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

16 WYNN RESORTS, LIMITED,

17 Petitioner,

18 vs.

19 THE EIGHTH JUDICIAL DISTRICT
20 COURT OF THE STATE OF
21 NEVADA, IN AND FOR THE
22 COUNTY OF CLARK; AND THE
23 HONORABLE ELIZABETH
24 GONZALEZ, DISTRICT JUDGE,
25 DEPT. XI,

26 Respondent,

27 KAZUO OKADA, UNIVERSAL
28 ENTERTAINMENT CORP.,
AND ARUSE USA, INC.,

Real Parties in Interest.

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Elizabeth A. Brown
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Case No. 74500

District Court Case No. A-12-656710-B

**WYNN RESORTS, LIMITED'S
MOTION TO FILE VOLUMES OF
ITS APPENDIX UNDER SEAL AND
TO REDACT PORTIONS OF ITS
PETITION FOR WRIT OF
MANDAMUS OR
ALTERNATIVELY PROHIBITION**

1 **I. INTRODUCTION**

2 Petitioner Wynn Resorts, Limited ("Wynn Resorts") hereby moves to file
3 volumes of its Appendix under seal and redact portions of its Petition for Writ of
4 Mandamus or Alternatively Prohibition ("Petition"). More specifically,
5 Wynn Resorts seeks permission to submit the following Volumes of its Appendix
6 under seal: I-V, VII-XI, XIII, XV-XXII, XXVI-XXX, XXXII-XL, and XLII-XLIII.
7 Wynn Resorts brings this motion pursuant to Part VII of the Supreme Court Rules
8 Governing Sealing and Redacting Court Records. SRCR 3(4) permits sealing or
9 redacting records when it furthers a protective order entered under NRCPC 26(c).

10 The District Court entered the Wynn Parties' Protective Order with Respect to
11 Confidentiality ("Protective Order") on February 14, 2013, and it governs the process
12 by which parties to this action may designate information as Confidential or
13 Highly Confidential as defined therein. Both Wynn Resorts' Petition and the
14 Appendix contain information the parties designated Confidential or Highly
15 Confidential pursuant to the Protective Order, and the District Court ruled should be
16 redacted and/or sealed. As such, Wynn Resorts respectfully requests this Court grant
17 its request to seal Volumes I-V, VII-XI, XIII, XV-XXII, XXVI-XXX, XXXII-XL,
18 and XLII-XLIII of its Appendix and to redact certain portions of its Petition.

19 **II. RELEVANT FACTS**

20 The Protective Order entered on February 14, 2013 governs the use and
21 disclosure of Confidential and Highly Confidential information in this case, including
22 the filing of such information with the Court. It requires the filing of any documents
23 that summarize or quote from Highly Confidential or Confidential information be
24 submitted with a Motion to Seal and Redact. (Ex. 1 ¶ 13.) The Protective Order
25 permits the parties to designate materials that contain "information that constitutes,
26 reflects, or discloses nonpublic information, trade secrets, know-how, or other
27 financial, proprietary, commercially sensitive, confidential business, marketing,
28

1 regulatory, or strategic information (regarding business plans or strategies, technical
2 data, and nonpublic designs)" as Confidential. (*Id.* ¶ 4.) Additionally, it allows for
3 the designation of materials as Highly Confidential if "the disclosure of which would
4 create a substantial risk of competitive, business, or personal injury to the Producing
5 Party." (*Id.* ¶ 5.) Any information designated as Confidential or Highly
6 Confidential and filed with the Court may be kept under seal and/or redacted upon
7 motion of a party. (*Id.* ¶ 9.) If a Party wants to challenge a particular designation,
8 the Protective Order sets forth the procedure to do so. (*Id.* ¶ 18.) The materials retain
9 their Confidential or Highly Confidential designation unless and until the parties
10 agree otherwise or the District Court issues an order removing the designation. (*Id.*)

11 **III. ANALYSIS**

12 **A. Standards for Sealing or Redacting Court Records or Exhibits.**

13 Part VII of the Supreme Court Rules provides that records submitted to this
14 Court may be submitted in redacted or sealed form, subject to further order. The
15 Court will keep the documents redacted or under seal if there is an appropriate basis
16 under SRCR 3(4). SRCR 3(4) permits the sealing or redaction of the record when
17 justified by compelling privacy or safety interests that outweigh the public interest
18 in access to the court record. Furthermore, the public interest in privacy
19 outweighs the public interest in open court records when the sealing or redaction
20 furthers a protective order entered under NRCP 26(c). SRCR 3(4)(b).

