COURT: I don't know. We'll see. Can somebody  
25 open the door and see if our witness is ready to come in,

1 because I gave him till 1:15 and it's 1:23 now.

2 MR. BICE: Your Honor, if we decide --

3 THE COURT: It's okay, Mr. Bice, we'll talk about it  
4 later. It doesn't matter right now.

5 MR. BICE: Okay.

6 THE COURT: Sir, if you'll come back up to the  
7 witness stand along with the various interpreters who are  
8 assisting everyone.

9 Are you ready to resume your cross-examination, Mr.  
10 Bice?

11 MR. BICE: I am, Your Honor.

12 THE COURT: That's lovely. I'd like to remind you,  
13 sir, you are still under oath.

14 THE WITNESS: Yes.

15 CROSS-EXAMINATION (Continued)

16 BY MR. BICE:

17 Q Good afternoon, Mr. Takeuchi.

18 A Good afternoon.

19 Q Before we took the break you testified about a  
20 couple of contracts in Macau that you were describing that  
21 related to the Cotai land acquisition. Do you recall that?

22 A Yes, there was a question if there were any other  
23 documents that were not produced. And in response to that I  
24 was answering.

25 Q And you were describing some contracts that you

1 intend -- you haven't seen; is that right?

2 A Yes, that's right.

3 Q And you have asked your attorneys for copies,  
4 whether they have copies of those contracts I assume?

5 MR. KRAKOFF: Objection. Privilege.

6 THE COURT: Sustained.

7 MR. BICE: I'll rephrase.

8 BY MR. BICE:

9 Q In this litigation no one has shown you copies of  
10 those contracts; is that right?

11 MR. KRAKOFF: Objection, Your Honor. That's the  
12 same --

13 THE COURT: Mr. Bice, can you ask him if he's seen  
14 them so I can get past the objection.

15 BY MR. BICE:

16 Q Have you seen them as part of this litigation?

17 A I don't think I have.

18 Q Mr. Takeuchi, do you recall the deposition telling  
19 us that in order to determine whether you would have been or  
20 how much you're prejudiced you would actually need to look at  
21 the documents with the redactions on them?

22 A Yes.

23 Q Okay. And do you recall me asking you whether  
24 anyone was harmed or prejudiced by the redaction of Mr.  
25 Okada's name? Do you recall that?

1           A     Yes.

2           Q     And you said that you'd need to look at documents,  
3 the individual documents, to see whether or not they were  
4 important to be able to determine whether you were prejudiced  
5 by the redaction of Mr. Okada's name on them; correct?

6           A     Yes.

7           Q     And yet you only looked at, at least in preparation  
8 to testify on behalf of the company as the prejudice, you only  
9 looked at three documents, correct, three of the redacted  
10 documents?

11           THE COURT: Did you have an objection?

12           MR. KRAKOFF: Objection, Your Honor. That's  
13 contrary to his testimony he's seen more documents.

14           THE COURT: Well, he's seen more since his  
15 deposition.

16           MR. KRAKOFF: Since his deposition. But that wasn't  
17 the question.

18           THE COURT: Mr. Bice, if you could rephrase your  
19 question.

20           MR. BICE: All right. I think that was much  
21 question, so I'll rephrase it.

22 BY MR. BICE:

23           Q     For purposes of your deposition and testifying on  
24 behalf of the company as to the company's purported prejudice  
25 you looked at only three of the redacted documents; correct?



1           A     Well, as for the actual documents that I saw that's  
2 correct, either three or four documents.

3           Q     Okay. And do you recall telling in your deposition,  
4 Mr. Takeuchi, that you're prejudiced just as much by the  
5 redaction of Mr. Okada's name as you are by the redaction of  
6 anybody else's name? Do you recall that?

7           A     Yes.

8           Q     And you were prejudiced by the redaction -- let me  
9 rephrase. Universal and Aruze are prejudiced by the redaction  
10 of your name to the extent that they're prejudiced by the  
11 redaction of anybody else's name; right?

12          A     Yes.

13          Q     And you're prejudiced to the same extent by the  
14 redaction of Director Takuda's name, as well, correct,  
15 Director Takuda from Universal?

16          A     Yes.

17          Q     And Director Takuda traveled to Macau frequently  
18 with Mr. Okada; did he not?

19          A     He did. He used to.

20          Q     He used to. And did Director Takuda give a consent  
21 to releasing his name from any documents in Macau?

22          A     Because there was no such request no consent was  
23 given. Or I should say, you know, there was no such request  
24 to begin with. There was no request from anyone of him to  
25 that effect.

1 Q Okay. Let's talk about the three documents then  
2 that you did actually look at to testify on behalf of the  
3 company. Let's first go to Exhibit 512. 512A.

4 A 512?

5 Q A, 512A.

6 A Where are they. Where is it?

7 MR. BICE: May I approach, Your Honor.

8 THE COURT: You may.

9 MR. BICE: Thank you.

10 THE WITNESS: 512, yes.

11 BY MR. BICE:

12 Q Okay. And this is one of the documents, 512A, Mr.  
13 Takeuchi, that you believe prejudices Aruze and Universal with  
14 the redactions; right?

15 A Yes.

16 Q And as I understand it you're claiming that you'd  
17 like to know who the names are on this document so that you  
18 could think about maybe deposing them; is that correct?

19 A Well, that's correct, but in part to -- in order to  
20 do a deposition. But, you know, this is one of several  
21 documents, so it's not an independent document. So it's one  
22 of several documents, so without seeing comprehensively all  
23 such documents I don't think one can make a determination --  
24 such a determination as to that. And so I'm not saying this  
25 is the only one you have to see, but one of several.

1 Q I understand. But this is one of the three that you  
2 actually looked at; correct?

3 A That's correct.

4 MR. BICE: Your Honor, I'm going to approach again.

5 THE COURT: You may.

6 MR. BICE: Showing you what's been marked as Exhibit  
7 513.

8 THE COURT: Is that proposed exhibit?

9 MR. BICE: Proposed. It's their proposed exhibit,  
10 Your Honor.

11 THE WITNESS: Yes.

12 BY MR. BICE:

13 Q Have you seen that document before today?

14 A I have not.

15 Q Can you tell the Court in looking at it what it is.

16 A Well, first of all there's a cover page, and then as  
17 for its content it looks like a letter from Mr. Steve Wynn  
18 addressed to Mr. Ho Ho.

19 Q Does it appear to be -- Ho Ho -- does it appear to  
20 be the exact same document as 512 without the redactions?

21 A I think so.

22 Q Okay. So now, do you know how long that you've had  
23 a copy of Exhibit 513 in your file?

24 A When you say you you mean your company or companies;  
25 right?

1 Q Your lawyers. Do you know how long your side of the  
2 case has had this exhibit's unredacted copy of the document  
3 that you looked at and testified you were prejudiced by?

4 A I don't -- no, I don't know that.

5 Q Have you attempted to take any of the depositions of  
6 the people on the correspondence now that you see their names?

7 A Naturally I believe Mr. Steve Wynn was deposed  
8 several times.

9 Q Okay.

10 A And as for Mr. Ho Ho, I don't think he has been  
11 deposed.

12 Q Are you going to try and depose Mr. Ho Ho?

13 A If possible we would like to.

14 Q Okay. Do you know Mr. Ho Ho?

15 A I know his name.

16 Q Okay. So let's go to Exhibit 577.

17 MR. BICE: I'm going to approach again, Your Honor.

18 THE COURT: You may.

19 MR. BICE: Thank you.

20 THE WITNESS: Yes.

21 BY MR. BICE:

22 Q Do you see this email up at the top? It's about  
23 Wynn Cotai refuge floors. Do you see that?

24 A Yes.

25 THE COURT: Which exhibit number is this?

1 MR. BICE: 577, Your Honor.

2 THE COURT: Thank you.

3 BY MR. BICE:

4 Q Do you know what a refuge floor is, Mr. Takeuchi?

5 A Refuge floors, well, probably I think maybe floors  
6 for evacuation purpose in a building possibly.

7 Q Okay. Do you believe that the Wynn Cotai refuge  
8 floors are something that you need to investigate as part of  
9 your investigation?

10 A No, I have no intention to investigate refuge floors  
11 themselves.

12 Q Okay. And if you look at the bottom half of the  
13 email, the first sentence after it says, "Dr. Zeman". Do you  
14 know who the chief executive that his name is redacted?

15 A I see a name is redacted there.

16 Q Okay. But you don't know who the chief executive  
17 is?

18 A As of this time the chief executive of Macau was  
19 Mr. Edmund Ho I think.

20 Q Okay. Do you know when Dr. Zeman's deposition is  
21 scheduled for in this case?

22 A Let me see, I don't know exactly, but I think his  
23 name had come up as a subject of actual deposition.

24 Q Okay. Is it your belief that this email, Exhibit  
25 577, would be something that Dr. Zeman would be examined

1 about, or do you just not know?

2 A Well, I don't know if that's going to be one of the  
3 topics, but naturally if it's Edmund Ho then there would have  
4 been some communications or interactions with Mr. Edmund Ho,  
5 as well. So if such -- when and if such information is  
6 obtained, naturally, what to examine on would be determined  
7 then.

8 Q And that was -- that email was from July of 2012, it  
9 was after the redemption; correct?

10 A Well, the date of this email is July 12th, 2012.  
11 July. Yes, that's correct.

12 Q Okay. If we could go to the last one of the three  
13 that you had looked at, Exhibit 568, and you also have that in  
14 front of you. This is about a visit by Mr. Wynn to Macau in  
15 May of 2012; correct?

16 A It appears so, yes.

17 Q Okay. And this is again after the stock had been  
18 redeemed and Aruze was no longer a shareholder in Wynn  
19 Resorts; right?

20 A It was after the forced redemption of the stock.

21 Q Do you know why there are many names on this  
22 document that are not redacted, Mr. Takeuchi?

23 THE INTERPRETER: The interpreter would like to make  
24 a correction again.

25 THE WITNESS: Why not redacted? As far as I see

1 this email I think that because they are either directors or  
2 employees of Wynn Macau or Wynn Resorts I think.

3 BY MR. BICE:

4 Q You understand that a number of them gave consents  
5 under the MPDPA?

6 A I don't know about that.

7 Q Have you -- strike that. Do you know whether anyone  
8 on behalf of Universal or Aruze has asked Attorney Sa to  
9 attempt to serve Wynn Macau with any form of legal process in  
10 Macau to obtain documents?

11 MR. KRAKOFF: Objection. Privileged.

12 THE COURT: Overruled.

13 MR. PEEK: Before you answer -- objection, Your  
14 Honor. This also assumes facts not in evidence as the Court  
15 has noted. And we also know, as well, that there no such a  
16 thing as legal process in Wynn Macau to get documents.  
17 There's no Hague Convention, there's no ability to get  
18 documents in Wynn Macau.

19 THE COURT: Well, there might be if you're in a  
20 Macau lawsuit, but I don't know what that process is because  
21 I don't practice law in Macau.

22 MR. PEEK: I don't either, Your Honor. But I do  
23 know that they're not a member signing of the Hague  
24 Convention, which allows those who are parties to the treaty  
25 to effect certain process within that jurisdiction to get

1 documents or get answers or get depositions.

2 THE COURT: I understand what you're saying, Mr.  
3 Peek.

4 MR. PEEK: But you're addressing a different issue,  
5 is that did they do it under the --

6 THE COURT: There's other ways to do it besides  
7 under the Hague Convention is what I'm saying.

8 MR. PEEK: Do you know that?

9 THE COURT: I do know that.

10 MR. PEEK: Perhaps you can help me --

11 THE COURT: If you have a lawsuit that's there --

12 MR. PEEK: Okay. I understand that part.

13 THE COURT: Okay.

14 MR. PEEK: But he didn't ask it that way. He was  
15 talking about it in this lawsuit.

16 THE COURT: All right. Mr. Bice, can you rephrase  
17 your question.

18 MR. BICE: I just want to know, Your Honor.

19 THE COURT: Let's just rephrase it, please.

20 MR. BICE: Let me go back and find it, again.

21 BY MR. BICE:

22 Q Has Attorney Sa attempted to serve Wynn Macau with  
23 any form of legal process in Macau in order to obtain  
24 documents?

25 MR. KRAKOFF: Same objection, Your Honor.



1 Privileged.

2 THE COURT: Overruled.

3 THE WITNESS: I have heard such a thing. However,  
4 in actuality what was served or when it may have been served  
5 or in what manner it may have been served or not yet, I don't  
6 know.

7 BY MR. BICE:

8 Q Okay. But your understanding is that that was his  
9 responsibility, Attorney Sa?

10 A Responsibility? I don't know whether or not it was  
11 Attorney Sa. However, I don't think Attorney Sa would do it  
12 by himself. So if Attorney Sa would have tried to do  
13 something I would guess that there would have been a request  
14 from someone.

15 Q Okay. Going back briefly to just Exhibit 513.

16 THE COURT: And 513 was not admitted yet. If you'd  
17 like to move it.

18 MR. BICE: I would like to proffer it.

19 THE COURT: Anybody have an objection to 513?

20 MR. KRAKOFF: No, Your Honor.

21 MR. PEEK: Your Honor, it's a little bit of an  
22 objection [unintelligible] not an objection, because the Court  
23 ruled that certain documents that Mr. Krakoff attempted to  
24 show the witness could not be admitted. What we do know and  
25 I'll proffer to the Court -- if you want to excuse the witness

1 while I make this proffer even though he's a party -- is that  
2 this document had been produced to us at least in two  
3 different productions and redacted --

4 THE COURT: Mr. Peek, if we're going to have a  
5 speaking objection this long I'm going to send the witness out  
6 in the hallway.

7 MR. PEEK: That's fine then. Send the witness out,  
8 Your Honor.

9 THE COURT: I know you made that recommendation. I  
10 just need to stop you.

11 MR. PEEK: Okay. That's fine.

12 THE COURT: Sir, if you could excuse us, please.

13 All right. Mr. Peek?

14 MR. PEEK: Thank you. Your Honor. What we do know,  
15 Your Honor, is that 512A, which came in the plaintiffs'  
16 twenty-sixth production sometime in 2016 or maybe even earlier  
17 was an unredacted version of that -- redacted version, excuse  
18 me, redacted version of that, that's 512A. I think the  
19 witness should be shown that. Then 512 --

20 THE COURT: He already was.

21 MR. PEEK: 512A, no, he was shown 513.

22 THE COURT: He was also shown 512A.

23 MR. PEEK: Okay. And 512B. And that's the one I'm  
24 trying to run the ground right now, Your Honor, but I think --

25 THE COURT: 513 is the one we're on now.

1 MR. PEEK: No, I know. The 512B -- there's several  
2 of them, because there's a chain --

3 THE COURT: I know there's a --

4 MR. PEEK: -- the way of the gamesmanship of Wynn  
5 Resorts in the way they produce these, contrary to the Court's  
6 order of November 1st, they've dribbled them out.

7 THE COURT: November 1st of what year?

8 MR. PEEK: November 1st of 2016's when the order  
9 came down.

10 THE COURT: Thank you, Mr. Peek.

11 MR. PEEK: Okay. So I'm -- it's a little bit like  
12 Donald Trump dribbling things out, you know, piece meal a  
13 little bit at a time. But we didn't get this 513 exhibit  
14 until I believe July 7th, in their July 7th production.

15 THE COURT: Of what year? What year?

16 MR. PEEK: 2017.

17 THE COURT: Thank you.

18 MR. PEEK: Just in the last 20 days? So it would be  
19 after his deposition, after preparation for his deposition as  
20 a 30(b)(6). So if we're going to examine this witness on this  
21 he's opened the door now about documents that have been  
22 redacted, which you would not allow --

23 THE COURT: I'm not there yet, because it's not  
24 admitted.

25 MR. PEEK: I know. Well, I am. My point is if

1 we're going to do this let's show him 512A, 512B, and 513 and  
2 identify when they're produced as opposed to mislead the  
3 witness.

4 THE COURT: All right. Thank you.

5 Ms. Spinelli.

6 MS. SPINELLI: Yes. There was actually -- we used  
7 Exhibit 513, because it was proposed and in our exhibit list  
8 rather than supplementing. But we produced a copy of the same  
9 document unredacted in our twenty-ninth supplemental  
10 disclosure in April of 2017, which is before Mr. Takeuchi's  
11 sanctions depo. And then --

12 THE COURT: What year?

13 MR. PEEK: As what number? As what number, Ms.  
14 Spinelli? Because --

15 MS. SPINELLI: WYNN00072399 is the Bates.

16 MR. PEEK: And why do we -- we don't have it picked  
17 up that way, because we have -- this one is 75639.

18 MS. SPINELLI: It is. That was your proposed  
19 exhibit. We didn't want to supplement our exhibit list --

20 MR. PEEK: No. No. That's the Bates number.

21 THE COURT: Guys, it can be produce with multiple  
22 different Bate numbers --

23 MS. SPINELLI: That's right.

24 THE COURT: -- if it came from different custodians.

25 MR. PEEK: No. It all came from Wynn.

1 THE COURT: Well, Wynn is not a custodian. Wynn's a  
2 party.

3 MR. BICE: It's been produced multiple times, Your  
4 Honor, before his deposition, after his deposition.

5 THE COURT: Okay. Wait. Let me go back.

6 Ms. Spinelli, can you give me that number for when  
7 the other version of 513 was produced in the twenty-ninth  
8 disclosure.

9 MS. SPINELLI: It's the thirty-ninth. I misspoke,  
10 Your Honor.

11 THE COURT: Thirty-ninth disclosure.

12 MS. SPINELLI: It's the thirty-ninth supplemental  
13 disclosure. It was April I think 24th, 2017, and the Bates  
14 number is WYNN00072399.

15 MR. PEEK: We will check that, Your Honor.

16 THE COURT: I'm waiting.

17 MS. SPINELLI: It's an exact duplicate of what's  
18 been -- what is Proposed 513, just with a different Bates  
19 number on it. But it's unredacted, as well.

20 MR. PEEK: Which came in in their forty-fourth  
21 production on July 7th, 2017.

22 MS. SPINELLI: Right.

23 THE COURT: Okay.

24 MS. SPINELLI: Your Honor, when you ordered us to  
25 make sure we produced all the Macau law documents and the

1 certification we did a whole-scale review, went back to out  
2 privilege log and did all that and made sure everything was  
3 pushed out for the certification. And so there were lots of  
4 duplicates and we just -- and to make sure that we were doing  
5 exactly what you said and our certification was accurate we  
6 produced all those duplicates. And so there were duplicated  
7 produced on July 7th, so they had everything they have with  
8 them.

