

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jun 21 2013 09:52 a.m.
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: 62944

District Court Case Number
A627691-B

**SUPPLEMENTAL
APPENDIX TO PETITION
FOR WRIT OF
PROHIBITION OR
MANDAMUS RE MARCH
27, 2013 ORDER**

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**DEFENDANTS' SUPPLEMENTAL APPENDIX TO EMERGENCY
PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE
MARCH 27, 2013 ORDER
CHRONOLOGICAL INDEX**

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**DEFENDANTS' SUPPLEMENTAL APPENDIX TO EMERGENCY
PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE
MARCH 27, 2013 ORDER
ALPHABETICAL INDEX**

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06/23/2011	Notice of Entry of Stipulation and Order Regarding ESI Discovery	I	PA2261-PA2271
06/14/2013	Plaintiff Steven C. Jacobs' Status Memorandum	I	PA2339-PA2398
06/18/2013	Transcript of Proceedings Status Check (unsigned copy – will supplement when signed copy is available).	I	PA2399-PA2439

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 **SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE MARCH 27, 2013** to be served as indicated below, on the date and to the addressee(s) shown below:

VIA HAND DELIVERY

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

Respondent

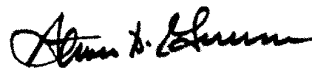
VIA ELECTRONIC AND U.S. MAIL

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Attorneys for Steven C. Jacobs, Real Party in Interest

DATED this 20th day of June, 2013.

By: /s/Fiona Ingalls



CLERK OF THE COURT

1 NTSO

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2 Pro Hac Vice Admitted

Andrew D. Sedlock, Esq.

3 Nevada Bar No. 9183

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7 *Attorneys for Defendant Sands China Ltd.*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 STEVEN C. JACOBS,

11 Plaintiff,

12 v.

13 LAS VEGAS SANDS CORP., a Nevada
14 corporation; SANDS CHINA LTD., a Cayman
15 Islands corporation; DOES I through X; and
16 ROE CORPORATIONS I through X,

17 Defendants.

Case No.: A-10-627691-C

Dept. No.: XI

18 NOTICE OF ENTRY OF STIPULATOIN
19 AND ORDER REGARDING ESI
20 DISCOVERY

21 PLEASE take notice that a Stipulation And Order Regarding ESI Discovery was entered on
22 the 23rd day of June, 2011. A true and correct copy is attached hereto.

23 DATED this 23 day of June, 2011.

24 GLASER WEIL FINK JACOBS
25 HOWARD AVCHEN & SHAPIRO LLP

26 By:

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of GLASER WEIL FINK JACOBS HOWARD
AVCHEN & SHAPIRO LLP, and on the 23rd day of June, 2011, I deposited a true and correct
copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER REGARDING**
ESI DISCOVERY via U.S. Mail at Las Vegas, Nevada, in a sealed envelope upon which first class
postage was prepaid and addressed to the following:

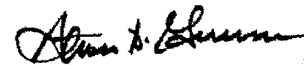
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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,
Plaintiff,

v.

LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
Island corporation; SHELDON G. ADELSON,
in his individual and representative capacity;
DOES I through X; and ROE
CORPORATIONS I through X,
Defendants.

Case No.: A-10-627691-C

Dept. No.: XI

**STIPULATION AND ORDER
REGARDING ESI DISCOVERY**

Plaintiff Steven C. Jacobs ("Plaintiff" or "Jacobs") and defendants Las Vegas Sands Corp. ("LVSC"), Sands China Ltd. ("SCL") and Sheldon G. Adelson ("Adelson"), (individually, "Party" and collectively, "Parties") through their respective counsel of record, hereby agree and stipulate as follows regarding the retrieval and production of electronically stored information ("ESI"):

1. Definitions: In this Stipulation, the following terms have the following meanings:

- A. "ESI" means electronically stored information, including but not limited to, email, attachments to email, and other files stored in an electronic format.
- B. "Loose ESI" means all ESI other than email and attachments to email.
- C. "Meta-Data" means: (i) information embedded in a Native File that is not ordinarily viewable or printable from the application that generated, edited or

1 modified such Native File; and (ii) information generated automatically by the
2 operation of a computer or other information technology system when a Native File
3 is created, modified, transmitted deleted or otherwise manipulated by a user of such
4 system. Meta-Data is a subset of ESI.

5 D. "Native File(s)" means ESI in the electronic format of the application in
6 which such ESI is normally created, viewed and/or modified. Native Files are a
7 subset of ESI.

8 E. "Static Image(s)" means a representation of ESI produced by converting a
9 Native File into a standard image format capable of being viewed and printed on
10 standard computer systems.

11 2. **Scope:** The Parties must act with reasonable diligence to identify and produce
12 responsive, non-privileged active ESI stored as active data that is in their possession, custody or
13 control, notwithstanding its location, format or medium, as provided by this Stipulation and subject
14 to applicable law. Any Party may, upon application for relief, seek to limit this duty by showing
15 that compliance would impose upon the Party an undue burden or cost. To the extent any Party
16 employs subsequent discovery methods that may require the searching and production of ESI (e.g.,
17 requests for production of documents under NRCP 34), the responding party shall not be required to
18 search documents beyond those documents returned from searches conducted with the search terms
19 described in Section 8 herein for a particular custodian. The intent of the foregoing sentence is to
20 preclude the need to run additional search terms through all of a custodian's or multiple custodians'
21 accounts. It is not intended to preclude a Party from requesting specific items or specific documents
22 even if such a request may require the responding Party to search ESI. The Parties reserve their
23 respective rights to object to any such request, including, among other things, if the request is
24 unduly burdensome. Nothing in this Stipulation shall limit the Parties' respective rights and
25 obligations concerning confidential, proprietary, personal or private information, with respect to
26 which they may make such agreements or stipulations as they see fit, subject to applicable law.

27 3. **Custodians Whose ESI Will Be Searched and Produced:** The ESI of Jacobs and
28 Adelson shall be searched and produced pursuant to the provisions of this Stipulation. Pursuant to

1 the Parties will agree upon LVSC and SCL custodians whose emails will be searched and produced
2 pursuant to the provisions of this Stipulation, including but not limited to, the Scope, Date
3 Restrictions, Search Terms, and Reservation of Rights provisions. Those custodians are referred to
4 herein as the "Designated Custodians." Nothing in this Stipulation shall prohibit any Party from
5 subsequently identifying additional custodians where necessary and/or from requesting that agreed
6 search terms be run for such custodians.

7 4. **Date Restrictions:** Except as otherwise agreed by the Parties (whether with respect
8 to particular custodians or otherwise), the date parameters for all ESI to be searched and produced
9 by the Parties are January 1, 2009 to October 20, 2010. The Parties' emails and email attachments
10 will be searched and produced according to the date contained in the "Date Sent" metadata field.
11 Any Loose ESI will be searched and produced by the Parties according to the dates contained in the
12 "Date Created" metadata field.

13 5. **Metadata Fields:** Consistent with the provisions of this Stipulation, each Party shall
14 produce responsive ESI (including images of paper documents, as applicable) to other Parties
15 accompanied by load files that provide the following metadata fields in the **Concordance and**
16 **Ringtail** format. The Parties will meet and confer if additional formats need to be implemented.

17 A. For email messages:

- 18 • Beginning and ending bates numbers
- 19 • Custodian names (First and Last)
- 20 • To:
- 21 • From:
- 22 • Cc:
- 23 • Bcc:
- 24 • Date Sent
- 25 • Time Sent
- 26 • Subject line of the email
- 27 • Date Received
- 28 • Endorsements (confidential, redacted documents)

• Endorsements (confidential, redacted documents)

• Attachments

• MD5 Hash Value

B. For Loose ESI and email attachments:

• Beginning and ending bates numbers

• Custodian names (First and Last)

• Filename

• File type / extension

• Last Date Modified

• Endorsements (confidential, redacted documents)

• MD5 Hash Value

6. **Alternate Production Methods on Showing of Hardship:** Any Party who believes that obligation to produce a compliant load file imposes an undue burden or hardship may seek permission to pursue an alternate method of production reasonably serving the same ends as the load file. Such permission will be granted by the Court only for good cause shown.

7. **Deduplication:** Parties may globally (i.e. horizontally) deduplicate their ESI productions and apply e-mail threading, provided that each custodian that is in possession of a duplicative document is referenced in the "Custodian" metadata field. Parties are encouraged to deduplicate vertically, i.e., within a single custodian's document set.

8. **Search Terms:** The Parties will agree to search terms that LVSC and SCL will use to limit their respective search and production of emails associated with the indicated Designated Custodians. If any of these provisionally agreed search terms prove problematic for any reason (e.g., a term consistently produces nonresponsive information, a term produces a statistically significant number of "false positives," etc.), the Parties will meet and confer in an effort to consensually resolve the issue before proceeding pursuant to Section 15 of this Stipulation.

9. **Production Formats:**

A. Modified TIFF Files: The Parties will produce all email, email attachments, and word processing documents (e.g. MS Word) in Tagged Image File Format ("TIFF") format.

1 Production of all converted Native Files in TIFF image format, except those described in Section
2 9.B. below, will comport with the following format specifications:

- 3 • Group-IV compressed (black / white) single-page TIFFs.
- 4 • No color TIFFs will be produced.
- 5 • 300 dpi will be the standard resolution.
- 6 • Designations of confidentiality pursuant to any stipulated protective order
7 agreed to by the Parties shall appear at the bottom of the page.
- 8 • Logical document breaks will be applied whenever possible. Physical
9 document breaks will not be utilized, unless required.
- 10 • Bates numbers shall appear at the bottom of the page.
- 11 • To the extent that any native documents had headers/footers containing file
12 path information, the file paths will not be removed.
- 13 • The print margin will be set to the file's default.
- 14 • Blank pages will be eliminated from the production set wherever possible.

15 B. Native Files: Native Format will be used for spreadsheet applications (e.g.
16 MS Excel, Lotus 123), drawing type files (e.g. CAD), project management applications (e.g. MS
17 Project), database files (e.g. MS Access), media files, websites, developed applications or other
18 electronic documents that need to be reviewed in Native Format for substantive reasons. For
19 database records in proprietary systems, files shall be produced in CSV format. Native Files will be
20 renamed to the next sequential Bates number, following the Bates numbers of the TIFF files for
21 each custodian.

22 C. Preservation of Native Files: In addition to the files to be produced in Native
23 Format described in subsection (b) above, the Parties shall preserve in Native Format all files
24 collected, including those produced in subsection (a) above. A Party may request the production of
25 any document(s) produced in TIFF format, including those identified in subsection (a) above, in
26 their Native Format.

27 **10. Production of Hard Copy Documents:** For each page of each hardcopy business-
28 sized document that a Party intends to produce, the Party shall cause to be created, in single-page

1 Group IV TIFF format and 300 dpi resolution, an electronic image of the page and an OCR
2 rendition of the text of all pages of such hardcopy document ("TIFF-converted hardcopy
3 document"). In scanning paper documents, distinct documents should not be merged into a single
4 record, and single documents should not be split into multiple records (i.e., paper documents should
5 be logically unitized via a load file). Each Party producing a TIFF-converted hardcopy document
6 shall follow with respect to such document the protocols set out in paragraph 9.A and 9.B.

7 **11. Production of Media and Transmittal:** Production volumes lower than four (4)
8 gigabytes may be produced on DVD-ROM optical discs for Windows-compatible personal
9 computers. Production volumes greater than four (4) gigabytes shall be produced as uncompressed
10 data on a Windows-compatible external hard drive employing the USB 2.0 interface which shall be
11 supplied by the receiving Parties. Each Party shall supply to the other Parties an external hard drive
12 for purposes of large size production of ESI in this matter.

13 **12. Rolling Production:** Production of ESI shall be conducted on a rolling, per-
14 custodian basis. The Parties shall produce the ESI of each designated custodian as soon as
15 practicable after such ESI has been collected and reviewed. Plaintiffs will prioritize custodians into
16 two or more groups.

17 **13. Reservation of Rights:** Nothing contained herein, including without limitation the
18 provisions concerning designations of ESI custodians, file extensions, deduplication, file exceptions,
19 search terms, or any other ESI discovery protocols set out in this Stipulation, is intended to create a
20 precedent for, or to constitute a waiver or relinquishment of, any Party's objections or arguments
21 pertaining to particular search terms or custodians, or to any potential future ESI production(s) or
22 phase(s) of ESI discovery. Nothing contained herein constitutes a waiver of any Party's rights or
23 obligations under any law, including but not limited to laws regarding any matter or information that
24 is or may be claimed to be confidential, proprietary or otherwise personal or private.

25 **14. Inadvertent Disclosure of Privileged Material:** Nothing contained in this
26 Stipulation shall be deemed to waive any privilege that may apply to ESI otherwise discoverable
27 under the Nevada Rules of Civil Procedure. To the extent a Party believes that otherwise
28 discoverable ESI is privileged or subject to protection as trial preparation material, the Party shall

1 comply with the provisions of NRCP 26(b)(5) including the production of an appropriate privilege
2 log. Where any Producing Party has inadvertently or unintentionally produced a document for
3 which it later asserts a claim of privilege or protection, said Producing Party, upon written
4 notification of the inadvertent production to the Receiving Parties, may assert a claim that the
5 document is privileged or protected and request that the Receiving Parties return the original and all
6 copies of the inadvertently disclosed document to the Producing Party. Upon receipt of written
7 notice from a Producing Party claiming that it inadvertently produced a document that it claims is
8 privileged or protected, the Receiving Parties must immediately return said Document (and any
9 copies made thereof) to the Producing Party. Any Receiving Party, however, may object to the
10 Producing Party's claim of privilege or protection and may seek an order from the Court compelling
11 the disclosure of such Documents.

12 **15. Modification:** Any agreement between parties to depart from the requirements of
13 this Stipulation as between those parties must be memorialized in writing, signed by counsel for all
14 Parties to the agreement, and promptly furnished to all Parties via email and U.S. mail. Such
15 agreement does not relieve those Parties of their obligation to other Parties and to the Court pursuant
16 to this Stipulation.

17 **16. Procedure for Amending or Obtaining Relief from the ESI Production Protocol:**

18 A. Amendment: Any Party may request that this Stipulation be amended. All
19 such requests shall be in writing and submitted to the Court for consideration, with a copy of the
20 request served to all parties via email and U.S. mail. Any Party may oppose a request to amend this
21 Stipulation by submitting a written opposition to the Court, with a copy of the opposition served to
22 all parties via email and U.S. mail, within five days of service of the request to amend.

23 B. Relief: Any Party may request relief from any obligation set forth in this
24 Stipulation. All such requests shall be in writing and submitted to the Court for consideration, with
25 a copy of the request served to all Parties via email and U.S. mail. Any Party may oppose any
26 request for relief by submitting a written opposition to the Court, with a copy of the opposition
27 served to all Parties via email and U.S. mail, within five (5) days of service of the request for relief.

28

17. **Preservation of ESI:** A Party is obliged to consider for preservation and identification all potentially responsive ESI and data sources over which the Party (including its employees, officers and directors) has possession, custody or control. Production of information in electronic formats shall not relieve the Producing Party of the obligation to act with reasonable diligence to preserve the native electronic data sources of the information items produced and relevant metadata. Parties should be vigilant not to wipe or dispose of source media while under a preservation duty.

18. **Cost Shifting:** Each Party expressly reserves its right to petition the Court to shift the cost of the production of ESI to the requesting party.

IT IS SO STIPULATED.

DATED this 21 day of June, 2011.

Patricia L. Glaser, Esq.
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3763 Howard Hughes Parkway, Suite 300
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Attorneys for Defendant Sands China Ltd.

DATED this 21st day of June, 2011.

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Attorneys for Defendant Las Vegas Sands Corp.

DATED this 21st day of June, 2011.

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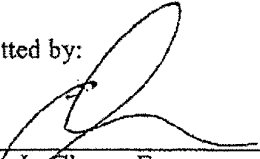
ORDER

IT IS SO ORDERED this 22 day of June, 2011.

DISTRICT COURT JUDGE

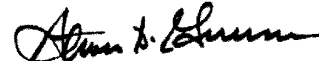
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Submitted by:



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and Sands China, Ltd.*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

15 STEVEN C. JACOBS,

16 Plaintiff,

16 v.

17 LAS VEGAS SANDS CORP., a Nevada
18 corporation; SANDS CHINA LTD., a Cayman
Islands corporation; SHELDON G.
19 ADELSON, in his individual and
representative capacity; DOES I-X; and ROE
20 CORPORATIONS I-X,

21 Defendants.

22 AND ALL RELATED MATTERS.

CASE NO.: A627691-B

DEPT NO.: XI

**MOTION FOR STAY OF ORDER
GRANTING PLAINTIFF'S RENEWED
MOTION FOR NRCP 37 SANCTIONS
PENDING DEFENDANTS' PETITION
FOR WRIT OF PROHIBITION OR
MANDAMUS**

**EX PARTE APPLICATION FOR
ORDER SHORTENING TIME AND
ORDER THEREON**

Date:

Time:

24 Defendants LAS VEGAS SANDS CORP. ("LVS") and SANDS CHINA LTD. ("SCL")
25 (collectively, "Defendants"), by and through their undersigned counsel, submit this Motion for
26 Stay of Order Granting Plaintiff's Renewed Motion for NRCP 37 Sanctions Pending the
27 disposition of Defendants' Petition for Writ of Prohibition or Mandamus. Pursuant to E.D.C.R.
28

04-05-13 P05:23 RCVD

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1 2.26, Defendants further move for an Order Shortening Time for the hearing on Defendants'
2 Motion for Stay.

3 This Motion is based upon the following memorandum of points and authorities, the
4 papers and pleadings on file herein, and any oral argument that the Court may allow.

5 DATED this 5TH day of April, 2013.

6
7 

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Attorneys for Las Vegas Sands Corp. and Sands China,
15 Ltd.

16 **EX PARTE APPLICATION FOR ORDER SHORTENING TIME**

17 Defendants move the Court for an Order shortening the time for hearing on this Motion.
18 As set forth in the Declaration of J. Randall Jones, Esq. below, good cause exists to hear
19 Defendants' Motion for Stay of Order Granting Plaintiff's Renewed Motion for NRCP 37
20 Sanctions Pending the filing with the Supreme Court ("Motion for Stay") on an order shortening
21 time.

22 On March 27, 2013, the Court entered an Order finding that SCL engaged in
23 sanctionable conduct by redacting personal data from certain discovery documents in
24 compliance with the Macau Personal Data Protection Act ("MPDPA"). In the Order, the Court
25 also scheduled a three-day evidentiary hearing commencing on May 13, 2013, to determine
26 SCL's degree of willfulness in making the redactions and to determine the prejudice, if any,
27
28

1 suffered by Jacobs as a result. Finally, the Order directed SCL to search and produce the
2 records of all 20 custodians identified on Exhibit 6 to Plaintiff's Renewed Motion for NRCP 37
3 Sanctions ("Renewed Motion") by April 12, 2013, and provide a log for documents withheld or
4 redacted based upon privilege or because the documents are only relevant to merits-based
5 discovery.

6
7 On April 5, 2013, Defendants filed a Petition for Writ of Prohibition or Mandamus in
8 the Nevada Supreme Court seeking, among other things, to vacate the Order to the extent that it
9 (1) compels SCL, on pain of sanctions, to choose between violating its obligations under the
10 MPDPA or violating this Court's order and thereby incur sanctions; (2) finds that SCL engaged
11 in sanctionable conduct by making the redactions; (3) schedules an evidentiary hearing to begin
12 on May 13, 2013; and (4) imposes greatly expanded discovery obligations on SCL.

13
14 If Defendants' Motion to Stay is heard in the normal course, SCL will face a Hobson's
15 choice because the Order expressly prohibits SCL from making redactions under the MPDPA
16 even though the Macanese government has specifically required it to do so. In addition,
17 Defendants will be required to incur the additional fees and costs of searching an estimated
18 100,000 documents related to 20 custodians, review each document, and then follow the
19 elaborate logging procedure the Court prescribed – all by the April 12, 2013, deadline.

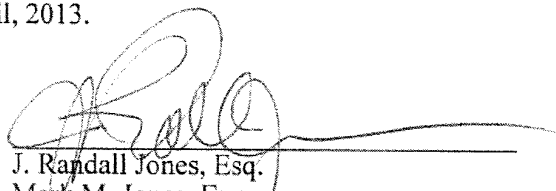
20
21 Under the current timeline, this must all occur before the Supreme Court can consider
22 the Defendants' writ petition seeking review of the order compelling that production. It is
23 imperative that this Motion be heard on order shortening time before that deadline arrives so
24 that Defendants are not forced to make that Hobson's choice. As the April 12, 2013, deadline

25 ///

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1 will pass before this Court can hear this Motion to Stay in the normal course, Defendants
2 respectfully request that the Court set this Motion for hearing on its earliest available hearing
3 date **before April 12, 2013.**

4 DATED this 5TH day of April, 2013.

5
6
7 
J. Randall Jones, Esq.
Mark M. Jones, Esq.
Kemp, Jones & Coulthard, LLP
3800 Howard Hughes Pkwy, 17th Floor
Las Vegas, Nevada 89169
Attorneys for Sands China, Ltd.

11 J. Stephen Peek, Esq.
Robert J. Cassity, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Las Vegas Sands Corp. and Sands China,
14 Ltd.

15 **DECLARATION OF J. RANDALL JONES, ESQ. IN SUPPORT OF**
16 **EX PARTE APPLICATION FOR ORDER SHORTENING TIME**

17 I, J. RANDALL JONES, ESQ., being duly sworn, state as follows:

18 1. I am one of the attorneys for Defendant Sands China Ltd. ("SCL") in this action.

19 I make this Declaration in support of Defendants' Ex Parte Application for an Order Shortening
20 Time for the hearing on the instant Motion to Stay. I have personal knowledge of the facts
21 stated herein, except those facts stated upon information and belief, and as to those facts, I
22 believe them to be true. I am competent to testify to the matters stated herein.

23 2. Good cause exists to hear Defendants' Motion on an order shortening time. On
24 March 27, 2013, the Court entered an Order (the "Order") compelling SCL to: (1) attend an
25 evidentiary hearing commencing on May 13, 2013, to determine SCL's degree of willfulness in
26 redacting personal data from its January 4, 2013 document production based upon the Macau
27
28

1 Personal Data Protection Act ("MPDPA"), as well as to determine the prejudice, if any, suffered
2 by Jacobs as a result, and (2) search and produce the records of all 20 custodians identified on
3 Exhibit 6 to Plaintiff's Renewed Motion for NRCP 37 Sanctions ("Renewed Motion") by April
4 12, 2013, and provide a log for any and all documents withheld or redacted based upon
5 privilege or because the documents are only relevant to merits-based discovery.

6
7 3. On April 5, 2013, Defendants filed a Petition for Writ of Prohibition or
8 Mandamus in the Nevada Supreme Court seeking, among other things, to vacate the Order to
9 the extent that it (1) compels SCL, on pain of sanctions, to choose between violating its
10 obligations under the MPDPA or violating this Court's order and thereby incur sanctions; (2)
11 finds that SCL engaged in sanctionable conduct by making the redactions; (3) schedules an
12 evidentiary hearing to begin on May 13, 2013; and (4) imposes greatly expanded discovery
13 obligations on SCL.

14
15 4. If this matter is set for hearing in the normal course, Defendants would be
16 obligated under the Order to incur substantial fees and costs to complete the process of
17 producing documents from 20 custodians and then to complete the logs of privilege and
18 "nonresponsive" documents (i.e., logging every document that "hit" on a search term but was
19 deemed nonresponsive). More importantly, the Court's March 27th Order also creates a
20 Hobson's choice for SCL because it specifically states that SCL to cannot make redactions
21 under the MPDPA even though the Macanese government has specifically required it to do so.
22 There is simply insufficient time for the Supreme Court to consider and decide the issues
23 presented by Defendants' writ petition before April 12, 2013. Therefore, it is imperative that
24 this Motion to Stay be heard on an order shortening time.

