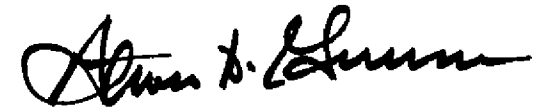


EXHIBIT 2



CLERK OF THE COURT

OPPN

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

JJP@pisanellibice.com

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

TLB@pisanellibice.com

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

DLS@pisanellibice.com

Jordan T. Smith, Esq., Bar No. 12097

JTS@pisanellibice.com

PISANELLI BICE PLLC

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Telephone: (702) 214-2100

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; SHELDON G.
ADELSON, an individual; DOES I through
X; and ROE CORPORATIONS I through X,

Defendants.

AND RELATED CLAIMS

Case No.: A-10-627691

Dept. No.: XI

**PLAINTIFF STEVEN C. JACOBS'
OPPOSITION TO DEFENDANTS'
MOTION TO STAY COURT'S JUNE 16,
2015 ORDER PENDING DEFENDANTS'
PETITION FOR WRIT OF
PROHIBITION OR MANDAMUS**

Date: June 19, 2015

Time: 8:30 a.m.

The reason that a party is first required to seek a stay from the trial court is because of "the district court's vastly greater familiarity with the facts and circumstances of the particular case." *Nelson v. Heer*, 121 Nev. 832, 836, 122 P.3d 1252, 1254 (2005). And that is more so in this case than in most any other.

A stay can only be sought upon a clear demonstration that (1) the object of the writ petition will be defeated if a stay is denied; (2) it will suffer irreparable or serious injury if the stay is denied; (3) the real party in interest will not suffer irreparable harm if the stay is granted;

1 and (4) petitioner is likely to prevail on the merits of the writ petition. NRAP 8(c). Cognizant that
2 it can make no such showing, Defendants do not even try.

3 Indeed, at the same time in which Defendants insist that the timeframe for discovery is too
4 short, they endeavor to delay so that it is even shorter. They waited until the last possible moment
5 in which to file their motion for protective order concerning David Turnbull's deposition. Jacobs
6 noticed Turnbull's deposition on June 1, 2015 for June 17, 2015. Defendants took no action until
7 the Friday before scheduled date. Jacobs is under no obligation to give Defendants time to make
8 good on Adelson's threat to get rid of Turnbull before his testimony can be preserved. (Hr'g Tr.
9 Apr. 28, 2015 at 96:3-6 (Q. This is David Turnbull, I think you told us . . . is a director of SCL; is
10 that right? **A. Not for long.**".) (emphasis added).

11 As this Court knows, evidence has already been permanently lost in this case as a result of
12 the extraordinary delay that Defendants have procured. Jacobs is under no obligation to endure
13 more of the same. He is the party facing harm here, not these Defendants. *See Allstate Prop. &*
14 *Cas. Ins. Co. v. Archer*, 45 So. 3d 924, 925 (Fla. Dist. Ct. App. 2010) (denying petition for writ
15 petition where "Allstate has failed to establish that the taking of the deposition of its adjuster will
16 result in irreparable harm."); *see also Flanagan v. Wyndham Int'l Inc.*, 231 F.R.D. 98, 105
17 (D.D.C. 2005) ("S.G. has failed to present any evidence, or even any claim, of harm she will
18 suffer by submitting to the Wyndham Defendants' proposed deposition.").

19 Moreover, Defendants' desired review is not legally available, at least to those litigants to
20 whom the law is equally applied. After all, setting the location of a deposition based upon the
21 facts and circumstances of a particular case – particularly where foreign law concerns have been
22 raised as an obstacle to discovery – rests well within this Court's discretion. *S.E.C. v.*
23 *Banc de Bianary*, No. 2:13-cv-993-RCJ-VCF 2014 WL 30862 at *3 (D. Nev. Mar. 14, 2014).
24 And, the Nevada Supreme Court has made clear that writ review of a district court's discovery
25 rulings is generally improper. *Valley Health Sys., LLC v. Eighth Judicial Dist. Court of State*
26 *ex rel. Cnty. of Clark*, 127 Nev. Adv. Op. 15, 252 P.3d 676, 278 (2001). At least for mere
27 mortals, the Nevada Supreme Court has repeatedly emphasized that there are only two
28 circumstances in which writ review will even be considered over a discovery matter: "blanket

1 discovery orders with no regard to relevance, and discovery orders compelling disclosure of
2 privileged information." *Id.*, 252 P.3d at 679. This Court's order setting the time and location for
3 Turnbull's deposition implicates neither of these narrow circumstances.