9 THE COURT: All right. Thank you.

10 MR. PEEK: And, Your Honor, I guess this raises the  
11 issue that we have had for the last eight, nine months since  
12 the November 1st order is the number of supplemental  
13 productions and the what I would call almost a shuffling the  
14 deck in the production. Frankly, Your Honor, we tried to find  
15 all these. If I missed it, as Ms. Spinelli said, I missed it  
16 and I apologize. We made an effort to try to find when these  
17 documents were produced. We do know that there was a  
18 production in the forty-fourth of the same document that was  
19 produced in the twenty-sixth. So that's what we're trying to  
20 run the ground.

21 THE COURT: And now we think it may have also been  
22 in the thirty-ninth.

23 MR. PEEK: And they've also been in the thirty-  
24 ninth.

25 THE COURT: In an unredacted form.

1 MR. PEEK: So we'll run that to ground now. We now  
2 have the number so we can ask our folks to pull that number,  
3 let's take a look at it.

4 THE COURT: Lovely. Can I have the witness come  
5 back in now that we've finished having this exciting  
6 discussion.

7 MR. BICE: Thank you.

8 THE COURT: So, Mr. Peek, I assume you have no  
9 objection at this point understanding there may be an issue  
10 you're going to argue later about opening the door?

11 MR. PEEK: Absolutely, Your Honor.

12 THE COURT: Okay. All right.

13 MR. PEEK: This is -- the document --

14 THE COURT: It's admitted.

15 (Defendants' Exhibit 513 admitted)

16 MR. PEEK: -- we tried to show -- tried to have it  
17 into evidence and was denied.

18 MR. BICE: This is not --

19 THE COURT: Guys. Guys, stop fighting.

20 MR. PEEK: It was a universe of types of documents,  
21 Your Honor.

22 MR. BICE: Your Honor, I --

23 THE COURT: Wait. I've ruled. We're going to go  
24 back to cross-examination now.

25 MR. PEEK: Your Honor?

1 THE COURT: Yes, Mr. Peek.

2 MR. PEEK: We have the thirty-ninth as an exhibit --

3 THE COURT: Okay. So we have a technical issue with  
4 the court reporter's machinery. We're going to have to take a  
5 short break while she tries to fix it.

6 MR. BICE: Okay.

7 MR. PEEK: Your Honor, we had the thirty-ninth  
8 supplement so we may be quoting from it for a minute, because  
9 we're trying to find that document in thirty-ninth supplement.

10 THE COURT: Okay. So --

11 MR. PEEK: But right now we can't find it.

12 THE COURT: Right now the court reporter has a  
13 problem. Please feel free to look at stuff.

14 MR. PEEK: Did you say 29 or 39, Ms. Spinelli.

15 MS. SPINELLI: 39.

16 THE COURT: Thirty-ninth. So it was April 27th,  
17 2017. We are going to take a short break.

18 Mr. Takeuchi, if you want to get up and walk around  
19 you can, because the court reporter's machine to talk to the  
20 interpreters is not working right now. I am taking a 3:30  
21 break to have a conference call on Cotter. If Mr. Ferrario is  
22 here he can participate live, but I don't see him in the room.

23 (Court recessed at 2:08 p.m., until 2:19 p.m.)

24 MR. BICE: Are we ready to go?

25 THE COURT: Are we ready now?



1 MR. PEEK: No. I would like to -- well, I'd like to  
2 finish this explanation, Your Honor, to the Court. So if Your  
3 Honor excused the witness, I'm fine. I understand. This is  
4 important to me and -- it may not seem important to you, but  
5 it's important to me --

6 THE COURT: No, it --

7 MR. PEEK: -- because there's an accusation that we  
8 did something nefarious. It's important to understand this.

9 MR. BICE: [Inaudible].

10 THE COURT: Guys, stop arguing with each other.

11 Mr. Takeuchi, I'm really sorry. I'm going to ask  
12 you to leave again.

13 Hold on a second.

14 Mr. Peek, you wanted to tell me something else.

15 MR. PEEK: Some may find this amusing, but I don't,  
16 Your Honor. So I want to visit a little history with this  
17 letter.

18 THE COURT: And this letter being 513?

19 MR. PEEK: 513 in a complete and unredacted form.

20 THE COURT: No. 513 as it's in your exhibit binder  
21 is completely unredacted. 512A is the redacted version.

22 MR. PEEK: Yeah. So, Your Honor, we have, as I  
23 understand, the following. 512A was produced in the twenty-  
24 sixth supplement in redacted form. And if somebody would give  
25 me that page, the twenty-sixth supplement. But I'll come back

1 to that, Your Honor. It was before the November 1 order on --  
2 it's the thirty-ninth supplement, as Ms. Spinelli said. It  
3 was produced as 72399. It did not appear in the log of  
4 documents produced, but it did appear in what we've received  
5 from time to time is a conversion time. Conversion file meant  
6 that some -- a document had been previously identified as a  
7 privileged document, now had a new number. So when you look  
8 at their list of documents produced and the Bate numbers we  
9 don't see it. But then when you see a conversion table, which  
10 follows on, we see a Wynn priv. number which is not the one  
11 that was produced in the twenty-sixth supplement.

12 THE COURT: The one with 512A.

13 MR. PEEK: Right. The 512A had a -- has a Wynn  
14 priv. number, and it's in that area where we see 72399,  
15 clearly unredacted and at that time confidential, I believe.  
16 That's not one of our exhibits, because we didn't pick that  
17 up. We missed that in the thirty-ninth supplement.

18 On July 7th Wynn produced in their forty-fourth  
19 supplement what we have identified as 512B. And that again is  
20 -- has the same number as the document produced in the twenty-  
21 sixth supplement, no conversion table, but the first page of  
22 it, the body of the letter is unredacted, but in the lower  
23 right-hand corner on 512B there's a redaction.

24 In that same production of the forty-fourth  
25 supplement they now took that same letter, gave it a brand-new

1 number, now 75639, and then gave it a highly confidential  
2 designation.

3           So we have, if you will, Your Honor, four different  
4 versions in three different -- or four different -- no, three  
5 different productions, one of which was twice. And the  
6 interesting part on the 513 is marked highly confidential, so  
7 there's no way we could have shown it to Mr. Takeuchi. It is  
8 befuddling to me, Your Honor, is the best I can say, that --  
9 why do we have these kinds of issues in the productions from  
10 Wynn Resorts other than to obfuscate?

11           THE COURT: Okay. Anything, Ms. Spinelli, or can I  
12 finish the witness?

13           MS. SPINELLI: Your Honor, just really briefly,  
14 because, I mean, there's ongoing meet and confers about  
15 privilege between myself and Mr. Miller for the Okada parties,  
16 and so we're responding to a series of letters with different  
17 Bates numbers attached and such and whether they're  
18 confidentiality or privileged. So that's why there's  
19 different productions. Each one comes with an overlay, which  
20 is a replacement file. So -- and we provide the cross-  
21 reference sheets for their ease. If they don't need them or  
22 want them or they're not useful, that's fine. But the  
23 documents get overlaid in ESI form on the review platform, all  
24 searchable by contents searched. So it might seem like it's  
25 obfuscation, but that is certainly not the point. It's trying

1 to respond to the multiple demands and addressing and seeing  
2 if we do something wrong or complying with your order or  
3 reassessing a privilege based upon meet and confers. That's  
4 it, Your Honor.

5 THE COURT: Thank you. Can I continue with the  
6 witnesses now?

7 MR. BICE: Well, Your Honor, actually we want to be  
8 heard, one additional thing on this. No one's accusing  
9 anything of doing anyone improper here. Mr. Peek has  
10 apparently suggested that. It's just not true. We all make  
11 mistakes. We all deal with documents. I'm sure I've  
12 overlooked countless documents as part of this process. Our  
13 point is simply this. It's very simple. These documents  
14 really aren't all that significant, and they're so  
15 insignificant that even they don't really pay that much of  
16 attention to them. And the witness doesn't really pay any  
17 attention to them, and the witnesses aren't even looking at  
18 the document. So when they come in and then they start  
19 talking about how these documents are, quote, "critical" and  
20 -- to the their case, the fact that the witness doesn't even  
21 know about these documents, he's only looked at three of them,  
22 he's admitted that he'd actually have to look at all the  
23 redactions and figure out if any of the documents actually  
24 have any significance, like, for example, an email that talks  
25 about rescue floors you're at -- refuge floors. Refuge

1 floors. I mean, our point is this. These documents are not  
2 as they have been portrayed, and we are entitled to show that.  
3 And we're not accusing anybody of doing anything nefarious on  
4 this issue. But don't come in and tell the Court how these  
5 documents are all critical and then say, but they're not  
6 allowed to challenge the witness on that story.

7 THE COURT: Okay. Are we ready now for me to  
8 continue with the witness?

9 MS. SPINELLI: Yes, Your Honor.

10 MR. BICE: Please.

11 THE COURT: Lovely. Could someone go ask the  
12 witness to come back in.

13 THE MARSHAL: I'll get him, Judge.

14 THE COURT: All right. Whoever wants to get up and  
15 (Pause in the proceedings)

16 THE COURT: Sir, thank you so much for accommodating  
17 our request for counsel to have time to argue things that they  
18 think are critical to me knowing before I make a decision.

19 Mr. Bice, if you would continue.

20 MR. BICE: Thank you, Your Honor.

21 BY MR. BICE:

22 Q Mr. Takeuchi, you understand that Wynn Macau is a  
23 publicly trade company on the Hong Kong exchange, do you not?

24 A Yes, I'm aware of that.

25 Q You understand that there are rules that a company

1 has to comply with in order to be listed on the Hong Kong  
2 Exchange; correct?

3 A I'm not familiar with the details of the rules, but  
4 I am aware that there are rules.

5 Q Okay. And do you have any evidence that Wynn Macau  
6 does not follow the rules of the Hong Kong Exchange, Mr.  
7 Takeuchi?

8 A No, I don't know of any.

9 Q Do you have any evidence, Mr. Takeuchi, that the  
10 board of directors of Wynn Macau does not govern its affairs?

11 A You're asking if I have any evidence of the board of  
12 directors of Wynn Macau not managing the affairs of Wynn  
13 Macau?

14 Q No. I would phrase it this way. Do you have any  
15 evidence that the board of directors does not govern the  
16 affairs of Wynn Macau?

17 A No.

18 Q Do you have any evidence that the board of directors  
19 of Wynn Macau does not have the authority to manage the  
20 company's rights and responsibilities?

21 MR. PEEK: Objection. Calls for a legal conclusion.  
22 The information. Any information he would have, Your Honor,  
23 would be attorney-client.

24 THE COURT: Overruled.

25 THE INTERPRETER: I will do the question again in

1 Japanese.

2 MR. KRAKOFF: Your Honor, I'm going to object as  
3 it's going to be read back, because I'd like to clarify. Is  
4 he being asked this question as a corporate representative, or  
5 in his individual capacity?

6 THE COURT: We've been doing corporate  
7 representative for two days, guys. Next?

8 BY MR. BICE:

9 Q Can he answer, please.

10 A I don't think that's a question that I can answer  
11 accurately. I am neither a member of the board of directors  
12 of Wynn Macau nor do I have -- have I seen the minutes of the  
13 board of directors meeting. And for that reason I'm unable to  
14 answer that question with a simple yes.

15 Q Do you have any evidence, Mr. Takeuchi, that the  
16 board of Wynn Macau does not have control over the company's  
17 records?

18 A I have no such evidence except for one thing.

19 MR. BICE: I don't have any further questions, Your  
20 Honor.

21 THE COURT: Thank you, Mr. Bice.

22 MR. BICE: Thank you.

23 MR. KRAKOFF: Excuse me, Your Honor. I don't think  
24 he had finished his answer, Your Honor.

25 THE COURT: He did finish his answer. I don't hear

1 any talking going on. You may want to ask him if he has a  
2 followup, but that's up to you.

3 MR. KRAKOFF: Thank you, Your Honor. Just a few  
4 brief -- I'll be brief.

5 THE COURT: Good luck.

6 MR. KRAKOFF: I will be brief.

7 REDIRECT EXAMINATION

8 BY MR. KRAKOFF:

9 Q What was the one thing? You said, except one thing.  
10 What was -- what were you referring to, Mr. Takeuchi?

11 A There is one issue regarding which I have some doubt  
12 which has to do with the contribution that was made to the  
13 Macau University Development Fund. I question whether there  
14 has been sufficient scrutiny to that or whether there has been  
15 sufficient explanation for the basis of not only the amount of  
16 the donation, but also the period of time, whether a  
17 sufficient explanation was provided to each member of the  
18 board. And those are the things regarding which I have some  
19 doubt.

20 Q Now, Mr. Takeuchi, has anyone told you that your  
21 name is on any of the Wynn Macau documents in Macau?

22 A No, I have not heard that.

23 Q And did Wynn Macau or Wynn Resorts ask for your  
24 consent under the MPDPA before your deposition in this  
25 sanctions proceeding?



1           A     No, there was no such thing.

2           Q     Did Wynn Macau or Wynn Resorts request the consent  
3 under the MPDPA for anyone else at Universal besides Mr.  
4 Okada?

5                   MR. BICE:  Objection, Your Honor.  Maybe it's not so  
6 much as an objection, but I actually won't object to him  
7 answering, but it's a waiver, because he's communicating with  
8 his lawyers.  And, as the Court will recall, they objected to  
9 me asking him these questions.  You can't have it both ways.

10                  THE COURT:  Thank you.

11                  THE WITNESS:  No.  There was no such thing.

12 BY MR. KRAKOFF:

13           Q     Did Wynn Macau or Wynn Resorts ever ask you or  
14 anyone at Universal, to your knowledge, to ask for MPDPA  
15 consents from PAGCOR officials?

16           A     No, they did not.

17           Q     Did Wynn Macau or Wynn Resorts ask for the MPDPA  
18 consent for Mr. Takuda?

19           A     No, they did not.

20           Q     And looking at Exhibits 564 and 565 --

21                   THE INTERPRETER:  Excuse me, Counsel.

22                   THE COURT:  Having trouble again?

23                   THE INTERPRETER:  The witness does not have the  
24 correct binder in front of him for 564.  Now I see it.

25                   THE COURT:  Have you got it?  I think it's Volume 3.

1 THE INTERPRETER: It's on the screen in front of  
2 him, yes.

3 THE COURT: Thank you.

4 THE WITNESS: Yes.

5 BY MR. KRAKOFF:

6 Q Now, Mr. Bice asked you some questions about what he  
7 said was an agreement by Mr. Okada and Chairman Naguiat  
8 regarding attorneys. Does your only knowledge of this come  
9 from this email that is in front of you?

10 A Yes.

11 Q And as far as you're aware, did Universal ever agree  
12 as a company to pay for Mr. Naguiat's attorneys?

13 A There was no such agreement entered into, nor is  
14 there any such fact to that effect.

15 Q Could you explain what you mean any fact to that  
16 effect. What do you mean?

17 A What I mean by that there is nothing in this email  
18 here that indicates that there is a fact of any such agreement  
19 having been entered into.

20 Q And I believe you've already testified that no such  
21 payments were ever made to Mr. Naguiat's attorneys; is that  
22 correct?

23 A That's correct.

24 Q Now, when Mr. Bice asked you about what documents  
25 had not been produced were you referring to the documents that

1 had been withheld by Wynn Resorts under the Macau laws?

2 MR. BICE: Objection to the form as in leading, Your  
3 Honor.

4 THE COURT: Overruled.

5 MR. BICE: And he didn't testify to that.

6 THE COURT: Overruled.

7 THE INTERPRETER: I'd like to do the question again  
8 in Japanese, please.

9 THE WITNESS: Well, I can't be specific, because I  
10 don't know what has not been produced. But I believe that  
11 that would be included.

12 BY MR. KRAKOFF:

13 Q And are those -- in response to Mr. Bice's questions  
14 is that what you're referring to, these documents that have  
15 been withheld under an assertion of Macau -- different laws in  
16 Macau that prevent their production?

17 MR. BICE: Same objection as to leading, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS: Yes, those are also included.

20 BY MR. KRAKOFF:

21 Q Now, you testified that you worked on this  
22 litigation, this lawsuit since shortly after the lawsuit was  
23 filed in February 2012. And in that time is it your testimony  
24 that you have managed the litigation on behalf of the company?

25 A Well, rather than say on behalf of the company, I

1 served as an employee of Universal beginning working as a  
2 liaison with attorneys in the U.S.

3 Q And was it your job to supervise the litigation?

4 A Yes, that was part of my work.

5 Q And among your responsibilities over the last five  
6 years in managing the litigation did you review some of the  
7 documents that were produced in this lawsuit?

8 THE COURT RECORDER: Judge --

9 THE COURT: Yes.

10 THE COURT RECORDER: -- I went off.

11 THE COURT: Hold on. Now we have a technical  
12 problem on my side. Hold on, Jill.

13 Okay. I'm going to read my email, since I'm not  
14 staring at you.

15 (Pause in the proceedings)

16 THE COURT: Are you ready, Jill?

17 Mr. Krakoff, can you remember where you were?

18 MR. KRAKOFF: I hope so.

19 THE COURT RECORDER: The last question I have is  
20 about supervising the litigation.

21 THE COURT: In the U.S.?

22 THE COURT RECORDER: Was that his job, to supervise  
23 litigation.

24 BY MR. KRAKOFF:

25 Q And in the course --

1           THE INTERPRETER: Excuse me. The interpreter  
2 believes that there was another question pending that has not  
3 yet been interpreted, which I think --

4           THE COURT: But, ma'am, that may not have been  
5 picked up on our recording system, which is different than  
6 what you're looking at.

7           THE INTERPRETER: Excuse me, Your Honor.

8           THE COURT: Thank you.

9 BY MR. KRAKOFF:

10          Q     Now, as part of your responsibilities managing the  
11 litigation did you review some of the motions and pleadings  
12 that have been filed in this matter?

13          A     Yes.

14          Q     And do you respond on behalf of the company to  
15 interrogatories the were propounded by Wynn Resorts?

16          A     Yes.

17          Q     The same question with responding to requests for  
18 production of documents by Wynn Resorts. Were you responsible  
19 for responding on behalf of the company?

20          A     Yes.

21          Q     Now, did you review documents, some documents that  
22 Wynn Resorts produced in this litigation?

23          A     Are you asking about documents regarding Macau, or  
24 generally?

25          Q     Well, both. But let's take them one at a time,

1 first with regard to Macau.

2 A I did see some in the course of my preparation for  
3 my deposition last month, as well as this testimony, that is,  
4 regarding the documents pertaining to Macau. But I hadn't  
5 seen them prior to that.

6 Q And have you looked at -- aside from the Macau  
7 documents, have you looked at some other documents that were  
8 produced by Wynn Resorts?

9 A I don't remember specifically which ones they were,  
10 but I did look at some.

11 Q And are your answers today based in part on your  
12 management of the litigation over the last five years?

13 A That's the case for almost all of them.

14 Q And your management -- you testified your management  
15 of the investigation -- excuse me, of the litigation also  
16 included working with the lawyers; is that correct?

