

EXHIBIT 7

EXHIBIT 7

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

HEARING ON PLAINTIFF'S MOTION TO AMEND COMPLAINT

THURSDAY, JUNE 18, 2015

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD BICE, ESQ.
JORDAN T. SMITH, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
JON RANDALL JONES, ESQ.
STEVE L. MORRIS, 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 MR. BICE: -- SCL, just adding them to that other
2 count.

3 THE COURT: I got that part.

4 MR. BICE: All right. I thank the Court.

5 THE COURT: All right. The motion's granted in
6 part. With respect to adding Sands China to the breach of
7 contract cause of action the Court finds there is no prejudice
8 and grants that request.

9 As to adding VML as a new party, it appears to the
10 Court that under United Association of Journeymen versus
11 Manson it would be inappropriate to that action given the
12 Rule 41(e) issues. Solely based upon that and my analysis of
13 42(e)'s deadline at this point, which I understand the
14 defendants disagree with, I am denying the motion.

15 If for some reason the Nevada Supreme Court makes a
16 recalculation or issues an order related to what 41(e)
17 mentions, I'd be happy to reconsider the motion.

18 MR. BICE: We understand that, Your Honor.

19 THE COURT: Anything else? All right. I guess I'll
20 see you guys tomorrow on the motion to stay. Have a nice day.

21 MR. PEEK: See you tomorrow.

22 THE COURT: Oh. Sorry. My mistake. There's now a
23 new motion to unseal that is filed by UNITE HERE. It is
24 scheduled for July 21st at 9:00 o'clock. Do you want to reach
25 out to them and see if they want to have their hearing at the

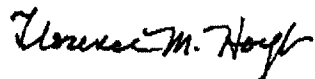
CERTIFICATION

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



FLORENCE M. HOYT, TRANSCRIBER

EXHIBIT 6

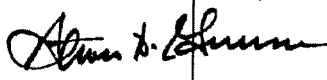
EXHIBIT 6

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN JACOBS,
Plaintiff(s),
vs
LAS VEGAS SANDS CORP, ET AL,
Defendants.

Case No. 10 A 627691
Dept. No. XI

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CLERK OF THE COURT

**ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL AND CALENDAR CALL**

IT IS HEREBY ORDERED THAT:

- A. The above entitled case is set to be tried to a jury on **October 14, 2015 at 9:00a.m.**
- B. The calendar call will be held pursuant to EDCR 2.69¹ on **October 12, 2015 at 9:00a.m.**

¹ Rule 2.69. Calendar call.

- (a) Unless otherwise directed by the court, trial counsel must bring to calendar call:
- (1) All exhibits already marked by counsel for identification purposes.
 - (2) Typed exhibit lists with all stipulated exhibits marked as admitted.
 - (3) Jury instructions in 2 groups: the agreed upon set and the contested set. The contested instructions must contain the name of the party proposing the same and the citations relied upon for authority.
 - (4) Proposed voir dire questions.
 - (5) Original depositions.
 - (6) A list of equipment needed for trial which is not usually found in the courtroom, i.e., overhead, VCR and monitor, view box, etc. At calendar call the court or its designee will inform counsel if such equipment is available in house or if counsel must procure the same and bring to the courtroom.
 - (7) Courtesy copies of legal briefs on trial issues. Originals must be filed and a copy served on opposing counsel at or before the close of trial.

CLERK OF THE COURT

MAY 27 2015 9

RECEIVED

1 C. The Final Pre-Trial Conference pursuant to EDCR 2.68² will be held with the designated
2 will be held on **September 18, 2015 at 9:00am**. Parties must disclose 48 hours prior to the Final
3 Pre-Trial Conferences and bring to the Final Pre-Trial Conferences the following:

- 4 (1) Typed exhibit lists;
- 5 (2) All exhibits already marked by counsel for identification purposes.
- 6 (3) List of depositions;
- 7 (4) List of equipment needed for trial, including audiovisual equipment;³ and
- 8 (5) Courtesy copies of any legal briefs on trial issues.
- 9 (6) Demonstrative Exhibits⁴
- 10 (7) Power Points to be used in Opening Statements

11 D. The Joint Pre-Trial Memorandum must be filed no later than **September 17, 2015**,
12 with a courtesy copy delivered to Department XI. All parties, (Attorneys and parties in proper person)
13 **MUST** comply with **All REQUIREMENTS** of NRCP 16.1a(3)⁵, E.D.C.R. 2.67⁶, 2.68 and 2.69.

14
15
16
17 ² That rule provides in pertinent part:

18 **Rule 2.68. Final pre-trial conference.**

19 * * *

20 (b) At the pre-trial conference, the court may consider the following subjects:

- 21 (1) Prospects of settlement.
- 22 (2) Use of depositions at trial in lieu of live testimony.
- 23 (3) Time required for trial.
- 24 (4) Alternate methods of dispute resolution.
- 25 (5) Readiness of case for trial.
- 26 (6) Any other matters.