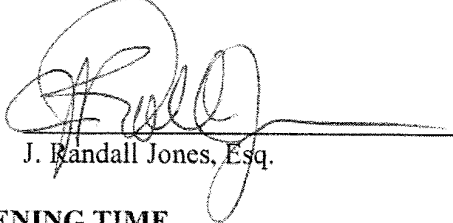
25
26 5. Defendants make this request for an order shortening time in good faith and not
27 for any improper purpose. Accordingly, Defendants respectfully request that this Motion to
28

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1 Stay be heard on shortened time and set for hearing at the Court's earliest available hearing date
2 in advance of the April 12, 2013, production deadline.

3 6. I declare under penalty of perjury that the foregoing is true and correct.

4 Executed April ^{5TH}, 2013, in Las Vegas, Nevada.

5
6
7 
J. Randall Jones, Esq.

8 **ORDER SHORTENING TIME**

9
10 Having reviewed Defendants' Ex Parte Application for Order Shortening Time, and
11 good cause appearing,

12 IT IS HEREBY ORDERED that the **MOTION FOR STAY OF ORDER GRANTING**
13 **PLAINTIFF'S RENEWED MOTION FOR NRCP 37 SANCTIONS PENDING**
14 **DEFENDANTS' PETITION FOR WRIT OF PROHIBITION OR MANDAMUS** shall be
15 heard on shortened time on the _____ day of _____, 2013, at the hour of
16 _____: _____ a.m./p.m. in Department XI of the Eighth Judicial District Court.

17
18 Dated this ____th day of _____, 2013.

19
20 *Court held telephonic*
DISTRICT COURT JUDGE
21
22 *Hearing on 4/9/13*
23 
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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
DEFENDANTS' MOTION FOR STAY OF ORDER GRANTING PLAINTIFF'S
RENEWED MOTION FOR NRCP 37 SANCTIONS PENDING DEFENDANTS'
PETITION FOR WRIT OF PROHIBITION OR MANDAMUS**

I.

INTRODUCTION

On August 26, 2011, the Nevada Supreme Court issued a Writ of Mandamus directing this Court to "revisit the issue of personal jurisdiction" over SCL "by holding an evidentiary hearing and issuing findings regarding general jurisdiction." In discovery for the subsequent jurisdictional proceedings, Defendants have expended more than \$4 million, produced 200,000 pages of documents and submitted their Chairman and three senior LVSC executives for seven days of depositions by Plaintiff.

On March 27, 2013, this Court ordered SCL to return to its files for yet another comprehensive document search – this time covering 20 custodians. Not only will the search and the follow-up creation of the logs cost hundreds of thousands of dollars and yield tens of thousands of documents, but this Court has now clarified that Defendants must produce the documents without redacting them for privacy to comply with the MPDPA. The ruling leaves SCL with the Hobson's choice of complying with Macau law *or* this Court's order – all by April 12th – and forces Defendants to defend themselves in a sanctions hearing scheduled for May 13th.

Due to the gravity of these issues, Defendants have petitioned the Nevada Supreme Court to review and reverse the March 27th Order, including the sanctions hearing scheduled to begin on May 13 and the finding that SCL engaged in sanctionable conduct by making the redactions in compliance with the MPDPA. Defendants move this Court to stay its March 27th Order until the Supreme Court has had an opportunity to make a determination on Defendants' writ petition.

II.

PROCEDURAL BACKGROUND

On December 18, 2012, this Court conducted a hearing to consider multiple motions filed by the parties, including Plaintiff's Motion for NRCP 37 Sanctions, SCL's Motion for a Protective Order on Order Shortening Time, and Plaintiff's Emergency Motion for Protective Order and Sanctions on Order Shortening Time. The Court denied SCL's motion and stated that it would enter an order directing SCL to produce within two weeks all information within its possession "relevant to jurisdictional discovery." 12/18/12 H'ring Tr., attached hereto as Exhibit A, at 24:12-18. SCL's counsel expressly noted that in complying with the order, SCL would still have to address the provisions of the MPDPA. *Id.* at 26:21-24. The Court responded that its ruling did not foreclose SCL from making redactions. *Id.* at 26:13-27:18.

Thereafter, and as outlined in Defendants' Opposition to Plaintiff's Renewed Motion for NRCP 37 Sanctions ("Opposition to Renewed Sanctions Motion"), incorporated herein by reference, the Defendants spent an additional \$1.3 million to comply with the Court's order. They recruited Macau lawyers to review documents, selected an additional vendor, identified relevant search terms and conditions, reviewed and redacted documents, conducted a privilege review, and ultimately produced unredacted copies that were located in the United States. *See* Opposition to Renewed Sanctions Motion, on file herein, 8:21-11:25. Defendants did not merely attempt to comply with the Court's December 18th Order, they went above and beyond its requirements. Nevertheless, Plaintiff renewed his sanctions motion and sought a default judgment for alleged violation of this Court's Order from the December 18th hearing.

On March 27, 2013, the Court entered an Order compelling Defendants to: (1) attend an evidentiary hearing commencing on May 13, 2013, to determine SCL's degree of willfulness in redacting personal data from its January 4, 2013 document production based upon the MPDPA

1 and to determine the prejudice, if any, suffered by Jacobs as a result, and (2) search and produce
2 the records of all 20 custodians identified on Exhibit 6 to Plaintiff's Renewed Motion for NRCP
3 37 Sanctions ("Renewed Motion") by April 12, 2013, providing a log of all documents withheld
4 or redacted based upon privilege or because the documents are only relevant to merits-based
5 discovery.

6
7 On April 5, 2013, Defendants petitioned the Nevada Supreme Court to, inter alia, (1)
8 vacate the order compelling SCL, on pain of sanctions, to choose between violating its
9 obligations under the MPDPA or this Court's order; (2) directing an evidentiary hearing to be
10 held on the question of sanctions on May 13, 2013; and (3) expanding the discovery obligations
11 imposed on SCL.

12 III.

13 ARGUMENT

14 A. Legal Standard

15 When evaluating a motion to stay pending the Nevada Supreme Court's review of a writ
16 petition, the District Court should consider the following factors: (1) whether the object of the
17 writ petition will be defeated if the stay is denied; (2) whether petitioner will suffer irreparable
18 or serious injury if the stay is denied; (3) whether the real party in interest will suffer irreparable
19 or serious injury if the stay is granted; and (4) whether the petitioner is likely to prevail on the
20 merits of the writ petition. *Hansen v. Dist. Ct.*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000) (the
21 factors set forth in NRAP 8(a) apply to writ petitions when the petitioner "seeks to challenge" a
22 decision "issued by the district court"). Each of these factors weighs in favor of a stay of the
23 Defendants' obligations under the Order and of the May 13, 2013, evidentiary hearing pending
24 the Nevada Supreme Court's disposition of the Defendants' writ petition.

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B. The Objects of the Writ Petition Will Be Defeated and Defendants Will Suffer Irreparable Harm if the March 27th Order Is Not Stayed.

The primary purpose of Defendants' writ petition is to obtain Supreme Court review of this Court's rulings that (1) SCL cannot comply with the MPDPA when it produces documents from Macau by redacting personal data; (2) SCL engaged in sanctionable conduct when it made the redactions in its earlier production; (3) an evidentiary hearing will commence on May 13 to determine what sanctions should be imposed; and (4) SCL must continue to search for and produce documents even though Plaintiff has made no showing that further discovery is necessary to make his jurisdictional case.

If the March 27th Order is not stayed, SCL will be forced to choose between violating the requirements of the MPDPA or the requirements of this Court's order. Defendants will also be required to prepare for and defend themselves in the three-day sanctions hearing scheduled to begin on May 13. In addition, Defendants will incur the fees and other expenses of (1) continuing to search and produce documents of the 20 custodians the by the production deadline of April 12, 2013, and (2) preparing the privilege log and the relevance log required by the Court. Accordingly, if a stay is not granted, the subject and purpose of Defendants' writ petition will be defeated long before it can be considered by the Nevada Supreme Court.

Defendants have already expended approximately \$4 million in solely jurisdictional discovery efforts to provide 200,000 pages of documents. To comply with the search and production of documents pertaining to the 20 custodians, Defendants must continue the temporary employment of numerous Macanese attorneys to search an estimated 100,000 documents – all prior to the review of many of the same documents by SCL's litigation counsel, at a cost which will certainly be in the hundreds of thousands and could cost substantially more. *See* Declaration of J. Randall Jones attached hereto as Exhibit B. Furthermore, there is no guarantee that those efforts will yield documents relevant to Jacobs' jurisdictional case. A stay

1 is necessary to allow the Nevada Supreme Court to consider whether this additional discovery is
2 consistent with its previous Writ of Mandamus before Defendants should be forced to incur
3 these additional, astronomical expenses.

4 More importantly, however, without a stay, SCL will be placed in the impossible
5 position of having to choose between adhering to the MPDPA's redaction requirement or
6 complying with this Court's order precluding SCL from redacting to protect personal data under
7 the MPDPA. It would defeat the purpose of the writ petition if SCL were required to make that
8 Hobson's choice of complying with this Court's order *or* Macau's data privacy laws. Only a
9 stay can save SCL from that irreparable harm while the Nevada Supreme Court considers the
10 writ petition.

11 Finally, should the Supreme Court determine that a finding of sanctionable conduct is in
12 error, Defendants have requested that the May 13th evidentiary hearing be vacated. Without a
13 stay of the May 13th evidentiary hearing pending a decision by the Supreme Court, this purpose
14 of Defendant's writ petition, too, will be defeated. Thus, a stay of the March 27th Order and the
15 May 13th evidentiary hearing is necessary to preserve the object and purposes of Defendants'
16 writ petition.

17 **C. Plaintiff Will Suffer No Harm if the District Court Grants a Stay.**

18 Unlike Defendants, who would be immensely and irreparably harmed if a stay were
19 denied, a stay of the March 27th Order will cause Plaintiff no harm at all. The deposition of
20 Plaintiff has been stayed, and there are currently no depositions or hearings set that require the
21 immediate production of the documents. While Defendants understand and agree that an
22 evidentiary hearing on the jurisdictional matter needs to occur soon – indeed, Defendants
23 welcome it – Plaintiff will not suffer any harm if a stay is granted to allow the Supreme Court to
24 first decide these important privilege and writ-compliance issues.

D. Defendants Have Presented a Substantial Case on the Merits of These Important Legal Questions.

Although Defendants recognize that the Court believes it made the correct decision at the February 28th hearing and do not presume to attempt to persuade the Court otherwise, there is at least a reasonable probability that the Supreme Court will disagree with the Court's analysis and issue the requested writ relief. In *Hansen*, the Nevada Supreme Court recognized that "when moving for a stay pending an appeal or writ proceedings, a movant does not always have to show a probability of success on the merits, [but] the movant must 'present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay.'" 116 Nev. at 659, 6 P.3d at 987 (citation omitted). Here, the balance of equities weigh decisively in favor of a stay, Defendants have presented a substantial case on the merits, and the writ petition concerns an important question of first impression regarding the friction between Macau's data privacy laws and the rules of civil procedure.

This Court recognizes the significance of the conflict between the MPDPA and its discovery order. At the February 28th hearing the Court noted, "I'm not saying you don't have problems in Macau. I certainly understand you may well have problems in Macau with the Macau Government." 02/28/13 H'ring Tr., Exhibit C, at 35:9-11. Thus, this Court recognizes that the MPDPA constrains the scope and method of Defendants' production of documents and the serious consequences of non-compliance.

As articulated in Defendants' writ petition, under the balancing test that must be applied when a party invokes foreign data privacy rules, redactions are appropriate. By disallowing them, this Court did not weigh the relevant factors including the importance of the documents to the litigation, the availability of alternative means of securing the information, and the extent to which noncompliance with the request would undermine important interests of the state where

1 the information is located. *See Societe Nationale Industrielle Aerospatiale v. United States*
2 *District Court*, 482 U.S. 522, 546 (1987). Instead, the Court focused exclusively on
3 Defendants' failure to explicitly advise the Court at an earlier point in time that Jacobs' ESI and
4 other data had been transferred to the U.S. *Aerospatiale* required a balancing of all of these
5 factors, and when balanced, they weigh in favor of Defendants' position.

6
7 The Petition also presents a serious question about the scope of discovery authorized by
8 the Nevada Supreme Court's August 26, 2011 Writ Order in this case – a question that only the
9 Nevada Supreme Court, as the issuing tribunal, can answer. Defendants maintain that this
10 Court has greatly exceeded the scope of its narrow authority on remand by continuing to order
11 discovery without requiring Plaintiff to demonstrate that he needs additional documents in order
12 to make viable jurisdictional arguments.

13 VI.

14 CONCLUSION

15 Because (1) the object of the Defendants' writ petition will be defeated if the Court does
16 not grant a stay of the March 27th Order; (2) Defendants will suffer irreparable harm if SCL is
17 required to produce documents without regard to the limitations of the MPDPA and participate
18 in the May 13th evidentiary hearing prior to the Supreme Court's disposition of the writ petition;
19 (3) Plaintiff will suffer no harm by a stay; and (4) Defendants have presented a substantial case
20 on the merits of these important legal questions, Defendants respectfully request that the Court
21

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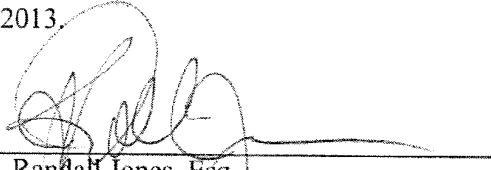
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1 stay its March 27th Order and the May 13th sanctions hearing pending the Nevada Supreme
2 Court's decision on the writ petition.

3 DATED this 5TH day of April, 2013.

4
5
6 
7 J. Randall Jones, Esq.
8 Mark M. Jones, Esq.
9 Kemp, Jones & Coulthard, LLP
10 3800 Howard Hughes Pkwy., 17th Floor
11 Las Vegas, Nevada 89169
12 *Attorneys for Sands China, Ltd.*

13 J. Stephen Peek, Esq.
14 Robert J. Cassity, Esq.
15 Holland & Hart LLP
16 9555 Hillwood Drive, 2nd Floor
17 Las Vegas, Nevada 89134
18 *Attorneys for Las Vegas Sands Corp. and Sands China,*
19 *Ltd.*

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 5, 2013, I served a true and correct copy of the foregoing **MOTION FOR STAY OF ORDER GRANTING PLAINTIFF'S RENEWED MOTION FOR NRCP 37 SANCTIONS PENDING DEFENDANTS' PETITION FOR WRIT OF PROHIBITION OR MANDAMUS and EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON** via e-mail and by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

James J. Pisanelli, Esq.
Todd L. Bice, Esq.
Debra L. Spinelli, Esq.
Jennifer L. Braster, Esq.
Pisanelli & Bice
3883 Howard Hughes Parkway, Suite 800
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see@pisanellibice.com – staff
Attorney for Plaintiff


An Employee of Kemp, Jones & Coulthard

EXHIBIT A

ORIGINAL

Steven D. Lavin

CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants
.....

CASE NO. A-627691

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTIONS FOR PROTECTIVE ORDER AND SANCTIONS

TUESDAY, DECEMBER 18, 2012

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
DEBRA SPINELLI, ESQ.
TODD BICE, ESQ.

FOR THE DEFENDANTS:

JON RANDALL JONES, ESQ.
J. STEPHEN PEEK, ESQ.
MARK JONES, ESQ.
MICHAEL LACKEY, ESQ.

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

RECEIVED
JAN 03 2013
CLERK OF THE COURT
33

1 Then Patty Glaser came in this courtroom and she
2 said to Your Honor, we sent a team of lawyers to do it, that's
3 a fact. Remember, she was very emphatic. We had a little bit
4 of a confrontation at the time. That's a fact. She may have
5 even been pointing her finger at me when she said it. We
6 spent a lot of money, the client's money, we sent lawyers to
7 Macau to review documents in Macau. Your Honor that is
8 irreconcilable with what they're saying now. Patty Glaser and
9 Steve Ma say not only that they can and they will, but they
10 had reviewed Macau documents. And now the newest team comes
11 in and says, we're handcuffed and not permitted to.

12 THE COURT: Well, but you know they took -- you know
13 they reviewed Macau documents because Mr. Kostrinsky carried
14 them back.

15 MR. PISANELLI: That's part of my sanction motion.

16 THE COURT: I mean, we know.

17 MR. PISANELLI: So I'm beating this drum here
18 because it is just outrageous to me. I will wrap it up. I
19 understand your point. But it's outrageous that this company
20 would come in here and as soon as this group of lawyers takes
21 a turn, that admits something they're not supposed to,
22 produces a piece of paper the Sands management didn't want to
23 get out of their hands, my prediction is we're going to see a
24 new team here. Because every single time someone stands up
25 and tries or at least promises you that they'll start doing a

1 better job than their predecessor, then guess what happens, we
2 have a new set of lawyers coming in.

3 I'm overlapping a little bit on the basis of the
4 motion.

5 THE COURT: I don't want to do the sanctions
6 motions, yet.

7 MR. PISANELLI: So I won't do that.

8 THE COURT: Thank you.

9 MR. PISANELLI: The point is very simply you never
10 told them not to produce it, and they didn't do it.

11 THE COURT: Thank you.

12 The motion for protective order is denied. I am
13 going to enter an order today that within two weeks of today,
14 which for ease of calculation because of the holiday we will
15 consider to be January 4th, Sands China will produce all
16 information within their possession that is relevant to the
17 jurisdictional discovery. That includes electronically stored
18 information. Within two weeks.

19 So I can go the motion for sanctions. The motion
20 for sanctions appears to be premature since I've not
21 previously entered an order requiring that certain information
22 that is electronically stored information in Macau be
23 provided. About two weeks from now you might want to renew
24 your motion if you don't get it.

25 Can I go to the motion for the protective order on

1 the videotape.

2 MR. PEEK: Your Honor, can we have some
3 clarification?

4 THE COURT: Yes.

5 MR. PEEK: And here's the challenge that we have, is
6 you're telling us to produce all of the documents that are
7 responsive to the requests for production, and --

8 THE COURT: If a motion is renewed, Mr. Peek, and
9 there is an impediment to production which Sands China
10 believes relates to the Macau Data Privacy Act, when I make
11 determinations under Rule 37 I will take into account the
12 limitations that you believe exist related to the Macau Data
13 Privacy Act. But, believe me, given the past history of this
14 case there seems to be different treatment of the Macau Data
15 Privacy Act at different times.

16 MR. PEEK: Your Honor, I appreciate what we went
17 through in September. I appreciate what the Court's ruling
18 was. And I think Mr. Jones has certainly made it clear how
19 serious we take this. The motion for protective order
20 certainly goes to who are the custodians, what are the search
21 terms --

22 THE COURT: Your motion for protective order is
23 really broad. Your motion for protective order says, "For the
24 foregoing reasons Sands China urges the Court to enter an
25 order providing that SCL has no obligation to search the ESI

1 in Macau of custodians other than Jacobs or to use any more
2 expansive search terms on the Jacobs ESI in Macau that was
3 used to search the Jacobs's ESI that was transferred to the
4 United States in 2010."

5 The answer is no. Denied.

6 MR. PEEK: Okay. I'll let --

7 MR. PISANELLI: Your Honor, on the Rule 37 issue of
8 whether there's an order --

9 THE COURT: Hold on a second, Mr. Pisanelli. Let me
10 go back to Randall Jones.

11 MR. PISANELLI: Okay.

12 THE COURT: Not Jim Randall, Randall Jones.

13 MR. RANDALL JONES: Thank you, Your Honor. I do
14 want to make clear because of what was said there's never been
15 said and if it was misstated by me, then I want to make sure
16 it's clear on the record. It's never been our position that
17 our client can't look at the documents. The issue is whether
18 or not we can take certain information -- our client is
19 allowed to take certain information out of the country. And
20 so I just want to make sure that's clear on the record. Our
21 client can look at the documents, and our client's Macanese,
22 we've just found out, can look at the documents. And from
23 there it becomes more complicated. So I just want to make
24 sure that's clear to the Court.

25 We understand what you're saying, and we will

1 continue to do our best to try to comply with the Court's
2 orders as best we can. And that's -- and I hope the Court
3 does appreciate this is a complicated situation, and we -- I
4 can -- I'll just tell you again, Your Honor, we're trying to
5 make sure that we -- the lawyers and our client comply with
6 your discovery.

7 THE COURT: I understand.

8 MR. PEEK: Yeah. We need to have redactions as part
9 of that, as well, as that's -- I understood --

10 THE COURT: I didn't say you couldn't have
11 redactions.

12 MR. PEEK: That's what I thought.

13 THE COURT: I didn't say you couldn't have privilege
14 logs. I didn't say any of that, Mr. Peek.

15 MR. RANDALL JONES: As I understand it, Your Honor,
16 you said we can still otherwise comply with the law as we
17 believe we should and then you ultimately make the call as to
18 whether or not we have appropriately done that.

19 MR. PISANELLI: We will indeed --

20 THE COURT: I assume there will be a motion if there
21 is a substantial lack of information that is provided.

22 MR. PISANELLI: So, Your Honor, on this issue of the
23 Court order, we're saying it again. As part of your sanction
24 order you were very clear and you said that they're not hiding
25 behind that anymore.

EXHIBIT B

**DECLARATION OF J. RANDALL JONES, ESQ. IN SUPPORT OF DEFENDANTS'
MOTION FOR STAY OF ORDER GRANTING PLAINTIFF'S RENEWED MOTION
FOR NRCP 37 SANCTIONS PENDING DEFENDANTS' PETITION FOR WRIT OF
PROHIBITION OR MANDAMUS**

I, J. Randall Jones, Esq. being duly sworn, state as follows:

1. I am one of the attorneys for Defendant Sands China Ltd. ("SCL") in this action. I make this Declaration in support of Defendants' Motion for Stay of Order Granting Plaintiff's Renewed Motion for NRCP 37 Sanctions Pending Defendants' Petition for Writ of Prohibition or Mandamus. I have personal knowledge of the facts stated herein, except those facts stated upon information and belief, and as to those facts, I believe them to be true.
2. On March 27, 2013, this Court entered an Order (the "Order") scheduling a three-day sanctions hearing commencing on May 13, 2013 to determine (a) SCL's degree of willfulness in redacting personal data from its January 4, 2013 document production based on the Macau Personal Data Protection Act ("MPDPA"); and (b) the prejudice, if any, suffered by Plaintiff as a result.
3. The Order also directed SCL to search and produce the records of all 20 custodians identified on Exhibit 6 to Plaintiff's Renewed Motion for NRCP 37 Sanctions ("Renewed Motion") by April 12, 2013, and to provide a privilege log for any documents withheld or redacted based on privilege. Finally, the Order directed SCL to log any documents that SCL decides to withhold from production on the grounds that they are "responsive to merit-based discovery but not jurisdictional discovery."
4. On April 5, 2013, Defendants filed a Petition for Writ of Prohibition or Mandamus with the Nevada Supreme Court, seeking to vacate the Order. In particular, in the Petition, Defendants seek to vacate the Order to the extent that it (1) compels SCL to choose

between violating its obligations under the MPDPA and violating the terms of the Order; (2) finds that SCL engaged in sanctionable conduct by making the redactions required by the MPDPA; (3) schedules an evidentiary sanctions hearing to begin on May 13, 2013; and (4) imposes expanded discovery obligations on SCL.