4 Defendants' request that an entirely new rule be created so that they can continue to delay
5 discover in this case finds no support in the law. They have failed to demonstrate any entitlement
6 to a stay. And, a stay would only further work to prejudice Jacobs. The Motion fails.

7 DATED this 18th day of June, 2015.

8 PISANELLI BICE PLLC

9
10 By: /s/ Todd L. Bice
James J. Pisanelli, Esq., #4027
Todd L. Bice, Esq., #4534
Debra L. Spinelli, Esq. #9695
Jordan T. Smith, Esq., #12097
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

11
12
13 Attorneys for Plaintiff Steven C. Jacobs
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 18th day of June, 2015, I caused to be served via the Court's E-Filing system, true and correct copies of the above and foregoing **PLAINTIFF STEVEN C. JACOBS' OPPOSITION TO DEFENDANTS' MOTION TO STAY COURT'S JUNE 16, 2015 ORDER PENDING DEFENDANTS' PETITION FOR WRIT OF PROHIBITION OR MANDAMUS** properly addressed to the following:

J. Stephen Peek, Esq.
Robert J. Cassity, Esq.
HOLLAND & HART
9555 Hillwood Drive, Second Floor
Las Vegas, NV 89134
speek@hollandhart.com
rcassity@hollandhart.com

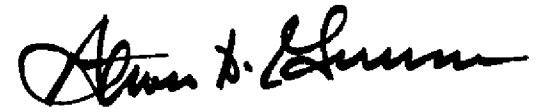
Michael E. Lackey, Jr., Esq.
MAYER BROWN LLP
1999 K Street, N.W.
Washington, DC 20006
mlackey@mayerbrown.com

J. Randall Jones, Esq.
Mark M. Jones, Esq.
KEMP, JONES & COULTHARD
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, NV 89169
jri@kempjones.com
mmj@kempjones.com

Steve Morris, Esq.
Rosa Solis-Rainey, Esq.
MORRIS LAW GROUP
900 Bank of America Plaza
300 South Fourth Street
Las Vegas, NV 89101
sm@morrislawgroup.com
rsr@morrislawgroup.com

/s/ Kimberly Peets
An employee of PISANELLI BICE PLLC

EXHIBIT 1



CLERK OF THE COURT

1 **OPPN**

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

4 DLS@pisanellibice.com

Jordan T. Smith, Esq., Bar No. 12097

5 JTS@pisanellibice.com

PISANELLI BICE PLLC

6 400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

7 Telephone: (702) 214-2100

8 *Attorneys for Plaintiff Steven C. Jacobs*

9
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 STEVEN C. JACOBS,

13 Plaintiff,

14 v.

15 LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a
16 Cayman Islands corporation; SHELDON G.
ADELSON, an individual; DOES I through
17 X; and ROE CORPORATIONS I through X,

18 Defendants.

19 AND RELATED CLAIMS

Case No.: A-10-627691

Dept. No.: XI

**PLAINTIFF STEVEN C. JACOBS'
OPPOSITION TO OBJECTION TO
NOTICE OF DEPOSITION OF DAVID
TURNBULL AND MOTION FOR
PROTECTIVE ORDER**

Date: June 16, 2015

Time: 8:30 a.m.

