

EXHIBIT A

EXHIBIT A

In the Supreme Court of Nevada

WYNN RESORTS, LIMITED,
Petitioner,

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,

Respondents,

and

KAZUO OKADA; UNIVERSAL
ENTERTAINMENT CORP.;
and ARUZE USA, INC.,

Real Parties in
Interest.

District Court
No. A656710

ELAINE P. WYNN’S OPPOSITION TO STAY OF ENTIRE LITIGATION

Intervening real party in interest Elaine P. Wynn opposes Wynn Resorts’ emergency request for a stay of “the underlying litigation in its entirety.” (Mot. 3:5.) Not content to challenge via writ petition the district court’s sanction, which was entered in part for Wynn Resorts’ dilatory tactics, Wynn Resorts now seeks a blanket stay pending the petition—on an emergency basis—that would reward those very tactics and impose further delay. In the motion, Wynn Resorts focuses entirely on

itself and, briefly, the Okada parties; it does not address, much less establish the absence of, harm to Ms. Wynn from a stay. Apart from the reasons that the Okada parties give, the requested stay should be denied because it would harm Ms. Wynn's interest in timely resolving her cross-claims.

A. Wynn Resorts' Stay Request Fits a Pattern of Delay

In evaluating a stay motion under NRAP 8(c), this Court has considered the factor dealing with the “merits” of the petition to address not just the likely outcome of the petition, but also whether the stay request itself is filed “for dilatory purposes.” *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 253, 89 P.3d 36, 40 (2004). Here, the context of Wynn Resorts' request for a stay of the entire litigation shows that it is intended to cause delay.

1. *The District Court Sanctioned Wynn Resorts for Willful Obstruction and Delay*

The ruling under review in Wynn Resorts' petition describes Wynn Resorts' willful violation of discovery orders and delay in connection with certain discovery requests by the Okada parties related to Wynn Macau. (See, e.g., 42 App. 10,285, ¶ 133 (“Wynn Resorts has act-

ed willfully, because it had control over Macau-related documents at the inception of this litigation, and chose not to produce them as the Court ordered.”.)

2. *Wynn Resorts has Also Been Obstructing Ms. Wynn’s Discovery*

That ruling is merely illustrative, however. Wynn Resorts has also engaged in willful obstruction and delay with respect to *Ms. Wynn’s* discovery requests, flouting multiple orders of the District Court compelling production.

Since June 5, 2017, Wynn Resorts has been under orders to respond by July 26 to dozens of *Ms. Wynn’s* requests for production and interrogatories. (Ex. A, July 13, 2017 Order Compelling Discovery.) Wynn Resorts—without seeking any relief from the order—made just a partial production, indicated that additional searches were “ongoing,” and provided no timeline for completion. (Ex. B, Oct. 16, 2017 Motion for Sanctions, at 10:20–22.) After *Ms. Wynn’s* repeated attempts to get the court-ordered discovery, Wynn Resorts finally admitted in open court that production would not be completed until June or July 2018—*two months after the April 2018 trial date and a full year after entry of the order compelling production.* (Ex. C, Oct. 2, 2017 Hr’g Tr., at 22:3–

25.)

The district court found that Ms. Wynn made a prima facie case for Rule 37 sanctions against Wynn Resorts for its discovery violations and scheduled an evidentiary hearing for this week. (Ex. D, Oct. 31, 2017 Hr’g Tr., at 43–44.)

The Okada parties correctly observe that Wynn Resorts’ strategy “has been to create delay after delay” to prevent “a fair and timely resolution of this lawsuit on its merits.” (Okada Opp. 1.) Having already been sanctioned for its own discovery failures and delays, and with the prospect of further sanctions looming, Wynn Resorts now asks this Court to give it the benefit of even more delay—without regard to, or even any mention of, the effects of such delay on Ms. Wynn.