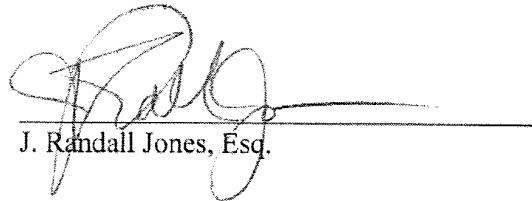
5. If a stay is not granted, SCL will be forced to choose between violating MPDPA's redaction requirement or violating the Order precluding SCL from making such redactions. Defendants will also be obligated under the Order to incur substantial fees, costs and effort in connection with both the scheduled sanctions hearing and the additional discovery obligations.
6. With respect to the scheduled sanctions hearing, Defendants have already begun incurring costs in connection with the preparation for the hearing, and these costs will increase substantially as the scheduled date for the hearing draws nearer. Among other things, Plaintiff recently notified Defendants that he may bring before the Court certain discovery requests in connection with the sanctions hearing. In addition, if the three-day hearing as currently scheduled is conducted before the Writ is decided, Defendants' fees, costs and burdens will obviously escalate at a high rate, as Defendants must conduct pre-hearing motion practice, prepare for the hearing, draft pre-hearing and post-hearing memoranda and participate in the three-day hearing itself.
7. To date, Defendants have produced more than 200,000 pages of documents in response to jurisdictional discovery. With respect to the additional discovery ordered by the Court, Defendants have already incurred substantial costs, and will continue do so if a stay is not issued. Consistent with the Court's Order, SCL has run search terms against the electronic documents from the 20 custodians referred to above, one of whom served as

SCL's in-house counsel during the relevant period. Although the process is ongoing, declarant is informed and believes that more than 100,000 additional documents in Macau and the United States have thus far been identified that require review. Defendant is also informed and believes Defendants have employed 35 reviewers in Macau and 35 reviewers in the United States to undertake this process, at a cost of more than \$1.3 million thus far. Although Defendants have already undergone a substantial effort, and incurred significant costs, in working to meet the Court's April 12 deadline, the Defendants will be required to spend substantial fees, costs and effort to complete that process if this Motion is not granted.

8. The Order also requires SCL to prepare a privilege log for documents that SCL determines to be privileged. It is difficult to predict future efforts with precision, but in light of the large number of privileged documents to be logged, Defendants believe that this process will take weeks of work and the costs will be substantial, almost certainly hundreds of thousands of dollars. In addition, the Order requires Defendants to log documents that "hit" a search term but are determined not to be relevant to any jurisdictional issues. Although difficult to ascertain at this stage, Defendants estimate that this process will also take weeks of work and incur substantial costs, also in the hundreds of thousands of dollars. If the Nevada Supreme Court were to grant the Writ, much if not all of the fees, costs and effort associated with the preparation of the logs will have been wasted.
9. Defendants make their request for a Motion for the Stay of the Order in good faith and not for any improper purpose.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed April 5, 2013 in Las Vegas, NV.



J. Randall Jones, Esq.

EXHIBIT C

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS	.	
	.	
Plaintiff	.	CASE NO. A-627691
	.	
vs.	.	
	.	
LAS VEGAS SANDS CORP., et al..	.	DEPT. NO. XI
	.	
Defendants	.	Transcript of
	.	Proceedings
.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON PLAINTIFF'S RENEWED MOTION FOR NRCP 37 SANCTIONS

THURSDAY, FEBRUARY 28, 2013

APPEARANCES:

FOR THE PLAINTIFF:	JAMES J. PISANELLI, ESQ.
	TODD BICE, ESQ.

FOR THE DEFENDANTS:	J. STEPHEN PEEK, ESQ.
	JON RANDALL JONES, ESQ.
	MARK JONES, ESQ.
	MICHAEL LACKEY, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 handled appropriately. That doesn't mean redactions under the
2 MDPa, which you have been precluded from doing anything with
3 respect to.

4 Now, I certainly understand that Sands China may
5 have obligations with the Macau Government. But because of
6 what's happened in that case, in this particular case you've
7 lost the ability to use that as a defense in any way, shape,
8 or form.

9 MR. RANDALL JONES: Well, Your Honor, my response to
10 that be -- and I hear what you just said and I know the Court
11 understands this, but I think it's necessary to make this
12 point on the record. My client is faced with the proverbial
13 Hobson's choice. It truly is. And in trying to make sure we
14 did not wilfully violate your order and complied with
15 discovery in good faith we did what we did. So the redactions
16 that are there do exist.

17 And, by the way, I would disagree with Mr.
18 Pisanelli's percentages. The way I calculate it is at most
19 10 percent of the documents produced have a redacted vein.
20 But then let's look beyond that. Mr. Pisanelli says that
21 these documents that are redacted are meaningless. He says
22 they are essentially a blank page. They are not a blank page,
23 Your Honor. There are several issues that go directly
24 contrary to that, and I want to talk about that in a couple of
25 respects. One is the subject matter, the substance of the

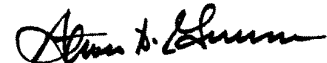
1 email has not been redacted, so only individual names have
2 been redacted. So you could still -- to suggest that --

3 THE COURT: That is violative of my order, Mr.
4 Jones. And I don't really care that your client is in a bad
5 position with the Macau Government. Your client is the one
6 who decided to take the material out of Macau originally,
7 failed to disclose it to anyone in the court, and then as a
8 sanction for that conduct loses the ability in this case to
9 raise that as an issue. I'm not saying you don't have
10 problems in Macau. I certainly understand you may well have
11 problems in Macau with the Macau Government. I tried to
12 understand the letter you got from the Macau Government. I
13 read it three times. And I certainly understand they've
14 raised issues with you. But as a sanction for the
15 inappropriate conduct that's happened in this case, in this
16 case you've lost the ability to use that as a defense. I know
17 that there may be some balancing that I do when I'm looking at
18 appropriate sanctions under the Rule 37 standard as to why
19 your client may have chosen to use that method to violate my
20 order. And I'll balance that and I'll look at it and I'll
21 consider those issues. But they violated my order.

22 MR. RANDALL JONES: Well, Your Honor, again, I would
23 respectfully state that I was a part of that process, and
24 whether we were being obtuse -- I hope that I'm never obtuse
25 when I'm looking at a Court's transcript or order -- that when

1 we talked about redactions as it related to those we certainly
2 didn't intend to wilfully violate your order. I will tell you
3 that, and you can take that for what it's worth coming from
4 me. We've appeared before you many times. I would not ever
5 tell a client to wilfully violate any court's order, and
6 certainly, Your Honor, I have great respect for you, I would
7 not ever suggest that a client of mine do that intentionally.
8 And that's just period. I would never do that. And I
9 certainly didn't think we were doing that at the time. We
10 were trying to thread a needle, I certainly agree we were
11 trying to do that, and we hope we have accomplished that. And
12 I understand what you just said.

13 Having said that, I would ask you to consider this.
14 With respect to this whole point about a blank page and the
15 information that they don't have, first of all, this goes back
16 to this issue of document dump. We have grossly overproduced
17 what could possibly be relevant, because we didn't want to
18 base it on relevance, and the jurisdictional discovery out of
19 a fear of the very kind of thing that's going on here, that
20 they would ask for the death penalty or some other extreme
21 sanction because they are trying to get, from our perspective,
22 not discovery, they're trying to get jurisdiction by tort or
23 essentially put us in a position because of some of the
24 history that's occurred in this case so that they could ask
25 you for the death penalty. And we know that's what happened.



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10 Attorneys for Las Vegas Sands Corp.
and Sands China, Ltd.
11

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 STEVEN C. JACOBS,
15 Plaintiff,

16 v.

17 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
18 Islands corporation; SHELDON G.
ADELSON, in his individual and representative
19 capacity; DOES I-X; and ROE
CORPORATIONS I-X,

20 Defendants.

21 AND ALL RELATED MATTERS.
22

CASE NO.: A627691-B
DEPT NO.: XI

23 NOTICE OF ENTRY OF ORDER

24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, please take notice that an
25 Order Granting In Part And Denying In Part Motion For Stay Of Order Granting Plaintiff's
26 Renewed Motion For NRCP 37 Sanctions Pending Defendants' Petition For Writ Of Prohibition Or

27 ///

28 ///

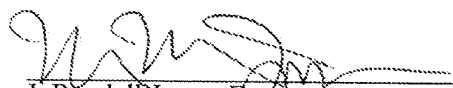
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1 Mandamus was entered in this matter on May 10, 2013, a copy of which is attached hereto.

2 DATED this 14th day of May, 2013.

3 KEMP, JONES & COULTHARD, LLP


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17 9555 Hillwood Drive, 2nd Floor
18 Las Vegas, Nevada 89134
19 Attorneys for Las Vegas Sands Corp.
20 and Sands China, Ltd.

21 **CERTIFICATE OF MAILING**

22 I hereby certify that on the 14th day of May, 2013, the foregoing **NOTICE OF ENTRY OF**
23 **ORDER** was served on the following persons by mailing a copy thereof, first class mail, postage
24 prepaid, to:

25 James J. Pisanelli, Esq.
26 Debra L. Spinelli, Esq.
27 Todd L. Bice, Esq.
28 Pisanelli Bice
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Attorneys for Plaintiff


An employee of Kemp, Jones & Coulthard

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15 *Attorneys for Las Vegas Sands Corp.
and Sands China, Ltd.*

16
17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 STEVEN C. JACOBS,

20 Plaintiff,

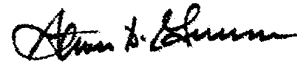
21 v.

22 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
23 Islands corporation; DOES I-X; and ROE
CORPORATIONS I-X,

24 Defendants.
25

26 AND ALL RELATED MATTERS.
27
28

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CLERK OF THE COURT

CASE NO.: A627691-B
DEPT NO.: XI

Date: April 9, 2013
Time: 1:00 p.m.

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
STAY OF ORDER GRANTING
PLAINTIFF'S RENEWED MOTION
FOR NRCP 37 SANCTIONS PENDING
DEFENDANTS' PETITION FOR WRIT
OF PROHIBITION OR MANDAMUS**

05-01-13PC06:03 RCVD

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1 On April 9, 2013, Plaintiff Steven C. Jacobs ("Plaintiff") and Defendants LAS VEGAS
2 SANDS CORP. and SANDS CHINA LTD. ("SCL") (collectively "Defendants") appeared
3 telephonically before this Court on Defendants' Motion for Stay of Order Granting Plaintiff's
4 Renewed Motion for NRCP 37 Sanctions Pending Defendants' Petition for Writ of Prohibition
5 or Mandamus ("Motion to Stay"). Todd L. Bice, Esq., Jennifer L. Braster, Esq., and Eric
6 Aldrian, Esq. of the law firm PISANELLI BICE PLLC, appeared on behalf of Plaintiff. Robert
7 J. Cassity, Esq., of the law firm HOLLAND & HART LLP, appeared on behalf of Defendants.
8 J. Randall Jones, Esq. of the law firm KEMP, JONES & COULTHARD, LLP, appeared on
9 behalf of SCL. The Court considered the papers filed on behalf of the parties and the oral
10 argument of counsel, and good cause appearing therefor:

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

12 1. The Motion to Stay is GRANTED IN PART, staying for 45 days, or until May
13 24, 2013, SCL's obligation to produce documents responsive to the Court-ordered jurisdictional
14 discovery from Macau that were not included on any electronic storage device brought to the
15 United States as referenced at the September 2012, sanctions hearing. In the event the Nevada
16 Supreme Court takes action on Defendants' Writ Petition within the 45-day stay period, the
17 Court is willing to consider an extension of the stay.

18 2. The Motion to Stay is DENIED IN PART as to the production of documents
19 responsive to the Court-ordered jurisdictional discovery on any electronic storage device
20 brought into the United States previously as referenced at the September 2012, sanctions
21 hearing. Documents discovered on said electronic storage devices must be produced in
22 accordance with this Court's March 27, 2013 Order.

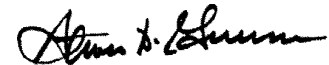
23 ///

24 ///

25 ///

26 ///

27 ///



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Mark M. Jones, Esq.
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10 *Attorneys for Las Vegas Sands Corp.
and Sands China, Ltd.*

11
12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 STEVEN C. JACOBS,
15
16 Plaintiff,

17 v.

18 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
Islands corporation; SHELDON G.
19 ADELSON, in his individual and representative
capacity; DOES I-X; and ROE
CORPORATIONS I-X,

20 Defendants.

21
22 AND ALL RELATED MATTERS.

CASE NO.: A627691-B
DEPT NO.: XI

NOTICE OF ENTRY OF ORDER

23
24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, please take notice that an
25 Order Granting Defendants' Motion To Extend Stay Of Order Granting Plaintiff's Renewed Motion
26 For NRCP 37 Sanctions Pending Defendants' Petition For Writ Of Prohibition Or Mandamus was

27 ///

28 ///

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1 entered in this matter on June 5, 2013, a copy of which is attached hereto.

2 DATED this 12th day of June, 2013.

3 KEMP, JONES & COULTHARD, LLP

4 

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Las Vegas, Nevada 89134

Attorneys for Las Vegas Sands Corp.

and Sands China, Ltd.

16 **CERTIFICATE OF MAILING**

17 I hereby certify that on the 12th day of June, 2013, the foregoing **NOTICE OF ENTRY OF**

18 **ORDER** was served on the following persons by mailing a copy thereof, first class mail, postage
19 prepaid, to:

20 James J. Pisanelli, Esq.

Debra L. Spinelli, Esq.

21 Todd L. Bice, Esq.

Pisanelli Bice

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Las Vegas, Nevada 89169

23 *Attorneys for Plaintiff*

24 

25 An employee of Kemp, Jones & Coulthard

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CLERK OF THE COURT

1 **ORDER**
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26 *Attorneys for Las Vegas Sands Corp.
and Sands China, Ltd.*

DISTRICT COURT
CLARK COUNTY, NEVADA

FILE WITH
MASTER CALENDAR

19 STEVEN C. JACOBS,

20 Plaintiff,

21 v.

22 LAS VEGAS SANDS CORP., a Nevada
23 corporation; SANDS CHINA LTD., a Cayman
24 Islands corporation; SHELDON G.
25 ADELSON, in his individual and
26 representative capacity; DOES I-X; and ROE
27 CORPORATIONS I-X,

28 Defendants.

29 AND ALL RELATED MATTERS.

CASE NO.: A627691-B
DEPT NO.: XI

ORDER GRANTING DEFENDANTS'
MOTION TO EXTEND STAY OF
ORDER GRANTING PLAINTIFF'S
RENEWED MOTION FOR NRCP 37
SANCTIONS PENDING
DEFENDANTS' PETITION FOR WRIT
OF PROHIBITION OR MANDAMUS

05-23-13P03:59 RCV0

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On May 16, 2013, Plaintiff Steven C. Jacobs and Defendants Las Vegas Sands Corp. and Sands China, LTD. ("SCL") (collectively "Defendants") came before this court on Defendants' Motion to Extend Stay of Order Granting Plaintiff's Renewed Motion for NRCP 37 Sanctions Pending Defendants' Petition for Writ Prohibition for Mandamus ("Motion to Extend Stay"). Todd L. Bice, Esq., of the law firm PISANELLI BICE PLLC, appeared on behalf of Plaintiff. J. Stephen Peek, Esq., of the law firm HOLLAND & HART LLP, appeared telephonically on behalf of Defendants. J. Randall Jones, Esq., of the law firm KEMP, JONES & COULTHARD, LLP, appeared on behalf of SCL. The Court considered the papers filed on behalf of the parties and the oral argument of counsel, and good cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. The Motion to Extend Stay is GRANTED, extending the stay granted by the Order, filed on May 13, 2013; and

2. The Court will conduct a Status Check on July 16, 2013 at 8:30 a.m. to consider the status of the stay.

DATED this 5th day of June, 2013.

District Court Judge

Submitted by:

KEMP, JONES & COULTHARD

Approved as to form and content:

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Attorneys for Plaintiff


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15 *Attorneys for Sands China, Ltd.*

16
17 **DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

19 STEVEN C. JACOBS,
20 Plaintiff,

21 v.

22 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
Islands corporation; SHELDON G. ADELSON,
23 in his individual and representative capacity;
DOES I-X; and ROE CORPORATIONS I-X,

24 Defendants.

25 AND ALL RELATED MATTERS.

CASE NO.: A627691-B
DEPT NO.: XI

Date: n/a
Time: n/a

**DEFENDANTS' JOINT STATUS
REPORT**

26
27 ///

28 ///

Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

1 Defendants Las Vegas Sands Corporation ("LVSC") and Sands China Limited ("SCL")
2 respectfully file the following Joint Status Report in advance of the status check scheduled by the
3 Court for June 18, 2013.

4 In its May 30, 2013 Order, the Court asked for a status report with respect to (1) the
5 scheduling of the jurisdictional hearing and (2) the competing proposed orders on Plaintiff's
6 Motion to Return Remaining Documents from Advanced Discovery ("Plaintiff's Motion to
7 Return Documents"). In short, on (1) SCL stands ready to proceed with the jurisdictional hearing
8 at the Court's convenience; as described below, Defendants believe that all discovery that is
9 necessary for that hearing has been accomplished. All that remains is for Plaintiff to identify the
10 jurisdictional theories on which he intends to proceed and the parties to brief those theories and
11 then designate witnesses and exhibits in light of any factual issues that remain. On (2),
12 Defendants have already provided the Court with their explanation of why they believe Plaintiff's
13 proposed order should not be entered. A copy of that submission is attached hereto as **Exhibit**
14 **"A"** for the Court's convenience. In addition, on June 12, 2013, Defendants filed the Surreply
15 that the Court allowed in its May 17, 2013 Order, and would urge the Court to reconsider its
16 decision on Plaintiff's Motion to Return Documents in light of that Surreply.

17 **I. Discovery Has Been Essentially Completed.**

18 Prior to April 12, 2013, LVSC and SCL had together produced close to 200,000 pages of
19 documents in response to the jurisdictional discovery the Court permitted in its March 8, 2012
20 Order. In its March 27, 2013 Order, the Court required SCL, in addition, to "search and produce
21 the records of all twenty (20) custodians" that Plaintiff had identified "for documents that are
22 relevant to jurisdictional discovery." When Defendants filed a writ petition to the Nevada
23 Supreme Court challenging various aspects of the March 27 Order, the Court stayed its order with
24 respect to documents in Macau, but declined to stay the Order to the extent that it required
25 production of documents on any of the electronic storage devices brought into the United States
26 that were referenced at the September 2012 sanctions hearing.

27 On April 12, 2013, Defendants produced an additional 1,733 documents (comprising over
28 13,000 pages) responsive to Plaintiff's jurisdictional discovery requests. Those documents were

1 produced from three sources: (1) the data transferred to the United States as referenced at the
2 September hearing; (2) documents maintained in Hong Kong and Singapore by four of the
3 identified custodians (SCL's three independent directors and one Marina Bay Sands employee);
4 and (3) documents identified through a search of the relevant custodians' files in Macau¹ that
5 were then electronically matched to documents that existed in the United States. All of these
6 documents were produced in unredacted form, because Macau's data privacy laws do not apply to
7 them. Defendants are in the process of preparing a log for thousands of documents that were
8 withheld from the April 12, 2013 production on privilege grounds.² That log should be ready
9 shortly. Some of the documents that were initially withheld will be declassified as a result of the
10 privilege review and others will be produced with privileged material redacted.

11 In addition to producing over 210,000 pages of documents, Defendants made four of their
12 senior officers (Messrs. Adelson, Leven, Goldstein and Kay) available for deposition. Plaintiff
13 deposed three of these executives for two days each.

14 Defendants' extensive document production and the depositions Plaintiff took give him
15 more than he needs to make whatever jurisdictional arguments he wants to make. As the Court is
16 aware, Defendants have filed two writ petitions, which the Nevada Supreme Court has accepted,
17 related to the Court's 2013 rulings. One, which is now fully briefed, involves a handful of
18 privileged documents that Justin Jones used to refresh his recollection about the timeline of events
19 before testifying at the September 2012 sanctions hearing. These documents are unrelated to any
20 jurisdictional issue. The second writ petition involves (among other things) whether Defendants
21 were properly required to produce unredacted documents from Macau pursuant to the Court's
22 December 18, 2012 and March 27, 2013 Orders. Defendants' reply in support of that writ is
23 currently due on June 20. Although Defendants' second writ petition does involve documents
24 that may be responsive to Plaintiff's jurisdictional discovery requests, Plaintiff has made no

25 ¹ SCL had identified those documents in Macau before the Court entered its stay, which enabled SCL to
26 avoid the dilemma of deciding whether to comply with the Court's Order by producing those documents in
27 unredacted form or to comply with Macau's data privacy laws by redacting personal information from
28 those documents.

² One of the custodians whose data was searched was Luis Melo, who was formerly SCL's general
counsel.

1 showing that the personal data on the documents already produced in redacted form and the other
2 Macau documents that have not yet been produced as a result of this Court's stay order are both
3 relevant to a cognizable jurisdictional theory and non-cumulative.³ Accordingly, Plaintiff should
4 be able to proceed whether he has these documents or not.

5 Defendants also intend to file a writ petition with the Nevada Supreme Court if the Court
6 enters an order granting Plaintiff's Motion to Return Documents. Once again, Plaintiff has made
7 no showing that any of the privileged documents that are the subject of Plaintiff's Motion are both
8 relevant to a cognizable jurisdictional theory and non-cumulative in light of the thousands of
9 documents and other evidence that Plaintiff already has in his possession. Accordingly, there is
10 no reason to postpone the jurisdictional hearing until that issue is finally resolved.

11 Defendants are not aware of any other outstanding issues raised by Plaintiff's discovery
12 requests.⁴ As the Court will recall, SCL sought to take Jacobs' deposition before the evidentiary
13 hearing. The Court stated that the deposition could proceed, but only after all of the issues as to
14 what documents Jacobs and his counsel are entitled to review are resolved. Although SCL would
15 still like to take Jacobs' deposition before the hearing, it is willing to forego the opportunity to do
16 so if necessary to avoid further delays in scheduling the jurisdictional hearing.⁵

17 **II. SCL Is Ready To Proceed.**

18 SCL is ready to proceed with the jurisdictional hearing at the Court's convenience.
19 However, in advance of that hearing, Plaintiff should be required to provide an explanation of the
20 jurisdictional theories he intends to rely upon. Over the course of the past two years Plaintiff has
21 offered or alluded to a variety of different theories of general jurisdiction, including claiming (1)

22 ³ To date, Defendants have produced a total of 31,393 documents in response to Plaintiff's jurisdictional
23 requests for production. Of that total, 2,482 or roughly 8% were produced with personal data redacted in
order to comply with Macau's data privacy laws.

24 ⁴ Plaintiff has raised some issues regarding Defendants' confidentiality designations pursuant to the
25 Protective Order. As required by that Order, Defendants filed a motion on May 21, 2013 seeking
26 confirmation of disputed confidentiality designations Defendants made with respect to the second day of
the Adelson deposition. Defendants also conducted a review and de-designated approximately 12,000
27 documents that had previously been designated confidential. Plaintiff's counsel recently sent a letter
objecting to a handful of other designations; the parties will meet and confer about these designations, and
28 Defendants will file a motion to the extent that the parties cannot agree. However, these issues should not
affect the timing of the hearing.

⁵ SCL reserves the right to call Jacobs as a witness at the jurisdictional hearing.

1 that SCL is LVSC's alter ego, (2) that SCL's de facto executive headquarters is in Las Vegas, (3)
2 that LVSC acted as SCL's agent in carrying out specific tasks in Nevada, and (4) that LVSC acts
3 generally as SCL's agent and that LVSC's jurisdictional contacts can therefore be attributed to
4 SCL. Plaintiff has also raised a specific jurisdiction theory, arguing that the decision to terminate
5 him was made in Nevada and therefore the Court has specific jurisdiction over his breach of
6 contract claim against SCL.⁶

7 Before the parties and the Court invest further effort in preparing for a jurisdictional
8 hearing, Plaintiff should be required to state which of these theories he intends to pursue and
9 whether he has any additional jurisdictional theories. SCL believes that a number of these
10 theories (assuming Plaintiff still intends to pursue them) could be eliminated as a matter of law,
11 thus enabling the Court to streamline the evidentiary hearing. Furthermore, an identification of
12 Plaintiff's theories will enable the parties to more efficiently identify their witnesses and exhibits
13 prior to the hearing.

14 Accordingly, SCL urges the Court to set a briefing schedule under which (1) Plaintiff
15 would first identify the jurisdictional theories he intends to pursue and explain in general terms
16 the factual basis for his assertion that there is jurisdiction over SCL under those theories, (2) SCL
17 would then have an opportunity to move for summary judgment with respect to some or all of
18 those theories and, to the extent there are factual issues, to explain its view of the requirements

19 ///

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26
27 ⁶ Plaintiff also advanced a theory of "transient" jurisdiction, which the Nevada Supreme Court directed this
28 Court to consider after it decides whether the Court has general jurisdiction over SCL. Because this theory
does not involve any factual issues, it will not be the subject of the evidentiary hearing.