20
21 **I. INTRODUCTION**

22 If this Court hoped that its prior sanctions orders would bring about a change in
23 Defendants' attitude relative to discovery, their present motion proves otherwise. On June 1,
24 2015, Jacobs noticed the deposition of David Turnbull ("Turnbull") in conformity with NRC
25 30(b), providing more than fifteen (15) days advance notice and setting the deposition for June
26 17, 2015. Jacobs' counsel heard nothing from the Defendants about the scheduling of this
27 deposition until June 12, 2015, just days before the scheduled date. (Decl. Todd L. Bice, Esq., ¶
28 2, Ex. 1.) At that time, Defendants requested that the deposition be "vacated." (*Id.*) When

1 Jacobs' counsel inquired as to alternate dates that the Defendants were proposing for the
2 deposition, they declared that no alternate dates were being offered. (*Id.*) Nor did they provide
3 any basis for their request to vacate. (*Id.*) They did not claim any scheduling conflicts with
4 counsel or the witness. (*Id.*)

5 Defendants raised no issues until just days before the scheduled deposition, even though
6 the basis for their objection is the Declaration of Turnbull, which is dated Monday, June 8, 2015.¹
7 But tellingly, Turnbull provides no actual basis for protective order, except noting that he prefers
8 not to be deposed in the United States even though he is a member of Sands China's Board of
9 Directors and a percipient witness in the case.

10 It is obvious that Defendants hope to perpetuate more delay in a case that they have
11 successfully stalled for nearly five years. By waiting until the last minute, Defendants think that
12 they can procure delay by telling the Court that there is insufficient time for the witness now to
13 appear at the deposition.² Granting of their motion would simply reward a party for attempting
14 delay and encourage more of the same. The motion must be rejected.

15 II. ARGUMENT

16 NRCP 26(c) provides that a protective order may only issue when the moving party
17 establishes "good cause" and "justice requires [a protective order] to protect a party or person
18 from annoyance, embarrassment, oppression or undue burden or expense," including an order
19 "that the discovery may be had only on specified terms and conditions, including a designation of
20 the time or place." See NRCP 26(c)(2). Defendants bear the burden to establish good cause. See
21 *Cadent Ltd. v. 3M Unitek Corp.*, 232 F.R.D. 625, 629 (C.D. Cal. 2005). And, plainly, a party
22 cannot establish good cause by disregarding the law and the actual facts, particularly those they
23 have advanced.

24
25
26 ¹ Before this Court on June 12, 2015, Adelson's counsel told the Court that the basis for
their delay in filing the motion was because it took time to secure the declaration of Turnbull.

27 ² This is precisely what Jacobs warned the Court Defendants would do, which is why he
28 asked this Court to shorten the time frame to notice depositions. Giving the Defendants 15 days
in which to simply stall to raise any objections is not good faith and should not be countenanced
by the Court.

1 **A. Turnbull is a Director of Sands China and his Deposition is Properly Set by**
2 **Notice.**

3 Pursuant to NRCPP 30, the deposition of any "party" can be taken upon notice. And, as
4 this Court knows, any person who is an "officer, director or managing agent, or a person
5 designated under Rule 30(b)(6) or 31(a)" of a corporation is deemed to be a party for purposes of
6 taking their deposition. NRCPP 32(a)(2); *Cadent Ltd. v. 3M Unitek Corp.*, 232 F.R.D. 625, 628-
7 29, n.1 (C.D. Cal. 2005) ("It is well recognized that if the corporation is a party, the notice
8 compels it to produce *any* 'officer, *director* or managing agent' named in the deposition notice. It
9 is not necessary to subpoena such individual.") (emphasis added) (citations omitted); *accord*
10 *Resort Properties of Am. v. El-Ad Properties N.Y. LLC*, No. 0207-cv-00964-LRH-RJ,
2008 WL 2741131, at **2-3 (D. Nev. July 10, 2008) (same).

11 Here, Turnbull is a director of Defendant Sands China.³ By rule, his deposition can be
12 taken upon notice, just as Jacobs provided. Defendants' labeling of Turnbull as an independent
13 non-executive director – meaning he is not also an officer – is of no import. The Rule provides
14 for notice of deposition for both directors *and* officers, as well as managing agents. The
15 suggestion that only some directors – those that are also officers – should be subject to deposition
16 under Rule 30 by way of notice finds no support. *See Murata Mfg. Co. v. Bel Fuse, Inc.*,
17 2004 WL 2211608 at *1 (N.D. Ill. Sept. 30, 2004) (rejecting such distinction in the context of
18 serving process upon corporation because the law "makes no distinction between executive and
19 non-executive director . . .").