3. The District Court Temporarily Stayed Just the Sanctions Order, Not the Entire Litigation

While Ms. Wynn’s motion for sanctions is still pending, the district court has made it clear that a stay of the entire litigation—including trial—is inappropriate. Although Wynn Resorts represents that it obtained a temporary stay from the district court, there is no indication that *that* ruling was anything other than a stay of the order that is the subject of Wynn Resorts’ petition. (Ex. 2 to Mot., at 29–30.) Indeed,

with the exception of Wynn Resorts' discovery violations, the litigation has been proceeding apace toward the April 2018 trial.

4. *A Stay of the Entire Litigation would Reward Wynn Resorts' Willful Delay*

A stay motion filed for dilatory purposes should be denied.

Mikohn Gaming Corp. v. McCrea, 120 Nev. 248, 253, 89 P.3d 36, 40 (2004). Wynn Resorts' bid to transform the district court's narrow stay of its sanctions order into a blanket stay of the entire litigation, while overbroad to protect its interest in the writ petition, has another target: excusing its anticipated failure to comply with the order compelling discovery of Ms. Wynn's requests before the April 2018 trial date. Such a stay is purely dilatory.

B. *A Tailored Stay would Protect the Object of the Petition*

The improper purpose of the requested stay is reason enough to deny it. But the most significant factor in assessing a stay, whether the object of the petition will be defeated, also militates against a sweeping stay of the entire litigation. *See* NRAP 8(c)(1). Wynn Resorts challenges an order imposing sanctions. A stay of *that* order—while allowing other trial preparations to move forward— would preserve the object of the

petition with minimal disruption to the remaining parties in the district court.

C. A Blanket Stay would Prejudice Ms. Wynn

The remaining factors under Rule 8(c), too, favor a narrow rather than a broad stay.

“Normally,” litigation costs and delay are too insignificant to play a major part of the stay analysis under NRAP 8(c)(2) and (3). *Mikohn Gaming*, 120 Nev. at 253, 89 P.3d at 39.

But the writ practice in this Wynn litigation is not “normal.” This case has spawned a baker’s dozen of writ petitions, and while this Court has by and large granted the parties’ requests for a stay, those stays have been tailored to the relief sought—that is, a stay of the challenged order.¹ In the unique circumstance of this massive litigation, with zig-zagging claims based in some instances on conduct more than a decade

¹ See Docket No. 68310 (stay of deposition); Docket No. 68439 (stay of order compelling discovery); Docket No. 70050 (stay of order compelling discovery); Docket No. 70452 (stay of order compelling discovery); Docket No. 71432 (stay of deposition and evidentiary hearing); Docket No. 71638 (stay of order compelling discovery); Docket No. 73641 (stay of order compelling discovery); Docket No. 74063 (stay of order compelling discovery); Docket No. 74184 (stay of order compelling discovery); Docket No. 74519 (stay of depositions).

ago,² tailoring serves the important interest of ensuring the timely preparation and trial of those claims that are merely incidental to the petition. For a petition that challenges just one sanctions order for discovery vis-à-vis one set of litigants, a stay that intrudes on the trial of Ms. Wynn's separate cross- and counterclaims is prejudicial. The alternative, a stay of just the sanctions order, would cause Wynn Resorts no prejudice.

CONCLUSION

Wynn Resorts is asking too much for an improper purpose. Wynn Resorts wants a disruptive stay of the entire litigation when a narrow stay of the challenged sanctions order would be enough. This Court should deny Wynn Resorts' motion.

Dated this 27th day of November, 2017.

² Wynn Resorts' witnesses have already claimed fading memories. (See Ex. E, Elaine P. Wynn's Response to the Wynn Parties' Renewed Motion to Sever Elaine P. Wynn's Crossclaims (filed Sept. 29, 2017), Ex. B (deposition excerpts).)

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CERTIFICATE OF SERVICE

I certify that on November 27, 2017, I served the foregoing “Elaine P. Wynn’s Opposition to Stay of Entire Litigation” by United States mail, postage prepaid, to the following:

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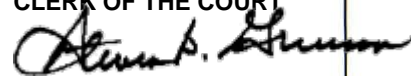
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Honorable Elizabeth Gonzalez
Department 11
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/s/ Adam Crawford
An Employee of Lewis Roca Rothgerber Christie LLP

EXHIBIT A

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
corporation,

Plaintiff,

vs.