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1 Plaintiff must meet in order to prove his theories, and (3) the Court can then hear argument and
2 rule on the legal issues, narrowing (or eliminating) the factual issues to be presented at the
3 evidentiary hearing.

4 DATED June 14, 2013.



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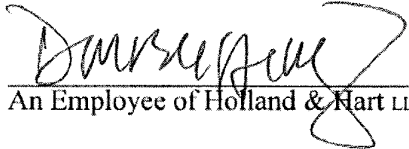
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on June 14, 2013, I served a true and correct copy of the foregoing **DEFENDANTS' JOINT STATUS REPORT** via e-mail and by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

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Attorney for Plaintiff


An Employee of Holland & Hart LLP

Dineen Bergsing

From: Dineen Bergsing
Sent: Friday, June 14, 2013 2:50 PM
To: James Pisanelli; Debra Spinelli; Todd Bice; 'Kimberly Peets'; Sarah Elsdon
Subject: LV Sands/Jacobs - Defendants' Joint Status Report
Attachments: 1100_001

Please see attached Defendants' Joint Status Report. A copy to follow by mail.

Dineen M. Bergsing

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CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.

EXHIBIT A

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12
13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 STEVEN C. JACOBS,
16 Plaintiff,
17 v.

CASE NO.: A627691-B
DEPT NO.: XI

18 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
Islands corporation; SHELDON G.
19 ADELSON, in his individual and
representative capacity; DOES I-X; and ROE
20 CORPORATIONS I-X,

**MEMORANDUM IN SUPPORT OF
PROPOSED DRAFT ORDER ON
PLAINTIFF STEVEN C. JACOBS'
MOTION TO RETURN REMAINING
DOCUMENTS FROM ADVANCED
DISCOVERY**

21 Defendants.
22
23

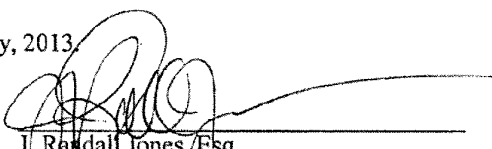
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AND ALL RELATED MATTERS.

Defendants LAS VEGAS SANDS CORP. ("LVS") and SANDS CHINA LTD. ("SCL")
(collectively, "Defendants"), by and through their undersigned counsel, submit this
Memorandum In Support of Proposed Draft Order on Plaintiff Steven C. Jacobs' Motion to
Return Remaining Documents from Advanced Discovery. This Memorandum is provided

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1 pursuant to the following memorandum of points and authorities, and the papers and pleadings
2 on file herein.

3 DATED this 24th day of May, 2013.

4 
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17 MEMORANDUM OF POINTS AND AUTHORITIES

18 The purpose of this Memorandum is in furtherance of Defendants' cover letter to a
19 competing order submitted to the Court (and copied on Plaintiff's counsel) on May 23, 2013,
20 regarding Plaintiffs' Motion to Return Remaining Documents from Advanced Discovery. *See*
21 Cover Letter, dated May 23, 2013, and Proposed Order, attached hereto as Exhibits A and B,
22 respectively. The Proposed Order was a competing order to Plaintiff's proposed Order,
23 attached hereto as Exhibit C ("Plaintiff's Order"). After Defendants submitted the Cover Letter
24 and Proposed Order, Defendants received the Court's Journal Entry denying Defendants'
25 Motion to Strike Plaintiff's Reply in support of that motion, but allowing Defendants to file a
26 Surreply. The Defendants appreciate the opportunity to file a Surreply and will do so by the
27 deadline the Court set.

28 Although Defendants urge the Court to postpone entry of either the Proposed Order or
the Plaintiff's Order pending the filing of that Surreply, here, in brief, are the key reasons why
Defendants contend that the Plaintiff's Order should be revised – even assuming that the Court
continues to adhere to its decision to grant Plaintiff's motion.

1 In ¶ 3 of Plaintiff's Order, Plaintiff states that all of the documents in question were
2 documents that "Jacobs authored, was a recipient of, or otherwise possessed in the course and
3 scope of his employment." Defendants submit that this is an inaccurate factual statement.
4 Defendants contend that Jacobs downloaded a large quantity of documents before he was
5 terminated and that he did not in fact possess those documents "in the course and scope of his
6 employment." In any event, this is a factual dispute that cannot be resolved on the current
7 record. On the other hand, ¶ 3 of Defendants' Proposed Order suggests a more neutral
8 treatment, providing that "[t]hese are documents that Jacobs either authored, was a recipient of,
9 or otherwise had access to during the period of his employment."

10 In ¶ 6 of Plaintiff's Order, Plaintiff has included a reference to the September 14,
11 2012, Order suggesting that the Court's ruling precluding Defendants from claiming that Jacobs
12 stole the documents for purposes of jurisdictional discovery and the evidentiary hearing on
13 jurisdiction is somehow relevant to the issue of Jacobs' right to use the privileged documents.
14 This was an issue first raised in Plaintiffs' Reply, in a footnote. Defendants submit that the
15 September 14 Order has no bearing on the current motion, particularly in light of the footnote in
16 the September 14 Order in which the Court specifically preserved Defendants' right to raise
17 other objections, including privilege. Accordingly, Defendants version of ¶ 6 in their Proposed
18 Order deletes that reference.

19 In ¶ 7 of Plaintiff's Order, Plaintiff seeks to re-characterize his own motion.
20 Defendants' Proposed Order recommends deleting that paragraph.


21 In ¶ 8 of Plaintiff's Order (which revises Plaintiff's ¶ 9), Defendants add the Court's
22 statement in its Journal Entry ruling on the motion that the Court "agrees that any privilege
23 related to these documents in fact belongs to Defendants." Plaintiff's Order omits that
24 statement.

25 Finally, Defendants' Proposed Order omits ¶11 from Plaintiff's Order, which is
26 confusing because his own proposed order says that the Court is not ruling on the question of
27 whether the documents are in fact privileged or whether there was a waiver. To the extent that ¶
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1 11 is intended as a ruling in Plaintiff's favor on the new argument raised in his Reply,
2 Defendants will respond to that argument in their Surreply.

3 DATED this 24th day of May, 2013.

4 
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on May 24th, 2013, I served a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF PROPOSED DRAFT ORDER ON PLAINTIFF STEVEN C. JACOBS' MOTION TO RETURN REMAINING DOCUMENTS FROM ADVANCED DISCOVERY** via e-mail and by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

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An employee of Kemp, Jones & Coulthard

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May 23, 2013

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VIA HAND DELIVERY

Honorable Elizabeth Gonzalez

- Regional Justice Center, Department 11
200 Lewis Avenue
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Re: Jacobs v. Las Vegas Sands Corp. et al.
Case No. A-10-627691

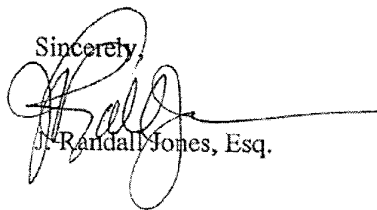
*Proposed Competing Order Regarding Motion to Return Remaining
Documents from Advanced Discovery*

Dear Judge Gonzalez:

Plaintiff and Defendants were unable to come to an agreement as to the form and content of the proposed Order on Plaintiff Steven C. Jacobs' Motion to Return Remaining Documents from Advanced Discovery. Enclosed is Defendants' competing proposed Order for consideration and execution by this Court.

Defendants were compelled to provide a competing Order based upon a number of issues which it will outline in a letter to the Court tomorrow. Thank you for your attention to this matter.

Sincerely,



J. Randall Jones, Esq.

cc: James J. Pisanelli, Esq. (via email)
Todd L. Bice, Esq. (via email)
Jennifer L. Baster, Esq. (via email)

Encl.

EXHIBIT B

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18 **DISTRICT COURT
CLARK COUNTY, NEVADA**

19 STEVEN C. JACOBS,

20 Plaintiff,

21 v.

22 LAS VEGAS SANDS CORP., a Nevada
23 corporation; SANDS CHINA LTD., a Cayman
24 Islands corporation; SHELDON G.
25 ADELSON, in his individual and
26 representative capacity; DOES I-X; and ROE
27 CORPORATIONS I-X,

28 Defendants.

CASE NO.: A627691-B

DEPT NO.: XI

**ORDER ON PLAINTIFF STEVEN C.
JACOBS' MOTION TO RETURN
REMAINING DOCUMENTS FROM
ADVANCED DISCOVERY**

Hearing Date: April 12, 2013

Hearing Time: In Chambers

27 AND ALL RELATED MATTERS.

1 Before this Court is Plaintiff Steven C. Jacobs' ("Jacobs") Motion to Return Remaining
2 Documents from Advanced Discovery (the "Motion"). The Court has considered all briefing
3 on the Motion, including the supplemental brief it ordered from Defendants. The Court being
4 fully informed, and good cause appearing therefor:

5 THE COURT HEREBY STATES as follows:

6 1. At issue are documents that Jacobs took with him when he was terminated on
7 July 23, 2010.

8 2. Amongst these documents were documents over which Defendants claim an
9 attorney-client or other form of privilege.

10 3. These are documents that Jacobs either authored, was a recipient of, or
11 otherwise had access to during the period of his employment.

12 4. Jacobs' present Motion does not seek to compel the Defendants to produce
13 anything. Rather, Jacobs seeks return of documents that were transferred to the Court's
14 approved electronic stored information ("ESI") vendor, Advanced Discovery, pursuant to a
15 Court-approved protocol.

16 5. Pursuant to a Court-approved protocol, Defendants' counsel were allowed to
17 review Jacobs' documents and have now identified approximately 11,000 of them as being
18 subject, in whole or in part, to some form of privilege, such as attorney-client, work product,
19 accounting or gaming.

20 6. Based upon these assertions of privilege, Defendants contend that Jacobs cannot
21 provide these documents to his counsel and cannot use them in the litigation even if they relate
22 to the claims, defenses or counterclaims asserted in this action.

23 7. The Defendants assert that all privileges belong to the Defendants' corporate
24 entities, not any of their executives, whether present or former. From this, they contend that
25 Jacobs does not have the power to waive any privileges.

26 8. The Court notes a split of authority as to who is the client under such
27 circumstances. *See Montgomery v. Etrepid Techs. LLC*, 548 F. Supp. 2d 1175 (D. Nev. 2008).

28

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1 However, the Court agrees that any privilege related to these documents in fact belongs to
2 Defendants.

3 9. The Court does not need to address (at this time) the question of whether any of
4 the particular documents identified by the Defendants are subject to some privilege (a
5 contention which Jacobs disputes), or whether Defendants waived the privilege. Instead, the
6 question presently before this Court is whether Jacobs is among the class of persons legally
7 allowed to view those documents and use them in the prosecution of his claims and to rebut the
8 Defendants' affirmative defenses and counterclaim, as these were documents that the former
9 executive authored, received and/or had access to during his tenure.

10 10. Even assuming for the sake of argument that Defendants had valid claims of
11 privilege to assert to the documents as against outsiders, they have failed to sustain their
12 burden of demonstrating that Jacobs cannot review and use documents to which he had access
13 during the period of his employment in this litigation.

14 11. That does not mean, however, that at this time the Court is making any
15 determination as to any other use or access to sources of proof. Until further order, Jacobs may
16 not disseminate the documents in question beyond his legal team. And, all parties shall treat
17 the documents as confidential under the Stipulated Confidentiality Agreement and Protective
18 Order entered on March 22, 2012.

19 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

20 1. The Motion to Return Remaining Documents from Advanced Discovery is
21 GRANTED. When this Order becomes effective, Advanced Discovery shall release to Jacobs
22 and his counsel all documents contained on the various electronic storage devices received by
23 Advanced Discovery from Jacobs on or about May 18, 2012, and that have otherwise not been
24 previously released to Jacobs and his counsel.

25 2. Those documents listed on the Defendants' privilege log dated November 30,
26 2012, shall be treated as confidential under the Stipulated Confidentiality Agreement and
27 Protective Order entered on March 22, 2012 until further order from this Court.

28 ///


1 3. This Order is stayed for a period of ten days to allow Defendants to seek relief
2 from the Nevada Supreme Court.

3 DATED: _____
4
5

6 THE HONORABLE ELIZABETH GONZALEZ
7 EIGHTH JUDICIAL DISTRICT COURT

8 Submitted by:

9 KEMP, JONES & COULTHARD

10 
11 _____
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13 Nevada Bar No. 1927
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Attorneys for Plaintiff Steven C. Jacobs

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVEN C. JACOBS,

Plaintiff,

v.

LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a
Cayman Islands corporation; DOES I
through X; and ROE CORPORATIONS
I through X,

Defendants.

AND RELATED CLAIMS

Case No.: A-10-627691

Dept. No.: XI

**ORDER ON PLAINTIFF STEVEN C.
JACOBS' MOTION TO RETURN
REMAINING DOCUMENTS FROM
ADVANCED DISCOVERY**

Hearing Date: April 12, 2013

Hearing Time: In Chambers

Before this Court is Plaintiff Steven C. Jacobs' ("Jacobs") Motion to Return Remaining Documents from Advanced Discovery (the "Motion"). The Court has considered all briefing on the Motion, including the supplemental brief it ordered from Defendants. The Court being fully informed, and good cause appearing therefor:

THE COURT HEREBY STATES as follows:

1. At issue are documents that Jacobs has had in his possession since before his termination on July 23, 2010.

2. Amongst the documents that Jacobs possessed at the time of his termination were documents over which Defendants claim an attorney-client or other form of privilege.

1 3. These are documents that Jacobs authored, was a recipient of, or otherwise
2 possessed in the course and scope of his employment.

3 4. Jacobs' present Motion does not seek to compel the Defendants to produce
4 anything. The documents at issue are all presently within his possession, custody and control.

5 5. Pursuant to a Court-approved protocol, Defendants' counsel were allowed to
6 review Jacobs' documents and have now identified approximately 11,000 of them as being
7 subject to some form of privilege, such as attorney-client, accounting or gaming.

8 6. Based upon these assertions of privilege, Defendants contend that even though the
9 documents are presently in Jacobs' possession, custody and control – the Court having previously
10 concluded as part of its Decision and Order dated September 14, 2012 that Defendants are
11 precluded from claiming that he stole the documents – they assert that Jacobs cannot provide
12 these documents to his counsel even if they relate to the claims, defenses or counterclaims
13 asserted in this action.

14 7. Jacobs' Motion, although styled as one seeking return of documents from the
15 Court's approved electronic stored information ("ESI") vendor, Advanced Discovery, more aptly
16 seeks to allow Jacobs' counsel to access these documents, which Jacobs has otherwise possessed
17 and had access to since before July 23, 2010.

18 8. The Defendants assert that all privileges belong to the Defendants' corporate
19 entities, not any of their executives, whether present or former. From this, they contend that
20 Jacobs does not have the power to waive any privileges.

21 9. The Court notes a split of authority as to who is the client under such
22 circumstances. *See Montgomery v. Etrepid Techs. LLC*, 548 F. Supp. 2d 1175 (D. Nev. 2008).
23 However, the facts of this case are different, and the Court disagrees with the Defendants'
24 framing of the issue.

25 10. The Court does not need to address (at this time) the question of whether any of
26 the particular documents identified by the Defendants are subject to some privilege (a contention
27 which Jacobs disputes), or whether Jacobs has the power to assert or waive any particular
28 privileges that may belong to the Defendants (a position which the Defendants dispute). Instead,

1 the question presently before this Court is whether Jacobs, as a former executive who is currently
2 in possession, custody and control of the documents and was before his termination, is among the
3 class of persons legally allowed to view those documents and use them in the prosecution of his
4 claims and to rebut the Defendants' affirmative defenses and counterclaim, as these were
5 documents that the former executive authored, received and/or possessed, both during and after
6 his tenure.

7 11. The burden is upon the proponent of a privilege to substantiate the basis for the
8 privilege as well as to establish that there has been no waiver. *Granite Partners v. Bear, Stearns*
9 *& Co., Inc.*, 184 F.R.D. 49, 52 (S.D.N.Y. 1999) ("The party seeking to assert a claim of privilege
10 has the burden of demonstrating both that the privilege exists and that it has not been waived.").
11 Here, the Court finds that the Defendants have failed to sustain that burden with respect to the
12 documents in question, those documents presently being in Jacobs' custody since before his
13 termination on July 23, 2010.

14 12. In the Court's view, the question is not whether Jacobs has the power to waive any
15 privilege. The more appropriate question is whether Jacobs is within the sphere of persons
16 entitled to review information (assuming that it is privileged) that pertains to Jacobs' tenure that
17 he authored, received and/or possessed, and has retained since July 23, 2010.

18 13. Even assuming for the sake of argument that Defendants had valid claims of
19 privilege to assert to the documents as against outsiders, they have failed to sustain their burden
20 of demonstrating that they have privileges that would attach to the documents relative to Jacobs'
21 review and use of them in this litigation.

22 14. That does not mean, however, that at this time the Court is making any
23 determination as to any other use or access to sources of proof. Until further order, Jacobs may
24 not disseminate the documents in question beyond his legal team. And, all parties shall treat the
25 documents as confidential under the Stipulated Confidentiality Agreement and Protective Order
26 entered on March 22, 2012.

1 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

2 1. The Motion to Return Remaining Documents from Advanced Discovery is
3 GRANTED. When this Order becomes effective, Advanced Discovery shall release to Jacobs
4 and his counsel all documents contained on the various electronic storage devices received by
5 Advanced Discovery from Jacobs on or about May 18, 2012, and that have otherwise not been
6 previously released to Jacobs and his counsel.

7 2. Those documents listed on the Defendants' privilege log dated November 30,
8 2012, shall be treated as confidential under the Stipulated Confidentiality Agreement and
9 Protective Order entered on March 22, 2012 until further order from this Court.

10 3. This Order shall become effective ten (10) days from the date of its notice of entry.

11 DATED: _____

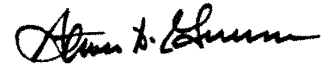
12
13 THE HONORABLE ELIZABETH GONZALEZ
14 EIGHTH JUDICIAL DISTRICT COURT

15 Respectfully submitted by:

16 PISANELLI BICE PLLC

17 By: _____
18 James J. Pisanelli, Esq., Bar No. 4027
19 Todd L. Bice, Esq., Bar No. 4534
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3883 Howard Hughes Pkwy, Suite 800
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21 Attorneys for Plaintiff Steven C. Jacobs
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CLERK OF THE COURT

1 **MEMO**

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14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 **STEVEN C. JACOBS,**

17 Plaintiff,

18 v.

19 **LAS VEGAS SANDS CORP.,** a Nevada
20 corporation; **SANDS CHINA LTD.,** a
21 Cayman Islands corporation; **DOES I**
22 through X; and **ROE CORPORATIONS**
23 I through X,

24 Defendants.

25 **AND RELATED CLAIMS**

Case No.: A-10-627691
Dept. No.: XI

PLAINTIFF STEVEN C. JACOBS'
STATUS MEMORANDUM

Hearing Date: June 18, 2013
Hearing Time: 8:15 a.m.

26 **I. INTRODUCTION**

27 The Court's Order Scheduling Status Check dated May 30, 2013, requested status on two
28 express issues in advance of a status check now scheduled for June 18, 2013: (1) the scheduling
of the jurisdictional hearing, and (2) the proposed orders on Plaintiff Steven C. Jacobs' ("Jacobs")
Motion to Return Remaining Documents from Advanced Discovery (the "Motion"). If their
surreply¹ and proposed order on the Motion tell us anything, however, Defendants

¹ The Court graciously granted Defendants leave to file a surreply "to address the 'new' issues" related to waiver that they claimed Jacobs first raised in his Reply. Disregarding the Court's instructions, Defendants used the opportunity to file what is effectively their third opposition to the Motion, while not even addressing the issue of waiver until page 8 of the surreply brief.

1 Las Vegas Sands Corp. ("LVSC") and Sands China Ltd. ("Sands China") hope to use the hearing
2 as an avenue to reargue issues already decided in this case. Consistent with their disregard of
3 other court orders, they intend to ignore this Court's order denying oral argument on the Motion.
4 (See Ex. 1, Hr'g. Tr. dated Mar. 14, 2013, 15:12-13 ("So on this issue [of the Motion,] we're not
5 going to have any oral argument.")) To them, the status hearing is their last chance to deviate
6 from the "well-defined" record this Court wanted "for purposes of appellate review."
7 (See *id.*, 14:23-24.) This Court should decline the planned circumvention of its order.

8 II. DISCUSSION

9 A. The Scheduling of the Jurisdictional Hearing.

10 Jacobs intended to move this Court to immediately lift the stay given that LVSC and
11 Sands China have turned what was supposed to be a temporary stay pending a hearing on personal
12 jurisdiction into a twenty-two month reprieve. Jacobs previously submitted such a motion to the
13 Nevada Supreme Court. However, the Clerk's office rejected the motion insisting that any request
14 to lift the stay must be directed to this Court, not the Nevada Supreme Court, as it is this Court
15 that actually has imposed the stay.

16 The prejudice to Jacobs is clear and unnecessary given the fact that he has already
17 established – at a minimum – a *prima facie* case of jurisdiction over Sands China. (See, e.g.,
18 Ex. 2, Leven Dep. Vol. II, 396:14-19 (Leven admitting "[t]he plan—the—the arrangements for
19 carrying out the termination of Steve Jacobs was developed here [in Las Vegas, Nevada] and
20 executed there [in Macau]")). As a result, the proper course is for this Court to lift the stay and
21 allow Jacobs to prove his case, along with Sands China's personal jurisdiction by a preponderance
22 of the evidence at trial. See *Trump v. Eighth Jud. Dist. Ct.*, 109 Nev. 687, 692, 857 P.2d 740, 743
23 (1993) (explaining the two distinct means of resolving personal jurisdiction in Nevada, the "more
24 frequently utilized process" of which allows "a plaintiff [to] make a *prima facie* showing of
25 personal jurisdiction prior to trial and then prove jurisdiction by a preponderance of the evidence
26 at trial.").

1 Notwithstanding this Court's authority to immediately lift the stay, if it were inclined to
2 still hold a hearing on jurisdiction, Jacobs is prepared at this time to prove his alternative theories
3 of general, specific, and transient jurisdiction. Indeed, Jacobs looks forward to resolving this
4 farcical dispute as to Sands China's personal jurisdiction.

5 Of course, Defendants' conduct over the last twenty-two months will be at the forefront of
6 the Court's hearing. They have violated "numerous orders" "with an intent to prevent [Jacobs]
7 access to information discoverable for the jurisdictional proceedings." (Ex. 3, Dec. &
8 Order, 7:15-18.) Most recently, Sands China violated the Court's December 18, 2012, Order to
9 "produce all information within [its] possession that is relevant to the jurisdictional discovery."
10 (See Ex. 4, Hr'g. Tr. dated Feb. 28, 2013, 35:3-9.) As such, if and when this Court does hold an
11 evidentiary hearing, Jacobs will be entitled to an adverse inference as to all information not
12 produced by January 4, 2013. See NRS 47.250(3) (rebuttable presumption that "evidence
13 willfully suppressed would be adverse if produced."). With this understanding, Jacobs requests
14 that the jurisdictional hearing take place immediately.

15 **B. The Proposed Orders on Plaintiff Steven C. Jacobs' Motion to Return**
16 **Remaining Documents from Advanced Discovery.**

17 It is no secret that Defendants plan to file yet another writ petition related to this Court's
18 granting of the Motion. Their present goal, then, is to position the record and this Court's final
19 order to better their odds. It is in opposition to that agenda and goal that Jacobs opposes all of the
20 changes that LVSC and Sands China hope to bury into the order. So that this Court has all of the
21 information needed to make a decision, Jacobs hereby provides a redline comparison of parties'
22 competing orders, attached hereto as Exhibit 5.