27 (c) The pre-trial conference must be attended by designated trial counsel who are knowledgeable and prepared
28 for such conference. Should the designated trial counsel fail to appear at the pre-trial conference or to comply with
this rule, an ex parte hearing may be held and judgment of dismissal or default or other appropriate judgment
entered or other sanctions imposed.

29 ³ If counsel anticipate the need for audio visual equipment during the trial, a request must be submitted to the
District Courts AV department following the calendar call. You can reach the AV Dept at 671-3300 or by e-mail at
CourtHelpDesk@ClarkCountyCourts.us.

30 ⁴ This deadline does not apply to a demonstrative exhibit intended to illustrate a single witness's testimony
or utilized solely during Opening Statement or Closing Argument.

31 ⁵ NRCP 16.1(a)(3) provides in pertinent part:

1 Counsel should include in the Memorandum an identification of orders on all motions in limine or
2 motions for partial summary judgment previously made, a summary of any anticipated legal issues

3
4 **(3) Pretrial Disclosures.** In addition to the disclosures required by Rule 16.1(a)(1) and (2), a party must
5 provide to other parties the following information regarding the evidence that it may present at trial, including
6 impeachment and rebuttal evidence:

7 (A) The name and, if not previously provided, the address and telephone number of each witness,
8 separately identifying those whom the party expects to present, those witnesses who have been subpoenaed for trial,
9 and those whom the party may call if the need arises;

10 (B) The designation of those witnesses whose testimony is expected to be presented by means of a
11 deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

12 (C) An appropriate identification of each document or other exhibit, including summaries of other
13 evidence, separately identifying those which the party expects to offer and those which the party may offer if the
14 need arises.

15 Unless otherwise directed by the court, these disclosures must be made at least 30 days before trial. Within 14 days
16 thereafter, unless a different time is specified by the court, a party may serve a list disclosing (i) any objections to
17 the use under Rule 32(a) of a deposition designated by another party under subparagraph (B), and (ii) any objection,
18 together with the grounds therefor, that may be made to the admissibility of materials identified under subparagraph
19 (C). Objections not so disclosed, other than objections under NRS 48.025 and 48.035, shall be deemed waived
20 unless excused by the court for good cause shown.

21 ⁶ That rule provides in pertinent part:

22 Rule 2.67. Meetings of counsel before calendar call or final pretrial conference; pretrial memorandum.

23 (a) Prior to any calendar call or final pretrial conference, the designated trial attorneys for all the parties must meet
24 together to exchange their exhibits and lists of witnesses, and arrive at stipulations and agreements, all for the
25 purpose of simplifying the issues to be tried. The plaintiff must designate the time and place of the meeting which
26 must be within Clark County, unless the parties agree otherwise. At this conference between counsel, all exhibits
27 must be exchanged and examined and counsel must also exchange a list of the names and addresses of all witnesses,
28 including experts, to be called at the trial. The attorneys must then prepare a joint pretrial memorandum which must
be served and filed not less than 15 days before the date set for trial. If agreement cannot be reached, a memorandum
must be prepared separately by each attorney and so submitted. A courtesy copy of each memorandum must be
delivered to the court at the time of filing.

(b) The pretrial memorandum must be as concise as possible and must state the date the conference between the
parties was held, the persons present, and include in numerical order the following items:

- 29 (1) A brief statement of the facts of the case.
- 30 (2) A list of all claims for relief designated by reference to each claim or paragraph of a pleading and a
31 description of the claimant's theory of recovery with each category of damage requested.
- 32 (3) A list of affirmative defenses.
- 33 (4) A list of all claims or defenses to be abandoned.
- 34 (5) A list of all exhibits, including exhibits which may be used for impeachment, and a specification of any
35 objections each party may have to the admissibility of the exhibits of an opposing party. If no objection is stated, it
36 will be presumed that counsel has no objection to the introduction into evidence of these exhibits.
- 37 (6) Any agreements as to the limitation or exclusion of evidence.
- 38 (7) A list of the witnesses (including experts), and the address of each witness which each party intends to
call. Failure to list a witness, including impeachment witnesses, may result in the court's precluding the party from
calling that witness.
- 39 (8) A brief statement of each principal issue of law which may be contested at the time of trial. This
statement shall include with respect to each principal issue of law the position of each party.
- 40 (9) An estimate of the time required for trial.
- 41 (10) Any other matter which counsel desires to bring to the attention of the court prior to trial.

1 remaining, a brief summary of the opinions to be offered by any witness to be called to offer opinion
2 testimony as well as any objections to the opinion testimony.

