

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.

Electronically Filed  
Nov 20 2017 10:43 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

**VOLUME XXIV OF XLIII**

DATED this 20th day of November, 2017.

PISANELLI BICE PLLC

By: /s/ Debra L. Spinelli

James J. Pisanelli, Esq., Bar No. 4027

Todd L. Bice, Esq., Bar No. 4534

Debra L. Spinelli, Esq., Bar No. 9695

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

*Attorneys for Petitioner Wynn Resorts, Limited*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

INDEX			
DOCUMENT	DATE	VOL.	PAGE
Defendants' First Request for Production of Documents to Wynn Resorts, Limited	01/13/2013	I	00001 - 00036
Wynn Resorts, Limited's Responses and Objections to Defendants' First Request for Production of Documents	03/19/2013	I	00037 - 00134
The Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	04/28/2015	I	00135 - 00161
Appendix of Exhibits Referenced in the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	04/28/2015	I-IV	00162 - 00924
Wynn Resorts, Limited's Opposition to the Okada Parties' Motion to Compel Supplemental Responses to their Second and Third Sets of Requests for Production	05/19/2015	IV-VII	00925 - 01669
The Aruze Parties' Reply in Support of their Motion to Compel	05/28/2015	VII	01670 - 01691
Appendix of Exhibits Referenced in the Aruze Parties' Reply in Support of Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	05/28/2015	VII	01692 - 01732
Hearing Transcript	06/04/2015	VII-VIII	01733 - 01820
Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	06/22/2015	VIII	01821 - 01826
Notice of Entry of Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	06/24/2015	VIII	01827 - 01837

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Wynn Parties' Motion for Relief from Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts	12/08/2015	VIII	01838 - 01976
The Aruze Parties' Opposition to Wynn Parties' Motion for Relief from Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts	12/21/2015	VIII-IX	01977 - 02021
Order Granting in Part and Denying in Part Wynn Parties' Motion for Relief from Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts	01/16/2016	IX	02022 - 02023
Order Granting in Part and Denying in Part Wynn Parties' Motion for Relief from Order Granting the Aruze Parties' Motion to Compel Supplemental Responses to their Second and Third Set of Requests for Production of Documents to Wynn Resorts	02/23/2016	IX	02024 - 02027
Aruze Parties' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for Sanctions and Attorney's Fees; Ex Parte Application for Order Shortening Time	04/20/2016	IX-XI	02028 - 02650
Wynn Resorts, Limited's Opposition to the Aruze Parties' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for Sanctions and Attorney's Fees	05/02/2016	XI	02651 - 02670
Appendix to Wynn Resorts, Limited's Opposition to the Aruze Parties' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for Sanctions and Attorney's Fees	05/02/2016	XI-XII	02671 - 02988
Hearing Transcript	05/03/2016	XII-XIII	02989 - 03040
Hearing Transcript	05/05/2016	XIII	03041 - 03075
Macau-Related Redactions Spreadsheet	05/13/2016	XIII	03076 - 03108
Notice of Submission of Materials for <i>In Camera</i> Review	05/13/2016	XIII	03109 - 03112
Macau Law Privilege and MPDPA Claims Spreadsheet	05/16/2016	XIII	03113 - 03146

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

The Aruze Parties' Status Report Regarding the May 26, 2016 Hearing	05/25/2016	XIII	03147 - 03178
Hearing Transcript	05/26/2016	XIII	03179 - 03211
Notice of Submission of Materials for <i>In Camera</i> Review Regarding (1) Macau Personal Data Privacy Act; and (2) Macau Law Protections Related to Concessionaires	06/03/2016	XIII-XIV	03212 - 03263
Second Notice of Submission of Materials for <i>In Camera</i> Review Regarding (1) Macau Personal Data Privacy Act; and (2) Macau Law Protections Related to Concessionaires	06/10/2016	XIV	03264 - 03345
Hearing Transcript	06/17/2016	XIV	03346 - 03372
Telephone Conference Transcript	07/07/2016	XIV	03373 - 03385
Joint Status Report to the Court on Issue of MPDPA Waiver	08/05/2016	XIV	03386 - 03390
Wynn Resorts, Limited's Supplemental Brief Related to the Macau Personal Data Privacy Act	08/19/2016	XIV-XV	03391 - 03576
Stipulation and Order Regarding Defendants' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents and Motion for Sanctions and Attorney's Fees	08/22/2016	XV	03577 - 03580
Aruze Parties' Reply in Support of Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents	08/26/2016	XV	03581 - 03596
Appendix of Exhibits to Aruze Parties' Reply in Support of Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents	08/26/2016	XV	03597 - 03747
Hearing Transcript	09/02/2016	XV-XVI	03748 - 03869
Order Granting in Part Defendants' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for Sanctions and Attorney's Fees	11/01/2016	XVI	03870 - 03876
Notice of Entry of Order Granting in Part Defendants' Motion to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for Sanctions and Attorney's Fees	12/21/2016	XVI	03877 - 03887
Defendants' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel	04/04/2017	XVI	03888 - 03917

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Appendix to Defendants' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel	04/04/2017	XLII - XLIII	10289 - 10615
Opposition to the Okada Parties' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel; and Countermotion for Discovery	04/14/2017	XVI	03918 - 03945
Appendix to Opposition to the Okada Parties' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel; and Countermotion for Discovery	04/14/2017	XVI-XVII	03946 - 04204
Defendants' Reply in Support of their Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel and Opposition to WRL's Countermotion for Discovery	04/25/2017	XVII	04205 - 04217
Hearing Transcript	05/01/2017	XVII	04218 - 04250
Defendants' Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests Related to Defendants' Motion for Sanctions	06/12/2017	XVIII	04251 - 04344
Order Granting in Part the Aruze Parties' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel and Granting in Part Wynn Resorts, Limited's Countermotion for Discovery and Evidentiary Hearing	06/14/2017	XVIII	04345 - 04348
Notice of Entry of Order Granting in Part the Aruze Parties' Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Defendants' Motion to Compel and Granting in Part Wynn Resorts, Limited's Countermotion for Discovery and Evidentiary Hearing	06/22/2017	XVIII	04349 - 04356
Wynn Resorts, Limited's Opposition to the Okada Parties' Motion to Compel and Countermotion to Compel (1) Responses to Requests for Production, (2) Answers to Interrogatories, (3) Answers to Deposition Questions, and (4) Sanctions	06/22/2017	XVIII	04357 - 04377

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Appendix to Wynn Resorts, Limited's Opposition to the Okada Parties' Motion to Compel and Countermotion to Compel (1) Responses to Requests for Production, (2) Answers to Interrogatories, (3) Answers to Deposition Questions, and (4) Sanctions	06/22/2017	XVIII- IXX	04378 - 04672
Defendants' Motion to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests (Re Motion for Sanctions)	06/26/2017	IXX- XX	04673 - 04825
Wynn Resorts, Limited's Opposition to Okada Parties' Motion to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests (Re Motion for Sanctions)	06/30/2017	XX	04826 - 04836
Appendix to Wynn Resorts, Limited's Opposition to Okada Parties' Motion to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests (Re Motion for Sanctions)	06/30/2017	XX- XXI	04837 - 05112
Aruze Parties' Reply in Support of their Motion to Compel and Opposition to Wynn Resorts, Limited's Countermotion to Compel (Re Motion for Sanctions)	07/05/2017	XXI	05113 - 05134
Appendix of Exhibits to Aruze Parties' Reply in Support of their Motion to Compel and Opposition to Wynn Resorts, Limited's Countermotion to Compel (Re Motion for Sanctions)	07/05/2017	XXI- XXII	05135 - 05379
Order on Motion to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests (Re Motion for Sanctions)	07/05/2017	XXII	05380 - 05383
Notice of Entry of Order on Motion to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents and Information Responsive to Discovery Requests (Re Motion for Sanctions)	07/05/2017	XXII	05384 - 05390
Evidentiary Hearing Transcript – Day One	07/26/2017	XXII- XXIII	05391 - 05544

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Evidentiary Hearing Transcript – Day Two	07/27/2017	XXIII	05545 - 05726
Evidentiary Hearing Transcript – Day Three	07/28/2017	XVIII-XXIV	05727 - 05880
The Wynn Parties’ Status Report Related to Continued Hearing on Motion for Sanctions (MPDPA/Macau Law)	08/11/2017	XXIV	05881 - 05886
Evidentiary Hearing Transcript – Day Four	08/21/2017	XXIV-XXV	05887 - 06119
Evidentiary Hearing Transcript – Day Five	08/23/2017	XXV-XXVI	06120 - 06285
Defendants’ Post-Hearing Brief in Support of Defendants’ Motion for Sanctions	09/29/2017	XXVI	06286 - 06311
Appendix of Exhibits Supporting the Aruze Parties’ Post-Hearing Brief in Support of Defendants’ Motion for Sanctions	09/29/2017	XXVI-XXXIX	06312 - 09536
Wynn Resorts’ Response to the Post-Hearing Brief in Support of the Okada Parties’ Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Okada Parties’ Motion to Compel	10/13/2017	XXXIX	09537 - 09568
Appendix to Wynn Resorts’ Response to the Post-Hearing Brief in Support of the Okada Parties’ Motion for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order Granting in Part Okada Parties’ Motion to Compel	10/13/2017	XXXIX-XL	09569 - 09975
Evidentiary Hearing Transcript – Day Six	10/16/2017	XL-XLI	09976 - 10106
Evidentiary Hearing Transcript – Day Seven	10/17/2017	XLI	10107 - 10219
Notice of Filing Mr. Kazuo Okada’s MPDPA Consent	10/19/2017	XLI	10220 - 10226
Defendants’ Errata Regarding Closing Argument in Support of Defendants’ Motion for Sanctions	10/20/2017	XLI	10227 - 10231
Defendants’ Post-Hearing Brief Regarding Exhibit 162 in Support of Defendants’ Motion for Sanctions	10/23/2017	XLI	10232 - 10246
Wynn Resorts, Limited’s Brief Regarding Issue Preclusion and Claim Preclusion Related to the Macau Action	10/23/2017	XLI	10247 - 10261
Findings of Fact and Conclusions of Law	10/31/2017	XLII	10262 - 10288

1 Q Okay. And you report through an indirect reporting  
2 line to Kim Sinatra, do you not?

3 A Yes.

4 Q And Kim Sinatra is the Wynn Resorts Limited general  
5 counsel, is she not?

6 A Yes.

7 Q Your direct report is Ian Coughlan; correct?

8 A I report directly to him.

9 Q So I guess again sort of one what you call a dotted  
10 line, you have this dotted line reporting to Kim Sinatra;  
11 correct?

12 A Correct.

13 Q And in fact you have weekly conference calls with  
14 Kim Sinatra, do you not?

15 A We have scheduled weekly calls.

16 Q Scheduled weekly calls with Kim Sinatra; correct?

17 A Correct.

18 Q Sometimes you're not able to make them, and so they  
19 may not go on the day scheduled, but you still attempt to have  
20 a call with her on a weekly basis; correct?

21 A We attempt to have the call on a weekly basis.

22 Q And the purpose of these calls, among other things,  
23 is you want to keep her apprised of generally what is going on  
24 in Macau; correct?

25 A Yes.



1 Q Other WRMSA employees or officers report either  
2 directly or indirectly to officers or employees at WRL;  
3 correct?

4 A Yes.

5 Q For example, of course, Linda Chen and Ian Coughlan  
6 report to Mr. Wynn, do they not?

7 A Correct.

8 Q The two companies, WRL and WRMSA, are integrated  
9 financially, are they not?

10 A I'm not sure what that means.

11 Q Well, let me just ask it a different way, then. The  
12 financial information from the Wynn -- from WRMSA up through  
13 WML is included in WRL's reporting to the SEC in its 10-Qs and  
14 10-Ks; correct?

15 A Correct.

16 Q And in fact the income at WRMSA flows up to WML,  
17 then flows up to WRL; correct?

18 A That's my understanding.

19 Q And in fact a significant portion of the dividends  
20 that are paid by WRL to its shareholders come from operations  
21 at WRMSA; correct?

22 A I can't answer that.

23 Q You don't know that at all?

24 A I do not.

25 Q And Wynn Resorts in its 10-Ks actually refers to

1 Wynn Macau and Wynn Palace as "our" Macau operations; correct?

2 A That is how it's referred to.

3 Q And there are certain connected transactions between  
4 WRL and Wynn Macau; correct?

5 A Correct.

6 Q We've already talked about the Worldwide Wynn  
7 employment framework for U.S. citizens as one of those  
8 connected transactions; correct?

9 A Correct.

10 Q Another connected transaction is marketing; correct?

11 A Correct.

12 Q And another connected transaction is design  
13 services; correct?

14 A Correct.

15 Q In fact, the Wynn design and development team from  
16 Las Vegas was -- actually designed the Wynn [inaudible];  
17 correct?

18 A I don't know how that works. There were Las Vegas  
19 Wynn design people who worked on Wynn Palace, certainly.

20 Q By the way, do you review the Wynn Macau annual  
21 report before it's filed?

22 A I do.

23 Q Pardon?

24 A I do.

25 Q Okay. Could you bring up Exhibit -- would you look

1 at Exhibit 626, which --  
2 THE COURT: Proposed Exhibit 626.  
3 BY MR. PEEK:  
4 Q -- Proposed Exhibit 626, which would appear in  
5 Volume 8. Thank you so much.  
6 THE COURT: Any objection? Mr. Bice, any objection?  
7 MR. BICE: Your Honor, I need to look at it. My  
8 apologies.  
9 MR. PEEK: It's the Wynn Macau annual report, Mr.  
10 Bice.  
11 MR. BICE: My apologies, Steve.  
12 MR. PEEK: It's the Wynn Macau annual report.  
13 MR. BICE: Then I have no objection.  
14 MR. PEEK: Thank you.  
15 THE COURT: Be admitted. You can show it on the  
16 screen now. Thank you.  
17 MR. BICE: 626, Steve?  
18 MR. PEEK: Yes, 626.  
19 MS. SMIT: 625.  
20 MR. BICE: That's not the annual report.  
21 MR. PEEK: What?  
22 MS. SMIT: 625.  
23 MR. PEEK: 625. My apologies.  
24 THE COURT: We don't let Mr. Peek be in charge  
25 giving numbers.

1 MR. PEEK: Your Honor, they wrote this for me.

2 (Pause in the proceedings)

3 MR. BICE: Your Honor, just to be clear, I have no  
4 objection to 625, which is the annual report.

5 THE COURT: 625 will be admitted, not 626. Mr. Peek  
6 made an error.

7 (Defendants' Exhibit 625 admitted)

8 MR. PEEK: It actually appears in my outline in 626,  
9 but then in my folder as 625.

10 Thank you, Mr. Bice.

11 BY MR. PEEK:

12 Q Let me ask you to turn to page 69 of the exhibit.  
13 It should have -- at the bottom it should say TX625-069. I  
14 hope it says that in your folder.

15 A Yes.

16 Q Okay.

17 MR. BICE: Wait. My apologies. Can I look at his  
18 exhibit? Because mine doesn't have those Bates numbers on  
19 them.

20 THE CLERK: Yes, you may come up and look at the  
21 witness's --

22 MR. PEEK: Oh. The TX numbers on it?

23 MR. BICE: Well, it's there, but --

24 MR. PEEK: I can tell you where the Bates numbers  
25 are.

1 THE COURT: Look at the one the witness has, because  
2 that's the official one.

3 (Pause in the proceedings)

4 THE COURT: All right. Have you confirmed that  
5 we're on the right document?

6 MR. PEEK: He just needs to get the page, Your  
7 Honor.

8 MR. BICE: Yes. My apologies.

9 THE COURT: It's all right.

10 MR. BICE: Got it, Steve. Thanks.

11 THE COURT: Now you may proceed again.

12 MR. PEEK: Thank you, Your Honor.

13 BY MR. PEEK:

14 Q Are you on Exhibit 625, page 65?

15 A I'm on page 69.

16 Q 69. Excuse me. And on that page you see -- the  
17 topic is "Connected Transactions Continued." You see that?

18 A Yes.

19 Q And then do you also see where it says "Design  
20 Services Framework Agreement"?

21 A Yes.

22 Q And you also see where it says that WRM -- and I  
23 think that's -- is it WRMSA it's referring to? Because it  
24 wouldn't be WML.

25 A WRMSA.

1           Q     This is the report of WML, though, the publicly  
2 traded company on the Hong Kong Stock Exchange, though;  
3 correct?

4           A     Correct.

5           Q     Okay. And so does this refresh your recollection  
6 that WRM had entered design services framework agreement with  
7 Wynn Design & Development, a subsidiary of Wynn Resorts  
8 Limited, for purposes of development, design, and construction  
9 oversight of Wynn Palace and enhancement and renovation works  
10 at Wynn Macau and Encore?

11          A     Yes.

12          Q     Okay. Well, you said you weren't -- you didn't have  
13 a recollection of it, so I just want to --

14          A     I said I didn't know exactly how WDD worked with  
15 this, but yes.

16          Q     But WDD is not a entity either directly or  
17 indirectly owned by WML; correct?

18          A     Wynn Design & Development, a subsidiary of Wynn  
19 Resorts Limited.

20               MR. BICE: Your Honor, I'm going to -- I need to  
21 note my objection, because I don't want to be accused of  
22 waiving anything. This was a subject -- these subject matters  
23 were something that were addressed in the motion to compel.  
24 We had objected to all of this, as the Court might recall, as  
25 irrelevant. It's our belief that this was just parroting the

1 jurisdictional discovery in the Jacobs case. We had objected  
2 to that, they moved to compel, and you had sustained our  
3 objections on this by way of their motion to compel.

4 THE COURT: So are you objecting to this line of  
5 questioning?

6 MR. BICE: I am objecting to it, because --

7 THE COURT: Mr. Peek.

8 MR. PEEK: Your Honor, you told me I had the  
9 obligation to prove control, prejudice, and wilfulness. This  
10 goes to control.

11 THE COURT: No, I don't think it goes to control.  
12 This is --

13 MR. PEEK: Well, you may not. I do. But --

14 THE COURT: I'm trying to --

15 MR. PEEK: -- you may not agree with me.

16 THE COURT: You and I can disagree about things. We  
17 have many times over the years.

18 MR. PEEK: That's right. But I believe this does go  
19 to control. It shows, as I've argued, Your Honor, that this  
20 connected transaction doesn't go to jurisdiction. This  
21 connected transaction goes to the fact that WRL is dictating  
22 what the design of its properties in Macau will be through its  
23 development, design, and construction oversight.

24 THE COURT: The objection is sustained.

25 MR. PEEK: So on what, relevancy grounds?

1 THE COURT: On relevancy.

2 MR. PEEK: Okay.

3 THE COURT: And outside the scope.

4 BY MR. PEEK:

5 Q WRL provides WRMSA with access to certain nongaming  
6 employees in the U.S., does it not?

7 MR. BICE: Your Honor, I thought that you just  
8 sustained this, but --

9 THE COURT: I told him he had to ask the questions  
10 for purposes of the record. You have to object. I've got to  
11 make a ruling.

12 MR. BICE: I'm noting my objection. Same objection,  
13 Your Honor.

14 THE COURT: Okay. Mr. Peek.

15 MR. PEEK: Your Honor, this again shows that there  
16 is control over WML.

17 THE COURT: You've already established they're the  
18 majority shareholder. They can dictate to who the board's  
19 going to be. Now, we've had testimony already that if it's  
20 too bad, the independent directors are going to resign and  
21 they're going to get suspended off of Hong Kong trading and  
22 they're going to get some new independent directors before  
23 they start. So I think you've established pretty much what  
24 that relationship is between the more an 50 percent  
25 shareholder of Wynn Macau -- what is it, WRM -- WRM.



1 MR. PEEK: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. PEEK: And I appreciate this, and I'm sort of  
4 reminded during the sanctions hearing with Quinn Emanuel we  
5 had a similar conversation with Mr. Bice. But I'll move --  
6 I'll go on just because I'm one of those nervous lawyers --

7 THE COURT: It's okay.

8 MR. PEEK: -- who likes to make sure that I have  
9 covered all bases.

10 THE COURT: And I'm not trying to prevent you from  
11 covering the bases --

12 MR. PEEK: I know, Your Honor.

13 THE COURT: -- but I'm trying to tell me [sic] to  
14 the extent you wanted to establish that Wynn Macau -- Wynn has  
15 control over WRM for certain purposes you've already done  
16 that.

17 MR. PEEK: And I think for all purposes, including  
18 documents out of China.

19 THE COURT: We're going to have a discussion about  
20 that at some point in time --

21 MR. PEEK: We will have a --

22 THE COURT: -- because, remember, it's publicly  
23 traded company on the Hong Kong Exchange, so I have certain  
24 issues that we have to address.

25 MR. PEEK: And we will, Your Honor.

1 BY MR. PEEK:

2 Q Certain executives of WML or WRMSA are eligible for  
3 stock options in WRL; correct?

4 MR. BICE: Same objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. PEEK:

7 Q WRM employees, officers, and directors receive  
8 compensation from WRL in whole or in part; correct?

9 MR. BICE: Same objection, Your Honor.

10 THE COURT: Sustained.

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

12 THE COURT: It's okay, Mr. Peek. Keep doing your  
13 job.

14 MR. PEEK: I'm doing my job.

15 THE COURT: I'm not criticizing you for doing your  
16 job, sir.

17 MR. PEEK: I know. But it makes me appear sort of  
18 laughable, because I see these as control issues, you don't.  
19 But I'll move on -- continue on.

20 THE COURT: No. What I've told you is you don't  
21 need to ask more questions about this type of control.

22 BY MR. PEEK:

23 Q So I'll move to a different topic now. WRL has  
24 company policies that apply to WRMSA; correct?

25 MR. BICE: Same objection, Your Honor.

1 THE COURT: Overruled.

2 THE WITNESS: There are WRL policies that would  
3 apply in Macau.

4 BY MR. PEEK:

5 Q For example, the Wynn Resorts city ledger acts  
6 policy?

7 A Yes.

8 Q And, for example, the WRL's code of business  
9 conduct?

10 A Yes.

11 Q Let me have you look at Exhibit 584, which appears  
12 in Volume 3. Thank you.

13 MR. BICE: What exhibit, Steve?

14 MR. PEEK: 584. It's the code of business conduct.

15 MR. BICE: For which one?

16 MR. PEEK: It says "Wynn Resorts Limited" at the  
17 top.

18 BY MR. PEEK:

19 Q Do you see that?

20 A I see it.

21 Q You've seen it before, have you not?

22 A Yes.

23 Q You recognize it?

24 A (No audible response)

25 MR. BICE: No objection.

1 MR. PEEK: Thank you.

2 THE COURT: Be admitted.

3 (Defendants' Exhibit 584 admitted)

4 BY MR. PEEK:

5 Q Now, WRMSA has its own very similar code of business  
6 conduct, does it not?

7 A Yes.

8 Q But at least in terms of the --

9 MR. BICE: Steve -- do you know how this got on  
10 there? Because it's not.

11 MR. PEEK: Yeah. I don't --

12 MR. BICE: Your Honor, I think on this document --

13 MR. PEEK: It came from you guys, but I didn't put  
14 it on there. And I'm not objecting to it or saying that --

15 MR. BICE: Yeah. I just think it must be like a  
16 copying error. There's a stamp on this, Your Honor, that  
17 says --

18 THE COURT: "Redacted Privilege."

19 MR. BICE: -- "Redacted Privilege," but nothing is  
20 redacted and privileged. I think it's --

21 THE COURT: I noticed that.

22 MR. BICE: It seems to be like -- I don't know if  
23 it's a copying error or --

24 THE COURT: Sometimes people have that automatically  
25 applied to documents as part of their reproduction process.

1 MR. PEEK: Your Honor, we didn't do it. I don't say  
2 that they did it, but I don't -- I'm not trying to make a big  
3 deal out of it.

4 MR. BICE: I don't know how it got on there.

5 THE COURT: Okay.

6 MR. BICE: I just want the record to reflect that --

7 THE COURT: I don't see any redactions on it.

8 MR. BICE: Right.

9 MR. PEEK: There aren't, Your Honor. And this has a  
10 very limited purpose.

11 BY MR. PEEK:

12 Q So I want you to take a look at the third page of  
13 this code of business conduct. Do you see this --

14 A Yes.

15 Q -- on page 3?

16 A Yes.

17 Q And there are emails addresses there related to  
18 compliance officer and counsel at WRMSA and counsel at WRL;  
19 correct?

20 A Yes.

21 Q Now, you have -- this email address for you is a  
22 wynnresorts.com, which is the Las Vegas entity; correct?

23 A Yes.

24 Q So if somebody is emailing you even in Macau, if  
25 they email to this address of j.schall@wynnresorts.com, it

1 would be -- it would come to the email server in Las Vegas;  
2 correct?

3 A I'm not an IT person. All of my email shows up to  
4 me as j.schall@wynnmacau.com.

5 Q Understood. But I'm just saying there are -- at  
6 least here the company has identified your email address as a  
7 wynnresorts.com email address; correct?

8 A Yes, that's what's here.

9 Q And you would agree that that is an email address  
10 for folks who are in Las Vegas; correct?

11 A Anyone can use the email.

12 Q That's not what I asked you, sir. My question it's  
13 an email address for wynnresorts.com in Las Vegas; correct?

14 A You're asking is this a Las Vegas email address.

15 Q Correct.

16 A I thought you asked me it's for people in Las Vegas.

17 Q Well, maybe I did. But I just -- would you agree  
18 that is an email address for folks who are in Las Vegas,  
19 correct, at the Wynn Resorts Limited property?

20 THE COURT: Mr. Peek, are you asking him if it goes  
21 to the servers here in the United States, as opposed to  
22 someplace else?

23 MR. PEEK: I'm going to ask that question. I'm not  
24 sure he knows that, but I want to ask him to start with some  
25 preliminary questions, Your Honor.

1 THE COURT: Well, right now you're asking if it's  
2 for use by people in Las Vegas.

3 MR. PEEK: I'll rephrase, Your Honor.

4 THE COURT: Thanks.

5 MR. PEEK: Try to address your question.

6 BY MR. PEEK:

7 Q You have an email address in Macau that you already  
8 told us about; correct?

9 A Correct.

10 Q And you also have this address,  
11 j.schall@wynnresorts.com that we see in Exhibit 584; correct?

12 A Correct.

13 Q And that's an email address given to people who may  
14 have issues related to violations of the code of business  
15 conduct; correct?

16 A You're asking me why this email address appears in s  
17 document?

18 Q Yes.

19 A It's for people to contact me. It's for people to  
20 contact me.

21 Q And you're telling me that your email address is not  
22 this email address, though; correct?

23 A The emails that I get come to  
24 j.schall@wynnmacau.com. As we covered earlier, I started out  
25 in a U.S. role and probably had this address. It's probably

1 been kept for me as a courtesy so people don't have to change  
2 their contact information, is my speculation.

3 Q When you had the wynnresorts.com email address back  
4 in 2006 through '08 or whenever, for whatever period of time,  
5 it went to the server in Las Vegas, did it not?

6 A I believe at that time, yes.

7 Q And it continued to go -- continues to go to the  
8 server today; correct?

9 A No.

10 Q So are you saying that the j.schall@wynnresorts.com  
11 does not ever go to the email server -- exchange server here  
12 in Las Vegas?

13 A My understanding is at some point in 2013 I was  
14 removed from the U.S. servers. I'm not the IT person. That  
15 is my understanding.

16 Q But sometime in 2013 that occurred?

17 A Correct.

18 Q Up until then, tough, you were receiving email in  
19 Las Vegas on the Las Vegas server; correct?

20 A I don't know how it worked. I received email  
21 wherever I was. I believe it ran through the Las Vegas  
22 server, yes.

23 Q Okay. Thank you.

24 As compliance officer you certainly would agree with  
25 me that the activities and actions of WRMSA have the -- can



1 affect WRL's gaming license in Nevada?

2 A I agree.

3 Q I think we went over a little bit of this yesterday,  
4 but I want to go over it again.

5 The WRL board, as we established yesterday, approved  
6 the donation to the UMDF; correct?

7 A I don't recall what WRL did.

8 Q Okay. Are you aware that -- or at least from the  
9 complaint and counterclaim that Mr. Okada objected to the WRL  
10 approval of a donation to the UMDF at the WRL board level?

11 MR. BICE: Objection, Your Honor. Relevance.

12 THE COURT: Overruled.

13 THE WITNESS: My recollection, Mr. Peek, is he did  
14 object. I don't remember if he objected in his role as a WML  
15 director, a WRL director, or both. I don't recall.

16 BY MR. PEEK:

17 Q Okay. The reason I'm asking is there was a time,  
18 was there not, to your recollection, that members of the board  
19 of directors of the WRL board of directors came over to Macau  
20 to visit the University of Macau?

21 A Can you -- WRL directors came to Macau to visit the  
22 University of Macau?

23 Q Yes. Well, maybe -- I'm sorry. Maybe I'm mistaken.  
24 I think there was at least board -- are there board meetings  
25 of WRL in Macau at one time?

1           A     I recall at least one.

2           Q     Maybe I'm mistaken.  So in that meeting they didn't  
3 -- did they visit the University of Macau?

4           A     I don't know.

5           Q     Okay.  Now, you from time to time attend WRL board  
6 meetings, do you not?

7           A     No.

8           Q     Pardon?

9           A     No.

10          Q     Have you ever attended a WRL board meeting?

11          A     Yes.

12          Q     Just on a case-by-case basis where somebody says, I  
13 want you to come to -- or I want you to attend this WRL board  
14 meeting?

15          A     Yes.

16          Q     We talked yesterday about the collection of  
17 documents in Macau by the Wynn Resorts lawyers Pisanelli Bice.  
18 Remember that from yesterday?

19          A     I remember that conversation.

20          Q     You assisted in that collection and processing of  
21 documents, did you not?

22          A     I was involved in the process.

23          Q     Not in the collection, then?

24          A     I didn't collect.

25          Q     Did somebody from your IT group assist in the

1 collection?

2 A I believe so.

3 Q When I say yours I meant WRMSA's IT group assisted  
4 in the collection.

5 A Yes.

6 Q And you worked with WRL's lawyers in the processing  
7 to make sure that two things didn't happen. One is that  
8 privileged documents didn't go out, or that personal data was  
9 protected; correct?

10 A That's accurate.

11 Q Pardon?

12 A That is accurate.

13 Q And from time to time -- well, did you supervise in  
14 any way the Pisanelli Bice lawyers during the course of their  
15 either collection or processing?

16 A Supervise, no.

17 Q And then I think -- you wouldn't have supervised  
18 them during the collection because you weren't involved in the  
19 collection; correct?

20 A Correct.

21 Q Do you know whether or not your IT group supervised  
22 Pisanelli Bice during the collection process?

23 A I don't know.

24 Q How often would you, if at all, meet with the  
25 Pisanelli Bice lawyers during the course of their collection

1 and processing of documents from WRMSA?

2 A I can't recall exactly. It was frequent. Several  
3 times per week.

4 Q And what was the nature of those meetings? I don't  
5 know want to know the communications, but I just want to know  
6 generally the nature of them.

7 A Generally they would ask me --

8 MR. BICE: Objection. Privilege.

9 MR. PEEK: Yeah. I'm not looking for  
10 communications, I'm just sort of --

11 THE COURT: So we're not looking for substantive  
12 information.

13 MR. PEEK: Right. I'm just looking --

14 THE COURT: You had a sit-down meeting, you went to  
15 a restaurant, those kind of things I think is what he's asking  
16 you, but I may be wrong.

17 THE WITNESS: I would go up to the data room and  
18 respond to --

19 BY MR. PEEK:

20 Q Inquiries?

21 A -- inquiries.

22 Q Okay. And did you also work with FTI in the  
23 processing, or was that indirectly through Pisanelli Bice?

24 A FTI was there. I only recall working with Pisanelli  
25 Bice.

1 Q Pardon?

2 A FTI was present. I can only recall working with  
3 Pisanelli Bice.

4 Q Okay. FTI had reviewing counsel -- or reviewing --  
5 lawyers for reviewing documents, did they not?

6 A FTI had lawyers there reviewing documents.

7 Q Were they Macanese lawyers?

8 A No.

9 Q Did you hire any of those lawyers to review your  
10 documents?

11 A Those lawyers?

12 Q The lawyers that FTI was using. Did you hire any of  
13 them?

14 A I didn't engage FTI.

15 Q Okay. So I guess consequently you didn't engage any  
16 of the lawyers; correct?

17 A Personally --

18 Q At WRMSA. Did WRMSA engage any of the lawyers who  
19 reviewed the documents of WRMSA?

20 A I don't believe so.

21 Q As far as you know, all those lawyers that reviewed  
22 your documents were retained by WRL; correct?

23 A That's my understanding.

24 Q You're aware that there were certain privilege  
25 assertions made by WRMSA; correct?

1           A       I'm aware that --  
2           MR. PEEK: Just a moment. Just a moment, Mr.  
3 Schall.  
4           THE COURT: Do we need to take a break, Moneese?  
5           MR. PEEK: Let's take a break to get --  
6           THE COURT: Do we need to take a break for you?  
7           THE COURT REPORTER: Yes, please.  
8           THE COURT: Okay. Let's take a 10-minute recess.  
9           MR. PEEK: Thank you, Your Honor.  
10          THE COURT: Absolutely.  
11          (Court recessed at 10:31 am., until 11:02 a.m.)  
12          THE COURT: Let's try and start again, guys.  
13          Mr. Peek, that means you're up. The witness is  
14 going back to the witness stand.  
15          MR. PEEK: I'm ready to go, Your Honor.  
16          THE COURT: Isn't that nice.  
17          MR. PEEK: Mr. Schall and I are ready.  
18          THE COURT: Please resume your questioning.  
19          MR. PEEK: Thank you, Your Honor. Your Honor, there  
20 was a question pending which I had asked not be answered  
21 because we were waiting for a piece of recording.  
22          THE COURT: Okay.  
23          MR. PEEK: So anyway, I'll repeat the question.  
24          THE COURT: Please.  
25        //

1 BY MR. PEEK:

2 Q Mr. Schall, you're aware, are you not, that there  
3 were certain privilege assertions made by WRMSA in the  
4 documents that it produced?

5 A I'm aware that Wynn Resorts Limited made certain  
6 assertions with respect to documents.

7 Q And they made those certain assertions with respect  
8 to documents on behalf of WRMSA; correct?

9 A I don't know. I mean, WMRSA is not a party to this  
10 case. I thought the assertions were made here by Wynn Resorts  
11 Limited. I don't disagree with what you said.

12 Q Okay. But in any event WRL's lawyers made the  
13 assertions on behalf of WRMSA; correct?

14 A Assertions were made, I'm not sure.

15 Q Okay. They weren't made by you? Let's establish  
16 that. Correct?

17 A Correct.

18 Q And they weren't made by your two people on staff or  
19 your consultant; correct?

20 A Correct.

21 Q Okay. When you came -- strike that. WRL designated  
22 you as its 30(b)(6) witness for the discovery permitted by the  
23 Court in this sanctions proceeding; correct?

24 A Yes.

25 Q And WRL prepared you, general counsel, for WRMSA to

1 testify as a 30(b)(6) on behalf of WRL; correct?

2 A They prepared me to be the 30(b)(6). I didn't catch  
3 the title and company part you put in there.

4 Q All right. And you traveled obviously from Macau to  
5 be prepared for that 30(b)(6) witness on behalf of WRL;  
6 correct?

7 A Correct.

8 Q And were you asked to do that by Kim Sinatra or Eric  
9 Aldrian?

10 A I believe Eric.

11 Q Eric Aldrian is associate general counsel for WRL;  
12 correct?

13 A I don't know his title.

14 Q He's a lawyer for the --

15 A Yes.

16 Q -- for the Wynn company; correct?

17 A Yes.

18 Q Not WRMSA though; correct?

19 A Correct.

20 Q And not WML; correct?

21 A Correct.

22 Q Okay. Let me have you take a look at Exhibit 728,  
23 which appears in Volume 23.

24 THE COURT: Mr. Bice, any objection?

25 MR. PEEK: And then it's just -- it's the November 1



1 order, Mr. Bice.

