

# EXHIBIT 1

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SUPREME COURT  
CLARK COUNTY, NEVADA

Las Vegas Sands Corp.	)	
	)	Case No. 62944
v.	)	
	)	
District Court	)	
_____	)	

Transcription of Hearing  
Before the En Blanc Panel  
Chief Justice Gibbons Presiding  
Date of Hearing: March 3, 2014

APPEARANCES:  
Steve Morris, as counsel for Petitioners  
Todd L. Bice, as counsel for Real Party in Interest  
Steve Jacobs, Real Party in Interest

Reported By:  
Ellen L. Ford, RPR, CRR  
CSR No. 846  
Pages 1 - 29

1           this September 14 order would have been enough to  
2           have gotten a reasonable litigant's attention, and  
3           I would submit it would have gotten a reasonable  
4           litigant's attention, but that's not what we were  
5           dealing with. And as a result, she entered yet  
6           another order, and she said, "You will have 14  
7           days, two weeks, to finally comply with this  
8           jurisdictional discovery," that she had ordered  
9           over a year before but they continued to not comply  
10          with. And she gave them only two weeks to do it.

11                 The reason that she gave them such a short  
12           leash is because they had not been compliant for  
13           months and months and months and months. They  
14           specifically -- and again, this is where this  
15           September 14 order then comes into play. Because  
16           what did they do after she says, "You have two  
17           weeks?"

18                 Well, after telling us for this long that they  
19           couldn't be brought out of Macao, they couldn't --  
20           they withheld (inaudible) supposedly -- and that's  
21           what this evidentiary hearing she wants to schedule  
22           I think is all about -- supposedly wouldn't let  
23           them out. But after she gave them this two-week  
24           window, they -- suddenly, there's documents. But  
25           what they did with these documents is they redacted

1           you this, and I'll ask Mr. Morris to address this  
2           in his rebuttal.

3           One of the reasons we scheduled this for  
4           argument was to bring (inaudible) the issue you  
5           just raised to see the propriety of challenging  
6           this type of discovery order (inaudible) and that  
7           is specifically in the Valley Health case. This is  
8           Douglas (inaudible) and Aspen recently and like  
9           that. Is this something the Court should intervene  
10          in? And I'll ask Mr. Morris to comment on that, as  
11          well.

12          MR. BICE: The answer is no, Mr. Chief justice.  
13          And the reason is, we have -- the only matter the  
14          District Court has addressed in its order is  
15          scheduling an evidentiary hearing to determine what  
16          was going to happen.

17          The other issues that they have protested in  
18          their pleadings have since become moot because they  
19          have had to comply with what her order was, because  
20          there was no stay that excused non-compliance.

21          So the only remaining issue that is presently  
22          in this order that is before you is the question of  
23          can the District Court convene an evidentiary  
24          hearing to find out what was going on in that  
25          two-week period after they had been for years

1           telling me they couldn't produce documents, they  
2           suddenly were producing them, but (inaudible)  
3           redacted to the hilt in violation of the terms of  
4           her order.

5           And again, this Court has entertained writ  
6           proceedings over discovery matters in two limited  
7           circumstances. One, rulings on -- that have no  
8           implication on relevancy, just open-ended sweeping  
9           discovery. And two, legitimate claims of privilege  
10          that were (inaudible) at risk of being lost  
11          (inaudible) if the Court does not review them at  
12          that point in time.

13          None of that is at issue here. This order that  
14          the District Court has entered is simply -- right  
15          now is to schedule a hearing to find out what was  
16          going on -- as she said, they didn't present the  
17          evidence of what they were doing and why they were  
18          doing it. She would evaluate that in the face of  
19          whatever they present. Because there's some  
20          additional evidence (inaudible) after the  
21          September 14th sanctions hearing where they had  
22          already been in contact with the Macao Government  
23          and it wasn't produced at the time of that  
24          sanctions hearing. All of that would play into the  
25          mix of what the District Court wants to evaluate in

1 I, ELLEN L. FORD, a Certified Court  
2 Reporter of the State of Nevada, do hereby certify:

3 That the foregoing proceedings were  
4 listened to and taken down by me using machine shorthand  
5 which was thereafter transcribed under my direction; further  
6 depending on the quality of the recording, that the  
7 foregoing transcript is accurate to the best of my ability.

8 I further certify that I am neither  
9 financially interested in the action nor a relative or  
10 employee of any attorney or any of the parties.

11 IN WITNESS WHEREOF, I have this date  
12 subscribed my name.

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14 Dated: 3-20-14

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18 ELLEN L. FORD, RPR, CRR  
19 CCR No. 846  
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# EXHIBIT A

# EXHIBIT A

## Exhibit A

During oral argument on March 3, 2014, in related cases, No. 62944 and 63444, plaintiff made several misrepresentations of fact that are not related to the merits of the cases and are not supported by the record. The misrepresentations are highly prejudicial to the defendants, and SCL in particular, because they erroneously attribute violations by the defendants of fictional discovery orders of the district court that plaintiff contends SCL is trying to "conceal" from this Court. Defendants will not burden the Court at this time to point out each such instance, but two of the misrepresentations during argument in Case No. 62944 particularly merit comment and correction.