3 E. All pretrial motions, however styled, will be filed in compliance with EDCR 2.20⁷
4 and 2.27⁸ unless those requirements are specifically modified in this Order. All dispositive
5 motions must be in writing and filed no later than **August 7, 2015**. Orders shortening time will not
6 be signed except in extreme emergencies.
7
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11
12

13 7 That rule provides in pertinent part:

14 **Rule 2.20. Motions; contents; responses and replies; calendaring a fully briefed matter.**

15 (a) Unless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be
16 limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and
authorities, the papers shall include a table of contents and table of authorities.

17 (b) All motions must contain a notice of motion setting the same for hearing on a day when the district judge to
whom the case is assigned is hearing civil motions in the ordinary course. The notice of motion must include the
time, department, and location where the hearing will occur.

18 (c) A party filing a motion must also serve and file with it a memorandum of points and authorities in support of
19 each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not
meritorious, as cause for its denial or as a waiver of all grounds not so supported.

* * *

20 8 That rule provides in pertinent part:

21 **Rule 2.27. Exhibits.**

22 (a) Exhibits that are submitted to the court that are in excess of 10 pages in length must be numbered
consecutively in the lower right-hand corner of the document. Exhibits shall be separated by sheets with the
23 identification "Exhibit ____" centered in the separator page in 24-point font or larger.

24 (b) Where the exhibits to be submitted are collectively in excess of 100 pages, the exhibits must be filed as a
separate appendix and must include a table of contents identifying each exhibit and the numbering sequence of the
exhibits.

25 (c) Unless otherwise ordered by the court, exhibits that are in a format other than documents that can be scanned
may not be filed in support of pretrial and post-trial briefs. Where the court enters an order permitting the filing of
26 non-documentary exhibits in support of pretrial and post-trial briefs which contain audio or video information, the
filing must be filed with a captioned cover sheet identifying the exhibit(s) and the document(s) to which it relates
27 and be accompanied by a transcript of the contents of the exhibit.

28 (d) Oversized exhibits shall be reduced to eight and one-half inches by eleven inches (8.5" x 11") unless
otherwise permitted by the court or unless such reduction would destroy legibility. An oversized exhibit that cannot
be reduced shall be filed manually and separately with a captioned cover sheet identifying the exhibit and the
document(s) to which it relates.

1 F. All motions in limine must be filed in compliance with EDCR 2.47⁹ and filed no later
2 than **August 14, 2015**. Orders shortening time will not be signed except in extreme
3 emergencies.
4

5 G. Counsel shall meet, review, and discuss the proposed jury questionnaire. Counsel will
6 submit in Word format the joint proposed jury questionnaire on or before **September 11,**
7 **2015** or if no agreement has been reached the competing versions in Word format on or before
8 September 13, 2015. The Court will freely grant requests for inclusion of questions by the
9 Parties. Upon submission of the proposed jury questionnaire, the Court will review the jury
10 questionnaire and will make any appropriate modifications. A hearing will be held on any
11 objections to the jury questionnaire on **September 14, 2015 at 9:00 a.m.**
12
13

14 H. All original depositions anticipated to be used in any manner during the trial must be
15 delivered to the clerk prior to the final Pre-Trial Conference. If deposition testimony is anticipated to be
16 used in lieu of live testimony, a designation (by page/line citation) of the portions of the testimony to be
17 offered must be filed and served by facsimile or hand, two (2) judicial days prior to the final Pre-Trial
18 Conference. Any objections or counterdesignations (by page/line citation) of testimony must be filed and
19 served by facsimile or hand, one (1) judicial day prior to the final Pre-Trial Conference commencement.
20 Counsel shall advise the clerk prior to publication.
21

22 ⁹ That rule provides in pertinent part:

23 **Rule 2.47. Motions in limine.** Unless otherwise provided for in an order of the court, all motions in limine to
24 exclude or admit evidence must be in writing and filed not less than 45 days prior to the date set for trial and must be
heard not less than 14 days prior to trial.

25 (a) The court may refuse to sign orders shortening time and to consider any oral motion in limine and any
motion in limine which is not timely filed or noticed.

26 (b) Motions in limine may not be filed unless an unsworn declaration under penalty of perjury or affidavit of
27 moving counsel is attached to the motion setting forth that after a conference or a good-faith effort to confer, counsel
have been unable to resolve the matter satisfactorily. A "conference" requires a personal or telephone conference
28 between or among counsel. Moving counsel must set forth in the declaration/affidavit what attempts to resolve the
matter were made, what was resolved, what was not resolved and the reasons therefore. If a personal or telephone
conference was not possible, the declaration/affidavit shall set forth the reasons.