KAZUO OKADA, an individual, ARUZE
USA, Inc., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation,

Defendant.

CASE NO. A-12-656710-B
Dept. No.: XI

**ORDER GRANTING AND DENYING
ELAINE P. WYNN'S MOTION TO
COMPEL WYNN RESORTS,
LIMITED, STEPHEN A. WYNN,
KIMMARIE SINATRA, AND MARC
SCHORR TO RESPOND TO WRITTEN
DISCOVERY REQUESTS**

1 AND ALL RELATED CLAIMS
2

3 Elaine P. Wynn's Motion to Compel Wynn Resorts, Limited, Stephen A. Wynn,
4 Kimmarie Sinatra, and Marc Schorr to Respond to Written Discovery Requests on OST came
5 on for hearing on June 5, 2017 ("Motion"). William J. Urga, Esq., of Jolley Urga Woodbury &
6 Little, Mark E. Ferrario, Esq., of Greenberg Traurig, LLP, and Scott D. Stein, Esq. of Sidley
7 Austin, LLP appeared on behalf of Counterdefendant/Counterclaimant/Crossclaimant Elaine P.
8 Wynn ("Ms. Wynn"). James J. Pisanelli, Esq., Todd L. Bice, Esq., and Debra L. Spinelli, Esq.,
9 of Pisanelli Bice, PLLC, appeared on behalf of Plaintiff/Counterdefendant Wynn Resorts,
10 Limited ("Wynn Resorts") and Counterdefendants Linda Chen, Russell Goldsmith, Ray R. Irani,
11 Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Kimmarie Sinatra,
12 D. Boone Wayson, and Allan Zeman (together, with Wynn Resorts, the "Wynn Parties").
13 Robert J. Cassity, Esq., of Holland & Hart LLP, and David S. Krakoff, Buckley Sandler, LLP
14 appeared on behalf of Defendant Kazuo Okada ("Okada") and
15 Defendants/Counterclaimants/Counterdefendants Aruze USA, Inc. ("Aruze USA") and
16 Universal Entertainment Corp. ("Universal") (collectively the "Okada Parties"). Donald J.
17 Campbell, Esq., and J. Colby Williams, Esq., of Campbell & Williams, appeared on behalf of
18 Counterdefendant/Cross-defendant Stephen A. Wynn ("Mr. Wynn").

19 The Court having considered the Motion and the Oppositions, as well as the arguments
20 of counsel presented at the hearing, and good cause appearing therefor,

21 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion is
22 GRANTED IN PART AND DENIED IN PART as follows:

23 IT IS FURTHER ORDERED THAT Stephen A. Wynn shall provide full and complete
24 answers to Requests for Production to Stephen A. Wynn, Nos. 21-42, 53-58, 61-64, 81-92, 94-
25 95.

26 IT IS FURTHER ORDERED THAT Wynn Resorts shall provide full and complete
27 answers to Requests for Production to Wynn Resorts, Ltd., Nos. 26, 29, 32, 35, 53-58, 73-74,

93, 95-96, 99, 101-110, 112-119, 124-127, and to Requests for Admissions to Wynn Resorts, Ltd., Nos. 3-10.

IT IS FURTHER ORDERED that Wynn Resorts shall not be required to respond to Requests for Production Nos. 92 and 94.

IT IS FURTHER ORDERED THAT Kimmarie Sinatra shall provide full and complete answers to Requests for Production to Kimmarie Sinatra, Nos. 1-2, 4-10, 24, 25, 27 to Kimmarie Sinatra.

IT IS FURTHER ORDERED THAT Marc D. Schorr shall provide full and complete answers to Requests for Production to Marc. D. Schorr, Nos. 1-17, 20, 22-23 to Marc. D. Schorr.