17 A Shall I say it's included, or that was almost all  
18 that my job was.

19 Q Okay. And finally, are your answers in this  
20 proceeding today before Your Honor based on all of your work  
21 managing -- managing the litigation?

22 A Yes. It's all based on the information that I  
23 accumulated over the course of those five years.

24 MR. KRAKOFF: Thank you, Your Honor. I have don't  
25 have any other questions.

1 THE COURT: Mr. Bice, anything further?

2 MR. BICE: No, Your Honor.

3 THE COURT: All right. The witness may step down.  
4 Thank you very much, sir.

5 MR. PEEK: Your Honor, we have some depo clips -- we  
6 have some depo clips to play now, and then we'll go to Mr.  
7 Schall.

8 THE COURT: No. We said we were going to call the  
9 witnesses from the Far East and we were not going to do  
10 anything to delay that part. We said that Monday.

11 MR. PEEK: That's fine, Your Honor. I did not  
12 understand that, but I'm happy to do that.

13 THE COURT: That's what I said on Monday. So --

14 MR. PEEK: [Inaudible]. They said [inaudible], but  
15 that's all right, Your Honor.

16 THE COURT: Okay. Well, please don't argue with me.  
17 Because I said it on Monday when you asked to --

18 MR. PEEK: You know, if I misunderstood, I  
19 misunderstood, Your Honor.

20 THE COURT: All right. So is this witness free to  
21 leave, or is he remaining as a corporate representative?

22 MR. KRAKOFF: Yes, he can leave.

23 THE COURT: Thank you, sir. Have a nice day.

24 (Pause in the proceedings)

25 MR. PEEK: May I have a moment to get set up, Your

1 Honor?

2 THE COURT: Yes. You're going to have five minutes,  
3 I guess.

4 MR. PEEK: Yeah. It won't take me that long, but  
5 that's fine, Your Honor.

6 (Court recessed at 2:54 p.m., until 3:00 p.m.)

7 THE COURT: All right, sir. If you'd get up there,  
8 raise your right hand and be sworn in.

9 JASON MARTIN SCHALL, DEFENDANTS' WITNESS, SWORN

10 THE CLERK: Thank you. Please be seated. And  
11 please state and spell your name for the record.

12 THE WITNESS: Jason Martin Schall, J-A-S-O-N  
13 M-A-R-T-I-N S-C-H-A-L-L.

14 DIRECT EXAMINATION

15 BY MR. PEEK:

16 Q Mr. Schall, you are general counsel for Wynn Macau  
17 Limited?

18 A Yes.

19 Q You're also senior vice president and legal for Wynn  
20 Resorts Macau SA; correct?

21 A Yes.

22 Q Previously -- previously your assignment in Macau,  
23 you worked for Wynn Resorts Limited, did you not?

24 A I had a title with Wynn Resorts Limited, but I don't  
25 know who my employer was. I don't recall if it was Wynn



1 Resorts Limited or an affiliate.

2 Q If we could go a little bit to the organizational  
3 structure, if you would, with me for Wynn Resorts Limited,  
4 Wynn Macau Limited, and Wynn Resorts Macau SA. Wynn Resorts  
5 Limited is a publicly traded company; correct?

6 A Yes.

7 Q It's primarily a holding company; correct?

8 A I -- actually, I don't work for them, so it seem so.  
9 But I'm not sure if they actually engage in active business or  
10 not through that company. I don't know.

11 Q Well, we have -- I think if you could -- an  
12 organization chart.

13 MR. PEEK: If you could bring up Exhibit 611-1.

14 THE CLERK: That's proposed.

15 MR. PEEK: For the witness only, not for the Judge.

16 THE COURT: Thank you.

17 MR. PEEK: It should be on the screen. Should be on  
18 the screen.

19 Oh. You're not hooked up?

20 UNIDENTIFIED SPEAKER: The Judge sees it and  
21 everybody else.

22 MR. PEEK: Oh. I'm sorry. He says you see it, Your  
23 Honor, and everybody else does, so I have to --

24 THE WITNESS: Do you mind if I switch chairs? This  
25 one's --

1 MR. PEEK: Not at all.

2 THE WITNESS: -- a little bit low. Thanks.

3 BY MR. PEEK:

4 Q Do you recognize Exhibit 611?

5 A Yes.

6 Q And tell us and the Court what it is.

7 A It's a letter to the Office of Personal Data  
8 Protection in Macau.

9 Q Dated?

10 A October 13th, 2016.

11 Q Now would you turn to 611-7, which is an attachment.  
12 See that?

13 A Yes.

14 Q Was this attached to the letter when you sent it?

15 A I believe so. I don't exactly recall.

16 MR. PEEK: Your Honor, I would offer 611.

17 THE COURT: Any objection to 611?

18 MR. BICE: No objection.

19 THE COURT: 611 will be admitted.

20 (Defendants' Exhibit 611 admitted)

21 MR. PEEK: Would you bring up now, Nick, 611007.

22 BY MR. PEEK:

23 Q And you could follow either on the hard copy or on  
24 the screen, whichever one you want to. This is the  
25 organizational structure of Wynn Resorts Limited and its

1 subsidiaries that you sent to the Office of Personal Data  
2 Protection, is it not?

3 A I believe so.

4 Q So, again, you say you're not familiar with the  
5 organizational structure. You did at least have an  
6 organizational structure to send to the OPDP in October 2016;  
7 correct?

8 A I didn't say that I wasn't familiar with the  
9 organizational structure. I said I wasn't familiar with  
10 whether Wynn Resorts Limited conducts business or is solely a  
11 holding company.

12 MR. PEEK: Your Honor, can I borrow Ms. Campbell for  
13 a moment to get this working? I don't know what I'm supposed  
14 to do. It's --

15 THE COURT: It was better before you had technology,  
16 Mr. Peek.

17 MR. PEEK: Better before I did what?

18 THE COURT: Had technology.

19 MR. PEEK: I know. Yeah.

20 THE COURT: You and your little notebooks.

21 MR. PEEK: We didn't have to -- I could remember all  
22 these things, Your Honor.

23 THE COURT: Well, you had those little notebooks.  
24 They were very well organized. You would sit there and go on  
25 and on and on.

1 (Pause in the proceedings)

2 BY MR. PEEK:

3 Q So do you see on the screen Wynn Resorts Limited is  
4 identified as -- it's at the top; correct?

5 A Yes.

6 Q Then there's Wynn Group Asia underneath it?

7 A Yes.

8 Q And then underneath that is Wynn -- or WM Cayman  
9 Holdings 1 and something else off to the right. You see that?

10 A Yes.

11 Q And then there is Wynn Macau Limited; correct?

12 A Yes.

13 Q Wynn Macau Limited is a Cayman Islands entity;  
14 correct?

15 A Yes.

16 Q And then underneath Wynn Macau Limited we find Wynn  
17 Group Limited; correct?

18 A I believe it says WML Corp. Limited.

19 Q Excuse me. My apologies. My eyes are not that  
20 good. Thank you.

21 And then underneath that someplace along the way we  
22 should have Wynn Macau or WRMSA, shouldn't we?

23 A Yes.

24 Q And it would be under the Wynn Macau Limited  
25 grouping; correct?

1           A     Yes.

2           Q     And in any event, I'm going to refer to Wynn Macau  
3 Limited as WML. Is that okay?

4           A     Yes.

5           Q     And it is -- as I said, it is the -- well, I haven't  
6 said that. Wynn Macau Limited or WML is the publicly traded  
7 company on the Hong Kong Stock Exchange; correct?

8           A     Yes.

9           Q     And it is a holding company; correct?

10          A     Yes.

11          Q     Does it have any employees?

12          A     There may be a couple people who have employment  
13 contracts with that entity, but they actually work -- they  
14 don't work for Wynn Macau Limited.

15          Q     It has a board of directors, however; yes?

16          A     Yes.

17          Q     It is 72 percent owned by I guess in this case the  
18 Cayman Holdings Company?

19          A     WM Cayman Holdings 1 Limited.

20          Q     Which, as we know, is a 100 percent owned subsidiary  
21 of Wynn Group Asia?

22          A     Yes.

23          Q     In Wynn Group Asia is a 100 percent owned subsidiary  
24 of Wynn Resorts Limited; correct?

25          A     Yes.

1 Q Wynn Resorts Limited, then, is the -- an indirect  
2 owner of WRMSA; correct?

3 A It has indirect ownership in WRMSA.

4 Q Through its control of Asia and Cayman and WML;  
5 correct?

6 A Through its ownership in those entities.

7 Q Right. I used the word "control," but it does -- it  
8 elects the -- it has the ability to elect 100 percent of the  
9 members of the board, does it not, WRL?

10 A As a majority shareholder, yes.

11 Q When did Wynn Macau Limited go public?

12 A In the second half of 2009.

13 Q I'm sorry. When?

14 A The second half of 2009.

15 Q At that time you were general counsel for the Macau  
16 entities; correct?

17 A At that time I was I believe senior vice president  
18 of Wynn Resorts Macau SA, and we didn't have positions with  
19 Macau Limited prior to the IPO.

20 Q Wynn Macau Limited hadn't yet been formed until the  
21 IPO; correct?

22 A Correct. Correct. A bit before.

23 Q Were you involved in the IPO?

24 A Yes.

25 Q And what was the nature of your involvement in the

1 IPO?

2 A I largely helped coordinate outside counsel,  
3 accountants, and bankers to get the project completed.

4 Q Who is the issuing entity?

5 A I'm sorry, I don't --

6 Q Well, who was selling the stock? It's an IPO, isn't  
7 it?

8 A Wynn Macau Limited.

9 Q Well, somebody -- somebody's selling the -- is it  
10 Wynn Macau Limited selling the stock?

11 A I don't exactly remember if it was Wynn Macau  
12 Limited who directly sold or there was some type of  
13 arrangement with its immediate holding company. One of those  
14 two.

15 Q One of those two?

16 Did you review the IPO before it was circulated?

17 A Review the IPO prospectus?

18 Q Thank you. I apologize. Did you review the  
19 prospectus for the IPO before it was circulated?

20 A I reviewed it. I'm not sure what mean by circulated  
21 to --

22 Q Before it was put out to the public.

23 A Yes.

24 Q I say circulated. It's initial public offering.  
25 That's what IPO means; correct?

1           A     Yes.

2           Q     And it's given to investment bankers and individuals  
3 to read to determine whether or not they wish to buy stock in  
4 the entity that's offering its stock; correct?

5           A     Yes.

6           MR. PEEK:   Would you bring up Exhibit 541.   Oh.   No.  
7 Excuse me.

8           THE COURT:   Proposed.

9 BY MR. PEEK:

10          Q     Behind you are binders.   I don't know in which  
11 volume, but let me just if I have a list.   Exhibit 541 would  
12 be in Volume 2.

13          THE COURT:   541 should be in 2.   Because I have 1  
14 and 3 up here.

15          MR. PEEK:   Thank you very much for your help.

16          Somebody's phone?

17          THE COURT:   Do we know whose phone it is?

18          MR. PEEK:   I don't know.

19 BY MR. PEEK:

20          Q     Do you recognize Exhibit 541 as being the global  
21 offering for Wynn Macau Limited?

22          A     Yes.

23          Q     And it's a document, as you said, in which you had  
24 some involvement in drafting; correct?

25          A     Yes.



1 Q And when you were drafting it you were doing so with  
2 an eye to it's truthfulness and accuracy; correct?

3 A Yes.

4 Q And as you prepared the IPO you were preparing or  
5 telling those who would read it that there may be certain  
6 risks associated with the purchase of the stock; correct?

7 A Yes.

8 Q And we see some of those risks on page 39 of the  
9 document which is -- it's on -- well, that's right. I can't  
10 bring it on the screen. But see it on page 39 of the  
11 document? It's actually WYNN928.

12 A Yes.

13 Q That language that we see there was in the body of  
14 the IPO at the time, was it not?

15 A It's in this document.

16 Q Yes.

17 MR. PEEK: I would offer Exhibit 541, Your Honor.

18 THE COURT: Any objection to 541?

19 MR. BICE: No objection.

20 THE COURT: 541 will be admitted.

21 (Defendants' Exhibit 541 admitted)

22 BY MR. PEEK:

23 Q Shall we look at --

24 MR. PEEK: Nick, is it --

25 I can't read this screen. Your Honor, may I ask my

1 tech guy to see if he --

2 THE COURT: You may ask your tech guy.

3 MR. PEEK: This screen is completely blurry. I  
4 don't know if it's the way we've loaded it or if it's -- ah.  
5 There we go. Wow. That's very much better. Thank you.

6 THE COURT: That's why you have tech guys to help  
7 you be able to read documents.

8 MR. PEEK: That's why I asked for his help, Your  
9 Honor.

10 THE COURT: Yeah.

11 MR. PEEK: All right. If you'd forward to page 44,  
12 Nick. I may have given you -- I probably gave you the wrong  
13 page. Okay. Thank you.

14 BY MR. PEEK:

15 Q And do you see that one of the risk factors that's  
16 listed there in the first paragraph on -- where it's entitled  
17 "Risks Relating to the Global Offering"?

18 A The one on the screen? Yes.

19 Q Yeah. And it reads, does it not, that "Wynn Resorts  
20 Limited will upon completion of the global offering own  
21 approximately 75 percent of our currently issued and  
22 outstanding shares"? Ended up being 72 percent; correct?

23 A Well, at the end of the global offering it was  
24 75 percent.

25 Q Since that time --

1 A It's [inaudible].

2 Q -- it has gone down to 72?

3 A Yes.

4 Q Hasn't really changed the control, however, has it?

5 A No.

6 Q And then it goes on to say, "As a result of the  
7 foreseeable future through its voting control, Wynn Resorts  
8 Limited will be able to exercise substantial influence over  
9 our operations and business strategy, such as matters related  
10 to composition of our board of directors, selection of our  
11 senior management, amount and timing of dividends and other  
12 distributions, our overall strategic and investment decisions,  
13 issuance of securities, and adjustment to our capital  
14 structure, amendments to our memorandum and articles of  
15 incorporation, and other corporate actions requiring approval  
16 of our shareholders, including a merger, consolidation, or  
17 sale of our assets or any other change of control event that  
18 may benefit our other shareholders generally."

19 You read that when it was written; correct?

20 A Yes.

21 Q And it was true at the time you wrote it as a risk  
22 factor?

23 A As a risk factor, yes.

24 Q Has that risk factor changed?

25 A I'm sorry. I don't understand.

1           Q     Well, for example, does Wynn Resorts Limited still  
2 have voting control of WML?

3           A     Yes.

4           Q     And does it still exercise substantial influence  
5 over operations?

6           A     No.

7           Q     Okay. Does it exercise substantial influence over  
8 business strategy?

9           A     Depends on which area of the business. Not so much.

10          Q     Well, it's accurate that WRL is the controlling  
11 shareholder and to some extent can control the Wynn Macau  
12 Limited group of companies; correct?

13          A     Yes.

14          Q     And if you look at the last sentence of that  
15 paragraph, begins "In the event that." Can you read that?

16          A     Yes.

17          Q     So, Mr. Schall, when you circulated this IPO to the  
18 public you told them that a risk factor was "In the event that  
19 there is a divergence of our strategic and other interests  
20 from those of Wynn Resorts Limited in the future or if  
21 compliance with requirements of the Nevada Gaming Control  
22 Board so necessitates, Wynn Resorts Limited may exercise  
23 control over us in ways that conflict with the interests of  
24 our other shareholders, and you as a minority shareholder  
25 could be disadvantaged."

1           That was at least a risk you disclosed in 2009;  
2 correct?

3           A     Yes.

4           Q     Now, Wynn Resorts Limited can act in a way adverse  
5 to minority shareholders; correct?

6           A     In theory.

7           Q     I'm just -- so you're saying only in theory?

8           A     I'm saying reading a risk factor in a vacuum isn't  
9 always that useful. There's risk factors that say asteroids  
10 might hit our facility.

11          Q     My question really is that Wynn Resorts -- it's  
12 true, is it not, that Wynn Resorts Limited could act in a way  
13 adverse to minority shareholders?

14          A     It could.

15          Q     And that's not just in theory. That's in actuality,  
16 as well; correct?

17          A     They could do it, but the independent directors  
18 would object and quit, and the company's shares would be  
19 frozen, and that would be it. So you could do it once,  
20 depending on how material the adverse interest was, but if  
21 this risk factor [inaudible], then that'd be it when Macau  
22 Limited --

23          Q     What do you mean that'd be it?

24          A     Wynn Macau Limited would have its shares frozen  
25 until it fixed its corporate governance, got new independent

1 directors, and probably undo it. But they could do it, yeah.

2 Q They could.

3 A Yeah.

4 Q Now, you didn't talk about the independent directors  
5 and the freezing of the shares when you gave up this risk  
6 factor in 2009, did you?

7 A Risk factors generally set forth worst-case  
8 scenarios to prevent plaintiffs' lawyers from suing you after  
9 an IPO.

10 Q So does this say "worst-case scenario" anyplace in  
11 the IPO? Or it just says "Risk Factors."

12 A It's "Risk Factors."

13 Q Does it say "worst-case scenario,: Mr. Schall?

14 A Nope.

15 Q That's your -- that's your interpretation of it;  
16 correct?

17 A It's mine, and probably some other securities  
18 lawyers out there have the same interpretation of risk  
19 factors.

20 Q Some others?

21 A Some.

22 Q Okay. And as we already discussed, Wynn Resorts  
23 Limited can nominate and elect the entire board of directors?

24 A Yes.

25 Q Now, you say that there is a requirement of a

1 certain number of independent directors; correct?

2 A Yes.

3 Q And that's what, on the -- that's a Hong Kong Stock  
4 Exchange requirement?

5 A Yes.

6 Q That's not an articles of incorporation requirement,  
7 is it?

8 A I don't recall.

9 Q Is it a bylaws requirement?

10 A I don't recall.

11 Q Now, Wynn Resorts nominates the members of the board  
12 of directors, does it not, as we just said? It nominates  
13 them?

14 A No.

15 Q Wynn Resorts does not?

16 A No.

17 Q Okay. There's a nominating committee at the WML  
18 level?

19 A Yes.

20 Q And that nominating committee comes from the board  
21 of directors?

22 A The board of directors of Wynn Macau.

23 Q Of WML.

24 A Yes.

25 Q And the current directors -- of the current

1 directors we have, what, two that are also -- three that are  
2 on the WRL board?