2 MR. BICE: No objection, Your Honor.

3 THE COURT: Be admitted. Even though it's part of  
4 the record.

5 (Defendants' Exhibit 728 admitted)

6 MR. PEEK: Thank you.

7 BY MR. PEEK:

8 Q Mr. Schall, you've seen this order before, have you  
9 not?

10 A I've got to get to the order part. Yes.

11 Q You saw this order I believe in draft form sometime  
12 in September, October of 2016; correct?

13 A Correct.

14 Q You also saw this order at or about the time you  
15 were preparing for the 30(b)(6) deposition; correct?

16 A I believe so.

17 Q There are three parts of the order that apply to  
18 WRMSA's production of documents, are there not?

19 A I see two, but there could be three. I don't  
20 remember verbatim.

21 Q Yeah. So paragraph 1 of the order relates to  
22 consents; correct?

23 A Yes.

24 Q Paragraph 2 of the order relates to electronic  
25 documents or attachments that were forwarded, sent to, or sent

1 by a person not located in Macau without MPDPA redactions at  
2 the time of his original attempt?

3 A Yes.

4 Q Okay. That's the second -- that's a part that also  
5 applies to WRMSA, does it not?

6 A Well, I'm not trying to split hairs with you, the  
7 orders to Wynn Resorts.

8 Q No. No. I understand that. But with respect to  
9 this portion of the order that refers to documents that were  
10 forwarded, sent to, sent by a person not located in Macau  
11 without MPDPA redaction. Did you understand that those would  
12 also be documents in the possession of WRMSA?

13 A I understood that this order addressed documents in  
14 the possession of WRMSA, yes.

15 Q And you understand that from time to time  
16 individuals at WRMSA send electronic messages to individuals  
17 who reside outside of Macau; correct?

18 A Yes.

19 Q For example, Allan Zeman resides outside of Macau;  
20 correct?

21 A Correct.

22 Q And Allan Zeman is a member of your board of  
23 directors; correct?

24 A WML board of directors.

25 Q Board of directors at WML. And Mr. Zeman lives in

1 Hong Kong; correct?

2 A Correct.

3 Q And Mr. Zeman corresponds with individuals at WRMSA  
4 from time to time via email; correct?

5 A Agree.

6 Q And does so with his email from an email in Hong  
7 Kong; correct?

8 A He uses his email. I don't know if it's a Hong kong  
9 based email, a .com email.

10 Q But you know it's not necessarily a Macau email  
11 though; correct?

12 A Correct.

13 Q Okay. And from time to time there are emails  
14 between Macau and WRMSA employees in Macau and employees at  
15 WRL; correct?

16 A Correct.

17 Q When there is correspondence between a  
18 representative or an employee of WRMSA to Allan Zeman there  
19 are names often included in those emails; correct?

20 A Yes.

21 Q And the names of those individuals, their personal  
22 data, is not redacted when it goes to Mr. Zeman; correct?

23 A I would think not.

24 Q And those names would be names not only of  
25 individuals who gave consents but also individuals from time

1 to time who did not give a consent; correct?

2 A You'd have to give me specific emails, but I would  
3 agree that -- yes.

4 Q For example, Mr. Zeman from time to time talks about  
5 Macau Government officials and gets names; correct?

6 A I don't have specific recollection of that, but it's  
7 very possible, yes.

8 Q And similarly there are emails that go to WRL  
9 employees that would contain the names of non WRMSA employees  
10 who may have given consent; correct?

11 A Non WRMSA employees who may have given consent?

12 Q No. Who would not have given. I meant -- I'm  
13 sorry. I meant may not have given consent. Let me ask it a  
14 different way. It's a little bit confusing. I've looked at  
15 it myself on the screen. Emails that go from employees at  
16 WRMSA to employees of WRL are not redacted are they?

17 A Correct.

18 Q Those emails contain personal data of individuals  
19 who have not given consent; correct?

20 MR. BICE: Object.

21 THE COURT: Overruled.

22 THE WITNESS: They could, yes.

23 MR. BICE: I'm going to object, Your Honor, as  
24 vague.

25 THE COURT: I overruled already.

1 BY MR. PEEK:

2 Q Then there is another provision of this order, which  
3 is sort of the third -- I'll call it the third bucket, is  
4 Macau law privilege, which is paragraph 7, which appears on  
5 Exhibit 728, page 8 of the exhibit. Do you see that,  
6 paragraph 7?

7 A I do.

8 Q And this is what some have described as the Macau  
9 law privilege. But you and I established it's really a  
10 confidentiality; correct?

11 A Correct.

12 Q And here did you understand that this order required  
13 WRL to produce not only documents in its possession but also  
14 in the possession of WRMSA as relates to paragraph 7, because  
15 it overrules Macau law privilege?

16 A Yes.

17 Q Now let me go back a little bit in time. So when  
18 the Pisanelli Bice lawyers came over to Macau in 2013 WRMSA's  
19 privileged legal counsel, I don't think it was you,  
20 corresponded with the OPDP to request permission to transfer  
21 documents or transfer personal data; correct?

22 A There was correspondence at the ODP about the entire  
23 process.

24 Q And actually if we could look at Exhibit 742, which  
25 appears in --

1 THE COURT: Mr. Bice, any objection to 742?

2 MR. BICE: Yes, Your Honor, I object to this. This  
3 is an entire appendix.

4 THE COURT: It's okay. It's okay.

5 So, Mr. Peek, can you lay some foundation, please.

6 MR. PEEK: Let me take a look at it, Your Honor. I  
7 think I understand what the objection is. It is the entire  
8 appendix, and I'm really only looking at -- looking to have  
9 him review his declaration, which is Exhibit 1 to the  
10 opposition by Wynn Resorts.

11 THE COURT: Does it have numbers on the exhibit?  
12 Are there page numbers on the exhibit?

13 MR. PEEK: I'm going to go look.

14 THE COURT: Okay.

15 MR. PEEK: Yes, Your Honor, there are page numbers  
16 on the exhibit, but I need to compare it to page numbers in  
17 the appendix. So if you'll give me just a moment. I  
18 understand --

19 THE COURT: Okay.

20 MR. PEEK: -- the objection.

21 MR. BICE: Steve? Steve?

22 THE COURT: Mr. Bice is calling you, Mr. Peek.

23 MR. BICE: Mr. Peek, our Proposed Exhibit 4 is the  
24 declaration by --

25 MR. PEEK: It's just the declaration?

1 MR. BICE: -- just by itself.

2 MR. PEEK: Okay.

3 MR. BICE: It's our Proposed 4.

4 MR. PEEK: So why don't we do that, Your Honor.

5 we'll just go to --

6 THE COURT: 4?

7 MR. BICE: Our Proposed 4.

8 MR. PEEK: Yeah, Plaintiffs' Proposed Exhibit 4.

9 THE COURT: Thank you, Mr. Bice for that cooperation  
10 and whatever staff members were in support finding that  
11 information.

12 MR. PEEK: Yeah. I'm sorry we couldn't find it.

13 THE COURT: It's okay.

14 MR. BICE: We have no objection.

15 THE COURT: So 4 will be admitted.

16 (Plaintiffs' Exhibit 4 admitted)

17 BY MR. PEEK:

18 Q In your declaration -- it was submitted in  
19 opposition to the motion for sanctions; correct?

20 A Yes.

21 Q Actually because it says it on the heading. And in  
22 your declaration you detail in paragraph, some of the  
23 paragraph, beginning on paragraph 6 I believe, the  
24 communications that you had. Actually, starting on  
25 paragraph 5. You detail in any event in your declaration the

1 correspondence you had from time to time with the OPDP;  
2 correct?

3 A Related to the data collection of Macau, yes.

4 Q Right. And then I think one of the first letters  
5 that you refer to is the letter in 2013 at the time that  
6 Pisanelli Bice came over to collect and process WRMSA's  
7 documents; correct?

8 A I believe it was before they came over, but in  
9 anticipation obviously.

10 Q At or about that time. And as I recall, you also  
11 told us that sometime in late 2012, early 2013 there was a  
12 heightened scrutiny or a heightened awareness, if you will, of  
13 the OPDP with respect to transfers of personal data outside of  
14 Macau; correct?

15 A I believe I covered that in my deposition. I don't  
16 recall saying that yesterday, but that is accurate.

17 Q Yeah. Well, you said it in your deposition, so --

18 A Okay.

19 Q So we didn't necessarily cover it yesterday, I'll  
20 cover it now. WRMSA was fined by the OPDP I think 20,000  
21 patacas as a result of its transfer of data to Louis Freeh;  
22 correct?

23 A Correct.

24 Q I thought I asked you this yesterday, but maybe you  
25 can remember. At or about that same time that WRMSA was



1    fined, Sands China Limited or Venetian Macau Limited was also  
2    fined for its transfer of data; correct?

3           A     I believe I answered. I recall Sands was fined, as  
4    well. I don't recall the timing.

5           Q     As a result of the transfer by WRMSA of data to  
6    Louis Freeh and the fine was there a heightened awareness by  
7    OPDP with respect to transfers of personal data from Macau to  
8    places outside of Macau?

9           A     I don't know what all of OPDP's motivations were,  
10   but there was a heightened awareness on their part in  
11   protecting personal data in Macau, yes.

12          Q     Were there other companies, to your knowledge, who  
13   were fined for any transfers of personal data outside of Macau  
14   or to places outside of Macau other than WRMSA and VML? When  
15   I say VML I'm talking about Venetian Macau, Limited.

16          A     Yes. I recall some reports that there had been some  
17   other fines, but I don't know what companies were fined.

18          Q     When you ask the OPDP, in the letter attached to  
19   your declaration, to transfer data you asked for permission to  
20   do so under a certain article; correct?

21          A     I'm sorry. Which letters to ODP. There's no letter  
22   attached to my declaration.

23          Q     Oh. I'm sorry for this. I thought this was the  
24   exhibit that included all the exhibits. Is it just the  
25   declaration.

1 THE COURT: No. This is just the declaration.

2 MR. PEEK: Oh. So then we need to find my exhibit,  
3 Your Honor.

4 THE COURT: Or maybe some of them are attached as  
5 the next exhibits in order.

6 MR. PEEK: I don't know what -- this is my appendix.  
7 Debbie's right. It starts with their exhibit, your Exhibit  
8 20.

9 May I have a just a moment, Your Honor, to get this  
10 correct.

11 THE COURT: You may.

12 (Pause in the proceedings)

13 THE COURT: Mr. Peek do you need a copy of the  
14 opposition to motion of sanctions or you have it over there?

15 MR. PEEK: I have it, Your Honor. We're just -- I'm  
16 just trying to --

17 THE COURT: Because I have it right here if you need  
18 it, although it has notes on it.

19 (Pause in the proceedings)

20 MR. PEEK: Your Honor, what I would like to offer  
21 is, again, Exhibit 742. I only want to offer as part of  
22 Exhibit 742, the declaration of Jay Schall.

23 THE COURT: Just give me the numbers on the bottom  
24 of the pages.

25 MR. PEEK: They are TX numbers starting with 1 and

1 ending with 259.

2 THE COURT: Okay.

3 MR. PEEK: And it corresponds to Mr. Schall's  
4 identified Exhibits 1 through 17 of his declaration.

5 MR. BICE: Which are just the OPDP letters back and  
6 forth; right?

7 MR. PEEK: Yes.

8 MR. BICE: Okay. So how can we break those out so I  
9 have --

10 MR. PEEK: I'm only asking to have introduced the 1  
11 through 259.

12 MR. BICE: From the appendix?

13 MR. PEEK: Well, actually not 259, 246, yes.

14 MR. BICE: Okay. So that's what I was just talking  
15 about. Can I look at this, Steve?

16 MR. PEEK: Absolutely.

17 MR. BICE: So, Steve let's do this.

18 MR. PEEK: It's your --

19 MR. BICE: Okay. Well, this is -- right. So let's  
20 just agree that Exhibit 742 will be admitted from pages --

21 THE COURT: We already admitted 4, so you don't need  
22 the declaration, again.

23 MR. PEEK: 1 through 5.

24 MR. BICE: Yep, 1 through 5.

25 MR. PEEK: And then 40 --

1 MR. BICE: But that's all we attached.

2 MR. PEEK: Oh. Okay.

3 MR. BICE: So that's all we have. We would  
4 stipulate to admit this appendix, or this portion of the  
5 appendix Bates Stamps 41 through -- so from your exhibit  
6 number it would be Exhibit 274 --

7 MR. PEEK: Or 742.

8 MR. BICE: Or 742, pages 245 --

9 MR. PEEK: Uh-huh. To 248 or 242.

10 MR. BICE: To 246.

11 MR. PEEK: 246.

12 MR. BICE: All right?

13 MR. PEEK: Yes.

14 THE COURT: So what page through 246?

15 MR. BICE: So, Your Honor, we will stipulate to Mr.  
16 Peek's Proposed 742, Exhibit 742. We would agree to stipulate  
17 to the admission of those portions of that exhibit, which run  
18 from 742-045, all the way to 742-246.

19 THE COURT: They'll be admitted.

20 MR. BICE: Right?

21 MR. PEEK: Yes.

22 MR. BICE: All right. We're done.

23 MR. PEEK: I just want to look at something, Your  
24 Honor.

25 THE COURT: Thank you for the courtesy.

1 MR. PEEK: Thank you.

2 MR. BICE: Okay.

3 THE CLERK: Judge, can we mark it as 742A?

4 THE COURT: You may.

5 (Defendants' Exhibit 742A admitted)

6 THE CLERK: Thank you.

7 THE COURT: Dulce's going to call it 742A for the  
8 purposes of your record though.

9 MR. BICE: Thank you.

10 THE COURT: You guys could probably refer to the  
11 pages without too much confusion.

12 Sir, are you following us?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 MR. PEEK: And, Your Honor, I know this may be a  
16 duplicate and I know Exhibit 4 is in evidence, but just for  
17 completeness I would also offer the declaration itself which  
18 begins at 742-06 and ends at 742-09.

19 THE COURT: And that is the same as what's already  
20 been admitted as Exhibit 4.

21 MR. PEEK: That's the same as Exhibit 4.

22 MR. BICE: No objection.

23 THE COURT: It'll be admitted as 742B. Those would  
24 be pages only 6 through 9.

25 (Defendants' Exhibit 742B admitted)

1           THE COURT: Thank you, again, for your courtesy, Mr.  
2 Bice.

3           Mr. Peek, keep going.

4           MR. PEEK: Thank you, Your Honor.

5 BY MR. PEEK:

6           Q     Just so that we can identify the various exhibits.  
7 There are attached to your declaration exhibits, the exhibits  
8 beginning at 742-42; correct?

9           A     Mine is 742-45.

10          Q     Oh. I'm sorry. Actually 45, and that's identified  
11 in your declaration as Exhibit 5; correct?

12          A     Yes.

13          Q     And there are -- you have exhibits attached to it,  
14 Exhibits 5 through 17, which appear at various pages beginning  
15 at 742-45 and ending at, as Mr. Bice said, at 742-246;  
16 correct?

17          A     I don't know if they go through 17, Mr. Peek, but  
18 there's exhibits starting with 5 and there's some number of  
19 them.

20          Q     Okay. Well, let's look at your declaration.

21                MR. BICE: Steve, I'll stipulate that your  
22 recitation of the numbers is right.

23                THE COURT: Thank you, Mr. Bice.

24                MR. PEEK: Okay. Thank you, Mr. Bice.

25                //

1 BY MR. PEEK:

2 Q And will you agree with Mr. Bice, your counsel --  
3 the counsel here?

4 A Yes.

5 Q Okay. These letters are not only letters to the  
6 OPDP, but they are also -- there's also a letter to the DICJ,  
7 is there not?

8 A There's a reference to those letters in my  
9 declaration, but I don't believe the letters --

10 Q They're not attached, I agree.

11 A Correct.

12 Q But there's a reference to a letter to the DICJ;  
13 correct?

14 A Correct.

15 Q Okay. So the letters that are actually attached are  
16 -- is the correspondence between WRMSA and the OPDP over the  
17 period of time from -- excuse me, I think 2013, February, all  
18 the way through October 2016; correct?

19 A Looks like November 2016, but yes.

20 Q In the 2013 letter that's attached in the response  
21 from the OPDP relates to the collection that Pisanelli Bice  
22 and FTI did in 2013; correct?

23 A Correct.

24 Q And then the 2016 letter to the OPDP relates to the  
25 Court's order of 2016, which we saw as the November 1 order;

1 correct?

2 A Correct.

3 Q I want to actually look at, if I may first and if I  
4 can find it. This is your letter -- and it's actually Mr.  
5 Coughlan's letter that begins at, in the Portuguese version,  
6 210, and then in the English version it begins on 742-223;  
7 correct?

8 MR. BICE: Steve, what's the date of that letter;  
9 please?

10 MR. PEEK: October 13, 2016.

11 MR. BICE: Okay. Yesterday that was your Exhibit  
12 611. So that letter is in evidence separate and stand alone.

13 MR. PEEK: Okay.

14 MR. BICE: Okay.

15 MR. PEEK: Thank you. I'm trying to tie it to the  
16 declaration.

17 MR. BICE: Okay. Got it.

18 THE WITNESS: Can you repeat -- you're asking about  
19 this letter. I didn't -- what's your question?

20 BY MR. PEEK:

21 Q Yes. Mr. Coughlan wrote a letter in October 2016,  
22 to the OPDP with respect to the transfer of data outside of  
23 Macau and referenced the Court's order that had been orally  
24 entered in September of 2016; correct?

25 A Correct.



1           Q     And we find that letter in the English version from  
2 Mr. Coughlan to the OPDP at 742-223; correct?

3           A     Correct.

4           Q     And in that letter, as I recall, it asked for  
5 permission to transfer certain data based upon Article 19;  
6 correct?

7           A     Correct.

8           Q     Does it ask for any transfer of data based upon  
9 Article 20?

10          A     Looks like 19 and 23.

11          Q     So I guess the answer is no, it does not ask for the  
12 transfer of data related under Article 20; correct?

13          A     I'd have to review the entire letter, but I don't  
14 believe so.

15          Q     And you notify the OPDP that there is a Court order  
16 from Judge Gonzalez that you sent to them in draft form;  
17 correct? And that draft order appears in attachment to the  
18 Portuguese version in 742-217 through 742-222; correct?

19          A     We do reference the order, and in the Portuguese we  
20 do attach draft to the order, yes.

21          Q     Is there a reason why you didn't ask for permission  
22 to transfer data under Article 20?

23          A     I don't recall.

24          Q     Did you draft this letter for Mr. Coughlan or did  
25 one of your colleagues in the legal department do so?

1           A     It was myself and a colleague in a legal department.

2           Q     That was De Silva?

3           A     Chavez.

4           Q     Chavez. Okay. And you received a response to that  
5 letter, did you not, which we see in the Portuguese version as  
6 beginning on TX742-231 through 742-238.

7           A     That's the Portuguese reply, yes.

8           Q     Portuguese version. By the way, I noticed in many  
9 of your -- a lot of your correspondence with the OPDP that the  
10 responses contain the name of the OPD representative signing  
11 the letter; correct?

12          A     Yes.

13          Q     Now did you ask permission of the individual from  
14 the OPDP who signed that letter to transfer his personal data  
15 outside of Macau?

16          A     Nope.

17          Q     Is there some statutory scheme which allows you,  
18 without permission and consent, to transfer the name of the  
19 OPD representative signing the letter outside of Macau?

20          A     Nope.

21          Q     And actually all of these letters that are with the  
22 OPDP where they responded all contain a signature from  
23 somebody from the OPDP, do they not?

24          A     OPDP's responses are signed by OPDP.

25          Q     And they all contain the personal data of that

1 person who signed it; correct?

2 A A name is personal data, yes.

3 Q And you did not get permission for each of the times  
4 that you transferred this letter with the personal data of the  
5 OPDP representative outside of Macau; correct?

6 A Correct.

7 Q And I believe that there is not a statutory  
8 exception to transfer in the name of the OPD representative  
9 outside of the -- outside of Macau; correct?

10 A A statutory exception, no. But when the head of the  
11 ODP signs a letter it's public knowledge who that is.

12 Q Okay. Where you say it's public knowledge, in other  
13 words, I can go online to the OPDP site and see this letter?

14 A No. But you can go to the ODP site and see all of  
15 -- some of their staff including their --

16 Q No. I understand that part. But can I go to and  
17 see this letter and see that personal data?

18 A You can't see the letter, no.

19 Q So you say there's a public site where I can see the  
20 names of the OPDP personnel; correct?

21 A Some of them.

22 Q Some of them. Is there also a personal site of the  
23 Macau Government that contains the names of the Macau  
24 Government officials?

25 A I believe so.

1 Q And that's public knowledge?

2 A I know about it. I can't speak to the public, all  
3 of the public, but --

4 Q But you're saying that the reason why you  
5 transferred the name of the OPDP is because everybody knows  
6 about it because it's on a website? Is that your position?

7 A No. I'm saying that his name is public knowledge.

8 Q And the names of government officials are also  
9 public knowledge, are they not?

10 A Generally, yes.

11 Q And yet you redacted many of those names of  
12 government officials, did you not, that are public knowledge;  
13 correct?

14 A I didn't redact anything, but they were redacted.

15 Q They were redacted; correct?

16 A Correct.

17 Q So I'm trying to understand what's the difference  
18 between not redacting the name of the OPDP government official  
19 public knowledge and other government officials like the chief  
20 executive and others. What's the difference?

21 A Using the ODP letters as the reference.

22 Q I'm just trying to understand why you didn't redact  
23 the name of the OPDP person but you did redact the names of  
24 the government officials in many of the documents that you  
25 produces or that WRL produced.

1           A     My understanding is ODP would have expected that  
2 these letters were coming to the United States for use in a  
3 judicial proceeding, okay.  Emails --

4           Q     How did you come to -- I'm sorry.  I apologize I  
5 interrupted you.  My apology.  How do you know that?

6           A     We told them in the letter.

7           Q     You told them in the letter that you were going to  
8 send their letter, their response to the U.S.?

9           A     No.  We told them the general background of what was  
10 going on.

11          Q     Right.

12          A     And we did speak about this and we expected that  
13 they knew that we would be sending the letter to the United  
14 States for use in the United States judicial process.

15          Q     When you say "we" were you present in a meeting with  
16 the OPDP where this was discussed?

17          A     Internally.

18          Q     No.  No.  This is what I asked.  I asked, were you  
19 present in a meeting with the OPDP where this subject matter  
20 with the OPD was discussed where you told them we're going to  
21 send this to the U.S. and they didn't object to it?

22          A     Present in a meeting, no.

23          Q     So  Whatever knowledge you have is hearsay now;  
24 correct?  And you know what hearsay is as a lawyer.  And I'm  
25 not trying to be cute, but I just want to make sure.

1           A     I know what we put in our letter to ODP.

2           Q     Did your letter to the OPDP say you were going to  
3 send any response received to the U.S.?

4           A     I don't think so.

5           Q     And maybe it just slipped my mind, but I was trying  
6 to understand. Why didn't you include Article -- why didn't  
7 you make the request into Article 20?

8           A     I don't recall. But I recall discussing that. My  
9 recollection is Article 20 is a limited sort of exemption when  
10 you can't find another way to get data out, and we didn't feel  
11 it applied. But that's my recollection. I'm not sure if  
12 that's accurate.

13          Q     Well, there's actually a section in Article 20 that  
14 one of the exceptions would be used for legal defense.

15          A     There is a legal defense exception in the law. I  
16 don't know if it falls into Article 20 or not, Mr. Peek, no.

17          Q     Okay. I think I may have shown this to you  
18 yesterday, but if I didn't -- we talked about making the  
19 request to the DICJ, as well, to transfer or to ask permission  
20 to give out information under which a Macau law  
21 confidentiality would apply. Do you remember that?

22          A     I remember.

23          Q     And that went to Halo Martins Chan; correct?

24          A     I don't have the letter in front of me, but if it  
25 went to the DICJ director that's the person.

1 Q And the reason why I know it is because the exhibit  
2 gives me the name, the personal data of the individual who  
3 received that. Let's look at Exhibit 613, I hope I have the  
4 right one, which is contained in Volume 7. Is that a letter  
5 -- is Exhibit 613 a letter from Ian Coughlan to the DICJ dated  
6 October 18, 2016?

7 A Yes.

8 Q And I believe we have both the English and the  
9 Portuguese version, do we not?

10 A Yes.

11 Q By the way, did you get permission from Mr. Halo  
12 Martins Chan to give his personal data?

13 A Nope.

14 Q Did Mr. Coughlan's letter state that the response --  
15 that the letter that he wrote to Mr. Chan as well as the  
16 response was going to be transferred to the U.S.?

17 A Nope.

18 Q Did you draft this letter?

19 A I participated in its drafting.

20 Q Who were all the participants in the drafting of the  
21 letter?

22 A It was myself and Carlos Silva.

23 Q Carlos?

24 A Silva.

25 Q Carlos Silva. Is he the in-house guy or the

1 consultant guy?

2 A In-house.

3 MR. PEEK: Okay. I would offer Exhibit 613, Your  
4 Honor.

5 MR. BICE: No objection.

6 THE COURT: Any objection? 613 be admitted. Thank  
7 you.

8 (Defendants' Exhibit 613 admitted)

9 MR. PEEK: Thank you.

10 BY MR. PEEK:

11 Q Let's look at Mr. Coughlan's request. And his  
12 request actually appears in the third paragraph beginning in  
13 the context, is it not?

14 A Your question is is Mr. Coughlan's request contained  
15 in this paragraph?

16 Q Yeah.

17 A I'm not sure I would couch this as a request.

18 Q Oh. Okay. My apologies. In the next paragraph,  
19 after we see this recited, it says, "Wynn Resorts is legally  
20 required by Nevada law to submit the required documentation to  
21 the court and opposing parties." Correct?

22 A That's what it says.

23 Q Well, was there some place in the body of this  
24 letter where Mr. Coughlan is asking to release information?

25 A The final paragraph before the salutation. I'm



1   sorry.   The closing salutation.   "We hereby request that  
2   you --"

3           Q       " -- authorize delivery to the company."   That's on  
4   the third page of the letter in the last paragraph.   And so as  
5   I understand -- if we go back to paragraph 3 of the letter.  
6   Mr. Coughlan is describing to the DICJ the documents that he  
7   later requests allowed to be delivered to the U.S.   Correct?

8           A       Yes.

9           Q       So let's look at that, because I got a little bit  
10   confused by it, Mr. Schall.   He says, in the context of this  
11   legal proceeding the defendants' asked the Nevada State Court  
12   that Wynn Resorts Limited submit documentary evidence without  
13   erasures including, without limitation, all correspondence,  
14   applications, documentation exchanged between the  
15   concessionaire and this bureau namely during the period of  
16   negotiation of the granting of the gaming license to the  
17   petitioner hereunder.   That's the universe of documents he was  
18   asking; correct?

19          A       Yes.

20          Q       And the period of negotiation of the granting of the  
21   gaming license to the petitioner hereunder took place in 2002,  
22   did they not?

23          A       I don't know of exclusively during 2002, but 2002,  
24   yes.

25          Q       Okay.   I remember a little bit of this myself,

1 because I had some knowledge of at least one of the other  
2 concessionaires. But the tender took place in 2001, the  
3 awards were made in late January to early February 2002;  
4 correct?

5 A I believe that's accurate.

6 Q And then the actual concessions were granted in the  
7 negotiation for those agreements that took place pretty much  
8 the balance of 2002; correct?

9 A Our concession was granted in June 2002.

10 Q Okay. So the period would have been from February  
11 2002, to June 2002; correct?

12 A The period of --

13 Q The negotiation of the granting of the gaming  
14 license to the petitioner hereunder?

15 A Again, I don't know if exclusively, but I agree  
16 those months would have been negotiation months.

17 Q What were there a period of time afterwards for the  
18 negotiation for the granting of the gaming license to Wynn or  
19 WRMSA, the concessionaire?

20 A There likely was not after it was granted.

21 Q Thank you. The Court order requiring that there be  
22 ordering that Macau gaming law privilege did not apply --  
23 let's strike that. You withheld and or redacted documents  
24 under Macau law of privilege for a period of time after June  
25 2002, did you not?

1           A     I don't know.

2           Q     But you would agree with me that your request to the  
3     DICJ was only for documents during the period of February  
4     2002, to June 2002; correct?

5           MR. BICE:  Objection to the form.  Misstates the  
6     document.

7           THE COURT:  Overruled.  You can answer.

8           THE WITNESS:  First, this is a translation, but  
9     that's what we're going by.  It says, and I'm reading from it,  
10    "Namely during the period of negotiation of the granting of  
11    the gaming license to the petitioner hereunder."  So namely,  
12    yes.  But namely does not say exclusively or solely or only,  
13    it says namely.

14          Q     Okay.  So how did the DICJ know that you were asking  
15    for more than documents other than February 2002, to June  
16    2002, if you just use a word namely?

17          A     I don't know how to answer that question for you.

18          Q     Okay.  But you drafted this; correct?

19          A     I participated in the drafting.

20          Q     And you wanted to be clear to the DICJ what your  
21    request was, did you not?

22          A     Yes.

23          Q     And you wanted to be clear that it would cover just  
24    the period of February to June 2002, or did you want it to be  
25    clear that you were asking for documents after June 2002, to

1 be unredacted?

2 A I understand the question.

3 Q Okay.

4 A If I wanted to be clear that it was only during a  
5 certain period I would use the term only, exclusively, or  
6 solely.

7 Q Oh. Okay.

8 A To help -- I'll answer your question. What I wanted  
9 to make clear was that we wanted to release these documents  
10 about negotiation, because our understanding is that those  
11 would be the body of documents the DICJ would be most  
12 concerned about.

13 Q Ah. Okay. Just that period of time of February to  
14 June 2002; correct?

15 MR. BICE: Objection to the form.

16 THE COURT: Overruled.

17 THE WITNESS: I'll just restate my answer. DICJ  
18 would be most concerned about these documents.

19 BY MR. PEEK:

20 Q What are these?

21 A Negotiation of the granting of gaming license --

22 Q Okay.

23 A But we used "namely" because we thought there could  
24 be other documents.

25 Q So this is not a translation error in using the word

1 "namely"?  
2 A Do you want me to read the Portuguese?  
3 Q Can you read -- I was going to say, are you able to  
4 read the Portuguese?  
5 A Maybe.  
6 Q It's actually right behind.  
7 A Basically uses the same word "namely".  
8 Q And is that word "nomeadamente"?  
9 A Yes.  
10 Q Pardon?  
11 A Yes.  
12 Q Okay. Which means namely?  
13 A Effectively.  
14 Q That was my interpretation, too. But I want to make  
15 sure whether you agree with me or not.  
16 A I agree.  
17 Q My limited knowledge of Latin. In any event, the  
18 DICJ refused that request; correct?  
19 A That's my recollection, yes.  
20 Q And we see that, and I'll have you take a look at  
21 Exhibit 616. And that appears I think in Volume -- same  
22 volume, Volume 7.  
23 THE COURT: 616's proposed, Dulce?  
24 BY MR. PEEK:  
25 Q Do you have it?

1           A     Yes.

2           MR. PEEK: I would offer.

3           THE COURT: Any objection to 616?

4           MR. BICE: No, Your Honor.

5           THE COURT: Be admitted.

6                     (Defendants' Exhibit 616 admitted)

7 BY MR. PEEK:

8           Q     In 616 the DICJ responds in paragraph 3, Arabic  
9 numeral 3, "Consequently the application procedures in all  
10 documents of the public tender for granting concessions for  
11 the operation of games of fortune or chance and other casino  
12 games in the MASR are confidential and cannot be provided to  
13 third parties." Correct?

14          A     That's correct.

15          Q     And those are the documents related to that period  
16 of time, February 2002 to June 2002; correct?

17          A     They're the public-tender-related documents.

18          Q     That relate to the period of time before the tender,  
19 as well as after the granting of the concession in February;  
20 correct?

21          A     I'll agree with you, yes.

22          Q     You interpret under paragraph 5 that all documents  
23 that may in any way refer sometime to the concession have some  
24 kind of Macau law confidentiality?

25          A     Yes.

1 Q What is clause 6A?

2 A I don't recall.

3 Q Well, you would agree with me that the only  
4 documents are those referred to in clause 6?

5 A Yeah. I believe it says all communications between  
6 concession and the government related to this concession are  
7 confidential.

8 Q At any time?

9 A I believe it.

10 Q Irrespective of your request for only those period  
11 of time, February through June; correct?

12 MR. BICE: Objection. Misstates -- objection to  
13 form, Your Honor.

14 THE COURT: Overruled.

15 MR. PEEK: I'm fine. I'll move on.

16 THE COURT: Can you rephrase.

17 MR. PEEK: I'll move on.

18 BY MR. PEEK:

19 Q Were all of your correspondence regarding the land  
20 concession contract with the DICJ?

21 A I'm sorry. I'm not --

22 Q Were all your -- was all your correspondence related  
23 to the land concession with the DICJ?

24 A There may -- no.

25 Q By the way, going back, if we could, just for a

1 moment to Exhibit 742. And here I'm looking at 742-129.

2 THE COURT: And those are all the attachments to the  
3 declaration that have been admitted?

4 MR. PEEK: Yes, Your Honor. This one is admitted.

5 THE COURT: Not all of them, but the ones we have  
6 admitted.

7 BY MR. BICE:

8 Q Is Ms. Kan -- did Ms. Kan or Ms. Ho give you  
9 permission to transfer their name and telephone number outside  
10 of Macau?

11 A I'm just looking on the screen here, because I don't  
12 know what page this is.

13 Q It is page 129 --

14 A Thanks.

15 Q -- of Exhibit 742. Please check in your binder.

16 A 742-129?

17 Q Yes.

18 A No, they did not.

19 Q Are their names and telephone number on this public  
20 record that you described earlier?

21 A I don't know about Ms. Kan. Chan Ho Fai's name  
22 likely was.

23 Q As well as her phone number?

24 A Her office phone number?

25 Q Whatever number. Any number.



1           A     That's an office phone number.   Could be.

2           Q     Pardon?

3           A     Could be on the website.   It's an office phone  
4 number.

5           Q     Okay.   There's another name, I believe, if I can  
6 find it.   Bear with me.

7                 MR. PEEK:   Your Honor, I'll come back to this later  
8 if I can find it.

9                 THE COURT:   Okay.

10                MR. PEEK:   I don't want to take the time to -- I'm  
11 going to now move past these topics with respect to the OPDP  
12 and move into, again, some of the other court orders.

13 BY MR. PEEK:

14           Q     Did Wynn Macau or WRMSA produce in accordance with  
15 the court's order all documents on which it claimed Macau law  
16 privilege?

17           A     I don't know.

18           Q     Did you ask to provide all documents -- or did you  
19 ask WRL to produce all documents to the defendants without  
20 redactions from Macau law privilege?

21                 MR. BICE:   Objection to the form.

22                 THE COURT:   Overruled.

23                 THE WITNESS: I don't understand the question.   I'm  
24 sorry.

25                 //

1 BY MR. PEEK:

2 Q Well, we went back over the order previously,  
3 paragraph 7, which said, she overruled the Macau law  
4 privilege. Do you remember that in paragraph 7?

5 A Yes.

6 Q And it said, produce. You then asked the DICJ --  
7 and we can argue later about what you asked the DICJ to do,  
8 but my question is is did you allow WRL to produce documents  
9 to the defendants in this case without Macau law privilege to  
10 redactions or to Macau law confidentiality provisions?

11 A My understanding is if those documents are resident  
12 in the United States in WRL's control, they were produced  
13 without redactions or a claim of the Macau law privilege, as  
14 we've coined it. That is my understanding.

15 Q Did you tell the DICJ in your correspondence to them  
16 in October of 2016 that many of the documents that contained  
17 Macau law privilege existed in the United States?

18 A No.

19 Q Did you tell them that WRL was going to produce  
20 documents in the United States to the defendants that  
21 contained Macau law privilege?