23 *Paragraphs 1, 2, 3, and 6*

24 One of the biggest problems for Defendants in their anticipated writ petition on the Motion
25 is this Court's finding that Jacobs is entitled to use his documents in this litigation because "[he]
26 was in a position and in fact had access to the documents at issue during the period of his
27 employment" as Sands China's CEO. (Minute Order dated Apr. 12, 2013.) Hoping to alter that
28 reality, Defendants proposed language indicating (with zero factual basis or support) that "Jacobs

1 downloaded a large quantity of documents before² he was terminated and that he did not in fact
2 possess those documents in the course and scope of his employment." (Defs.' Memo., 3:4-6.)
3 Their request is as transparent as it is improper. They want to argue to the Nevada Supreme Court
4 that Jacobs somehow "stole" the documents at issue. But of course, they provide absolutely no
5 proof to substantiate their preferred fiction.

6 If this sounds familiar, it should. Defendants made this same stale and unsupported
7 argument unsuccessfully for almost two years. This Court resolved the issue by way of sanction
8 which "precluded [Defendants] from contesting that Jacobs' ESI (approx. 40 gigabytes) is not
9 rightfully in his possession." (Ex. 3, Dec. & Order dated Sept. 14, 2012, 9:1-3.)

10 But now Defendants claim the Court's sanctions order is "irrelevant" for purposes of this
11 dispute. (Defs.' Memo., 3:10-18.) They contend that the order "has no bearing on the current
12 [M]otion, particularly in light of the footnote in the September 14 Order in which the Court
13 specifically preserved Defendants' right to raise other objections, including privilege."
14 (*Id.* 3:14-17.)

15 Of course Defendants want the sanction to have "no bearing" on this issue; they have been
16 trying to avoid the consequences of this Court's sanctions order since it was entered.
17 Unfortunately for Defendants, however, there are consequences for their actions in this case, and
18 one of those consequences is that they can no longer claim that Jacobs stole documents
19 before/after he was terminated. In any case, the Court necessarily found that "Jacobs was in a
20 position and in fact had access to the documents at issue during the period of his employment,"
21 and that language should rightly be included in the order.

22 *Paragraphs 4 and 7*

23 Defendants' desired revisions to Paragraphs 4 and 7 are equally mischievous and
24 improper. Defendants want to characterize Jacobs' Motion as a motion to compel, or a motion to
25 return documents that were "inadvertently produced." (*See* Surreply, 3:9-11 ("if a party receives
26

27 ² In their surreply, Defendants claim that Jacobs downloaded the documents *after* his
28 termination. (Surreply, 2:8-10 ("After his termination as CEO of SCL in July 2010, Plaintiff
downloaded and took with him some 40 gigabytes of documents belonging to
Defendants. . . .").) Obviously, Defendants cannot keep their new story straight.

1 privileged documents that were inadvertently produced, RPC 4.4(b) requires the receiving party to
2 'promptly notify the sender.'"). To do that, however, Defendants want to ignore, and want this
3 Court and the Nevada Supreme Court to ignore, the actual facts of this case. Namely, the fact that
4 Jacobs is currently in possession, custody, and control of the documents at issue, and has been
5 since before he was terminated on July 23, 2010. Indeed, Jacobs did not file a motion to compel
6 Defendants to produce documents in their possession, or to keep documents that Defendants
7 inadvertently produced to him during the course of this case; he filed a motion so that his counsel
8 could review documents that Jacobs has long possessed. (See Minute Order dated April 12,
9 2013.) This an important distinction, and one that needs to be clear in the record.

10 *Paragraphs 9, 10, 11, 12, and 13*

11 Defendants saved their most self-serving revisions for last. Realizing their position on
12 privilege – that Jacobs became an outsider the moment he was terminated – opens themselves up
13 to a wholesale waiver of that same privilege, Defendants try to readjust the debate. They propose
14 to change the facts of this case to make them fit with what they claim is the end-all be-all case of
15 analysis, *Montgomery v. eTrepid Techs. LLC*, 548 F. Supp. 2d 1175 (D. Nev. 2008). Yet, the
16 facts are not as fungible as LVSC and Sands China would need them to be. The facts here are
17 nothing like those in *Montgomery*, including the fact that Jacobs has been in open adverse
18 possession of these documents for nearly three years.

19 Their recent surreply exposes the self-inflicted problem they have created. Thus,
20 Defendants prefer to rewrite history with the pretend story that:

21 When SCL learned that Plaintiff had possession of corporate
22 documents, it promptly objected and demanded that he return them.
23 Plaintiff refused, and it took several months of negotiation and court
proceedings just for Defendants to gain access to the data.

24 (Surreply, 2:10-13.) Yet, their recollection of events is as selective as it is faulty.

25 Defendants first boldly (and falsely) proclaim that they "did not even learn that he had
26 taken possession of the documents at issue until nearly a year after his termination."
27 (Surreply, 9:9-10.) They have conveniently forgotten how they knew that Jacobs possessed
28 documents from his employment at Sands China within months (if not days) of his termination.

1 Indeed, on November 23, 2010, Sands China demanded that Jacobs immediately return
2 documents that he had "stolen" from Sands China, "including *but not limited to*" three
3 investigatory reports on Macau government officials and suspected triad affiliates. (Ex. 6, Glaser
4 Ltr. dated Nov. 23, 2010.) In response to this manufactured assertion, Jacobs' counsel confirmed
5 possession of a "multitude"³ of documents that he had both generated and received since
6 overseeing the Macau operations for LVSC. (Ex. 7, Campbell Ltr. dated Nov. 30, 2010.)

7 Jacobs agreed to return to original sets of the reports, but made clear that he was keeping
8 copies of his documents and planned to use them as evidence in this case. (Ex. 8, Campbell Ltr.
9 dated Jan. 11, 2011.) Sands China neither responded nor sought relief from this Court, as it
10 threatened it would. Instead, it waited until September 13, 2011, to supposedly promptly and
11 vigorously assert their rights. The facts continue to be a key problem for Defendants' arguments.

12 III. CONCLUSION

13 The Court should not permit Defendants to water down the final order out of the cynical
14 hope of bettering their arguments to the Nevada Supreme Court. The order drafted by Jacobs
15 mirrors the arguments raised in his Motion and Reply, upon which the Court relied in granting the
16 Motion. Accordingly, the Court should approve and sign the order proposed by Jacobs.

17 DATED this 14th day of June, 2013.

18 PISANELLI BICE PLLC

19 By: 

20 James J. Pisanelli, Esq., Bar No. 4027
21 Todd L. Bice, Esq., Bar No. 4534
22 Debra L. Spinelli, Esq., Bar No. 9695
23 3883 Howard Hughes Parkway, Suite 800
24 Las Vegas, Nevada 89169

Attorneys for Plaintiff Steven C. Jacobs

25 ³ Defendants' claim in their surreply that Jacobs never told them that he possessed a
26 "multitude" of documents from his employment at Sands China is also false. In responding to
27 Sands China's outrageous accusation that Jacobs stole documents from the company, Jacobs'
28 counsel explained "that wrongfully terminated corporate executives are often – and properly – in
possession of a multitude of documents received during the course of their employment." (Ex. 7,
Campbell Ltr. dated Nov. 30, 2010.) The fact that Sands China only cared about recovering a
few, highly harmful reports at that time does not negate Jacobs' confirmation that he was in
possession of other, in fact a "multitude" of documents as well.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 14th day of June, 2013, I caused to be sent via e-mail and United States Mail, postage prepaid, true and correct copies of the above and foregoing **PLAINTIFF STEVEN C. JACOBS' STATUS MEMORANDUM ON JURISDICTIONAL DISCOVERY** properly addressed to the following:

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An employee of PISANELLI BICE PLLC

EXHIBIT 1

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants
.....

CASE NO. A-627691

DEPT. NO. XI

Transcript of
Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON DEFENDANTS' MOTION FOR ORAL ARGUMENT

THURSDAY, MARCH 14, 2013

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD BICE, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
MARK JONES, ESQ.

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, THURSDAY, MARCH 13, 2013, 8:56 A.M.

2 (Court was called to order)

3 THE COURT: Can I ask a Sands-Jacobs question. Are
4 we arguing the motion for the return of the documents today,
5 or are we --

6 MR. MARK JONES: No, Your Honor.

7 THE COURT: Come on up.

8 MR. PEEK: We're just asking you -- we want oral
9 argument is all, and scheduling.

10 MR. BICE: Good morning, Your Honor.

11 THE COURT: Good morning.

12 So here's my question for you, Mr. Peek. Part of
13 the issues related to this motion is whether I am someday
14 going to make a determination as to an assertion by your
15 client of privilege related to those documents; right?

16 MR. PEEK: Yes.

17 THE COURT: How are you going to tee that issue up,
18 and how long is it going to take? Because that's sort of how
19 I'm going to decide when to set the motion for oral argument.

20 MR. BICE: The motion is set for --

21 THE COURT: I know when it's set.

22 MR. BICE: Okay.

23 MR. PEEK: The motion --

24 THE COURT: Good morning, Mr. Peek. These are
25 questions you didn't anticipate, aren't they?

1 occurs in litigation, there are certain waivers or limitations
2 with respect to those privileges.

3 MR. PEEK: So that the lawyers for that party would
4 be entitled to see the attorney-client privileged documents
5 under the stipulated protective order, as well as the client.

6 THE COURT: Which their client has already seen and
7 in fact dealt with as part of his job duties.

8 MR. PEEK: Just trying to understand, Your Honor,
9 how to frame the issue, not making my argument here today,
10 although I'm still going to respectfully request as part of my
11 supplemental briefing -- unless you're telling me, I'm denying
12 this with prejudice, don't bring it up to me again --

13 THE COURT: You can always --

14 MR. PEEK: -- I'm going to ask it in the
15 supplemental brief for oral argument. Because this is a very
16 important issue to us.

17 THE COURT: You can always ask over and over again.
18 You're not in the Second, where you never get a hearing and
19 it's highly unusual. But on this particular issue the parties
20 are going to be bound by their briefs. So I'm not going to
21 take oral argument.

22 MR. PEEK: Okay. I get it, Your Honor. And I --

23 THE COURT: Because I want the playing field to be
24 well defined for purposes of the appellate review.

25 MR. PEEK: Yes. So do we, Your Honor, want to --

1 THE COURT: Which is why we're not going to have
2 oral argument, because you guys are really good and creative
3 and sometimes create new issues during argument.

4 MR. PEEK: I don't know if we take that as a
5 compliment, Your Honor, or --

6 THE COURT: It's intended as a compliment.

7 MR. PEEK: Thank you.

8 THE COURT: But it makes my job as a judge who's
9 being reviewed on a regular basis by the appellate court
10 difficult.

11 MR. PEEK: I understand, Your Honor.

12 THE COURT: So on this issue we're not going to have
13 any oral argument.

14 MR. PEEK: Your Honor, there was -- by the way,
15 there was an order, I believe, that -- from the 28th hearing
16 -- I don't think --

17 THE COURT: I was at the judicial college for the
18 last several days teaching, so I just got back yesterday. So
19 if it's in Max's pile, he's been trying to get time with me,
20 and we've been going through and I've been signing stacks, so
21 I may not have hit it if we have it. But I intend to get
22 through the rest of it today, the rest of the pile.

23 MR. PEEK: Doesn't sound like -- from what Mr. Bice
24 said, I don't think he's submitted it. We haven't seen it, so
25 I was just wondering if --

1 THE COURT: I was out of town, in Reno.
2 MR. BICE: Mr. Peek may be right that -- I just
3 talked to Mr. Jones. I think it's due tomorrow. It may be
4 that we did not send them drafts. I will -- as soon as I get
5 out of here --
6 THE COURT: Mr. Bice --
7 MR. BICE: I know.
8 THE COURT: -- you're being scolded.
9 MR. BICE: I know. As soon as I get back to the
10 office I'll make sure that they get it so they could look at
11 it today. Sorry about that. We have not --
12 THE COURT: I was in Reno, so --
13 MR. BICE: No. We would not send it over to you
14 without getting their input. So you don't have it. You don't
15 -- it's not that we sent it over to you without giving --
16 THE COURT: I'm not behind?
17 MR. BICE: No, you're not.
18 THE COURT: Okay.
19 MR. BICE: This is on us, not them or you.
20 THE COURT: Lovely.
21 MR. PEEK: Thank you, Your Honor.
22 THE PROCEEDINGS CONCLUDED AT 9:12 A.M.
23 * * * * *
24
25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146

3/16/13

FLORENCE HOYT, TRANSCRIBER

DATE

EXHIBIT 2

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,

Plaintiff,

vs.

CASE NO. A-10-627691

LAS VEGAS SANDS CORP., a
Nevada corporation; SANDS
CHINA LTD., a Cayman Islands
corporation; DOES I through
X; and ROE CORPORATIONS I
through X,

Defendants.

AND RELATED CLAIMS

VIDEOTAPE AND ORAL DEPOSITION OF MICHAEL LEVEN

VOLUME II

PAGES 268-456

LAS VEGAS, NEVADA

FRIDAY, FEBRUARY 1, 2013

REPORTED BY: CARRE LEWIS, CCR NO. 497

JOB NO. 173048

1 DEPOSITION OF MICHAEL LEVEN,
2 taken at 3883 Howard Hughes Parkway, Suite 800,
3 Las Vegas, Nevada, on Friday, February 1, 2013, at
4 11:24 a.m., before Carre Lewis, Certified Court
5 Reporter, in and for the State of Nevada.
6

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I N D E X

WITNESS: MICHAEL LEVEN

EXAMINATION

PAGE

By Mr. Bice

278

LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

1	Michael Leven		
2	Jacobs vs. Sands		
3	Friday, February 1, 2013		
4	Carre Lewis, CCR No. 497		
5	E X H I B I T S		
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LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

1 LAS VEGAS, NEVADA; FRIDAY, FEBRUARY 1, 2013;

2 11:24 A.M.

3 -oOo-

4 THE VIDEOGRAPHER: This is the beginning of
5 Videotape Number 1 in the deposition of Michael 11:24:10
6 Leven in the matter of Jacobs versus Las Vegas Sands
7 Corporation, held at Pisanelli Bice at 3883 Howard
8 Hughes Parkway, Suite 800, Las Vegas, Nevada 89169
9 on the 1st of February, 2013 at approximately
10 11:28 a.m. 11:24:33

11 The court reporter is Carre Lewis. I am
12 Benjamin Russell, the videographer, an employee of
13 Litigation Services.

14 This deposition is being videotaped at all
15 times unless specified to go off the record. 11:24:45

16 Would all present please identify
17 themselves, beginning with the witness

18 THE WITNESS: Michael Leven.

19 MR. PEEK: Stephen Peek representing Sands
20 China Limited and Las Vegas Sands Corp. 11:25:00

21 MR. JONES: Mark Jones on behalf of Sands
22 China Limited.

23 MR. RAFAELSON: Ira Rafaelson on behalf of
24 Las Vegas Sands Corp.

25 MR. ALDRIAN: Eric Aldrian on behalf of 11:25:05

1 (Exhibit 41 marked.)

2 BY MR. BICE:

3 Q. Showing you what's been marked as
4 Exhibit 41.

5 Have you reviewed this, Exhibit 41, 03:16:57
6 Mr. Leven?

7 A. Uh-huh.

8 Q. Do you have any reason to believe that you
9 did not receive this?

10 A. No. 03:17:02

11 Q. And Ron Reese is based here in Las Vegas,
12 correct?

13 A. Correct.

14 Q. Okay. And is it true that the plan for
15 terminating Mr. Jacobs was being carried out here in 03:17:14
16 Las Vegas?

17 A. No. The plan -- the -- the arrangements
18 for carrying out the termination of Steve Jacobs was
19 developed here and executed there.

20 Q. Where -- 03:17:29

21 (Discussion held off the record.)

22 BY MR. BICE:

23 Q. The -- you say that the plan was -- let me
24 get your words right.

25 The arrangements for carrying out the 03:17:49

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MR. JONES: Thank you.

THE VIDEOGRAPHER: Going off the record at
5:14 p.m.

(Deposition concluded at 5:14 p.m.)

-oOo-

1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

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16 * * * * *

17
18 I, Michael Leven, deponent herein, do hereby
19 certify and declare the within and foregoing
20 transcription to be my deposition in said action;
21 under penalty of perjury; that I have read,
22 corrected and do hereby affix my signature to said
23 deposition.
24
25

22 Michael Leven, Deponent

Date

CERTIFICATE OF REPORTER

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, Carre Lewis, a duly commissioned and licensed Court Reporter, Clark County, State of Nevada, do hereby certify: That I reported the taking of the deposition of the witness, Michael Leven, commencing on Friday, February 1, 2013, at 11:24 a.m.

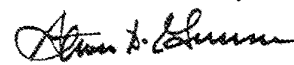
That prior to being examined, the witness was, by me, duly sworn to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes.

I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in the action.

IN WITNESS HEREOF, I have hereunto set my hand, in my office, in the County of Clark, State of Nevada, this 10th day of February 2013.

CARRE LEWIS, CCR NO. 497

EXHIBIT 3



CLERK OF THE COURT

1 FFCL

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STEVEN JACOBS,

6 Plaintiff(s),

7 vs

8 LAS VEGAS SANDS CORP, ET AL,

9 Defendants.

)
) Case No. 10 A 627691

)
) Dept. No. XI

)
) Date of Hearing: 09/10-12/12

10
11 DECISION AND ORDER

12
13 This matter having come on for an evidentiary hearing before the Honorable Elizabeth
14 Gonzalez beginning on September 10, 2012 and continuing day to day, based upon the
15 availability of the Court and Counsel, until its completion on September 12, 2012; Plaintiff
16 Steven Jacobs ("Jacobs") being present in court and appearing by and through his attorney of
17 record, James Pisanelli, Esq., Todd Bice, Esq., and Debra Spinelli, Esq. of the law firm of
18 Pisanelli Bice; Defendant Las Vegas Sands appearing by and through its counsel J. Stephen
19 Peek, Esq. of the law firm of Holland & Hart and counsel for purposes of this proceeding,
20 Samuel Lionel, Esq. and Charles McCrea, Esq., of the law firm of Lionel Sawyer & Collins;
21 Defendant Sands China appearing by and through its counsel J. Stephen Peek, Esq. of the law
22 firm of Holland & Hart, Brad D. Brian, Esq., Henry Weissman, Esq., and John B. Owens, Esq.
23 of the law firm of Munger Tolles & Olson and counsel for purposes of this proceeding, Samuel
24 Lionel, Esq. and Charles McCrea, Esq., of the law firm of Lionel Sawyer & Collins; the Court
25 having read and considered the pleadings filed by the parties and the transcripts of prior
26 hearings; having reviewed the evidence admitted during the trial; and having heard and
27 carefully considered the testimony of the witnesses called to testify; the Court having
28 considered the oral and written arguments of counsel, and with the intent of deciding the
limited issues before the Court related to lack of candor and nondisclosure of information to

1 the Court and appropriate sanctions pursuant to EDCR 7.60. The Court makes the following
2 findings of fact and conclusions of law:

3 I.
4 PROCEDURAL POSTURE

5 On August 26, 2011, the Nevada Supreme Court issued a stay of proceedings in this
6 matter pending the conduct of an evidentiary hearing and decision on jurisdictional issues
7 related to Sands China. The Court granted Jacobs request to conduct jurisdictional discovery
8 prior to the evidentiary hearing. The order granting the jurisdictional discovery was ultimately
9 entered on March 8, 2012.

10 II.
11 FINDINGS OF FACT¹

12 1. Prior to litigation, in approximately August 2010, a ghost image of hard drives
13 of computers used by Steve Jacobs in Macau² and copies of his outlook emails were transferred
14 by way of electronic storage devices (the "transferred data") to Michael Kostrinsky, Esq.,
15 Deputy General Counsel of Las Vegas Sands.³

19 ¹ Counsel for Las Vegas Sands objected on the basis of attorney client privilege to a majority of the
20 questions asked of the counsel who testified during the evidentiary hearing. Almost all of those
21 objections were sustained. While numerous directions not to answer on the basis of attorney client
22 privilege and the attorney work product were made by counsel for Las Vegas Sands, sustained by the
23 Court, and followed by the witnesses, sufficient information was presented through pleadings already in
24 the record and testimony of witnesses without the necessity of the Court drawing inferences related to
25 the assertion of those privileges. See generally, Francis v. Wynn, 127 NAO 60 (2011). The Court also
26 rejects Plaintiff's suggestion that adverse presumptions should be made by the Court as a result of the
27 failure of Las Vegas Sands to present explanatory evidence in its possession and declines to make any
28 presumptions which might arguably be applicable under NRS Chapter 47.

² There is an issue that has been raised regarding the current location of those computers and hard
drives from which the ghost image was made. The Court does not in this Order address any issues
related to those items.

³ According to a status report filed by Las Vegas Sands on July 6, 2012, there were other transfers of
electronically stored data. Based upon testimony elicited during the evidentiary hearing, counsel was
unaware of those transfers prior to the preparation and filing of the status report.

1 2. Kostrinsky requested this information in anticipation of litigation with Jacobs
2 after learning of receipt of a letter by then general counsel for Las Vegas Sands from Don
3 Campbell.

4 3. This transferred data was placed on a server at Las Vegas Sands and was
5 initially reviewed by Kostrinsky.

6 4. The attorneys for Sands China at the Glaser Weil firm were aware of the
7 existence of the transferred data on Kostrinsky's computer from shortly after their retention in
8 November 2010.

9 5. The transferred data was reviewed in Kostrinsky's office by attorneys from
10 Holland & Hart.

11 6. On April 22, 2011, in house counsel for Sands China, Anne Salt, participated in
12 the Rule 16 conference by videoconference and responded to inquiry by the Court related to
13 electronically stored information and confirmed preservation of the data.

14 7. At no time during the Rule 16 conference did Ms. Salt or anyone on behalf of
15 Sands China advise the Court of the potential impact of the Macau Personal Data Privacy Act
16 (MDPA) upon discovery in this litigation.

17 8. Following the Rule 16 conference with the Court, the parties filed a Joint Status
18 Report on April 22, 2011, in which they agreed that the initial disclosure of documents
19 pursuant to NRCP 16.1 would be made by Sands China and Las Vegas Sands prior to July 1,
20 2011. The MDPA is not mentioned in the Joint Status Report as potentially affecting
21 discovery in this litigation.

22 9. Following the Rule 16 conference, no production or other identification of the
23 information from the transferred data was made.

24 10. Beginning with the motion filed May 17, 2011, Sands China and Las Vegas
25 Sands raised the MDPA as a potential impediment (if not a bar) to production of certain
26 documents.
27
28

1 11. At a hearing on June 9, 2012, counsel for Sands China represented to the Court
2 that the documents subject to production were in Macau; were not allowed to leave Macau;
3 and, had to be reviewed by counsel for Sands China in Macau prior to requesting the Office of
4 Personal Data Protection in Macau for permission to release those documents for discovery
5 purposes in the United States.

6 12. At the time of the representation made on June 9, 2012, the transferred data had
7 already been copied; the copy removed from Macau; and reviewed in Las Vegas by
8 representatives of Las Vegas Sands.

9 13. The transferred data was stored on a Las Vegas Sands shared drive totaling 50 –
10 60 gigabytes of information.

11 14. Prior to July 2011, Las Vegas Sands had full and complete access to documents
12 in the possession of Sands China in Macau through a network to network connection.

13 15. Beginning in approximately July 2011, Las Vegas Sands access to Sands China
14 data changed as a result of corporate decision making.

15 16. Prior to the access change, significant amounts of data from Macau related to
16 Jacobs was transported to the United States and reviewed by in house counsel for Las Vegas
17 Sands and outside counsel, and placed on shared drives at Las Vegas Sands.

18 17. At no time did Las Vegas Sands or Sands China disclose the existence of this
19 data to the Court.⁴

20 18. At no time did Las Vegas Sands or Sands China provide a privilege log
21 identifying documents which it contended were protected by the MDPA which was discussed
22 by the Court on June 9, 2011.
23
24
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26

27 ⁴ While Las Vegas Sands contends that a disclosure was made on June 9, 2011, this is inconsistent with
28 other actions and statements made to the Court including the June 27, 2012 status report, the June 28,
2012 hearing and the July 6, 2012 status report.

1 19. For the first time on June 27, 2012, in a written status report, Las Vegas Sands
2 and Sands China advised the Court that Las Vegas Sands was in possession of over 100,000
3 emails and other ESI that had been transferred "in error".

