

EXHIBIT 1

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPREME COURT
CLARK COUNTY, NEVADA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13
14 Dated: 3-20-14

15
16
17 

18 ELLEN L. FORD, RPR, CRR
19 CCR No. 846
20
21
22
23
24
25

EXHIBIT A

EXHIBIT A

Exhibit A

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

- (1) Plaintiff argued that the reason the district court gave defendants "such a short leash" at the December 18, 2012, hearing to search for and produce data located in Macau in the next two weeks was because the Macau data "was discovery she had ordered over a year before and [defendants] continued to not comply [with her order]." March 3, 2014 Tr. at 16.¹ This is not accurate: there was no discovery order that defendants failed to comply with. Indeed, the district court specifically noted that there was no such order during the December 18, 2012, hearing,

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

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

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

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

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

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

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

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Mar 24 2014 03:57 p.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

**NOTICE OF FILING IN
RELATED CASE RE
CORRECTION OF
RECORD OF MARCH 3,
2014 ORAL ARGUMENT**

MORRIS LAW GROUP
Steve Morris, Bar No. 1543
Rosa Solis-Rainey, Bar No. 7921
900 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101

KEMP, JONES & COULTHARD, LLP
J. Randall Jones, Bar No. 1927
Mark M. Jones, Bar No. 267
3800 Howard Hughes Pkwy, 17th Flr.
Las Vegas, Nevada 89169

HOLLAND & HART LLP
J. Stephen Peek, Bar No. 1759
Robert J. Cassity, Bar No. 9779
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Petitioners

PLEASE TAKE NOTICE that the attached documents were filed in Case No. 58294 in support of Petitioners' Request for Oral Argument. Exhibit A is an example of misrepresentations made during the March 3, 2014 oral argument in this case.

MORRIS LAW GROUP

By: /s/ STEVE MORRIS

Steve Morris, Bar No. 1543
Rosa Solis-Rainey, Bar No. 7921
900 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101

KEMP JONES & COULTHARD, LLP
J. Randall Jones, Bar No. 1927
Mark M. Jones, Esq., Bar No. 267
3800 Howard Hughes Pkwy., 17th Fl.
Las Vegas, NV 89169

HOLLAND & HART LLP
J. Stephen Peek, Bar No. 1759
Robert J. Cassity, Bar No. 9779
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Attorneys for Petitioners

CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the foregoing **NOTICE OF FILING IN RELATED CASE RE CORRECTION OF RECORD OF MARCH 3, 2014 ORAL ARGUMENT** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows:

James J. Pisanelli
Todd L. Bice
Debra Spinelli
Pisanelli Bice
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169

Attorneys for Steven C. Jacobs, Real Party in Interest

DATED this 24th day of March, 2014.

By: /s/ PATRICIA FERRUGIA