22 A Did I tell them in that letter?

23 Q Or at all. You, Mr. Schall.

24 A No.

25 Q Do you know whether or not they represented to you

1 WRMSA told the DICJ?

2 A I don't know.

3 Q Going back to the OPDP, did you tell the OPDP that  
4 there were documents that existed in the United States that  
5 came from Macau that did not have redactions of personal data?

6 A Did we tell ODP that there documents that came from  
7 Macau that were now in the United States that didn't have  
8 personal data redacted?

9 Q Correct.

10 A No.

11 Q Similarly, I think you answered this, did you ever  
12 tell the OPDP that documents did exist -- had been transferred  
13 out of Macau without personal data redacted by employees of  
14 WRMSA?

15 A Let me just get your question straight. Did we ever  
16 tell ODP that personal data, without redactions, is  
17 transferred out of Macau to the United States? Yes.

18 Q Did you tell them that in connection with the  
19 request to transfer data in your letters from October -- from  
20 the February 2013, all the way up through October 2016?

21 A We notify ODP on a frequent basis of our handling,  
22 processing, and transfer of data. It's normal course for any  
23 business in Macau. So we have told them that we handle,  
24 process, and transfer data out of Macau, personal data.  
25 They're aware of that.

1 Q But you tell them that it's without consent?

2 A Consent is not always required.

3 Q Okay.

4 A Their consent. We would need to get consent of the  
5 data subject.

6 Q Have you told them that -- I apologize. I conflate  
7 consent --

8 A Okay.

9 Q I was asking you did you tell them that the  
10 individuals whose personal data you transferred had or had not  
11 consented to this from time-to-time transfer that you said  
12 they knew about.

13 A I'm not trying to be difficult. You need to narrow  
14 it down. We have a big business. We take in lots of data.  
15 We make lots of notifications. We get lots of consents.

16 Q I'm focusing on those where you don't have consents.  
17 I know you have consents, because I know that from time to  
18 time that your employees, as a condition of employment, have  
19 to give consent; correct?

20 A Correct.

21 Q And that's actually something new that came about  
22 after this heightened awareness of transfers; correct?

23 A Correct.

24 Q And you also from time to time with respect to  
25 certain gaming customers get consent from some, but not

1 necessarily all, of your gaming customers' consent; correct?

2 A Our patrons all sign data privacy consents related  
3 to the processing and handling of their personal data.

4 Q All do?

5 A If they -- yes.

6 Q Okay. By the way, I think we've covered this in  
7 your deposition, I want to cover it here, is you're even today  
8 receiving emails from Macau, are you not, on your iPhone?

9 A Probably.

10 Q And anytime you travel outside the United States you  
11 receive emails from Macau; correct?

12 A Yes, of course.

13 Q And some of those emails -- and many of those emails  
14 include names; correct?

15 A Yes.

16 Q Include personal data of individuals; correct?

17 A Yes.

18 Q And not all of those individuals are employees who  
19 have given consent; correct?

20 A Okay. Not all of those individuals are employees  
21 who have given consent. So you're asking me could a third  
22 party who hasn't given consent name show up in an email?

23 Q Correct.

24 A Yes.

25 Q And it comes to you here in the U.S.?

1           A     Wherever I am.

2           Q     And that's a transfer; correct?

3           A     Yes.

4           Q     Why don't you shut off your phone if you're so  
5 concerned about transfers of data, personal information?

6           A     In the ordinary course of conducting business I  
7 believe that ODP is a practical and reasonable organization  
8 that understands that businesspeople from big businesses do  
9 travel out and some personal data that may be unconsented to  
10 travels with them. If someone whose name appears in one of my  
11 emails wants to make a complaint about me to ODP, that's fine,  
12 and we'll see what happens. It'd be a case of first  
13 impression there.

14          Q     I'm just asking if that happens. And you said it  
15 does.

16          A     Of course.

17          Q     And you haven't notified OPDP that you in fact do  
18 receive data transfers when you travel; correct?

19          A     We have made notifications to ODP related to our  
20 company email communications. What exactly they are I don't  
21 have a recollection here for you today, Mr. Peek.

22          Q     So after the OPDP refused your request in October of  
23 2016 and the DICJ refused your request in, similarly, late  
24 2016, WRM had a board meeting about the subject matter, did  
25 they not?

1           A     No.

2           Q     WML had a meeting?

3           A     Yes.

4           Q     Now, if I recall correctly, all of this data is data  
5 held by WRMSA; correct?

6           A     All of this data?

7           Q     All of the data sought to be produced in this  
8 proceeding is data of WRMSA; correct?

9           A     I believe so, yes.

10          Q     Did WRMSA have a board meeting with respect to the  
11 transfer of any data outside of Macau --

12          A     No.

13          Q     -- in accordance with the Court order?

14          A     No.

15          Q     Now, when you asked the OPDP for the transfer of  
16 data were you asking for the transfer of -- asking for  
17 permission to transfer the data held by WRMSA, or by WML?

18          A     WRMSA.

19          Q     Did you ever ask for permission to transfer any data  
20 that WML has?

21          A     I don't believe so.

22          Q     And that's because WML has no data; correct?

23          A     I don't know if it has no data. Let's say it has no  
24 data subject to the ODP's jurisdiction.

25          Q     So if we could turn to Exhibit 619.

1 THE COURT: And that's a proposed exhibit.

2 MR. PEEK: Proposed Exhibit 619.

3 THE COURT: Mr. Bice?

4 MR. PEEK: It's the board meeting, Mr. Bice, of 2,  
5 December 2016. It would be in, again, Binder 7.

6 MR. BICE: No objection.

7 THE COURT: Be admitted.

8 (Defendants' Exhibit 619 admitted)

9 MR. PEEK: Thank you.

10 BY MR. PEEK:

11 Q Now, at the bottom of the first page we see the  
12 heading, "U.S. Litigation Update and Board Decision Concerning  
13 Discovery Related Requests." Correct?

14 A Yes.

15 Q Had WRL made a request to WML to transfer data?

16 A Wynn Resorts Limited informed me of the order and  
17 what it required.

18 Q Let me ask the question again. Had WRL made a  
19 request to WML for WML to transfer data?

20 A To WML?

21 Q Right.

22 A No.

23 Q You attended that meeting, did you not?

24 A Meeting of these minutes?

25 Q Meeting that's referred to in Exhibit 619?



1           A     Yes.

2           Q     Mr. Aldrian attended that meeting, as well; correct?

3           A     Yes.

4           Q     He attended live?

5           A     Minutes of a telephonic meeting of the board of  
6 directors.

7           Q     No. I know what it says. I'm just asking if he  
8 attended. He only attended -- everybody attended by  
9 telephone, then, I guess. Maybe that's my mistake. Everybody  
10 attended telephonically?

11          A     I don't recall -- everyone had -- it was a  
12 telephonic meeting. I don't recall if there were groups of  
13 people together or everyone was separately on the phone  
14 somewhere.

15          Q     Now, let's see who attended, then, from WRL. Mr.  
16 Maddox; correct?

17          A     Mr. Maddox is also a WML board member.

18          Q     I know. But he's also the president of Wynn Resorts  
19 Limited. He attended; correct?

20          A     Correct.

21          Q     Both as a board member of WML, as well as a board  
22 member of WRL?

23          A     Who?

24          Q     Mr. Maddox.

25          A     That's not --

1 Q Or only just president. He's not a board member of  
2 WRL?

3 A He is not a board member of WRL.

4 Q Eric Aldrian, corporate and compliance counsel for  
5 WRL, attended; correct?

6 A Correct.

7 Q Mr. Cootey, CFO and treasurer for WRL, attended, as  
8 well; correct?

9 A Correct.

10 Q Ms. Sinatra also attended; correct?

11 A Correct.

12 Q Was there a presentation made by individuals with  
13 respect to the transfer of data to WRL by WRMSA?

14 A Presentation?

15 Q Uh-huh.

16 A There was a discussion --

17 Q Okay.

18 A -- about that topic, but there was no like  
19 presentation --

20 Q Nobody made a presentation and said, we've been  
21 asked to do this?

22 A I see what you mean. There was a discussion and a  
23 briefing, but there wasn't documents prepared for that  
24 discussion and briefing.

25 Q Who made that presentation?

1           A     I did.

2           Q     And did Ms. Sinatra join in that discussion?

3           A     I do not believe so.

4           Q     Did Mr. Aldrian join in that discussion?

5           A     No.

6           Q     Did Mr. Maddox join in that discussion?

7           A     I don't believe so.

8           Q     Did Mr. Wynn join in that discussion?

9           A     I don't believe so.

10          Q     I know that Mr. Wynn and Mr. Maddox abstained from  
11 voting. But you're telling me that they did not participate  
12 in any way in the discussion? Mr. Wynn did not participate in  
13 the discussion or say anything at all?

14               MR. BICE: Objection. Asked and answered.

15               THE COURT: Overruled.

16 BY MR. PEEK:

17          Q     Is that what you're telling me, Mr. Wynn didn't say  
18 anything at all during this meeting?

19               MR. BICE: Objection to the form.

20               THE COURT: Overruled.

21               MR. PEEK: I'll ask the question all over again.

22               THE COURT: Okay, Mr. Peek. Thanks.

23               I overruled the objection. Mr. Bice, I overruled  
24 the objections. If he wants to start over on his own, that's  
25 okay.

1           MR. PEEK: I'm going to start over on my own. I'm  
2 getting the look like Mr. Schall doesn't know what question  
3 I'm asking.

4           THE COURT: Or you could let him actually answer one  
5 before you ask again.

6           MR. PEEK: You are right, Your Honor. Maybe I  
7 should shut up sometimes. Somebody's passing me a note. I  
8 can't read their notes.

9 BY MR. PEEK:

10          Q     Are you telling me that in your recollection of this  
11 meeting that you attended that Mr. Wynn did not participate in  
12 any way, shape, or form in the discussion with respect to  
13 transfer of documents by WRMSA to WRL?

14          A     That is my recollection.

15          Q     Okay. This was a special meeting, or regular board  
16 meeting?

17          A     Regular.

18          Q     Pardon?

19          A     Regular.

20          Q     Why was it telephonic, as opposed to live?

21          A     Our December fourth quarter meetings are typically  
22 telephonic.

23          Q     So if I look back over the history of time, all of  
24 your board meetings in your fourth quarter occur in December  
25 and they all occur telephonically?

1           A     There may have been some in late November that are  
2 all telephonic.

3           Q     Okay. So when you -- did you prepare these minutes,  
4 by the way?

5           A     I was involved in the preparation of the minutes.

6           Q     Who else was involved in the preparation besides  
7 yourself?

8           A     Mr. Aldrian.

9           Q     Okay.

10          A     And, as noted, as an attendee Mr. Andrew Tam.

11          Q     And so the three of you were involved in the  
12 preparation of these minutes; correct?

13          A     That's my recollection.

14          Q     And you tried to capture the essence of the  
15 discussion, did you not?

16          A     That's generally what I try to do with minutes, yes.

17          Q     Yeah. You try to be accurate in your presentation  
18 of the minutes; correct?

19          A     Correct.

20          Q     You try to cover everything that was discussed;  
21 correct?

22          A     Try.

23          Q     You do your best?

24          A     Yes.

25          Q     And you say on page 2, you say, "It was noted

1 that --" Do you see that heading?

2 A Okay. With the bullets below, or the --

3 Q Yeah. Right.

4 A Okay.

5 Q Said it was noted that, and there's bullets below

6 that.

7 A Okay. I see that.

8 Q And these bullets are your recollection, as you say,

9 that you tried to capture of the discussions; correct?

10 A Yes.

11 Q Perhaps I missed something, but when I read this I

12 didn't see anything in the discussion related to a civil

13 lawsuit filed by Aruze Gaming, Kazuo Okada and Universal

14 Entertainment Corporation. Did I miss something?

15 A Filed where?

16 Q Well, Mr. Bice has told us about a civil lawsuit

17 filed by these entities. Are you aware of a civil lawsuit

18 filed by --

19 A I'm aware of one in Macau.

20 Q That's right. The one in Macau.

21 A Oh. I understand what you're asking.

22 Q Right.

23 A Yeah, that's not in here.

24 Q And is there anything in here about a complaint to

25 the public prosecutor made by UEC, Aruze Gaming, and Mr.

1 Okada?

2 A Well, on December 2nd, 2016, we only had a strong  
3 suspicion that those were the complainants.

4 Q That's not what I asked you. I asked if there was a  
5 discussion about it. It's all I asked.

6 A Oh. No.

7 Q Were you aware of the civil lawsuit filed by those  
8 parties when this board meeting took place on December 2nd,  
9 2016?

10 A I was aware of a civil lawsuit filed by those  
11 parties in Macau on 2nd, December 2016.

12 Q At any time in your correspondence with the OPDP did  
13 the OPDP ever reference to you the fact that there had been  
14 civil litigation brought by Aruze USA, Universal Entertainment  
15 Corp., and Mr. Okada against Wynn? And I'll use the general  
16 term "Wynn."

17 A Did ODP ever convey to me that, let's say, the Okada  
18 parties have brought civil litigation? Not that I'm aware of,  
19 Mr. Peek.

20 Q And it was not referenced in any of your letters to  
21 the OPDP that we referred to attached to your declaration,  
22 Exhibit 742; correct?

23 A I don't recall referencing the litigation we're  
24 speaking of in letters to ODP.

25 Q And there's no reference in the return

1 correspondence to you about any civil litigation filed by the  
2 Aruze parties; correct?

3 A Correct.

4 Q Are there any other reasons that were provided to  
5 the board other than the five bullet points we see in Exhibit  
6 619 under the heading "It was noted that"?

7 MR. BICE: Hold on one second, Your Honor, please.

8 THE COURT: Yes.

9 MR. BICE: Your Honor, the reason that I'm pausing  
10 is we have -- we're having a little concern about some  
11 privilege questions. Seeking --

12 MR. PEEK: I'm not seeking privilege.

13 MR. BICE: Well, you may not think that you are, but  
14 that doesn't mean that you're inadvertently or not.

15 So here's our concern, Your Honor. The way the  
16 question was phrased is is that "are there any other reasons  
17 that were provided to the board --" I'm sorry; the screen  
18 moved on me "-- other than the five bullet points that you see  
19 in Exhibit 619." So as long he's just -- facts provided to  
20 the board --

21 MR. PEEK: That's a yes or no question.

22 MR. BICE: -- facts provided to the board, but legal  
23 analysis, conclusions, or concerns would not be.

24 THE COURT: Well, right now we're on a yes or no.

25 MR. BICE: Okay. So my apologies for interrupting.



1 THE COURT: You're premature.

2 MR. BICE: So if we could --

3 THE COURT: Sir, we're trying not to get advice that  
4 you gave without getting into some other issues before you  
5 start talking about it.

6 MR. PEEK: Depends on what he answers.

7 THE COURT: Yes or no. Do you remember the  
8 question?

9 THE WITNESS: Were there any other?

10 BY MR. PEEK:

11 Q Yes.

12 A No. I believe these were the five background pieces  
13 of information given.

14 Q Thank you. I guess because this was a WML board  
15 meeting over what WRMSA was going to do that WML controls  
16 WRMSA; correct?

17 A WML is the -- effectively the owner of WRMSA, so it  
18 exerts control over WRMSA, yes.

19 Q Just like WRL exerted control over WML; right?

20 MR. BICE: Objection to form.

21 THE COURT: Overruled.

22 THE WITNESS: I would say there are differences.  
23 But from a shareholding controlling standpoint, okay.

24 BY MR. PEEK:

25 Q How many board members are there at WML?

1           A     There are currently nine.

2           Q     Nine?

3           A     Currently nine.

4           Q     Were all nine present at this meeting in December of  
5 2016?

6           A     At that time there were eight.

7           Q     Were all eight present?

8           A     I believe so.

9           Q     Okay. And only four made this decision, or all --  
10 or six of the eight or -- I know that the chairman did not  
11 participate and Mr. Maddox did not participate, but the other  
12 six did vote?

13          A     I believe so.

14          Q     The board I think at this time also chose not to  
15 appeal the decisions that you had received from the DICJ and  
16 the OPDP; correct?

17          A     That's correct.

18          Q     And you would agree with me that you have a right to  
19 appeal?

20          A     Yes.

21          Q     And you made -- or this board made a decision not to  
22 appeal?

23          A     They took that decision.

24          Q     By the way, where would the decision -- to where  
25 would it be appealed?

1           A     ODP. I believe you would internally appeal it  
2 within ODP, I believe. DICJ I'm not certain. It's not --  
3 they're not court appeals. They would go somehow within the  
4 department hierarchies.

5           Q     Some administrative process, as opposed to court  
6 process; correct?

7           A     Correct.

8           MR. PEEK: If I may have a moment, Your Honor. Let  
9 me move on to a different topic.

10          THE COURT: Okay. We're going for about 15 more  
11 minutes before we break.

12          MR. PEEK: I knew we were, but I just want to make  
13 sure --

14          THE COURT: Just trying to keep everybody on track.  
15 We don't get a break for 15 more minutes.

16                   (Pause in the proceedings)

17 BY MR. PEEK:

18          Q     Okay. On this topic, Mr. Schall, just so that we're  
19 clear, going back to Exhibit 742, page 103 -- so it would be  
20 742-103. It's on the screen.

21          A     Oh.

22          Q     It's very quick questions I remembered I had asked  
23 you about transfers of names, disclosure of names and  
24 personal data. This is a letter from the OPDP; correct?

25          A     Yes. [12:38:13

1 Q And it also says, "Confidential." Correct?

2 A Yes.

3 Q And then you -- did you get permission from Chan Hoi  
4 Fan to give his name -- to give his name or personal data?

5 A No.

6 Q And is he somebody that's on this website that you  
7 say would exist?

8 A What's this letter from? I believe so, but I can't  
9 be certain.

10 Q Okay. And actually there's a, not only in this  
11 letter, but also we see it repeated secondly in 742-129, as  
12 well. It was twice attached to your declaration; correct?

13 A This is the English version I think --

14 Q Right.

15 A Yes.

16 Q So you gave it in the translation of Portuguese, and  
17 it was without redaction; correct?

18 A That's right.

19 Q And let's look at 742-151.

20 THE COURT: And that's part of 742A.

21 MR. PEEK: That's part of 742, Your Honor, that's  
22 been admitted into evidence.

23 THE COURT: 742A.

24 MR. PEEK: Okay. Sorry. I forgot the number, Your  
25 Honor. So it's 742A?

1 THE COURT: Yep. You've got to keep up, Mr. Peek.

2 MR. PEEK: I know. I'm trying, Your Honor.

3 BY MR. PEEK:

4 Q Did you have permission from Fong Mah Chong to give  
5 his personal data?

6 A Nope.

7 MR. BICE: Your Honor, we'll avoid the need for any  
8 more time on the names. We'll stipulate that we failed to  
9 obtain consents from any of the people on the OPDP letters.

10 THE COURT: Okay. Thank you, Mr. Bice.

11 MR. PEEK: Thank you, Mr. Bice.

12 BY MR. PEEK:

13 Q Are you aware of an order of this Court, because  
14 this would have occurred after your 30(b)(6) I believe, but in  
15 order of the Court requiring Wynn Resorts Limited to give a  
16 certification of compliance? Are you aware of that?

17 A I'm sorry. I just didn't hear. A what?

18 Q An order of compliance.

19 A I'm not aware.

20 Q And if you would actually look at Exhibit 803, which  
21 appears in --

22 THE COURT: That's a proposed exhibit.

23 MR. PEEK: Proposed exhibit appearing in Volume 30.  
24 I would offer 803, Your Honor.

25 THE COURT: Any objection to 803?

1 MR. BICE: No, Your Honor.

2 THE COURT: Did you say no or I don't know?

3 MR. BICE: I said no objection, Your Honor. My  
4 apology.

5 THE COURT: Okay. Be admitted.

6 (Defendants' Exhibit 803 admitted)

7 MR. BICE: I should have spoken up.

8 THE COURT: It's all right. You were looking down  
9 and I was trying to --

10 BY MR. PEEK:

11 Q Yeah. And just real quickly. You'll see in  
12 paragraph 5 of this order that Wynn Resorts was to file a  
13 certification within 10 days of entry of this order  
14 representing anything related to its representations that it  
15 has produced all documents in its possession related to Macau  
16 law privilege or the MPDPA that have been ordered by the Court  
17 to be produced. Do you see that?

18 A Yes.

19 Q And are you aware of the fact that counsel for Wynn  
20 Resorts Limited gave that certification on or about July 7th?

21 A No.

22 Q Let me have you turn to Exhibit 778. That appears  
23 in Volume 28.

24 MR. PEEK: I would offer Exhibit 778, Your Honor.

25 THE COURT: Any objection to 778?

1 MR. BICE: Yes. With this witness, Your Honor, I  
2 object. This witness doesn't -- he has no involvement with  
3 this document.

4 THE COURT: Okay. Is there another objection  
5 besides that one?

6 MR. BICE: Well, I don't believe that there's any  
7 other objection, but I don't believe it's appropriate to --

8 THE COURT: That's a scope issue. So what I'm  
9 trying to figure out is there a basis not to admit this  
10 document?

11 MR. BICE: Well, there is certainly no authenticity  
12 dispute, Your Honor, but there is a relevancy objection with  
13 this witness. And I guess if I wanted to get technical about  
14 it I'd say foundation, but I'm not interested in this. Yeah.

15 THE COURT: Okay. Mr. Peek, he's not stipulating  
16 and it sounds like he has foundational issues.

17 MR. PEEK: Well, I can't lay a foundation with this  
18 witness, Your Honor, it's a court order, it's a court record.

19 THE COURT: I don't know what it is, because I  
20 haven't seen it. What is it?

21 MR. PEEK: It is a court record submitted by WRL in  
22 compliance --

23 THE COURT: What is it?

24 MR. PEEK: It is their certification, Your Honor.

25 THE COURT: Okay. The certification will be

1 admitted.

2 (Defendants' Exhibit 778 admitted)

3 THE COURT: And so the question is, sir, have you  
4 seen this before?

5 THE WITNESS: No.

6 BY MR. PEEK:

7 Q Here we go. Very simple. We do know that WRMSA has  
8 still refused to produce in an unredacted form -- well, have  
9 refused to produce any documents that contain Macau law  
10 privilege; correct?

11 MR. BICE: Objection to foundation.

12 THE COURT: Sustained.

13 Remember, sir, when you're asked questions. and  
14 you're not going to answer this one, but I don't know is a  
15 perfectly okay answer.

16 Mr. Peek, can you try, again.

17 MR. PEEK: I'm going to, Your Honor.

18 BY MR. PEEK:

19 Q Has WRMSA produced to WRL all of the documents over  
20 which it asserts Macau law privilege?

21 A I don't know.

22 Q Were you asked to do so?

23 A I don't know.

24 Q There's a Court order requiring WRL to do so;  
25 correct?



1           A     To do -- to get --

2           Q     To produce all the documents that contain Macau law  
3 privilege assertions.

4           A     Is that the November order?

5           Q     Yes.

6           A     Yes, then there is.

7           Q     So you're aware that WRL asked WRMSA to produce such  
8 documents; correct?

9           A     Okay. Yes.

10          Q     In fact, you wrote letters to the DICJ about it;  
11 correct?

12          A     Correct.

13          Q     And you had a board meeting about it; correct?

14          A     That was one of the topics covered.

15          Q     And you had responses from DICJ that we've gone  
16 over; correct?

17          A     Correct.

18          Q     Okay. So let me ask it, again. Has WRMSA produced  
19 any documents to WRL that contained Macau law privilege?

20          A     I don't know.

21          Q     Well, when you saw the Court order did you produce  
22 any documents to WRL that contained Macau law privileges  
23 unredacted?

24          A     Did I produce any documents out of Macau?

25          Q     Yes.

1           A     No.

2           Q     Are you aware of whether or not Wynn Resorts has  
3 produced -- let me back up. When the collection took place in  
4 2013, you became aware sometime at or about that time or later  
5 that WRL was asserting Macau law privileges over your  
6 documents; correct?

7           A     That's accurate, yes.

8           Q     And you became aware of that because you did not  
9 want them to produce documents that contained what you  
10 believed to be Macau law privilege; correct?

11          A     That's not correct in terms of how I became aware of  
12 that.

13          Q     As you sit here today you don't know anything at all  
14 about whether or not Wynn Resorts Limited has produced any  
15 WRMSA documents that contain either redacted or unredacted  
16 Macau law privilege information; correct?

17               MR. BICE: Objection. Asked and answered.

18               THE COURT: Overruled. This is the last time  
19 though.

20               THE WITNESS: I believe I testified previously that  
21 my understanding is that Wynn Resorts Limited produced any  
22 documents resident in the United States that previously Wynn  
23 Resorts has asserted in Macau law privilege over whether  
24 redacted or unredacted. That is my understanding.

25     //

1 BY MR. PEEK:

2 Q I only asked you about WRL -- or WRMSA documents,  
3 not those that WRL possesses.

4 A And I answered to the best of my ability. I'm  
5 sorry.

6 THE COURT: Okay. Thank you. We're going to break  
7 for lunch. See you at 2:15. Bye.

8 MR. BICE: Thank you, Your Honor.

9 (Court recessed at 12:49 p.m., until 2:23 p.m.)

10 THE COURT: See, Mr. Peek, it's not just you I  
11 scold, or Mr. Bice. It's everybody.

12 MR. PEEK: It's what?

13 THE COURT: It's equal. I scold everyone. Poor  
14 Schwartz, he's -- you know, was a young lawyer in front of  
15 me, and now he's an older lawyer and he's still in front of me  
16 getting scolding. He doesn't know what to do.

17 MR. PEEK: So it's not just Todd and me that you  
18 scold?

19 THE COURT: No. I scold them all equally.

20 MR. PEEK: I didn't think actually that Todd and I  
21 take it personally, at least I don't. I don't know about  
22 Todd, though.

23 MR. BICE: I'll sleep better at night now.

24 THE COURT: Thanks, Mr. Bice.

25 Mr. Schall, I'm going to remind you you're still

1 under oath even though the lawyers are making jokes. This is,  
2 of course, a very serious proceeding.

3 THE WITNESS: Understood, Your Honor.

4 THE COURT: We're hoping to get you out of here and  
5 back on your way by the end of the day, but I make no  
6 guarantees given who's involved.

7 MR. PEEK: Oh. We'll get him back on his way by the  
8 end of the day.

9 THE COURT: Let's go.

10 MR. PEEK: I'm trying to remember the last on --  
11 exhibit --

12 THE COURT: I show 778.

13 MR. PEEK: Yeah, 778. Okay.

14 THE COURT: And he had already said, no, he's not  
15 familiar with it.

16 MR. PEEK: Well, we'll ask him some questions about  
17 some other documents. So let me have the witness take a look  
18 at Wynn priv. log, which is Exhibit 719. And I'd offer 719,  
19 Your Honor.

20 THE COURT: Any objection to 719, Mr. Bice?

21 MR. PEEK: It's the Wynn priv. log --

22 MR. BICE: I need to look just to make sure I  
23 understand.

24 MR. PEEK: -- dated June 6th, 2016, the Amended  
25 Fifteenth Supplemental Privilege Log.

1 MR. BICE: No objections, Your Honor.

2 THE COURT: Be admitted.

3 (Defendants' Exhibit 719 admitted)

4 MR. PEEK: Would you bear with me again, Your Honor,  
5 for a moment.

6 THE COURT: Sure, Mr. Peek.

7 BY MR. PEEK:

8 Q Let me have you take a look at Exhibit 719, which is  
9 -- do you have it in front of you, by the way?

10 A Yes.

11 Q Yeah. What I want you to look at is a document that  
12 exists on 719-360.

13 A 360?

14 Q Uh-huh. Are you there yet?

15 A Yes, I am.

16 Q Okay. Do you know who Jamie Roberto Carion is?

17 A Yes.

18 Q And who is he?

19 A At one time he was in the department which handled  
20 land.

21 Q Would he have been there on or about July 26, 2006?

22 A I believe so, yes.

23 Q And you see that this document, if you could scroll  
24 over to the rest of it, is withheld on the basis of Macau law  
25 privilege?

1           A     Yes.

2           Q     Do you know whether or not either WRMSA or WRL have  
3 actually produced this document?

4           A     My understanding is that land-related documents were  
5 produced by Wynn Resorts Limited.

6           Q     So you believe that it has been produced by WRL?

7           A     That is my understanding.

8           Q     And you believe that because it would be in the  
9 possession of WRL?

10          A     I believe that because I believe that's what I was  
11 told by the attorneys.

12          Q     And you received some of this information during the  
13 course of your preparation for the 30(b)(6); correct?

14               MR. BICE:  Objection to the form.

15               THE COURT:  Overruled.

16               THE WITNESS:  Yes.

17 BY MR. PEEK:

18          Q     You also believe consistent with I think the exhibit  
19 that we looked at earlier that Wynn Resorts has consistent  
20 with its certification in Exhibit 778 told the Court that it's  
21 produced all documents?

22               MR. BICE:  Objection.  I'm sorry.  Objection.  
23 Foundation, Your Honor.

24               THE COURT:  Sustained.  Mr. Peek, he said he wasn't  
25 familiar with that document.

1           Somebody made a Starbucks run? Amazing.

2           THE WITNESS: Apologize, Your Honor, we didn't ask  
3 you.

4           THE COURT: No, no, no. I don't drink coffee after  
5 lunch. Thank you for the offer, though.

6           MR. PEEK: It was at my request, Your Honor.

7 BY MR. PEEK:

8           Q     Do you recall with respect to the land concession  
9 agreement or the land concession that Wynn Macau made a  
10 payment to Tien Chiao as a finder's fee? Are you familiar  
11 with that?

12           MR. BICE: Objection, Your Honor. Relevance.

13           THE COURT: Sustained. Mr. Peek, can we move on.

14           MR. PEEK: Well, I'm going to ask these questions on  
15 a case-by-case basis, Your Honor.

16           THE COURT: I know.

17           MR. PEEK: I'll move on, but I am going to protect  
18 my record, Your Honor.

19           THE COURT: I understand. You and I had that  
20 discussion earlier.

21           MR. PEEK: Right.

22           THE COURT: It does not bother me, just takes long.

23           MR. PEEK: I understand. And I'm not trying to take  
24 long, Your Honor, but I believe that contrary to the Court's  
25 ruling these are relevant.

1 THE COURT: I understand.

2 BY MR. PEEK:

3 Q Let me have you take a look now at another document  
4 in -- or another entry in Exhibit 719, on page 176. And I'm  
5 going to ask you to look at an entry of Wynn priv. 103-617,  
6 which is about the middle of the page, and it's -- the  
7 recipient is Shannon Nadeau. I don't know if I'm saying that  
8 right, but hope so.

9 A Nadeau.

10 Q Nadeau. Is Shannon -- where is she employed?

11 A In Las Vegas.

12 Q And you see the entry here is from Macau law  
13 privilege?

14 A Yes.

15 Q And, again, you wouldn't know whether or not this  
16 document was produced; correct?

17 A Again, as I said earlier, my understanding is  
18 documents in the United States were produced by Wynn Resorts  
19 Limited to the extent the Macau law privilege was previously  
20 asserted.

21 Q Are you aware that shortly after March 2012 that the  
22 Wynn Macau's Cotai land concession contract was officially  
23 gazetted in Macau in May? Is that --

24 MR. BICE: Objection. Relevance.

25 THE COURT: Overruled.



1 THE WITNESS: You're asking me if I'm aware that the  
2 Cotai land concession was gazetted in 2012?

3 BY MR. PEEK:

4 Q Yes.

5 A I should know when it was gazetted. If you want to  
6 show me something that has like the gazette. I just don't  
7 recall which year it was.

8 Q If you don't recall, that's fine.

9 A I don't recall, but 2012 or later it was gazetted.  
10 2012 or later it was gazetted.

11 Q Can you see from the description in Exhibit 719-176  
12 that it does involve the Macau land concession contract?

13 A You're referencing the 617 to 620, again?

14 Q Yes. Referencing Exhibit 719, page 176, Shannon  
15 Nadeau.

16 A I'm sorry. I actually don't see it's referencing  
17 land. I'm not trying to disagree.

18 Q It says, "Clause 92 of concession contract, Macau  
19 law privilege." That's fine if you don't. If you don't,  
20 that's fine."

21 A I just see that it says Article 92, re concession  
22 agreement.

23 Q I'll move on. Let me ask you now to turn to Exhibit  
24 719-162. So you're still in that 719, now you're on 162 of  
25 that. And I want to ask you to look at a communication of

1 March 2004 from Ronald Kramer to Edmund Ho. Do you see that  
2 entry?

3 A I see three.

4 Q Pardon?

5 A I see three entries.

6 Q Okay. So the entry that I'm --

7 THE COURT: They've got on one the screen blown up  
8 for you.

9 THE WITNESS: Oh. Thank you.

10 MR. PEEK: Thank you.

11 THE WITNESS: 1630 to 1634, okay. I see 1630 to  
12 1634, yes.

13 BY MR. PEEK:

14 Q Who's Ron Kramer?

15 A He was the former president of Wynn Resorts Limited.

16 Q He's what?

17 A The former president of Wynn Resorts Limited.

18 Q And, of course, we know who Edmund Ho and Hau Wah  
19 are -- or you know who they are?

20 A I know who he is.

21 Q So he meaning Edmund Ho?

22 A Correct.

23 Q But not Hau Wah?

24 A That's his name.

25 Q If I'm saying that correctly.

1           A     His name is Edmund Ho Hau Wah.  It's actually Ho Hau  
2 Wah Edmund.

3           Q     Oh.  I'm sorry.  So that's his full name.  Thank  
4 you.  My apologies.  I thought it was two names.  
5 Demonstrating my ignorance.  Now let me have you take a look  
6 at another document.  This is Exhibit 731, which appears in  
7 Volume 24.

8           THE COURT:  Any objection, Mr. Bice?

9           MR. BICE:  I will need to look at it, Your Honor.  
10 Bear with me one moment.

11           Can you tell me what it is, Steve, real quick.

12           MR. PEEK:  It is your thirty-sixth supplemental --

13           MR. BICE:  Got it.  Yep.

14           Your Honor, it's subject to the same objection as  
15 before because the witness didn't have anything to do with the  
16 document.  So I'll just note the same objection as I did to  
17 778, Your Honor.

18           THE COURT:  It'll be admitted.  But, Mr. Peek, you  
19 understand the witness has not seen the document before --

20           MR. PEEK:  I do.

21           THE COURT:  Okay.

22           (Defendants' Exhibit 731 admitted)

23           MR. PEEK:  I do know that the witness has not seen  
24 the document before, Your Honor.  But he's identifying names  
25 within the document --

1 THE COURT: And that's okay to the extent --

2 MR. PEEK: -- and that's what I'm asking him about,  
3 is more names than anything else.

4 THE COURT: And to the extent you're asking him  
5 names he may be familiar with even if he's never seen the  
6 document before, that's okay to a certain extent. At some  
7 point in time I will shut you down, though.

8 MR. PEEK: Okay. I think you'll see the tie, Your  
9 Honor, to this one.

10 BY MR. PEEK:

11 Q So would you now take a look at 731-042.

12 A 042.

13 Q Uh-huh. Are you there with me?

14 A Now I am.

15 Q Okay. And about a little bit past the middle you'll  
16 see that -- now, first of all, there is an entry for Wynn  
17 priv. 41630 towards the bottom half. Do you see that?

18 A Yes.

19 Q And then it says that it is converted to WYNN67470.  
20 Do you see that?

21 A I see in the left column is the 1630 number, and in  
22 the right column is 67470. I don't know if that means it's  
23 converted. I don't know what that means.

24 Q Okay. Well, let's go back to the previous exhibit.  
25 So on the previous exhibit was 731 --

1           THE COURT: So can I stop you for a second. Can  
2 somebody explain to me what the term "converted" means, since  
3 I don't know.

4           MR. PEEK: That's what I'm getting at. Actually, if  
5 we read the exhibit it actually says so, Your Honor. Ms.  
6 Spinelli was kind enough to tell us what it meant.

7           MS. SPINELLI: Your Honor, if something was  
8 previously withheld in its entirety, it has Wynn priv. Bates  
9 numbers. If something was subsequently produced, then we  
10 needed to produce it with Wynn regular Bates numbers. And  
11 Exhibit B to the privilege log is a cross-reference sheet for  
12 the production.

