

**IN THE
SUPREME COURT OF THE STATE 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,)
 DEPT. XI,)
)
 Respondent,)
)
 and)
)
 KAZUO OKADA, UNIVERSAL)
 ENTERTAINMENT CORP., and ARUZE)
 USA, INC.,)
)
 Real Parties in Interest.)
 _____)

Case No. 74591)
)
 Dist. Court No. 4656710)
)
 Electronically Filed
 Dec 08 2017 08:31 a.m.
 Elizabeth A. Brown
 Clerk of Supreme Court

**STEPHEN A. WYNN’S
MOTION TO INTERVENE
AND JOIN THE PETITION**

(Consented to by Petitioner)

Stephen A. Wynn (“Mr. Wynn”), a counterdefendant and crossdefendant in the action below, hereby moves to intervene and join the Petition for Writ of Mandamus, Alternatively, Prohibition (the “Petition”) filed by Petitioner Wynn Resorts, Limited (“Wynn Resorts” or the “Company”) on December 5, 2017. Wynn Resorts has consented to Mr. Wynn’s request, and agrees he can join the Petition and support the Company at any oral argument that may be had on this matter.

The issues raised in the Petition directly implicate Mr. Wynn’s interests. As explained therein, the district court has entered an order granting summary judgment in favor of a majority of the members on Wynn Resorts’ Board of Directors (the “Board”) for the redemption vote that gives rise to the underlying litigation. The district court found that the Business Judgment Rule protects those director defendants from individual liability on the claims asserted by Real Parties in Interest Kazuo Okada, Universal Entertainment, Corp., and Aruze USA, Inc. (collectively the “Okada Parties”). Incongruously, however, and in contravention of this Court’s prior opinion in *Wynn Resorts, Limited v. Eighth Judicial Dist. Court*, 133 Nev. Adv. Op. 57, 399 P.3d 334 (2017), the district court denied summary judgment on these same claims to Wynn Resorts and two of its other directors, including Mr. Wynn.

The ostensible bases for the district court’s inconsistent treatment of these similarly situated parties were (i) its erroneous belief that the Business Judgment Rule applies only to individual directors, not the company they serve, and (ii) its erroneous (albeit ultimately inapposite) finding that issues of fact exist as to Mr. Wynn’s alleged self-interest in the Board’s redemption vote because he and Aruze USA, Inc. were parties to a stockholders agreement. The Board’s redemption vote was unanimous (excluding Mr. Okada). Thus, Mr. Wynn’s alleged self-interest was not outcome determinative. Once the district court determined that a majority of the Board was disinterested, that the Business Judgment Rule protects their votes, and

that summary judgment in favor of those individual directors was proper, it was obligated to grant summary judgment in favor of the Company and Mr. Wynn under *Wynn Resorts, supra* and the other authorities set forth in the Petition.

Mr. Wynn has a significant interest in the proper application of NRS 78.138 and this Court's precedent interpreting the same. The Court's ruling on this matter, moreover, will have a material impact on what claims remain in this action, if any, and the scope of any trial. Because the Court has yet to direct an answer to the Petition, Mr. Wynn's intervention and joinder will not cause any delay or prejudice to any of the parties herein. Accordingly, Mr. Wynn respectfully submits that this Motion be granted.

DATED this 8th day of December, 2017.

CAMPBELL & WILLIAMS

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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.

Stephen A. Wynn is an individual. He is the Chairman and Chief Executive Officer of Petitioner Wynn Resorts. Mr. Wynn has been represented in this litigation by Donald J. Campbell, J. Colby Williams, Philip R. Erwin, and Samuel R. Mirkovich all of Campbell & Williams.

DATED this 8th day of December, 2017.

CAMPBELL & WILLIAMS

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CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 8th day of December, 2017, serve upon the following in this action a copy of the foregoing **Stephen A. Wynn's Motion to Intervene and Join the Petition** by United States Mail, postage prepaid:

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