3 A No.

4 Q No. So is Mr. Wynn a member of the board of  
5 directors of WML?

6 A Yes.

7 Q Is Mr. Maddox a member of the board of directors?

8 A Yes.

9 Q Is he also a member of the -- is he affiliated with  
10 WRL, Mr. Maddox?

11 A Affiliated.

12 Q Not on the -- not on the board?

13 A Yes.

14 Q What is his position at WRL?

15 A I believe he's president.

16 Q President and CEO or COO?

17 A I believe he's president.

18 Q Do you know whether he's also COO?

19 A I don't.

20 Q Okay. And Kim Sinatra's also on the board of WML?

21 A Yes.

22 Q But she's not on the board of WRL; correct?

23 A Correct.

24 Q Okay. Now, certainly Wynn -- WRL talks about Wynn  
25 Macau in its 10-Ks and 10-Qs. It refers to Wynn Macau as its



1 Macau operation; correct?

2 A I don't have a 10-K or Q in front of me, but I  
3 believe that's correct.

4 Q Okay. And if we were to actually look at pictures  
5 of Wynn Resorts -- the original Wynn Resorts in Macau Central,  
6 it's a mirror image of Wynn Las Vegas, isn't it? Smaller  
7 scale?

8 A Smaller scale.

9 Q Six hundred rooms, I think.

10 A Yes.

11 Q And then there's a new building right there in Macau  
12 Central, as well; right? New hotel called Wynn Encore?

13 A 2010.

14 Q That's the 2010?

15 A (No audible response)

16 Q Pardon?

17 A Yes.

18 Q Okay. And that's called Wynn Encore?

19 A Encore at Wynn Macau, I believe.

20 Q It says Encore on it, doesn't it?

21 A No. It says Wynn.

22 Q It says Wynn? Okay. It was referred to as Wynn  
23 Encore, though, in your papers, in your filings, is it not?

24 A I don't recall. And I referred as Encore Wynn  
25 Macau, Wynn Encore Complex. I'm not sure.

1 Q And it's also a mirror image of the Wynn Encore  
2 here?

3 A No.

4 Q It doesn't look like it?

5 A No.

6 Q Okay. And it's 400 rooms, as I recall,  
7 approximately?

8 A Correct?

9 Q You're familiar with this lawsuit between Wynn  
10 Resorts Limited on the one hand and Mr. Okada, Aruze USA, and  
11 Universal Entertainment Corp. on the other hand?

12 A Generally speaking.

13 Q You're aware of it?

14 A I'm aware of it.

15 Q Okay. You were actually designated the 30(b)(6) for  
16 WRL for the sanctions discovery, were you not?

17 A Correct.

18 Q And you had to familiarize yourself in some part  
19 about the litigation; correct?

20 A Correct.

21 Q You had to do so because there were certain topics  
22 that you were asked to -- on which you were asked to testify;  
23 correct?

24 A Correct.

25 Q And that lawsuit you recall was filed in February

1 2012, was it not?

2 A I believe so.

3 Q And it was filed where WRL is the plaintiff;  
4 correct?

5 A Believe so.

6 Q And the basis of the complaint was seeking  
7 declaratory relief declaring that it was proper for Wynn  
8 Resorts to redeem the stock of Aruze USA; correct?

9 A I don't know.

10 Q You don't know?

11 A I knew it was about the redemption and that we were  
12 the -- Wynn Resorts was the plaintiff, but --

13 Q Well, you said you knew it was about the redemption.  
14 That was the redemption Aruze USA sought?

15 A Yes.

16 Q Okay. So you do know that the basis of that is --  
17 at least revolves around redemption of the stock --

18 A Yes.

19 Q -- of Aruze USA. You don't know whether it's a  
20 declaratory relief or not. Is that the part you don't  
21 understand?

22 A If I knew, I've forgotten.

23 Q And did you know that it was premised upon a report  
24 by Louis Freeh?

25 A What?

1 Q The redemption of the stock.

2 A I'm aware that the Freeh report played a role in the  
3 redemption.

4 Q And the Freeh report was based upon documents that  
5 were provided to Louis Freeh from Macau; correct?

6 A Part of it.

7 Q Well, a critical part of it; correct?

8 A I'm not going to, you know, argue with you over  
9 critical, not critical part, the Freeh report.

10 Q Okay. That's fine. But, in any event, the Freeh  
11 report described in some detail stays at Wynn Macau by certain  
12 PAGCOR officials, did it not?

13 A It did.

14 Q And it described in some detail that the fees --  
15 that the costs and expenses of those PAGCOR officials were  
16 paid by representatives or companies associated with UEC and  
17 Aruze USA; correct?

18 A As I recall, yes.

19 Q And there were allegations that the payment of these  
20 fees and expenses and costs of the PAGCOR officials was  
21 payment for receiving a gaming license in the Philippines;  
22 correct?

23 A That's a fairly specific conclusion, and I'm -- I  
24 can't tell you whether that's correct or not.

25 Q You can't remember or not whether or not that's

1 true?

2 A That specific conclusion.

3 Q You remember that Louis Freeh at least in his report  
4 asserted that based upon his review of the documents and the  
5 costs and expenses paid by UEC and Aruze USA that there was an  
6 FCPA violation by those entities and Mr. Okada? Remember  
7 that?

8 A I believe so.

9 Q So the genesis of the Louis Freeh report really came  
10 out of Macau and the stay by the PAGCOR officials in Wynn  
11 Macau; correct?

12 A Again, genesis. A good portion of the Freeh report  
13 focused on activities in Macau.

14 Q Based upon documents from Macau.

15 A Documents?

16 Q Documents from Wynn Macau given to Louis Freeh.

17 A I don't know if documents were given to him. I know  
18 he came out and conducted interviews. Presumably he looked at  
19 documents.

20 Q You said you've read the Freeh report.

21 A I read it.

22 Q And you don't recall that it does refer to hotel  
23 guest folios and documents of the stay of the PAGCOR  
24 officials?

25 A That sounds familiar.

1 Q Okay.

2 THE COURT: Mr. Peek, I have to break to do my  
3 conference call that I thought would hit my afternoon break  
4 before we took so many breaks already this afternoon.

5 MR. PEEK: Okay. It's fine with me to take a break.

6 THE COURT: So if you guys could take ten minutes  
7 or, probably five. It's Ferrario and somebody else, so  
8 they're usually pretty quick. 'Bye. You're welcome to stay  
9 here.

10 MR. PEEK: Always love to hear Ferrario, Your Honor.

11 THE COURT: Sir, you can get up and walk around, if  
12 you want. I'm going to talk to some lawyers on the phone  
13 about some scheduling issues I now have because of a decision  
14 the Supreme Court made today.

15 (Court recessed at 3:34 p.m., until 3:40 p.m.)

16 THE COURT: All right. Are we ready?

17 MR. PEEK: I am, Your Honor.

18 BY MR. PEEK:

19 Q Mr. Schall, getting back to the Freeh report, you  
20 were asked -- either you or Mr. -- is it Coughlan or Collin?  
21 I don't know how to say it.

22 A Collin.

23 Q Coughlan. Either you or Mr. Coughlan --  
24 Well, first of all, who is Mr. Coughlan?

25 A He's president of Wynn Macau Limited.

1 Q Is he COO or a CEO?

2 A No.

3 Q Actually, Steve Wynn is both chairman of WML and

4 chairman of WRL and CEO of each of those two; correct?

5 A Yes.

6 Q And he's -- is he chairman of WRMSA?

7 A He's chairman, yes.

8 Q WRMSA has another board of its own; correct?

9 A Yes.

10 Q And it's the operating entity, as well, correct?

11 A Yes.

12 Q And it's the entity that has the concession?

13 A The gaming concession, yes.

14 Q It's the one that has the gaming concession?

15 A Yes.

16 Q WML doesn't have a gaming concession; correct?

17 A Correct.

18 Q WML is a Cayman Islands entity; correct?

19 A Correct.

20 Q It has offices in Hong Kong; correct?

21 A It has no offices in Hong Kong.

22 Q It has no offices in Hong Kong. All right. Does it

23 have offices in the Cayman Islands?

24 A No.

25 Q Does it have offices in Macau?

1           A       There is a corporate office in Macau.

2           Q       And where -- is it located in the Palace or in the  
3 other two Wynn Resorts in Macau Central?

4           A       The first Wynn Macau.

5           Q       The first Wynn Macau. But, in any event, either Mr.  
6 Coughlan or you were instructed by Ms. Sinatra to make  
7 documents available to Louis Freeh; correct?

8           A       As I recall, there was an instruction to cooperate.  
9 I don't remember specifically what the instruction was.

10          Q       Instruction to cooperate in the collection of  
11 documents; correct?

12          A       As I recall, it was cooperate with Louis Freeh and  
13 his team.

14          Q       That instruction was in the fall of 2011; correct?

15          A       I don't remember.

16          Q       Well, the redemption took place in February of 2012.  
17 So the Freeh report was I think dated February 19, 2012,  
18 February 18, 2012, and the collection occurred before that;  
19 correct?

20          A       The investigation occurred before that.

21          Q       The Freeh investigation occurred before that?

22          A       Yes.

23          Q       So sometime either -- well, sometime, then, in late  
24 2011 is when Mr. Freeh came to Macau to collect documents and  
25 interview individuals; correct?



1 A I don't remember when he came to Macau exactly.

2 Q It was at least before February 2012; correct?

3 A Yes.

4 Q Okay. Do you know who he interviewed?

5 A No.

6 Q You know Pisanelli Bice, correct, the law firm?

7 A Yes.

8 Q And when you were in Las Vegas in the mid 2000s did  
9 you know the law firm Pisanelli Bice?

10 A No.

11 Q Had you heard of them before you went over to Macau?

12 A No.

13 Q When was the first time you heard of Pisanelli Bice?

14 A When this case started.

15 Q That would be in February of 2012?

16 A Sometime in 2012.

17 Q There were documents in I believe May or March of  
18 2012 collected again at the request of Ms. Sinatra for an SEC  
19 investigation; right?

20 A I remember an SEC investigation. Dates I'm sorry.  
21 It's a while ago. That sounds right.

22 Q That sounds right? And do you recall an email from  
23 the SEC in which Wynn Resorts was asked for certain documents  
24 to be provided to it from Wynn Macau -- or from Macau?

25 A A specific email?

1 Q Uh-huh.

2 A I recall we were asked -- Wynn Resorts was asked for  
3 documents. I don't recall how.

4 Q Okay. Let me have our -- or let me have you take a  
5 look at Exhibit 571, which is in Volume 3.

6 THE COURT: Any objection to 571?

7 MR. BICE: We need to see it.

8 MR. PEEK: I am offering it, Your Honor. I'm just  
9 waiting to get it.

10 MR. BICE: No objection.

11 THE COURT: Be admitted.

12 (Defendants' Exhibit 571 admitted)

13 BY MR. PEEK:

14 Q Are you familiar, if not with the email itself, with  
15 the content of the email with respect to Jennifer Moore's  
16 request to Debra Yang which is at the bottom of the first page  
17 of the email?

18 A I'm sorry. Can you repeat that with "Jennifer  
19 Moore's request."

20 Q Yeah. Are you familiar, if not with the email --  
21 first of all I'll just ask you are you familiar with the  
22 email?

23 A I've seen this email, yes.

24 Q Okay. And when did you see this email?

25 A Probably when it was sent.

1 Q That would be, then, in May of 2012?

2 A Yes, from the dates on the email.

3 Q And actually we would know that you've seen that  
4 email, because at the top of it you're on at least the last  
5 portion of the string, are you not?

6 A Yes.

7 Q And it would have been your habit to read down to  
8 what was contained before?

9 A Generally.

10 Q Who is Debra Yang?

11 A She's a partner at Gibson Dunn & Crutcher.

12 Q And as of May 2012 you were represented by Pisanelli  
13 Bice, were you not?

14 A I'm sorry. I don't know.

15 Q They filed a lawsuit on behalf of Wynn Resorts, did  
16 they not?

17 A We have a lot of lawyers. I actually don't know the  
18 firm.

19 Q If you don't know that, you don't know that.

20 A I don't know.

21 Q So you're not aware that the lawsuit for the  
22 declaratory relief on the redemption was filed by Pisanelli  
23 Bice in February 2018 [sic]? You're not aware of that?

24 A If I was aware, I don't recall.

25 Q Okay. You're aware at least of the lawsuit?

1 A Yes.

2 Q You're aware that it's for redemption; correct?

3 A I'm aware it addresses the redemption.

4 Q And you're aware that it was filed by a lawyer.

5 A Yes.

6 Q You just don't know which lawyers.

7 A I don't recall.

8 Q So Ms. Moore asked Ms. Yang for certain documents;  
9 correct?

10 A That's what the email says.

11 Q Pardon?

12 A That is what the email says.

13 Q And you provided those documents to Ms. Yang, did  
14 you not?

15 A Me personally?

16 Q Wynn Macau provided them to her?

17 A I don't recall.

18 Q And they weren't redacted, were they?

19 A Well, I don't recall if we provided them or what we  
20 provided.

21 Q You remember that you were asked to prepare on this  
22 topic?

23 A I do.

24 Q And you remember you did not prepare on this topic  
25 because there was an objection to it?

1           A     Yes.

2           Q     And are you aware that Lawrence Weiland actually  
3 became your substitute for the continuation of the 30(b)(6)?

4           A     Yes.

5           Q     Are you aware that he testified that it is his  
6 understanding that the documents without redactions to Ms.  
7 Yang?

8           A     I'm not aware of his testimony.

9           Q     You're not aware of that.   Okay.

10                   So when you were asked to prepare for your 30(b)(6)  
11 and asked to prepare on this topic you didn't prepare on this  
12 topic and make an investigation as to whether or not documents  
13 had been produced out of Macau to Debra Yang in the United  
14 States at Gibson Dunn & Crutcher; correct?

15           A     I can't recall if I saw this email in preparation  
16 for being the 30(b)(6) or I only saw it contemporaneous with  
17 when it was sent.   But in looking at it, there's not a lot of  
18 documents that would need to be prepared and sent out of Macau  
19 for it, so --

20           Q     Well, but whatever documents were sent out of Macau,  
21 they were sent out in an unredacted form, were they not?

22           A     You're assuming the documents contained personal  
23 data.   That's the only reason you redact them.   And I don't  
24 know what was sent or not sent, so I can't answer your  
25 question.

1 Q Okay. So let me look at that --

2 MR. PEEK: Can you blow that up for me, Nick, so  
3 that I can read it.

4 BY MR. PEEK:

5 Q What's the first topic?

6 A "Please provide --"

7 Q I'm sorry. Read it aloud.

8 A "Please provide the names of people referenced in  
9 the board minutes that are Bates stamped. We would like the  
10 specific names."

11 Q I'm sorry. I can't hear you.

12 A "We would like the specific names."

13 Q Right. So they were asking for names; correct?

14 A Yes.

15 Q So you said you weren't sure they were asking for  
16 names.

17 A No, I don't think that's exactly what I said.  
18 Because this could be complied with from the United States.  
19 It doesn't have to come from Macau. Everyone in this court  
20 probably knows who these two people are.

21 Q Okay. Now, what's the next topic? What does it  
22 say? Read it to us.

23 A "Identify all individuals, whether Wynn Resorts or  
24 Wynn Macau employees, agents, or consultants, who worked in  
25 any way on the University donation."

1           Q     When it's identify all individuals that's asking for  
2 personal data, is it not?

3           A     Again -- yes. I'll --

4           Q     Thank you.

5           A     It is, yes.

6           Q     And it's asking for personal data of Wynn Macau  
7 employees, agents, or consultants who worked in any way on the  
8 University donation; correct?

9           A     Yes.

10          Q     And the University donation here, did you understand  
11 it to be the \$135 million donation to the University of Macau  
12 Development Foundation?

13          A     Yes.

14          Q     And that donation actually came from Wynn Macau or  
15 from WRMSA, did it not? Or from WML?

16          A     I don't -- I don't remember. One of those.

17          Q     It was one of those two, though, was it not?

18          A     Yes.

19          Q     Okay. So there would have been WRMSA individuals  
20 who worked on the University donation; correct?

21          A     Me.

22          Q     Pardon?

23          A     Just me.

24          Q     Just you? Nobody else?

25          A     Worked on the donation, correct.

1 Q Yeah.

2 Q Or any agents or consultants.

3 A No agents or consultants.

4 Q The next one, read that one to us.

5 A "Identify all individuals who worked for the  
6 University Foundation or the government of Macau with whom  
7 any --" sorry, there's a -- "Wynn employee, agent, or  
8 consultant met, negotiated, or corresponded with regarding the  
9 University donation."

10 Q So that again is asking for personal data, is it  
11 not?

12 A It's asking for the names, yes.

13 Q The only person who would have that personal data  
14 information would be Jay Schall?

15 A Other people would have known who it was worked with  
16 at the University.

17 Q I'm sorry. I thought you said you were the only one  
18 at Wynn Macau who worked on that project.

19 A There's a difference between working on the project  
20 and being aware of what happened.

21 Q Okay. So it's "Identify all individuals who worked  
22 for the University Foundation or the government of Macau with  
23 whom any Wynn employee, agent, or consultant met, negotiated,  
24 or corresponded with regard to the University donation." I'm  
25 sorry if I misunderstood you. I thought you said that you



1 were the only one that responds to Item 2 as being the Wynn  
2 Macau who worked on -- in any way on the University donation.  
3 Did I misunderstand you?

4 A To me working is working. Showing up at a ceremony  
5 and being aware of something is something else.

6 Q Well, it doesn't ask about ceremonies. What it asks  
7 about, who worked for the University Foundation or the  
8 government of Macau with whom any Wynn employee, agent, or  
9 consultant met, negotiated, or corresponded with regarding the  
10 donation.

11 A I responded to Item 2 saying I was the person at  
12 Wynn who worked on the project.

13 Q What about on Item 3?

14 A On Item 3 I said other people would have been aware  
15 of the donation. It was publicly broadcast in the newspaper.

16 Q Did you give names of the University Foundation?

17 A We may have cut the newspaper article that had the  
18 director of the Foundation's picture.

19 Q That's not what I asked, if you cut a newspaper. I  
20 asked you if you gave the names as requested by Jennifer  
21 Roberts.

22 A I don't -- I don't know.

23 Q If you did so, how would you have passed them on to  
24 Debra Yang or to Kim Sinatra?

25 A I don't recall how we responded to Number 3, so I

1 couldn't speculate as to how we would have passed the names  
2 on.

3 Q Okay. Then the next one is "All board minutes that  
4 reference the Cotai expansion or Cotai development." Those  
5 are documents?

6 A Board minutes are documents.

7 Q Did you pass that on?

8 A I don't know.

9 Q Do board minutes of Wynn Macau contain names of non  
10 Wynn Macau employees?

11 A On occasion.

12 Q Executives, board members?

13 A Well --

14 Q Do they contain names of non Wynn Macau employees,  
15 executives, officers, directors?

16 A Yes, they can.

17 Q Were those board minutes, then, passed on to Debra  
18 Yang in an unredacted format as Mr. Weiland has testified?

19 A I don't know. But it says it's requests a few items  
20 from Wynn Resorts Limited, so I don't know if she was talking  
21 about Wynn Resorts Limited minutes, Wynn Macau Limited  
22 minutes. And I don't know what was given to her.