- (1) Plaintiff argued that the reason the district court gave defendants "such a short leash" at the December 18, 2012, hearing to search for and produce data located in Macau in the next two weeks was because the Macau data "was discovery she had ordered over a year before and [defendants] continued to not comply [with her order]." March 3, 2014 Tr. at 16.<sup>1</sup> This is not accurate: there was no discovery order that defendants failed to comply with. Indeed, the district court specifically noted that there was no such order during the December 18, 2012, hearing,

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<sup>1</sup> Citations refer to the written transcript of the March 3, 2014 Oral Argument. The quality of the audio, both during live streaming and on the audio disk obtained from the Clerk of Court is extremely poor and in some instances unintelligible, which delayed preparation of this exhibit. A copy of portions of the official written transcript is appended hereto as Exhibit 1.



when she *denied* plaintiff's motion for sanctions for violating the non-existent order; she said, "they [LVSC and SCL] haven't violated an order that actually requires them to produce information." PA1690. "[W]e've *never actually entered a written order* that says, please produce the ESI that's in Macau within two weeks." PA1690–91 (emphasis added). In making this statement, the court also remarked that the "Nevada Supreme Court thinks written orders are really important. So we're going to have a written order *this time*." PA1690 (emphasis added).

- (2) Plaintiff also told the Court at oral argument on March 3 that the "other issues that [defendants] have protested about . . . have since become moot" and that the "only remaining issue is whether the district court can convene an evidentiary hearing against defendants for "willfully" redacting personal data from 5,000+ documents (27,000+ pages) examined and produced from Macau between December 18, 2013, and January 4, 2014, in accordance with the district court's oral order on December 18. PA1701–03.

Once again, Jacobs' assertion that the other issues are moot is simply not true. In the March 27 Order that is the subject of the writ petition, the district court ordered SCL to expand its production of documents from Macau to include (among other things) a number of new custodians.

On May 13, 2013, the district court expressly stayed "SCL's obligation to produce documents responsive to the March 27, 2013 Court-ordered jurisdictional discovery *from Macau* that were not included on any electronic storage device brought to the United States, as referenced at the September 2012 sanctions hearing"—that is, documents in Macau that were not brought to the United States. PA2307 (emphasis added). As defendants informed the district court (*e.g.*, PA1432; PA1701–08), Macanese government officials had warned SCL in no uncertain terms that no data can be removed from Macau without first complying with their protocol for protecting disclosure of personal information under the MPDPA, PA692 ¶ 9. The district court entered that stay order to ensure that SCL did not have to choose between violating its obligations under the MPDPA and refusing to comply with the expanded discovery obligations imposed by the district court while this Court was considering SCL's Petition for relief from the March 27, 2103 Order.

There are at least two "live" issues with respect to the discovery that the district court stayed. One is whether the district court abused its discretion by ordering the expanded discovery in the first place. The second is whether the district court properly ordered SCL to produce *additional* documents in unredacted form from Macau, notwithstanding the requirements of Macanese law. To be clear: all of these documents—and all of the

documents SCL produced in redacted form in compliance with the district court's direction at the December 18, 2012 hearing — are documents that were *never* transferred to the United States. Contrary to plaintiff's argument on March 3, 2014, neither the district court's oral order on December 18, 2012, nor its January 16, 2014, written order memorializing the oral order mentions the MPDPA or prohibited redactions of personal information to comply with Macau law that governs SCL. **In point of fact, the district court said to all parties on December 18 that redactions in Macau documents were not prohibited.** PA1737:13–1738:14. That alone precludes the imposition of sanctions on SCL for supposedly violating a court order prohibiting redactions.

The court's order prohibiting future redactions should also be reversed because (i) the court never concluded that the personal data to be redacted in compliance with Macanese law was relevant to jurisdiction; (ii) a proper balancing of the interests involved required the district court to defer to Macanese law; and (iii) the district court's September 14, 2012 sanctions order cannot and should not be read as prohibiting redactions of personal data from documents *that remain in Macau and have no counterpart in the United States*. The September 14 order addressed documents from Macau *then* in the U. S.; the order is silent with regard to documents still in Macau that could be the subject of future discovery requests. That is to say, the September 14, 2012, order does not say it applies prospectively.

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Mar 24 2014 03:17 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

SANDS CHINA LTD., a Cayman Islands  
corporation,

Petitioner,

vs.

CLARK COUNTY DISTRICT COURT, THE  
HONORABLE ELIZABETH GONZALEZ,  
DISTRICT JUDGE, DEPT. 11,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Case Number: 58294

District Court Case Number  
A627691-B

**MOTION FOR ORAL  
ARGUMENT ON SANDS  
CHINA'S MOTION TO  
RECALL MANDATE  
[REMITTITUR]<sup>1</sup>**

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<sup>1</sup> The reference to the Court's "mandate" was an error. "Remittitur" should have been used. NRAP 41.