IT IS FURTHER ORDERED that Stephen A. Wynn shall not be required to respond to Requests for Production Nos. 79 and 80.

IT IS FURTHER ORDERED that Stephen A. Wynn, Wynn Resorts, Kimmarie Sinatra, and Marc D. Schorr shall produce the documents subject to this order by July 26, 2017 Bo


IT IS SO ORDERED.

DATED: July 12, 2017


THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT

Respectfully submitted by:

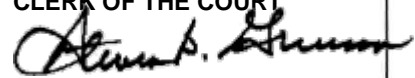
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EXHIBIT B

EXHIBIT B



MOT

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Elaine P. Wynn
**admitted pro hac vice*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiffs,

vs.

KAZUO OKADA, an individual, ARUZE
USA, Inc., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation,

Defendants.

CASE NO. A-12-656710-B

DEPT. NO: XI

ELECTRONIC FILING CASE

**ELAINE P. WYNN'S MOTION FOR
SANCTIONS AGAINST WYNN
RESORTS, LIMITED PURSUANT TO
NRCP 37 FOR FAILURE TO COMPLY
WITH THE COURT'S JULY 12 ORDER
ON ORDER SHORTENING TIME**

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

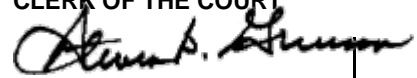
It has now been more than four months since the Court overruled Wynn Resorts' numerous baseless objections to Ms. Wynn's discovery requests seeking information relevant to her claims. Three months ago, the Court ordered that Wynn Resorts' production of documents responsive to those requests be completed by July 26 – seven weeks after the motion was granted in court on June 5. Yet, as the Court has acknowledged, Wynn Resorts remains out of compliance with the Court's July 12 Order. And Wynn Resorts now claims that it will take many more months to complete its production of responsive documents.

The following timeline of relevant events lays bare Wynn Resorts' gamesmanship and obstructionism, and Ms. Wynn's good faith efforts to obtain the discovery to which she is entitled:

- May 25, 2017 – Ms. Wynn files her Motion to Compel Wynn Resorts, Mr. Wynn, Marc Schorr, and Kim Sinatra to respond to dozens of requests for production and interrogatories to which they improperly objected;
- June 5, 2017 – The Court rules that Wynn Resorts, Mr. Wynn, Marc Schorr, and Kimmarie Sinatra must respond fully to nearly all of the requests at issue in Ms. Wynn's Motion to Compel;
- July 3, 2017 – Counsel for Ms. Wynn offers to meet and confer in good faith with counsel for Wynn Resorts regarding search terms, but asks that Wynn Resorts, as the party with greatest access to the relevant data, provide an initial proposal. Wynn Resorts does not propose any search terms.
- July 12, 2017 – The Court issues its Order on Ms. Wynn's Motion to Compel, and requires Wynn Resorts to "produce the documents subject to [that] order by July 26, 2017."
- July 26, 2017 – Without seeking prior relief from the Court or agreed-upon extension of time from Ms. Wynn, Wynn Resorts makes an incomplete document production, indicates that its "[s]earches of email and communications and other documents are ongoing," and provides no date by which its production will be complete.
- August 9, 2017 – Counsel for Ms. Wynn sends a letter to counsel for Wynn Resorts identifying deficiencies in Wynn Resorts' July 26 production, asking when the production will be complete, and asking that Wynn Resorts provide the search terms and parameters it used to identify the relevant documents. Wynn Resorts does not respond to the letter, or subsequent follow-up communications.
- August 29, 2017 – Ms. Wynn files her Motion to Enforce, seeking a new date certain by which Wynn Resorts must complete its production, the search terms and custodians Wynn Resorts used for its search, and its expenses and fees as a sanction pursuant to Rule 37(b)(2).