21 **B. Wynn Resorts' Request to Seal Certain Volumes of its Appendix** 22 **Furtheres the Purpose of the Protective Order Entered by the** 23 **District Court.**

24 Each document Wynn Resorts seeks to file under seal contains information
25 designated Confidential or Highly Confidential pursuant to the Protective Order,
26 and ordered redacted or sealed by the District Court. The discussion below identifies
27 (1) the title of each document containing Confidential or Highly Confidential
28 information, (2) the specific portions of the document that were ordered redacted

1 and/or sealed by the District Court, (3) the date the District Court granted the
2 underlying motion to redact and/or seal, and (4) the location (by bates number) of the
3 Confidential or Highly Confidential information within the Appendix.

4 **1. *The Aruze Parties' Motion to Compel Supplemental Responses***
5 ***to their Second and Third Set of Requests for Production to***
6 ***Wynn Resorts, Limited.***

7 On April 28, 2015, the Okada Parties filed their Motion to Compel
8 Supplemental Responses to their Second and Third Set of Requests for Production to
9 Wynn Resorts, Limited. On June 4, 2015, the District Court granted the Okada
10 Parties' unopposed motion to redact page 10 of the motion and seal Exhibits 3, 5-6,
11 33-34, and 36. The redacted portions of the filing appear here: App. Vol. I, 00144,
12 00223-00250; App. Vol. II-III, 00427-00527; App. Vol. IV, 00768-00790,
13 00794-00924.

14 **2. *Wynn Resorts, Limited's Opposition to the Okada Parties'***
15 ***Motion to Compel Supplemental Responses to their Second and***
16 ***Third Sets of Requests for Production.***

17 On May 19, 2015, Wynn Resorts filed its Opposition to the Okada Parties'
18 Motion to Compel Supplemental Responses to their Second and Third Sets of
19 Requests for Production. On June 4, 2015, the District Court granted Wynn Resorts'
20 unopposed motion to seal Exhibits 2 and 3 thereto. The redacted portions of the filing
21 appear here: App. Vol. V, 01049-01084.

22 **3. *The Aruze Parties' Reply in Support of their Motion to Compel.***

23 On May 28, 2015, the Okada Parties filed their Reply in Support of their
24 Motion to Compel. On June 4, 2015, the District Court granted the Okada Parties'
25 unopposed motion to redact pages 5-6 and 11 of the reply and seal Exhibits 37-42.
26 The redacted portions of the filing appear here: App. Vol. VII, 01674-01675, 01680,
27 01702-01732.
28

1 **4. *The Wynn Parties' Motion for Relief from Order Granting The***
2 ***Aruze Parties' Motion to Compel Supplemental Responses to***
3 ***their Second and Third Sets of Requests for Production.***

4 On December 8, 2015, Wynn Resorts filed its Motion for Relief from Order
5 Granting The Aruze Parties' Motion to Compel Supplemental Responses to their
6 Second and Third Sets of Requests for Production. On January 8, 2016, the District
7 Court granted Wynn Resorts' unopposed motion to redact pages 4, 6, 9, 11, and 13-19
8 of the motion and seal Exhibits B-K. The redacted portions of the filing appear here:
9 App. Vol. VIII, 01841, 01843, 01846, 01848, 01850-01856, 01868-01976.

10 **5. *The Aruze Parties' Opposition to the Wynn Parties' Motion for***
11 ***Relief from Order Granting The Aruze Parties' Motion to***
12 ***Compel Supplemental Responses to their Second and Third Sets***
13 ***of Requests for Production.***

14 On December 21, 2015, the Okada Parties filed their Opposition to the
15 Wynn Parties' Motion for Relief from Order Granting The Aruze Parties' Motion to
16 Compel Supplemental Responses to their Second and Third Sets of Requests for
17 Production. On February 2, 2016, the District Court granted the Okada Parties'
18 unopposed motion to redact pages 5, 7, and 9-10 of the opposition and seal Exhibits
19 1-3. The redacted portions of the filing appear here: App. Vol. VIII, 01981, 01983,
20 01985-01986; App. Vol. VIII-IX 01996-02021.