13          THE COURT: So they have multiple Bates numbers on  
14 the document?

15          MR. PEEK: The Wynn priv. --

16          THE COURT: Wait. I'm asking a question. They have  
17 multiple --

18          MS. SPINELLI: I actually think that when it's  
19 produced it just has the actual Wynn Bates numbers, because  
20 the Wynn priv., they're not produced to anybody. It's just a  
21 disclosed number.

22          THE COURT: So the Bates numbers are being added  
23 electronically to the documents before they're produced.

24          MS. SPINELLI: That's right.

25          THE COURT: And then at some point in time when you

1 convert them from a privilege document to merely a  
2 confidential document they're having a different Bates number  
3 electronically added to the document.

4 MS. SPINELLI: Right. And in the .dat file that's  
5 provided.

6 THE COURT: So at some point in time somebody has a  
7 list that has every single document that's been converted, one  
8 list?

9 MS. SPINELLI: We could certainly do that. I've  
10 talked in meet and confers about doing that with the privilege  
11 logs, because we're going through privilege challenges right  
12 now and getting the information to the Okada parties in a  
13 quick fashion. We've been doing small -- or we've agreed to  
14 do small privilege logs. But in the end, a result of the meet  
15 and confer there will be one complete document. It's our  
16 preference and theirs, as well. But for speed on their part  
17 or --

18 THE COURT: I'm just being selfish about how it's  
19 going to impact me and my review under Footnote Number 7,  
20 which will take approximately six months if I dedicate my time  
21 100 percent every day and don't do anything else.

22 MS. SPINELLI: So is that about -- the Freeh --

23 THE COURT: Which, just so you know, is after the  
24 trial.

25 MS. SPINELLI: The Freeh privilege log is something

1 different. These are Wynn Bates numbers.

2 THE COURT: Okay.

3 MR. BICE: And, Your Honor, in the interest of --  
4 and I'm being selfish here on behalf of Mr. Schall. I don't  
5 know why we're -- if they have some question about this  
6 document or that document on these conversions, Mr. Schall  
7 doesn't have anything to do with that. So I'm unclear why  
8 we're -- if Mr. Peek has a question --

9 MR. PEEK: If you would let me go forward, I might  
10 do that.

11 THE COURT: My guess, Mr. Peek is trying to say that  
12 you didn't really produce it.

13 MR. PEEK: There you go.

14 MR. BICE: Well, this witness won't possibly know  
15 that.

16 THE COURT: That's my guess.

17 MR. BICE: That's the issue.

18 THE COURT: Okay. All right, Mr. Peek.

19 MR. PEEK: Thank you, Your Honor.

20 THE COURT: Did I guess right, though?

21 MR. PEEK: What's that?

22 THE COURT: Never mind.

23 MR. PEEK: You guessed exactly right, Your Honor.

24 BY MR. PEEK:

25 Q So let's -- so you see in Exhibit 731, page 42, that

1 the document that we saw above in 719-162 as a Wynn priv.,  
2 which bore the numbers 41630 through 41634 now has new Bate  
3 number of WYNN67470?

4 A Well, what I can see from what I have in front of me  
5 is a correlation to the privilege marking on this exhibit you  
6 have up and the initial exhibit that you had me look at in  
7 terms of the 1630, yes.

8 Q Okay. So I'm going to ask you now to look at  
9 Exhibit 801. Exhibit 801 is in Volume 3.

10 THE COURT: Any objection to 801?

11 MR. PEEK: So I would offer 801, Your Honor.

12 THE COURT: Any objection to --

13 MR. BICE: Your Honor, I did have an objection to  
14 this.

15 THE COURT: You do?

16 MR. BICE: Yes.

17 THE COURT: Okay.

18 MR. BICE: My objection to this is, Your Honor, this  
19 is, with all due respect, just an attempt to interject highly  
20 confidential documents into the record without any legitimate  
21 basis for doing so. This is the concession contract, Your  
22 Honor -- or the expression of interest, my apologies, Your  
23 Honor. And there's absolutely no relevancy to this.

24 THE COURT: Okay.

25 MR. BICE: This witness, as he's already testified,



1 he doesn't have any personal knowledge about these conversions  
2 or the privileges or anything of the sort. And so simply  
3 saying, well, let's look at this Bates number and now I want  
4 to interject that into the record --

5 THE COURT: So your objection is sustained for now.  
6 Mr. Peek, do you think you --

7 MR. PEEK: Whoa, whoa, whoa, but wait. I should be  
8 allowed to be heard on this, because --

9 THE COURT: Well, you haven't laid a foundation. If  
10 they don't stipulate, I have to have you go through the next  
11 couple of steps before I admit the document or rule on it.  
12 That's why I asked if he stipulated before you asked any  
13 questions, because I was trying to cut to the chase. I  
14 failed. We now need to do it the right way, or the old  
15 fashioned way.

16 MR. PEEK: That's fine.

17 BY MR. PEEK:

18 Q Do you have any familiarity at all with the WRMSA --  
19 or Wynn Resorts Macau Limited letter to the Macau Gaming  
20 Committee that is Exhibit 801?

21 A That's a question to me?

22 Q Yes. Are you familiar with it?

23 A I believe I've seen it.

24 Q Can you identify it as a WRMSA document?

25 A Someone used --

1 Q I'm sorry, Mr. Schall, I can't hear you.

2 A I said, someone used the English name in here, which  
3 is the same name as one of our Hong Kong companies. There's  
4 no date on this letter that I see.

5 Q You said you've seen it before?

6 A It appears to be an expression of interest. I guess  
7 it could be a WRMSA document written by someone at WRL.

8 Q And is it kept in the ordinary course of business of  
9 WRMSA?

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

11 THE COURT: Sustained. He said it could be, that's  
12 not enough.

13 MR. PEEK: I guess, Your Honor, just so that  
14 everybody understands -- and I'll make this proffer. Because  
15 I don't know that I will be able to this. And I don't want to  
16 call the Pisanelli Bice group. But just so that Mr. Bice and  
17 Ms. Spinelli know that the Bate numbers that are referenced in  
18 the conversion chart are related to this document that I'm  
19 trying to get into evidence, which is not a 2004 document  
20 communication between Ronald Kramer And Edmund Ho Hau Wah,  
21 which is what is described in the priv log.

22 THE COURT: Okay. Does everybody --

23 MR. PEEK: If they'll stipulate to that, then I can  
24 move on.

25 MR. BICE: Well, then you know what, this is what

1 you have 2.34 conferences about if somebody says --

2 THE COURT: No, Mr. Bice, it's not. Can you  
3 stipulate -- no. It's real easy. Can you stipulate that the  
4 numbers do not match what's on this document and the  
5 description that is listed on either the privilege or the  
6 conversion log?

7 MR. PEEK: I don't want to call Ms. Spinelli.

8 THE COURT: I'm not calling anybody. I'm asking a  
9 question. The question is do the numbers match or not?

10 MS. SPINELLI: I actually can't stipulate that to  
11 Your Honor. I've got to check. We've done multiple  
12 productions, so I can't stipulate to it. And I think some of  
13 his facts have been wrong. So I am unwilling to stipulate  
14 until I get --

15 THE COURT: Some of what has been wrong?

16 MS. SPINELLI: Some of the things he's representing  
17 about our production have not been --

18 THE COURT: Oh. I'm not worried about Mr. Peek's  
19 facts right now. All I'm worried about right now is a minute  
20 ago I saw a conversion chart and a minute ago I saw a  
21 privilege log. The question is is this the document, what was  
22 it, 1630 that was described on the privilege log that then  
23 went to a conversion and had another number, or is it some  
24 other document and the number on it is wrong?

25 MS. SPINELLI: I don't know. I need to actually

1 check.

2 MR. BICE: Well, let us check.

3 THE COURT: Because I don't want to admit the  
4 document if that's the only thing that it's offered for. All  
5 I want you to say is, Judge, there's a mistake.

6 MS. SPINELLI: I agree, but I don't want to  
7 misrepresent, Your Honor.

8 MR. PEEK: Well, I don't know if there's a mistake  
9 or not, but I would argue this is a wilful effort on the part  
10 to withhold documents, Your Honor. Because this document has  
11 never been produced. The Wynn priv., or 1630 has not been  
12 produced to us.

13 THE COURT: It may be and it may be not. I don't  
14 know yet. I'm waiting.

15 MR. PEEK: Well, that's their burden to show you.

16 THE COURT: Well, no. Right now you're offering the  
17 document for admission. I'm trying to determine if it is  
18 appropriate to admit the document, since this whole purpose  
19 for which you are offering the document appears to be an  
20 inconsistency in the numbers that are attached to the  
21 document. I've already had an explanation as to how numbers  
22 get attached.

23 MR. PEEK: As well as a failure to comply with the  
24 Court order.

25 THE COURT: I'll give you that one, too. But first

1 I've got to know the number issue.

2 MS. SPINELLI: We actually served an errata. So  
3 we're trying to figure out if that's it, and it wasn't in  
4 here. And Mr. Kunimoto knows it was an exchange that --

5 MR. PEEK: Your Honor, I will do the errata mixed  
6 exhibit if she would like. Because in the errata --

7 THE COURT: No. Let's stop. I want the answer.  
8 Mr. Peek, I would like to get --

9 MS. SPINELLI: I said any time.

10 THE COURT: Will you guys stop arguing with each  
11 other. We're going to take a short break.

12 (Court recessed at 2:49 p.m., until 2:54 p.m.)

13 MR. BICE: All right. We resolved it.

14 THE COURT: Are you done?

15 MR. BICE: Yes. We resolved it. We're guilty, Your  
16 Honor. We have a five-page document. The last page of that  
17 concession contract has the 67470 number on it, but that  
18 document actually started -- so I think it carried over. So  
19 on our conversion log of the other document we have a mistake  
20 by a page, by one page. We apologize.

21 MR. PEEK: By one page.

22 THE COURT: Okay.

23 MR. BICE: We apologize, Your Honor.

24 THE COURT: So you agree that there is an  
25 inconsistency in the numbering that's demonstrated. Is there

1 any reason I need to admit this confidential document in these  
2 proceedings and make it public, Mr. Peek, since you now have  
3 an admission the numbers are wrong?

4 MR. PEEK: No, given the stipulation, Your Honor --

5 THE COURT: Thank you.

6 MR. PEEK: -- that they're not.

7 THE COURT: Okay.

8 MR. PEEK: But I'm not going to accept easily, oh,  
9 this is a mistake, because now we have another document which  
10 I'll show the witness, which is Exhibit 740, when they gave us  
11 their errata.

12 MR. BICE: Okay.

13 MR. PEEK: My next document, Your Honor, I would  
14 offer is Exhibit 740.

15 THE CLERK: Proposed 740

16 THE COURT: 740?

17 MR. PEEK: Proposed Exhibit 740.

18 THE COURT: And is this also an issue that  
19 potentially is a numbering issue?

20 MR. PEEK: Your Honor, and if they'll just stipulate  
21 to this, that when they gave us their errata, which purports  
22 to fix the prior disclosure in the thirty-sixth supplement of  
23 May, that the errata did not include an errata showing that  
24 41630 through 41634 was some other document other than  
25 WYNN67470. Excuse me. I'll start over again. Their errata,

1 which came two weeks after their disclosure on the thirty-  
2 sixth in their Exhibit B to that errata did not contain an  
3 errata to show that document Wynn priv. 41630 through 41634  
4 contained a different Bate number other than what had been  
5 disclosed two weeks earlier. If they'll stipulate to that,  
6 I'll move on.

7 THE COURT: Okay. So the errata continues the error  
8 that has been referenced regardless of what the nature of that  
9 error is. Is that right?

10 MR. PEEK: That's what I'm saying, Your Honor. If  
11 they want to --

12 MR. BICE: You're saying that we didn't catch the  
13 error in the errata?

14 MS. SPINELLI: I actually don't know, because --  
15 you're on 740, Mr. Peek?

16 MR. BICE: 740, yes.

17 MS. SPINELLI: 740, Exhibit A, has a disclosure log.  
18 And for WYNN00067463 to 67470 it describes it as a letter from  
19 Stephen Wynn to the Macau Gaming Committee copying John  
20 Strength [phonetic] and Marc Schorr. So it's on there.

21 MR. BICE: And the Bates number's correct.

22 MS. SPINELLI: Exhibit A.

23 MR. PEEK: Maybe I missed that, then. If you'd  
24 point, then. I missed --

25 MS. SPINELLI: Sure.

1 MR. PEEK: I apologize for making that  
2 representation to the Court, because it's not on the errata.

3 MR. BICE: I'm sure it wasn't intentional.

4 MR. PEEK: So I was looking for it on the errata.

5 MS. SPINELLI: This is Exhibit A to the errata.

6 MR. PEEK: Pardon?

7 MS. SPINELLI: It's Exhibit A to the errata. First  
8 page of Exhibit A, 67463, bottom half of the page, to 67470.

9 THE COURT: Did you find it, Mr. Peek, or you need  
10 help?

11 MR. PEEK: I can't see, Your Honor. My apologies.

12 THE COURT: It's okay. We're going to have Debbie  
13 come over and point it to you.

14 MR. BICE: Do you want me to go show him?

15 MR. PEEK: She says it's in the bottom half.

16 THE COURT: Did you guys find it? I unfortunately  
17 do not have my magnifying glass, since I no longer have my own  
18 courtroom, and I don't know what box the magnifying glass is  
19 in in the closet until I get my own courtroom back.

20 MR. PEEK: So, Debbie, I think you pointed me to the  
21 wrong one or not? So I just want to make sure. The one that  
22 you gave me --

23 MR. BICE: She can expand it on the screen.

24 MS. SPINELLI: 67463.

25 MR. PEEK: No. No. I'm looking at -- what I'm



1 interested in is the document in your Wynn priv. log of 41630  
2 as an errata. That's what I'm interested in.

3 MS. SPINELLI: But that's the one you've just been  
4 talking about.

5 MR. PEEK: No, because it's not --

6 May I --

7 THE COURT: You may.

8 (Pause in the proceedings)

9 THE COURT: Do you guys need a few minutes to caucus  
10 again?

11 (Pause in the proceedings)

12 THE COURT: So how about I ask the witness a couple  
13 questions that are important to me and you guys figure out  
14 what you want to do.

15 Sir, how are you this afternoon?

16 THE WITNESS: I'm fine, thank you.

17 THE COURT: You mentioned a couple hours ago that  
18 you were aware of the civil litigation that was in Macau  
19 between some of the parties that are here in front of me?

20 THE WITNESS: Correct.

21 THE COURT: Okay. Are you aware of the disposition  
22 of that action?

23 THE WITNESS: I am.

24 THE COURT: Can you tell me about that.

25 THE WITNESS: Yes, I can.

1 THE COURT: Thank you.

2 THE WITNESS: I believe on July 17th the court ruled  
3 sua sponte that all claims by the plaintiffs, which were Kazuo  
4 Okada, an Aruze entity, I don't remember which one, possibly  
5 USA, and Universal Entertainment, were dismissed. The Wynn  
6 parties were awarded court costs and attorneys' fees, and the  
7 Okada parties were fined for being vexatious litigants. The  
8 Okada parties have 10 days to appeal. I don't know if those  
9 10 days begin to run from July 17th or from when their counsel  
10 in Macau was notified about it. I don't know. But the courts  
11 all go on recess for the entire month of August, so I'm not  
12 sure if we, as Wynn, will find out if they've appealed or not  
13 until possibly September.

14 THE COURT: And was that resolution or disposition  
15 that you've described as a result of some what we would call  
16 in the United States motion practice or something that was  
17 occurring, or something else?

18 THE WITNESS: No. The Wynn parties did not file the  
19 Macau equivalent, which isn't really an equivalent of a motion  
20 for summary judgment or anything like that. We simply  
21 answered the lawsuit, and the judge, on his own, dismissed the  
22 entire case.

23 THE COURT: Okay. Now, in Macau is that a ruling on  
24 a procedural issue, or a substantive issue?

25 THE WITNESS: He seemed, from his opinion, to rule

1 -- I'm not trying to -- to rule on both. He ruled on some  
2 substance; and there was some procedure, but it has substance  
3 wrapped in basically saying that one of the claims they were  
4 making and the related relief were not available to them under  
5 the law. And that was the claim that we had damaged them  
6 through -- not damaged them -- they had claimed that because  
7 of out Cotai land concession and our university donation that  
8 basically we were not acting as our company was supposed to  
9 act and therefore we should be dissolved. And the judge said,  
10 you can't make that claim, this is a casino-resort company,  
11 they're acting as a casino-resort. So it's a bit of substance  
12 and a bit of procedure. But the other claims were dismissed,  
13 in my opinion, on substantive grounds.

14 THE COURT: And was there a written decision that  
15 was issued as a result of that?

16 THE WITNESS: Yes.

17 THE COURT: And is that written decision in  
18 Portuguese, Chinese, English?

19 THE WITNESS: It was in Chinese. We in Macau had it  
20 converted to English, making it more useful for the folks on  
21 my side and here.

22 THE COURT: Okay. So I'm going to switch subjects  
23 with you, because I have another one area that I would like to  
24 make sure I ask before you leave Las Vegas. At the time Judge  
25 Freeh was in Macau with his team doing their investigation, at

1 that time did you make any contact with the Office of Data  
2 Protection related to their investigation they were doing?

3 THE WITNESS: No.

4 THE COURT: Why not?

5 THE WITNESS: While we were aware of the Macau data  
6 protection law, we had never encountered an enforcement and  
7 basically were not following the law at that time. So we did  
8 not make contact with them about Judge Freeh's investigation.

9 THE COURT: And when did the nature of enforcement  
10 activities from the Office of Data Orivacy change?

11 THE WITNESS: For Wynn Resorts Macau as an  
12 organization it changed. The commencement of the change was  
13 when the Data Protection Office came forward and investigated  
14 the Freeh group's activities and transmission of data  
15 associated therewith. And then it continued to ramp up across  
16 Macau from that point.

17 THE COURT: Were there other gaming casino companies  
18 who were experiencing the same change in enforcement from the  
19 ODP at about the same time?

20 THE WITNESS: I am aware of five of the six  
21 experienced the same thing that we went through.

22 THE COURT: About the same time, earlier, later?

23 THE WITNESS: Sands I'm not sure. I know they  
24 experienced it, but, as I've said, I don't know the timing.

25 THE COURT: Well, we know.

1 THE WITNESS: Okay.

2 THE COURT: But that's a flashback for most of us in  
3 this room.

4 THE WITNESS: Melcor, MGM, and Galaxy, because I'm  
5 collegial with their legal departments, in mid 2012 and  
6 continuing to this day, but starting in mid 2012 and really  
7 taking a crescendo in probably early 2015, we all spoke  
8 frequently about the volume of notifications we were making to  
9 the Data Protection Office, the volume of consents that we  
10 were having to go forward and seek just for our day-to-day  
11 operations, let alone any type of special transmission of data  
12 that would be needed such as ones related to this case.

13 THE COURT: Okay. And did you learn as a result of  
14 the change in the enforcement activities by the ODP that a  
15 complaint had been made against the Wynn entities in Macau  
16 about their handling of personal data?

17 THE WITNESS: I'm sorry, Your Honor. A complaint  
18 made to who?

19 THE COURT: ODP.

20 THE WITNESS: Did I learn that someone had made a  
21 complaint to ODP? I believe ODP never officially told us why  
22 they started to investigate us.

23 THE COURT: Okay. So you were never provided with  
24 any information about the reason they were coming to  
25 investigate the activities from Judge Freeh and his team?

1 THE WITNESS: For ODP, correct.

2 THE COURT: Okay. All right. Those were all my  
3 questions for you, but I wanted to get the answers before you  
4 left here.

5 Mr. Peek.

6 MR. PEEK: Your Honor, I want to make some clarity  
7 to your inquiry, if I may.

8 THE COURT: Sure.

9 BY MR. PEEK:

10 Q The complaint that was filed by, as you say, the  
11 Okada parties, that was in 2015; correct?

12 A The civil court action?

13 Q Yes.

14 A I believe 2015, yes.

15 Q And with respect to the investigation by the ODP it  
16 started in 2012; correct?

17 A Correct.

18 Q And culminated in a fine in either late '12 or early  
19 2013; correct?

20 A Correct.

21 Q And it was -- that investigation was not in  
22 connection with any complaint filed by the Okada parties;  
23 correct?

24 MR. BICE: Objection. Foundation.

25 THE COURT: Sustained. Can you ask some followup

1 questions or deeper questions, Mr. Peek.

2 BY MR. PEEK:

3 Q During the course of the ODP investigation on the  
4 Freeh documents released that you knew about in 2012 did you  
5 ever learn from the OPDP that that investigation was  
6 precipitated by a complaint from the Okada parties?

7 A As I told the Judge, no.

8 MR. PEEK: Your Honor, I want to go back to this  
9 issue. I have talked at least to one of my team who does the  
10 meet and confers with Ms. Spinelli, so I don't think we can  
11 agree to the representation. I'm not saying it is inaccurate,  
12 and, please, I don't want them to take it that way. All I  
13 know is what I've represented to the Court is that the  
14 document that was on the privilege log, which is the -- was  
15 the fifteenth privilege log, which is Exhibit 719 -- the  
16 fifteenth supplemental privilege log, identified as a letter  
17 from Ron Kramer to a recipient and identified as a draft  
18 letter that they then cross-referenced in their chart of the  
19 thirty-sixth supplement, and it also had an errata to it two  
20 weeks later, did not appear. I understand what Ms. Spinelli  
21 is saying. I'm not saying that she is inaccurate. I can only  
22 go by what I know, and we can -- we'll deal with it and try to  
23 get to the bottom of it.

24 THE COURT: So suffice it to say there may be a  
25 numbering error with some of the information that has

1 previously been provided on the conversion charts. Is that  
2 fair?

3 MR. PEEK: I'm not sure that's what Ms. Spinelli is  
4 saying. I thought she was saying that they -- there was at  
5 least a numbering error to say that Wynn priv. 41630 is  
6 WYNN67470?

7 THE COURT: Right.

8 MR. PEEK: I don't think she's saying that. I think  
9 what she's saying is that, while it may appear in their  
10 supplement, she's saying -- I'll let her speak for herself  
11 that although they said it was being released they changed  
12 their mind and said -- and put it back on a privilege log.  
13 And that may be --

14 THE COURT: Well, I don't know if you remember, but  
15 I did give them the right to review the Macau law documents  
16 they had -- document they had claimed Macau law protection on  
17 for attorney-client privilege to see if that privilege applied  
18 to make sure before they released it if there was a privilege  
19 they could change the privilege law characterizations.

20 MR. PEEK: Well, I don't remember that. I remember  
21 you saying that where they had multiple privilege claims in  
22 their log that, you know, they could do that. But I don't  
23 think -- I don't know that you gave them -- and if you did,  
24 you did, Your Honor. I don't recall --

25 THE COURT: Right. You will have to look at the



1 transcript.

2 MR. PEEK: -- it that way, that you actually said,  
3 oh, by the way, if you claim only Macau law privilege, I'll  
4 let you claim more than that. And that's apparently what they  
5 did here.

6 THE COURT: We'll have to look at the transcript to  
7 see.

8 MR. PEEK: And I'm not -- Your Honor, I'm not  
9 trying --

10 THE COURT: I know, Mr. Peek, but it's 3:00 o'clock  
11 on the third day, and I'm not through the second witness.

12 MR. BICE: Your Honor, why are we holding up this  
13 witness with this exchange? That's my -- can we --

14 THE COURT: Because Mr. Peek wants to ask him more  
15 questions about whether documents that have names in them  
16 match or not.

17 MR. PEEK: That's exactly where I'm going.

18 THE COURT: Well, I knew that.

19 MR. PEEK: So I've got another one coming up, Your  
20 Honor.

21 THE COURT: Okay.

22 BY MR. PEEK:

23 Q Okay. Let's look at Exhibit 719 again, page 219.

24 A 2 --

25 THE COURT: 219.

1 THE WITNESS: Thank you.

2 BY MR. PEEK:

3 Q 219. And what I'm going to ask you to look at in  
4 the middle of that page is a Wynn priv. document where the  
5 author is Becky Quinn. And I need to ask you who Becky Quinn  
6 is.

7 A I'm sorry. I don't know.

8 Q Okay. That's fair. It at least says it's Macau law  
9 privilege; correct?

10 A Yes.

11 Q And let me have you go back -- or go next to the  
12 Exhibit 731, which is the thirty-sixth supplement in  
13 Exhibit B. First of all, 731-36 tells us to look at Exhibit B  
14 as a cross-reference chart linking documents; correct?

15 A I'm sorry. 731-36?

16 Q Yes.

17 A I haven't gone there.

18 MR. PEEK: It's in evidence. Well, maybe -- yeah,  
19 731-36 is in evidence. Or not?

20 THE COURT: It is.

21 MR. PEEK: Thank you. Go ahead and bring it up on  
22 the screen, if you would, Nick, to page 731-36. There's -- so  
23 we can look at it on the screen.

24 BY MR. PEEK:

25 Q And right there is where it says, "Please see

1 Exhibit B."

2 A Okay. I see, "Please see Exhibit B."

3 Q And it purports to be a cross-reference to Wynn  
4 priv. documents, does it not?

5 A "Please see Exhibit B, a cross-reference chart  
6 linking documents previously withheld and bearing the Wynn  
7 priv. Bates prefix with the newly produced documents bearing  
8 the Wynn Bates prefix."

9 Q So now turn to page 42 of that 731-42 of that  
10 document -- that exhibit.

11 A Okay.

12 Q And you see at sort of the top third a reference to  
13 Wynn priv. 039328? See that?

14 A Yes.

15 Q And it purports now to be converted to Wynn document  
16 67596, does it not?

17 A 67596 is in the right column to the left of that,  
18 yes.

19 Q Okay. Now let me have you turn, if you would, to  
20 Exhibit 794. Have you seen this letter before, which is on  
21 Wynn Macau letterhead to Jorge Olivera?

22 A 794?

23 Q Yes. Page 9.

24 A Oh. Page 9. I believe I've seen this.

25 Q And do you recognize the signature or the name

1 Durata De Silva [phonetic] who purported to sign this?

2 A I know that name.

3 Q And Mr. De Silva is a secretary to WRMSA?

4 A That's his title, yes.

5 Q Pardon?

6 A It's one of his titles.

7 Q He's also counsel?

8 A Yes.

9 Q Also a lawyer?

10 A Yes.

11 Q And is this a document kept in the ordinary course  
12 of the business of WRMSA?

13 A I can't be sure, but it could be.

14 Q Well, is it a document that you recognize that  
15 you've seen before in connection with your job as general  
16 counsel?

17 A I've seen the document. I can't remember why, but I  
18 have seen it.

19 Q Did you see it in connection with your work as  
20 general counsel?

21 A Likely, yes.

22 Q And was there a -- certain amendments requested by  
23 WRMSA to the concession?

24 A No.

25 Q The letter refers to a first amendment, so there's

1 no -- was there no first amendment? I'm trying to get as much  
2 -- do you recognize this letter as being a letter regarding a  
3 first amendment. So was there a first amendment or not?

4 A Your question was was there an amendment proposed by  
5 Wynn Resorts Macau SA, I said, no.

6 Q Okay. Was that something you requested by the DICJ?

7 A No.

8 Q Was it requested by somebody?

9 A Yes.

10 Q And who is that?

11 A As one can verify from the text of the first  
12 amendment attached, the majority of the suggestions were posed  
13 by the Gaming Commission in your letter of 24 March.

14 Q That's not the DICJ?

15 A It's the Gaming Commission.

16 Q Okay. What's the relationship of the Gaming  
17 Commission to the DICJ?

18 A I don't know, but they're different.

19 Q Okay. But you recognize Jorge Olivera as being the  
20 coordinator of the Gaming Commission?

21 A At that time.

22 Q I would offer Exhibit 794, Your Honor.

23 MR. BICE: We have the same objection, Your Honor.  
24 This is again a document marked highly confidential, has no  
25 bearing -- if his contention is that there's an error on the

1 numbering, again, has nothing to do with the substance of the  
2 document.

3 THE COURT: So, Mr. Peek, given the fact it's a  
4 highly confidential document, why do you want me to admit it  
5 in this proceeding, as opposed to just recognizing there is a  
6 numbering error?

7 MR. PEEK: Well, Your Honor, I want you to recognize  
8 that there is an error that the Wynn Resorts -- in Exhibit B  
9 of their cross-reference chart they reference a document that  
10 purports to be the Becky Quinn draft agreement of April 8th,  
11 2002. This letter of June 1, 2006, which bears the conversion  
12 number that they gave us is a letter of 2006 between Jorge  
13 Olivera and Carrera De Silva.

14 THE COURT: So, Mr. Bice, do you stipulate there's  
15 another mistake?

16 MR. BICE: Your Honor, it's on the last page. I'm  
17 going to have Ms. Spinelli address this.

18 THE COURT: Okay. Ms. Spinelli, if you would please  
19 tell me whether you can stipulate there's a mistake so I don't  
20 have to admit a highly confidential document to prove there's  
21 a mistake.

22 MR. PEEK: Your Honor --

23 MS. SPINELLI: Yes, there was an errata, and there  
24 was a mistake. And this document was produced to them  
25 unredacted per Macau law.

1 THE COURT: Is it in the errata, too?

2 MS. SPINELLI: It is in the errata, too, I am told.

3 THE COURT: Errata, as well?

4 MR. PEEK: It is not, Your Honor. That's the thing.  
5 I'm have an errata --

6 MS. SPINELLI: I have a February --

7 I'm sorry, Mr. Peek.

8 I have a February 22nd, 2017, privilege log where  
9 the document appears with the description for Wynn priv.  
10 039328 is correct, but the Exhibit A, the conversion chart,  
11 was wrong just like the previous one.

12 THE COURT: Okay. And has this document been  
13 produced in an unredacted form?

14 MS. SPINELLI: We produced an errata.

15 MR. BICE: We produced an errata noting that the  
16 prior log was wrong. You had already corrected that, I  
17 believe.

18 MR. PEEK: Your Honor, I have a --

19 THE COURT: My question is different, Ms. Spinelli.  
20 Was --

21 MR. PEEK: Your Honor --

22 THE COURT: Hold on.

23 Was the document the witness has in front of him  
24 produced in an unredacted form as a highly confidential -- a  
25 confidential document?

1 MS. SPINELLI: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. PEEK: That's not the issue, Your Honor. The  
4 issue is the Macau law privilege that they claim in 39328, has  
5 that been produced? By our calculations and our review of the  
6 documents, and keep in mind there are almost 100,000 pages now  
7 I think we're approaching or more.

8 THE COURT: That's nothing compared to the 25 boxes  
9 or so somebody going to drop in my office.

10 MR. PEEK: I agree.

11 MS. SPINELLI: Your Honor, the --

12 MR. PEEK: May I finish, please, Your Honor.

13 MS. SPINELLI: Of course.

14 THE COURT: Yes, Mr. Peek.

15 MR. PEEK: Thank you.

16 MS. SPINELLI: I thought you were done.

17 THE COURT: He's not.

18 MR. PEEK: Here's what I'm saying to the Court and  
19 what I want to know, because they're going to represent  
20 something to the Court because they've made these disclosures  
21 to the Court saying, we did everything that we're required to  
22 do. But we see Bates range in their priv. log, which is the  
23 fifteenth supplemental privilege log. They identify a  
24 document dated 4/8/02 with an author of Becky Quinn. They  
25 then give us the thirty-sixth supplemental disclosure on



1 February 10, 2017. In that supplemental disclosure they  
2 identify in a cross-reference chart that this document in the  
3 Wynn priv. log from Exhibit 719 is -- now has Bate number of  
4 67596.

5 So I pull 67596 to make sure that they have  
6 disclosed as they're required to pursuant to the Court order.  
7 And what I find is this letter from Mr. De Silva to Jorge  
8 Olivera. And that's a --

9 THE COURT: And that's the document the witness has  
10 in front of him?

11 MR. PEEK: That's the document he has in front of  
12 him. It is a letter dated June 1st, 2006, and has nothing to  
13 do with the Wynn priv. document identified in the fifteenth  
14 supplement that they say is the conversion chart.

15 THE COURT: And did you receive --

16 MR. PEEK: And then I --

17 THE COURT: Okay. You can finish.

18 MR. PEEK: Sorry. I'm sorry to be so long.

19 THE COURT: It's okay. It's all right.

20 MR. PEEK: But then on April 11th, 2017, they give  
21 us an errata to their thirty-sixth supplemental disclosure and  
22 it does not appear in the errata. So I don't know what Ms.  
23 Spinelli is talking about that the document of Becky Quinn has  
24 been produced, and if so, tell us what the number is. Is she  
25 going to make that representation to the Court? I don't know

1 that.

2 THE COURT: Okay. So the witness doesn't need to  
3 help us with that, although he's been invaluable in  
4 identifying this particular document in front of him and the  
5 facts around it.

6 MR. PEEK: It's the names that I'm using him for --

7 THE COURT: I understand.

8 MR. PEEK: -- because those are important.

9 THE COURT: I understand. I remember days we tried  
10 to do that with other people, and they all said, I don't know,  
11 for hours.

12 So, sir, thank you so much for identifying those  
13 names.

14 But, Mr. Peek, given the fact it's highly  
15 confidential, I don't see why I need to admit it given the  
16 fact it's clear there's a numerical error, and it may be that  
17 there is a lot of numerical errors and you may be able to  
18 argue that it is wilful. But I'm not there yet, because this  
19 is only my second one.

20 MR. PEEK: I understand, and we're --

21 THE COURT: Okay.

22 MR. PEEK: -- going to have a whole lot more, Your  
23 Honor.

24 THE COURT: I'm waiting.

25 Mr. Bice.

1 MR. PEEK: But I want to understand what the  
2 representation is from Wynn Resorts about whether or not Wynn  
3 priv. 39328 of 4802 has in fact been produced as required by  
4 the November 1st order and as they certify to the Court on  
5 July 7th, 2017.

6 THE COURT: Does anybody know if it's been produced?

7 MS. SPINELLI: It has not been produced, Your Honor.  
8 It appears in our February 22nd, 2017, privilege log with an  
9 updated description based upon a meet and confer letter that I  
10 received from Mr. Krakoff that I have answered, and I've had a  
11 meet and confer with counsel who's not here, his is name is  
12 Andrew, I do not know his last name. And we've updated the  
13 privilege log to correct what it is, which is a summary of  
14 legal requirements under "The summary of legal requirements  
15 with Mr. Schall". And I can read that description to you,  
16 Your Honor.

17 THE COURT: That's all right. So it's been changed  
18 to a different privilege log?

19 MR. PEEK: I don't know that, Your Honor. That's  
20 what she's saying to me.

21 THE COURT: I'm asking Ms. Spinelli a question, not  
22 you.

23 MS. SPINELLI: That's right, Your Honor. It has  
24 been.

25 THE COURT: Okay. Thank you.

1 MR. PEEK: Can you ask Ms. Spinelli what privilege  
2 -- what privilege log it now appears, Your Honor.

3 THE COURT: She said it was the February one.

4 MR. BICE: Your Honor, and since there's been meet  
5 and confers, Your Honor --

6 MR. PEEK: Then I'm confused, because the  
7 February --

8 THE COURT: Wait. This is --

9 MR. BICE: Since I -- apologies.

10 THE COURT: I need Mr. Peek to finish and then I'm  
11 going to go to you, Mr. Bice.

12 MR. BICE: Thank you.

13 MR. PEEK: Then I'm confused. I don't know what --  
14 because this -- the conversion table was on February 10, 2017,  
15 so when was the privilege log --

16 THE COURT: I think she said February 27th, but I  
17 didn't catch it, because I was listening --

18 MR. PEEK: That's what I'm trying to figure out,  
19 too, Your Honor. And what privilege log that is.

20 THE COURT: It's her attorney-client privilege log,  
21 according to what she told me earlier. But I don't know the  
22 date of that privilege log.