20 Besides, even if the Court were to suspend reality and pretend that there is some legal
21 significance to being an independent non-executive director for purposes of Rule 30, Turnbull is
22 also, by definition, a managing agent of Sands China, still subject to deposition by notice. A
23 person is a "managing agent" of a legal entity for purposes of Rule 30 when that person (1) is
24 vested with power to exercise his discretion and judgment in dealing with [the] corporate matter
25

26 ³ Apparently, Adelson has yet been able to carry out his plan to remove Turnbull. Jacobs
27 reasonably suspects that is why Defendants are trying to postpone the deposition, so that once
28 Turnbull is off the Board, he will no longer be accessible for evidence in this United States court
proceeding. And that is reason enough why this Court should not accommodate Defendants'
maneuvering.

1 [that is subject to the litigation], (2) can be depended upon to carry out [the] employer's direction
2 to give required testimony, and (3) has an alignment of interests with the corporation rather than
3 one of the other parties." *M.F. Bank Restoration Co. v. Elliot, Bray & Riley*, No. Civ. 92-0049,
4 1994 WL 8131, at **2-3 (E.D. Pa. Jan. 11, 1994). Moreover, doubts regarding a witness'
5 "managing agent" status are to be resolved in favor of the party seeking discovery. *Tomingas v.*
6 *Douglas Aircraft Co.*, 45 F.R.D. 94, 97 (S.D.N.Y. 1968). Again, that Turnbull is subject to
7 deposition by way of notice is not open to debate.

8 **B. Nevada is a Proper Location for the Defendants' Depositions.**

9 Contrary to Sands China's wishful thinking, the law provides that a "foreign corporation's
10 agents are frequently compelled for deposition on American soil." *Custom Form Mfg., Inc. v.*
11 *Omron Corp.*, 196 F.R.D. 333, 336 (N.D. Ind. 2000); *see also Rosenruist-Gestao e Servicos LDA*
12 *Virgin Enters. Ltd.*, 511 F.3d 437, 446 (4th Cir. 2007) ("Foreign corporations that are subject to
13 the personal jurisdiction of a district can be **and often are required** to produce officers, directors
14 or managing agents – regardless of where such witnesses personally reside – in the United States
15 for a Rule30(b)(6) deposition.") (emphasis added); *United States v. One Parcel of Real Estate at*
16 *5860 N. Bay Road*, 121 F.R.D. 439, 440-41 (S.D. Fla. 1988) (ordering directors of Panamanian
17 corporation, who resided in Columbia, to appear for deposition in Florida, the forum jurisdiction).

18 Although some courts have loosely referred to a "presumption" that a non-resident
19 defendant's deposition will be held where he or she resides,⁴ it is actually "merely a kind of
20 general rule that facilitates determination when **other relevant factors** do not favor one side over
21 the other." *New Medium Techs. LLC v. Barco NV.*, 242 F.R.D. 460, 466 (N.D.Ill.2007) (internal
22 quotation marks and citations omitted) (emphasis added).⁵ In other words, it is when all else is
23 equal and no other factors favor a particular location for a deposition that the general rule applies.

24 _____
25 ⁴ In reality, the mere presumption – as it is – is that the deposition of a corporation through
26 its agents should be taken at the corporation's principal place of business. *Custom Form Mfg.*,
27 196 F.R.D. at 336. And, as Jacobs has shown through the evidence presented, Sands China's
28 principal place of business is very much in Nevada. Once again, Sands China attempts to pretend
that VML's operations in Macau are the same as Sands China, which they are not.

⁵ As the court explained, the presumption "is not a presumption at all. Indeed, it is the
antithesis of a presumption." *New Medium Techs.*, 242 F.R.D. at 466.

1 *Custom Form Mfg.*, 196 F.R.D. at 336 ("And because of the court's discretion to designate the site
2 of the depositions, 'the presumption appears to be *merely a decision rule* that facilitates the
3 determination when other relevant factors do not favor one side over the other.'") (quoting *Bank of*
4 *New York v. Meridien Biao Bank Tanzania Ltd.*, 171 F.R.D. 135, 155 (S.D.N.Y. 1997)).