EXHIBIT C

EXHIBIT C



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	.	Transcript of
	.	Proceedings
.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**HEARING ON MOTION TO SEVER ELAINE WYNN'S CROSS-CLAIMS,
MOTION TO REDACT, DEFENDANTS' MOTION TO COMPEL, AND
TIMOTHY POSTER'S MOTION FOR PROTECTIVE ORDER**

MONDAY, OCTOBER 2, 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:

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TODD L. BICE, ESQ.
DEBRA L. SPINELLI, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
ROBERT J. CASSITY, ESQ.
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ADAM MILLER, ESQ.
JON RANDALL JONES, ESQ.
WILLIAM R. URGAS, ESQ.
MARK E. FERRARIO, ESQ.
JAMES COLE, ESQ.
SCOTT STEIN, ESQ.
DONALD JUDE CAMPBELL, ESQ.
COLBY WILLIAMS, ESQ.
JAMES KRAMER, ESQ.

ALSO PRESENT:

DAVID CHESNOFF, ESQ.
For Mr. Timothy Poster

1 Elaine Wynn is a defendant in your case, so they have an
2 impact in other parts of the case.

3 MR. PISANELLI: Yeah. What I've been referring to
4 is Elaine Wynn's case even pre writ is probably close to June
5 or July of next year. Then we'll go on writs as they want
6 more privilege and as we want her claims of privilege because
7 she used company computers.

8 THE COURT: I understand.

9 MR. PISANELLI: Right.

10 THE COURT: I'm just trying to figure out when your
11 production is going to be completed. Because I understand the
12 writ practice, and I have absolutely no control over the
13 timing that that occurs in Carson City.

14 MR. PISANELLI: So if your question goes to other
15 than Elaine Wynn's campaign, I'll defer to Ms. Spinelli of
16 where we stand on the other side.

17 THE COURT: No. I mean all. I mean all including
18 Ms. Wynn, which is why I asked the question I did.

19 MR. PISANELLI: Well, I know the Elaine Wynn new
20 stuff will go deep into 2018, so I'll defer to Ms. Spinelli on
21 what we have that will still be relevant to this trial.

22 THE COURT: I'm not using "deep." I'm using June.

23 MR. PISANELLI: Well, that's close to deep. That
24 was about mid-level swimming pool, you're headed to the deep
25 end section.

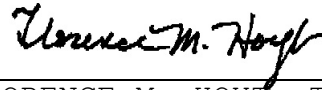
CERTIFICATION

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

10/2/17

DATE

EXHIBIT D

EXHIBIT D



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON ELAINE WYNN'S MOTION FOR SANCTIONS

TUESDAY, OCTOBER 31, 2017

COURT RECORDER:

TRANSCRIPTION BY:

JESSICA KIRKPATRICK
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

APPEARANCES:

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DEBRA SPINELLI, ESQ.

FOR THE DEFENDANTS:

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ROBERT J. CASSITY, ESQ.
WILLIAM R. URGAS, ESQ.
MARK E. FERRARIO, ESQ.
DANIEL F. POLSENBERG, ESQ.
COLBY WILLIAMS, ESQ.
AVA SCHAEFER, ESQ.

1 evidentiary hearing. I recognize that. But I can't sit by
2 and say that some sanction, any sanction should be given to
3 Ms. Wynn unless I first create my record to show that there's
4 no prejudice to her at all.

5 THE COURT: Okay. Mr. Ferrario, did you want to say
6 something, or do you want Mr. Polsenberg to talk?

7 MR. FERRARIO: Well, we'll -- in terms of the
8 process I think I might defer to Dan, but there's --

9 THE COURT: So what are you doing the week of
10 December 11th?

11 MR. FERRARIO: Is that what you want to hear?
12 Because, you know, there's some --

13 MR. PISANELLI: I'm in trial before Judge Mahan.

14 MR. FERRARIO: -- there's some things that need
15 refuted here.

16 THE COURT: Why?

17 MR. FERRARIO: Well --

18 THE COURT: You've made a prima facie showing
19 there's a violation of the Court's order that was filed on
20 July 13th, 2017.