23 MR. PEEK: The last one was -- 19, so I just want to  
24 know which one it is.

25 THE COURT: February, what date?

1 MS. SPINELLI: February 22nd, our twenty-first  
2 supplemental privilege log.

3 THE COURT: 22nd. I was wrong. Not 27, 22. Okay.  
4 So was there another document you want to ask this witness  
5 questions about names?

6 MR. PEEK: Yes, Your Honor. And this is going to be  
7 the same -- these are the same issues.

8 THE COURT: Okay. Mr. Bice, you had an objection  
9 before we go to the question.

10 MR. BICE: Yeah. I have an objection, because  
11 what's being omitted here is that meet and confers are  
12 happening that Mr. Peek is not involved in. And I'm only --  
13 I'm surmising that apparently he hasn't been informed of those  
14 meet and confers and these updated logs and exchanges that  
15 have happened with other lawyers. So I don't know why this  
16 witness is having -- time is having to be wasted coming here  
17 from the Far East when apparently there hasn't been  
18 communications about updated privilege logs and the movement  
19 of documents on privilege logs.

20 THE COURT: I understand your objection. But I'm  
21 going to let Mr. Peek continue for a little bit of time.

22 Mr. Peek.

23 MR. PEEK: Thank you, Your Honor.

24 BY MR. PEEK:

25 Q So would you look at Exhibit 719, page 310. And in

1 the middle of that page we see a letter from Steve Wynn to  
2 Edmund Ho Hau Wah. Do you see that?

3 A I see it.

4 Q And that's the letter dated June 14th, 2002?

5 A Yes.

6 Q And the claim in there is Macau law privilege;  
7 correct?

8 A Yes.

9 Q Now let's look at the conversion chart, which is  
10 731-42. And the conversion chart says it is now -- see that  
11 in the middle of the page where Wynn priv. 39706 is converted  
12 to WYNN67375?

13 A I see it.

14 Q And let me have you turn to Exhibit 800.

15 A 800?

16 Q Yes. See that that is identified as a letter on  
17 Wynn Macau's stationery of August 20, 2012?

18 A Yes.

19 Q And, by the way --

20 THE COURT: Your Honor, people are passing me notes.  
21 I need to take a break, because I can't deal with the note  
22 passing for right now.

23 THE COURT: Okay.

24 MR. PEEK: Somebody's saying let's take a break.

25 THE COURT: I guess we'll take a short break. It's

1 3:27. Our plan is to go until 5:00 o'clock. So hopefully  
2 this is your last break of the day before we break.

3 (Court recessed at 3:27 p.m. to resume at a date  
4 and time to be determined)

5 \* \* \* \* \*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

INDEX

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
-------------	---------------	--------------	-----------------	----------------

DEFENDANTS' WITNESSES

Jason Martin Schall	10			
---------------------	----	--	--	--

\* \* \*

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
--------------------	-----------------

PLAINTIFF'S EXHIBIT NO.

4	56
---	----

\* \* \*

DEFENDANTS' EXHIBIT NO.

584	37
613	73
616	79
619	89
625	29
719	110
728	50
731	116
742A	62
742B	62
778	105
803	103

\* \* \*



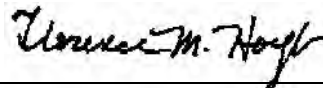
**CERTIFICATION**

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**



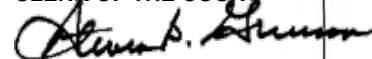
\_\_\_\_\_  
FLORENCE M. HOYT, TRANSCRIBER

7/31/17

\_\_\_\_\_  
DATE

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

Electronically Filed  
8/11/2017 3:59 PM  
Steven D. Grierson  
CLERK OF THE COURT



James J. Pisanelli, Esq., Bar No. 4027  
[JJP@pisanellibice.com](mailto:JJP@pisanellibice.com)

Todd L. Bice, Esq., Bar No. 4534  
[TLB@pisanellibice.com](mailto:TLB@pisanellibice.com)

Debra L. Spinelli, Esq., Bar No. 9695  
[DLS@pisanellibice.com](mailto:DLS@pisanellibice.com)

PISANELLI BICE PLLC  
400 South 7th Street, Suite 300  
Las Vegas, Nevada 89109  
Telephone: 702.214.2100  
Facsimile: 702.214.2101

Robert L. Shapiro, Esq. (*pro hac vice* admitted)  
[RS@glaserweil.com](mailto:RS@glaserweil.com)

GLASER WEIL FINK HOWARD  
AVCHEN & SHAPIRO, LLP  
10250 Constellation Boulevard, 19th Floor  
Los Angeles, California 90067  
Telephone: 310.553.3000

Mitchell J. Langberg, Esq., Bar No. 10118  
[mlangberg@bhfs.com](mailto:mlangberg@bhfs.com)  
BROWNSTEIN HYATT FARBER SCHRECK LLP  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106  
Telephone: 702.382.2101

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

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WYNN RESORTS, LIMITED, a Nevada  
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**THE WYNN PARTIES' STATUS REPORT  
RELATED TO CONTINUED HEARING  
ON MOTION FOR SANCTIONS  
(MPDPA/MACAU LAW)**

Hearing Date: August 14, 2017

Hearing Time: 8:00 am

1 Wynn Resorts, Limited ("Wynn Resorts" or the "Company") and Counterdefendants  
2 Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr,  
3 Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman (collectively,  
4 the "Wynn Parties") provide the following status report related to the continued hearing on the  
5 Okada Parties' motion for sanctions against Wynn Resorts related to Wynn Macau, Limited's  
6 redactions related to the Macau Personal Data Protection Act ("MPDPA") and the protections it  
7 asserted under Macau Law (the "Sanctions Motion").

8 When the parties were before the Court on August 7, 2017, they and the Court discussed  
9 scheduling the continued hearing on the Sanctions Motion. Mr. Okada's counsel stated his desire  
10 to commence the continued hearing on either September 11 or September 25, 2017. Wynn Resorts'  
11 counsel informed the Court that its two lead counsel, James J. Pisanelli and Todd L. Bice,  
12 commence a two-week trial in Washington, D.C., on September 11,<sup>1</sup> and that Mr. Pisanelli would  
13 be travelling directly from the Okada Parties' depositions of Wynn Resorts and Wynn Macau  
14 witnesses in Hong Kong to Washington, D.C. to conduct that trial.<sup>2</sup>

15 In addition, Wynn Resorts' counsel advised the Court that Mr. Bice has a firm trial date in  
16 in the matter *Jack B. Binion, et al., v. Fore Stars, Ltd.*, Case No. A-15-729053-B, pending before  
17 the Honorable Nancy Alff, commencing on September 25, 2017. Thereafter, Mr. Bice starts a  
18 four-week trial on October 10, 2017, before the Honorable Mark Denton, in the matter  
19 *Cantor G&W (Nevada (Holdings), L.P., et al. v. Joseph M. Asher, et al.*, Case No. A-11-646021-B.

20 For this reason, the Court and counsel went back to Chambers to discuss possible dates, and  
21 the Court proposed a half-day on August 21, and full days on August 23 and 25. The Court noted  
22

---

23 <sup>1</sup> This "conflict" was not a conflict as of two weeks ago because fact discovery in this case  
24 had long been set to close on September 8, 2017. The same is true for Mr. Bice's two business court  
25 trials in October and November. These "conflicts" are not of Wynn Resorts' making and this  
information was spelled out clearly in its opposition to the Okada Parties' and Ms. Wynn's motion  
to extend fact discovery.

26 <sup>2</sup> To be clear, Wynn Resorts and its counsel are not sitting idle during these two weeks.  
27 Wynn Resorts has offered dates for the deposition of four of its directors, in potentially three  
28 different states, to take place during this time period. These are depositions that *had already been  
scheduled but were vacated by the Okada Parties and/or Ms. Wynn* after the Court granted their  
request to extend the September 8, 2017 close of fact discovery.



1 her concern that the parties could not go to other places for depositions in this case if she held the  
2 continued hearing in August. But, the Okada Parties and Ms. Wynn vacated most, if not all, of the  
3 non-Hong Kong depositions that Wynn Resorts had worked hard to schedule with party and non-  
4 party witnesses. Therefore, there is no deposition conflict for any lead counsel during the August  
5 dates discussed.

6 Thus, the Court stated:

7 THE COURT: After extended negotiations and arm twisting and a  
8 battle of wills we have agreed to the 16th starting at 9:00 a.m.,  
9 courtroom to be announced; the 18th starting at 9:00 a.m., courtroom  
10 to be announced; if necessary, the 21st starting at 1:30; the 23rd  
11 at 9:00 o'clock, courtroom to be announced; the 25th courtroom to be  
12 announced, 9:00 o'clock. The parties do need to check with the two  
witnesses who are travelling from overseas as to their availability for  
these dates. They are going to communicate with their witnesses and  
email Dan by close of business tomorrow – close of business  
Wednesday – . . . -- close of business Wednesday as to whether this  
works.

13 (Hr'g Tr., Aug. 8, 2017, 39:5-20.) Thereafter, Mr. Peek stated only that he wanted to make sure his  
14 witness could come on August 21 and 23 (though did not indicate why), and said he wanted  
15 alternate dates if Mr. Schall was not available. (*Id.* at 40:25-41:3.)

16 Wynn Resorts' counsel immediately contacted Mr. Schall and confirmed his availability on  
17 the dates discussed with the Court and the Okada Parties' counsel and sent an email to counsel and  
18 the Court. Mr. Peek responded simply that "I am not available on August 25," but, unlike the full  
19 explanation provided by Wynn Resorts and Pisanelli Bice, Mr. Peek said nothing further.  
20 Wynn Resorts proposed an alternative to allow Mr. Peek to have August 25th available to "prepare  
21 for the Hong Kong depositions" (for which he confirmed he had a flight on August 27, 2017), and  
22 offered to have longer days and cover the overtime costs associated therewith.<sup>3</sup> Mr. Peek – who  
23 previously wanted his client out of order with Mr. Schall – again stated simply "Mr. Peek objects  
24 to . . . proceeding out of order to accommodate Mr. Schall and the Wynn Parties." Noteworthy,  
25 though stating that they needed to ask Mr. Okada about his health and whether he could appear per  
26

27 <sup>3</sup> In sharp contrast to the court-ordered appearances/conflicts offered by Wynn Resorts'  
28 counsel, Okada's counsel did not provide a reason why he could not appear on August 25 other  
than just that he preferred not to so he can prepare for his Hong Kong trip.

1 the subpoena to appear live, there has yet to be any confirmation that Mr. Okada will even appear  
2 live.

3 The Court's August 9, 2017 email setting the continued hearing for September 25, 2017  
4 followed. The email indicated the matter would be discussed at the August 14, 2017 status check.

5 Because the continued sanctions hearing involves, largely, Mr. Schall (who was in his  
6 second day of examination by Okada's counsel), and his involvement requires international travel,  
7 Wynn Resorts immediately contacted him. Mr. Schall stated that he is *unavailable* to appear during  
8 the week of September 25 for various reasons: On September 25, 2017, Mr. Schall is on vacation,  
9 and has pre-purchased airline tickets to Portugal and then Dubai (a trip he paid for personally and  
10 has been planned for some time). He flies from Dubai to Kuala Lumpur, Malaysia, for a trial that  
11 starts on October 1, 2017 involving Wynn Macau. Mr. Schall then travels back to Macau on  
12 October 5, 2017, to attend and testify in a number of trials in Macau court before three-judge panels  
13 that run through October 19, 2017.<sup>4</sup> From October 23 to October 27, 2017, Mr. Schall is  
14 participating in a court-ordered mediation in Hong Kong in a long-running, massive litigation  
15 involving Wynn Macau and other Macau casinos. He, therefore, cannot re-appear in Las Vegas  
16 until early November.

17 Mr. Schall remains available (and still has the ticket he reserved following the August 8,  
18 2017 hearing) the entire week of August 21, 2017. He can attend every day that week.

19 In conclusion, Mr. Schall is unavailable on the court's selected date. Therefore,  
20 Wynn Resorts brings the issue to the Court's attention to discuss during the status check.

21 Secondly, Wynn Resorts restates that holding the continued hearing on a motion that  
22 seeks evidentiary sanctions against it in a trial of this import when one of its' lead trial counsel is  
23 unavailable because of trials in other matters, and the other lead trial counsel is in important,  
24 multi-day depositions in this case (i.e., the three day court ordered deposition of Marc Schorr), and  
25 still other of Wynn Resorts' counsel are in double-tracked depositions those same days (i.e., the  
26

27  
28 <sup>4</sup> The Macau courts are in recess for August and part of September. Therefore, trials are  
scheduled tightly when the court returns to session. It is one of the reasons why Mr. Schall could  
travel in August to Las Vegas for the sanctions hearing in the first instance.



1 three-day deposition of Wynn Resorts' NRCP 30(b)(6) witness) is unfairly prejudicial to  
2 Wynn Resorts' rights and process.

3 In contrast, holding the continued hearing during the August 21 week, though over three  
4 scattered days, when all counsel and witnesses are available, seems just and reasonable.<sup>5</sup>  
5 Accordingly, Wynn Resorts and its counsel raise these issues once again for the Court's  
6 consideration.

7 DATED this 11th day of August, 2017.

8 PISANELLI BICE PLLC

9  
10 By: 

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

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

16  
17  
18  
19  
20  
21  
22 <sup>5</sup> Again, Okada's counsel previously stated that he was available on Friday August 25, but he  
23 wanted that day to prepare for the Hong Kong depositions, and had a flight on that Sunday. Given  
that this is not a real conflict, it should be given little consideration much less deference.

24 On this point, Wynn Resorts and Pisanelli Bice take issue with Okada's counsel's repeated  
25 refrain of "if you take on a client you'd better be prepared to represent him [or her] on the date the  
26 court's available." Mr. Peek has previously made similar statements. Should his refrain have any  
27 effect on the Court's timing of this continued hearing, a response is unfortunately necessary: First,  
28 the "conflict" is due to the extension of discovery at the Okada Parties' request, and by their vacating  
the depositions. Second, Mr. Peek would be well served to recall how many times his schedule is  
accommodated for vacations, time with his children, and his work schedule. These  
accommodations were always intended to be a two-way street.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 11th day of August 2017, I caused to be served via the Court's E-Filing system a true and correct copy of the above and foregoing **THE WYNN PARTIES' STATUS REPORT RELATED TO CONTINUED HEARING ON MOTION FOR SANCTIONS (MPDPA/MACAU LAW)** to the following:

Donald J. Campbell, Esq.  
J. Colby Williams, Esq.  
CAMPBELL & WILLIAMS  
700 South 7th Street  
Las Vegas, NV 89101  
*Attorneys for Stephen A. Wynn*

Melinda Haag, Esq.  
James N. Kramer, Esq.  
ORRICK, HERRINGTON & SUTCLIFFE  
405 Howard Street  
San Francisco, CA 94105  
*Attorneys for Kimmarie Sinatra*

J. Stephen Peek, Esq.  
Bryce K. Kunimoto, Esq.  
Robert J. Cassity, Esq.  
HOLLAND & HART LLP  
9555 Hillwood Drive, Second Floor  
Las Vegas, NV 89134  
*Attorneys for Kazuo Okada*

David S. Krakoff, Esq.  
Benjamin B. Klubes, Esq.  
Adam Miller, Esq.  
BUCKLEY SANDLER LLP  
1250 – 24th Street NW, Suite 700  
Washington, DC 20037  
*Attorneys for Aruze USA, Inc. and Universal Entertainment Corp.*

Steve Morris, Esq.  
Rosa Solis-Rainey, Esq.  
MORRIS LAW GROUP  
411 E. Bonneville Avenue, Suite 360  
Las Vegas, NV 89101  
*Attorneys for Defendants*

J. Randall Jones, Esq.  
Mark M. Jones, Esq.  
Ian P. McGinn, Esq.  
KEMP, JONES & COULTHARD, LLP  
3800 Howard Hughes Parkway, 17th Floor  
Las Vegas, NV 89169  
*Attorneys for Aruze USA, Inc. and Universal Entertainment Corporation*

William R. Urga, Esq.  
David J. Malley, Esq.  
JOLLEY URGA WOODBURY & LITTLE  
330 S. Rampart Boulevard, Suite 380  
Las Vegas, NV 89145  
*Attorneys for Elaine P. Wynn*

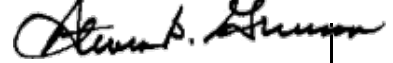
Mark E. Ferrario, Esq.  
Tami D. Cowden, Esq.  
GREENBERG TRAURIG, LLP  
3773 Howard Hughes Parkway, Suite 400  
Las Vegas, NV 89169  
*Attorneys for Elaine P. Wynn*

Daniel F. Polsenberg, Esq.  
Joel D. Henriod, Esq.  
LEWIS ROCA ROTHGERBER CHRISTIE  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169  
*Attorneys for Elaine P. Wynn*

James M. Cole, Esq.  
SIDLEY AUSTIN LLP  
1501 K. Street N.W.  
Washington, DC 20005

Scott D. Stein, Esq.  
SIDLEY AUSTIN, LLP  
One South Dearborn St.  
Chicago, Illinois 60603  
*Attorneys for Elaine P. Wynn*

  
An employee of PISANELLI BICE PLLC



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 4**

MONDAY, AUGUST 21, 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.  
ADAM MILLER, ESQ.  
DONALD JUDE CAMPBELL, ESQ.

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 21, 2017, 10:05 A.M.

2 (Court was called to order)

3 THE COURT: Good morning. Is Mr. Schall here?

4 MR. BICE: He is, Your Honor.

5 THE COURT: Come on up, sir. It's a different  
6 courtroom. This one looks more traditional.

7 JASON MARTIN SCHALL, DEFENDANTS' WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. And  
9 please state and spell your name for the record.

10 THE WITNESS: Jason Martin Schall, J-A-S-O-N  
11 M-A-R-T-I-N S-C-H-A-L-L.

12 DIRECT EXAMINATION

13 BY MR. PEEK:

14 Q Good morning, Mr. Schall.

15 A Good morning.

16 Q Thank you for coming back from Macau.

17 A Pleasure.

18 Q When we were here last we had been talking about  
19 some of the Wynn privilege documents. Remember that?

20 A Yes.

21 Q And where we left off was Exhibit 719, and then we  
22 were on page 219 of that exhibit.

23 MR. PEEK: And if we could bring it up, please,  
24 Nick. In the middle of that page you'll see the document  
25 number, which I think is 39328 then priv. Do you see that,

1 Nick? Are you on the right page, Nick, or not? There you go.

2 THE WITNESS: 9328?

3 BY MR. PEEK:

4 Q Yeah.

5 A Okay.

6 Q And remember that then we also talked that that  
7 document had been put on a cross-reference chart. Do you  
8 remember the cross-reference chart that we talked about?

9 A I remember.

10 Q Okay. And that is Exhibit I think 731, page 42.  
11 And that appears at about the top quarter of the page.

12 MR. PEEK: So you see the 39328 there, Nick? Can  
13 you see it? You're up a little bit, Nick, about -- right  
14 there.

15 BY MR. PEEK:

16 Q So let me kind of go back to first of all the  
17 description of the document. As it appears in Exhibit 719 it  
18 appears to be a document called draft agreement protected by  
19 Macau Special Administrative Region Law 16-201, Section 1,  
20 Article 16, re concession agreement. Do you see that?

21 A Yes.

22 Q Okay. Becky Quinn is an administrative assistant at  
23 Wynn Resorts; correct?

24 A I don't know her.

25 Q You don't know her.

1           A     Correct.

2           Q     Okay. Well, let's look at Exhibit 719, 638, just so  
3 that we can be on the same page. And it's what we call -- we  
4 as lawyers call a player list. And we see on there the name  
5 Becky Quinn. You see that? It's about halfway down or more  
6 of the page.

7           A     Yes.

8           Q     And what does it say Becky Quinn is?

9           A     Administrative assistant.

10          Q     Yeah. So did you think that Becky Quinn was  
11 drafting summaries of legal -- well, first of all, she was the  
12 -- apparently the author of a draft agreement that we saw  
13 previously. The first description that Wynn gave us she was  
14 the author of this draft agreement. And that we know appears  
15 on 719, 219. She appears to be the author, this  
16 administrative assistant; correct?

17          A     Well, the column says "Author/From."

18          Q     Okay. So she was one or the other. And there's no  
19 recipient, either, is there?

20          A     No.

21          Q     Okay. And then now she's identified again as author  
22 and from, as you say, in this new Exhibit I think it's 735 --  
23 no. Let me back up a minute. I'm a little ahead of myself.

24                 So when we talked about it -- before we get to Becky  
25 Quinn, when we talked about this with Becky Quinn previously

1 we also looked at that document that said it was converted, to  
2 which it was converted. Remember that, the conversion chart?

3 A I remember the chart.

4 Q And remember the conversion chart didn't match the  
5 description of the document. Remember that?

6 A I recall there was some issue with numbers.

7 Q There was some issue. And there was some issue with  
8 numbering, and there was some issue of whether it was the same  
9 document or not, because I think it was a 2006 document versus  
10 a 2002 document. Remember that?

11 A I don't remember that specifically.

12 Q You don't? That's fine. But you remember that  
13 there was some issue as to whether or not document described  
14 as something that Becky Quinn had authored or came from Becky  
15 Quinn was not the same document on the conversion chart. Do  
16 you remember that?

17 MR. BICE: Objection. Foundation.

18 THE COURT: Overruled. You can answer.

19 THE WITNESS: Okay. I don't remember that it was  
20 the Becky Quinn document, but I remember it was a document  
21 that had the issue you're describing.

22 BY MR. PEEK:

23 Q Okay. Now, the document here that goes from  
24 WYNNPRIV, and we have it up here, looks like it's 72 plus 11,  
25 83, about 84-page document that Becky Quinn either had drafted

1 or had sent to or something?

2 A Look, I'm not familiar --

3 Q You're not familiar with the numbering?

4 A If each numbering equals a page, then that's  
5 approximately correct.

6 Q I'll represent to you that each number does  
7 represent a page.

8 A Okay. I agree.

9 Q All right. So you remember that Ms. Spinelli told  
10 us that it got put back on a privilege chart? Remember that?  
11 Remember that discussion that we had? If you don't, that's  
12 fine.

13 A I remember Ms. Spinelli doing something. I don't  
14 remember exactly what it was.

15 Q Okay. Well, let's look at Exhibit 735.

16 MR. PEEK: And I don't know if that's in evidence or  
17 not, Your Honor.

18 THE CLERK: Still proposed.

19 MR. PEEK: Pardon?

20 THE CLERK: It's still Proposed.

21 MR. PEEK: Still proposed. So if we could bring up  
22 Exhibit 735, which --

23 THE COURT: No.

24 MR. PEEK: Bring it up to me. Can you do that, or  
25 do I have to -- can you separate me from the Court and

1 separate the witness from the Court.

2 THE COURT: So exclude Court.

3 (Pause in the proceedings)

4 MR. PEEK: Your Honor, I would offer Exhibit 735,  
5 which is a pleading in this case which is identified as the  
6 Wynn parties' twenty-first supplemental privilege log.

7 MR. BICE: Your Honor, we're going to object. This  
8 witness doesn't -- there's no personal knowledge and no  
9 evidence that the witness had any participation in the  
10 preparation of privilege log -- this privilege log.

11 And I'd also note for the Court that this is -- the  
12 Court has already addressed this attempt to now bring in  
13 documents that we asked them to identify by Bates number, any  
14 documents that you claim that you were prejudiced by or for  
15 which you claim any harm, in our request for production of  
16 documents. None of these documents that they're referencing  
17 here were identified. And we asked for those documents by  
18 Bates stamp, and the Court has already ruled you can't come in  
19 now after you've identified three documents and now start  
20 bringing up a host of whole new documents.

21 THE COURT: Thank you, Mr. Bice.

22 Anything else, Mr. Peek?

23 MR. PEEK: Your Honor, this is a pleading, so I  
24 wouldn't be able to identify a document. It's not a document.  
25 And then these are all privileged documents. I can't identify

1 privileged documents, because I don't know what they are.  
2 What I'm going to show the Court is this pattern and practice  
3 of Wynn Resorts to mask their productions.

4 THE COURT: Okay. If it's a pleading, then it  
5 couldn't have been something that you were responding to a  
6 request for production. But I'm not clear on the privileged  
7 nature of a pleading, since pleadings are typically filed in  
8 my file. So they may be protected under the sealing and  
9 redacting of court records policy by the Nevada Supreme Court,  
10 but certainly --

11 MR. PEEK: I don't think anything here was redacted,  
12 Your Honor. But I'm not trying to -- this is not, as they  
13 suggested the last time to you, my effort to try to get in  
14 highly confidential information in the form of testimony.

15 THE COURT: Is it a pleading?

16 MR. BICE: This is a pleading, Your Honor.

17 THE COURT: Lovely. Pleadings have different issues  
18 than privilege documents.

19 MR. BICE: Absolutely. But here's my response to  
20 the claim that Counsel didn't know the document Bates stamp  
21 numbers. The privilege log has a Bates stamp number on each  
22 document, since the privilege log lists them by Bates stamp  
23 number. Again --

24 THE COURT: I see that.

25 MR. BICE: -- we did not -- again, as the Court has



1 already said, if you didn't identify the documents that you  
2 were going to claim prejudice by, you can't now show up at the  
3 hearing with new document numbers and say, now I want to claim  
4 prejudice for this document, this document, or this document.

5 THE COURT: Okay.

6 MR. BICE: And Mr. Okada --

7 THE COURT: But this is a pleading.

8 MR. BICE: This is a pleading, but it's about the  
9 documents on the privilege log that have numbers. There has  
10 been no disclosure --

11 THE COURT: Mr. Bice --

12 MR. BICE: Yes.

13 THE COURT: -- your objection's overruled.

14 Okay. Now, the pleading, are you asking that it be  
15 admitted for purposes of this hearing, since it's already part  
16 of my record?

17 MR. PEEK: Yes, I am, Your Honor. Yes.

18 THE COURT: Okay. Since it's already part of my  
19 record, Mr. Bice, any objection?

20 MR. BICE: Other than the objection that I note --

21 THE COURT: On scope.

22 MR. BICE: -- that I noted it on scope and it's not  
23 otherwise on file with the Court.

24 Is it?

25 MR. PEEK: No. Discovery documents don't get filed

1 with the Court, Your Honor.

2 THE COURT: I thought you told me it was a pleading.

3 MR. BICE: It's not a pleading. It's just a  
4 disclosure.

5 MR. PEEK: It's a Wynn parties' twenty-first  
6 privilege log, Your Honor, which is on a -- which has a  
7 caption and is put on a pleading paper. Because it's their  
8 service to me.

9 THE COURT: So is it a document that was filed with  
10 the court?

11 MR. PEEK: It is not filed with the court, because  
12 pleadings -- excuse me, discovery documents are not filed with  
13 the court, Your Honor.

14 THE COURT: Right. Discovery documents aren't  
15 pleadings and they're not filed with the court and I wouldn't  
16 otherwise know about it.

17 MR. BICE: And the witness -- again, Your Honor, the  
18 witness has no personal knowledge about this document.

19 THE COURT: Since it's not a pleading, the objection  
20 is sustained. It's something that should have been identified  
21 before. Pleadings I'm going to let you have fair game on.  
22 It's a discovery document, Mr. Peek.

23 MR. PEEK: Your Honor, the request for production  
24 was on documents.

25 THE COURT: Yes.

1           MR. PEEK: The documents on which we claim  
2 prejudice. I'm not claiming prejudice from this document.  
3 What I'm showing to the Court is what the Wynn Resorts  
4 privilege logs, if you will, because these come from the  
5 privilege logs, so I'm not saying that this document itself --  
6 because I couldn't discover it. It didn't come up until much  
7 later in the process. And so you're forbidding me from doing  
8 that and sanctioning me now because I didn't produce something  
9 when I said to the Court all the documents that they have  
10 produced -- because they asked me the documents that have been  
11 produced, what documents have been produced. This is a not a  
12 document that's been produced. This is a discovery document  
13 with a privilege log. No document has been produced.

14           THE COURT: And we've been talking about privilege  
15 logs and comparing --

16           MR. PEEK: We have. And we talked about it at the  
17 last hearing, and you allowed me to do it then.

18           THE COURT: And we've been talking about privilege  
19 logs as they relate to other documents and with you exploring  
20 the foundation related to particular privileged documents or  
21 documents that are listed on the privilege log. And I'll let  
22 you do that. But this document that you are trying to use now  
23 is apparently a document produced -- or a discovery response  
24 produced in this case; right?

25           MR. PEEK: It was served on us, yes, not, quote,

1 unquote, "produced." You're calling it produced, but it  
2 wouldn't be produced. It's not a document produced, Your  
3 Honor, because those would be all of those that have Wynn Bate  
4 numbers that are actually produced, not a WYNNPRIV document.

5 THE COURT: It's a discovery document that was  
6 created and served as part of this litigation. Never mind.

7 MR. PEEK: Your Honor, this says, "Any all documents  
8 that concern, reference, or relate to any contention by you of  
9 prejudice or harm to you related to any redaction."

10 THE COURT: Okay.

11 MR. PEEK: This is not a redaction. This is not  
12 issue of --

13 THE COURT: We've been going through the privilege  
14 log.

15 MR. PEEK: This is not a redaction, Your Honor. The  
16 request --

17 THE COURT: I'm not stopping you from going through  
18 the privilege log. What I am stopping you from doing is  
19 discussing with this witness discovery responses that were not  
20 previously identified. And what you are telling me is this is  
21 a cover sheet that goes to the privilege log; right?

22 MR. PEEK: Correct.

23 THE COURT: Okay. The privilege log is okay. We  
24 can discuss the privilege log till the cows come home.

25 MR. PEEK: Okay. Then I'll go to -- if we could

1 scroll down, I'll see where it starts on the privilege log.

2 MR. BICE: Again, Your Honor, I renew my objection  
3 on the fact that the witness here doesn't have any personal  
4 knowledge about the privilege log. And there's certainly no  
5 foundation that he does. I would also note --

6 THE COURT: But the reason we're going through this  
7 exercise, Mr. Bice and Mr. Peek, is because the witness may  
8 have knowledge about the documents that are identified on the  
9 privilege log, and Mr. Peek is trying to delve into the claim  
10 of privilege that has previously been made by Wynn with a  
11 person who might arguably have knowledge about the document  
12 that is subject to the privilege.

13 MR. PEEK: Your Honor, I might also add if you go  
14 back to the topics that Mr. Schall was required to -- on which  
15 he was required to educate himself, this is one of the topics  
16 on which he was required to educate himself for the 30(b)(6).  
17 So he should have knowledge. And I can go through each of  
18 those topics through that exhibit, Topic 13(e), Topic 13(a),  
19 Topic 20, and I can read those into the record, Your Honor,  
20 from the exhibit. He was required to prepare himself.  
21 Apparently he did not prepare himself on these logs because  
22 they chose not -- Wynn Resorts chose not to prepare him. He  
23 was their 30(b)(6).

24 THE COURT: And you may use his 30(b)(6) deposition  
25 to the extent you think it is appropriate as part of this

1 hearing. But I'm not there yet.

2 Mr. Bice, you wanted to say something, I could tell.

3 MR. BICE: I did. Because there is no such thing --  
4 these references he made to the 30(b)(6) about these privilege  
5 logs is just simply not accurate.

6 THE COURT: Well, Mr. Bice --

7 MR. BICE: I mean, we could -- one can actually read  
8 these. He's representing to you these topics. It's just not  
9 accurate.

10 And my other problem, Your Honor, is --

11 THE COURT: Do we have a copy of it somewhere I can  
12 look at it instead of somebody reading it to me?

13 MR. PEEK: The 30(b)(6), Your Honor --

14 THE COURT: What exhibit number is it/

15 MR. PEEK: -- is Exhibit 771.

16 THE COURT: I have all of these lovely binders. Let  
17 me go find it.

18 Is everybody okay with me looking at Exhibit 771,  
19 which is allegedly a notice of 30(b)(6) deposition but has not  
20 yet been admitted.

21 MR. BICE: Yes.

22 MR. PEEK: Look a Topic 20, Your Honor.

23 THE COURT: My document 771 does not appear to be a  
24 notice of deposition. So it's not -- I'm not going to  
25 actually look at 771, since it's not what you told me it was.

1 (Pause in the proceedings)

2 MR. PEEK: Page 69 through 89, Your Honor, of --

3 THE COURT: Of what?

4 MR. PEEK: Of that exhibit. Your Honor, this is a  
5 notice of -- it's attached to his 30(b)(6) depo, Your Honor,  
6 which is Exhibit 771. So that's where we identified. It is  
7 an Exhibit 1 to his deposition, and it starts on page 69, and  
8 Topic 20, Your Honor, would actually be on --

9 THE COURT: I'm only going to look at the page that  
10 begins on page 69.

11 MR. PEEK: Look at 85, Your Honor, which is --

12 THE COURT: Mr. Peek, can I finish making my record.

13 MR. PEEK: Sorry, Your Honor.

14 THE COURT: 771 is not admitted. I am only looking  
15 at the notice of 30(b)(6) deposition which has been referenced  
16 by the parties, which is in my binder 771-069. I am turning  
17 to the categories that were --

18 MR. PEEK: Category 20. Start with the Category 20.

19 THE COURT: Mr. Peek, could I finish making my  
20 record.

21 MR. PEEK: I'm sorry. I thought you --

22 THE COURT: I'm turning to the topics which begin on  
23 page 78 of Exhibit 771. Mr. Peek you referred me to which  
24 numbers?

25 MR. PEEK: Topic 20, Your Honor.

1 THE COURT: Thank you, Mr. Peek. And Topic  
2 Number 20 is on page number 085, and it has two subparts?

3 MR. PEEK: Yes, Your Honor, it does.

4 THE COURT: And you're referring to 20(b), Macau law  
5 privileges?

6 MR. PEEK: Yes.

7 THE COURT: Anything else?

8 MR. PEEK: 13(e), Your Honor, as well.

9 THE COURT: 13(e) is on page 81 --

10 MR. PEEK: Yes, Your Honor.

11 THE COURT: -- collection and production of WRM  
12 documents for purposes of this action?

13 MR. PEEK: Yes.

14 THE COURT: Anything else?

15 MR. PEEK: 13(a), Your Honor.

16 THE COURT: 13(a) is on page 771-080. It reads,  
17 "The statement by WRM counsel that some documents with U.S.  
18 recipients were produced redacted out of Macau because they  
19 could not be located in the United States, but they were  
20 responsive so we had to produce WRMSA's copy out of Macau with  
21 the MPDPA redactions to the quote to Ms. Spinelli's  
22 declaration."

23 Anything else?

24 MR. PEEK: Topic 10(b), Your Honor. And that is on  
25 page 80.



1           THE COURT: Thank you. Topic 10(b) reads "The  
2 statement by WRL that Wynn Macau's documents are being  
3 reviewed for production [inaudible] subject to Macau data  
4 privacy laws will be produced and/or disclosed by Wynn Resorts  
5 in this action." And then the citation to a brief filed in  
6 opposition to a motion to compel.

7           Anything else?

8           MR. PEEK: No, Your Honor.

9           THE COURT: Okay. Mr. Bice.

10          MR. BICE: Your Honor, my point was very simple.  
11 This assertion that this was somehow in -- this privilege log  
12 issue was somehow the subject of the 30(b)(6) is just simply  
13 not accurate claim. The privilege log -- the witness doesn't  
14 have any personal knowledge of the privilege log.

15          And I'd also note there's -- this sanctions hearing  
16 is supposed to be about our nonproduction of documents. I've  
17 now heard this argument that, well, you know, the privilege  
18 log is confusing, although that's never disclosed in any of  
19 their discovery responses to us. And this sandbagging of  
20 showing up now and trying to change what the sanction hearing  
21 is about because they don't have any evidence, I'd also note  
22 for the Court that Mr. Okada admitted -- and that's Mr. Peek's  
23 only client anymore, Your Honor. Mr. Okada admitted that the  
24 redactions -- he claimed no prejudice from any redactions.

25          THE COURT: Okay. Anything else?

1 MR. BICE: No.

2 THE COURT: To the extent the witness has factual  
3 information about documents that are listed on the privilege  
4 log he can answer those questions.