23 Q Okay. So you don't know.

24 A I don't know.

25 Q "All due diligence reports that Wynn conducted on

1 the University Foundation and its employees and/or people  
2 affiliated with the University Foundation. This item was  
3 referenced in your presentation in our office."

4 Were there diligence reports?

5 A Yes.

6 Q Did the diligence reports contain names of  
7 individuals who were not officers, directors, employees,  
8 executives of Wynn Macau?

9 A Probably.

10 Q So that -- so personal information was passed out of  
11 Macau to Debra Yang?

12 A I don't recall what was passed out of Macau to Debra  
13 Yang, but it's possible.

14 Q Well, Ms. Roberts refers to an item "referenced in  
15 your presentation in our office."

16 A Yeah. But --

17 Q Do you know whether that presentation contained the  
18 names of -- personal data of individuals in Macau?

19 A I don't.

20 Q And then Item 7 -- I'll skip the legal opinion for  
21 the moment.

22 By the way, do you know whether or not the  
23 presentation that Ms. Yang made still exists or was preserved?

24 A I don't know.

25 Q Do you know why it was that the SEC was conducting

1 an investigation in May of 2012?

2 A I believe your client turned us in to the SEC.

3 Q So it has some bearing on the litigation, then?

4 A I don't know.

5 Q I said I was going to skip Number 6, but I'm not.

6 "The legal opinions obtained by Wynn regarding University  
7 donation." Were those obtained by any lawyers in Macau?

8 A I don't -- I'm not -- I don't understand your  
9 question.

10 Q Were those legal opinions that Wynn obtained given  
11 by lawyers in Macau?

12 A No.

13 Q They were U.S. lawyers?

14 A If I recall, yes.

15 Q Okay. You see in Item 1, 2, 3, 5, 6, 7, 8, 9 that  
16 there are some pretty large spaces there. Do you understand  
17 that to be names of individuals? Or do you know? See this  
18 space first of all where it says up at the first -- Item 1?  
19 "For example, the minutes" blank "refer to chief executive of  
20 Macau."

21 A Are you in 1, or 2? Sorry. The red circle appeared  
22 in --

23 Q Yeah, that's right. Red circle -- well, put the red  
24 circles in 1, if you would, please, where there are two spots  
25 there. And then put it in 3, put it in 5, and then 6, then 7,

1 8, and 9 for him. There's two places there. And now 9.

2 A Would you like me to just go one by one?

3 Q Well, I just want you to know these names.

4 A What names?

5 Q Whether these are names that appeared here that are  
6 redacted.

7 A I don't see --

8 Q That's why we have the space -- these large spaces.

9 A I don't see redaction. I see a formatting issue.

10 Q Oh. You think this is only a formatting issue?

11 A You normally wouldn't put a name --

12 Q Okay. I didn't know.

13 A Okay.

14 Q I'm not going to go over all these, because this  
15 really kind of speaks for itself. But you can see from Items  
16 1 through 9 that it's asking for personal data of individuals  
17 in Macau for whom consents have not been given; correct?

18 A No.

19 Q You can't agree with that?

20 A Not the way you characterize it.

21 Q Okay. So then let's look at the individuals who  
22 worked with the University Foundation. Did they give consent  
23 when you gave up their names?

24 A I don't recall if this information came out of the  
25 United States or Macau.

1           Q     How would it have gotten to the United States? How  
2 would the names of individuals at the University Foundation  
3 got to the United States unless passed on by somebody from  
4 Macau?

5           A     I don't know.

6           Q     And you told us that you were the individual who  
7 met, negotiated, or corresponded with the University; correct?

8           A     I worked on the project.

9           Q     You told me you were the only one who did.

10          A     Worked on the project.

11          Q     Worked. Okay. So were there other people who  
12 didn't work on the project who would have met, negotiated, or  
13 corresponded with members of the University Foundation?

14          A     Yes.

15          Q     Who would that be?

16          A     Linda Chen.

17          Q     I'm sorry, who?

18          A     Linda Chen.

19          Q     And where was Linda Chen in residence at that time?

20          A     I don't recall.

21          Q     And where is she today?

22          A     She's in Macau.

23          Q     She is -- holds what position in Macau?

24          A     She is the chief operating officer of the concession  
25 company, the president of the concession company, and the

1 executive director of the concession company.

2 Q So and then also in 7, where it says "All  
3 communications between any Wynn employee or consultants and  
4 any employees or representatives at the University  
5 Foundation," wouldn't that have required the names of the  
6 individuals at the University Foundation?

7 A It could have, yes.

8 Q Could have, or it had to? Really, Mr. Schall?

9 A Mr. Peek, I don't know what was disclosed for  
10 Number 7, so I can't answer --

11 Q I'm just asking you intuitively when you read this.

12 THE COURT: You're asking him to speculate?

13 MR. PEEK: No, Your Honor. I don't think he's -- I  
14 don't think he's speculating, Your Honor, because this came to  
15 him.

16 BY MR. PEEK:

17 Q This came to you; correct?

18 A Sixty-five months ago.

19 Q It came to you; correct?

20 A Sixty-five months ago.

21 Q Is that correct or not, sir?

22 A We established at the beginning that I was a  
23 recipient of --

24 Q Okay. And you were responsible for gathering  
25 information for Ms. Yang; correct?

1           A     I don't recall.  There were other people on the  
2 email.

3           Q     And partly you don't recall because this email is  
4 redacted; correct?

5           A     No.

6           Q     It's redacted in that section of communications  
7 between Ms. Yang, Ms. Sinatra, Robin Dyer, Kevin Turic.  And  
8 Robin Dyer is Ms. Sinatra's executive assistant, or was at  
9 that time at least?

10          A     Yes.

11          Q     So you don't know whether or not those portions that  
12 are redacted throughout this were an instruction to you to  
13 respond to the inquiry; correct?

14          A     I don't recall.

15          Q     You would have known that had you prepared for your  
16 30(b)(6), correct, on this topic?

17          A     If I'd read an unredacted version of this email?  
18 Yeah.

19          Q     Well, you'd have an unredacted version in your email  
20 account, wouldn't you?

21               MR. BICE:  Objection, Your Honor.  The document is  
22 attorney-client privileged communications.  The witness isn't  
23 required to review privileged information in order to prepare  
24 for a deposition.  And the Court has already ruled and they  
25 already had a different witness on these topics.



1 THE COURT: Okay. Mr. Peek, did you want to say  
2 something?

3 I'm not going to make you leave the room, sir,  
4 because you're a lawyer, you know that none of this really  
5 makes any difference.

6 Okay, Mr. Peek.

7 MR. PEEK: Giving him instructions as somebody to  
8 collect documents is not seeking a legal -- legal advice.

9 THE COURT: Okay.

10 MR. PEEK: It's just an instruction.

11 THE COURT: So the objection's --

12 MR. PEEK: I don't know whether that is privileged,  
13 because, frankly, I think that's all this is. But this  
14 witness could have prepared himself as he was supposed to do  
15 on this topic, which is I believe Topic --

16 THE COURT: He's not the witness who testified at  
17 the 30(b)(6) deposition.

18 MR. PEEK: Yes, he is, Your Honor.

19 THE COURT: No. He didn't testify on this topic.

20 MR. BICE: No, he's not.

21 MR. PEEK: Right. Because he then had to come to  
22 you and ask you to do it, so I had somebody else who, you  
23 know, didn't look at -- we'll deal with that, Your Honor,  
24 but --

25 THE COURT: Okay. The objection's overruled. Sir,

1 you can answer the question if you know the answer. If you'd  
2 like them to tell you the question again, Mr. Peek is gonna.

3 THE WITNESS: Can you repeat it, Mr. Peek.

4 BY MR. PEEK:

5 Q I will. The question was you'd have an unredacted  
6 version in your email account, wouldn't you?

7 A I had it. Whether I still have it I don't know.

8 Q You wouldn't have destroyed it, because there's a  
9 litigation hold on it. Is that right?

10 A I would not have destroyed it, but I can't guarantee  
11 it's still sitting there.

12 Q It'd be someplace in email server, your account.

13 A Probably.

14 Q You're the custodian, things like that; correct?

15 A Well, probably.

16 Q Okay. All right. We'll move on.

17 THE COURT: Thanks.

18 BY MR. PEEK:

19 Q So at least at some time in 2011 or '12 when Louis  
20 Freeh collected unredacted documents of names from Wynn  
21 Resorts Macau and then later in May of 2012 similarly  
22 documents were collected in Macau and sent to the U.S. in an  
23 unredacted form containing personal information; correct?

24 MR. BICE: Objection to the form. It's compound.

25 THE COURT: Overruled.

1 MR. BICE: Three questions in there.

2 THE WITNESS: Okay. Can you -- I'm --

3 BY MR. PEEK:

4 Q I'll break it down. I'll break it down.

5 A Okay.

6 Q There was an unredacted -- or a collection of  
7 documents in either late 2011 or early 2012 by Louis Freeh of  
8 documents in Macau; correct?

9 A Louis Freeh came to Macau. At least a few documents  
10 and personal data left with him, yes. If he took notes or  
11 took the documents I don't recall, but yes.

12 Q And during the course of his interviews he also got  
13 the names of individuals or personal data on other  
14 individuals; correct?

15 A I wasn't in the interview, so I don't know what he  
16 got. So I'll just refer to my answer to the first part of  
17 your question if you don't mind.

18 Q Okay. But -- so you don't have a recollection from  
19 reading the Louis Freeh report that that's in fact what he  
20 did, he interviewed people and found out names?

21 A That does seem familiar.

22 Q Okay. And then there's again in May of 2012, after  
23 Pisanelli Bice filed a lawsuit, a collection of documents by  
24 somebody, I think you, in response to Jennifer Roberts's  
25 inquiry; correct?

1           A     Okay.  I'll try to give you an answer that maybe --

2           Q     I would hope so.  I know it was sixty-five months  
3 ago.

4           A     If -- if --

5                 THE COURT:  Mr. Peek.

6                 THE WITNESS:  If I gathered any documents for this  
7 response, there could have been personal data in it and it  
8 would have gone to Deb Yang.

9 BY MR. PEEK:

10          Q     Thank you.

11                 Were you aware of the fact that your lawyers,  
12 Pisanelli Bice, were familiar with the MPDPA in May of 2012  
13 when documents were collected and sent to Debra Yang?

14          A     I'm sorry.  Are you asking if I was aware of that in  
15 May of 2012?

16          Q     Are you aware of the fact that your lawyers,  
17 Pisanelli Bice, were familiar with the MPDPA in May of 2012  
18 when you were asked to collect documents?

19          A     No.

20          Q     Were you aware that your lawyer, Pisanelli Bice,  
21 represent an individual by the name of Jacobs against Sands  
22 China Limited in which the issue of the Macau Data Privacy Act  
23 was hotly contested?

24          A     I'm aware of that now.

25          Q     Only aware of it now, or --

1 A I don't know when I became aware of it.

2 Q But you became aware of it sometime?

3 A Correct.

4 Q In 2013 you were asked by Pisanelli Bice to collect  
5 documents from WRMSA; correct?

6 A WRMSA was requested by Wynn Resorts Limited to  
7 assist in the discovery process in this lawsuit in  
8 approximately 2013.

9 Q And as a result of that request by WRL, WRMSA  
10 collected 2.1 million documents; correct?

11 A I actually have never heard that figure. Collected  
12 documents.

13 Q Pardon?

14 A Documents were collected.

15 Q They collected documents. You don't know the  
16 number?

17 A Correct.

18 Q Would it surprise you to know that it was -- that  
19 they had revealed to this Court in one of their papers in  
20 December of 2014 that they collected more than 2.1 million  
21 documents?

22 A I'll take what you said as true. And okay.

23 Q Okay. Now, WRL provided the scope of the documents  
24 that they asked to be reviewed based on certain custodians?

25 A I don't recall being provided a specific scope. I

1 did know who the custodians were and that review would be  
2 undertaken of their documents.

3 Q Okay. So you're quarrelling with the word "scope."  
4 So your recollection is, though, that the documents to be  
5 reviewed were documents from certain custodians in Macau who  
6 had been under a litigation hold; correct?

7 A I'm not quarrelling with the word "scope," but the  
8 rest of it's correct.

9 Q You didn't refuse that request, did you?

10 A No.

11 Q You did, however, set certain parameters; correct?

12 A Yes.

13 Q And the parameters that you set were that they had  
14 to be processed in accordance with the Macau Data Protection  
15 Act; correct?

16 A Correct.

17 Q And in collecting that -- those documents it was a  
18 giant undertaking for WRMSA, was it not?

19 A It -- for WRMSA I don't recall it being a giant  
20 undertaking.

21 Q I'm sorry. I didn't catch your answer --

22 THE COURT: He said he didn't believe it was a giant  
23 undertaking for WRMSA.

24 Right, sir?

25 THE WITNESS: Correct.

1 BY MR. PEEK:

2 Q Did you express to WRL that this was "a giant  
3 undertaking even for internal Wynn Macau personnel and that it  
4 took a lot of time and effort and man hours between dealing  
5 with the Data Protection Office, setting up the room, et  
6 cetera"?

7 A Given you're reading from my deposition, I probably  
8 did.

9 Q And did WRL reimburse WRMSA for this giant  
10 undertaking?

11 A Not that I'm aware.

12 Q Did you ever ask for any reimbursement from WRL for  
13 this giant undertaking?

14 A Nope.

15 Q Is there any expectation that WRMSA has for  
16 reimbursement from WRL?

17 A I don't believe so.

18 Q I mentioned a litigation hold. WRL requested WRMSA  
19 to put a litigation hold on certain custodians in Macau;  
20 correct?

21 A Correct.

22 Q Was that at the direction of WRL's legal department,  
23 or its counsel, Pisanelli Bice?

24 A I don't know.

25 Q Did it at least come from a lawyer, you just don't

1 know from which lawyer?

2 A I don't remember the specific logistics of how the  
3 lit hold happened. I just recall that we had a lit hold on  
4 certain custodians in Macau.

5 Q And it came from WRL, whether through its lawyer  
6 Pisanelli Bice or the legal department of WRL under Kim  
7 Sinatra; correct?

8 A The request to preserve documents would have come.  
9 Who the custodians were I don't -- who determined the  
10 custodians I don't recall.

11 Q I'm just asking -- I'm only focusing on the request.  
12 It came from WRL, either its lawyers or the legal department;  
13 correct?

14 A Correct.

15 Q And you complied with that request; correct?

16 A Correct.

17 Q And then, of course, we know that Pisanelli Bice and  
18 FTI collected documents from WRMSA's custodians; correct? You  
19 didn't do the collection, did you?

20 A I have -- take issue with the word "collection." A  
21 review was undertaken in Macau of documents.

22 Q Well, you have to collect the documents in order to  
23 review them, do you not?

24 A The documents need to be collected for them to be  
25 reviewed, yes.



1 Q Okay. So my question is were the documents  
2 collected by FTI or Pisanelli Bice or by WRMSA personnel?

3 A I don't recall who did the collection. I suspect --  
4 no, I don't recall.

5 Q You don't recall.

6 A No.

7 Q You do know, though, that FTI was retained with  
8 respect to at least review of documents; correct?

9 A Correct.

10 Q Did you retain FTI?

11 A No.

12 Q Did WRL retain FTI?

13 A I don't know exactly who retained them. I did not.

14 Q Documents collected in Macau were in fact produced  
15 in the United States with certain redactions in accordance  
16 with the MPDPA; correct?

17 A Yes.

18 Q And there were also documents that were produced --  
19 or that were not produced because of a claim of a Macau law  
20 provision; correct?

21 A My understanding is at one point that was correct,  
22 but those have been produced now.

23 Q I'm sorry. The Macau law privilege documents have  
24 been produced?

25 A That's my understanding.

1           Q     You wrote a letter to the DICJ and asked them if you  
2 could produce them, and you told us he said no.

3           A     That's right.

4           Q     And you're now saying that all those documents where  
5 you withheld them at the request of the DICJ have now been  
6 produced?

7           A     I believe that many of them resided in the United  
8 States and were produced through --

9           Q     That I understand. That's not my question. My  
10 question is those that did not reside in the United States on  
11 which you claimed Macau law privilege, have those been  
12 produced?

13          A     That I don't know.

14          Q     Well, you wrote a letter to the -- well, you had a  
15 letter -- Mr. Coughlan wrote a letter to the DICJ, I believe;  
16 correct?

17          A     He signed it.

18          Q     He signed it. Okay. Asking to be allowed to  
19 produce documents in the U.S.; correct?

20          A     That sounds correct.

21          Q     And as I recall, the response to what he requested  
22 was denied; correct?

23          A     Correct.

24          Q     Okay. So you don't know as you sit here today  
25 whether those documents that Mr. Coughlan asked to be produced

1 out of Macau have in fact been produced or not?

2 A Correct.

3 Q Why don't you know that?

4 A Because I don't have time to keep up with every  
5 aspect of this discovery process, so --

6 Q Well, did you tell the lawyers factually, I can't  
7 produce those documents?

8 MR. BICE: Objection. Objection, Your Honor. Calls  
9 for attorney-client privilege.

10 THE COURT: Sustained.

11 MR. BICE: It's not a factual issue.

12 BY MR. PEEK:

13 Q Did your board refuse -- did the board of WML, not  
14 WRMSA, refuse to produce those documents?

15 A The Macau privilege documents?

16 Q Yes.

17 A I don't recall the board addressing those documents.

18 Q Okay. I used the word "Macau law privilege," but  
19 there really isn't a, quote, unquote "privilege," is there,  
20 associated with documents related to concessions and contracts  
21 of that nature; correct?

22 A There are certain confidentiality obligations in  
23 various Macau laws and instructions that would impose  
24 confidentiality.

25 Q They're not privileges, though, are they, as you and

1 I know privileges; correct?

2 A Correct.

3 Q Now, from time to time WRL does obtain documents  
4 from Wynn Macau to meet its own business needs; correct?

5 A Yes.

6 MR. BICE: Objection.

7 THE COURT: Overruled. You've got to be faster.

8 BY MR. PEEK:

9 Q In fact, prior to WRMSA receiving a fine -- well,  
10 let's talk about the fine for a moment. So at some time in  
11 late 2012, early 2013 WRMSA was fined by the OPDP; correct?

12 A Correct.

13 Q And it was -- and the entity receiving the fine was  
14 WRMSA; correct?

15 A Correct.

16 Q Not WML?

17 A Correct.

18 Q WRMSA received the fine as a result of its providing  
19 documents to Louis Freeh that contained personal data;  
20 correct?

21 A My recollection is the fine was for the transmission  
22 of documents out of Macau.

23 Q Transmission of documents that contained personal  
24 data; correct?

25 A Correct.

1           Q     Okay. And as a result of that fine and actually  
2 other circumstances in Macau in 2012 and '13 there was a  
3 heightened measure of scrutiny by the OPDP on release of  
4 personal data outside of Macau; correct?