4 20. In the June 27, 2012 status report, Las Vegas Sands admits that it did not
5 disclose the existence of the transferred data because it wanted to review the Jacobs ESI.⁵

6 21. Any finding of fact stated hereinabove that is more appropriately deemed a
7 conclusion of law shall be so deemed.

8 **III.**
9 **CONCLUSIONS OF LAW**

10 22. The MDPA and its impact upon production of documents related to discovery
11 has been an issue of serious contention between the parties in motion practice before this Court
12 since May 2011.

13 23. The MDPA has been an issue with regards to documents, which are the subject
14 of the jurisdictional discovery.

15 24. At no time prior to June 28, 2012, was the Court informed that a significant
16 amount of the ESI in the form of a ghost image relevant to this litigation had actually been
17 taken out of Macau in July or August of 2010 by way of a portable electronic device.

18 25. EDCR Rule 7.60 provides in pertinent part:

19 * * *

20
21 (b) The court may, after notice and an opportunity to be heard, impose upon an
22 attorney or a party any and all sanctions which may, under the facts of the case, be reasonable,
23 including the imposition of fines, costs or attorney's fees when an attorney or a party without
24 just cause:

25 * * *

26 (3) So multiplies the proceedings in a case as to increase costs unreasonably
27 and vexatiously.

28 ⁵ The Court notes that there have also been significant issues with the production of information from
Jacobs. On appropriate motion the Court will deal with those issues.

1 26. As a result of the failure to disclose the existence of the transferred data, the
2 Court conducted needless hearings on the following dates which involved (at least in part) the
3 MDPA issues:

4 May 26, 2011

5 June 9, 2011

6 July 19, 2011

7 September 20, 2011⁶

8 October 4, 2011⁷

9 October 13, 2011

10 January 3, 2012

11 March 8, 2012

12 May 24, 2012

13 27. The Court concludes after hearing the testimony of witnesses that the 100,000
14 emails and other ESI were not transferred in error, but was purposefully brought into the
15 United States after a request by Las Vegas Sands for preservation purposes.

16 28. The transferred data is relevant to the evidentiary hearing related to jurisdiction,
17 which the Court intends to conduct.

18 29. The change in corporate policy regarding Las Vegas Sands access to Sands
19 China data made during the course of this ongoing litigation was made with an intent to
20 prevent the disclosure of the transferred data as well as other data.⁸

21 30. The Defendants concealed the existence of the transferred data from this Court.
22
23
24

25 ⁶ This hearing was conducted in a related case, A648484.

26 ⁷ This hearing was conducted in a related case, A648484.

27 ⁸ While the Court recognizes that several other legal proceedings related to certain allegations made by
28 Jacobs were commenced during the course of this litigation including subpoenas from the SEC and DOJ,
this does not excuse the failure to disclose the existence of the transferred data; the failure to identify the
transferred data on a privilege log, or the failure produce of the transferred data in this matter.

1 31. As the transferred data had already been reviewed by counsel, the failure to
2 disclose the existence of this transferred data to the Court caused repeated and unnecessary
3 motion practice before this Court.

4 32. The lack of disclosure appears to the Court to be an attempt by Defendants to
5 stall the discovery, and in particular, the jurisdictional discovery in these proceedings.

6 33. Given the number of occasions the MDPA and the production of ESI by
7 Defendants was discussed there can be no other conclusions than that the conduct was
8 repetitive and abusive.

9 34. The conduct however does not rise to the level of striking pleadings as exhibited
10 in the Foster v. Dingwall, 227 P.3d 1042 (Nev. 2010) or the entry of default as in Goodyear v.
11 Bahena, 235 P.3d 592 (Nev. 2010) cases.⁹

12 35. After evaluating the factors in Ribiero v. Young, 106 Nev. 88 (1990), the Court
13 finds:

14 a. There are varying degrees of willfulness demonstrated by the
15 Defendants and their agents in failing to disclose the transferred data to Plaintiff ranging from
16 careless nondisclosure to knowing, willful and intentional conduct with an intent to prevent the
17 Plaintiff access to information discoverable for the jurisdictional proceedings;¹⁰

18 b. There are varying degrees of willfulness demonstrated by the
19 Defendants and their agents ranging from careless nondisclosure to knowing, willful and
20 intentional conduct in concealing the existence of the transferred data and failing to disclose
21 the transferred data to the Court with an intent to prevent the Court ruling on the
22 discoverability for purposes of the jurisdictional proceedings;
23

24
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26
27 ⁹ The Court recognizes no factors have been provided to guide in the evaluation of sanctions for conduct
in violation of EDCR 7.60, but utilizes cases interpreting Rule 37 violations as instructive.

28 ¹⁰ As a result of the stay, the court does not address the discoverability of the transferred data and the
effect of the conduct related to the entire case.

1 c. The repeated nature of Defendants and Defendants' agents conduct in
2 making inaccurate representations over a several month period is further evidence of the
3 intention to deceive the Court;

4 d. Based upon the evidence currently before the Court it does not appear
5 that any evidence has been irreparably lost;¹¹

6 e. There is a public policy to prevent further abuses and deter litigants from
7 concealing discoverable information and intentionally deceiving the Court in an attempt to
8 advance its claims; and

9 f. The delay and prejudice to the Plaintiff in preparing his case is
10 significant, however, a sanction less severe than striking claims, defenses or pleadings can be
11 fashioned to ameliorate the prejudice.

12 36. The Court after evaluation of the evidence and testimony, weighing the factors
13 and evaluating alternative sanctions determines that evidentiary and monetary sanctions are an
14 alternative less severe sanction to address the conduct that has occurred in this matter.

15 37. Any conclusion of law stated hereinabove that is more appropriately deemed a
16 finding of fact shall be so deemed.

17 IV.

18 ORDER

19 Therefore the Court makes the following order:

20 a. For purposes of jurisdictional discovery and the evidentiary hearing related to
21 jurisdiction, Las Vegas Sands and Sands China will be precluded from raising the MDPA as an
22 objection or as a defense to admission, disclosure or production of any documents.¹²

23
24
25
26 ¹¹ There is an issue that has been raised regarding the current location of those computers and hard drives
27 from which the ghost image was made. The Court does not in this Order address any issues related to
28 those items.

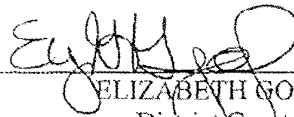
¹² This does not prevent the Defendants from raising any other appropriate objection or privilege.

1 b. For purposes of jurisdictional discovery and the evidentiary hearing related to
2 jurisdiction, Las Vegas Sands and Sands China are precluded from contesting that Jacobs ESI
3 (approx. 40 gigabytes) is not rightfully in his possession.¹³

4 c. Defendants will make a contribution of \$25,000 to the Legal Aid Center of
5 Southern Nevada.
6

7 d. Reasonable attorneys' fees of Plaintiff will be awarded upon filing an
8 appropriate motion for those fees incurred in conjunction with those portions of the hearings
9 related to the MDPA identified in paragraph 26.
10

11 Dated this 14th day of September, 2012

12 
13

14 ELIZABETH GONZALEZ
15 District Court Judge

16 Certificate of Service

17 I hereby certify that on or about the date filed, this document was copied through e-
18 mail, or a copy of this Order was placed in the attorney's folder in the Clerk's Office or mailed
19 to the proper person as follows:

20 J. Stephen Peek, Esq. (Holland & Hart)

21 Samuel Lionel, Esq. (Lionel Sawyer & Collins)

22 Brad D. Brian Esq. (Munger Tolles & Olson)

23 James J. Pisanelli, Esq. (Pisanelli Bice)

24 
25

26 Dan Kutinac
27

28 ¹³ This does not prevent the Defendants from raising any other appropriate objection or privilege.

EXHIBIT 4

ORIGINAL

Anna L. Quinn

CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al.

Defendants

CASE NO. A-627691

DEPT. NO. XI

Transcript of
Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON PLAINTIFF'S RENEWED MOTION FOR NRCP 37 SANCTIONS

THURSDAY, FEBRUARY 28, 2013

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD BICE, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
JON RANDALL JONES, ESQ.
MARK JONES, ESQ.
MICHAEL LACKEY, ESQ.

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

RECEIVED

4 MAR 04 2013

CLERK OF THE COURT

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 28, 2013, 10:08 A.M.

2 (Court was called to order)

3 THE COURT: Okay. Are we ready? Mr. Pisanelli, are
4 you arguing today, or is Mr. Bice?

5 MR. PISANELLI: I am, Your Honor.

6 THE COURT: All right. Please use regular people
7 language today.

8 MR. PISANELLI: I will. And if I slip, please feel
9 free to interrupt me, and I'll do my best to rephrase it.

10 For the record and for the audience, Your Honor,
11 James Pisanelli on behalf of the plaintiff, Steven Jacobs.

12 Your Honor, I'm going to be blunt. There is a lot
13 of reasons to be angry in this case. This case has been
14 corrupted. And when I say there's a lot of reasons to be
15 angry I don't me personally, I mean virtually every
16 participant in this case, certainly Mr. Jacobs. His justice
17 is being denied. Through just simply the delay his justice is
18 being denied, his fair trial appears to be out of reach in
19 light of what we've seen. Your Honor has as much reason to be
20 angry as anyone. You've been given a mandate, an instruction
21 from the Supreme Court to conduct a hearing on jurisdictional
22 discovery, and the defendants' conduct in this case has gotten
23 in the way of you doing your job. Certainly Mr. Bice and I
24 have expressed some anger to you in the past, both in written
25 word and at this podium, to a degree at times when we were

1 email has not been redacted, so only individual names have
2 been redacted. So you could still -- to suggest that --

3 THE COURT: That is violative of my order, Mr.
4 Jones. And I don't really care that your client is in a bad
5 position with the Macau Government. Your client is the one
6 who decided to take the material out of Macau originally,
7 failed to disclose it to anyone in the court, and then as a
8 sanction for that conduct loses the ability in this case to
9 raise that as an issue. I'm not saying you don't have
10 problems in Macau. I certainly understand you may well have
11 problems in Macau with the Macau Government. I tried to
12 understand the letter you got from the Macau Government. I
13 read it three times. And I certainly understand they've
14 raised issues with you. But as a sanction for the
15 inappropriate conduct that's happened in this case, in this
16 case you've lost the ability to use that as a defense. I know
17 that there may be some balancing that I do when I'm looking at
18 appropriate sanctions under the Rule 37 standard as to why
19 your client may have chosen to use that method to violate my
20 order. And I'll balance that and I'll look at it and I'll
21 consider those issues. But they violated my order.

22 MR. RANDALL JONES: Well, Your Honor, again, I would
23 respectfully state that I was a part of that process, and
24 whether we were being obtuse -- I hope that I'm never obtuse
25 when I'm looking at a Court's transcript or order -- that when

1 MR. BICE: Thank you, Your Honor.

2 MR. PEEK: Thank you, Your Honor.

3 THE COURT: And I really truly appreciate you
4 talking to the school children.

5 MR. PEEK: Thank you, Your Honor. It's our pleasure
6 -- it was my pleasure anyway.

7 THE PROCEEDINGS CONCLUDED AT 11:40 A.M.

8 * * * * *

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146

3/1/13

FLORENCE HOYT, TRANSCRIBER

DATE

EXHIBIT 5

1 **ORDER**

James J. Pisanelli, Esq., Bar No. 4027

2 JJP@pisanellibice.com

Todd L. Bice, Esq., Bar No. No. 4534

3 TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695

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PISANELLI BICE PLLC

5 3883 Howard Hughes Parkway, Suite 800

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6 Telephone: (702) 214-2100

Facsimile: (702) 214-2101

7 Attorneys for Plaintiff Steven C. Jacobs

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 STEVEN C. JACOBS,

11 Plaintiff,

12 v.

13 LAS VEGAS SANDS CORP., a Nevada
14 corporation; SANDS CHINA LTD., a
15 Cayman Islands corporation; DOES I
16 through X; and ROE CORPORATIONS
17 I through X,

18 Defendants.

Case No.: A-10-627691

Dept. No.: XI

**ORDER ON PLAINTIFF STEVEN C.
JACOBS' MOTION TO RETURN
REMAINING DOCUMENTS FROM
ADVANCED DISCOVERY**

Hearing Date: April 12, 2013

Hearing Time: In Chambers

19 **AND RELATED CLAIMS**

20 Before this Court is Plaintiff Steven C. Jacobs' ("Jacobs") Motion to Return Remaining
21 Documents from Advanced Discovery (the "Motion"). The Court has considered all briefing on
22 the Motion, including the supplemental brief it ordered from Defendants. The Court being fully
23 informed, and good cause appearing therefor:

24 **THE COURT HEREBY STATES as follows:**

25 1. At issue are documents that Jacobs took with him when ~~has had in his possession~~
~~since before his~~ he was terminated ~~termination on July 23, 2010.~~

26 2. Amongst these documents that ~~Jacobs possessed at the time of his termination~~
27 were documents over which Defendants claim an attorney-client or other form of privilege.
28

1 3. These are documents that Jacobs either authored, was a recipient ~~offer~~, or
2 otherwise ~~had access to possessed during the period of in the course and scope of his~~
3 employment.

4 4. Jacobs' present Motion does not seek to compel the Defendants to produce
5 anything. Rather, Jacobs seeks return of documents that were transferred to the Court's approved
6 electronic stored information ("ESI") vendor, Advanced Discovery, pursuant to a Court-approved
7 protocol. The documents at issue are all presently within his possession, custody and control.

8 5. Pursuant to a Court-approved protocol, Defendants' counsel were allowed to
9 review Jacobs' documents and have now identified approximately 11,000 of them as being
10 subject, in whole or in part, to some form of privilege, such as attorney-client, work product,
11 accounting or gaming.

12 6. Based upon these assertions of privilege, Defendants contend that ~~even though the~~
13 ~~documents are presently in Jacobs' possession, custody and control the Court having previously~~
14 ~~concluded as part of its Decision and Order dated September 14, 2012 that Defendants are~~
15 ~~precluded from claiming that he stole the documents they assert that Jacobs cannot provide~~
16 these documents to his counsel and cannot use them in the litigation even if they relate to the
17 claims, defenses or counterclaims asserted in this action.

18 ~~7. Jacobs' Motion, although styled as one seeking return of documents from the~~
19 ~~Court's approved electronic stored information ("ESI") vendor, Advanced Discovery, more aptly~~
20 ~~seeks to allow Jacobs' counsel to access these documents, which Jacobs has otherwise possessed~~
21 ~~and had access to since before July 22, 2010.~~

22 ~~8.7.~~ The Defendants assert that all privileges belong to the Defendants' corporate
23 entities, not any of their executives, whether present or former. From this, they contend that
24 Jacobs does not have the power to waive any privileges.

25 ~~9.8.~~ The Court notes a split of authority as to who is the client under such
26 circumstances. *See Montgomery v. Etrepid Techs. LLC*, 548 F. Supp. 2d 1175 (D. Nev. 2008).
27 However, the Court agrees that any privilege related to these documents in fact belongs to
28

1 ~~Defendants, facts of this case are different, and the Court disagrees with the Defendants' framing~~
2 ~~of the issue.~~

3 ~~10-9. The Court does not need to address (at this time) the question of whether any of~~
4 ~~the particular documents identified by the Defendants are subject to some privilege (a contention~~
5 ~~which Jacobs disputes), or whether Defendants waived the privilege, or whether Jacobs has the~~
6 ~~power to assert or waive any particular privileges that may belong to the Defendants (a position~~
7 ~~which the Defendants dispute). Instead, the question presently before this Court is whether~~
8 ~~Jacobs, as a former executive who is currently in possession, custody and control of the~~
9 ~~documents and was before his termination, is among the class of persons legally allowed to view~~
10 ~~those documents and use them in the prosecution of his claims and to rebut the Defendants'~~
11 ~~affirmative defenses and counterclaim, as these were documents that the former executive~~
12 ~~authored, received and/or had access to possessed, both during and after his tenure.~~

13 ~~11-10. The burden is upon the proponent of a privilege to substantiate the basis for the~~
14 ~~privilege as well as to establish that there has been no waiver. *Granite Partners v. Bear, Stearns*~~
15 ~~& Co., Inc., 184 F.R.D. 49, 52 (S.D.N.Y. 1999) ("The party seeking to assert a claim of privilege~~
16 ~~has the burden of demonstrating both that the privilege exists and that it has not been waived.");~~
17 ~~Here, the Court finds that the Defendants have failed to sustain that burden with respect to the~~
18 ~~documents in question, those documents presently being in Jacobs' custody since before his~~
19 ~~termination on July 23, 2010.~~

20 ~~12. In the Court's view, the question is not whether Jacobs has the power to waive any~~
21 ~~privilege. The more appropriate question is whether Jacobs is within the sphere of persons~~
22 ~~entitled to review information (assuming that it is privileged) that pertains to Jacobs' tenure that~~
23 ~~he authored, received and/or possessed, and has retained since July 23, 2010.~~

24 ~~13-11. Even assuming for the sake of argument that Defendants had valid claims of~~
25 ~~privilege to assert to the documents as against outsiders, they have failed to sustain their burden~~
26 ~~of demonstrating that they have privileges that would attach to the documents relative to Jacobs'~~
27 ~~cannot review and use documents to which he had access during the period of his employment of~~
28 ~~them in this litigation.~~

1 ~~14.12.~~ That does not mean, however, that at this time the Court is making any
2 determination as to any other use or access to sources of proof. Until further order, Jacobs may
3 not disseminate the documents in question beyond ~~that of~~ his legal team. And, all parties shall
4 treat the documents as confidential under the Stipulated Confidentiality Agreement and Protective
5 Order entered on March 22, 2012.

6
7
8 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

9 1. The Motion to Return Remaining Documents from Advanced Discovery is
10 GRANTED. When this Order becomes effective, Advanced Discovery shall release to Jacobs
11 and his counsel all documents contained on the various electronic storage devices received by
12 Advanced Discovery from Jacobs on or about May 18, 2012, and that have otherwise not been
13 previously released to Jacobs and his counsel.

14 2. Those documents listed on the Defendants' privilege log dated November 30,
15 2012, shall be treated as confidential under the Stipulated Confidentiality Agreement and
16 Protective Order entered on March 22, 2012 until further order from this Court.

17 2.3. This Order is stayed for a period of ten days to allow Defendants to seek relief
18 from the Nevada Supreme Court.

19 DATED: _____

20
21 THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT

22 Respectfully submitted by:

Approved as to form by:

23 PISANELLI BICE PLLC

HOLLAND & HART

24
25 By: _____
26 James J. Pisanelli, Esq., Bar No. 4027
27 Todd L. Bice, Esq., Bar No. 4534
28 Debra L. Spinelli, Esq., Bar No. 9695
3883 Howard Hughes Pkwy, Suite 800
Las Vegas, NV 89169

By: _____
J. Stephen Peek, Esq., Bar No. 1758
Robert J. Cassity, Esq., Bar No. 9779
9555 Hillwood Drive, Second Floor
Las Vegas, NV 89134

Attorneys for Plaintiff Steven C. Jacobs

Attorneys for Las Vegas Sands Corp.
and Sands China Ltd.

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KEMP JONES & COULTHARD

By:

J. Randall Jones, Esq., Bar No. 1927
Mark M. Jones, Esq., Bar No. 000267
3800 Howard Hughes Pkwy., 17th Floor
Las Vegas, NV 89169

Michael E. Lackey, Jr., Esq.,
admitted pro hac vice
MAYER BROWN LLP
1999 K. Street, N.W.
Washington, DC 20006

Attorneys for Sands China Ltd.

EXHIBIT 6

**Glaser Weil Fink Jacobs
Howard & Shapiro LLP**

10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067
310.553.3000 TEL
310.556.2920 FAX

November 23, 2010

Direct Dial
(310) 282-6217
Email
Pglaser@glaserweil.com

VIA FACSIMILE TRANSMISSION AND U.S. MAIL

Donald Campbell, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 88101

Re: Las Vegas Sands Corp., et al. adv. Jacobs

Dear Mr. Campbell:

This law firm represents Sands China Ltd. together with its subsidiaries (the "Company"). While we will be responding in due course to what we believe, to be kind, an ill-advised complaint filed in the above referenced matter, we address here a matter of immediate concern to our client. We have reason to believe, based on conversations with existing and former employees and consultants for the Company, that Mr. Jacobs has stolen Company property including but not limited to three reports he, while working for the Company, received from Mr. Steve Vickers of International Risk Ltd.

We urge Mr. Jacobs to avoid the "I don't know what you're talking about" charade and return such reports (and any copies thereof) of which most if not all, have been watermarked. Of course, to the extent he has other Company property, such property must also be returned immediately. If we do not receive the reports within the next five (5) business days, we will be forced to seek Court intervention either in Las Vegas or Macau.

On a related matter, we hereby demand and advise Mr. Jacobs (and any consulting company with which he is or was associated) to retain all of his/their files and his wife's files related to the Company and Las Vegas Sands Corp. Also, we remind Mr. Jacobs and his wife to preserve (a) all electronic mail and information about electronic mail (including message contents, header information, and logs of electronic mail system usage including both personal and business electronic mail accounts; (b) all databases (including all records and fields and structural information in such databases); (c) all logs of activity on computer systems that may have been used to process or store electronic data; (d) all word processing files and file

Donald Campbell, Esq.
Campbell & Williams
November 23, 2010
Page 2

fragments; and (e) all other electronic data in each case relating to the Company or Las Vegas Sands Corp.

To minimize the risk of spoliation of relevant electronic documents, Mr. Jacobs (and any consulting company with which he is or was associated) and his wife should not modify or delete any electronic data files relating to the Company or Las Vegas Sands Corp. that are maintained on on-line storage and/or direct access storage devices unless a true and correct copy of each such electronic data file has been made and steps taken to ensure that such copy will be preserved and accessible.

Obviously, no one should alter or erase such electronic data and should not perform any other procedures (such as data compression and disc de-fragmentation or optimization routines) that may impact such data on any stand-alone computers and/or network workstations unless a true and correct copy has been made of such active files and of completely restored versions of such deleted electronic files and fragments and unless copies have been made of all directory listings (including hidden files) for all directories and subdirectories containing such files, and unless arrangements have been made to preserve copies.

Finally, any and all steps necessary to preserve relevant evidence created subsequent to this letter should be taken.

This letter is written without waiver of or prejudice to any and all of our client's rights and remedies.

Very truly yours,



Patricia Glaser
of GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO, LLP

PLG:jam

722356_2.DOC

Glaser Weil Fink Jacobs
Howard & Shapiro

10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067

WORLDWIDE



Donald Campbell, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 88101

ES1013ES06 0006

EXHIBIT 7



VIA FACSIMILE

November 30, 2010

Patricia Glaser, Esq.
Glaser Weil Fink Jacobs
Howard & Shapiro
10250 Constellation Blvd.
Los Angeles, California 90067

Re: *Jacobs v. Las Vegas Sands Corp., et al.*

Dear Ms. Glaser:

We are in receipt of your letter dated November 23, 2010, which was received shortly before the Thanksgiving Holiday. Before turning to the substance contained therein, let me begin by stating "nice to meet you, too."

Moving on . . . please be advised that my firm and I have been consumed in another piece of commercial litigation that has been proceeding on an expedited basis with a myriad of court hearings and deadlines throughout the month of November and continuing into December. You may confirm the existence and breakneck pace of the litigation about which I speak with your local counsel, Stephen Peek and Justin Jones, as they represent one of the parties in the action. As such, I have not had an opportunity to address the contents of your letter with my client, Mr. Jacobs. I do, however, anticipate being able to discuss this matter with him in detail early next week.

Meanwhile, you may assist us in avoiding your self-coined "I don't know what you're talking about" charade" by describing in more detail the "three reports" referenced in your letter. It has been our experience that wrongfully terminated corporate executives are often—and properly—in possession of a multitude of documents received during the ordinary course of their employment. Contrary to the allegations contained in your letter, that does not mean the documents were "stolen." Thus, in order to determine whether Mr. Jacobs possesses the reports you want "returned immediately," it would help to know exactly what you are talking about.