5 The problem that I have, Mr. Peek, is that there is  
6 a limitation that I am trying to place on you consistent with  
7 your answers to interrogatories. Mr. Kunimoto previously  
8 handed you the answers to interrogatories which said  
9 "redactions," as opposed to "privileges." So --

10 MR. PEEK: These are RFPs, Your Honor, not -- you  
11 said interrogatories.

12 THE COURT: Requests for production. I'm sorry.  
13 Requests for production which related to redactions, not  
14 privilege logs. Is there something specifically on that  
15 discovery response that relates to privilege logs and not  
16 redactions?

17 MR. PEEK: Yes, Your Honor. If you'd allow me to go  
18 forward, I can connect these dots. But --

19 THE COURT: Can you tell me before you go forward.

20 MR. PEEK: Your Honor, this Wynn privilege log that  
21 starts in June of 2016 which identified Document 39328,  
22 WYNNPRIV Document 39328 through 39411 that appears on Exhibit  
23 719-219, their privilege log of June 2016, okay. We came here  
24 and we showed the Court --

25 THE COURT: Mr. Peek, I'm stopping you again because

1 I want to go back a second. Mr. Kunimoto handed you the  
2 actual responses to the requests for production. So my  
3 question was poorly worded. There was a request for  
4 production to which you responded that related to redactions  
5 for which you were seeking sanctions. Is there a similar  
6 request for production related to documents withheld on  
7 privilege which you were asked questions about in that request  
8 for production, or was it only related to redacted documents?

9 MR. PEEK: Your Honor, I'm going to have to --

10 THE COURT: Mr. Kunimoto's thinking. If you hand  
11 him back the document, he might think faster.

12 MR. PEEK: Yeah. So I'm looking the requests, Your  
13 Honor.

14 THE COURT: Yes. That was --

15 MR. PEEK: There were only -- there were only eight,  
16 nine of them. Your Honor, there is another request -- this is  
17 Request Number 7 I referred in redactions. Request Number 8,  
18 which I don't think would apply, but I want to be candid with  
19 the Court, "Any and all documents that concern, reference, or  
20 relate to your compliance with the Macau Personal Data Privacy  
21 Act or other Macau privacy confidentiality laws." I don't  
22 have any such documents, because they didn't produce any. They  
23 withheld them all. Wynn Resorts Macau --

24 THE COURT: Well, but you might have some that were  
25 in your own possession.

1 MR. PEEK: I might have some, Your Honor.

2 THE COURT: Mr. Bice, do you believe there is  
3 anything in that request for production of documents that you  
4 have been referring to that relates to documents withheld on  
5 the basis of privilege, as opposed to redacted documents?

6 MR. BICE: Yes, Your Honor. Actually the Request  
7 Number 7, which they quoted you part of it, is -- Request  
8 Number 7 says, "Any and all documents that concern, reference,  
9 or relate to any contention by you of prejudice or harm  
10 related to any redaction made pursuant to the Macau Personal  
11 Data Privacy Act or other Macau policy/confidentiality laws  
12 identifying the redaction by the Bates stamp number."

13 THE COURT: So that only refers to redactions.

14 MR. BICE: Well, these privilege logs also refer to  
15 redactions, as well. There's redactions for a basis of  
16 privilege, and there's -- some of the documents are withheld  
17 in total on basis of privilege. So even if there's a  
18 redaction, it's on the privilege log and it's got a Bates  
19 stamp number.

20 THE COURT: I understand that, Mr. Bice. What I'm  
21 trying to find out from you is any request for production of  
22 documents that you served in preparation for this hearing was  
23 there a specific request that requested Mr. Peek to identify  
24 each document which was withheld on the basis of privilege,  
25 not redaction, that he was going to claim there was an issue

1 of prejudice for purposes of this sanctions hearing.

2 MR. BICE: Well, the answer to that, Your Honor, is  
3 I need one second, because I need to find --

4 THE COURT: Okay.

5 MR. BICE: -- because we also served a request --

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

7 MR. BICE: Request Number 9 was any documents that  
8 concern, reference, or relate to their answers to our  
9 interrogatories on their motions for sanctions. So in our  
10 interrogatories we specifically asked them -- hold on one  
11 second.

12 THE COURT: Sir, if you want to get up, you can.  
13 This is going to take a little while.

14 MR. PEEK: Your Honor, Interrogatory 13 also refers  
15 to redactions. As does Interrogatory 12.

16 THE COURT: Mr. Peek, can we please let Mr. Bice  
17 finish what he's doing.

18 MR. PEEK: Certainly, Your Honor.

19 THE COURT: Thank you.

20 MR. PEEK: Sorry to be ahead of the game.

21 (Pause in the proceedings)

22 MR. BICE: Yeah. Interrogatory Number 12, Your  
23 Honor, says, "Describe in detail and with particularity all  
24 harm, including attorneys' fees and costs, that you claim  
25 relate to any redactions that are the subject of your motion

1 for sanctions filed with the court." So I don't believe, Your  
2 Honor, we identified any harm associated with the privilege  
3 log, because we had no disclosure by --

4 THE COURT: Oh, you wouldn't have been the one who  
5 was doing it. They would have.

6 MR. BICE: What's that?

7 THE COURT: You would be asking the questions. They  
8 were responding.

9 MR. BICE: Right. Had someone made a claim in the  
10 sanctions motion, in their motion for sanctions which we're  
11 here on, that they were prejudiced by the privilege log, we  
12 would have asked such a question. But since there has been no  
13 claim of prejudice from the privilege log until we got to this  
14 hearing and we've now tried to change what the scope of the  
15 hearing is into something else, that's why. So we object to  
16 trying to convert this hearing into a hearing about the  
17 privilege log, as opposed to a hearing about the MPDPA and the  
18 Macau law objections, Your Honor.

19 THE COURT: But you would not disagree, Mr. Bice,  
20 that certain documents were withheld entirely, not redacted,  
21 based upon the assertion of the Macau Data Privacy Act or a  
22 Macau law privilege?

23 MR. BICE: There are certain documents that were  
24 only in Macau that were withheld entirely because they don't  
25 exist in the United States. The documents that were in the

1 United States that were previously claim privilege, Macau law  
2 privilege that were either redacted or withheld in total have  
3 since been produced. But, yes, there are a collection of  
4 documents in Macau in the possession of Wynn Macau that have  
5 not been produced, and they would be included in the documents  
6 on the privilege log.

7 THE COURT: So we will see those that have been  
8 withheld on the basis of Macau law privilege if we continue  
9 this exercise?

10 MR. BICE: Yes.

11 THE COURT: Okay.

12 MR. BICE: But they will be listed by Bates number.

13 THE COURT: Thank you.

14 Mr. Peek, you can continue.

15 MR. PEEK: Thank you, Your Honor.

16 BY MR. PEEK:

17 Q So where I was is directing your attention to the  
18 privilege log I think was 735, page 4, of that privilege log.  
19 And there we see --

20 THE COURT: 735 is one of the privilege logs. There  
21 is no objection to the privilege log being admitted for  
22 purposes of today's hearing; right, Mr. Bice?

23 MR. BICE: Yeah. I renew my objection on the same  
24 scope, Your Honor. It's beyond the scope of this matter.

25 THE COURT: Overruled.

1 MR. BICE: Thank you.

2 BY MR. PEEK:

3 Q So we had to -- first of all there was a statement  
4 that it was converted to a different document. We went over  
5 that last time. And if you want me to go over it again, I  
6 will, but I'm trying not to cover old ground. But if you'd  
7 just agree that the document that we went over last time on  
8 the conversion chart was not a Becky Quinn document identified  
9 as anything related to a draft agreement protected by Macau  
10 SAR region law in 16-21.

11 A I recall there was an issue of conversion with the  
12 document. The numbers didn't match, yes.

13 Q Okay. So remember there was a statement that just  
14 got put back on a privilege log, this document? You see that?  
15 This is the privilege log. You see it up at the third entry,  
16 Becky Quinn?

17 A Yes, I see it.

18 Q So now we have Becky Quinn either authoring as an  
19 administrative assistant, or she's sent this to somebody, and  
20 it's called a draft summary of legal advice re concession  
21 obligation. You see that? That's what that document is  
22 identified as; correct?

23 A I see what it says here.

24 Q Okay. Does it show a recipient?

25 A Nope.



1           Q     Now, if somebody's offering legal advice, there has  
2 to be somebody to whom the legal advice is being directed;  
3 correct?

4           MR. BICE:  Objection, Your Honor.  Beyond the scope.

5           THE COURT:  Overruled.

6           THE WITNESS:  Typically.

7 BY MR. PEEK:

8           Q     There's a recipient; right?  So we know Becky's not  
9 a lawyer; correct?

10          A     I know she's an administrative assistant.

11          Q     Okay.

12          A     I don't know that she's not a lawyer.

13          Q     Okay.  Fair.  But we also know that Becky didn't  
14 send this apparently to anybody, or at least from the  
15 description; correct?

16          A     I know that the recipient column is blank.

17          Q     Okay.  Now, certainly the original description was a  
18 draft agreement, and now it's been converted to now legal  
19 advice; correct?

20          A     The first document you showed me, it says "Draft  
21 agreement protected by Macau law."  This one says "Draft  
22 summary of legal advice."

23          Q     By the way, I just want to make clear, and I'm  
24 pretty sure that we covered this ground, but just to sort of  
25 set the stage again, my recollection is that WRMSA was the

1 concessionaire; correct?

2 A WMRSA is the concessionaire.

3 Q Is -- not was. Is the concessionaire; correct?

4 A Correct.

5 Q And it was a concessionaire as of the awarding of  
6 the concession in February 2002; correct?

7 A Again, I don't recall exactly when it was awarded,  
8 but sometime in 2002.

9 Q And it was the party -- just for you, Mr. Schall,  
10 our M&Ms.

11 A Thank you.

12 Q And if -- so WRMSA would have been the party to the  
13 concession agreement when it was finalized; correct?

14 A That's correct.

15 Q Okay. Now, this past Friday, August 18th, at  
16 6:07 p.m., we were served with a new privilege log. This  
17 is Exhibit 809.

18 MR. PEEK: So can you show him Exhibit 809, which  
19 again is just a privilege --

20 THE COURT: Any objection to 809, which is just a  
21 privilege log?

22 MR. PEEK: I'm going to show just the privilege log.

23 MR. BICE: Same objection as before, Your Honor.

24 Again, this is beyond the scope of -- my apologies. It's  
25 beyond the scope of this hearing, as this is not the subject

1 of their motion. If they wanted to have a different hearing  
2 about a privilege log, we would have been happy to have done  
3 so.

4 MR. PEEK: Your Honor --

5 THE COURT: Objection's overruled.

6 THE CLERK: I'm sorry. There's no 809 on the  
7 exhibit list [inaudible].

8 MR. PEEK: We supplemented?

9 THE CLERK: Yes. [Inaudible].

10 MR. PEEK: Okay. Let me --

11 THE COURT: And I assume that part of that document  
12 is not a privilege log by the way you've referenced that. So  
13 can you give me the page numbers of the document we're seeking  
14 to admit.

15 MR. PEEK: I have it as 809. I don't know how --  
16 why it went to Dulce as --

17 THE CLERK: It was supplemented again last night.

18 MR. PEEK: The problem is, Your Honor, we got this  
19 on Friday at 6:07, so Dulce may not have gotten it, because  
20 it's -- we weren't able to supplement it until now. My  
21 apologies, Dulce.

22 THE COURT: And which page does the privilege log  
23 start on?

24 MR. PEEK: Your Honor, this actually -- just to be  
25 clear the privilege log would begin on page 4.

1           Nick, do you not have this loaded up? I could show  
2 him the hard copy.

3           Your Honor, may I approach and find --

4           THE COURT: You may. 809, which should be in one of  
5 the white books near the end.

6 BY MR. PEEK:

7           Q     It would be in that last volume. Is that it?

8           A     Yeah.

9           Q     Can you turn to 809.

10          MR. PEEK: May I look over --

11          THE COURT: You may.

12          MR. PEEK: Thank you, Your Honor.

13          THE COURT: But you may not have any M&Ms.

14          MR. PEEK: I know the rule, Your Honor.

15          THE COURT: And please don't put the thing on the  
16 mike, or Jill will get mad.

17          MR. PEEK: The privilege log begins on 809-5, Your  
18 Honor.

19          THE COURT: Thank you.

20          MR. PEEK: And it continues through 809-101. So  
21 that's what I would offer.

22          THE COURT: So pages 5 through 101 of 809 will be  
23 offered, since it's just the privilege log.

24          THE CLERK: Is it offered, or admitted?

25          THE COURT: No. It's admitted.

1 (Defendants' Exhibit 809-5 through 809-101 admitted)

2 BY MR. PEEK:

3 Q If you would now turn to page 16. So it'd be  
4 Exhibit 809-16.

5 MR. PEEK: Do you have it, Nick, now? Okay. Thank  
6 you.

7 BY MR. PEEK:

8 Q Now, do you see that the document which had  
9 previously been identified twice on a privilege log has now  
10 been released, this 39328, this 84-page document? You see  
11 it's released?

12 A Yes.

13 Q Okay. And remember it was first described as a  
14 draft agreement; correct?

15 A Yes.

16 Q And then it was later described in February 22nd of  
17 this year as a legal summary or legal memorandum by Becky  
18 Quinn; correct? Or from Becky Quinn.

19 A "Summary of Legal Advice."

20 Q Summary of legal advice; correct? Okay. So now  
21 let's look at WYNN103322, and it is Exhibit 810. It should be  
22 in your folder right there, Exhibit 810.

23 THE COURT: That's a proposed exhibit.

24 MR. PEEK: That's proposed exhibit that was just  
25 produced, Your Honor, on Friday.

1 THE COURT: I'm not looking at the big-screen TVs.

2 MR. PEEK: It's not on the big-screen TV. I don't  
3 think it's anyplace on the screen, Your Honor.

4 THE COURT: Okay.

5 BY MR. PEEK:

6 Q Do you have Exhibit 810?

7 A I do.

8 Q Okay. Exhibit 810 is a concession agreement, is it  
9 not?

10 A No.

11 Q Sorry. My apologies. Maybe I pulled up the wrong  
12 document here or I gave you the wrong -- my apologies.  
13 Actually, I need to -- it's actually Exhibit 811. I was one  
14 off. It's a concession agreement, is it not?

15 A It appears to be.

16 THE COURT: Sir, do the Bates numbers match on the  
17 one you're looking for? Do the Bates numbers match?

18 BY MR. PEEK:

19 Q Now, the description --

20 THE WITNESS: I can't read it.

21 THE COURT: You're not the only one.

22 THE WITNESS: Yes [inaudible].

23 BY MR. PEEK:

24 Q In the released document, which is 809-16, it says  
25 Production Bates 103332. That's in Exhibit 809, page 16;

1 correct?

2 A Well, sorry. I have 103332 as 811-1.

3 Q Correct. The Judge was asking you is it the same  
4 release -- document that's showed as being released?

5 THE COURT: Same numbers.

6 BY MR. PEEK:

7 Q That appears in Exhibit 809, so you have to go back  
8 to 809 --

9 A Oh. I understand. So --

10 THE COURT: He's already done that. He got close to  
11 the screen and told me the numbers were the same.

12 MR. PEEK: Okay. The numbers are the same.

13 BY MR. PEEK:

14 Q And this is a concession agreement now that's been  
15 released; correct?

16 A That's what it's labelled, yes.

17 Q And you're familiar with concession agreements;  
18 correct?

19 THE COURT: Don't show it. It's not admitted,  
20 please.

21 MR. PEEK: Not admitted yet, Nick. Sorry.

22 THE WITNESS: I'm familiar with concession  
23 agreements, but not this one.

24 BY MR. PEEK:

25 Q Okay. And you're not familiar with this one because

1 this is a concession agreement with Stanley Ho, isn't it?

2 MR. BICE: Objection, Your Honor. The document's  
3 not in evidence.

4 THE COURT: Overruled. He can ask the witness  
5 certain questions about the document without admitting it.  
6 Ho, H-O.

7 BY MR. PEEK:

8 Q So the description was -- this is a concession  
9 agreement with Stanley Ho, isn't it?

10 A With SJM.

11 Q SJM. That's Stanley Ho's company; correct?

12 A Correct.

13 Q In fact it identifies Stanley Ho as one of the  
14 individuals that's Party B, representing Societe --

15 THE COURT: Mr. Peek, you can't read from the  
16 document, because it's not admitted.

17 BY MR. PEEK:

18 Q This is the Stanley Ho concession agreement;  
19 correct?

20 A It's the SJM --

21 Q SJM.

22 A -- concession agreement.

23 Q Not the Wynn Macau concession agreement; correct?

24 A I haven't looked through the whole thing, but  
25 appears to be SJM's.



1 Q And it's not the Becky Quinn legal memorandum,  
2 either, is it?

3 A Well, I don't know what the Becky Quinn legal  
4 memorandum is.

5 Q I don't, either. But it doesn't appear to be a  
6 legal memorandum, does it?

7 A I'll agree with that.

8 Q And it doesn't appear to be something drafted by  
9 Becky Quinn, either, does it?

10 MR. BICE: Objection. Foundation.

11 THE COURT: Overruled. You can answer.

12 THE WITNESS: I'll agree with that, as well.

13 BY MR. PEEK:

14 Q Okay. So when we saw in the first description under  
15 Macau law privilege of Becky Quinn as the draft agreement do  
16 you know whether Becky Quinn would have had any involvement  
17 whatsoever in the drafting of the concession to SJM?

18 A I don't know Becky Quinn. It seems unlikely if the  
19 description of her position is accurate.

20 Q There were three concessions granted in February of  
21 2012; correct? Or '02, February 2002, after the tender  
22 process; correct?

23 A I don't know if it was February, but early 2002.

24 Q But there were three concessions; correct?

25 A Correct.

1 Q One to Galaxy; correct?

2 A Yes.

3 Q One to Wynn Resorts Macau SA; correct?

4 A Yes.

5 Q And one to Stanley Ho, SJM; correct?

6 A Yes.

7 Q So do you have any reason -- does Wynn Resorts --  
8 WRMSA have any reason to claim Macau law privilege over a  
9 Stanley -- over SJM's concession agreement?

10 A No.

11 Q Now, remember that you told us that Article 92 of  
12 the concession agreement, your concession agreement, has a  
13 confidentiality provision?

14 A I don't remember if it's 92, but --

15 Q Would you look at 92, this one, and read it to  
16 yourself.

17 A Theirs is 92, so --

18 Q The one for SJM is also 92?

19 A Yes.

20 Q And do you know why it is that Wynn Resorts Limited  
21 Las Vegas would have Stanley Ho's concession agreement if it's  
22 protected by confidentiality?

23 A I have no idea.

24 Q But you would think that protection by  
25 confidentiality means that third parties wouldn't have copies

1 of the concession agreement; correct?

2 A Until they're published in the Official Gazette and  
3 made public record, that's correct.

4 Q So is this -- was this published in the Gazette?

5 A Yes.

6 Q Okay. So once it became a public document the  
7 production of the concession agreement between WRMSA and the  
8 Macau Government is available for anybody to review; correct?

9 A Yes.

10 Q Okay. Now, when you were preparing for your  
11 30(b)(6) deposition did you review documents on which there  
12 was a claim of Macau law privilege?

13 THE COURT: In preparation for his deposition --

14 MR. PEEK: 30(b)(6) deposition.

15 THE COURT: -- did he review documents to make  
16 himself knowledgeable --

17 MR. PEEK: Correct.

18 THE COURT: -- in response to the subpoena and the  
19 categories.

20 MR. PEEK: Correct.

21 THE COURT: Okay.

22 THE WITNESS: I don't recall exactly what documents  
23 I reviewed, but I reviewed documents which would enable me to  
24 execute my 30(b)(6) deposition in a competent manner.

25 //

1 BY MR. PEEK:

2 Q Well, did you review those documents over which  
3 there was a Macau law privilege claim?

4 A I can't specifically recall what documents I looked  
5 at. I'm sorry.

6 Q Well, in fact when you testified you told me you  
7 looked at some pleadings, you looked at some discovery  
8 requests. You didn't actually look at any of the documents  
9 produced, did you, Mr. Schall?

10 A Maybe that's why I don't recall.

11 Q Okay. Well, when you testified just in June of this  
12 year remember you told you did not actually look at documents  
13 that had been produced?

14 A Okay.

15 Q Remember that?

16 A No.

17 Q Okay. So can you think of any reason why WRMSA  
18 would have any interest in claiming that SJM's concession  
19 agreement was subject to Macau law privilege?

20 A Why WRMSA would make that claim?

21 Q Uh-huh. Uh-huh.

22 A I'm not sure WRMSA made that claim, but if they did,  
23 I don't know why it would.

24 Q Well, isn't it WRMSA who holds that so-called Macau  
25 law privilege?

1           A     Is it WRMSA that holds the Macau law privilege?

2           Q     That you're claiming.

3           A     Using the term "Macau law privilege" is something  
4 that WRMSA used.

5           Q     Yes. So in preparation for production of documents  
6 I would imagine that the Pisanelli Bice group came to you and  
7 said, you hold the privilege, WRMSA, you, Jay Schall, what do  
8 you think about whether this document should or should not  
9 have a claim of privilege on it? Did you do that?

10          A     There are occasions where they requested my advice  
11 on that topic, not related to a concession agreement.

12          Q     Related to any Macau law privilege, such as the land  
13 concession?

14               MR. BICE: Objection, Your Honor. Attorney-client  
15 privilege.

16               THE COURT: Sustained.

17               MR. PEEK: That's a subject matter question, Your  
18 Honor.

19 BY MR. PEEK:

20          Q     Okay. Were you ever asked to review documents  
21 related to the land concession --

22               MR. BICE: Your Honor, I'm going to renew my --

23 BY MR. PEEK:

24          Q     -- in preparation for --

25               MR. BICE: I'm sorry. My apologies. I'll let him

1 finish.

2 THE COURT: In preparation for 30(b)(6) depo?

3 MR. PEEK: In preparation for -- no, for production  
4 of the documents in Macau.

5 THE COURT: Mr. Bice.

6 MR. BICE: Your Honor, I'm going to renew my  
7 objection about the scope of this. And one of the things I'd  
8 like to point out to the Court because I didn't have a chance  
9 to when you were asking me about the discovery requests that  
10 we had made of them is in our 30(b)(6) notice to them this was  
11 Topic Number 14, "Knowledge, understanding, facts and  
12 circumstances related to each act that -- by Wynn Resorts that  
13 violates any Court order that is the subject of your motion  
14 for sanctions." Their 30(b)(6) witness did not identify any  
15 of these alleged issues with the privilege logs and made no  
16 such claim at their 30(b)(6) deposition. So --

17 THE COURT: So are you saying because of that it's  
18 outside the scope even though it wasn't in your request for  
19 production?

20 MR. BICE: Well, it wasn't in our request for  
21 production because it wasn't in their motion. And so we  
22 asked --

23 THE COURT: Issues with the privilege log and the  
24 Macau law privilege have been around for us for a year and a  
25 half, maybe two years at this point. But it's been a while.

1 MR. BICE: I get that.

2 THE COURT: So it's not like I hadn't known that we  
3 were having issues related to the claim of privilege, not just  
4 redaction --

5 MR. BICE: Fair.

6 THE COURT: -- but claim of privilege.

7 MR. BICE: That's fair.

8 THE COURT: But you are entitled to ask them  
9 questions, and I allowed you discovery related to that issue.  
10 So if what you're telling me is you asked the question and  
11 their response was, we're not telling you anything --

12 MR. BICE: Any violation of the Court order that  
13 they were claiming is what the -- Topic Number 14 of their  
14 30(b)(6), and we heard none of this. So this is outside the  
15 scope. You can't show up at the hearing after no witness  
16 showed up and gave any of this story about the privilege log  
17 and then claim, well, we now want to discuss it at the  
18 evidentiary hearing.

19 THE COURT: Okay. Sir, I'm going to let you get up  
20 and take about a five-minute break, go to the restroom, get  
21 some more water or something while I listen to whoever it is  
22 on this side of the room who knows the answer on this  
23 question. I'm looking at Mr. Krakoff, maybe Mr. Kunitomo.

24 MR. PEEK: Perhaps we should have a citation, Your  
25 Honor, to that topic being examined from Mr. Bice, as opposed

1 to the palpable misrepresentations I've heard so far from Mr.  
2 Bice on all these other topics.

3 THE COURT: So is there a depo reference, Mr. Bice?

4 (Pause in the proceedings)

5 MR. PEEK: I know Mr. Krakoff's going to address  
6 this, but I'm going to raise this again, because --

7 THE COURT: Well, can I have -- let's get to the  
8 point where Mr. Bice is answering my question first, please.

9 MR. BICE: And I'm looking right now, Your Honor,  
10 through the transcript. Unfortunately, I don't have my  
11 highlighted version, so I'm looking right now.

12 Your Honor, they actually had notes prepared for  
13 Topic Number 14, Mr. Krakoff's client did. So let's -- since  
14 they have those notes, let's see if they actually prepared him  
15 on this topic. I would ask the Court to see his notes. I  
16 don't think --

17 Do I have those exhibits with us?

18 -- because the Court will find none of this in those  
19 notes, I don't believe.

20 THE COURT: So you have the transcript and notes  
21 were attached as an exhibit?

22 MR. BICE: That's what I'm looking for right now,  
23 Your Honor.

24 THE COURT: And was there a reference to the notes  
25 in the deposition itself indicating those were the draft



1 answers?

2 MR. BICE: I believe so. I believe they had a list  
3 of notes for each topic that they prepared him on, and they  
4 had a list of notes.

5 THE COURT: Well, let's wait and see if that's true.

6 MR. KRAKOFF: Your Honor, the fundamental response  
7 here is Mr. Takeuchi testified that documents that were  
8 withheld prejudiced them. They didn't know what was in those  
9 documents. That is -- he repeatedly testified --

10 THE COURT: I am aware of that. But that's not what  
11 I'm asking now.

12 MR. PEEK: What is it you're asking, as to what he  
13 testified to, Your Honor, on that topic?

14 THE COURT: And if the notes were used in lieu of  
15 testimony at the deposition what the notes said.

16 MR. KRAKOFF: He didn't -- I recall this, Your  
17 Honor. [Inaudible]. I don't have the transcript right in  
18 front of me, but I recall he did not -- he did not say, look,  
19 my testimony's in the notes. There was nothing in lieu of his  
20 testimony. The notes he prepared, and testified clearly about  
21 this, based upon conversations that he had in preparation, and  
22 he made notes on each topic, which we produced to Wynn  
23 Resorts.

24 THE COURT: Okay. Well, let's see what we get.

25 Does anybody else need a break, since the witness

1 got one?

2 Sure, Mr. Peek, you can be a witness. I'm sure Mr.  
3 Bice would love that. He's had that --

4 THE COURT: I haven't had you be a witness in, what,  
5 four years?

6 MR. PEEK: He had that opportunity --

7 THE COURT: Once before.

8 MR. PEEK: Once before.

9 MR. BICE: We have the notes right here, Your Honor.  
10 I think there are four lines for notes.

11 THE COURT: Well, but I also need the relationship  
12 of the transcript to the notes.

13 MR. BICE: I'm looking for that, Your Honor. My  
14 apologies.

15 THE COURT: I'm patiently waiting. This is my  
16 patient face. I know that you don't see it very often.

17 Ms. Sinatra, nice article on your pro bono work. I  
18 said nice things the other day about Ms. Smitt and Ms.  
19 Spinelli, so I'm sharing that about you, too.

20 MS. SINATRA: Thank you.

21 (Pause in the proceedings)

22 THE COURT: Any luck, guys?

23 MR. BICE: No, Your Honor. We're looking. I didn't  
24 cover the topic-by-topic number only.

25 MR. KRAKOFF: Your Honor, I know we turned them over

1 in the middle of his deposition. We're not finding them as  
2 being marked by Mr. Bice as an exhibit. But I know that that  
3 happened, because I handed them to Mr. Bice.

4 MR. BICE: Handed what?

5 MR. PEEK: The notes.

6 MR. KRAKOFF: The notes.

7 MR. BICE: Yes, I have the notes.

8 MR. PEEK: He's saying they weren't marked as  
9 exhibits --

10 THE COURT: Did you mark them as an exhibit to the  
11 deposition?

12 MR. BICE: I don't believe we did. I don't believe  
13 we did, Your Honor.

14 THE COURT: So that won't help me.

15 MR. BICE: Not all of them. But we do have -- we  
16 did have the notes, Your Honor. And I believe, and I'm having  
17 this look for, he testified he had not seen our redaction log.  
18 And I don't believe he'd seen any privilege log. So how they  
19 have prepared him to testify or provide any testimony as to  
20 any supposed prejudice or harm from any privilege log is  
21 beyond me.

22 THE COURT: Did he have a citation to the deposition  
23 where he says that?

24 MR. BICE: We're looking, Your Honor. My apologies.

25 THE COURT: Thanks.

1 MR. PEEK: Your Honor, the --

2 MR. KRAKOFF: Your Honor, I would just point out  
3 that this privilege log Mr. Bice is talking about is highly  
4 confidential. He couldn't look at that in the first place.

5 THE COURT: The privilege log's highly confidential?

6 MR. PEEK: Yes.

7 MR. KRAKOFF: Yes.

8 MR. PEEK: They designated privilege logs as highly  
9 confidential, Your Honor.

10 (Pause in the proceedings)

11 MR. BICE: Your Honor, here's what I know. He saw  
12 three documents. That's page 193. He saw three documents.  
13 He saw no redaction log, and he saw no privilege log. He saw  
14 three documents, that's if they had him prepared to testify on  
15 -- for us. So, yes, this is beyond the scope of what this --  
16 their 30(b)(6) that was asked to be prepared to testify to any  
17 purported violations of any court order, and he showed up with  
18 three documents.

19 THE COURT: Okay. So does anybody want to respond?

20 Mr. Krakoff, I think you were there at the  
21 deposition. Do you want to respond or do you want to let Mr.  
22 Peek respond?

23 MR. PEEK: I have something else to add, Your Honor.

24 THE COURT: Okay.

25 MR. KRAKOFF: Your Honor, they didn't ask him about

1 privilege log. He couldn't look at any privilege logs even if  
2 they had. And so I think this is frankly a red herring, it's  
3 a distraction, because they know and they -- he couldn't have  
4 looked at this anyhow.

5 THE COURT: So here's my question to you, Mr.  
6 Krakoff. You are aware I allowed discovery in advance of this  
7 hearing to try and narrow the issues about what the prejudice  
8 related to these documents that there have been withheld and  
9 then a wilfulness issue. Those are my two main things I'm  
10 doing for purposes of this. Is it your position that he  
11 testified related to the privilege log issue in one way,  
12 shape, or form of the other?

13 MR. KRAKOFF: You know, honestly, Your Honor, I  
14 really have to keep searching on our transcript.

15 THE COURT: All right.

16 MR. PEEK: Your Honor, the problem I have certainly  
17 with these arguments is that the disingenuousness of these  
18 arguments are palpable. Because when I brought up the  
19 30(b)(6) of Jay Schall and the topics on which Mr. Schall was  
20 asked to testify and asked to prepare, he didn't prepare. He  
21 didn't look at any Wynn privilege logs, he didn't look at any  
22 WRM privilege logs, he didn't look at any documents at all  
23 that had redactions or not have redactions as he was asked to  
24 do. So what I looked at --

25 THE COURT: All right. Mr. Peek, I didn't see that

1 within the 30(b)(6) depo topics that I saw. I understand your  
2 position, but if I was --

3 MR. PEEK: You're saying that the Topic 28, which  
4 deals with privileges, is not something he should have  
5 prepared on?

6 THE COURT: None of those issues would have elicited  
7 me giving a witness, as a lawyer, a privilege log to review  
8 the way those questions were phrased -- the topics were  
9 phrased. But I'm sure there's people who may disagree with  
10 that. So what I'm trying to figure out is is there -- wait.

11 MR. PEEK: So policy, practices, and procedures,  
12 including compliance with the MPD and the Macau law  
13 privileges, you'd have to look at documents in order to be  
14 able to know whether there was compliance.

15 THE COURT: No, I don't think you would.

16 MR. PEEK: Okay.

17 THE COURT: So let me ask the question a different  
18 way. Mr. Bice is essentially arguing that you're trying to  
19 sandbag him by failing to provide information in the discovery  
20 process leading up to this hearing about what issues you were  
21 prejudiced about. We've had this discussion on Day 1, which  
22 was on July 26th, and now we're on Day 4 and we're still  
23 having this discussion. I'm trying to have you identify for  
24 me where in your responses to discovery, whether it was the  
25 30(b)(6) deposition, the response to the requests for

1 production, or the answers to interrogatories, where you  
2 identified the failure to provide privileged documents as part  
3 of the issues for this hearing. Not the prior briefing. I'm  
4 in the discovery.

5 MR. PEEK: Well, I wasn't asked to identify them,  
6 Your Honor, because --

7 THE COURT: You weren't?

8 MR. PEEK: No, because if you'd look at the  
9 interrogatories, it deals with redactions, it doesn't deal  
10 with the privilege logs.

11 THE COURT: That was the request for production.

12 MR. PEEK: And the same thing with interrogatories,  
13 interrogatories, as well. The 30(b)(6) was not a 30(b)(6) of  
14 an individual. So the 30(b)(6), I can't -- Mr. Krakoff has  
15 the answer there. I don't have that answer, Your Honor,  
16 because I was not involved, since you don't take a 30(b)(6) of  
17 a individual, and my client was Mr. Okada at that time when he  
18 was deposed or --

19 THE COURT: Mr. Krakoff has an answer for me. I can  
20 tell by the way he's looking at me.

21 MR. PEEK: Maybe he has an answer, but I can't give  
22 you an answer. So I wasn't requesting interrogatories, I  
23 wasn't requested in productions for privilege.

24 THE COURT: Okay. Mr. Krakoff.

25 MR. KRAKOFF: What I'm learning, Your Honor, or

1 being reminded of is that the 30(b)(6) notice didn't ask about  
2 withheld documents at all, only redactions. So the topic  
3 didn't come up.

4 MR. BICE: That's just -- I read it to Your Honor.

5 THE COURT: Mr. Bice, can you give him the topic  
6 number.

7 MR. BICE: It's 14.

8 THE COURT: Can you show it to him.

9 MR. BICE: Yeah. Let me find it again, Your Honor.  
10 It claimed any acts by us that were in violation of the  
11 Court's order that is the subject matter of the motion for  
12 sanctions. And as I understand it, what we're doing here  
13 today is there's an accusation that these privilege logs  
14 somehow violate a court order. Because otherwise I don't know  
15 why we're spending all this time on it, particularly with a  
16 witness who doesn't know anything about the privilege logs.

17 THE COURT: Well, but he may have information about  
18 the underlying documents that are identified in the privilege  
19 log, which is why I've allowed him to answer questions on that  
20 issue.

21 MR. BICE: I agree, Your Honor. I will stipulate  
22 that there are documents in Macau that have not been sent to  
23 the United States the are -- we have not produced, because  
24 Wynn Resorts -- or Wynn Macau has said they will not release  
25 them. I mean, we stipulated that.



1           THE COURT: I had that discussion this morning about  
2 the validation set. So if I could ask you a slightly  
3 different question then, Mr. Bice.

4           MR. BICE: Yes, Your Honor.

5           THE COURT: Can you tell me why that document got  
6 produced on the third round.

7           MR. BICE: Yeah. We can. I'm going to let Ms.  
8 Spinelli address it --

9           MR. PEEK: Can we do this on the witness stand, Your  
10 Honor, under oath?

11          THE COURT: No. I'm not going to have her put under  
12 oath right now.

13          MR. PEEK: Well, she may think that's funny, but,  
14 Your Honor, I --

15          THE COURT: This is not part of my sanctions  
16 hearing, this is an inquiry by me.

17          MR. PEEK: Okay.

18          MS. SPINELLI: Your Honor, when you made the order  
19 about all documents that were not -- that just were Macau law  
20 privilege, as opposed to any other privilege, my team went  
21 back and released all the -- released the documents that had  
22 Macau law privilege. When we did that some of the  
23 descriptions looked like draft or attorney-client privilege,  
24 and you allowed us to -- if there was some other protection,  
25 to assert it. Which is what we did.