5           A     Yes.

6           Q     There were actually -- there was actually a fine at  
7 about the same time you received a fine -- or WRMSA received a  
8 fine on Venetian Macau Limited; correct?

9           A     I remember they were fined. I don't remember the  
10 timing.

11          Q     All right. I asked you earlier, and I want to make  
12 sure that I get this right. I believe you testified that Ms.  
13 Sinatra specifically instructed WRMSA officials to, quote,  
14 "Make available documents and people" as Mr. Freeh asked. I  
15 think you said you were only told to cooperate. I want to  
16 make sure that I get this. You were in fact instructed to  
17 make available documents to Mr. Freeh as he asked; correct?

18          A     My recollection is I was told cooperate. If there's  
19 an email that says something else, okay.

20          Q     No. I'm just going by what you testified to  
21 previously.

22               MR. BICE: Can I have a page, Your Honor?

23               THE COURT: He doesn't have to give you a page  
24 number.

25               MR. PEEK: I don't have to give you the page, I

1 think we've already established.

2 MR. BICE: Oh. Okay.

3 MR. PEEK: Remember when you didn't do that?

4 MR. BICE: No, actually I don't. I remember you

5 complaining about it --

6 MR. PEEK: Of course.

7 MR. BICE: -- rather bitterly.

8 MR. PEEK: Yes.

9 MR. BICE: But I digress.

10 MR. PEEK: Yes, I did.

11 THE COURT: Gentlemen, do you know need a nap?

12 (Pause in the proceedings)

13 MR. PEEK: Your Honor, I want to show this on the

14 screen.

15 THE COURT: Have you published it.

16 MR. PEEK: Do you want me to open and publish it?

17 THE COURT: Yes, I want you to open and publish it.

18 MR. PEEK: Okay. We'll open and publish --

19 THE COURT: You have to do the exact same thing Mr.

20 Bice did.

21 MR. PEEK: I don't know if we have -- I don't know

22 if we have the original yet from him. I just saw that he had

23 made some changes.

24 THE COURT: Do you have something else?

25 MR. PEEK: Pardon?

1 THE COURT: Do you have something besides an  
2 original? Maybe a certified copy?

3 MR. PEEK: We do have that, Your Honor.

4 THE COURT: That's lovely. Mr. Bice, will you  
5 accept a certified copy in lieu of an original?

6 MR. BICE: Yes.

7 THE COURT: Now, I understand from Mr. Peek the  
8 witness --

9 MR. PEEK: Now I've got to find it, Your Honor.

10 THE COURT: -- the witness may have made some  
11 changes, so be cognizant of the fact the witness may have made  
12 some changes to his transcript.

13 MR. PEEK: I saw something from --

14 MS. SPINELLI: I'm unaware of any changes, Your  
15 Honor.

16 MR. PEEK: I just saw something come through today  
17 about a change. There are none?

18 MS. SPINELLI: Not from us.

19 THE COURT: So Mr. Peek is having a senior moment?

20 MR. PEEK: Okay. I apologize. I just saw something  
21 come through [unintelligible]. Might have been no changes  
22 were made.

23 THE COURT: Okay. Sir, do you recall making any  
24 changes to your deposition transcript when you reviewed it?

25 THE WITNESS: I reviewed it last and don't recall

1 making any changes.

2 THE COURT: Okay.

3 MR. PEEK: I'm going to be referring Mr. Bice to  
4 pages 101, lines 9 to 24, and 105, lines 11 to 13.

5 MR. BICE: Thank you.

6 THE COURT: This is the one time I get to get up  
7 during the proceedings and walk around. Thank you.

8 MR. PEEK: Nick, would you pull up Exhibit 771.

9 THE COURT: Feel free to look before and after the  
10 location he refers you to to give yourself context.

11 THE WITNESS: Thank you.

12 MR. PEEK: Go to page 101, not the TX, it's really  
13 the page in the deposition, Nick.

14 (Pause in the proceedings)

15 THE CLERK: Exhibit 771 is proposed.

16 MR. PEEK: It's what?

17 THE COURT: It's a proposed exhibit.

18 MR. PEEK: Well, Your Honor, it's the deposition.  
19 So I'm opening and publishing it, so --

20 THE COURT: Depositions are not exhibits.

21 MR. PEEK: Okay. I'm going to propose that this be  
22 admitted into evidence.

23 THE COURT: Exhibits aren't admitted into evidence  
24 -- or depositions are not admitted into evidence. We use them  
25 for impeachment and refreshing.



1 MR. PEEK: Okay.

2 THE COURT: You've published it, which makes it part  
3 of your record. Can we keep going.

4 MR. BICE: So page 101, line what?

5 THE COURT: We've got 26 more minutes.

6 MR. PEEK: It starts at line 6. Maybe I'll just  
7 read this to him.

8 BY MR. PEEK:

9 Q "There was a topic that I was referring to you which  
10 was Topic 9, and the Topic 9 was instructions given  
11 by WRL to WRM related to the Freeh investigation,  
12 including, but not limited to WRL's general counsel,  
13 Ms. Sinatra's testimony that she instructed WRM  
14 officials to, quote, 'make available documents and  
15 people as Mr. Freeh asked.'

16 And then --

17 MR. BICE: Your Honor, I'm going to object to this.  
18 It was represented to this witness that -- what he's reading  
19 here is a deposition topic that he had drafted. You can't  
20 then represent to the witness that he had testified that Ms.  
21 Sinatra had instructed --

22 THE COURT: Mr. Bice, Mr. Peek is reading a  
23 question. The question says, "And so Topic 9, so that we're  
24 clear, is a topic that says." And then Mr. Peek reads the  
25 topic.

1 MR. BICE: That's right.

2 THE COURT: And then the question says, "So what  
3 efforts did you make to provide information on this topic."  
4 And then the witness is going to answer.

5 MR. BICE: And when we started this Mr. Peek --

6 MR. PEEK: May I finish --

7 MR. BICE: -- has represented to the witness --

8 THE COURT: Shhh.

9 MR. PEEK: Your Honor, if I don't make my  
10 representation --

11 THE COURT: Wait, guys.

12 MR. PEEK: -- then he's fine to make rehabilitation.  
13 But he's wrong. So let me finish.

14 THE COURT: Can we stop.

15 MR. PEEK: I'm going to stop and move on here. I  
16 want to talk to him.

17 THE COURT: Please discuss with the witness the page  
18 101.

19 BY MR. PEEK:

20 Q Okay. So anyway the question is "What effort  
21 did you make to provide information on this topic."  
22 "None."

23 Then you asked me, "What effort did I make to  
24 provide information as Topic 9?"

25 I say, "Yes."

1 Mr. Bice says, "Go ahead."

2 You say, "I had a discussion with Pisanelli Bice and  
3 Ms. Sinatra."

4 Then I asked you, "What did you learn from those  
5 discussions?"

6 "I learned that the information we had was what Ms.  
7 Sinatra had testified to."

8 So she did instruct you, as she testified, to make  
9 available documents and people as Mr. Freeh asked; correct?

10 MR. BICE: Objection to the form of the question,  
11 Your Honor. He hasn't put any testimony of Ms. Sinatra in  
12 front of the witness.

13 THE COURT: Overruled.

14 THE WITNESS: Earlier I said I don't recall the  
15 specific instruction, I recall being told to cooperate. I can  
16 read this with you. And I learned that Ms. Sinatra said make  
17 documents and people available to Mr. Freeh.

18 BY MR. PEEK:

19 Q Okay. And you said that you learned that the  
20 information you had was what Ms. Sinatra testified to;  
21 correct?

22 A Yes.

23 MR. PEEK: Go to page 102, if you would, please, or  
24 the next page, please, Nick. Thank you.

25 //

1 BY MR. PEEK:

2 Q The question on the bottom of the page on 101 is:

3 "Well, Ms. Sinatra's testimony is just very limited,  
4 because she instructed WRM officials to make  
5 available documents and people as Mr. Freeh asked."

6 "Did you ask to whom that instruction was given?"

7 Objections.

8 "I did ask."

9 "What did you learn from that?"

10 "She didn't recall exactly who she gave the  
11 instruction to."

12 Irrespective of that, you agreed, though, that Ms.  
13 Sinatra gave an instruction to collect documents as Mr. Freeh  
14 asked?

15 A Her testimony is she instructed WRM officials to  
16 make available documents and people as Mr. Freeh asked.

17 Q Thank you. And as you've said, you promptly  
18 complied with that request, correct, of Ms. Sinatra?

19 A Did I say that? I would have -- I would have --

20 Q Well, you did. I'm -- you did; correct?

21 A Yes.

22 Q So we've already established at least in part --  
23 maybe I should make sure that we have -- that the complaint by  
24 the plaintiff relates to documents that Mr. Freeh collected,  
25 reviewed, and wrote a report on regarding the stays of the

1 PAGCOR officials in Wynn Resorts Macau; correct?

2 MR. BICE: Objection to the form.

3 THE COURT: Overruled. Sir, you can disagree with  
4 him if you want.

5 THE WITNESS: The lawsuit -- the lawsuit uses the  
6 Freeh report as one of its basises. How's that? I agree.

7 BY MR. PEEK:

8 Q Are you aware of the fact that as a result of that  
9 complaint that two of the defendants, Aruze USA and Universal  
10 Entertainment Corp., filed a counterclaim against Wynn Resorts  
11 Limited and its directors?

12 A I'm aware that that counterclaim was filed, but I  
13 wasn't aware it was just two of the defendants.

14 Q Right aware that, among other transactions, that  
15 the defendants challenged the propriety of Wynn Macau's  
16 \$135 million donation to the UNDF?

17 A I'm aware that the donation is at issue. I'm not  
18 aware specifically if that's in their counterclaim.

19 Q Are you aware of the fact that Kazuo Okada objected  
20 to the donation to the UNDF at a board meeting in April 2011?

21 A Yes.

22 Q Are you aware that Mr. Okada, amongst other  
23 allegations, complains that he was punished and the stock of  
24 Aruze USA redeemed because in part of the challenge to the  
25 UNDF donation?

1           A     I'm sorry. I'm not aware of his specific  
2 complaints.

3           Q     Okay. The donation was not made from WRL, though,  
4 was it?

5           A     The donation was not made from WRL.

6           Q     The donation was, as we already said, from WRMSA.

7           A     I believe I said it was either WRMSA or WML but I  
8 couldn't recall which. I believe WRMSA.

9           Q     He's lists the Macau operating entity; correct?

10          A     Correct.

11          Q     Was Mr. Okada a member of the board of WRMSA in  
12 2011?

13          A     No.

14          Q     Was he a member of the board of WML in 2011?

15          A     Yes.

16          Q     Are you aware that Mr. Okada has questioned other  
17 transactions of WRMSA, WRL in Macau, specifically the land  
18 concession?

19          A     I am aware that he has questioned other activities,  
20 yes.

21          Q     The land concession is a concession for -- to use  
22 land in Macau; correct?

23          A     Correct.

24          Q     There's not a -- you don't buy land in Macau, do  
25 you?

1           A     It's very rare.

2           Q     You get a concession from the government for a  
3 certain period of time; correct?

4           A     Correct.

5           Q     The land concession that Wynn Macau was seeking --  
6 well, first of all, it's WRMSA that was seeking the land  
7 concession because it's the concessionaire for gaming;  
8 correct?

9           A     Which land concession are you speaking of?

10          Q     The concession in Taipa.

11          A     It was WRMSA seeking the land concession.

12          Q     And it was in Taipa?

13          A     Cotai.

14          Q     No. But it was in Taipa until -- it was on the  
15 island of Taipa until the landfill made it Cotai; correct?

16          A     No. The land's completely landfill, so it's  
17 actually Cotai.

18          Q     Well, Taipa is a combination of -- or Cotai is a  
19 combination of the island of Taipa and the island of Coloane;  
20 correct?

21          A     Coloane.

22          Q     What?

23          A     Coloane, yes.

24          Q     And I believe that Mr. Adelson did the landfill and  
25 made it -- got rid of it in two islands?

1           A     I don't know who did the landfill.

2           Q     Okay. The northern island of those or the one  
3 closest to Macau Central was Taipa; correct?

4           A     Is Taipa. Yes.

5           Q     Is Taipa. So when I say that the concession was on  
6 Taipa, we would agree that it's on the Cotai Strip, but in the  
7 Taipa area; correct?

8           A     It's closer to Taipa than it is to Coloane. How  
9 about that?

10          Q     So Wynn's original casino was at what I said Macau  
11 Central; correct?

12          A     Macau Central.

13          Q     The primary casino operations in Macau are on the  
14 Cotai Strip; correct?

15          A     Whose primary casino operations?

16          Q     All the casino -- primary casino operations are on  
17 the Cotai Strip; correct? Dreams, Galaxy, MGM, Venetian, the  
18 five or six properties of the Venetian, the Wynn -- the new  
19 Wynn Palace, they're all on the Cotai Strip; correct?

20               MR. BICE: Objection.

21               THE COURT: Mr. Peek, why does this matter to my  
22 sanctions hearing?

23               MR. PEEK: Your Honor, because, as we will go  
24 through -- I don't want to give an answer to this with the  
25 witness here. If you want to excuse the witness, I'll tell



1 you why, connect it.

2 THE COURT: Sir, do you feel like getting up and  
3 walking around for a minute?

4 You're making me have flashbacks again, Mr. Peek, is  
5 why I'm suggesting this.

6 MR. PEEK: I know. Your Honor, as we said in our  
7 complaint and as we actually previewed to you in earlier  
8 motions about relevancy, and the Court agreed with our  
9 argument about relevancy, that the land concession --

10 THE COURT: On the pretext issues.

11 MR. PEEK: Pardon?

12 THE COURT: On the pretext issues.

13 MR. PEEK: Right. Well, not only the pretext issue  
14 but also the connection as to why it's a pretext issue is we  
15 know that Mr. Wynn identified property in Taipa for the Wynn  
16 Palace in 2002. We know that it took him until 2012 to obtain  
17 the land concession, almost 10 years. In that same 10-year  
18 period of time lots of other folks were already operating and  
19 had land concessions and were on the Cotai Strip with the  
20 exception of Mr. Wynn. What we also know is that in April of  
21 2011 WRL approved a donation to the UMDF. We also know that  
22 there's correspondence in that same time frame that Mr. Wynn  
23 sends or his secretary sends to have the chief executive  
24 reminded about the donation, because he wants to meet with him  
25 and wants to know what the status of the land concession is.

1           We know that the land concession took place in --  
2 was first gazzeted in the fall of 2011. We know that there  
3 were certain meetings that we think that are redacted, that we  
4 think relate to meetings where Mr. Wynn is meeting with the  
5 chief executive and others about the land concession reminding  
6 people that he had given the large donation to the UMDF. And  
7 we know that the land concession wasn't actually granted until  
8 2012. We're connected those dots, we think that's  
9 circumstantial evidence that the UMDF contribution was a way  
10 to give payment for the land concession. We also know that  
11 there's --

12           THE COURT: We know that you have that theory and  
13 it's something you're going to explore.

14           MR. PEEK: Correct.

15           THE COURT: The issue that I have --

16           MR. PEEK: Documents that are redacted, Your Honor,  
17 contain information on that theory.

18           THE COURT: Okay.

19           MR. BICE: He doesn't have any evidence of that.  
20 And they didn't prepare a witness on that point, which is what  
21 their obligation was to do.

22           MR. PEEK: I don't need --

23           MR. BICE: If, Your Honor, if I can have my say.

24           THE COURT: I'm waiting.

25           MR. BICE: So they showed their witness three

1 documents, that's what they did. That's what they decided to  
2 put on. So contrary to all of this argument this testimony  
3 about Cotai and who has what, and where's this hotel, and  
4 where's that hotel, has nothing to --

5 THE COURT: Well, and who did the landfill?

6 MR. BICE: Yeah. Who did the landfill?

7 THE COURT: That was one I was waiting for you to  
8 object.

9 MR. BICE: I guess we needed to give Mr. Adelson a  
10 boost. Nonetheless, has nothing to do with the sanctions  
11 issue and whether or not they have any prejudice and whether  
12 or not Wynn Resorts has the right to obtain the documents in  
13 an unredacted form.

14 THE COURT: Okay. Are you done?

15 MR. BICE: Yes.

16 THE COURT: So, Mr. Peek, can you tell me where this  
17 issue, that you are now chasing with Mr. Schall, is in your  
18 discovery responses on the sanctions hearing or in your  
19 responses by your 30(b)(6) witness.

20 MR. PEEK: Okay. I had a little script prepared on  
21 this, Your Honor.

22 THE COURT: Thank you, for whoever prepared that for  
23 you.

24 MR. PEEK: That's alright, I can remember it. They  
25 all think I'm, you know, they all think I'm --

1           THE COURT: No. We all think that you have great  
2 support.

3           MR. PEEK: Let me start with this, Your Honor. Let  
4 me start with this. What we know is in the answers to  
5 interrogatories to Wynn that identify the question of  
6 prejudice and on the question of prejudice all documents --

7           THE COURT: And it's okay for to look at the script.

8           MR. PEEK: Let me finish, Your Honor.

9           THE COURT: It's okay, because everybody has to have  
10 support in this case, because it is too large for any of you  
11 senior members of the law firms to manage this case without  
12 the great support of your paralegals, associates, and more  
13 junior partners.

14           MR. PEEK: So in answer to Interrogatory 13, Your  
15 Honor -- and I'm not going to address the document because I  
16 will in a minute, but in answer to this --

17           THE COURT: You're not going to say thank you to  
18 your people?

19           MR. PEEK: No. I can do this on my own, Your Honor.

20           MR. BICE: Your Honor, I'm sorry, just so the  
21 record's clear. So you're reading from the interrogatories  
22 that his client didn't read?

23           THE COURT: No. He is reading from a script that  
24 his team has prepared for --

25           MR. PEEK: No. I have to read from the

1 interrogatory, Your Honor.

2 THE COURT: Oh.

3 MR. BICE: Is it the --

4 MR. PEEK: -- tell the Court what I'm doing?

5 THE COURT: Yes. Absolutely.

6 MR. PEEK: I don't need to be interrupted  
7 constantly.

8 THE COURT: Mr. Bice, could you sit down.

9 MR. PEEK: Thank you.

10 MR. BICE: I just want to know which  
11 interrogatories. I'm sorry.

12 THE COURT: Well, just sit down and we'll get to it  
13 maybe before I break.

14 Could you keep going, Mr. Peek, please.

15 MR. PEEK: Let's start with two things. We start  
16 with an interrogatory to Okada, Aruze USA, and UEC, which is  
17 Interrogatory Number 12, "Describe in detail and with  
18 particularity all harm, including attorneys' fees or costs,  
19 that you claim that relates to any redactions that are the  
20 subject of your motion for sanctions filed on April 4th,  
21 2017."