5 Thus, when no single location would be convenient for all involved, "the task of deciding
6 the proper location falls on the court." *S.E.C. v. Banc de Binary*, No. 2:13-CV-993-RCJ-VCF,
7 2014 WL 1030862, at *3 (D. Nev. Mar. 14, 2014) (citing *In re Outsidewall Tire Litig.*, 267 F.R.D.
8 466, 471 (E.D. Va. 2010)). Setting the location for depositions is "ultimately an exercise in the
9 vast discretion a district court has in supervising discovery." *New Medium Techs.*, 242 F.R.D.
10 at 462.

11 And again contrary to the Defendants' wants, the fact that foreign law has, or even could
12 be, used to impede discovery is something that counsels for holding the depositions on U.S. soil.
13 Under the law, "a foreign national who is a party can be required to appear here in the
14 United States for deposition and [] a foreign corporation, subject to the *in personum* jurisdiction
15 of this court, can be required under Rule 30(b)(6) to produce its officers, directors or managing
16 agents in the United States to give testimony in oral deposition." *Work v. Bier*, 106 F.R.D. 45, 52
17 (D.D.C. 1985) (any claimed violation of another country's judicial sovereignty is avoided by
18 ordering the depositions to take place in the United States.); *New Medium Techs.*,
19 242 F.R.D. at 460 (court ordered Japanese corporate deponents to travel from Japan to Chicago
20 for deposition on U.S. soil so as to avoid controversy); *In re Vitamin Antitrust Litig.*,
21 2001 WL 35814436 at *3 (D.D.C. Sept. 11, 2001) ("There are numerous cases in which courts
22 have ordered depositions of foreign defendants taken in the United States, rather than at the
23 defendant's principal place of business.").

24 Here, Defendants have insisted that Macau law precludes testimony about any personal
25 data, including that contained in documents. They have likewise claimed that any time
26 documents are in Macau, they become once again subject to the Macau Personal Data Privacy Act
27 ("MPDPA"). As courts in the United States have repeatedly recognized, it is just those types of
28 foreign law concerns that justify requiring depositions to be taken on U.S. soil. *See In re Honda*

1 *American Motor Co., Inc. Dealership Relations Litig.*, 168 F.R.D. 535, 538 (D. Md. 1996)
2 (compelling depositions to occur in the United States because if court "compels discovery on
3 foreign soil, foreign judicial sovereignty may be infringed, but when depositions of foreign
4 nationals are taken on American or neutral soil, courts have concluded that any comity concerns
5 are not implicated.") (citing numerous cases for proposition that depositions are properly ordered
6 in the United States so as to avoid concerns over foreign law and sovereignty); *Custom Form*
7 *Mfg.*, 196 F.R.D. at 336-37 ("The court's authority would be compromised by sovereignty issues
8 if deposition took place in Japan, rather than in the United States.").

9 Even if Defendants were not actively engaged in using foreign law hoping to curtail
10 discovery, courts recognize that ordering the depositions to occur in the forum is particularly
11 appropriate where discovery disputes are likely to occur and where counsel is located. Again,
12 Defendants' lead counsel is located in Las Vegas. Jacobs' counsel is similarly located in
13 Las Vegas. Defendants do not contend that their counsel cannot adequately represent Turnbull, or
14 any other party agent, during deposition in Nevada. See *Paleteria La Michoacana, Inc. v.*
15 *Productos Lacteos Tocumbo S.A. de C.V.*, 292 F.R.D. 19, 22 (D.D.C. 2013) (location of all lead
16 counsel in California weighed the factor in favor of holding the deposition in California).

17 Moreover, requiring all depositions to occur in Nevada will be significantly more
18 convenient and economical. See *E.I. DuPont de Nemours & Co. v. Kolon Indus., Inc.*,
19 268 F.R.D. 45, 55 (E.D. Va. 2010) (finding that the first factor weighed in favor of the plaintiff
20 where the defendant had American counsel "who would be inconvenienced more by travel to
21 Korea than travel to a location in [Virginia]"). Forcing party-agent depositions to occur abroad
22 would require at least four sets of attorneys and supporting personnel to travel to Asia. Such
23 travel requirements are not time or cost efficient. Considerable efficiencies will be gained by
24 ordering the deposition of Turnbull – and other party-agents – to take place in Las Vegas. These
25 benefits outweigh any conceivable burden to Turnbull or any other agent of Defendants.