21 **6. *The Aruze Parties' Motion to Compel Production of***
22 ***Wynn Resorts, Limited's Improperly Redacted Documents, and***
23 ***Motion for Sanctions and Attorney's Fees.***

24 On April 20, 2016, the Okada Parties filed their Motion to Compel Production
25 of Wynn Resorts, Limited's Improperly Redacted Documents, and Motion for
26 Sanctions and Attorney's Fees. On May 26, 2016, the District Court granted the
27 Okada Parties' unopposed motion to redact pages 7 and 9-11 of the motion and seal
28 Exhibits D, F-J, and L-M. The redacted portions of the filing appear here: App.
Vol. IX, 02034, 02036-02038, 02111-02112; App. Vol. X, 02283-02387; App.
Vol. X-XI, 02498-02510.

1 7. ***The Aruze Parties' Status Report Regarding the May 26, 2016***
2 ***Hearing.***

3 On May 25, 2016, the Okada Parties filed their Status Report Regarding the
4 May 26, 2016 Hearing. On July 1, 2016, the District Court granted the Okada Parties'
5 unopposed motion to redact page 3 of the status report and seal Exhibits A-C. The
6 redacted portions of the filing appear here: App. Vol. XIII, 03149, 03154-03162.

7 8. ***The Aruze Parties' Reply in Support of Motion to Compel***
8 ***Production of Wynn Resorts, Limited's Improperly Redacted***
9 ***Documents, and Motion for Sanctions and Attorney's Fees.***

10 On August 26, 2016, the Okada Parties filed their Reply in Support of Motion
11 to Compel Production of Wynn Resorts, Limited's Improperly Redacted Documents,
12 and Motion for Sanctions and Attorney's Fees. On September 15, 2016, the District
13 Court granted the Okada Parties' unopposed motion to redact pages 4, 8-11, and
14 13-14 of the reply and seal Exhibits P and S-T. The redacted portions of the filing
15 appear here: App. Vol. XV, 03584, 03588-03591, 03593-03594, 03601-03608,
16 03650-03747.

17 9. ***Defendants' Motion for Sanctions Against Wynn Resorts,***
18 ***Limited for Failure to Comply with Order Granting in Part***
19 ***Defendants' Motion to Compel.***

20 On April 4, 2017, the Okada Parties filed their Motion for Sanctions Against
21 Wynn Resorts, Limited for Failure to Comply with Order Granting in Part
22 Defendants' Motion to Compel. On May 1, 2017, the District Court granted the
23 Okada Parties' unopposed motion to redact pages 10 and 26 of the motion and seal
24 Exhibits A, G, J, N, R, and T. The redacted portions of the filing appear here: App.
25 Vol. XVI, 03897, 03913; App. Vol. XLII, 10294-10351, 10384-10391, 10410-10417;
26 App. Vol. XLII-XLIII, 10472-10514; App. Vol. XLIII, 10527-10529, 10613-10615.

27 10. ***Wynn Resorts' Opposition to Defendants' Motion for Sanctions***
28 ***Against Wynn Resorts, Limited for Failure to Comply with***
 Order Granting in Part Defendants' Motion to Compel.

 On April 14, 2017, Wynn Resorts filed its Opposition to Defendants' Motion
for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order

1 Granting in Part Defendants' Motion to Compel. On May 1, 2017, the District Court
2 granted Wynn Resorts' unopposed motion to redact pages 5-6, 9, 17-18, 20, 24, and
3 26 of the opposition and seal Exhibits 1, 5-17, and 19. The redacted portions of the
4 filing appear here: App. Vol. XVI, 03922-03923, 03926, 03934-03935, 03937,
5 03941, 03943, 03950-03954; App. Vol. XVI-XVII 03990-04191; App. Vol. XVII,
6 04196-04204.