21 MR. FERRARIO: Fine, Your Honor.

22 MR. POLSENBERG: Set a hearing.

23 MR. PEEK: Set an evidentiary hearing.

24 MR. FERRARIO: Could we do --

25 THE COURT: However, there are issues about

1 prejudice and wilfulness --

2 MR. FERRARIO: Does the Court --

3 THE COURT: -- and the appropriate sanction, if any.

4 MR. FERRARIO: Does the Court available the 29th,
5 30th, and 1st of December -- November and December, I'm sorry,
6 if they're going to have a hearing.

7 (Pause in the proceedings)

8 THE COURT: I don't know. I have to go ask Dan,
9 because for some reason I wrote that Randall Jones has the
10 week of 11/20 through 12/4, and I don't see the 11/27 week,
11 and I'm sure that he's part of that week, too. So it may be
12 that I wrote it down wrong.

13 MR. FERRARIO: Jim, could you do 6th, 7th, and 8th
14 of December, or --

15 MR. PISANELLI: No. I start trial December 4th, and
16 so we know Judge Mahan runs his trial calendar --

17 THE COURT: He's a tight ship.

18 MR. PISANELLI: He is tight. But he runs it like he
19 did in State Court where he stacks parties, so I may find that
20 I'm later in the month, but I won't know for a little while.

21 THE COURT: Dulce, Mt. Charleston versus Huerta I
22 think is scheduled to start on November 20th. Is it -- or
23 November 21st. Is it? Or did I write it down --

24 THE CLERK: That's their evidentiary hearing, 20 and
25 21.

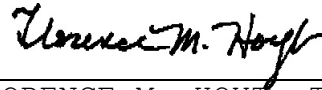
CERTIFICATION

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



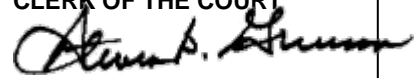
FLORENCE M. HOYT, TRANSCRIBER

10/31/17

DATE

EXHIBIT E

EXHIBIT E



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18 *Cross-Claimant Elaine P. Wynn*

**admitted pro hac vice*

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 WYNN RESORTS, LIMITED, a Nevada
corporation,

22 Plaintiff,

23 vs.

24 KAZUO OKADA, an individual, ARUZE
25 USA, Inc., a Nevada corporation,
26 UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation,

27 Defendants.

CASE NO. A-12-656710-B

DEPT. NO: XI

**ELAINE P. WYNN'S RESPONSE TO THE
WYNN PARTIES' RENEWED MOTION
TO SEVER ELAINE P. WYNN'S
CROSSCLAIMS**

Exhibit B

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a)
Nevada corporation,)
Plaintiff,)
vs.) Case No.
A-12-656710-B
KAZUO OKADA, an individual;) Dept. No. XI
ARUZE USA, INC., a Nevada)
corporation; and UNIVERSAL)
ENTERTAINMENT CORP., a)
Japanese corporation,)
Defendants.)
AND ALL RELATED CLAIMS)

VIDEOTAPED DEPOSITION OF ROBERT J. MILLER

VOLUME III

(Pages 438 to 627)

Taken at the Law Offices of:
Holland & Hart
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Thursday, February 11, 2016

9:13 a.m.

Reported By: Gale Salerno, RMR, CCR No. 542

Job No. J0247350

1 that only the two of you were there?

2 A. That's the best I recall. I can't remember
3 anybody else being physically present.

4 Q. Did you tell her in advance what the
5 purpose of the meeting was?

6 A. I'm sure that I would have told her that it
7 was in regards to her renomination, but beyond that,
8 I don't remember anything specific.

9 Q. Do you recall any discussion with her that
10 you had before meeting with her?

11 A. Before meeting with her relative to this
12 issue?

13 Q. Yes, sir.

14 A. No, I don't recall any.

15 Q. How long was the meeting?

16 A. I can't recall exactly. I believe it was,
17 you know, perhaps 45 minutes to an hour.

18 Q. In advance of the meeting, did you make any
19 sort of notes about what you wanted to say to her?

20 A. Not that I recall.

21 Q. Are you aware of any notes or records that
22 exist as to what was said in this meeting with
23 Ms. Wynn?

24 A. Not that I recall.

25 Q. After the meeting, for example, did you do

1 When you met with Mr. -- well, what did you
2 say -- tell Mr. Okada to convince him that a mutual
3 consent provision was a good thing for him?