22 Here's the response, "The Aruze parties hereby  
23 incorporate the preliminary statement, general objections and  
24 objections to instruction in the definition --" so that's  
25 their objection, but say, "-- subject to and without waiving

1 their objections, the Aruze parties state that WRL's continued  
2 redacting pursuant to the MPDPA, as well as its continued  
3 withholding of documents pursuant to the so-called Macau law  
4 privilege in violation of the court's November 1 order have  
5 caused the Aruze parties significant harm, including, but not  
6 limited to, in terms of their ability to conduct discovery, in  
7 particular the redactions and privilege assertions prevent the  
8 Aruze parties from being able to identify key witnesses due to  
9 the withholding of those potential witnesses' names or to  
10 develop facts by linking actions with the identities of those  
11 taking such action.

12 "Moreover, WRL's MPDPA redactions and Macau law  
13 privilege claim have prevented the Aruze parties from fully  
14 questioning witnesses who have already been deposed.

15 "Furthermore, the ongoing disputes between WRL and  
16 the Aruze parties over the redactions has delayed the  
17 deposition of key witnesses in Macau and [inaudible]  
18 discovery, thereby limiting the Aruze parties' ability to  
19 conduct followup discovery after these depositions.

20 "Additionally WRL's wilful refusal to produce  
21 documents without MPDPA redactions has caused the Aruze  
22 parties significant harm in terms of attorneys' fees and other  
23 associated expenses the Aruze parties have incurred in seeking  
24 to compel production of those documents in an unredacted form.  
25 The history of the Aruze parties' efforts to compel

1 productions are set forth in their motion for sanctions,"  
2 that's the March 31," and their reply in support of the motion  
3 for sanctions of April 28th incorporated herein where we  
4 identify the documents, where we identify the privileges.  
5 Moreover, the Aruze parties' efforts to compel production of  
6 these documents and the fees and costs associated with those  
7 efforts are not yet over, and fees and costs will continue to  
8 accumulate until WRL produces the documents without MPDPA  
9 redactions."

10 We identify the documents in the motion for sanction  
11 and their reply, Your Honor.

12 THE COURT: Okay. I have those right here in my  
13 hand. Tell me where.

14 MR. PEEK: I don't have it right here in my hand,  
15 Your Honor. But I will certainly provide it to the Court  
16 tomorrow, because I know there were many exhibits. I think we  
17 have it as a -- marked as a --

18 THE COURT: You want the appendix? I have the  
19 appendix right here. It's got tab through T, A through T.

20 MR. PEEK: It did have a number of appendixes, Your  
21 Honor.

22 THE COURT: A through T. I have it right here.  
23 Would you like to borrow it.

24 MR. PEEK: And I apologize. I should have brought  
25 it with me today.

1 THE COURT: It has an index. It might help. The  
2 index is helpful.

3 MR. PEEK: Your Honor, you'll see in Appendix B --  
4 excuse me, A, that's the notice of submission regarding the  
5 MPDPA and Macau law protections. That was the submission by  
6 Wynn Resorts in June of 2016 identifying the documents. That  
7 is I don't know how many pages, but it has a listing of the  
8 documents. Exhibit B, Exhibit C, Footnote 65 in the motion, I  
9 don't have that.

10 THE COURT: The motion's over here.

11 MR. PEEK: You have the motion up there, but --

12 THE COURT: But mine has handwriting all over it.

13 MR. PEEK: -- it's the Footnote 65. And Footnote 65  
14 we say Exhibit R. In Exhibit R we have additional documents  
15 -- no, that's just an example email. That's just some of the  
16 documents, Your Honor.

17 THE COURT: I'm looking at Footnote 65 right now,  
18 and I don't see specific --

19 MR. PEEK: No, you're right, Your Honor. I don't  
20 see anything that really grabs me, either. But the listing of  
21 them is in A.

22 MS. SPINELLI: A what, Steve?

23 MR. PEEK: More documents in Exhibit M, Your Honor,  
24 that identify. That's the Wynn eighth supplemental privilege  
25 log and documents of WRM. Those are identified. Those are



1 Macau law, because remember, we're dealing with Macau law  
2 privilege documents here. Exhibit N is the thirty-sixth  
3 supplemental disclosure, which also contains listings of  
4 documents. Exhibit S, Your Honor, also contains -- it's the  
5 second notice of submission of June 10th, 2016, regarding  
6 Macau law and privileges and MPDPA. And that's the listing of  
7 documents. So they're identified in the motion for sanctions.  
8 But let me go on.

9 So that is in Interrogatory Number 13, Your Honor.

10 THE COURT: So, Mr. Peek, I now have my appendix  
11 back and I've looked at A and I've looked at M. I do not see  
12 a specific identification of documents which deal with this  
13 issue.

14 MR. PEEK: All of them do, Your Honor. We said  
15 that. We said all of the documents -- in the answer to  
16 Interrogatory 13 we said all the documents relate to all the  
17 documents that contain redactions. Those are all the  
18 documents that contain redactions. Let me finish.

19 THE COURT: I'm listening.

20 MR. PEEK: So then they made a motion -- so then you  
21 allowed discovery. Then they made a motion. In the motion to  
22 compel -- they made a countermotion to compel. In that  
23 countermotion to compel they did not say to you nor did they  
24 meet and confer with us and say to us, oh, by the way your  
25 RFPs and your Interrogatory 13 are deficient because you have

1 not listed each and every document that we want you to  
2 identify for us. But they file a countermotion without saying  
3 anything -- well, first, they didn't and confer and say,  
4 you're deficient. Then they filed a countermotion. They did  
5 not identify in that countermotion that they were unhappy or  
6 ask the Court to compel us to produce those documents or make  
7 a more specific identification. The Court then denied that  
8 countermotion.

9 THE COURT: And I allowed them to serve  
10 interrogatories and take a 30(b)(6) to clarify those issues.

11 MR. PEEK: And you did. And they made a motion on  
12 those interrogatories saying we had not fulfilled our  
13 obligation under those interrogatories. And they sent you to  
14 certain interrogatories and said, we want you to compel them  
15 to do that. They did not ask you to have us compelled to  
16 provide further answers to 13, further answers to 12, or  
17 further answers to RFPs by listing specific documents on  
18 prejudice or wilfulness, but prejudice primarily.

19 So then what we come up to is we come up with an  
20 ambush. You're allowing them to ambush us without giving us  
21 an opportunity to, one, meet and confer and supplement, or  
22 even addressing a motion where they did not ask for those  
23 documents, they just, okay, I've got a -- I have a gotcha, I'm  
24 not going to ask the Court for relief. But you've now issued  
25 Rule 37 sanctions, Your Honor. That's what you've done.

1 THE COURT: I have not ordered any sanctions yet.

2 MR. PEEK: Yes, you have. You ordered sanctions --

3 THE COURT: I'm having a hearing to determine.

4 MR. PEEK: -- on -- but you're saying to me now --

5 THE COURT: I haven't had an issuance of sanctions.

6 I am making a determination after weighing the factors in the  
7 Ribiero case and listening to issues related to prejudice,  
8 which is why allowed discovery prior to me doing this hearing,  
9 because the prejudice was one that was --

10 MR. PEEK: But what you've done, though, Your Honor  
11 is you are now saying, I'm sorry, you can't introduce certain  
12 documents, you can't ask questions about redactions, you can't  
13 show documents that have redactions in them.

14 THE COURT: Then, Mr. Peek, what was the purpose of  
15 engaging in discovery prior to this hearing related to the  
16 sanctions issues?

17 MR. PEEK: Your Honor, what we said in our motion  
18 and what you see in the appendix is a listing of all of the  
19 documents that we claim are prejudice to us. We had to put  
20 that out there to you to say, one, they had control; two, they  
21 haven't produced; and, three, we have prejudice as a result of  
22 that.

23 THE COURT: Sure.

24 MR. PEEK: And give us sanctions --

25 THE COURT: Yes, you did that.

1 MR. PEEK: Okay.

2 THE COURT: And then I made a finding that it was  
3 appropriate for me to conduct --

4 MR. PEEK: But we identified all of the documents in  
5 the motion for sanctions, Your Honor.

6 THE COURT: I understand what you're saying. And  
7 then at that hearing when I said, yes, it appears there's a  
8 problem but I have to have an evidentiary hearing under the  
9 Nevada Power versus Fluor case I permitted discovery --

10 MR. PEEK: I know that.

11 THE COURT: -- on the specific issues. And that's  
12 where I'm trying to focus you.

13 MR. PEEK: I'm focused on that, Your Honor. And I  
14 understand. But what I said to them in our answer to  
15 Interrogatory 13, which you don't accept as being adequate, I  
16 said all of the documents --

17 THE COURT: I didn't say I don't accept it. I'm  
18 asking questions.

19 MR. PEEK: We believe we had when we identified all  
20 the documents that contained redactions as those which are  
21 prejudicial to us, because, as we've said in Interrogatory 12,  
22 we are unable to conduct discovery on those individuals whose  
23 names have been redacted.

24 THE COURT: Okay.

25 MR. PEEK: And they know all the documents that have

1 been redacted, because they produced them in a redacted form.

2 THE COURT: Okay, Mr. Peek.

3 MR. BICE: All right, Your Honor --

4 MR. PEEK: And then they make a motion and don't say  
5 anything about it in the motion. And then you deny that  
6 motion, and then they get to have gotcha and you're issuing,  
7 respectfully, Your Honor, a Rule 37 sanctions.

8 THE COURT: No, I haven't done Rule 37 sanctions  
9 with you.

10 MR. PEEK: You are, Your Honor, because you're not  
11 allowing me to introduce documents.

12 THE COURT: No, Mr. Peek, that's not what that is.  
13 That's a limitation on the presentation of evidence based on  
14 what you disclosed.

15 Now, Mr. Bice.

16 MR. BICE: Your Honor, the party pulling the gotcha  
17 here is the party who prepared a witness for three documents  
18 and who we asked expressly in the request for production of  
19 documents, after this motion was filed, the request for  
20 production of documents, please identify the documents that  
21 you claim which you are prejudiced by, identifying the  
22 redactions that you're claiming prejudice by by Bates number.

23 Remember Mr. Takeuchi today testifying he would have  
24 to actually look at the individual documents because not all  
25 redactions are the same? So he didn't know which ones they

1 were going to claim prejudice by. As he said in his  
2 deposition testimony, he said, well, if it was just like a  
3 meeting and Mr. Okada's name was redacted, well, that wouldn't  
4 be any prejudicial to them. However, you'd have to look at  
5 all the individual documents, which is why when we did the  
6 30(b)(6) notice we said, have your witness prepared to tell us  
7 which documents they are claiming are prejudiced by.

8           They produced Mr. Takeuchi with three documents.  
9 These are the three documents that he was prepared to testify  
10 about. The party here who is trying to pull a sandbag is the  
11 party who now shows up with volumes of proposed exhibits who  
12 Mr. Takeuchi, their representative, had never seen. And they  
13 tried to get him prepared to give testimony about it for the  
14 first time during these proceedings.

15           We were entitled to rely upon their answers to their  
16 request for production of documents, which, by the way, Mr.  
17 Peek -- this is interesting about Interrogatory Number 13 that  
18 he's now relying upon. Lets remember, his client actually  
19 hadn't even seen those answers. His client didn't even answer  
20 them. He later, afterwards, apparently says, well, he  
21 verified the answers even though he didn't read them because  
22 he conferred with Mr. Takeuchi and Mr. Takeuchi told him they  
23 were okay. That's what's going on here.

24           The party here who is ambushing is the party who  
25 shows up, despite the fact that we were given discovery,

1 didn't prepare their witnesses, didn't identify the documents  
2 that they were going to use, and then just say, well, now it's  
3 the universe. That completely defeats the purpose of  
4 discovery that the Court granted us.

5 THE COURT: Okay. Anything else? Since it's 4:56  
6 I'm going to think about this overnight, and I am going to  
7 tell you what the answer is to the objection in the morning  
8 when I see you at 9:00 o'clock.

9 MR. PEEK: I don't know what the objection is, Your  
10 Honor. It has to do I guess with question about --

11 THE COURT: The objection is scope.

12 MR. PEEK: -- what's the relevancy of the land  
13 concession.

14 THE COURT: Yes, Mr. Peek, that was where we were.

15 MR. PEEK: Okay. I gave you the relevancy, so --

16 THE COURT: Anything else? See you in the morning.

17 (Court recessed at 5:00 p.m., until the following day,  
18 July 28, 2017, at 9:05 a.m.)  
19  
20  
21  
22  
23  
24  
25

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\* \* \*

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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1	15
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\* \* \*

DEFENDANTS' EXHIBIT NO.

513	84
541	110
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\* \* \*



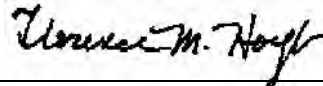
**CERTIFICATION**

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

7/28/17

\_\_\_\_\_  
DATE

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

WYNN RESORTS LIMITED	.	
	.	
Plaintiff	.	CASE NO. A-12-656710-B
	.	
vs.	.	
	.	DEPT. NO. XI
KAZUO OKADA, et al.	.	
	.	
Defendants	.	<b>Transcript of</b>
	.	<b>Proceedings</b>
. . . . .	.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING - DAY 3**

FRIDAY, JULY 28, 2017

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 L. SPINELLI, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.  
ROBERT J. CASSITY, ESQ.  
BRYCE KUNIMOTO, ESQ.  
DAVID KRAKOFF, ESQ.  
LAURA RANDELL, ESQ.  
DONALD JUDE CAMPBELL, ESQ.

1 LAS VEGAS, NEVADA, FRIDAY, JULY 28, 2017, 9:32 A.M.

2 (Court was called to order)

3 THE COURT: Okay. I am in the middle of an  
4 objection related to Mr. -- the last question that Mr. Peek  
5 had asked to Mr. Schall. I asked for extended argument by the  
6 parties, and then I thought about it over the evening. And I  
7 am not going to permit inquiry into areas that were not  
8 identified with the 30(b)(6) or specifically identified in the  
9 interrogatories despite the reference in the interrogatories  
10 to the motion to compel. Because after looking at the  
11 appendix of exhibits to defendants' motion for sanctions  
12 against Wynn Resorts for failure to comply with discovery  
13 orders relating to documents held in Macau, along with the  
14 exhibits that counsel referenced me to yesterday as they  
15 looked through that appendix, I did not see a reference to the  
16 specific issue related to the landfill between the two islands  
17 which now form part of the Cotai Strip.

18 Anything else?

19 MR. PEEK: Certainly, Your Honor. The documents --  
20 perhaps because you can't see the documents you don't realize  
21 that the documents do in fact relate to the Cotai land  
22 concession. But I'm going to do this on a case-by-case basis,  
23 and then --

24 THE COURT: Absolutely.

25 MR. PEEK: I think it's the only way to do it. And

1 we'll address it at each time. I just --

2 THE COURT: It's the only way to do it. It's also  
3 the only way to make a record on it.

4 MR. PEEK: Yeah. That's fine, Your Honor. I'm  
5 okay.

6 THE COURT: I understand.

7 MR. PEEK: I understand. I'm not -- I had  
8 anticipated this. But I think other thing that -- just a  
9 reminder to all the parties here is that we're dealing with  
10 three very discrete issues in the order. We're not dealing  
11 generally with redactions, we're dealing with three very  
12 discrete issue. And the three very discrete issues are the  
13 Macau law privilege; the Court overruled their Macau law  
14 privilege and ordered them to produce Macau law privilege  
15 documents.

16 The second issue was ordering them to produce  
17 documents that had been transferred outside of Macau or had  
18 originated, sent to, received by individuals outside the  
19 jurisdiction of Macau. That is the second bucket. And then  
20 the third bucket -- and didn't really deal with redactions,  
21 Your Honor, as they keep arguing in this discovery. It dealt  
22 with did they produce the documents that they were ordered to  
23 produce.

24 And then the third bucket were the consents. I'll  
25 go on each one of these on a case-by-case basis, talk about it

1 with the Court on a case-by-case basis as these documents come  
2 up. If you're not going to allow me to talk about the Cotai  
3 land concession at all, we'll deal with it as it comes up.  
4 Because I certainly do intend to ask him questions from time  
5 to time on -- about the Cotai land concession and the  
6 documents related to it. But --

7 THE COURT: I going to let you do what you need to  
8 do --

9 MR. PEEK: I know, Your Honor. And --

10 THE COURT: -- and I'm going to rule on objections.

11 Mr. Schall, if you'd come forward, we're going to  
12 swear you in, since it's a new day.

13 MR. BICE: Your Honor --

14 THE COURT: Yes.

15 MR. BICE: I want to just raise one point with the  
16 Court on -- I did not have a chance yesterday, because I was a  
17 little preoccupied, to read the Supreme Court's writ order,  
18 which I then did last night. I wanted to alert the Court that  
19 we're going to be submitting supplemental briefing; because,  
20 as we predicted at the Supreme Court and as we argued  
21 extensively at the Supreme Court, the Supreme Court in  
22 rejecting the Okada parties' arguments about the business  
23 judgment rule and agreeing with our position on the business  
24 judgment rule, that has completely beheaded their pretext  
25 argument. In fact, that was exactly what we argued at the

1 Supreme Court, and that is exactly what the effect of the  
2 order is. Because under -- Justice Hardesty wrote for the  
3 Supreme Court, because the redemption is governed by the  
4 business judgment rule, the only thing that they can attack is  
5 the procedural aspects of the business judgment and how it was  
6 exercised. They cannot get behind any of that decision. They  
7 cannot argue that, well, there was actually -- the business  
8 judgment decision can -- I can get around it by simply saying  
9 that maybe there was something else driving it.

10 THE COURT: Mr. Bice, please don't argue it now. I  
11 think there is probably a little bit more to that opinion than  
12 you're reciting this morning, and I look forward to having  
13 briefing on it.

14 MR. BICE: Thank you, Your Honor.

15 MR. KRAKOFF: Your Honor, could I raise another  
16 quick issue on the opinion from yesterday?

17 THE COURT: Uh-huh.

18 MR. KRAKOFF: And that is --

19 THE COURT: As long as it's not about Footnote 7  
20 that says I have to review every single document and do an in-  
21 camera privilege log. So that means I have to take six months  
22 off from everything else I do.

23 MR. PEEK: Your Honor, it doesn't deal with -- it  
24 doesn't deal with the work product issue, just the attorney-  
25 client.

1 THE COURT: Okay.

2 MR. KRAKOFF: No. I understand that you're going to  
3 have a lot of boxes in your office. But that does lead to the  
4 point, and that is that the Supreme Court has ordered clearly  
5 that any documents that are not work product, that is, those  
6 under Footnote Number 7 that are going to be coming to your  
7 office, must be produced. And so we would ask the Court to  
8 direct Wynn to produce those documents immediately upon  
9 issuance of the mandate from the Supreme Court.