1 THE COURT: Sure.

2 MS. SPINELLI: Whether they can challenge it or not  
3 obviously is subject to what they want to do.

4 THE COURT: So who on Earth would have thought that  
5 met either attorney-client privilege or some other --

6 MS. SPINELLI: Well, the document actually says in  
7 the footnote that it's a draft summary. It has HK on it,  
8 which reveals generally that it's done by a lawyer. And Becky  
9 Quinn is the legal assistant, or was, to Marc Rubinstein, who  
10 was general counsel of Wynn Resorts before Wynn Macau was  
11 created in 2002 when they were doing the concessions. The  
12 reason why it was produced this last time, Your Honor, is  
13 because when he brought it up I went back and looked at it and  
14 saw Ho, every one was just [unintelligible] Ho and concession.  
15 The same time we got our concession agreement I saw it was  
16 Stanley Ho, and in good faith I produced it. They can  
17 complain about it all they want, but --

18 THE COURT: How many others are there where the same  
19 error has occurred?

20 MR. PEEK: There are a number of them, Your Honor,  
21 I'm going to go over.

22 THE COURT: Mr. Peek, I'm talking to Ms. Spinelli.

23 MS. SPINELLI: We produced a handful of documents  
24 based upon our review. The reason why we served a  
25 supplemental and amended privilege log on Friday, Your Honor,

1 was because we were here before you. There was the cross-  
2 reference sheet, and everybody said it was really complicated  
3 in the errata. So this was to bring clarity to the issue. We  
4 have the Bates numbers of the release, we provide columns that  
5 say what were released and the Bates numbers that were both  
6 WYNNPRIV on the original log, and then also the Bates numbers  
7 for the release log. So rather than some horrible thing, we  
8 went back to make it clear that -- you know, when it was  
9 produced and all that other stuff.

10 So this was to bring clarity. I looked at it  
11 because any good lawyer when gets questioned in a court of law  
12 about a document and they -- I went back and looked at them  
13 because I felt slightly attacked, and it was personal to me.  
14 I looked back at the documents and saw that it was a Stanley  
15 Ho draft agreement, it wasn't our privilege.

16 THE COURT: So how many others like this are there?

17 MS. SPINELLI: I think we did a production on Friday  
18 of a handful of documents --

19 THE COURT: That's not what I'm asking. What I'm  
20 asking is how many others have been identified on the  
21 privilege log misidentified like this document? And if you  
22 don't know, you don't know.

23 MS. SPINELLI: I don't know. I don't know, but I  
24 don't -- with the meet and confers with the other side I'd  
25 sent a letter, I don't remember what point, I can look at it,

1 in June.

2 THE COURT: Well, but they will meet and confer with  
3 you based upon the description you include in the privilege  
4 log. And if the description you include in the privilege log  
5 is a memo seeking legal advice, they're going to meet and  
6 confer with you on different issues than a concession  
7 agreement that Stanley Ho's company entered into.

8 MS. SPINELLI: Absolutely. And the reason why the  
9 meet and confer worked, Your Honor, was because when I went  
10 back and looked at it -- the first said it was a concession  
11 under Macau law. We went back and looked at it, it was draft  
12 with attorney stamp on the document. So when we adjusted it  
13 for privilege we said that. But then when we looked at it  
14 again -- nobody would have ever known if I misrepresented or  
15 made false statements, but it was a Stanley Ho agreement, so  
16 that was my oops.

17 THE COURT: Oh. I absolutely understand. I'm just  
18 trying to figure out how many like that -- because you're  
19 dealing with a large team of individuals, some who are not  
20 with your firm and are contractors, how many other  
21 misdesignations we may have in the column that is the  
22 descriptor.

23 MS. SPINELLI: I don't believe, actually, Your  
24 Honor, that we have. This review was done -- this last review  
25 was done largely by me.

1 THE COURT: No, not the last review. I'm talking  
2 about the first and the second review. I know what you did,  
3 you've explained this most recent review that you've done.  
4 I'm talking about the original times they were reviewed.

5 MS. SPINELLI: Post your order, Your Honor, it was  
6 me. I did it. Because I wanted to be consistent with Sands-  
7 Jacobs, quite frankly. And your order's in there, so I wanted  
8 to be clear about it. And because we were asserting  
9 privilege. But I wasn't perfect, so I got one doc.

10 THE COURT: Okay. Mr. Peek?

11 MR. PEEK: Your Honor, this was put on the privilege  
12 log in June 2016.

13 MS. SPINELLI: Right.

14 MR. PEEK: Ms. Spinelli represents to you that it  
15 has attorney-client on it. I'm looking at it. I see nothing  
16 here that would suggest that it is an attorney-client  
17 document. I see nothing anywhere within here that would  
18 suggest that it has some form of privilege. If you look at  
19 the first page of it, it is Party B, SJM. So all you have to  
20 do is look at the first page.

21 THE COURT: And we may have a discussion about the  
22 issues in the privilege log which are not related to this  
23 witness. I want to try and get this witness out of here.

24 MR. PEEK: I understand, but you're asking Ms.  
25 Spinelli to explain. And so when I hear that explanation when

1 I -- it starts out in June of 2016, and then they come back  
2 and put it on a conversion log and the conversion log is a  
3 completely different document. And then they supplemented on  
4 February 22nd, and put it back on a privilege log, that means  
5 that they looked at it now three times. They've looked at it  
6 three times, and then they had subsequent disclosures, and now  
7 we get it at 6:07 on Friday before the hearing on Monday?

8 THE COURT: No, after Day 3, before Day 4.

9 MR. PEEK: Yeah.

10 THE COURT: Because we've been in the hearing for a  
11 while.

12 MR. PEEK: I understand.

13 THE COURT: Okay.

14 MR. PEEK: But when you look at that pattern, Your  
15 Honor, that's wilfulness, and I know we'll argue about it  
16 later. But to hear --

17 THE COURT: I'm not there -- that --

18 MR. PEEK: -- this explanation that says, oh, it had  
19 attorney on it or it had something that suggested attorney was  
20 preparing it or Becky Quinn had any involvement in it at all  
21 is disingenuous at best.

22 THE COURT: So, Mr. Peek, what I'd like to -- I'd  
23 really -- you can argue this later. What I'd really like to  
24 do is try and get the witness out of here.

25 MR. PEEK: I --

1 THE COURT: But the issues that you're mostly  
2 finding about on privilege log are legal argument issues. But  
3 if you have documents you want to ask the witness about that  
4 are --

5 MR. PEEK: That's what I'm going to do, but I can't  
6 seem to get there --

7 THE COURT: But you've been going slower than  
8 molasses.

9 MR. PEEK: No, I'm not, Your Honor. I keep getting  
10 interrupted by objections. So if you'd let me go forward here  
11 as opposed to every time I try to do a document I get an  
12 objection and I have to sit down and listen to the objection,  
13 the speaking objection, in front of the witness. And you're  
14 allowing him to do a speaking objection.

15 THE COURT: Let the witness go out this last time.

16 MS. SPINELLI: Your Honor, I just have one, actually  
17 two comments. The first is, he made representations to you  
18 about what was done at the last hearing when he knew full well  
19 there was an errata that he was unaware of when he started  
20 this questioning. And the reason why I bring it up right now  
21 is because he misrepresented it again, like we lied about it.  
22 The errata was fixed when it was brought to our attention.

23 THE COURT: I'm not trying to get into that right  
24 now. Right now I am trying to finish Mr. Schall's testimony.

25 MS. SPINELLI: Completely understand. And we

1 appreciate that. So I'll sit down --

2 THE COURT: If I could get --

3 MR. BICE: Your Honor, the only added point I want  
4 to make about this is it's a document in all reality we  
5 shouldn't have even produced, because it's about Stanley Ho.  
6 It has nothing to do with this case.

7 THE COURT: Okay.

8 MR. BICE: We inadvertently identified it -- just  
9 wasting our time.

10 MR. PEEK: But what it has to do with this case  
11 though is they make this claim of confidentiality, Your Honor,  
12 under Article 92, and they produce those documents --

13 THE COURT: Mr. Peek, I understand it, and we'll  
14 discuss that in the argument section of this if I ever finish  
15 the evidence portion. So if we could get the witness back,  
16 please. Thank you so much.

17 MR. PEEK: Your Honor, to go forward, Your Honor,  
18 can I continue with my examination.

19 THE COURT: Yes. That's why I asked the witness to  
20 come back in so you could finish your examination some day  
21 before the end of the year.

22 Mr. Schall, thank you for allowing us this brief --

23 MR. PEEK: Can we have just not speaking objections  
24 and just objections and then move on.

25 THE COURT: We're going to try not to do speaking



1 objections, but I do occasionally need clarification when you  
2 guys are citing stuff I don't know about like 30(b)(6)  
3 depositions and answers to interrogatories and things.

4           So, sir, you're still under oath. Hope you had a  
5 nice break. And they didn't get one, so hopefully they'll be  
6 very patient -- quick and to the point of their questions.

7           Mr. Peek, you're up.

8           MR. PEEK: Thank you, Your Honor.

9 BY MR. PEEK:

10          Q     I wanted to actually -- you understand that WRMSA is  
11 claiming a privilege or a confidentiality -- first claim Macau  
12 law privilege, you and I agree that there is not a quote,  
13 unquote, "Macau law privilege" related to Article 92 of the  
14 concession agreements; correct?

15          A     I don't know if I agree. Article 92 imposes certain  
16 confidentiality restrictions.

17          Q     Confidentiality. It doesn't say, privilege?

18          A     Correct.

19          Q     Okay. And then there's also a claim of Macau law  
20 privilege under Macau SAR Law 16/2001, Section 1, Article 16,  
21 regarding concession agreements. Do you recall that?

22          A     I do.

23          Q     And that's a claim that WRMSA is making and made by  
24 Pisanelli Bice, WRL's lawyers; correct?

25          A     Well, I'm not a litigator, but WRMSA told WRL we

1 cannot give you certain documents because of Macau law. What  
2 WRL came to this court and this proceeding and said I don't  
3 know.

4 Q But as you identified to me, you didn't look at  
5 every document that either WRL claimed privileged or WRMSA  
6 claimed privileged, did you?

7 A Correct.

8 Q So that decision was made by WRL's lawyers; correct?

9 A I don't know who made it.

10 Q It's made by Pisanelli Bice. Were your lawyers  
11 involved in it?

12 A I don't know.

13 Q You don't know. Let me have you look at -- this is  
14 another exhibit. This is a pleading, it is WRL's objection.  
15 It is Exhibit 706.

16 Your Honor, this is a pleading. It's Exhibit 706.  
17 It's their objection to our motion to compel.

18 THE COURT: Was it filed with the Court.

19 MR. PEEK: It was filed with the Court, Your Honor.

20 THE COURT: So since it's already part of my record,  
21 Mr. Bice, I'm going to let the witness look at it, and then  
22 I'll decide what weight, if any, I give to it as part of this  
23 hearing.

24 MR. BICE: The witness -- there's no basis to this.  
25 I understand, Your Honor, but the witness doesn't know

1 anything about --

2 THE COURT: He may not. That may be really quick.

3 MR. PEEK: He may not. That's very true.

4 THE COURT: He may say, no, I don't know. No, I  
5 don't know. And then we'll get out of here really quick.

6 MR. PEEK: We will.

7 Can you go to page 16 of that.

8 THE COURT: Yes, for purposes of this hearing since  
9 it's already part of my record.

10 It should be on your screen there and on the bigger  
11 screen, and they're going to blow up the portion --

12 BY MR. PEEK:

13 Q You see the quotation that WRL has provided the  
14 Court of Macau Law 16-201 [sic] up at the top of the page? Do  
15 you see that?

16 THE COURT: Do you want to blow it up.

17 MR. PEEK: Can I blow it up for him.

18 THE COURT: The indented part.

19 MR. PEEK: The top quote there, Nick, the bidding  
20 process.

21 THE WITNESS: I see it.

22 BY MR. PEEK:

23 Q You see that?

24 A Yes.

25 Q So this is one of the other privileges under which

1 you claim some protection; correct?

2 A I didn't claim anything. But --

3 Q Well, Wynn Resorts' lawyers claimed it for WRMSA;  
4 correct?

5 A I don't know who's pleading this is, but it appears  
6 so.

7 Q Okay. Well, I'm trying to just direct your  
8 attention to this statute. Are you familiar with that statute  
9 in Macau?

10 A Yes.

11 Q Okay. And is it quoted correctly?

12 A I'm familiar, but I haven't memorized it. It  
13 appears correct.

14 Q Okay. And what it says is, "the bidding processes,  
15 the documents and data included therein as well as all  
16 documents and data relating to the tender are confidential,  
17 and access to or consultation of such documents by third  
18 parties is prohibited." Do you see that?

19 A Yes.

20 Q Now that relates to the bidding process; correct?

21 A It relates to what's listed here.

22 Q Okay. "The bidding processes, the documents and  
23 data included therein --" That would be the bidding process,  
24 documents; correct?

25 A Yes.

1 Q And then it says, "-- as well as all documents and  
2 data relating to the tender --" That's the tender in the  
3 bidding process; correct?

4 A Correct.

5 Q Those are what are confidential; correct?

6 A According to this, yes.

7 Q And the tender and the bidding process concluded at  
8 or about the time the concessions were awarded in January,  
9 February of 2002; correct?

10 A The tender and bidding process concluded with the  
11 awarding of the concession.

12 Q That's in January, February of 2002; correct?

13 A Early 2002.

14 Q Okay. We'll come back to this. But I just wanted  
15 to make sure that you and I agree on this. So let me move on  
16 here to -- when we were here last we had also talked about a  
17 document identified in the privilege log under Exhibit 719-  
18 360. Wait a minute. Make sure I get the right one here.  
19 Yes.

20 MR. PEEK: If you could bring that up, please, Nick.

21 BY MR. PEEK:

22 Q And this is a claim of Macau law privilege on a  
23 document from Jaime Roberto Carrion to Steve Wynn; correct?  
24 Remember that?

25 A Can you blow it up for me.

1 Q Yes, he's going to do that for you.

2 A You said 719-360?

3 Q Yeah. That's Exhibit 719, page 360 on the privilege  
4 log of June 2016.

5 A Okay.

6 Q And you'll see that it is -- the author is Jaime  
7 Carrion?

8 A Carrion.

9 Q And it's a letter to Steve Wynn?

10 A That's what this says.

11 Q Okay. And then it says it's a letter and attachment  
12 protected by Macau special administrative region law. Is that  
13 the region law that we just went over, that's 16/201, or 2001?

14 A This doesn't say that. But because it's referencing  
15 Article 92 and regarding concession agreements I imagine that  
16 is the case.

17 Q Okay. And we just established that that only  
18 related to the tender process, the bid process; correct?

19 A And related documents, yes.

20 Q And related documents before the bid award; correct?

21 MR. BICE: Objection to the form.

22 THE COURT: Overruled.

23 You can answer.

24 THE WITNESS: I would agree with that. I don't know  
25 if the government agrees with that, but yes.

1 BY MR. PEEK:

2 Q Okay. Do you remember, then, we had gone over --

3 well, I think we'd established of course that Jaime was a

4 Public Works person from Macau Government; correct?

5 A Correct.

6 Q And I think we did this, but maybe we didn't, so in

7 Exhibit 804, this is WRL's twenty-fourth supplemental

8 privilege log served on the eve of the hearing. So it was

9 served on July 26th, at 8:59. And you would know that, but

10 let me just --

11 THE COURT: That's a proposed exhibit.

12 MR. PEEK: Proposed exhibit.

13 BY MR. PEEK:

14 Q Let me have you look at the 804 --

15 THE COURT: So what's it start on, 804-?

16 MR. PEEK: 804-4, Your Honor. And it includes

17 exhibits, and it ends on 804-29.

18 THE COURT: Mr. Bice, I understand you have the same

19 objection?

20 MR. BICE: I have the same objection, Your Honor.

21 THE COURT: Same ruling, 804-4 through 29 be

22 admitted for purposes of this hearing.

23 (Defendants' Exhibits 804-4 through 804-29 admitted)

24 MR. PEEK: Thank you.

25 //

1 BY MR. PEEK:

2 Q Let me have you now turn to 804, page 5. And you  
3 see that that same document is now -- has an attorney-client  
4 privilege claim, as opposed to Macau law privilege; correct?

5 A I see that that's what this says.

6 Q That's what that says.

7 A Okay.

8 Q Okay. And, again, this would be a WRMSA claim  
9 because it relates to Macau concession; correct?

10 A Well, what you're showing me says attorney-client  
11 privilege.

12 Q No. No. I understand that, but documents related  
13 to WRMSA would be a claim that WRMSA would make either under  
14 Macau law privilege or attorney-client privilege; correct?

15 A I'm not trying to get semantics with you. WRMSA  
16 would tell Wynn Resorts, we can't give you that document  
17 because of Macau law.

18 Q Well, let's -- I understand that. But the claim of  
19 privilege though is a privilege held by either of  
20 confidentiality or privileges held by WRMSA; correct?

21 MR. BICE: Objection. Calls for a legal conclusion.

22 THE COURT: Overruled.

23 MR. PEEK: He's a lawyer.

24 THE COURT: Mr. Peek, please don't argue.

25 MR. PEEK: Okay.



1 THE COURT: You can answer.

2 THE WITNESS: My understanding is the term "Macau  
3 law privilege" was coined here in the United States as a  
4 matter of convenience.

5 BY MR. PEEK:

6 Q By Wynn Resorts' lawyers?

7 A Yes.

8 Q Okay. But it's a -- whatever it is, whether it's a  
9 Macau law privilege or Macau law of confidentiality it's  
10 something held by WRMSA; correct?

11 MR. BICE: Same objection, Your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: WRMSA would tell Wynn Resorts, I can't  
14 give you that document because of, and then it would cite a  
15 law. We would not use the term "privilege" when we were  
16 talking to our --

17 BY MR. PEEK:

18 Q But we've already gone over it. You haven't looked  
19 at all these documents yourself, correct, to claim that  
20 privilege or that confidentiality; correct?

21 A All what documents?

22 Q All of the documents on which a claim is being made  
23 for Macau law privilege, you haven't looked at all of those;  
24 correct?

25 A That's correct.

1 Q That decision was made by Wynn Resorts' lawyers;  
2 correct?

3 A I don't know who made the decision. That seems  
4 logical.

5 Q So you don't know, from your review of all of the  
6 documents on which they claim a privilege has been made,  
7 whether or not it does or does not satisfy WRMSA's claim;  
8 correct?

9 A I'm sorry. I don't understand that question.

10 THE COURT: Claim of confidentiality?

11 BY MR. PEEK:

12 Q Claim of confidentiality or privilege.

13 A So, I don't know if a document, which Wynn Resorts  
14 Limited lawyers withheld based on a Macau law privilege, to  
15 use your term, actually satisfies Macau law with respect to  
16 asserting that confidentiality.

17 Q Correct.

18 A Correct.

19 Q That decision was made by Wynn Resorts' lawyers;  
20 correct?

21 A I believe so.

22 Q Thank you. So, anyway, we now see that the letter  
23 previously described in 719-360 as a authored letter from  
24 Jaime Roberto Carrion to Mr. Wynn is now identified, same date  
25 -- actually a different date, identified as July 25th of '06,

1 as an author of Marc Rubinstein and a claim of attorney-client  
2 privilege; correct?

3 A Okay. I'm sorry. I see these numbers in the left  
4 column, but the numbers you showed me before, are they the  
5 same as this?

6 Q Well, they're right above you.

7 A They're right above me?

8 THE COURT: No. He's asking if on the prior  
9 privilege log you showed -- it's the same document --

10 MR. PEEK: Oh. Okay. So we'll go back -- yeah,  
11 that's a fair point.

12 So we'll go back to 719-360, if you would, Nick. So  
13 that the witness can be -- can you just -- no, too late to do  
14 split screen. Can you do split screens on this one, Nick,  
15 when you bring the other one back up, so that he can see.

16 THE COURT: Somebody touched the monitor and made  
17 dots on it, and I don't have any control in this courtroom.

18 BY MR. PEEK:

19 Q Okay. So just the document numbers are  
20 WYNNPRIV45276 to WYNNPRIV45286. It's the 12-page document.

21 A Yes.

22 Q Okay. So now it has a new name in Exhibit 804, page  
23 5. Same numbers; correct?

24 A Yes.

25 Q Okay.

1           A     Thank you.

2           Q     You're welcome.

3           THE COURT: I'm going to try something with your  
4 monitor real quick. Hold on, Mr. Peek.

5           So touch the bottom corner on your left. There we  
6 go. So if you make marks and they need to be erased, that's  
7 where you touch at that monitor.

8           THE WITNESS: Oh. Okay.

9 BY MR. PEEK:

10          Q     Do you know who Marc Rubinstein is?

11          A     I do.

12          Q     Okay. And he was formerly general counsel to Wynn  
13 Resorts Limited; correct?

14          A     Yes.

15          Q     And he's been gone for some time?

16          A     Yes.

17          Q     Now you're familiar with attorney-client privilege,  
18 are you not? I mean as a lawyer, you're familiar with it?

19          A     Yes.

20          Q     And you're familiar with that it has to be a  
21 communication from a lawyer to a client or a client to a  
22 lawyer; correct?

23          MR. BICE: Objection. Calls for a legal conclusion,  
24 Your Honor.

25          THE COURT: Overruled.

1 BY MR. PEEK:

2 Q It has to be two people involved in the  
3 communication; correct?

4 A I don't know. If I write a note to myself it can't  
5 be privileged?

6 Q I would agree. So if you're going to be claiming a  
7 privilege it would be because I've communicated legal advice  
8 of a confidential nature; correct?

9 MR. BICE: Same objection, Your Honor.

10 THE COURT: Overruled.

11 THE WITNESS: I guess what I'm saying is if I write  
12 a note to myself that contains legal --

13 BY MR. PEEK:

14 Q That's not what I asked you, Mr. Schall. I'm only  
15 asking you if you're familiar --

16 MR. BICE: Can the witness be allowed to finish his  
17 answer, please, Your Honor.

18 THE COURT: Yes, he can.

19 Sir, can you finish your answer.

20 THE WITNESS: Mr. Peek, I thought you said that for  
21 the privilege to apply it required two parties, a sender and a  
22 recipient.

23 BY MR. PEEK:

24 Q Would you agree with that?

25 A I agree that the privilege can apply in that

1 situation.

2 Q Do you think it applies just to a note to yourself?

3 A If I take down meeting notes and it's not giving  
4 them to anyone, I would hope that attorney-client privilege  
5 would apply.

6 Q But you're in a meeting and there are people  
7 involved in the meeting who may have sought your legal advice;  
8 correct?

9 A I'm saying as if I make the notes for myself and I  
10 don't hand them out to the entire meeting.

11 Q You believe that's a privileged communication when  
12 you're taking notes of what occurred during the meeting as  
13 opposed to you were actually asked a legal question? Is that  
14 what you believe?

15 A I'm not trying to be combative with you. I agree  
16 that attorney-client privilege can apply when there's  
17 communication between an attorney and a client. I also  
18 believe that if I take meeting notes for myself, never  
19 intended for use by others, that attorney-client privilege  
20 should apply.

21 Q Okay. That's what you believe?

22 A Yes.

23 Q Okay. That's fine. So here we have Marc  
24 Rubinstein.

25 MR. PEEK: And if you'll just do the 804-5, Nick,

1 document is all we need, just the full description of that  
2 one. Thank you.

3 BY MR. PEEK:

4 Q We know that there's no recipient, correct, of this  
5 communication by Mr. Rubinstein; correct?

6 A Well, I see two blank columns after his name.  
7 There's no header on this page. I don't know what they  
8 referred to.

9 Q We'll go back to the original page. If you'll go  
10 back to page 4. Now go to page 5. So Columns 4 and 5 are  
11 -- recipient is Column 4, and Column 5 is cc; correct?

12 A Correct.

13 Q Okay. So there's no recipient in Column 4; correct?

14 A Correct.

15 Q And what it says is, "Handwritten notes reflecting  
16 counsel's protected memo impressions with Marc Rubinstein Esq.  
17 re concession agreement." Correct?

18 A That's what it says.

19 Q And it's dated 7/25/2006; correct?

20 A Yes.

21 Q Was Mr. Rubinstein still counsel at the Wynn Resorts  
22 in July 2006?

23 A I don't believe so.

24 Q Okay. Now do you know whether or not Mr.  
25 Rubinstein's notes appear on the letter from Mr. Carrion to

1 Mr. Wynn, which was the original description of the document,  
2 the letter and attachment?

3 A I do not.

4 Q Do you know whether or not the document with the  
5 notes of Mr. Rubinstein redacted was produced, the letter?

6 A I don't know.

7 Q Okay. Now let's look at -- now go to Exhibit 809,  
8 that's the supplement from last Friday.

9 And page 9 of that, Nick, please.

10 BY MR. PEEK:

11 Q And at the bottom -- one up from the bottom you see  
12 that same document described?

13 MR. PEEK: I'm sorry. 19. I apologize, Nick. I  
14 said 9, I meant 19. My apologies.

15 BY MR. PEEK:

16 Q So just to -- one up from the bottom we see that  
17 same document described as Marc Rubinstein. Do you see it?

18 A I'm sorry. I don't.

19 Q You don't see it in page 19, 809-19?

20 A No. You can see what I'm looking at.

21 Q 809-19. You're on 809-23.

22 A Oh. I see. I was looking at the wrong -- I'm  
23 sorry.

24 Q You're right. I apologize.

25 A I'm sorry.



1 Q You were correct. It was page 19 of the -- or page  
2 19 of the privilege log, but page 23 of the exhibit. So you  
3 see that now?

4 A Yes, I do.

5 Q And it's described as a, again, Marc Rubinstein  
6 handwritten notes, dated 7/25/06, when he was no longer at the  
7 Wynn Resort?

8 A Marc Rubinstein handwritten notes, yes.

9 Q Okay. And it now -- what does it now say that those  
10 documents are -- or what the description of the document is?

11 A "Handwritten notes reflecting counsel's mental  
12 impressions for communications with outside counsel on legal  
13 obligations re concession agreement."

14 MR. PEEK: Okay. Could you bring up 804-5 side by  
15 side with that, please.

16 BY MR. PEEK:

17 Q Now, this one, which was served on us on July 26th,  
18 2017, and marked and identified as Exhibit 804, page 5 says  
19 that --

20 THE COURT: And that's the bottom one?

21 MR. PEEK: That would be the top one, Your Honor,  
22 "Handwritten notes reflecting counsel's protected mental  
23 impressions with Marc H. Rubinstein."

24 BY MR. PEEK:

25 Q That's what the description of it was just before

1 the hearing started on July 26th; correct?

2 A I don't know when this was delivered, but that's  
3 what it says.

4 Q That's what it says. And then now on the eve of  
5 this hearing it's now described as "mental impressions for  
6 communication with outside counsel on legal obligations re  
7 concession agreement." Correct?

8 A That's what this says.

9 Q And it's by a person authored who no longer worked  
10 at Wynn Resorts in July of 2006; correct?

11 A The column says, author and from, I don't know if  
12 that is indicative of when the actual correspondence was  
13 written or it was something that was written before --

14 Q It has a document date on it; right?

15 MR. BICE: Can the witness be allowed to finish,  
16 Your Honor.

17 THE COURT: Sir, did you have more you wanted to  
18 add?

19 MR. PEEK: He's not answering the question, Your  
20 Honor.

21 THE COURT: Mr. Peek.

22 THE WITNESS: All I was saying is I'm not familiar  
23 with this. It says, from author, author/from. I don't know  
24 if that means that the date associated is the date it was  
25 written or produced or it was a reforwarded or a

1 recirculation, I have no idea.

2 BY MR. PEEK:

3 Q Fair point. Let's go back to the original  
4 description in June of 2016, which is Exhibit 719-360. Let's  
5 go back to that one.

6 A Okay.

7 MR. PEEK: So if you'd bring it up for him, Nick.

8 BY MR. PEEK:

9 Q And that description describes this document as a  
10 letter from the Public Works Bureau to Mr. Wynn correct?

11 A Correct.

12 Q And the date of the document -- see up there at the  
13 top where it says, "document date," see that document date?

14 A Doc date, yes.

15 Q Doc date, 7/25/2006; correct?

16 A Yes.

17 Q Okay. So then it -- it started out as a letter from  
18 the Public Works to Steve Wynn; correct?

19 A This description --

20 Q And the claim was a Macau law privilege; correct?

21 THE COURT: Sir, do you have more to add to your  
22 answer?

23 THE WITNESS: It's okay. Thank you though. It  
24 says, "privilege withhold". "Privilege concession, Clause 92,  
25 concession."

1 BY MR. PEEK:

2 Q It's Macau law privilege claim by Wynn Resorts  
3 Limited; correct? It's a yes or no.

4 A Yes.

5 Q And then it morphed on the eve of the start of our  
6 evidentiary hearing in July into a claim that it was Mr.  
7 Rubinstein's notes; correct?

8 MR. BICE: Objection. Foundation.

9 THE COURT: Overruled.

10 THE WITNESS: If you show me the second of the three  
11 I'll be able to answer the question.

12 BY MR. PEEK:

13 Q I'll show you the second of the three. There you  
14 have it.

15 THE COURT: Since I'm the fact finder and I've  
16 already got it can we skip ahead.

17 MR. PEEK: Okay. Well, Your Honor, I just want to  
18 establish it's the document date. He's saying, well, I don't  
19 know when it was created. But --

20 THE COURT: He doesn't, but I do because --

21 MR. PEEK: Okay.

22 THE COURT: -- you've been making a record. Every  
23 time you ask to use them I'm admitting them over the objection  
24 for purposes of the privilege log only.

25 MR. PEEK: I'll move on, Your Honor.

1 THE COURT: Thank you. How much longer have you got  
2 with this witness at the pace we're going?

3 MR. PEEK: How much longer do I have with this  
4 witness?

5 THE COURT: At the pace we're going?

6 MR. PEEK: I'm hoping to be completed, Your Honor,  
7 by Wednesday afternoon. This is a little bit slow because of  
8 the changes in the logs and the claims that Wynn Resorts has  
9 made. When I get past this --

10 THE COURT: Just keep going. You've told me how  
11 long.

12 MR. PEEK: -- it will move faster. Okay.

13 MR. BICE: Your Honor, I'm going to note my  
14 objection to this -- how the hearing --

15 THE COURT: Mr. Bice, we'll talk about it at the  
16 lunch break.

17 MR. BICE: Thank you.

18 THE COURT: I'm going to let the witness have a full  
19 lunch break, and you guys don't get one.

20 MR. BICE: Appreciate it.

21 THE COURT: Or a short one.

22 BY MR. PEEK:

23 Q And when we were last here we also discussed another  
24 document, which was identified in Exhibit 719, page 162.

25 MR. PEEK: If you'd bring that up, please, Nick.

1 BY MR. PEEK:

2 Q And that was a letter from Ron Kramer -- no  
3 recipient. I take it back. Originally it was brought up, it  
4 was a letter from Ron Kramer to Edmund Ho. My apologies. I  
5 was a step ahead of myself.

6 MR. PEEK: And that would be Document 41630, Nick.

7 BY MR. PEEK:

8 Q In June of 2016, in Exhibit 719-162 the claim was  
9 Macau law privilege; correct?

10 A Yes.

11 Q And it was identified as a letter from Ronald Kramer  
12 to Edmund Ho; correct?

13 A Yes.

14 Q So there was an author and a recipient; correct?

15 A Yes.

16 Q And Ron Kramer was at that time I think president of  
17 WRMSA?

18 A No.

19 Q What was his position at WRMSA?

20 A None.

21 Q None. So who is he? Was he a Wynn Resorts  
22 Limited --

23 A Yes.

24 Q Okay. And what was his position at Wynn Resorts  
25 Limited at that time?

1           A     I believe president.

2           Q     Okay. My mistake. I had him at WRM. Now we, then,  
3 know that it got changed -- just a moment, if I may -- and  
4 this is Exhibit 735, which is in evidence. That's the  
5 privilege log of February 22nd, 2017, page 4. That letter is  
6 now just Ron Kramer as author. No recipient; correct?

7           A     Correct.

8           Q     And it says it's a draft letter reflecting  
9 confidential legal advice with Marc Rubinstein re concession  
10 agreement; correct?

11          A     That's what this says.

12          Q     Do you know whether it's the concession agreement  
13 related to the gaming concession or the land concession?

14          A     I don't know.

15          Q     And what had been previously claimed as the Macau  
16 law privilege now is an attorney-client privilege; correct?

17          A     That's what this says.

18          Q     Okay. And of course you wouldn't know why the  
19 description went from Macau law privilege to now an attorney-  
20 client privilege, would you?

21          A     No. On these logs, no.

22          Q     So that was February 22nd.

23               MR. PEEK: Let's look now what it looks like on  
24 August 18th at 6:05. This is Exhibit 809, page 18, Nick. Did  
25 you find it Nick or do I need to. It's about the top third,

1 Nick. See Ron Kramer? There you go.

2 BY MR. PEEK:

3 Q Now on Friday it now became, again, a draft letter,  
4 no recipient, no cc; correct?

5 A Correct.

6 Q So it says, "Handwritten notes reflecting counsel's  
7 protected memo impressions with Marc Rubinstein Esq., and  
8 confidential legal advice regarding proposed revisions to  
9 concession agreement." In 2004 were there proposed revisions  
10 to the gaming concession agreement to your knowledge, your  
11 company, WRMSA?

12 A Again, I don't know.

13 Q And was Marc Rubinstein representing WRMSA with  
14 respect to the concession agreement?

15 A I don't know. This is before I worked for the  
16 company.

17 Q Okay. It's fair. Do you know whether the draft  
18 letter with the handwritten notes redacted has, in fact, been  
19 produced?

20 A No. No, I don't know.

21 THE COURT: Very good catch.

22 BY MR. PEEK:

23 Q Now previously I think it had been identified, the  
24 description was a description of legal advice with Marc  
25 Rubinstein. Now it's just mental impression; correct? Now



1 February it was identified in description at legal advice;  
2 correct?

3 A Yes, that's what it says.

4 Q And then now it's his mental impression as opposed  
5 to legal advice; correct?

6 A Well, it says, "Draft letter with handwritten notes  
7 reflecting counsel's protected mental impressions with Marc  
8 Rubinstein." So it seems a lawyer's mental impressions, but I  
9 don't know it's Marc's or someone else's.

10 Q Oh. Okay. "Counsel's protected mental impressions  
11 with Marc Rubinstein." So maybe it's some other lawyer  
12 meeting with Marc Rubinstein. So you can't tell from that  
13 description there whether it's Marc's mental impressions or  
14 somebody else's mental impressions?

15 A Correct.

16 Q In conferring with Marc about his or her mental  
17 impressions?

18 A I can't tell. I just have the description.

19 Q Okay. Let's move on now to another WYNNPRIV  
20 document. This is a document that appears in Exhibit 719-310,  
21 and it is Document 39706 to 39710, Steve Wynn to Edmund Ho.  
22 And there's a claim of Macau law privilege; correct?  
23 Initially, back in June of 2016.

24 A Correct.

25 Q And it's identified not as a draft letter, correct?

1           A     It says, "Letter."

2           Q     Letter. And it's from Steve Wynn to Edmund Ho, the  
3 chief executive; correct?

4           A     That's what this says.

5           Q     Okay. Now, you remember this conversion chart that  
6 we went over last time?

7           A     I remember seeing it.

8           Q     You remember seeing that conversion chart. So let's  
9 look at 731-42. That document was apparently converted, that  
10 39706, was converted to Document 67375; right?

11               MR. BICE: Your Honor, I'm going to renew --

12               THE COURT: Yes.

13               MR. BICE: I'm going to renew my objection.

14               THE COURT: Overruled.

15               MR. BICE: Well, I also want to renew my objection  
16 on the grounds that this document was later amended.

