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

17 SANDS CHINA LTD.,

18 Petitioner,

19 vs.

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

26 Respondent,

27 and

28 STEVEN C. JACOBS.

Real Party in Interest

Sup. Ct. Case No. 58294

District Court Case No.  
A-10-627691

**REAL PARTY IN INTEREST  
STEVEN C. JACOBS' REPLY IN  
SUPPORT OF COUNTERMOTION  
REGARDING RECALL OF  
MANDATE**

1           The point of Real Party in Interest Steven C. Jacobs' ("Jacobs")  
2 Counter-motion is a simple one. Had Petitioner Sands China Ltd. ("Sands China")  
3 been candid with this Court as to its contacts with the State of Nevada back in  
4 August 2011, and had this Court known that Sands China and its co-defendant,  
5 Las Vegas Sands Corp. ("LVSC"), would for years engage in what the district court  
6 found to be "willful and intentional conduct with an intent to prevent [Jacobs]  
7 access to information discoverable for the jurisdictional proceedings," there would  
8 have never been a stay issued. That stay has become a tool of delay and obstruction  
9 benefitting two intransigent defendants and simultaneously inflicting undue  
10 prejudice upon Jacobs.

11           This is precisely why Jacobs filed the Counter-motion, asking the Court to  
12 recall its mandate for an evidentiary hearing and allow Jacobs to prove  
13 Sands China's personal jurisdiction at trial, in accordance with Nevada law. *Hansen*  
14 *v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 655, 6 P.3d 982, 985 (2000) ("[O]nce the  
15 personal jurisdiction issue has been initially raised, the district court need not  
16 resolve it completely until trial."). Predictably, Sands China responds with the  
17 spurious position that if the mandate is not recalled in its favor (*e.g.*, recall of the  
18 mandate and dismissal of the claims against it), the stay should remain in place. In  
19 other words, Sands China admits that it intends to continue to misuse the stay  
20 unless it can obtain an indefensible dismissal. Unremarkably, there is no law to  
21 support such an absurd outcome.

22           It has long been the law that "the power to stay proceedings is incidental to  
23 the power inherent in every court to control the disposition of the causes on its  
24 docket with economy of time and effort for itself, for counsel, and for litigants."  
25 *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). But of course the flip side is  
26 equally true: That same inherent power justifies the lifting of a stay when the facts  
27 so warrant. "Logically, the same court that imposes a stay of litigation has the  
28

1 inherent power and discretion to lift the stay." *Canady v. Erbe Elektromedizin*  
2 *GmbH*, 271 F. Supp. 2d 64, 74 (D.D.C. 2002).

3 "When circumstances have changed such that the court's reasons for  
4 imposing the stay no longer exist or are inappropriate, the court may lift the stay."  
5 *Canady*, 271 F.Supp.2d at 74. "A court may lift the stay if the circumstances  
6 supporting the stay have changed such that the stay is no longer appropriate."  
7 *Ho Keung Tse v. Apple, Inc.*, 2010 WL 1838691, \*1 (N.D. Cal. May 5, 2010).

8 Here, there can be little debate that the circumstances supporting the Court's  
9 stay mandate on August 26, 2011, have changed and that the stay is no longer  
10 appropriate. Even the sanitized evidence produced during jurisdictional discovery  
11 confirms that in addition to general jurisdiction, Sands China is subject to specific  
12 jurisdiction given that the planning and execution of Jacobs' termination was carried  
13 out from Las Vegas. Sands China obviously knew this fact when it erroneously  
14 told the district court and then this Court that it had no contacts with this forum.  
15 And that is also why it obstructed evidence during jurisdictional discovery. The  
16 false pretense upon which the mandate was predicated is reason, in and of itself, for  
17 this Court to lift the stay.

18 But there is more. The last two years have shown that Sands China and  
19 LVSC have used the stay to prejudice Jacobs all the while they obstructed  
20 jurisdictional discovery. The district court has already sanctioned Sands China and  
21 LVSC once, and has taken steps to impose additional sanctions against Sands China  
22 for continuing to delay and obstruct the very jurisdictional process that it  
23 necessitated. The pleadings of other litigants have been stricken for far less  
24 misconduct than that perpetrated by Sands China and LVSC. The prejudice caused  
25 by Sands China's and LVSC's delay tactics cannot be ignored, as witnesses have  
26 already admitted that their memories are "fading" related to Jacobs' wrongful  
27 termination.

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1 This Court established long ago that "diligent parties are entitled to be  
2 protected against interminable delay and uncertainty as to their legal rights." *Skeen*  
3 *v. Valley Bank of Nevada*, 89 Nev. 301, 303, 511 P.2d 1053, 1054 (1973); *see also*  
4 *Eliades-Ledstrom v. Eighth Jud. Dist. Ct.*, 124 Nev. 1464, 238 P.3d 809 (2008)  
5 (ruling that "district court did not abuse its discretion in denying Ledstrom's stay  
6 motion, particularly in light of the prejudice that they would suffer if an indefinite  
7 stay were granted."). Jacobs has been diligent and is entitled to such protection.  
8 This Court should immediately lift its stay mandate and allow Jacobs to proceed  
9 with preserving evidence through merits discovery and prosecuting this case. This  
10 action has now been pending for three and a half years, and no merits discovery has  
11 occurred because of the abusive misconduct of LVSC and Sands China.

12 DATED this 4th day of March, 2014.

13 PISANELLI BICE PLLC

14 By: /s/ Todd L. Bice

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and pursuant to Nev. R. App. P. 25(b) and NEFR 9(d), that on this date I electronically filed the foregoing **REAL PARTY IN INTEREST, STEVEN C. JACOBS' REPLY IN SUPPORT OF COUNTERMOTION** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Courts 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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**SERVED VIA HAND-DELIVERY ON MARCH 5, 2014**

The Honorable Elizabeth Gonzalez  
Eighth Judicial District Court, Dept. XI  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

DATED this 4th day of March, 2014.

/s/ Kimberly Peets  
An employee of Pisanelli Bice PLLC