4 MR. CAMPBELL: I'm going to object to the
5 form of the question. It assumes facts not in
6 evidence. Also vague and ambiguous.

7 You may answer it, sir.

8 THE WITNESS: I don't know what I told
9 Kazuo at the time. I mean, the document speaks for
10 itself. I don't remember the exchange.

11 Obviously, as before the break, I'm
12 confused about the chronology. I don't remember what
13 was said at the time. I don't think anything was
14 inconsistent with the tenor of our relationship.

15 But these amendments that the lawyers did
16 and the documents between them were unknown to me,
17 whether copied me or not. I'm not familiar with
18 these documents, and I can't remember ten years
19 later, nine or ten years later, what I said or if I
20 said anything to them.

21 You know, I mean, we entered into these
22 agreements through our lawyers, and they seemed okay
23 at the time. Nobody -- there was no controversy at
24 the time.

DISTRICT COURT
CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a)	
Nevada corporation,)	
)	
Plaintiff,)	
)	Case No.: A-12-656710-B
vs.)	Dept. No.: XI
)	
KAZUO OKADA, an individual,)	
ARUZE USA, INC., a Nevada)	
corporation, and UNIVERSAL)	
ENTERTAINMENT CORP., a)	
Japanese corporation,)	
)	
Defendants.)	
_____)	
)	
AND ALL RELATED CLAIMS.)	
_____)	

DEPOSITION OF DEANNA PETTIT-IRESTONE

VIDEOTAPED

LAS VEGAS, NEVADA

FRIDAY, JUNE 10, 2016

REPORTED BY:

CARRE LEWIS, CCR NO. 497, CSR NO. 13337

JOB NO. 307426

1 yes.

2 Q. Turn your attention to paragraph four. It
3 states: "Wynn Resorts spokesman Michael Weaver said
4 Sunday night the company would have," quote, "'no
5 further comment other than what is in the proxy
6 statement,'" close quote, "but Weaver said that,"
7 quote, "'Mr. Wynn supported the candidacy of
8 Elaine.'" Close quote.

9 Did you have any discussions with
10 Mr. Weaver about the statement that, quote:
11 "Mr. Wynn supported the candidacy of Elaine"?

12 A. Yes.

13 Q. Was that statement conveyed by Mr. Weaver
14 to this reporter in an e-mail?

15 MR. LANGBERG: Objection. Calls for
16 speculation.

17 THE WITNESS: I don't know.

18 BY MR. SHELTON:

19 Q. To your knowledge, did Wynn Resorts ever
20 issue a press release stating that Mr. Wynn
21 supported the candidacy of Elaine Wynn as reflected
22 in this article?

23 A. I believe so.

24 Q. What press release was that?

25 A. I don't know.

1 Q. Do you recall Wynn Resorts ever issuing a
2 press release that uses this specific language,
3 quote: "Mr. Wynn supported the candidacy of
4 Elaine"?

5 A. I recall something to that nature. I can't
6 speak to that being the exact verbiage.

7 Q. So the words might have been different?

8 A. They may have. I can't recall
9 specifically.

10 Q. So you are not certain whether Wynn Resorts
11 ever issued a press release that specifically stated
12 that Steve Wynn, quote, "supported the candidacy,"
13 close quote, of Elaine Wynn?

14 A. I recall the general subject matter being
15 included in a press release, but I cannot recall
16 specifics.

17 MR. LANGBERG: Counsel, just so we can plan
18 accordingly, I'm going to request a break in about
19 10 minutes to confer with my colleagues on the
20 subject that we have been conferring about.

21 MR. SHELTON: Okay. And, you know, I think
22 we might need to have a call -- can we go off the
23 record? Well, actually, no, let's keep it on the
24 record.