17               THE COURT: I understand, Mr. Bice.

18               MR. PEEK: I'm going to go through the amendments,  
19 Your Honor. That's what I'm doing.

20               THE COURT: I know. It's painful.

21               MR. PEEK: It is painful, but I wished it hadn't --  
22 I wish it weren't so painful, Your Honor.

23               MR. BICE: As I renew my objection, Your Honor, that  
24 this is beyond the scope of the motion and they've produced no  
25 witness and no evidence --

1 MR. PEEK: Your Honor, this is a speaking objection,  
2 again.

3 THE COURT: Mr. Peek, Mr. Bice, it's important you  
4 guys each let each other finish without interrupting each  
5 other. I understand Mr. Bice has a scope issue to the extent  
6 that there are privileged documents to which this witness has  
7 information about the underlying document for which they claim  
8 a privilege or confidentiality has been made. I will let him  
9 answer questions related to that. He has already told us he  
10 does not know anything about the preparation of the privilege  
11 logs, the cross-reference logs, or any of that information;  
12 right?

13 THE WITNESS: Correct.

14 THE COURT: Okay.

15 MR. PEEK: Your Honor, and I understand that, and I  
16 certainly -- I don't like calling lawyers, but that's about  
17 the only person I can call other than this witness would be  
18 the lawyers.

19 THE COURT: Well, we'll see what happens. Let's  
20 keep going with this witness.

21 MR. PEEK: And if I have to do that with Ms.  
22 Spinelli or somebody else I will, but I'm trying to avoid  
23 that, Your Honor.

24 THE COURT: Keep going on this.

25 //

1 BY MR. PEEK:

2 Q In any event, this shows that there was a conversion  
3 of this document and was released. Do you see that?

4 A Okay. I remember this from last time. I remember I  
5 said, I don't know what converted means. If these two columns  
6 represent a starting number and then a number it turned into,  
7 then I agree with you.

8 THE COURT: I don't know can be a good answer.

9 BY MR. PEEK:

10 Q I understand you don't know. There you go. So I'll  
11 move on, but I want to at least have you -- you at least can  
12 identify Steve Wynn and Edmund Ho as individuals with whom  
13 you're familiar?

14 A That's correct.

15 Q You can identify that there is a document withheld  
16 on Macau law privilege related to communication between Mr.  
17 Wynn and Mr. Ho; correct?

18 A When you show me that log and you're speaking to  
19 that document I agree with you.

20 Q Okay. And I think one of the reasons why you may  
21 not have familiarity with those documents is because WRL was  
22 in control of making those objections; correct?

23 A It's correct that WRL was in control of making those  
24 objections.

25 Q So if we look at Document 67375 we actually find

1 that in Exhibit 800. I don't know if 800's in evidence or  
2 not.

3 THE CLERK: It's still proposed.

4 MR. PEEK: Pardon.

5 THE CLERK: It's still proposed.

6 MR. PEEK: Still proposed.

7 BY MR. PEEK:

8 Q So let me have you take a look at Exhibit 800-2,  
9 which is -- starts as Bate Number 67374, does it not?

10 A Is he going to show me or do I need to --

11 MR. PEEK: Your Honor, I don't want him to show --  
12 You're not showing the Court, okay.

13 BY MR. PEEK:

14 Q So you have it right there?

15 A No.

16 THE COURT: On his screen?

17 MR. PEEK: Oh. then he needs to look at it. We  
18 need to pull it. It's Exhibit 800.

19 THE COURT: I'll look away while you all show it to  
20 everybody.

21 THE WITNESS: Which one is it, Mr. Peek?

22 BY MR. PEEK:

23 Q Exhibit 800.

24 A 800?

25 Q Uh-huh.

1           A     Okay, I'm at 800.

2           Q     Okay. So in February of -- February 10, I think of  
3 2010, when we had this thirty-sixth supplement the document  
4 was identified, and you'll see a 67375, that's actually page 2  
5 of what's on -- of that exhibit, correct, that Exhibit 800?

6           A     So -- okay, yes. Page 2.

7           Q     Okay. Now you would agree with -- are you familiar  
8 with Secretary Lau Si Lo?

9           A     Yes.

10          Q     And this is a Wynn Macau document; correct?

11          A     It's on Wynn Macau letterhead, yes.

12          Q     And then it was signed by -- if you go to the bottom  
13 of the next page, signed by Steve Wynn?

14          A     Correct.

15          Q     And the date of the letter is 2012; correct?

16          A     August 20, 2012.

17          Q     And are you familiar with this communication by Wynn  
18 Macau to Secretary Lau Si Lo?

19          A     Yes.

20               MR. PEEK: Your Honor, I'd offer Exhibit 800-2  
21 through 800-4.

22               THE COURT: Any objection to 800-2 through 800-4?

23               MR. BICE: Yes.

24               THE COURT: Tell me what your objection is.

25               MR. BICE: My objection is that once again this is a

1 document that was never identified by the defendants as being  
2 one of the documents for which they were claiming any form of  
3 privilege. This document is being offered because we've  
4 already acknowledged that the conversion log that he's trying  
5 to use -- this is the exact same thing we've already been over  
6 with before.

7 THE COURT: Mr. Bice, can we just not make a  
8 speaking objection and tell me what your legal basis of your  
9 objection is, please.

10 MR. BICE: Legal basis is that this document is not  
11 within the scope of this hearing. We'd asked them to identify  
12 the document by Bates number on which they were claiming that  
13 they were prejudiced and they did not --

14 THE COURT: Okay. The objection is sustained for a  
15 minute.

16 Sir, I'm going to take my lunch break now. I'm  
17 going to let you go out. You are in the middle of a question.  
18 So anything you talk to the lawyers about during the lunch  
19 hour is fair game for an inquiry when you come back under  
20 the --

21 What's the case called?

22 MR. PEEK: Coyote Springs, Your Honor.

23 THE COURT: -- Coyote Springs versus BrightSource  
24 Entertainment case that Mr. Pisanelli is well aware of.

25 MR. CAMPBELL: Fake law, Your Honor.

1 THE COURT: Well, it's the Nevada Supreme Court.

2 So I'm just cautioning that because of that decision  
3 certain kinds of questions or things you may talk to with your  
4 lawyers may not have a privilege associated with them when you  
5 come back from lunch. You can talk about the weather, talk  
6 about sports, have a lovely lunch. And we'll see you at 1:15.  
7 I'm going to talk to the lawyers for a few minutes about this  
8 particular issue without you.

9 THE WITNESS: Thank you. Can I leave this here.

10 THE COURT: You can.

11 THE WITNESS: Okay. Thank you, Your Honor.

12 THE COURT: 1:15.

13 MR. PEEK: May we have a comfort break, Your Honor.

14 THE COURT: Not yet. We'll go faster if I don't  
15 give you the comfort break.

16 So, Mr. Peek, other than to show that they were  
17 sloppy, what is your other purpose in using this document?

18 MR. PEEK: Your Honor, it's interesting that you  
19 call this sloppiness, I call it intentional hide the ball.

20 THE COURT: It may be.

21 MR. PEEK: Because it's intentional hide the ball,  
22 Your Honor, it's not necessarily that document in and of  
23 itself. It's the gamesmanship of the change of the --  
24 repeated change of the log and the misdescription of documents  
25 that they say to you, and you seem to give them that benefit



1 of the doubt as mistake or sloppiness. I'm saying, Your  
2 Honor, this is an intentional wilful act to hide the ball --

3 THE COURT: Okay. So --

4 MR. PEEK: -- on their part. Because they --

5 THE COURT: -- what I'm trying to get you to tell  
6 me, Mr. Peek, is how this particular witness, who we have here  
7 from the Far East, is going to provide me input related to  
8 whether the plethora of problems with the privilege log, the  
9 conversion log, the descriptions is wilful or a mistake.  
10 How's this witness going to help me?

11 MR. PEEK: That's a fair point, Your Honor. I think  
12 the only person who can help us on that would be the  
13 individuals who put them on the log --

14 THE COURT: And that may be what we do.

15 MR. PEEK: -- that may -- we may have to do that.  
16 I'm loath to do that, Your Honor. It's not my style to  
17 bring --

18 THE COURT: But this witness can't answer those  
19 questions. He's said, I don't know, a lot.

20 MR. PEEK: But I think -- Your Honor, the Court can  
21 draw an inference however from these misdescriptions, because  
22 I have to at least show the misdescriptions through somebody,  
23 and he has to identify that, you know, a letter that is so  
24 2012 is not the same one that they described as a 2002 letter.  
25 Then they put it back -- and he can then show that they got

1 put back on a log now with a different description. So maybe  
2 you're right, that might just come down to argument. But I  
3 need him, Your Honor, to at least be somebody who can, from  
4 the witness stand, identify the names, like SJM in the  
5 concession agreement, like Secretary Lau Si Lo is not the same  
6 as Edmund Ho, which when they say that's the conversion. You  
7 describe it and they describe it as, oh, I'm sorry, I made a  
8 mistake. I describe it, Your Honor, as an intentional effort  
9 to mislead us through a series of privilege logs where it  
10 changes and morphs in each privilege log first in June of  
11 2016, then in February of 2017.

12 THE COURT: I understand that this is an appropriate  
13 item for argument at the end of this case as to the privilege  
14 logs, and I'm going to let you put all of the privilege logs  
15 in. And if you want to ask questions about the particular  
16 documents I'm going to let you do that. However, asking this  
17 witness about the nature of the changes when he has told you  
18 repeatedly that he is unaware of how those documents were  
19 repaired, how someone came up with the term "Macau law  
20 privilege" or anything like that is a waste of our limited  
21 time that we have with this witness. And I would really like  
22 to get this hearing done this week. And I know that that  
23 sounds like we don't have that ability especially since you do  
24 not want to go on Friday, and at this point I've acquiesced to  
25 your request.

1 MR. PEEK: Your Honor, I will try to move faster.  
2 When I get past -- there are a few more -- well, more than --  
3 I don't want to say a few more. There are a number of these  
4 instances and examples that exist.

5 THE COURT: Of inconsistencies between the various  
6 logs regardless of whether we say they are mistake or  
7 wilfulness we'll call them inconsistencies.

8 MR. PEEK: I will certainly -- and I've tried not to  
9 ask him, do you know why the description was changed. I don't  
10 think I've asked him that question.

11 THE COURT: You have.

12 MR. PEEK: Okay. Now I won't. I'll just say, the  
13 description has changed; correct? And that may be sufficient.

14 THE COURT: And he'll say, based on what you've  
15 shown me, sure, sir. That's what he's been saying every time  
16 you've asked.

17 MR. PEEK: Well, Your Honor, everybody may think  
18 that's, you know, amusing over here -- well, on this side. I  
19 understand that, because I hear sort of the laughter behind  
20 me.

21 THE COURT: What I'm trying to say, Mr. Peek, is  
22 this witness telling you they've changed isn't something he  
23 has personal knowledge of. It's something he's telling you  
24 based on his observation at that moment in time based on the  
25 information you're showing. That is something that is

1     suitable for argument to me. That is something that the  
2     witness has no information about.

3             MR. PEEK: Okay. So let me also say to you, Your  
4     Honor, that the fact that he has no information about it I  
5     think is also relevant, because it goes to control. Remember  
6     who holds that so-called privilege? Remember who has the  
7     concession? The concession is WRMSA. Remember who he is? He  
8     is WRMSA's general counsel. And yet all of these privileges  
9     are being claimed by WRL. And they say, we have no control.  
10    And he said, I've not looked at all of the documents. So it's  
11    important to establish that he has not looked at any of these  
12    documents over which his company is claiming a privilege.  
13    It's a privilege that his company holds. So it's being done  
14    by WRL's counsel, that is also important, Your Honor, to  
15    establish. I can't do that except from that witness stand  
16    from Mr. Schall.

17            THE COURT: Okay. Can you tell me why 800-2-4 was  
18    not in your response to request for production.

19            MR. PEEK: I don't think I can, Your Honor. I guess  
20    I can say I made a mistake --

21            THE COURT: Okay.

22            MR. PEEK: -- by not including it in my production,  
23    Your Honor.

24            THE COURT: Okay. I'm not going to decide whether  
25    it's wilful or negligent at this point.

1           Mr. Bice.

2           MR. BICE: Your Honor --

3           MR. PEEK: Yeah. And it's not a redacted document  
4 either, Your Honor.

5           MR. BICE: We have a --

6           MR. PEEK: Request with redacted documents, it's not  
7 redacted.

8           THE COURT: Mr. Peek, I'm going --

9           MR. BICE: We have a motion that we're here on;  
10 right? And that motion was filed by the Okada parties. And  
11 in that motion, Your Honor, that motion I believe it is the  
12 motion that they filed on March 31 of 2017, none of these  
13 issues upon which Mr. Peek has been spending countless hours  
14 on is anywhere in this motion or the reply brief. In fact,  
15 the opposite is the case. What they're --

16           THE COURT: Well, most of the revisions to the  
17 privilege log were after the briefing started.

18           MR. BICE: Some of them were --

19           THE COURT: Post.

20           MR. BICE: Some of them were, Your Honor. But  
21 here's our point. Here's our point. This is not the subject  
22 matter of this motion for sanctions. This motion for  
23 sanctions is, according to them, is about the MPDPA redactions  
24 and the Macau law privileges; right? If they want to, and  
25 we've had many, many meet and confers about the privilege logs

1 over time, and there have been revisions to the privilege logs  
2 over time, if they want to make some sort of offer of proof to  
3 the Court, here, look at this privilege log. That should be  
4 the subject of an actual motion, Your Honor, or something  
5 other than wasting this witnesses time. Because here's what's  
6 really -- Your Honor, from our perspective what's going on is  
7 Mr. Okada has admitted under oath, and that's Mr. Peek's own  
8 client, I'll just quote it for you. "Have you been harmed --"  
9 This is his testimony. "Have you been harmed in any way by  
10 Wynn Resorts or Wynn Macau's compliance with the Macau  
11 Personal Data Protection Act?" "I have not." He then goes on  
12 to explain over and over again throughout his deposition how  
13 he has suffered no prejudice from the compliance with the  
14 MPDPA. So what has happened here is we now have Mr. Okada's  
15 lawyers morphing the hearing into something else, because they  
16 don't have a complaint about the motion -- a serious argument  
17 about the actual motion that they filed.

18 And so this -- we're not going to morph it around,  
19 because Mr. Okada has admitted -- just like they didn't  
20 produce any evidence to us to back up these allegations about  
21 control over the documents and that somehow these documents  
22 can be produced outside of Macau over the objection of the  
23 Wynn Macau board of directors. So what's going on here is  
24 we're spending hours of time trying to now change what this  
25 motion is about into something else and arguing about a

1 privilege log. If they'd like to file a motion about a  
2 privilege log where we can actually respond to it, Your Honor.  
3 Because there have been many meet and confers, and Mr.  
4 Kunimoto and Mr. Miller, who are both sitting in here, are  
5 well aware of that. And, in fact, there's correspondence with  
6 them that accompany these privilege logs that either Mr. Peek  
7 apparently doesn't read or he doesn't know about when he's  
8 making these insinuations about the status of the privilege  
9 logs.

10 THE COURT: Okay. Anything else you want to add?

11 MR. BICE: So I ask this Court to actually focus on  
12 what this hearing is actually about. And if they want to file  
13 a separate motion on the privilege log we'll be happy to  
14 address that and attach all those meet and confer letters that  
15 went on as part of the discussions about the privilege log.

16 THE COURT: Thank you.

17 Mr. Peek, there was something else you wanted to say  
18 before I break for lunch.

19 MR. PEEK: There is, Your Honor, because what I'm  
20 hearing is palpable misrepresentations. This motion is about  
21 three bases. The Macau law privilege, the Court overruled  
22 their Macau law privilege claim and ordered them to produce  
23 documents. It is also about documents that exist outside of  
24 the United States that were either sent to or sent from  
25 officials. And the third one is consent. So when Mr. Bice

1 says, this is not about the Macau law privilege, these are  
2 documents over which they claimed. And the Court ordered that  
3 on November 1st -- actually, the September hearing the Court  
4 ordered them to produce them, all documents that overruled the  
5 Macau law privilege. When he says, it's not about the Macau  
6 law privilege and it's not about this, it is about the Macau  
7 law privilege. Because what they did is they said, oh, gosh,  
8 I'm going to relook at my Macau law privilege and I'm now  
9 going to morph it over time, and they had many opportunities  
10 to do that, February, two times in February, April, two times,  
11 July, when the Court ordered them on July 7th, certify that  
12 you have produced everything. They certified that. Then what  
13 they do, on July 26th on the eve of the first sanctions  
14 hearing they produce more documents. They'd change them or  
15 they changed the description from Macau law privilege to  
16 attorney-client. So I'm entitled to show, Your Honor, that  
17 the documents that they are morphing over time fit within the  
18 Court's order of November 1st, ordering them to produce them.  
19 So when Mr. Bice says, this is not the subject matter of this  
20 motion, it is the subject matter of this motion, because these  
21 are the documents the Court ordered them to produce when it  
22 overruled the Macau law privilege.

23 THE COURT: Thank you, Mr. Peek. I am going to  
24 overrule the objection, allow the witness to talk about 800-2-  
25 4. Mr. Peek, if there any other documents for which they are



1 not listed in your response for request for production you  
2 will not ask about them, that's the last one.

3 MR. BICE: Thank you, Your Honor.

4 (Court recessed at 12:12 p.m., until 1:17 p.m.)

5 THE COURT: Mr. Miller, where is the rest of your  
6 team? You would notice I'm sitting in my chair, I'm waiting.

7 Mr. Schall, come on back up. We're going to get  
8 started whether they're here or not. So while you were out I  
9 overruled the objection. So at some point in time somebody's  
10 going to ask you if you remember the last question. Do you?

11 THE WITNESS: It was about this letter.

12 THE COURT: This letter being Exhibit 800-2-4. 2  
13 through 4.

14 THE WITNESS: Yes.

15 THE COURT: So we don't do readbacks. So I'm  
16 hopeful that Mr. Peek will remember what he meant to ask you.  
17 The old days they used to charge sanctions by the minute for  
18 lawyers who were late. It always went to the Library Fund.

19 (Pause in the proceedings)

20 THE COURT: Mr. Malley, are you the only Elaine Wynn  
21 lawyer here today?

22 MR. MALLEY: I am, Your Honor.

23 THE COURT: It's nice to see you in the back row.

24 MR. MALLEY: It is nice to be here.

25 THE COURT: Are you comfy back there?

1 MR. MALLEY: I am.

2 THE COURT: That's lovely.

3 MR. BICE: It's a pleasant change from the  
4 seventeenth floor.

5 THE COURT: Jill said we could never go back up  
6 there till it gets redone. And since they won't tell me  
7 whether I get to the 17th floor I'm not spending money on it.

8 Mr. Kunitomo, you know better. You know I'm a  
9 starting-on-time kind of person.

10 MR. KUNITOMO: My apologies, Your Honor.

11 THE COURT: Where is Mr. Peek?

12 MR. KUNITOMO: He's having a bio break. I don't  
13 know how else to describe it.

14 THE COURT: He would call it a break for personal  
15 convenience.

16 (Pause in the proceedings)

17 THE COURT: Mr. Peek, how are you?

18 MR. PEEK: I am well, Your Honor. I have had such a  
19 delightful time this morning, and I just came back for more.

20 THE COURT: Isn't that nice?

21 MR. PEEK: It is.

22 THE COURT: So I told the witness, while we were  
23 waiting for you, that I had overruled the objection --

24 MR. PEEK: That you're going to get it all done.

25 THE COURT: No. I told him I had overruled the

1 objection. I asked him if he remembered the question. He  
2 said he knew it was about the letter. We identified the  
3 letter as 800-2 through 4. And now we need you to repeat the  
4 question for him so both he and I can complete our notes -- or  
5 I can complete my notes and he can answer your question.

6 MR. PEEK: Your Honor, for some reason I've lost my  
7 pen. I don't know what I did with it, but I guess I don't  
8 need a pen for this. There it is.

9 Nick, if you could --

10 THE COURT: He's got it up already.

11 MR. PEEK: Yeah.

12 THE COURT: We were trying to start without you.

13 MR. PEEK: And you well could have, Your Honor,  
14 because really we know that this letter is certainly not a  
15 letter as identified in June of 2016, as a letter from Steve  
16 Wynn to Edmund Ho; right?

17 BY MR. PEEK:

18 Q We know that?

19 A Correct.

20 Q Okay. And then later in Exhibit 735-4, that was the  
21 amended privilege log -- or amended log. This document  
22 identified previously, as Steve Wynn did and Ho, was put on  
23 the privilege log on page 4 of that. Do you see that?

24 A I see it.

25 Q Yeah. So it went from a Macau law to a conversion

1 table to now an attorney-client privilege; correct?

2 A Yes.

3 Q And the new description is not a letter from Steve  
4 Wynn to Edmund Ho, but it's a draft letter reflecting  
5 confidential legal advice with Marc Rubinstein. Do you see  
6 that?

7 A I see it.

8 Q Is there a recipient to this letter?

9 A Not listed on --

10 MR. BICE: Objection, Your Honor. Asked and  
11 answered.

12 THE COURT: Overruled.

13 THE WITNESS: Not listed here.

14 BY MR. PEEK:

15 Q And then in Exhibit 809 it now has a similar  
16 description from last Friday. That's Exhibit 809, that's the  
17 Twenty-seventh amended privilege log from Friday at -- Friday,  
18 it's August 18th, at 6:07; correct?

19 THE COURT: You've got to give us a page.

20 MR. PEEK: And we're on page 17.

21 THE COURT: Thank you.

22 BY MR. PEEK:

23 Q Do you see that? And that -- you know, he's  
24 got a --

25 MR. PEEK: Thank you very much, Nick.

1 THE WITNESS: Yes.

2 BY MR. PEEK:

3 Q And, again, no recipient; correct?

4 A Correct.

5 Q And I'll actually -- I'll move on.

6 THE COURT: Thank you.

7 BY MR. PEEK:

8 Q So let me have you now look at Exhibit 719, page  
9 316. And it's another WYNNPRIV document where you claim Macau  
10 law privilege.

11 THE COURT: Mr. Peek, is this identified in your  
12 responses to request for production?

13 MR. PEEK: No, Your Honor. The WYNNPRIV documents  
14 are not identified. I can tell you --

15 THE COURT: Okay. So --

16 MR. PEEK: -- from the beginning they are not.

17 THE COURT: -- as I indicated, before I let you  
18 break for lunch, the only additional documents besides 800-2-4  
19 we're going to talk about are those that were listed on your  
20 response to request for production. I have given you --  
21 sufficiently way for you to establish a pattern of problems  
22 with the privilege documents. That does not preclude you from  
23 making argument related to those and asking me perhaps using a  
24 different witness on some issues.

25 MR. PEEK: I understand, Your Honor. I'll try to

1 move forward then. I understand the Court's ruling. And I  
2 guess I don't really need to make it a record, because you're  
3 saying I'm not precluded at some other point, you're just  
4 saying through this witness I'm precluded.

5 THE COURT: That's correct.

6 MR. PEEK: Okay. As you can see, Your Honor, I have  
7 quite a few of these.

8 THE COURT: I know, Mr. Peek. I'm waiting  
9 patiently.

10 MR. PEEK: To show -- well, that's because I had so  
11 many to show the witness, Your Honor. But this is not  
12 sloppiness. I'm glad I amused my colleagues on the other  
13 side, Your Honor. Your Honor, what I want to show him now is  
14 these are actually WRMPRIV documents where I think he would  
15 have at least knowledge of WRMPRIV documents. So may I  
16 proceed with what I call not WYNNPRIV documents, but these are  
17 WRMPRIV documents.

18 THE COURT: If he tells you, I don't know, then  
19 we're going to move on though; right?

20 MR. PEEK: You're right. If he starts out by saying  
21 I don't know, because I would not involved in the process of  
22 claiming privilege, it was done by the Wynn Resorts' lawyers,  
23 I'm sure that would be the case.

24 THE COURT: Mr. Bice, anything you want to add?

25 MR. BICE: I renew my objection. Again, none of

1 these documents were identified by the Okada parties as basis  
2 for their motion for sanctions.

3 THE COURT: Thank you, Mr. Bice.

4 Mr. Peek, remember, I'm giving you only a little bit  
5 of leeway on this.

6 MR. PEEK: Yeah. I mean, I -- just --

7 THE COURT: So ask him, see if he knows.

8 MR. PEEK: Just so that I understand. I heard that  
9 objection and I thought that objection had been overruled that  
10 I'm not being sanctioned for not identifying unredacted  
11 documents in an RFP.

12 THE COURT: Then you clearly misunderstood what I  
13 said when we were breaking for lunch. I said, Mr. Peek, the  
14 only documents you were going to examine on that weren't  
15 identified in your response to request for production were  
16 800-2-4. This examination, however, that you are telling me  
17 you're going to do is based on a privilege log entry --

18 MR. PEEK: Right.

19 THE COURT: -- which is slightly different.

20 MR. PEEK: That's right. These are now priv  
21 documents.

22 THE COURT: No, they're privilege log entries.

23 MR. PEEK: They're privilege log entries, they're  
24 not redacted documents, Your Honor.

25 THE COURT: Well, we'll see if I -- Mr. Peek, I'm

1 trying to give you a little bit of leeway, but we're not going  
2 into documents you haven't identified. If you want to ask  
3 this witness about a privilege log for his client for whom he  
4 is general counsel, whether he was involved, I'll let him  
5 answer those questions. And if he says, I don't know, well  
6 then we'll quickly move on.

7 MR. PEEK: I understand. But I guess where I'm  
8 confused, Your Honor, is -- and maybe I am misunderstanding  
9 the Court's ruling, and I don't want to argue Troy White the  
10 Court. I don't want to be jumping up and down on this. But I  
11 understood an RFP, an interrogatory that referred to redacted  
12 documents to be redacted documents, not documents withheld.  
13 If the Court's saying to me that I should have identified in a  
14 response to a request for production on redacted documents,  
15 documents that had been withheld, I want to make sure that I  
16 understand that's what the Court is ruling.

17 THE COURT: No, Mr. Peek. But I --

18 MR. PEEK: Okay.

19 THE COURT: -- have said, repeatedly, is to the  
20 extend that you are arguing that there has been a pattern of  
21 misconduct by Wynn Resorts in the use of their privilege log  
22 or claims of privilege, that is a legal argument which you and  
23 I will be able to have a discussion about later. This  
24 witness, however, has indicated he does not have factual  
25 information about those privilege log entries that we've



1 already gone over. I've asked you to stop asking him about  
2 them.

3 MR. PEEK: And I understand that part of the  
4 argument -- or the ruling.

5 THE COURT: So the fact that we are now going to the  
6 entity for which he serves as general counsel I'm going to  
7 give you a little bit of leeway. But when he says, I don't  
8 know seven times can we stop.

9 MR. PEEK: I get that point, Your Honor.

10 THE COURT: Okay.

11 BY MR. PEEK:

12 Q You've already told us, Mr. Schall, that at one time  
13 or another you did make an effort to make sure that as -- that  
14 any WRM documents that may have protection under either  
15 Article 92 of the concession agreement or Article 16/2001  
16 under the Macau law that you wanted those withheld. Am I  
17 correct?

18 A If I was asked about a document and thought that  
19 Clause 92 or Law 16/2001 applied in terms of restricting  
20 access to the document then I would have indicated so.

21 Q But only if you were asked about a specific  
22 document?

23 A Correct.

24 Q Okay. Thank you. So let me have you look at  
25 Exhibit 699.

1           MR. PEEK: I think I have to get to another folder,  
2 Your Honor. And 699, and here we're only going to deal  
3 with --

4           Nick, if you'd show me where the privilege log  
5 starts, please.

6 BY MR. PEEK:

7           Q I'm starting on page 4 of 699. What involvement, if  
8 any, did you have in the preparation of a privilege log by  
9 WRM?

10          A Is there supposed to be a document for me to look  
11 at?

12          Q Yeah. Here's the document. It is the Wynn parties  
13 fourteenth supplemental privilege log WRM documents.

14           THE COURT: And we're going to show you that,  
15 because it's just the privilege log.

16           MR. PEEK: It's just the privilege log.

17 BY MR. PEEK:

18          Q So I just want to know whether or not this privilege  
19 log was prepared just by the Wynn Resorts Limited lawyers,  
20 Pisanelli Bice, or in consultation with you or someone on your  
21 staff.

22          A Okay. I understand. To the extent an entry on here  
23 reflects a direct question to me about the document that has  
24 been withheld I would have been involved.

25          Q Direct question about a -- in other words, somebody

1 came to you with a document and said, is there a privilege  
2 associated with it?

3 A Yes, Mr. Peek. But they also may have asked a  
4 question such as, who is this person, does this person relate  
5 to some entity that a privilege would apply to?

6 Q Okay.

7 THE COURT: Can you identify for us any particular  
8 document that is identified on this privilege log for WRM that  
9 you were consulted?

10 THE WITNESS: I'm going to pull --

11 MR. PEEK: Yeah.

12 THE COURT: I'm just trying to short circuit an hour  
13 and a half of questioning.

14 MR. PEEK: And I am too, Your Honor.

15 THE WITNESS: 699, page 2-4? Page 4.

16 BY MR. PEEK:

17 Q Yeah. It starts at page 4.

18 THE COURT: And I'm admitting --

19 MR. PEEK: And I'm offering Exhibit -- yeah -- thank  
20 you, Your Honor.

21 THE COURT: I'm admitting 699-4 through the end,  
22 overruling Mr. Bice's same objection he's made, because it is  
23 only the privilege log that's being admitted.

24 MR. PEEK: Your Honor, it's page 4 through 136 of  
25 Exhibit 699.

1 THE COURT: Thank you.

2 Dulce, please note, 699-4 through 136.

3 (Defendants' Exhibits 699-4 through 699-136 admitted)

4 THE WITNESS: Because of the descriptions, and I  
5 haven't looked at all 131 pages, it would be very difficult  
6 for me to identify specific documents that I was specifically  
7 involved in and saying that they belong on this log.

8 MR. PEEK: Your Honor, may I at least show a few of  
9 these.

10 THE COURT: Sure. I was just hoping to get an  
11 answer one way or the other.

12 MR. PEEK: Yeah.

13 BY MR. PEEK:

14 Q Let me have you turn to page 10, 699-10. And what I  
15 want you to look at specifically is a document, WRMPRIV54626,  
16 Macau Government Official. Maybe this doesn't have enough  
17 information for you either, but --

18 A Yeah, I'm sorry. I don't know.

19 Q Can you give us at least any kind of a -- this is  
20 131-page privilege log of WRM, can't represent how many  
21 entries there are, but we certainly know there's more than  
22 131, maybe 10 a page or seven a page. So there's about let's  
23 just say a guesstimate of 800 entries. Can you tell me how  
24 many documents you recall ever being asked to review by the  
25 Pisanelli Bice lawyers as to whether or not there should be a

1 claim of privilege. And this would have been in 2016.

2 A In 2016?

3 Q Uh-huh.

4 A I believe zero.

5 Q Okay. What about in 2013 when lawyers from  
6 Pisanelli Bice were there with FTI and we had reviewers, how  
7 many?

8 A I would approximate a dozen.

9 Q Was there anybody else on your staff -- your legal  
10 staff who may have been shown from time to time any documents  
11 questioning whether or not a privilege should be claimed?

12 A I believe I was the only one, but I can't speak to  
13 what Pisanelli Bice may have done.

14 Q But your recollection is that in 2013 you were the  
15 only one and it was only about a dozen?

16 A Approximately.

17 Q And then in 2016 when this log was prepared, zero  
18 contact -- zero documents were shown to you; correct?

19 A That's my recollection.

20 Q Okay. So I had you look at at least one of those on  
21 page 699-10. And there's another one on that same page, and  
22 it begins 54672 -- it actually begins 65672, so it's about the  
23 third one after the one you just looked at. And it says that  
24 it's authored by Steve Wynn. Does that in any way appear to  
25 be one of those even dozen that you looked at?

1           A     No.

2           Q     It is your understanding as the counsel for -- let  
3 me back up for a minute. Were you aware when the board of  
4 directors was being -- in December of 2016, did you have a  
5 copy of any privilege log which identified the documents that  
6 were being withheld?

7           A     No.

8           Q     When you made that presentation to the board?

9           A     No.

10          Q     When you wrote to the DICJ and asked them for  
11 permission to produce documents did you send them a  
12 description of the documents that had been withheld?

13          A     No.

14          Q     In Article 92 -- well, let me ask you, is there a  
15 reason why you didn't tell the DICJ what documents it was that  
16 the defendants had asked to be produced from Macau?

17               MR. BICE: Objection. Foundation. Assumes facts  
18 not in evidence.

19               THE COURT: Overruled.

20 BY MR. PEEK:

21          Q     Remember that letter you wrote to the DICJ?

22               THE COURT: You've got to let him answer.

23               THE WITNESS: I remember the letter. I don't  
24 remember it exactly, because it's going on a year, although I  
25 have refreshed my memory on it before my deposition I think.

1 I believe we were trying to keep it simple and high level.  
2 And in my and our experience with the DICJ, trying to parse up  
3 the pie would be difficult, so it was easier to try to get a  
4 yes out of them, which is what we wanted so we wouldn't be  
5 going through something like this now. To say, we need to  
6 release documents that are protected by these provisions in  
7 Macau law, can we please do it?

8 BY MR. PEEK:

9 Q And you remember last time that we talked about the  
10 difference between exclusively and namely?

11 A Yeah.

12 Q Do you remember that?

13 A I do.

14 Q Yeah. And, really you said that the namely meant it  
15 was more expansive than exclusive even though you said  
16 documents related to the concession in the 2002 period you  
17 really meant and beyond with the word "namely". Do you  
18 remember that?

19 MR. BICE: Objection to form.

20 THE COURT: Overruled.

21 You can answer.

22 THE WITNESS: Legal provisions protecting documents  
23 related to the tender process and the concession process has  
24 been interpreted a little more broadly by some people in Macau  
25 to include things that went beyond the tender and concession,

1 went into communications with the gaming regulator well after  
2 the concessions were granted. Therefore, my recollection is  
3 we used namely to say look, we really want the tender  
4 documents. There was a large universe of them, and it would  
5 be much easier if you could just have all of them. But there  
6 might be some other things. And what we did not want was to  
7 give you 99 percent and have one document hanging out there  
8 and still be here today doing what we're doing.

9 BY MR. PEEK:

10 Q So when you say, "some people" you mean some people  
11 within the DICJ --

12 A Yes.

13 Q -- or some people, other lawyers with other gaming  
14 companies?

15 A I mean my experiences with legal counsel with the  
16 DICJ.

17 Q Okay. Had you ever asked anybody at DICJ whether or  
18 not documents related to post concession, that six-month  
19 period from award to contract, could be released?

20 A I don't recall asking that exact question.

21 Q You just interpreted somewhere along the way that  
22 documents post June/July of 2002 were not to be -- had some  
23 confidential protection to them; correct?

24 A I didn't interpret that. I've had discussions with  
25 their counsel were common such as -- and any communications



1 you have with the government that have to do with the gaming  
2 business can't leave Macau.

3 Q Did you interpret that as a DICJ requirement under  
4 Article 92 or under the OPDP or MPDPA?

5 A When speaking about gaming-related documents I  
6 interpreted it as an instruction from DICJ as a verbal  
7 instruction that has the force of law on a concession company.

8 Q And this conversation, was it in the -- but it  
9 wasn't -- the conversation you had with counsel, it wasn't in  
10 the context of a request to produce documents post June 2002,  
11 was it?

12 A I don't quite understand the question.

13 Q Well, we established that 16/2001 relates to the  
14 tender and bid process pre award; correct?

15 A That law is still in effect. So whether it's  
16 provision ceased being effective at the award of concessions I  
17 can't answer for you, Mr. Peek.

18 Q Well, the wording appears to be pre tender, pre bid,  
19 does it not, even though the law is still in the book?

20 A I agree with you, the wording appears --

21 Q Okay. And then the Article 92 also appears to be  
22 related to that period of time through the awarding of the  
23 contract that would be February through June, July, August;  
24 correct?

25 A I don't have Article 92 in front of me, but since