700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/328-0223
FAX: 702/328-0240

000691

PA2395

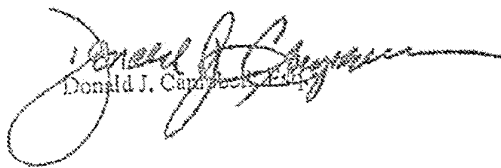
Patricia Glaser, Esq.
November 30, 2010
Page 2

Finally, insofar as Mr. Jacobs is in possession of any other documents or evidence related to Sands China, Ltd. and Las Vegas Sands, Corp. we have previously instructed him, as we instruct any client, to preserve all such materials in whatever form they exist.

This letter is written without waiver of or prejudice to any and all of our client's rights and remedies.

Very truly yours,

CAMPBELL & WILLIAMS


Donald J. Campbell, Esq.

DJC:mp

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EXHIBIT 8



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

Via E-Mail
PatGlaser@glaserwell.com

January 11, 2011

Patricia Glaser
Glaser, Well, Fink, Jacobs, et al.
10250 Constellation Blvd., 19th Floor
Los Angeles, California 90067

Re: *Jacobs v. Las Vegas Sands Corp.*

Dear Ms. Glaser:

I am in receipt of your e-mailed letter sent to us last Friday evening. As I am presently out of state, I wanted to get you a quick response.

The original materials forwarded to you were sent directly by Mr. Jacobs. There was no Heung Wah Keong report found by Mr. Jacobs in any files currently in his possession. This is not to say that a copy of such a report might not later be located, but Mr. Jacobs feels confident he has conducted a review which has been fairly exhaustive and, accordingly, thinks the likelihood of his possession of the same is remote.

Mr. Jacobs does, however, maintain possession of a copy of those original reports which he forwarded to your attention. Mr. Jacobs respectfully declines your request that he destroy them. Instead, it is his intention to preserve all such copies which are likely to be of evidentiary value in any future legal proceedings.

Sincerely yours,

CAMPBELL & WILLIAMS

Donald J. Campbell

Donald J. Campbell, Esq.

Dictated but not read to avoid delay

DJC:mp

200 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89107
PHONE: 702/382-8222
FAX: 702/382-0310

000703

PA2398

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants
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CASE NO. A-627691

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

STATUS CHECK

TUESDAY, JUNE 18, 2013

APPEARANCES:

FOR THE PLAINTIFF:

TODD BICE, ESQ.
DEBRA SPINELLI, ESQ.
ERIC ALDREN, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
JON RANDALL JONES, ESQ.
MARK JONES, ESQ.

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 18, 2013, 8:27 A.M.

2 (Court was called to order)

3 THE COURT: Does everybody want to state your
4 appearances, please.

5 MR. ALDREN: Eric Aldren on behalf of plaintiff
6 Steve Jacobs.

7 MS. SPINELLI: Debra Spinelli on behalf of Mr.
8 Jacobs.

9 MR. BICE: Todd Bice on behalf of Jacobs.

10 MR. RANDALL JONES: Randall Jones on behalf of Sands
11 China Limited.

12 MR. MARK JONES: And Mark Jones, Your Honor. Good
13 morning.

14 MR. PEEK: And Stephen Peek on behalf of Las Vegas
15 Sands and Sands China Limited, Your Honor. Good morning.

16 THE COURT: Okay. Good morning. You can sit down.

17 Thank you for coming in. One of the reasons that I
18 set this is I'm trying desperately to get you set -- case set
19 for the jurisdictional discovery hearing that the Nevada
20 Supreme Court ordered me to do in their writ of mandamus on
21 Case Number 58214. I am concerned, I think you guys know
22 that, because I've said it before, about the length of time
23 it's taken us to do this discovery. Now that we have resolved
24 the issue about Jacobs documents, and I will go ahead and sign
25 an order with modifications from what you guys have submitted,

1 how much more time do you need before I can set the hearing?

2 MR. BICE: Well, once you sign that, Your Honor --

3 THE COURT: You'll have it today.

4 MR. BICE: Okay. So once that is set we then,
5 however, still have the outstanding issue of the -- our motion
6 for sanctions under Rule 37.

7 THE COURT: But that has nothing to do with the
8 jurisdictional issue unless you're going to ask for an
9 evidentiary sanction.

10 MR. BICE: And that -- as you will recall, that
11 motion does ask for an evidentiary sanction, and it has been
12 effectively stayed by this Court granting them a stay --

13 THE COURT: On the Macanese production.

14 MR. BICE: -- to petition to the Nevada Supreme
15 Court. And that motion seeks two things. It seeks to strike
16 their affirmative defense of personal jurisdiction, number
17 one, to eliminate the need for any jurisdictional hearing,
18 and, alternatively, if the Court doesn't so strike, then we
19 have asked for a number of evidentiary sanctions that flow
20 from a result of the sort of long-standing noncompliance with
21 discovery over the course of about 24 months.

22 THE COURT: Assume for a minute that I don't vacate
23 the stay I've already imposed because of the issues pending in
24 the Nevada Supreme Court related to the Macau Data Privacy
25 Act.

1 MR. BICE: Yes.

2 THE COURT: Do you want to go forward with the
3 evidentiary hearing before the sanctions hearing completes?

4 MR. BICE: Well, it renders moot, obviously, our
5 sanctions hearing, and we believe that we are entitled to
6 those sanctions. If the Court is saying that it's not going
7 to impose any sanctions --

8 THE COURT: I didn't say that.

9 MR. BICE: Okay.

10 THE COURT: I said, Mr. Bice, assume I'm not going
11 to lift the stay I've already imposed because of the writ
12 related to the Macau Data Privacy Act that's pending in the
13 Nevada Supreme Court.

14 MR. BICE: Yes, sir.

15 THE COURT: Assume I'm not going to lift that stay.

16 MR. BICE: All right.

17 THE COURT: That means the evidentiary hearing on
18 the sanctions doesn't go forward. Do you still want to go
19 forward with your jurisdictional hearing, or do you want to
20 continue to wait on the Nevada Supreme Court?

21 MR. BICE: I would like to schedule the evidentiary
22 hearing.

23 THE COURT: Okay.

24 MR. BICE: I do not want to continue. I think as we
25 disclosed to you -- and I think we disclosed to you in our

1 status report we actually tried to get the Nevada Supreme
2 Court to --

3 THE COURT: I read your application to them.

4 MR. BICE: -- to lift the stay, and it was summarily
5 rejected by the clerk, saying we need to direct that to you.
6 We had a debate with the clerk, and the clerk, of course, won
7 that debate, as she often does. So, as a result, it is our
8 intention regardless of what you do today to submit that
9 motion to you. Now, whether or not that motion becomes moot
10 depending upon the timing of when you set the evidentiary
11 hearing, obviously we'll make adjustments accordingly and
12 reassess in light of whatever you direct us today in terms of
13 timing.

14 THE COURT: Okay. So do you really want me to delay
15 the evidentiary hearing any further, or do you want me to just
16 go ahead and set it?

17 MR. BICE: I think I would ask the Court to go ahead
18 and set it. That obviously presupposes, Your Honor, that we
19 obtain access to our client's documents, which has been the
20 subject of the other order that I understand --

21 THE COURT: Well, that order will get entered, and
22 then somebody's going to file -- they say they're going to
23 file an extraordinary writ.

24 MR. BICE: Right.

25 THE COURT: They're going to do that, then they're

1 going to ask me for a stay.

2 MR. BICE: Correct.

3 THE COURT: Then I'm going to decide. And if I stay
4 it, then we will have to vacate the jurisdictional hearing
5 because you can't go forward without having that information.

6 MR. BICE: That we believe is true.

7 THE COURT: So I understand that dynamic, but I'm
8 not there yet.

9 MR. BICE: Understood. Thank you, Your Honor.

10 THE COURT: I need to set the evidentiary hearing so
11 it looks like I'm at least trying to do what the Nevada
12 Supreme Court told me to do two and a half years ago.

13 MR. BICE: We understand that. Thank you, Your
14 Honor.

15 THE COURT: Mr. Jones. Welcome back.

16 MR. RANDALL JONES: Thank you, Your Honor.
17 Hopefully I'll make some sense. I'm still suffering a little
18 jet lag.

19 Your Honor, as you I'm sure saw in our joint status
20 report, we've indicated we're willing to go forward with the
21 evidentiary hearing now. And the only issues we had was that
22 there are a number of different theories that have been
23 proposed by the plaintiff with respect to jurisdiction over
24 Sands China. And we would simply like to have the Court
25 provide some kind of a briefing schedule prior to that hearing

1 whenever it's set. Obviously, whatever schedule the Court
2 thinks is appropriate, but we would like to get a statement
3 from the plaintiff as to what their jurisdictional theories
4 are that they want to move forward for for the hearing and a
5 short statement of a legal and factual basis for those legal
6 theories, and then give us an opportunity to file motions for
7 summary judgment with respect to any legal theories that we
8 think are susceptible to summary judgment so we can narrow the
9 issues. That's the only issue that we have. And, as we've
10 indicated in our report, while we would like to take the
11 deposition of Mr. Jacobs before the hearing, we understand
12 under the circumstances --

13 THE COURT: Keep going. I'm listening. I'm also
14 looking for a writing utensil.

15 MR. RANDALL JONES: No problem.

16 We understand under the circumstances that that's
17 not going to happen or it's not possible with the rulings of
18 the Court, so we just want to reserve our right to make sure
19 we can cross-examine Mr. Jacobs at the hearing and also call
20 him as a witness in our case if we think that's appropriate.

21 So really all we're saying is we'd just like a
22 briefing schedule so we can find out exactly what their
23 position is on jurisdiction and give us an opportunity to
24 narrow those issues before the hearing so that we can make the
25 hearing as efficient as possible.

1 THE COURT: Mr. Mark Jones, do you want to tell
2 anything to Mr. Randall Jones? It's my no double teaming rule
3 that requires a lot of counseling.

4 (Pause in the proceedings)

5 MR. RANDALL JONES: Your Honor, Mr. Mark Jones has
6 informed me that both sides, as I understand it, agreed to
7 supplement documents and witnesses before the evidentiary
8 hearing. So I assume that's something --

9 THE COURT: When before?

10 MR. RANDALL JONES: Pardon me?

11 THE COURT: How long before? Anybody.

12 MR. RANDALL JONES: I think that's really, again,
13 part of what we're asking the Court to do, is give us some
14 kind of a briefing schedule as to if you're going to set it,
15 when it's going to be set, when we would have to --

16 THE COURT: Hold on. Let me -- wait, wait. Let me
17 ask.

18 MR. MARK JONES: Your Honor, we had talked to Mr.
19 Bice about 60 to 45 days before the hearing, and Mr. Bice
20 replied that --

21 THE COURT: I'm not giving you that long before the
22 hearing. So here's the issue.

23 MR. MARK JONES: And that was then. And he said,
24 let's, then, subject to what we want the Court to decide.

25 MR. BICE: That's right. I am amenable -- as Mr.

1 Mark Jones and I have discussed, I'm amenable to doing a list
2 of witnesses and disclosures for the hearing. I'm not
3 agreeable to this briefing.

4 THE COURT: Lists I would require you to give in any
5 evidentiary hearing --

6 MR. BICE: Absolutely. Absolutely, Your Honor.

7 THE COURT: -- of the witnesses you intend to call
8 and the documents you intend to use.

9 MR. BICE: Right. Yes.

10 THE COURT: Okay. So that's a normal thing I do in
11 every evidentiary hearing.

12 MR. BICE: Correct. So -- now, this -- obviously,
13 if this was not in contemplation --

14 THE COURT: Let's let Mr. Randall Jones finish the
15 argument, since I interrupted with this supplemental issue,
16 which was whether it was discovery or something else was going
17 to confuse me. Okay.

18 MR. RANDALL JONES: I really have -- I have nothing
19 else to add, Your Honor. I just think that it would help you.
20 Obviously there's been a lot going on in this case for a long
21 time, and I think it would be helpful to the Court, it'd
22 certainly be helpful to us, to understand exactly what Mr.
23 Jacobs believes he has. We've seen now in his status report
24 an indication that he thinks, at least as I understand their
25 position, the fact that a decision was made with respect to

1 Mr. Jacobs's employment status in Las Vegas that's sufficient
2 under any circumstances to confer jurisdiction. We'd just
3 like to know exactly what their position is. We'd like to
4 brief those issues, and, if the Court feels it appropriate,
5 then make some legal rulings about some of those issues before
6 we go forward with an evidentiary hearing so we'll all be
7 better prepared to have the hearing and understand exactly
8 what the scope of the hearing is.

9 THE COURT: Okay. Thank you.

10 MR. RANDALL JONES: Thank you.

11 THE COURT: Now Mr. Bice.

12 MR. BICE: Your Honor, on the issue about witnesses
13 and documents, obviously that would be a standard directive
14 from you, and Mr. Jones and I are in agreement on that.

15 I think my -- well, I know my discussion with Mark
16 Jones was let's see what Judge Gonzalez has in mind in terms
17 of scheduling and then we will either pick or have you tell us
18 when you would like those disclosures to occur. Obviously
19 we're not viewing this as an opportunity to now identify new
20 witnesses that have not previously been disclosed and subject
21 to any form of examination, number one.

22 Number two, I disagree with Mr. Jones's position.
23 And again, I'm not attributing this to him or Mark Jones or
24 Mr. Peek, but, you know, Las Vegas Sands and its entities have
25 a pretty established track record of their way of doing

1 litigation is to make any plaintiff spend as much money as
2 possible to get to a trial. We have experienced that in a
3 number of cases, and this one is no exception. So to tell us
4 now that because new -- yet new counsel is on board they'd
5 like us to have to file more motions for their benefit I think
6 is unwarranted and unnecessary. We have briefed this issue of
7 our jurisdictional theories on countless occasions. They are
8 free to read them just like the Court has had to do, just like
9 we have had to do. If they want to file some form of motion
10 in limine at the time of this hearing claiming that certain
11 facts aren't admissible to prove a certain theory, have at it.
12 They're free to do so. But to tell us that -- to shift the
13 burden onto us yet again so that we can file yet another
14 motion to educate them yet again I think is unnecessary and
15 burdensome on us, Your Honor.

16 So we would ask -- I don't know what Her Honor has
17 in terms of timing. I can tell you that we could do an
18 evidentiary hearing in the month of September, and we could do
19 one in the month of November. I don't know -- but, again, I
20 don't know what your timing is.

21 THE COURT: My timing is July.

22 MR. BICE: Okay.

23 THE COURT: That would be next month.

24 MR. BICE: That'll be next month.

25 THE COURT: Yes.

1 MR. BICE: Okay.

2 THE COURT: But I need to ask some questions before

3 I make that determination --

4 MR. BICE: Understood.

5 THE COURT: -- which is why I'm trying to get

6 through your discussions about what you think scope issues and

7 what you have to do are so that I can try and see if what I'm

8 thinking of works.

9 MR. BICE: Understood. Thank you, Your Honor.

10 THE COURT: How many days do you believe such an

11 evidentiary hearing limited to jurisdictional issues only will

12 take, Mr. Bice?

13 MR. BICE: I would say three to four.

14 THE COURT: Three to four?

15 MR. BICE: Yes, sir -- or yes, ma'am.

16 THE COURT: Mr. Jones, how many days? Best

17 estimate.

18 MR. RANDALL JONES: I guess one of my first

19 questions is what is a day. Because --

20 THE COURT: A day for me is 10:30 to noon with a

21 break, and then 1:15 to 5:00.

22 MR. RANDALL JONES: Okay.

23 THE COURT: It's a week-long basically.

24 MR. RANDALL JONES: Yeah. So I would suspect, Your

25 Honor, we would probably figure six or seven to be

1 conservative.

2 THE COURT: Okay. Lucky for you I have six days in
3 a row. Well, there's a weekend in between.

4 MR. RANDALL JONES: And that's fine, Your Honor.
5 Six days in July?

6 THE COURT: Yes. The middle of July.

7 MR. RANDALL JONES: I have a trial next week that is
8 number one on the stack. It's a bench trial. It's in front
9 of Judge Sturman. It's anticipated to go into the following
10 week a little bit, and so it shouldn't be a major --

11 THE COURT: But you'll be done the first week of
12 July, maybe the second week of July?

13 MR. RANDALL JONES: I think the first week of July
14 is what everybody's anticipating. And barring any unforeseen
15 circumstances, that's what the court and counsel are
16 anticipating.

17 THE COURT: Okay.

18 MR. RANDALL JONES: So the only other point I would
19 make, Your Honor, is that -- and I don't want to belabor this,
20 but we -- I have read the briefs and I know what they've said
21 about jurisdiction, their theories. I've read them all, and
22 I --

23 THE COURT: Starting with the first one.

24 MR. RANDALL JONES: Starting with the first one,
25 exactly. And so I do think -- and I don't think that's overly

1 burdensome to have them clarify for us exactly what they want
2 to go forward -- what theories. If it's all theories, I think
3 we've got at least six that we've identified. That's fine. I
4 just want to be able to know what that is. And that's nothing
5 different than we would have certainly in a trial where we
6 have a pretrial order that says, here's what our legal
7 theories are, so we can then anticipate that and we can go
8 forward. And there may be some that are clearly as a matter
9 of law not tenable under any take on the facts as they
10 understand them. And so it makes -- it seems to me it makes
11 no sense -- they're the ones talking about this great expense.
12 If we have to drag out the evidentiary hearing on points that
13 are clearly not tenable under Nevada law, then that's an
14 expense that they're burdening the Court with and themselves
15 with that's unnecessary. So I don't see the great burden of
16 asking that we be allowed to at least address those issues
17 legally. I think it's appropriate, it makes sense, and it's
18 not burdensome and in fact will make the process more
19 efficient.

20 So with that, Your Honor, we would ask that we at
21 least be allowed to get those theories, what they are, and
22 then make the appropriate motion. The Court can decide that
23 it doesn't agree, but at least we'll have it.

24 THE COURT: Mr. Bice.

25 MR. BICE: We've made this disclosure on countless

1 occasions by way of motion, and we've -- in our statement to
2 the Court for this hearing we said that we intend to pursue
3 all of our available theories relative to personal
4 jurisdiction. So there isn't any confusion. This motion
5 isn't going to streamline anything. If they would like to
6 file their own motions, if there's certain theories they claim
7 are precluded as a matter of law, by all means they're free to
8 file their motions. But to try and shift the onus onto us is
9 what they're really trying to do.

10 THE COURT: Okay. Thank you.

11 (Pause in the proceedings)

12 THE COURT: All right. Gentlemen, I have six days
13 in a row for you. There is one caveat. On one of those days
14 I have committed to recruit pro bono lawyers at the firm of
15 Holland & Hart. I wouldn't expect Mr. Peek to make that
16 luncheon, but I'll make it.

17 MR. PEEK: Somebody would be happy to, you know, go
18 over there with you, Your Honor.

19 THE COURT: July 16, 17, 18, 19, 22, 23.

20 Mr. Kutinac, please do not book a Business Court
21 settlement conference on the 22nd.

22 MR. KUTINAC: I will block it in.

23 THE COURT: Okay.

24 MR. RANDALL JONES: Your Honor, could you say that
25 again. I'm a little slow today.

1 THE COURT: July 16 through 23rd, not including the
2 Saturday and Sunday.

3 MR. PEEK: Is the 16th a Tuesday?

4 THE COURT: A tuesday.

5 MR. PEEK: Thank you.

6 THE COURT: And we should be able to start at
7 10:00-ish on most days from my current calendar.

8 MR. RANDALL JONES: 10:00 on Wednesday?

9 THE COURT: 10:00 on Tuesday --

10 MR. RANDALL JONES: On Tuesday, the first --

11 THE COURT: -- the 16th. Looks like 10:00 on
12 Wednesday, 10:00-ish. So that depends. As soon as I finish
13 my other stuff I'm ready to start. Sometimes I finish early,
14 sometimes I finish later.

15 MR. PEEK: Since you have most of the long-winded
16 lawyers in that hearing --

17 THE COURT: It's really light. In the middle of
18 July nobody wants to be in Las Vegas. So I have that time
19 open for you. I knew you'd like that.

20 All right. So let's set a couple -- I've got four
21 deadlines that I want to negotiate with you, and they are the
22 following. And I will take -- yes?

23 MR. BICE: Your Honor, may I -- I think we can -- we
24 need to talk, and I'd like to be able to step out into the
25 hall and talk to Mr. Jacobs, because --

1 THE COURT: I will give you that minute as soon as I
2 give you the four categories of things I want you to tell me
3 the dates on.

4 MR. BICE: All right. And we also are going to --
5 there is another case that is in front of you that we may have
6 some issues with discovery on those dates, but we will address
7 that. But I think we can make those dates work.

8 THE COURT: I'm happy to have the Granite Gaming
9 discussion at our next scheduled status --

10 MR. BICE: It's not that. It's the Bright Source
11 matter, Your Honor, would be the --

12 THE COURT: Oh. Okay. All right. Well, that case
13 is going the last weeks of the year until the end of the year,
14 and it's finished.

15 MS. SPINELLI: We just keep postponing depositions.
16 Opposing counsel keeps saying that we're treating it like the
17 red-headed stepchild, so I just want to make sure --

18 THE COURT: I booked that trial in stone.
19 Apparently one wife has already told the husband she's taking
20 the time off, he doesn't get to. I don't know which husband
21 it is, but it's somebody at your firm.

22 Okay. Proposed findings of fact, conclusions of law
23 will be submitted prior to the hearing; a witness list
24 identifying the witnesses you intend to call and a general
25 statement of what you anticipate the witness to speak about;

1 the documents you intend to use in evidence at the hearing,
2 and a trial brief, which will not be blind but will be served
3 on the other side.

4 So I'm going to take a quick break from your case,
5 Mr. Bice, so you can go make whatever calls you want to. And
6 if the defendants' counsel need to make any calls about the
7 scheduling, please do.

8 MR. BICE: Thank you, Your Honor.

9 MR. PEEK: And, Your Honor, you didn't give us a
10 date when all that was due. Is that what we're waiting on?

11 THE COURT: I'm waiting on two things, Mr. Bice to
12 tell me that Mr. Jacobs won't be joining us, in which case
13 I'll have a different discussion with Mr. Bice, and then some
14 dates on what we're going to do for those four times. And I
15 am negotiable on the scheduling of those. I usually have them
16 two days before the hearing. I may want to do it more before
17 the hearing given the nature of this case.

18 MR. PEEK: Did I understand that Mr. Bice was going
19 to check if Mr. Jacobs will be available during those six
20 days? Is that what --

21 THE COURT: I believe that's what he's going to call
22 about.

23 MR. BICE: That's what I'm calling about.

24 MR. PEEK: And that's what we were talking about in
25 terms of wanting Mr. Jacobs here for the hearing because we

1 didn't get a chance to take his deposition.

2 THE COURT: I heard that part. I got that.

3 Okay. So if you guys would step back, I'll do the
4 other things that are on my calendar this morning.

5 (Court recessed at 8:48 a.m., until 9:18 a.m.)

6 THE COURT: All right. If we could go back to
7 Jacobs versus Sands.

8 MR. BICE: Thank you for the brief opportunity to
9 confer with my client, Your Honor. We will make those dates
10 work.

11 THE COURT: Okay. So let's talk about the order of
12 the disclosures of the four categories I've identified. And,
13 as Mr. Peek can tell you from prior experience in here, and I
14 think Mr. Bice has had to do it, too, I frequently require
15 proposed findings of fact and conclusions of law not only on
16 bench trials, but also for preliminary injunction and
17 evidentiary hearings so that you are forced to frame the
18 issues better before you stand up and start presenting your
19 case in front of me, and it makes my work as a judge easier so
20 that I can keep on top of my cases. Because otherwise I
21 forget and I'm not able to get decisions out in a timely way,
22 and this is the way that works for me. I'm sorry it's a
23 burden on you, but it's the only way I can make my very heavy
24 schedule work.

25 So I don't really need those findings of fact and

1 conclusions of law until a couple days before the hearing.
2 But if you think it will assist you in seeing each other's
3 ahead of the hearing, I'm happy to give that a little more
4 lead time.