26 This Court is also aware of the mid-deposition disputes that occurred during jurisdictional
27 discovery and will likely happen again given the issues involved in merits discovery. Discovery
28 has demonstrated that this matter is hotly contested and actively litigated. The best indicator of

1 future discovery disputes is the history of past disputes that required teleconferences with the
2 Court during the depositions. *See New Medium Techs. LLC*, 242 F.R.D. at 467 ("[T]he wrangling
3 that has gone on so far is a fair predictor of what may come.").

4 The likelihood of disputes during the upcoming depositions again warrants conducting the
5 depositions in this forum, and in this time zone,⁶ to allow the deposition to proceed fairly and
6 expeditiously. *See El Camino Res. Ltd. v. Huntington Nat. Bank*, No. 1:07-CV-598,
7 2008 WL 2557596, at *5 (W.D. Mich. June 20, 2008) (the potential for discovery disputes
8 weighed in favor of conducting the deposition in the forum state where discovery was contentious
9 and the court was faced with two other discovery motions set for hearing); *see also Campbell v.*
10 *Sedgwick Detert, Moran & Arnold*, No. CIV. 11-642-ES-SCM, 2013 WL 1314429, at *13
11 (D.N.J. Mar. 28, 2013) (large number of prior discovery disputes weighed in favor of conducting
12 the deposition in the forum where there was a "high likelihood that disputes will arise during the
13 depositions that may require resolution by the Court.").

14 The Court's inability to promptly resolve discovery disputes overseas would only cause
15 further delay and additional expense by necessitating motion practice and retaking of depositions.
16 Indeed, other courts have recognized the adverse impact on the court's supervisory role when
17 depositions are conducted in Asia. *See New Medium Techs. LLC*, 242 F.R.D. at 467
18 ("[C]onducting depositions in Japan, over a dozen time zones away and on the other side of the
19 International Dateline, would severely compromise – to put it mildly – the court's ability to
20 intervene should problems arise."); *see also Custom Form Mfg.*, 196 F.R.D. at 336-37 (noting that
21 a United States court's authority to resolve discovery disputes that might arise during depositions
22 in Japan is compromised both by distance and issues of foreign judicial sovereignty).

23 In fact, the Court's ability to supervise depositions – the inability to supervise depositions
24 conducted overseas on foreign soil – is recognized as the most significant factor. *See Delphi*
25 *Auto. Sys. LLC v. Shinwa Int'l Holdings LTD*, 2008 WL 2906765, at *2 (S.D. Ind. July 23, 2008)

26
27
28 ⁶ Macau is fifteen hours ahead of Pacific Standard Time.

1 ("The most significant factor in making the determination as to where the depositions at issue
2 should take place is the ability of the Court to intervene should a dispute arise.").

3 **III. CONCLUSION**

4 Defendants have fallen far short of demonstrating "good cause" to vacate Turnbull's
5 properly-noticed deposition. Indeed, they have transparently waited until the eve of the
6 deposition, thinking that they can make delay a foregone conclusion. Rewarding that tactic will
7 only encourage more of it. Defendants' own use of foreign law to obstruct and delay discovery is
8 itself recognized as a proper basis to require that the depositions occur in Nevada.

9 DATED this 15th day of June, 2015.

10 PISANELLI BICE PLLC

11 By: /s/ Todd L. Bice
12 James J. Pisanelli, Esq., #4027
13 Todd L. Bice, Esq., #4534
14 Debra L. Spinelli, Esq. #9695
15 Jordan T. Smith, Esq., #12097
16 400 South 7th Street, Suite 300
17 Las Vegas, Nevada 89101

18 Attorneys for Plaintiff Steven C. Jacobs
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 15th day of June, 2015, I caused to be served via the Court's E-Filing system, true and correct copies of the above and foregoing **PLAINTIFF STEVEN C. JACOBS' OPPOSITION TO OBJECTION TO NOTICE OF DEPOSITION OF DAVID TURNBULL AND MOTION FOR PROTECTIVE ORDER** properly addressed to the following:

J. Stephen Peek, Esq.
Robert J. Cassity, Esq.
HOLLAND & HART
9555 Hillwood Drive, Second Floor
Las Vegas, NV 89134
speek@hollandhart.com
rcassity@hollandhart.com

Michael E. Lackey, Jr., Esq.
MAYER BROWN LLP
1999 K Street, N.W.
Washington, DC 20006
mlackey@mayerbrown.com

J. Randall Jones, Esq.
Mark M. Jones, Esq.
KEMP, JONES & COULTHARD
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, NV 89169
jrj@kempjones.com
mmj@kempjones.com

Steve Morris, Esq.
Rosa Solis-Rainey, Esq.
MORRIS LAW GROUP
900 Bank of America Plaza
300 South Fourth Street
Las Vegas, NV 89101
sm@morrislawgroup.com
rsr@morrislawgroup.com

/s/ Shannon Thomas
An employee of PISANELLI BICE PLLC

EXHIBIT 1

DECLARATION OF TODD L. BICE

I, Todd L. Bice, Esq., declare as follows:

1. I am one of the attorneys representing Plaintiff Steven C. Jacobs ("Jacobs") in this action pending before this court, Case No. A-10-627691-C. I make this Declaration in Opposition to Objection to Notice of Deposition for David Turnbull and Motion for Protective Order. I am competent to testify to the facts stated herein.

2. On June 1, 2015, my office issued a Notice of Deposition of David Turnbull ("Turnbull") in conformity with NRCp 30(b), providing more than fifteen ("15") days advanced notice. We set the deposition for June 17, 2015. Neither I nor anyone else in my office heard anything from the Defendants' counsel complaining about the deposition date. Instead, the first I was contacted regarding the deposition was June 12, 2015, just days before the scheduled date. Mark Jones left me a voicemail that morning asking me to "vacate" the deposition, which I only learned of when I walked to this court that morning. Shortly before the hearing in front of this Court on June 12, 2015, I was approached by Steve Morris who claimed that the Defendants were objecting to the deposition and asked if I would agree to "vacate" it. I asked Morris as to what alternative dates were being proposed for the deposition. Morris stated that no alternative dates were being offered. Nor did he provide any basis for the request to vacate. For instance, no claim was made of scheduling conflicts with counsel or the witness.

3. It was apparent to me that the purpose for the last-minute request was to procure further delay. I informed Morris that we would not vacate the deposition unless he provided an alternative date and that we would be seeking to take depositions on U.S. soil due to what has transpired in this case. Again, no alternate date was or has been forthcoming.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

DATED this 15th day of June, 2015.


TODD L. BICE

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

2 *****

3 SANDS CHINA LTD., A Cayman
4 Islands corporation,

5 Petitioner,

6 v.

7 CLARK COUNTY DISTRICT
8 COURT, THE HONORABLE
9 ELIZABETH GONZALEZ,
10 DISTRICT JUDGE, DEPT. 11,

11 Respondents,

12 and

13 STEVEN C. JACOBS,

14 Real Party in Interest.

Case No.: 68275 Electronically Filed
Jun 23 2015 11:28 a.m.
Tracie K. Lindeman
Clerk of Supreme Court
**OPPOSITION TO SUPPORTED
EMERGENCY MOTION TO STAY
NRAP 27(e) – IMMEDIATE RELIEF
REQUIRED**

15 Petitioner Sands China, Ltd. ("Sands China") asks this Court to serve as super
16 discovery commissioner, supplanting the district court's discretion and knowledge
17 of the case in determining where and when depositions should occur. To do so,
18 Sands China ignores this Court's long-standing precedents and blusterously asserts
19 that it is "unprecedented" for a United States court to order a deposition to occur on
20 "American soil," even where the evidence below establishes the defendant
21 corporation's pervasive contacts and how it has sought to avoid providing sworn
22 testimony on foreign soil, including Hong Kong.