10 THE COURT: I already ordered that many, many months  
11 ago.

12 MR. KRAKOFF: I know that. But we want those  
13 documents right away, because, as the Court said, we are  
14 trying to move this discovery as quickly as possible, and we  
15 need those documents.

16 MR. BICE: That will be addressed, Your Honor, by  
17 motion practice, if necessary. We'll see exactly what they're  
18 arguing about. But the Supreme Court's order on this, Your  
19 Honor, is the business judgment rule precludes them from going  
20 behind this. We'll address this by way of motion practice if  
21 need be.

22 THE COURT: Mr. Bice, there are two aspects to the  
23 opinion. One deals with the Freeh report and the supporting  
24 document, and then the other deals with the Brownstein  
25 documents.



1 MR. BICE: Yep.

2 THE COURT: They are two separate issues. The  
3 Brownstein issues are the ones that arguably relate to the  
4 pretext issue. The ones with the Freeh documents, that's not  
5 the same argument.

6 MR. BICE: Your Honor, I understand. We'll address  
7 that with the Court.

8 THE COURT: Okay.

9 MR. BICE: Happy to do so.

10 MR. KRAKOFF: Your Honor, on those documents, the  
11 Freeh documents, no briefing is necessary. The Court has  
12 already ordered, mandate's going to issue. Those should be  
13 produced immediately upon the issuance of the mandate.

14 THE COURT: Mr. Krakoff, I issued an order ordering  
15 them produced a year ago, maybe longer. So if you think there  
16 is noncompliance with that order, then you can do something  
17 about it.

18 MR. KRAKOFF: We will do that. I just wanted to --

19 MR. BICE: We will, too.

20 MR. KRAKOFF: -- raise the -- respectfully, I just  
21 wanted to raise the issue, because there have been a few  
22 delays in this production, as the Court knows, and we don't  
23 want there to be another.

24 THE COURT: Okay. All right. Anything else before  
25 we swear this witness?

1           MR. PEEK: Yeah. I do have one more question, Your  
2 Honor. Somebody told me -- I asked my folks if they heard  
3 this -- that their continued hearing date was September 13th.

4           THE COURT: No, I didn't say that.

5           MR. PEEK: Okay.

6           THE COURT: I put my head down on the desk and  
7 said --

8           MR. PEEK: So I didn't -- somebody told me that was  
9 the case, so I needed to advise my client, because I wanted to  
10 make sure --

11          THE COURT: No. I put my head down on my desk and  
12 asked Dulce if that was the next date, and she and I looked at  
13 each other, and then I went back and looked more in the  
14 office. I don't know the next date.

15          MR. PEEK: So we don't have a next hearing date. We  
16 might talk about it at the end of the day if we don't finish.

17          THE COURT: We might talk about it at the end of the  
18 day if you don't finish.

19          MR. PEEK: All right. Only if we don't finish. But  
20 we might.

21          THE COURT: Sir, if you'd raise your right hand,  
22 we're going to swear you in, since it's a new day.

23          JASON MARTIN SCHALL, DEFENDANTS' WITNESS, SWORN

24          THE CLERK: Thank you. Please be seated. Please  
25 state and spell your name for the record.

1 THE WITNESS: Jason Martin Schall. J-A-S-O-N  
2 M-A-R-T-I-N S-C-H-A-L-L.

3 DIRECT EXAMINATION (Continued)

4 BY MR. PEEK:

5 Q Mr. Schall, I want to go back a little bit to your  
6 employment with the company. We had already established that  
7 you are currently general counsel for Wynn Macau Limited and  
8 senior legal counsel for WRMSA; correct?

9 A I'm senior vice president legal for WRMSA.

10 Q Senior vice president legal. Sorry if I got it  
11 wrong. I didn't mean to demean your position.

12 A Well, we do have senior legal counsel there, so I  
13 didn't want there to be any confusion in the record.

14 Q Okay. You went to work for -- well, let me back up  
15 a little bit.

16 You were a lawyer at I believe Skadden in Hong Kong  
17 in the mid 2000s?

18 A Yes.

19 Q And at the time that you were the lawyer at Skadden  
20 you were doing work on behalf of Wynn, and I don't know which  
21 Wynn. I don't know if it was WRMSA or WML, which I don't  
22 think existed at that time.

23 A I wasn't the partner at Skadden, so I don't know who  
24 the engagement was with, but a Wynn entity.

25 Q But, in any event, you did work for a Wynn entity?

1           A     I was -- did work as an attorney at Skadden for a  
2 Wynn entity.

3           Q     Do you know which entity that was?

4           A     WRMSA.

5           Q     Okay. And that was in 2006, as I recall, and  
6 before.

7           A     2004 through 2006.

8           Q     And then 2006 you were asked to come to work for a  
9 Wynn entity; correct?

10          A     Correct.

11          Q     And what Wynn entity was that?

12          A     I had a title at Wynn Resorts Limited. I do not  
13 recall which entity actually employed me.

14          Q     What was your title at Wynn Resorts Limited?

15          A     Vice president and associate general counsel.

16          Q     When you say you don't know which entity employed  
17 you, you don't know where your paycheck came from, or did you  
18 have an oral employment agreement or written employment  
19 agreement? I'm a little confused. Help me, please.

20          A     I actually don't know where my paycheck came from  
21 other than a Wynn entity. I had a written agreement. I don't  
22 remember if it was with Wynn Resorts Limited or another  
23 affiliate based in the United States.

24          Q     Is the work that you performed when you had this  
25 title at Wynn Resorts Limited in 2006 related to WRMSA?

1           A     Some.

2           Q     Did it also include work at Wynn Resorts Limited?

3           A     It included work that didn't -- that was United  
4 States based. I don't know -- recall which Wynn entity here.

5           Q     So you weren't having -- you were serving in a dual  
6 role while vice president and associate general counsel for  
7 Wynn Resorts Limited? That is, you were doing work in the  
8 United States, as well as work in Macau; correct?

9           A     As I recall, that's accurate.

10          Q     And for how long a period did that last?

11               Well, first of all let's establish -- you came to  
12 work in 2006 for -- and took this title of vice president and  
13 counsel for Wynn Resorts Limited?

14          A     Correct.

15          Q     And for how long a period did you have that title?

16          A     I can't -- I can't remember. Till approximately  
17 2008.

18          Q     And in that period of time from 2006 to 2008 you  
19 travelled back and forth between Wynn Resorts Limited in the  
20 U.S., Las Vegas, and Macau, did you not?

21          A     During 2006, the opening year of the first Wynn  
22 property in Macau, I lived in Asia. After the property opened  
23 I moved to the United States. And then the travel you  
24 described did take place after that point.

25          Q     Okay. So let's see if we can get a little bit more

1 clarity. The Wynn Macau in Macau Central opened in 2006;  
2 correct?

3 A Correct.

4 Q And at that time you lived in Asia; correct?

5 A Correct.

6 Q For how long a period of time did you live in Asia  
7 and continue to work for the Wynn entities?

8 A I believe through the end of 2006 and slightly into  
9 January of 2007.

10 Q Then you moved back to Las Vegas?

11 A I'm not from Las Vegas, so --

12 Q So you moved to Las Vegas. Sorry, not back to.

13 A Correct.

14 Q And you took up residence here from 2007 to 2008;  
15 correct?

16 A Approximately, yes.

17 Q And during that 2007-2008 period you travelled back  
18 and forth between Las Vegas and Macau; correct?

19 A Correct.

20 Q How often was that travel?

21 A I don't recall, but it was frequent.

22 Q And you did that travel when you held the title of  
23 vice president and legal counsel at Wynn Resorts Limited;  
24 correct?

25 A Correct.

1 Q At that time WRMSA was an indirect 100 percent owned  
2 subsidiary of Wynn Resorts Limited; correct?

3 A No. WRMSA has the 10 percent shareholder required  
4 by Macau law, so 90 percent.

5 Q It still has that today?

6 A Correct.

7 Q So it was an indirect, 90 percent owner of the  
8 subsidiary WRMSA?

9 A That's correct.

10 Q And then when you moved back to Asia did you move to  
11 Hong Kong, or to Macau?

12 A Macau.

13 Q When you went back to Asia or back to Macau in 2008  
14 did you continue to hold the position as vice president and  
15 legal counsel for WRL?

16 A As I recall, no.

17 Q Are you certain, or just kind of like my best  
18 recollection?

19 A My best recollection is I took a title at WRMSA, a  
20 position and title.

21 Q Did you continue to perform any duties at WRL as you  
22 had previously in the 2006 through 2008 period?

23 A I don't recall if there was some type of transition  
24 period. It's possible.

25 Q And I think we established, but I just want to make

1 clear, so in 2009 is when the WML entity was formed and went  
2 public; correct?

3 A Correct.

4 Q Currently you have an employment agreement with an  
5 entity known as Wynn Worldwide, do you not?

6 A Worldwide Wynn.

7 Q Worldwide Wynn. Excuse me. And Worldwide Wynn is a  
8 100 percent owned subsidiary or indirect subsidiary of the  
9 Wynn Resorts Limited; correct?

10 A I believe so, yes.

11 Q Does it fall in that same organizational chart that  
12 we saw previously where, you know, Wynn Resorts Limited, Wynn  
13 Resorts Asia, then we have the Cayman, and then we have Wynn  
14 Resorts -- or Wynn Macau Limited? Does it fall in that line,  
15 or is it a brother-sister corporate entity?

16 A It does not fall in that line.

17 Q And you have that relationship with Worldwide Wynn  
18 for purposes of employment benefits available to you from Wynn  
19 Resorts Limited; correct?

20 A Correct.

21 Q You're not the only individual who has an employment  
22 -- or not the only individual at WRMSA who has this employment  
23 relationship with Worldwide Wynn, are you?

24 A I am not.

25 Q There are others who are also U.S. expats who have a



1 similar Worldwide Wynn employment relationship; correct?

2 A Correct.

3 Q Yesterday we had talked about the request with  
4 respect to lead brief. Remember that testimony from  
5 yesterday?

6 A Yes.

7 Q By the way, we all know here today that there is a  
8 Macau Data Privacy -- or Macau Protection Act for Data Privacy  
9 or for Personal Data; correct?

10 A I know that.

11 Q You know that. That law came in to -- or was  
12 legislated in 2005; correct?

13 A I believe that's correct.

14 Q And it's based upon European Union Data Privacy  
15 Acts, is it not?

16 A That's my understanding, yes.

17 Q And that's because of Wynn Macau -- or Macau was at  
18 one time a Portuguese -- I don't want to say colony, but  
19 protectorate before 1999?

20 A I don't know the legislative intent behind the law,  
21 but that's certainly possible.

22 Q And I think it's your position at Wynn Macau that  
23 even though there was this statute on the books about  
24 protection of personal data you were not aware of it; is that  
25 correct?

1           A     I may have been aware of it, but it was not paid  
2 much heed.

3           Q     It was not paid much heed by you.

4           A     By anyone in Macau.

5           Q     So you're not saying that this is -- ignorance of  
6 the law is no excuse, are you, for not complying?

7                   MR. BICE:  Objection, Your Honor.

8 BY MR. PEEK:

9           Q     You're not saying that, are you?

10                   MR. BICE:  Objection.  Argumentative.

11                   THE COURT:  Overruled.

12                   THE WITNESS:  Ignorance of the law is not an excuse.

13 BY MR. PEEK:

14           Q     It was just sort of ignorance of the law because  
15 nobody else paid heed to it; is that right?

16           A     My recollection is it just wasn't -- no one paid  
17 attention to it.  I can't give you more than that.

18           Q     Okay.  So when Ms. Sinatra asked you to make  
19 available documents to Louis Freeh you didn't go and ask  
20 consents for any of those individuals whose personal data you  
21 were providing, did you?

22           A     No.

23           Q     And likewise, you didn't go -- by the way, was there  
24 an Office of Personal Data Protection in 2012?

25           A     They had an office, and they had staff, yes.

1 Q Yes. So there was an OPDP in 2012; correct?

2 A Correct.

3 Q And did you understand that the OPDP as of 2012 was  
4 charged with the protection of personal data in accordance  
5 with the statute?

6 A I believe I understood that.

7 Q And there are certain provisions within that MPDPA  
8 statutory scheme which allow for transfer of data outside of  
9 Macau; correct?

10 A Correct.

11 Q And I believe that the OPDP interprets that to mean  
12 that no matter which way you go, whether it's by consent or  
13 otherwise, you have to get permission from the OPDP before you  
14 transfer data; correct?

15 MR. BICE: Objection, Your Honor, as to form and  
16 timing.

17 THE COURT: Overruled.

18 THE WITNESS: To transfer personal data out,  
19 personal data --

20 BY MR. PEEK:

21 Q Right.

22 A -- you need to follow the law. As you stated, there  
23 are several avenues to that transfer consent, permission, et  
24 cetera. Depends on the data and the situation.

25 Q No matter under which ones of Article 20 you seek

1 permission you at least have to inform the OPDP that you're  
2 doing it and ask permission to do so; correct?

3 A There is a notification procedure, yes, that I agree  
4 generally applies to the handling or transfer of personal data  
5 of all types.

6 Q Those sections of the MPDPA are not new -- were not  
7 new as of 2012, were they? In other words, there wasn't an  
8 amendment to the MPDPA between 2005 and 2012, was there?

9 A I don't believe so.

10 Q So not only did you ask for consents from the  
11 individuals whose data you transferred to Louis Freeh, you did  
12 not ask for any other basis to transfer data either under  
13 Article 20 or Article 19 of the MPDPA, did you?

14 A Can you repeat the first part of your question.

15 THE COURT: He meant you didn't ask for consents.

16 THE WITNESS: Okay. We did not ask for consents.

17 BY MR. PEEK:

18 Q And then you also did not ask for any other basis  
19 under either Article 19 or Article 20 from the OPDP to  
20 transfer data, did you?

21 A We did not.

22 Q You have Macanese lawyers who worked for WRMSA in  
23 2012?

24 A I have Macau-licensed lawyers.

25 Q So they may not be Macanese by I guess nationality

1 -- or not by nationality, but by citizenship, but they are at  
2 least licensed in Macau; correct.

3 A Correct.

4 Q And how many lawyers did you have on your legal  
5 staff in 2012? And I said you. I meant WRMSA.

6 A We had two full time and one consultant.

7 Q And what?

8 A One consultant who had an office.

9 Q Were each of those three licensed to practice in  
10 Macau?

11 A Two of the three.

12 Q Are the two of the three those who worked for you  
13 full time?

14 A One is a consultant, one is full time.

15 Q Did you also have outside counsel in this 2012  
16 period?

17 A We had outside counsel, but not for this issue  
18 you're discussing.

19 Q I didn't ask you that. I just asked if you had  
20 outside counsel, Mr. Schall.

21 A Yes.

22 Q You're anticipating my next question. Are those  
23 outside counsel licensed? I assume they're licensed to  
24 practice in Macau.

25 A Yes.

1 Q I assume that, to your knowledge, they're familiar  
2 with Macanese law?

3 A To my knowledge, yes.

4 Q You hire them for their familiarity, do you not?

5 A Among other things.

6 Q Did you ask your outside counsel whether or not the  
7 MPDPA applied to the transfer of documents to Louis Freeh?

8 MR. BICE: Objection, Your Honor. Attorney-client.

9 THE COURT: Sustained.

10 BY MR. PEEK:

11 Q I just want to get this clear about Linda Chen's  
12 role. Linda Chen I think you established yesterday was a  
13 director of WRMSA; correct?

14 A She currently is a director of WRMSA.

15 Q She was in the 2011-2012 period, as well, was she  
16 not?

17 A No.

18 Q And Linda Chen I believe served as at one time chief  
19 operating officer for WRMSA?

20 A Yes.

21 Q And she was an executive director of WRMSA, or she  
22 is?

23 A She is.

24 Q And she's also considered an executive director of  
25 WML; correct?

1           A     She is.

2           Q     And Linda Chen held a position at Wynn Resorts  
3 Limited at one time, did she not, in Nevada?

4           A     I don't know.

5           Q     When you first were introduced to Linda Chen was she  
6 in Macau or in Las Vegas holding a position?

7           A     Macau.

8           Q     Marc Schorr held a position with Wynn Macau Limited  
9 at one time, too, did he not?

10          A     Held a position?

11          Q     Yes. Executive position or director position, one  
12 or the other.

13          A     He was a director.

14          Q     And I think he was also a director at one time and  
15 currently of WRL; correct?

16          A     Can you repeat?

17          Q     He was also a director at one time of WRL?

18          A     A director at one time of WRL, yes.

19          Q     Mr. Maddox held a position at WRMSA at one time;  
20 correct? An executive position.

21          A     He had the title of CFO and was there.

22          Q     And what?

23          A     And was in Macau, yes.

24          Q     Okay. And now he is, of course, president here in  
25 Las Vegas?

1           A     He's Wynn Resorts Limited president.

2           Q     You are the global compliance officer for WRL, are  
3 you not?

4           A     Yes.

5           Q     And as global compliance officer you are -- you hold  
6 positions over compliance in WRMSA and the Las Vegas entity,  
7 as well; correct?

8           A     Yes.

9           Q     In fact, compliance officers at Wynn Resorts Limited  
10 report to you, do they not?

11          A     I am one of their reporting lines.

12          Q     You're a direct reporting line, are you not?

13          A     Yes.

14          Q     And the WRMSA compliance officer reports directly to  
15 you, as well?

16          A     He reports directly to the CFOs and indirectly to  
17 me.

18          Q     So I take it, then, the CFO reports directly to you  
19 as global compliance officer; correct?

20          A     The CFOs don't report to me.

21          Q     So who in the compliance office at WRMSA reports to  
22 you in your position as global compliance officer?

23          A     The WRMSA compliance officer is an indirect reportee  
24 of me.

25          Q     Okay. I'm still trying -- confused. You said he



1 reports only to the CFO, and the CFO doesn't report to you.  
2 So how does this person have an indirect reporting line to  
3 you?

4 A I guess you could call it a dotted line.

5 Q Okay. What does that mean?

6 A He's an operational position. The CFOs are  
7 operational officers. I'm not an operations person, but he  
8 does have a dotted line to me, if you prefer.

9 Q As global compliance officer do you have  
10 responsibilities for compliance with Nevada Gaming Control  
11 statutes?

12 A Yes.

13 Q And you also have responsibility for compliance with  
14 DICJ or the counterpart in Macau called the DICJ?

15 A Yes.

16 Q I take it, then, you would also have, then,  
17 responsibilities for compliance where Wynn Resorts does other  
18 gaming, for example, in Massachusetts; correct?

19 A Yes.

20 Q And where else besides Massachusetts, Las Vegas, and  
21 Macau does Wynn do business?

22 A As compliance officer I'm concerned with Nevada,  
23 Macau, and Massachusetts.

24 Q Anyplace else, then?

25 A Not that falls in my sphere.