

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Tracie K. Lindeman
Clerk of Supreme Court

LAS VEGAS SANDS CORP., a Nevada
corporation, and SANDS CHINA LTD., a
Cayman Islands corporation

Petitioners,

vs.

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

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Case Number: 62489

District Court Case Number
A627691-B

**REPLY IN SUPPORT OF
MOTION TO
CONSOLIDATE
HEARINGS AND/OR
DISPOSITIONS OF
PENDING WRIT
PETITIONS IN NEVADA
SUPREME COURT CASES
62489, 62944 AND 63444**

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I. INTRODUCTION

Defendants' motion presents a straightforward and commonsense request to consolidate three separate but related writ petitions arising from the same litigation. Such a consolidation would promote judicial economy in light of the common factual, procedural and legal contexts for the three petitions. In his Opposition, plaintiff makes conclusory assertions of "delay," but he nowhere explains why it would be more economical for this Court to separately consider the individual petitions. Nor does he present any facts refuting defendants' suggestion that consolidation would result in a more efficient use of scarce judicial resources. For these reasons, the motion to consolidate should be granted.

II. ANALYSIS

A. Consolidation Will Promote Judicial Economy

Under any circumstances, the consolidation of three separate but related writ petitions arising from the same litigation would make sense as a matter of judicial economy. But in this case, the logic applies with special force. Not only do the three writs involve the same parties, the same district court and the same underlying dispute, but they also implicate the same overarching issues.

Most notably, the three petitions involve a series of district court decisions that are fundamentally at odds with this Court's Order staying all aspects of the case other than jurisdiction over SCL. For example, in Writ 1,¹ the district court compelled the production of privileged documents reviewed by an attorney-witness who had testified months earlier in a

¹ These petitions are referred to in the order of their filing as "Writ 1" (No. 62489), "Writ 2" (No. 62944), and "Writ 3" (No. 63444).

hearing, even though the documents indisputably had nothing to do with the jurisdictional issue in this case. Similarly, in Writ 2, the district court found that SCL engaged in sanctionable conduct by redacting certain personal data, with no finding that the redacted data had any relevance to jurisdiction. Likewise, in Writ 3, the district court compelled the production of more than 11,000 documents containing privileged information, with no attempt to determine if the privileged documents had any relevance to jurisdiction.

In addition, the three petitions each involve district court decisions raising serious questions about efficient case management. For example, in Writ 3, the district court ordered defendants to incur the considerable expense and effort of creating a privilege log containing 11,000 entries for electronic files surreptitiously removed by plaintiff following his termination—only to later compel the *en masse* production of all of the privileged documents without reviewing even a single entry in the logs. Similarly, in Writ 2, after defendants produced four deponents and tens of thousands of documents in response to plaintiff's jurisdictional discovery requests, the court *sua sponte* compelled SCL to conduct electronic searches of 13 additional custodians (and to create an unprecedented "Relevance Log" for all documents not produced) with no showing that any of these costly burdens would be necessary or even important to resolving the jurisdictional issue. As a result, nearly two years after this Court directed the trial judge to conduct a hearing on the singular issue of whether SCL is subject to jurisdiction in Clark County, Nevada, defendants have incurred millions of dollars in discovery-related expenses for a jurisdictional hearing that has yet to occur.

Finally, the writ petitions have one other feature in common: In the briefing thus far, plaintiff has relied primarily on the same "argument" in responding to defendants' legal positions, with increasingly shrill claims that defendants and their attorneys have conspired to "conceal jurisdictional evidence," "sabotage jurisdictional discovery" and delay the jurisdictional hearing.² Indeed, in his Answer to Writ 2, plaintiff not only devotes most of his brief to this baseless claim, but expressly incorporates by reference the Statement of Facts and Supplemental Appendix from his Answer to Writ 1, where he made the identical claim. Answer to Writ 2, at 7 and n. 8.

Plaintiff's repeated reliance on the same basic argument—and his incorporation by reference of his prior filings—illustrates why consolidation would promote judicial economy in these proceedings. This is particularly true in light of the common factual, procedural and legal contexts noted above. For these reasons, the petitions should be consolidated.

B. Plaintiff's Claims of "Delay" Have No Merit

In his Opposition, plaintiff makes the counterintuitive claim that "consolidation procures more delay while providing no benefits." Opp'n, at 3. But in so doing, plaintiff relies entirely on conclusory assertions with no facts or detailed explanation as to how a decision *not* to consolidate would promote a more efficient use of scarce judicial resources. Among other things, plaintiff nowhere explains exactly how the resolution of the underlying issues would be more efficient if the Court were required to

² See, e.g., Answer to Writ 2, at 7-22; Answer to Writ 1, at 1-19; Opp'n to Mot. to Consolidate, at 1-5.

address each of the three petitions separately at different times. Three proceedings over time would be the antithesis of judicial economy.

Nor do the facts support plaintiff's claim. Plaintiff is the party who has insisted (over defendants' objections) that his inconsistent jurisdictional theories require multiple depositions of defendants' executives and the production of thousands of documents from more than 20 custodians. Yet, despite the purported need for all of this discovery, the district court and plaintiff were both willing to schedule the jurisdictional hearing on July 16, 2013, notwithstanding the pendency of Writs 1 and 2 and the accompanying stays in the production of the documents challenged in those two Writs. It was only after this Court stayed production of the privileged documents at issue in Writ 3 that the district court *sua sponte* vacated the scheduled hearing. The district court thus made clear that it will not conduct the hearing until this Court decides the merits of Writ 3, whether that occurs as part of a consolidated proceeding or as the last in a series of three separate decisions.

Accordingly, Plaintiff's claim that consolidation will result in undue delay is baseless, and he presents no credible argument as to why consolidation will not promote judicial economy. The three petitions present several closely-related issues and raise substantial questions about the efficient management of the litigation following this Court's Remand Order.

III. CONCLUSION

For the reasons set forth above, defendants request that their motion to consolidate the three writ petitions be granted.

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25, I certify that I am an employee of MORRIS LAW GROUP; that, in accordance therewith, I caused a copy of the **REPLY IN SUPPORT OF MOTION TO CONSOLIDATE HEARINGS AND/OR DISPOSITIONS OF PENDING WRIT PETITIONS IN NEVADA SUPREME COURT CASES 62489, 62944 AND 63444** to be served as indicated below, on the date and to the addressee(s) shown below:

VIA HAND DELIVERY ON 7/23/13

Judge Elizabeth Gonzalez
Eighth Judicial District Court of
Clark County, Nevada
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

Respondent

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DATED this 23rd day of July, 2013.

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