23 As supposed proof of its plight, Sands China attaches to its motion only its
24 briefs to the district court. Sands China failed to attach to its stay motion Real Party
25 in Interest Steven C. Jacobs' ("Jacobs") briefs, which set forth the extensive
26 precedent upon which the district court relied in entering its detailed order as to
27 why a Sands China Director – David Turnbull ("Turnbull") – could not be
28

effectively and fairly deposed in Hong Kong.¹ Sands China's omission of the "precedents" that the district court actually considered speaks volumes. As Jacobs set forth to the district court, courts frequently hold that it is proper to order corporate officers and directors to appear on U.S. soil for deposition. (Ex. 1 at 4-7.)

Sands China also omits disclosing how the district court considered the testimony of its chairman, Sheldon Adelson, as to his threats to remove Turnbull as a director. (Ex. 2 at 2.) As the district court observed in its order, Jacobs reasonably suspects that Sands China seeks further delay whereby Turnbull will become unavailable as a witness, despite his extensive involvement in the facts giving rise to this litigation. And, the district court expressly noted that Sands China had failed to address that concern. (Order at 3, n.3.) Thus, it is Jacobs, not the defendants, that face the potential for serious or irreparable harm by the continuing delays.

As the district court recognized, based upon its extensive involvement in this action, Turnbull's deposition is properly taken on "American soil" precisely because the Petitioner enlisted foreign law as a basis to claim witnesses would not answer questions. At the same time, the district court is intimately familiar with the obstruction of depositions that have occurred to date, as well as the fact that it has had to routinely intercede to timely rule upon objections and instructions not to answer. This too is a commonly recognized basis for ordering depositions to occur within a reasonable time zone to the court's accessibility. (Ex. 1 at 6-7).

The district court's decision is the exact opposite of unprecedented or arbitrary.² Sands China's continued attempts to delay discovery and place witnesses

¹ A true and correct copy of Jacobs' opposition to the motion for protective order is attached as Exhibit 1 and Jacobs' opposition to the motion to stay, also considered by the district court, is attached as Exhibit 2.

² Sands China's lack of forthrightness in claiming that the district court set the deposition on a mere five days' notice is offensive. In truth, the deposition notice was sent on June 1, 2015, and Petitioner stalled, not raising any issues or even setting its motion for protective order for hearing until the day before the scheduled deposition. Thus, the district court actually provided Sands China with additional time to produce Turnbull, despite its attempts at delaying the process.

1 out of reach must be rejected. A district court's reliance upon its extensive
2 involvement in the actual facts and circumstances of a case in determining the best
3 location where witnesses can be fairly examined in the search of truth is hardly the
4 makings of extraordinary writ relief.³

5 DATED this 23rd day of June, 2015.

6 PISANELLI BICE PLLC

7 By: /s/ Todd L. Bice

8 James J. Pisanelli, Esq., Bar No. 4027
9 Todd L. Bice, Esq., Bar No. 4534
10 Debra L. Spinelli, Esq., Bar No. 9695
11 Jordan T. Smith, Esq., Bar No. 12097
12 400 South 7th Street, Suite 300
13 Las Vegas, Nevada 89101

14 Attorneys for Real Party in Interest
15 Steven C. Jacobs
16
17
18
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20
21
22
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24
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26 ³ Sands China again misrepresents the record when it insinuates to this Court
27 that Turnbull might have some undefined "inability" to appear at his duly-scheduled
28 deposition (Motion at 4.) It knows that assertion to be less than forthright, and
presented no evidence or even argument of that to the district court. It is but a last
ditch act seeking to procure delay.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 23rd day of June 2015, I electronically filed and served a true and correct copy of the above and foregoing **REAL PARTY IN INTEREST STEVEN C. JACOBS' OPPOSITION TO PURPORTED EMERGENCY MOTION TO STAY NRAP 27(e) – IMMEDIATE RELIEF REQUIRED** properly addressed to the following:

J. Stephen Peek, Esq.
Robert J. Cassity, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

J. Randall Jones, Esq.
Mark M. Jones, Esq.
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, NV 89169

Steve Morris, Esq.
Rosa Solis-Rainey, Esq.
MORRIS LAW GROUP
300 South Fourth Street, Suite 900
Las Vegas, NV 89101

SERVED VIA HAND-DELIVERY ON 06/23/15
The Honorable Elizabeth Gonzalez
Eighth Judicial District court, Dept. XI
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

/s/ Shannon Thomas
An employee of PISANELLI BICE PLLC