Petitioner Sands China Ltd. ("SCL"), a Cayman Islands corporation headquartered in Macau, where it exclusively does business, moves the Court to permit and schedule oral argument on the pending Motion to Recall and plaintiff Jacobs's "Countermotion" to vacate the "illegitimate stay" entered by the Court on August 26, 2011. Jacobs's Opposition to Motion to Recall (Jacobs' Opp'n") at 2. Oral argument of the Motion and Countermotion that is focused on the merits and the U.S. Supreme Court's recent decision in *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014), rather than on the pejorative ramblings of Jacobs's continuing misrepresentations of the record in the district court and his pejorative ramblings, would assist the Court in resolving whether, as a matter of law, the district court has jurisdiction to entertain claims against SCL for allegedly breaching "a written [stock option] agreement between Jacobs and Sands China," Jacobs's Am. Compl., PA88, ¶ 44 and 47, entered into and to be performed in Macau under Hong Kong law.

Jacobs opposes the Motion to Recall by continuing his ad hominem vilification of SCL and its counsel as a preface to dismissing the *Bauman* decision as merely addressing whether foreign corporations are subject to "general jurisdiction whenever they have an in-state subsidiary or affiliate." Jacobs Opp'n at 8, citing *Bauman*, 134 S. Ct. at 759–60. He then goes on to argue that SCL is apparently subject to specific personal jurisdiction in Nevada because SCL directors Sheldon Adelson and Michael Leven acted as "agents" of SCL when they made decisions in Las Vegas that affected SCL in Macau, Jacob's Opp'n at 9, thus confusing principles of specific jurisdiction with general jurisdiction. *See, e.g., MGM Grand, Inc. v. Eighth Judicial Dist. Court*, 107 Nev. 65, 68, 807 P. 2d 201, 203

(1991) ("in order to find specific jurisdiction, cause of action must arise out of *defendant's* affirmatively directed conduct toward the forum state." [Emphasis by the Court.] Here, foreign corporate defendant SCL "directed" nothing against Jacobs in Nevada.)

This remarkable confusion of issues by Jacobs—"Bauman Does Not Change the Law of Minimum Contacts," Jacobs Opp'n at 7—overlooks one dispositive *fact*: He did not plead specific jurisdiction over SCL, nor did he allege specific jurisdiction in his answer opposing issuance of the Court's writ of mandamus issued on August 26, 2011, or in his opposition to SCL's motion to dismiss for lack of personal jurisdiction in the district court. *See, e.g.*, Pet. Appx. 3, SCL 000555–61. He has *never* premised his claim of jurisdiction over SCL on "specific jurisdiction" which means that theory of personal jurisdiction is not available to him now; it has been forfeited. *See Goodyear Dunlop Tires Operations v. Brown*, 131 S. Ct. 2846, 2857 (2011) (failure to urge disregard of subsidiaries' discrete status and treatment of Goodyear entities as a unitary business in the lower court forfeits the contention on appeal).

Oral argument would benefit the parties and assist the Court in putting aside and out of mind Jacobs's anecdotal personal attacks on SCL and its counsel to focus on the merits of the legal issue that *Bauman* addresses and decides favorably to SCL, as a matter of Constitutional law: personal jurisdiction over a foreign subsidiary of a Nevada corporation for the subsidiary's acts in Macau cannot be established, consistent with due process, based on the activities of SCL's directors in Nevada that Jacobs

claims precipitated his "tortious termination" in Macau. Jacobs Opp'n at 3, n. 2.<sup>2</sup>

Moreover, oral argument would assist in identifying Jacobs's pervasive continuing prejudicial misrepresentations so they can be properly disregarded. They appear to be an effort to distract this Court, as Jacobs did the district court, from focusing on the serious and substantial legal issues SCL confronts as it labors to comply with Macau law while confronting ever-escalating demands for discovery of documents in Macau for which there has been no showing of relevance to the limited issue of jurisdiction in Las Vegas over this foreign company/citizen. Exhibit A sets out two recent significant examples of such misrepresentations that are designed to impugn the character of SCL and its counsel and confuse the legal issues presented to this court in the several writs this litigation has produced to date.

Sands China Ltd. respectfully requests that this motion be granted and oral argument scheduled at the Court's convenience.

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<sup>2</sup> A recent example of Jacobs' continuing preoccupation with matters unrelated to the merits of his claims and that are not supported by the record in the district court occurred in oral argument on March 3, 2014, in Case No. 62944. Two instances of highly unfair and prejudicial misstatements of fact are analyzed in Exhibit A to this motion.

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## CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25 and NEFR 9(f), I certify that I am an employee of Morris Law Group; that on this date I electronically filed the foregoing **MOTION FOR ORAL ARGUMENT ON SANDS CHINA'S MOTION TO RECALL MANDATE [REMITITUR]** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows:

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DATED this 24th day of March, 2014.

By:       /s/ PATRICIA FERRUGIA