7 ***11. Defendants' Reply in Support of Motion for Sanctions Against***
8 ***Wynn Resorts, Limited for Failure to Comply with Order***
9 ***Granting in Part Defendants' Motion to Compel.***

10 On April 25, 2017, the Okada Parties filed their Reply in Support of Motion
11 for Sanctions Against Wynn Resorts, Limited for Failure to Comply with Order
12 Granting in Part Defendants' Motion to Compel. On May 1, 2017, the District Court
13 granted the Okada Parties' unopposed motion to redact pages 3-10 of the reply. The
14 redacted portions of the filing appear here: App. Vol. XVII, 04207-04214.

15 ***12. Defendants' Motion to Compel Wynn Resorts, Limited to***
16 ***Produce Documents and Information Responsive to Discovery***
17 ***Requests Related to Defendants' Motion for Sanctions.***

18 On June 12, 2017, the Okada Parties filed their Motion to Compel
19 Wynn Resorts, Limited to Produce Documents and Information Responsive to
20 Discovery Requests Related to Defendants' Motion for Sanctions. On July 3, 2017,
21 the District Court granted the Okada Parties' unopposed motion to redact pages 8-10
22 of the motion and seal Exhibits A-B thereto. The redacted portions of the filing
23 appear here: App. Vol. XVIII, 04258-60, 04264-04340.

24 ***13. Wynn Resorts, Limited's Opposition to the Okada Parties'***
25 ***Motion to Compel and Countermotion to Compel (1) Responses***
26 ***to Requests for Production, (2) Answers to Interrogatories,***
27 ***(3) Answers to Deposition Questions, and (4) Sanctions.***

28 On June 22, 2017, Wynn Resorts filed its 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

1 (4) Sanctions. On July 3, 2017, the District Court granted Wynn Resorts' unopposed
2 motion to redact pages 2-6 and 8-19 of the opposition/countermotion and seal
3 Exhibits 3-7, 9, and 16. The redacted portions of the filing appear here: App.
4 Vol. XVIII, 04358-04362, 04364-04375; App. Vol. XVIII-IXX, 04403-04529; App.
5 Vol. IXX, 04532-04572, 04638-04662.

6 ***14. Defendants' Motion to Compel Further Deposition of***
7 ***Wynn Resorts, Limited's NRCP 30(B)(6) Designee and***
8 ***Superseding Motion to Compel Wynn Resorts, Limited to***
9 ***Produce Documents and Information Responsive to Discovery***
10 ***Requests (Re Motion for Sanctions).***

11 On June 26, 2017, the Okada Parties filed their Motion to Compel Further
12 Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee and Superseding
13 Motion to Compel Wynn Resorts, Limited to Produce Documents and Information
14 Responsive to Discovery Requests (Re Motion for Sanctions). On July 3, 2017, the
15 District Court granted the Okada Parties' unopposed motion to redact pages 7-11 of
16 the motion and seal Exhibits A-D. The redacted portions of the filing appear here:
17 App. Vol. IXX, 04679-04683; App. Vol. IXX-XX, 04687-04825.

18 ***15. Wynn Resorts, Limited's Opposition to the Okada Parties'***
19 ***Motion to Compel Further Deposition of Wynn Resorts,***
20 ***Limited's NRCP 30(B)(6) Designee and Superseding Motion to***
21 ***Compel Wynn Resorts, Limited to Produce Documents and***
22 ***Information Responsive to Discovery Requests (Re Motion for***
23 ***Sanctions).***

24 On June 30, 2017, Wynn Resorts filed its Opposition to Okada Parties' Motion
25 to Compel Further Deposition of Wynn Resorts, Limited's NRCP 30(B)(6) Designee
26 and Superseding Motion to Compel Wynn Resorts, Limited to Produce Documents
27 and Information Responsive to Discovery Requests. On July 3, 2017, the District
28 Court granted Wynn Resorts' unopposed motion to redact pages 2 and 4-8 of the
opposition and seal Exhibit 1. The redacted portions of the filing appear here: App.
Vol. XX, 04827, 4829-04833; App. Vol. XX-XXI, 04841-05112.