5 MR. RANDALL JONES: Your Honor, you raised an issue
6 I wanted to raise with the Court anyway with respect to the
7 timing. Because -- again, from our perspective there have
8 been new things brought up in terms of their legal theories
9 about jurisdiction, and I don't understand Mr. Bice's position
10 that, no, they're not, but I certainly understand the original
11 order from the Supreme Court. There were two jurisdictional
12 arguments made, and there's certainly more than two now. So
13 what we would like, if the Court would agree, we think that
14 they have the burden and this would be appropriate, that they
15 file their proposed conclusions and findings at least -- we'd
16 like a week before we have to file ours so that we can again
17 see what their position is, and then we can appropriately
18 respond to it. And I would ask the Court to -- we're all on a
19 pretty short schedule here, but we think that would be an
20 appropriate thing to do under the circumstances.

21 THE COURT: Mr. Bice.

22 MR. BICE: Your Honor, again, this isn't a criticism
23 of Mr. Jones, but with every new counsel comes the argument
24 that they don't understand what has happened in this case.
25 And that's fine. That could be their position. But to now

1 say, well, we should be given yet another advantage by -- they
2 should assemble their findings of fact, their proposed
3 findings of fact and conclusions of law a week in advance so
4 that -- of our having to submit one, again, you know, it's a
5 desire to have this constantly unlevel playing field. Even
6 when you have preliminary injunction hearings, Your Honor, the
7 parties submit their competing orders, their competing
8 findings of fact, conclusions of law simultaneously. The
9 desire to now say, well, we'd like to get theirs first, well,
10 of course they would. Who wouldn't? I'd like to get theirs
11 first. But the fact is that those should be exchanged
12 simultaneously. We would propose that they be exchanged on
13 the 11th of July, which is the Thursday before, and we would
14 also propose that that be the same day for the trial brief.

15 THE COURT: What about the witness list and the
16 documents?

17 MR. BICE: We would propose the witness list and the
18 documents submitted on the 5th of July.

19 THE COURT: Okay.

20 MR. RANDALL JONES: Your Honor, first of all, it is
21 a criticism of me to say that we are new counsel and we don't
22 know what their positions are. We've seen all their
23 positions. Their positions change, and they have changed
24 repeatedly. Whether I was the attorney at the beginning of
25 this case and stayed the attorney up to the present time

1 doesn't change things. They have moved the ball all around
2 with respect to their legal theories. So -- and they have the
3 burden of proof. And the Court -- in my experience this Court
4 and other courts don't always require simultaneous exchanges.
5 So in this particular case we think that, since they have the
6 burden, that they've certainly changed their position from the
7 original hearing on jurisdiction at the beginning of time,
8 which I am aware of, and I have seen their positions change
9 over time, as recently as their status report, that we think
10 it's not only fair, but appropriate, since they do have the
11 burden, that they submit theirs first.

12 And with respect to the 11th, if they want to submit
13 theirs on the 11th, certainly we would like then at least till
14 the 17th -- well, actually that's --

15 THE COURT: Already be started by then.

16 MR. RANDALL JONES: Yeah. Right. We start on the
17 16th. So the 11th won't work. So -- well, then we would like
18 them to submit theirs, since they think they can submit the
19 trial brief on the 5th -- or, excuse me, exchange witnesses
20 and documents by the 5th, they submit by the 5th, and we can
21 certainly submit ours by the 11th.

22 THE COURT: How about we do this. July 2nd each of
23 you will exchange a list of witnesses and document lists.
24 That will include any summaries or demonstrative evidence that
25 you think you're going to use.

1 By July 9th you will submit your proposed findings
2 of fact and conclusions of law in electronic format.

3 By July 11th you will submit your trial briefs. You
4 may file those simultaneously, but you must serve each other.

5 And on July 15th any exhibits must be delivered to
6 the clerk.

7 And, Dolce, what time do you want them to come see
8 you, after noon? I'm doing a settlement conference all day
9 long that day, so you won't be in court much.

10 THE CLERK: 1:00 p.m.

11 THE COURT: 1:00 p.m.

12 Are you going to be presenting your exhibits
13 electronically given the volume, or are you going to use
14 paper?

15 MR. BICE: My guess is we're going to use paper,
16 Your Honor. That's my present belief.

17 MR. RANDALL JONES: Your Honor --

18 MR. PEEK: May I consult with Mr. Jones for a
19 minute?

20 THE COURT: You may.

21 (Pause in the proceedings)

22 MR. RANDALL JONES: Your Honor, I think electronic.
23 And if we change our position, Your Honor --

24 THE COURT: There is a special protocol that we're
25 experimenting with after my five-month-long trial where almost

1 all the exhibits were presented electronically. We came up
2 with a new protocol. I will have Max send it out to you. It
3 is still in draft form, but it is what the Clerk's Office is
4 trying to use as a recommended standard. We haven't adopted
5 it yet. We're working through bugs still. So Max will send
6 that to you. If you want to use electronic, it will be how we
7 do it so that Dolce can follow the rules her bosses have
8 instituted.

9 MR. RANDALL JONES: Your Honor, one other
10 clarification point or additional point. As I understand it,
11 you want the exchange of witnesses and documents by the 7th --
12 or, excuse me, the 2nd?

13 THE COURT: July 2.

14 MR. RANDALL JONES: The 2nd.

15 THE COURT: Two. July 2.

16 MR. RANDALL JONES: Yes. Understood.

17 THE COURT: Proposed findings of fact, conclusions
18 of law exchanged on July 9 with electronic format sent to me.

19 July 11th for your trial briefs. If you guys really
20 think you need another day, I'll give you till July 12th,
21 because I'm not going to read it till the weekend. But I do
22 need you to have it to me by 3:00 o'clock on the Friday.

23 And July 5th that you're going to meet with Dolce in
24 delivering the exhibits.

25 MR. RANDALL JONES: Your Honor, my point was that

1 since -- again, we have a concern about their theories, at
2 least we would like the opportunity to have a supplement -- to
3 supplement our witness and exhibit list after the 2nd. If we
4 could have say --

5 THE COURT: If you want to do that, you'll have to
6 ask me, and I will be happy to sign an OST to deal with that
7 issue. You've got a little bit of lead time on it, Mr. Jones.

8 MR. RANDALL JONES: All right.

9 THE COURT: And that applies to everyone.

10 MR. BICE: Yes.

11 THE COURT: And if it's a true rebuttal issue that
12 you couldn't have anticipated, that is, of course, a different
13 issue.

14 MR. BICE: That was going to be my only point of
15 clarification, Your Honor. I don't expect to see new
16 witnesses.

17 THE COURT: Mr. Bice, you might see new witnesses,
18 like this plumber they had in the other case who apparently
19 they knew about but never knew they re-plumbed it differently.

20 MR. BICE: And if it's true rebuttal, I understand
21 that.

22 THE CLERK: [Inaudible]

23 THE COURT: I think Mr. Bice is going to talk to his
24 people about whether he wants to use electronic exhibits or
25 not.

1 MR. BICE: I am. But I will tell you this, Your
2 Honor, based upon our own experience, including with Mr.
3 Adelson. Paper tends to work best with these witnesses. So
4 if your anticipation -- and maybe I misunderstood the Court's
5 instruction.

6 THE COURT: Dolce wants to know whether you're
7 bringing her in 27 bankers' boxes or --

8 MR. BICE: No.

9 THE COURT: -- or an external hard drive.

10 MR. BICE: I will be bringing her a hard drive. I
11 apologize.

12 THE COURT: She's happy now.

13 MR. BICE: My misunderstanding.

14 MR. BICE: May I have --

15 MR. PEEK: Your Honor, my experience, though,
16 however is it's still -- and I think Mr. Bice is correct that
17 certainly a piece of paper oftentimes works better to show a
18 witness.

19 THE COURT: Absolutely.

20 MR. PEEK: So if we want to not necessarily bring in
21 the 27 boxes, but certainly if we have an exhibit that we
22 think we want to show a --

23 THE COURT: Absolutely. In fact, in the one we did
24 for five months I had the contract in a binder so that I could
25 refer to it and highlight and make notes on it even though

1 technically everything was being presented electronically.

2 MR. PEEK: But can I have my witnesses make notes in
3 their binders, too?

4 THE COURT: If it's theirs and not Dolce's. But
5 then you know notes can be looked at. People can look at it.

6 MR. PEEK: I know, Your Honor.

7 THE COURT: Then we have a different issue, Mr.
8 Peek.

9 MR. PEEK: We do.

10 THE COURT: What else did you guys still want to
11 talk to me?

12 MR. BICE: I misunderstood, Your Honor. So, yes,
13 there actually is one other issue, and it's referenced in
14 their status report about they are -- I'd like to get a
15 deadline now in light of this schedule. They'd indicated that
16 they are working on the privilege log of the --

17 THE COURT: Yeah. That was the Suen. Hold on. Let
18 me go to the place that says Suen.

19 MR. BICE: Right. And there's another log, also,
20 and that's this log on documents that they have withheld that
21 were flagged --

22 THE COURT: Shortly. It wasn't "Suen," it was
23 "shortly."

24 MR. BICE: -- that were flagged by the
25 jurisdictional discovery terms, but they withheld them on the

1 basis that they said that they went to merits and not to
2 jurisdiction. And you had indicated they were to log those.
3 So --

4 THE COURT: Page 3, line 9, "The log should be ready
5 shortly."

6 MR. RANDALL JONES: Your Honor, Mr. Lackey's not
7 here, and he's the one involved with that. But I can get an
8 answer today and get that to the Court and counsel.

9 MR. BICE: That's fine.

10 THE COURT: Okay. That'd be lovely.

11 MR. BICE: May I have one second to speak to Mr.
12 Peek --

13 THE COURT: Yes.

14 MR. BICE: -- before we end. And Mr. Jones.

15 MR. RANDALL JONES: And I have another issue I want
16 to raise, as well.

17 MR. BICE: Oh. I apologize.

18 THE COURT: Why don't you caucus.

19 (Pause in the proceedings)

20 THE COURT: Mr. Jones, you had something else you
21 wanted to say.

22 MR. RANDALL JONES: With respect to witnesses,
23 because it's typical in a situation like this, I think
24 everybody, certainly we anticipated we'd be finished with the
25 jurisdictional discovery before we designated experts, we had

1 a couple of experts that we were considering using. Obviously
2 we --

3 THE COURT: For the jurisdictional discovery?

4 MR. RANDALL JONES: Yes, Your Honor. We have not
5 prepared expert reports because we didn't know we were going
6 to have the hearing on July 11th -- or, excuse me, July 16th.
7 So that's somewhat problematic, but I wanted to raise that
8 with the Court, that we --

9 THE COURT: How soon could you get -- you know,
10 technically you don't have to provide a report under Rule 30
11 -- is it 30? 20? Whatever rule it is. The one that changed
12 what you've got to provide in the experts --

13 MR. RANDALL JONES: 26. I think it's 26.

14 THE COURT: Maybe it's -- yeah. Whatever rule it
15 is.

16 MR. RANDALL JONES: I think it's 26.

17 THE COURT: You don't technically have to provide an
18 expert report, you can provide a summary of what the expert is
19 prepared to say, and if you can get those exchanged, I'm happy
20 to do it; but you're going to have to do it within the next
21 week or so.

22 MR. RANDALL JONES: Understood, Your Honor.

23 MR. PEEK: What's the "or so," Your Honor?

24 MR. RANDALL JONES: Yeah, what's the "or so."
25 That's a good point.

1 MR. PEEK: I got the week, but I was wondering more
2 about the "or so." In other words, what's the --
3 THE COURT: Week to 10 days.
4 MR. RANDALL JONES: That's fine, Your Honor.
5 THE COURT: That's a timing issue. That's me
6 looking at a calendar and saying, how will I make this work.
7 MR. PEEK: Would July 1 work, Your Honor, which is
8 really --
9 THE COURT: No, July 1 won't work.
10 MR. PEEK: Ten days is the 28th, which is a Friday.
11 THE COURT: July 1 won't work, because I have the
12 witness lists and document lists scheduled.
13 MR. PEEK: On the 2nd.
14 MR. BICE: Well, Your Honor, I'd like to be heard on
15 this.
16 THE COURT: Okay, Mr. Bice.
17 MR. BICE: I disagree, because we had this
18 discussion about reports --
19 THE COURT: Who?
20 MR. BICE: -- with Ms. Glaser. I mean, we've been
21 through two sets of counsel now when we had this --
22 THE COURT: There've been more than two sets of
23 counsel.
24 MR. BICE: -- right -- when we had this debate about
25 these experts. And you told them they were going to have to

1 comply with the rule. These --

2 THE COURT: Experts on jurisdictional issues?

3 MR. BICE: Yes.

4 THE COURT: When did I say that?

5 MR. BICE: This is at the September 27, 2011,

6 hearing. Now, these -- and this is our problem here.

7 THE COURT: Okay. I'm listening.

8 MR. BICE: These are not percipient witnesses who

9 are being designated as experts, also, so therefore you can do

10 the summary sort of approach with them. These are -- as we

11 understand it -- now, maybe we misunderstand, because we

12 haven't seen anything from them -- these are outside, purely

13 outside witnesses being retained purely, solely to provide

14 expert opinion.

15 THE COURT: Bunch of law professors probably; right?

16 MR. BICE: So we believe that reports were

17 necessary. These witnesses have been disclosed or identified

18 as they might use them on I believe it was -- I apologize,

19 Your Honor; I'm going to find the --

20 MR. PEEK: Within the Court's order I believe it's

21 the 22nd or 23rd of September is when I think Your Honor

22 required it to be done, and we met that rule. Sands China met

23 that requirement. We both exchanged them on the same day. I

24 believe it's the --

25 MR. BICE: September 23 of 2011.

1 MR. PEEK: Yeah. That was my recollection, Your
2 Honor.

3 MR. BICE: And so to now hear them say --

4 THE COURT: Hold on, Mr. Bice.

5 MR. BICE: -- hear them say, well, we didn't do a
6 report in the last year and six months we think is --

7 THE COURT: What page of the transcript? 49?

8 MR. BICE: Yeah, I think it was page -- let me look,
9 Your Honor. Maybe I misunderstood.

10 MR. PEEK: There was a -- I remember there was a
11 discussion.

12 THE COURT: Hold on. I'm there.

13 MR. BICE: Well, the discussion is about -- yeah,
14 it's on to page 50, Your Honor.

15 THE COURT: That was when I said I'd never before
16 had an expert on a jurisdictional hearing.

17 MR. BICE: Correct. And Ms. Glaser didn't --

18 THE COURT: Wait. Let me read.

19 MR. BICE: Oh. I apologize, Your Honor.

20 MR. PEEK: May I read over your shoulder, Todd?

21 MR. BICE: You may.

22 (Pause in the proceedings)

23 THE COURT: I didn't say it had to be a report. I
24 said, "The other method the rule dictates." That's on line 12
25 of page 51.

1 MR. BICE: Right. And Ms. Glaser -- is that it?
2 THE COURT: That's what I said.
3 MR. BICE: I understand that.
4 THE COURT: "It can either by report or by the other
5 method that the rule dictates, and, unfortunately, as I sit
6 here I can't tell you what rule it is."
7 MR. PEEK: That's what I recall from the same thing,
8 Your Honor.
9 THE COURT: I'm reading the transcript.
10 MR. BICE: Well, it's in the transcript, right. Our
11 point is Ms. Glaser said she was going to bring this to the
12 Court.
13 THE COURT: No. What I told Mr. Pisanelli is that
14 she needed to provide the information so that we would have a
15 clue. I told Mr. Pisanelli he could then either move to
16 strike it or take the deposition and that I would then decide,
17 and it didn't mean I would think the witness was credible or
18 important, but I would listen to them.
19 MR. BICE: Right. "Can either be by report or other
20 method that the rule dictates." Our point is the rule doesn't
21 -- for truly outside experts like these there is -- the rule
22 dictates a report.
23 MR. RANDALL JONES: Your Honor --
24 MR. BICE: These aren't treating physicians who are
25 allowed --

1 THE COURT: I know, Mr. Bice. We had this lovely
2 discussion on the ADKT 487 hearing about a week ago that I'm
3 still trying to get over. Hold on a second.

4 (Pause in the proceedings)

5 THE COURT: It's 26(4). So it's 26(b)(4). But I
6 think the rule change was in 16.1 related to the expert
7 disclosures. Yeah. It's in 16.1(a)(2). "The court upon good
8 cause shown or by stipulation of parties may relieve a party
9 of the duty to prepare a written report in an appropriate
10 case," blah, blah, blah, blah.

11 In the initial disclosures of witnesses that were
12 exchanged in 2011 was there a disclosure as to a summary of
13 the facts and opinions to which the witness is expected to
14 testify, the qualification of that witness to present evidence
15 under the statutes, and compensation?

16 MR. BICE: I have it here if you'd like --

17 THE COURT: That's a disclosure?

18 MR. BICE: Yes.

19 THE COURT: May I see it.

20 MR. BICE: You may.

21 THE COURT: Thank you.

22 That's it?

23 MR. RANDALL JONES: Pardon me?

24 THE COURT: How's that going to help me make a
25 determination on jurisdictional for either Mr. Howe or Mr.

1 Klugerman?

2 MR. RANDALL JONES: Your Honor, here's the dilemma.
3 In every case I've been involved with first of all there's a
4 scheduling order with respect to these things, so this case
5 has gone on sort of a different track.

6 THE COURT: I've had discovery stayed in this case
7 with the exception of jurisdictional issues by the Nevada
8 Supreme Court for two and a half years.

9 MR. RANDALL JONES: Understood, Your Honor.

10 THE COURT: Or however. Maybe it's only two years.

11 MR. RANDALL JONES: We've disclosed these experts
12 back in 2011, and we talked about issues of corporate
13 governance. We haven't certainly been a position to get any
14 kind of report, because we haven't taken the deposition of Mr.
15 Jacobs because of the facts in this case or finish other
16 discovery, factual discovery. I've -- every case I've been
17 involved in the parties typically finish factual discovery
18 before they have expert reports due. So --

19 THE COURT: Not any case I'm involved in,
20 unfortunately. They never finish factual discovery ever.

21 MR. RANDALL JONES: You tend to have some unique
22 cases, Your Honor. And I've been involved in some of those,
23 so I can appreciate what you're saying. But certainly the
24 most appropriate way as a litigator from my perspective is you
25 want to know what the facts are before you have your experts

1 decide what their opinions are going to be or --

2 THE COURT: Yes. But this is a very unusual
3 situation, because we are purely dealing with jurisdictional
4 issues. And, as I told Ms. Glaser on September 27th, 2011,
5 I'd never had an expert testify in a jurisdictional hearing.
6 I wasn't saying at the time I wouldn't let them testify, but I
7 was. And I told her she needed to disclose the information.
8 And if that's the disclosure, it doesn't seem to comply with
9 16.1's requirement for what experts are required to have
10 disclosed, much less whether there's been a report or not.

11 MR. RANDALL JONES: Well, I guess my point is, Your
12 Honor, is that at this point there was a disclosure, we've
13 gone on from there. At this point the Court has told us now
14 we're going to have a hearing in very short order.

15 THE COURT: I gave you 30 days' notice, almost
16 30 days' notice.

17 MR. RANDALL JONES: I'm not -- again, I'm just
18 pointing out the facts. It is a short deadline. Mr. Bice got
19 up and said initially they would be ready by September or
20 November, and you said, that's not what's going to happen.
21 That's fine. You're the judge. And you may not think this
22 expert or any expert is appropriate to testify in a
23 jurisdictional issue. We would like the opportunity to have
24 this expert testify, or experts, as the case may be. We may
25 not designate -- or use either one of them, but we would like

1 the opportunity. And, again, the path of this case has been
2 certainly unusual in my experience, and I've only been in
3 this, as Mr. Bice likes to point out, a relatively short
4 period of time. We would like the opportunity to at least
5 present this information to the Court. And, you know, if the
6 Court says no, the Court says no. But we --

7 THE COURT: No, I don't have a problem listening to
8 people tell me what the rules are. The question is whether
9 the rules were followed. I mean, because they're very
10 different issues as to what the rules are for being listed on
11 the Hong Kong Exchange and the corporate governance issues
12 between a parent company and its foreign subsidiary are very
13 interesting issues from a practical standpoint and may impact
14 us. But what best practices are and what actually happened is
15 why I'm having a jurisdictional hearing.

16 MR. RANDALL JONES: Understood. Understood, Your
17 Honor. Again, we're here simply saying we would like to use
18 these experts -- actually, I can't even go that far. That's a
19 decision we now are going to have to make in light of the
20 ruling of the Court today of when we're going to have this
21 hearing.

22 THE COURT: Well, I said, apparently on
23 September 27th, 2011, that the disclosure of experts could
24 either be by report or by the other method that the rule
25 dictates. That means that I relieved you from the requirement

1 of providing a report, because I allowed you to use the other
2 method the rule dictates. But if you're going to do that, the
3 disclosure must be within -- it must be prior to June 28th.

4 MR. RANDALL JONES: That's --

5 THE COURT: And if Mr. Bice needs to do something
6 because you have provided experts who tell us what the
7 expectations of the Hong Kong Exchange are and what the best
8 practices of the relationship between a parent company and its
9 foreign subsidiary are, then I will listen to Mr. Bice. And
10 if he needs to have someone speak on rebuttal to that issue,
11 he will be relieved of a report requirement --

12 MR. RANDALL JONES: Understood, Your Honor.

13 THE COURT: -- because the timing won't permit it.

14 MR. RANDALL JONES: Should we do that before the
15 28th, or by the 28th?

16 THE COURT: Before close of business on the 28th.

17 MR. RANDALL JONES: That's fine.

18 MR. PEEK: Thank you, Your Honor.

19 THE COURT: Mr. Bice, here's your copy back. Thank
20 you for sharing that with me.

21 MR. BICE: Thank you, Your Honor.

22 THE COURT: Thank you for reminding me I'd already
23 addressed this issue two years ago.

24 MR. BICE: Depending on what I get on the 28th, Your
25 Honor, I guess I may be back in front of you --

1 THE COURT: Lucky for all of us, I'm here.

2 MR. BICE: Lucky for me.

3 -- to address this issue, because I don't believe
4 that was what we discussed back in 2011. I believe the rule
5 provides a means to be relieved of the report requirement, and
6 it wasn't in any way followed. And now these experts haven't
7 been deposed, these experts haven't provided us with any
8 information at all.

9 THE COURT: I understand what you're saying.

10 MR. BICE: So we'll see what we get. We may have a
11 rebuttal witness, depending on what we get, and the rules will
12 -- I guess the rules will be applied to us in the same fashion
13 in which they apply to them.

14 THE COURT: I try to apply the rules equally to
15 everyone.

16 MR. BICE: I wasn't suggesting that you weren't,
17 Your Honor.

18 THE COURT: They may seem draconian, but they're
19 applied equally.

20 MR. PEEK: Equally draconian, Your Honor?

21 MR. RANDALL JONES: You mean for today, Your Honor?

22 THE COURT: Yes, for today, Mr. Jones.

23 MR. RANDALL JONES: You have not made a decision on
24 the competing order.

25 THE COURT: I actually have. I just haven't

1 communicated it to you. I'm using parts of Mr. Bice's, parts
2 of Mr. Jones's, and rewriting part of the paragraphs, and you
3 should have it by the end of the day.

4 MR. BICE: All right.

5 THE COURT: That's why I asked Max while you are
6 here about the electronic versions, because I wanted to see if
7 anyone had any additions given the minute order that I issued
8 on Friday. Because I read the surreply, and I clarified a
9 couple issues in my minute order, and I need to make sure
10 those are incorporated. So I have an electronic version from
11 both of you. I can cut and paste better than you can, because
12 I know what's in my head.

13 MR. RANDALL JONES: I think -- if I understand your
14 order, I think you have addressed -- the minute order, I think
15 you have addressed some of our issues.

16 THE COURT: I tried.

17 Anything else?

18 MR. BICE: No.

19 THE COURT: All right.

20 THE PROCEEDINGS CONCLUDED AT 9:46 A.M.

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**

6/19/13

FLORENCE HOYT, TRANSCRIBER

DATE