25 I can -- I intend to address the questions,

In the Supreme Court of Nevada

WYNN RESORTS, LIMITED,
Petitioner,

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,

Respondents,

and

KAZUO OKADA; UNIVERSAL
ENTERTAINMENT CORP.;
and ARUZE USA, INC.,

Real Parties in
Interest.

Electronically Filed
Nov 28 2017 08:22 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

District Court
No. A656710

ELAINE P. WYNN’S MOTION TO INTERVENE TO OPPOSE STAY

and

PROPOSED OPPOSITION TO STAY OF ENTIRE LITIGATION

Elaine P. Wynn, who is a counterdefendant, counterclaimant, and crossclaimant in the underlying litigation, seeks leave to intervene to oppose Wynn Resorts’ request to “stay the underlying case in its entirety.” (Mot. 3:4–5.) The proposed opposition is attached.

Parties with a “sufficient interest in the action to entitle [them] to be heard on the merits” should be designated as real parties in inter-

est.¹ See 6A CHARLES A. WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE & PROCEDURE § 1542 (2d ed. Supp. 1998), *quoted in Univ. Creek Assocs., II, Ltd. v. Boston Am. Fin. Grp., Inc.*, 100 F. Supp. 2d 1337, 1339 (S.D. Fla. 1998). A party has standing to be heard on the merits when “either a personal right or right of property is adversely and substantially affected.” *Hughes’ Estate v. First Nat. Bank of Nev.*, 96 Nev. 178, 180, 605 P.2d 1149, 1150 (1980).

Here, it is the breadth of the requested stay that calls for Ms. Wynn’s intervention. The practice in other petitions from this litigation has been to seek a stay tailored to the challenged order.² Here, however, Wynn Resorts requests a blanket stay of the entire litigation, a request that disrupts Ms. Wynn’s own claims and defenses, which are scheduled for trial on April 18, 2018. This circumstance, where the re-

¹ Wynn Resorts’ motion for a stay actually identifies Elaine P. Wynn as the real party in interest, although the petition itself does not.

² See Docket No. 68310 (stay of deposition); Docket No. 68439 (stay of order compelling discovery); Docket No. 70050 (stay of order compelling discovery); Docket No. 70452 (stay of order compelling discovery); Docket No. 71432 (stay of deposition and evidentiary hearing); Docket No. 71638 (stay of order compelling discovery); Docket No. 73641 (stay of order compelling discovery); Docket No. 74063 (stay of order compelling discovery); Docket No. 74184 (stay of order compelling discovery); Docket No. 74519 (stay of depositions).

requested stay disturbs the pending claims and defenses of nonparties to the writ petition, gives Ms. Wynn the right to intervene to oppose Wynn Resorts' motion for a stay. *Cf.* NRCP 24.

Dated this 27th day of November, 2017.

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NRAP 26.1 DISCLOSURE

Counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed for the judges of this court to evaluate possible disqualification or recusal.

Elaine P. Wynn is an individual. She has been represented in this litigation by William R. Urga and David J. Malley of Jolley Urga Woodbury Holthus & Rose; Mark E. Ferrario and Tami D. Cowden of Greenberg Traurig, LLP; James M. Cole and Scott D. Stein of Sidley Austin LLP; Daniel F. Polsenberg, Joel D. Henriod and Abraham G. Smith of Lewis Roca Rothgerber Christie LLP; and John B. Quinn, Michael T. Zeller, Susan R. Estrich, Michael L. Fazio and Ian S. Shelton of Quinn Emanuel Urquhart & Sullivan, LLP.

Dated this 27th day of November, 2017.

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CERTIFICATE OF SERVICE

I certify that on November 27, 2017, I served the foregoing “Motion to Intervene to Oppose Stay” *and* “Proposed Opposition to Stay of Entire Litigation” by United States mail, postage prepaid, to the following:

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Department 11

EIGHTH JUDICIAL DISTRICT COURT

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