

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Tracie K. Lindeman  
Clerk of Supreme Court

STEVEN C. JACOBS,	)	No. 58740
	)	
Appellant,	)	District Court Case No. A627691
v.	)	
	)	
SHELDON G. ADELSON, IN HIS	)	
INDIVIDUAL AND	)	
REPRESENTATIVE CAPACITIES,	)	
	)	
Respondent.	)	

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**RESPONDENT'S CONSOLIDATED OPPOSITION TO  
APPELLANT JACOBS'S**

**(1) MOTION FOR LEAVE TO FILE  
REQUEST TO STRIKE OR ALTERNATIVELY, TO CORRECT  
RECORD;**

**(2) MOTION TO TEMPORARILY FILE UNDER  
SEAL EXHIBITS TO MOTION FOR LEAVE TO FILE REQUEST  
TO STRIKE OR ALTERNATIVELY TO CORRECT RECORD;**

**AND**

**RESPONDENT'S COUNTERMOTION TO STRIKE**

**I. INTRODUCTION**

The Court should deny Jacobs's motion for leave to file a request to strike Adelson's reply in support of his petition for rehearing or, alternatively, to "correct the record" and the motion itself should be stricken from the record. The motion is wholly irrelevant to the petition for

rehearing that is pending before the Court. The motion continues Jacobs's pattern of using the judicial system to defame his adversary.

The Court should also deny Jacobs's motion to unseal confidential documents from the Florida action because Jacobs improperly seeks to introduce materials that have nothing to do with the scope of the litigation privilege or defamation law that the petition for rehearing presents.

## **II. ARGUMENT**

### **A. The Court should deny Jacobs's request to strike and his alternative request to "correct" the record.**

The excuse Jacobs gives for his latest filing is that Adelson's reply in support of his petition for rehearing went outside the record of this case by citing to the Florida action and in so doing supposedly provided an incomplete picture of the Florida defamation action. But that argument ignores the whole point of Adelson's reply, which is that Jacobs has been free to use the judicial system as a soapbox to broadcast his pernicious lies about Adelson, while this Court's ruling denies Adelson the right to reply. Adelson's reply cited excerpts from the Florida case merely to illustrate that point—that Jacobs has obtained immunity for his accusations about Adelson's supposed personal approval of a "prostitution strategy" in Macau, while Adelson's ability to respond is hobbled by this Court's unduly narrow interpretation of the very same privilege. Thus, there is no basis to strike Adelson's reply, which may be appropriately viewed as a supplement to our petition and in no manner involves tendering materials outside the record "on appeal."

Jacobs's alternative suggestion—that he be allowed "correct" the record—should also be rejected. First, it is worth noting that Jacobs did not

ask the Florida court to dismiss Adelson's defamation complaint on the ground that Jacobs had told the truth; rather, he secured dismissal of the complaint based solely on the litigation privilege. Thus, he is asking this Court to decide, in the first instance, whether his accusations are true, based on a handful of documents and deposition excerpts that are subject to a protective order in Florida. That is obviously something this Court cannot do and has no reason even to attempt, inasmuch as the entire issue has nothing whatsoever to do with the issue before this Court.

Second, the very fact that this Court cannot judge the truth of Jacobs's accusations demonstrates that, once again, Jacobs is simply attempting to use the judicial system to continue defaming his opponent. Toward that end, the motion continues his and his counsel's strident assault on all things Adelson in the irrelevant but defamatory allegations of counsel at pages 5–6 of the motion, regarding "discovery" that is not before this Court nor was even sought in the district court. This continuing and histrionic abuse of privilege concludes on page 6 with the gratuitous and utterly FALSE statement that the district court made a finding against Adelson personally of "extreme misconduct in the concealment of discoverable information . . . ." The district court, however, made no such "finding," nor did it address Jacobs's prostitution allegations in its sanctions order. Nevertheless, counsel for Jacobs hysterically characterizes the district court's sanctions order in this inflammatory manner to divert the Court's attention from the merits of Adelson's petition for rehearing by inviting it to consider prostitution in Macau, implying that Adelson is responsible for it! This is neither civil nor legitimate advocacy, and it has no place in this proceeding in this Court.

**B. The Court should deny Jacobs's motion to unseal.**

There is no need to "unseal documents" produced in the Florida case for filing in this Nevada appellate court since they are wholly irrelevant to any issue before this Court. Nor would it be appropriate for this Court to entertain Jacobs's request to meddle with a Florida protective order. Confidential discovery documents from another case are not needed for the Court to decide the pending petition for rehearing and to say whether the litigation privilege should continue immunizing Jacobs's and his counsel for their vilification/defamation of Adelson, while at the same time giving them free rein to sue him for defamation if he dares to publicly respond to them.

**C. The Court should grant Adelson's motion to strike.**

Given the irrelevance of the materials Jacobs's motions seek to file in this rehearing proceeding, the motions should not be further entertained; they should be struck and Jacobs's "countermotion" to strike denied. *See Trans-Sterling, Inc. v. Bible*, 804 F.2d 525, 528 (9th Cir. 1986) (portions of a criminal indictment in another case would be struck because the indictment was "not relevant to the present action").

**III. CONCLUSION**

Based on the foregoing, the Court should: (1) deny Jacobs's motion for leave to file a request to strike or, alternatively, to correct record; (2) deny Jacobs's motion to temporarily file under seal exhibits to

his motion for leave to file a request to strike or, alternatively, to correct record; and (3) grant Adelson's counter motion to strike Jacobs's motions.

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## CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the foregoing **RESPONDENT'S CONSOLIDATED OPPOSITION TO APPELLANT JACOBS'S (1) MOTION FOR LEAVE TO FILE REQUEST TO STRIKE OR ALTERNATIVELY, TO CORRECT RECORD; (2) MOTION TO TEMPORARILY FILE UNDER SEAL EXHIBITS TO MOTION FOR LEAVE TO FILE REQUEST TO STRIKE OR ALTERNATIVELY TO CORRECT RECORD; AND RESPONDENT'S COUNTERMOTION TO STRIKE** 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 1st day of August, 2014.

By: /s/ PATRICIA FERRUGIA