1 **16. Aruze Parties' Reply in Support of their Motion to Compel and**
2 **Opposition to Wynn Resorts, Limited's Countermotion to**
3 **Compel (Re Motion for Sanctions).**

4 On July 5, 2017, the Okada Parties filed their Reply in Support of their Motion
5 to Compel and Opposition to Wynn Resorts, Limited's Countermotion to Compel (Re
6 Motion for Sanctions). On October 17, 2017, the District Court granted the Okada
7 Parties' unopposed motion to redact pages 3-4, 6-7, 9-14, 16-17, and 19 of the reply
8 and seal Exhibits B-I, K-L, S, and U. The redacted portions of the filing appear here:
9 App. Vol. XXI, 05115-05116, 05118-05119, 05121-05126, 05128-05129, 05131,
10 05147-05247; App. Vol. XXII, 05251-05296, 05347-05370, 05377-05379.

11 **17. Defendants' Post-Hearing Brief in Support of Defendants'**
12 **Motion for Sanctions.**

13 On September 29, 2017, the Okada Parties filed their Post-Hearing Brief in
14 Support of Defendants' Motion for Sanctions. On October 9, 2017, the District Court
15 granted the Okada Parties' unopposed motion to redact pages 5, 9-11, and 20 of the
16 brief and seal Exhibits 6-7, 12, 14, 20-24, 29-49, 51-54, 56-58, 60, 6276, 78-79, and
17 87-105. The redacted portions of the filing appear here: App. Vol. XXVI, 06290,
18 06294-06296, 06305; App. Vol. XXVII-XXVIII, 06726-06753; App. Vol. XXVIII-
19 XXX, 06754-07499; App. Vol. XXXII, 07786-07806; App. Vol. XXXII,
20 07987-08046; App. Vol. XXXIII-XXXVI, 08203-08757; App. Vol. XXXVI, 08763-
21 08826, 08832-08834, 08847-08849; App. Vol. XXXVI-XXXVII, 08981-09249;
22 App. Vol. XXXVIII, 09266-09321; App. Vol. XXXVIII-XXXIX, 09405-09536.

23 **18. Wynn Resorts' Response to the Post-Hearing Brief in Support**
24 **of the Okada Parties' Motion for Sanctions Against**
25 **Wynn Resorts, Limited for Failure to Comply with Order**
26 **Granting in Part Okada Parties' Motion to Compel.**

27 On October 13, 2017, Wynn Resorts filed its Response to the Post-Hearing
28 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

1 Compel. On November 20, 2017, the District Court granted Wynn Resorts'
2 unopposed motion to redact pages 4-8, 11-12, 14-18, 20, 22, 25, and 27-31 of the
3 brief and seal Exhibits 1, 3-4, and 7. The redacted portions of the filing appear here:
4 App. Vol. XXXIX, 09540-09544, 09547-09548, 09550-09554, 09556, 09558, 09561,
5 09563-09567, 09572-09589, 09597-09605; App. Vol. XL, 09953-09965.

6 **C. The Petition Should be Redacted.**

7 Pursuant to SRCR 3(4) and 3(5), the Court should allow the redaction of the
8 Petition where it summarizes and/or discusses Highly Confidential and/or
9 Confidential information and/or documents discussed above that was subject to
10 redacted or sealing in the District Court. The redactions prevent the disclosure of the
11 Confidential or Highly Confidential information quoted within the Petition.
12 Therefore, Wynn Resorts requests the proposed redactions to its Petition be granted.

13 **IV. CONCLUSION**

14 Wynn Resorts respectfully requests that this Court permit it to file the Petition
15 in redacted form and to submit the unredacted writ under seal. Wynn Resorts also
16 respectfully requests an order allowing it to file Volumes I-V, VII-XI, XIII, XV-
17 XXII, XXVI-XXX, XXXII-XL, and XLII-XLIII of its Appendix under seal.

18 DATED this 20th day of November, 2017.

19 PISANELLI BICE PLLC

20
21 By: /s/ Debra L. Spinelli
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 20th day of November, 2017, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **WYNN RESORTS, LIMITED'S MOTION TO FILE VOLUMES OF ITS APPENDIX UNDER SEAL AND TO REDACT PORTIONS OF ITS PETITION FOR WRIT OF MANDAMUS OR ALTERNATIVELY PROHIBITION** properly addressed to the following:

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