1 I. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
2 exhibits must comply with EDCR 2.27. Two (2) sets must be three hole punched placed in three ring
3 binders along with the exhibit list. The sets must be delivered to the clerk prior to the final Pre-Trial
4 Conference. Any demonstrative exhibits including exemplars anticipated to be used must be disclosed
5 prior to the calendar call. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel shall be
6 prepared to stipulate or make specific objections to individual proposed exhibits. Unless otherwise
7 agreed to by the parties, demonstrative exhibits are marked for identification but not admitted into
8 evidence.
9

10 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
11 included in the Jury Notebook. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel shall be
12 prepared to stipulate or make specific objections to items to be included in the Jury Notebook.
13

14 K. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
15 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall provide the
16 Court, at the final Pre-Trial Conference, an agreed set of jury instructions and proposed form of verdict
17 along with any additional proposed jury instructions with an electronic copy in Word format.
18

19 L. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two (2)
20 judicial days prior to the final Pre-Trial Conference, follow up Voir Dire to Jury Questionnaire responses
21 proposed to be conducted pursuant to conducted pursuant to EDCR 2.68.
22

23 **Failure of the designated trial attorney or any party appearing in proper person to appear**
24 **for any court appearances or to comply with this Order shall result in any of the following: (1)**
25 **dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial date;**
26 **and/or any other appropriate remedy or sanction.**
27

28 Counsel is required to advise the Court immediately when the case settles or is otherwise resolved
prior to trial. A stipulation which terminates a case by dismissal shall also indicate whether a Scheduling

1 Order has been filed and, if a trial date has been set, the date of that trial. A copy should be given to
2 Chambers.

3 Dated this 26th day of May, 2015.

4
5 
6 Elizabeth Gonzalez, District Court Judge

7
8 Certificate of Service

9 I hereby certify, that on the date filed, this Order was served on the parties identified on
10 Wiznet's e-service list.

11
12 J. Stephen Peek, Esq. (Holland & Hart)

13 Randall Jones (Kemp Jones Coulthard)

14 Steve Morris (Morris Law)

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

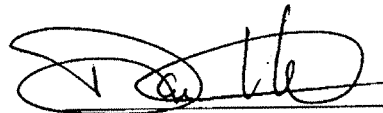
16 
17 Dan Kutinac

EXHIBIT 5

EXHIBIT 5

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDS CHINA LTD.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,
and

STEVEN C. JACOBS,
Real Party in Interest.

No. 58294

FILED

AUG 26 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's motion to dismiss for lack of personal jurisdiction.

Petitioner asserts that the district court improperly based its exercise of personal jurisdiction on petitioner's status as a subsidiary of a Nevada corporation with common officers and directors. Real party in interest contends that the district court properly determined that he had established a prima facie basis for personal jurisdiction based on the acts taken in Nevada to manage petitioner's operations in Macau.

The district court's order, however, does not state that it has reviewed the matter on a limited basis to determine whether prima facie grounds for personal jurisdiction exist; it simply denies petitioner's motion to dismiss, with no mention of a later determination after consideration of evidence, whether at a hearing before trial or at trial. While the order refers to the district court's comments at oral argument on the motion, the

transcript reflects only that the district court concluded there were “pervasive contacts” between petitioner and Nevada, without specifying any of those contacts. We have therefore found it impossible to determine the basis for the district court’s order or whether the district court intended its order to be its final decision regarding jurisdiction or if it intended to consider the matter further after the admission of evidence at trial (or an evidentiary hearing before trial).

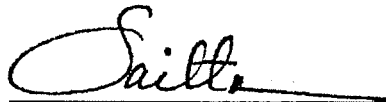
In MGM Grand, Inc. v. District Court, 107 Nev. 65, 807 P.2d 201 (1991), we held that jurisdiction over a nonresident corporation could not be premised upon that corporation’s status as parent to a Nevada corporation. Similarly, the United States Supreme Court in Goodyear Dunlop Tires Operations, S.A. v. Brown, 131 S. Ct. 2846 (2011), considered whether jurisdiction over foreign subsidiaries of a U.S. parent corporation was proper by looking only to the subsidiaries’ conduct; the Court suggested that including the parent’s contacts with the forum would be, in effect, the same as piercing the corporate veil. Based on the record before us, it is impossible to determine if the district court in fact relied on the Nevada parent corporation’s contacts in this state in exercising jurisdiction over the foreign subsidiary.

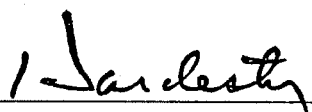
Accordingly, having reviewed the petition, answer, reply, and other documents before this court,¹ we conclude that, based on the summary nature of the district court’s order and the holdings of the cases

¹Petitioner’s motion for leave to file a reply in support of its stay motion is granted, and we direct the clerk of this court to detach and file the reply attached to the August 10, 2011, motion. We note that NRAP 27(a)(4) was amended in 2009 to permit a reply in support of a motion without specific leave of this court; thus, no such motion was necessary.

cited above, the petition should be granted, in part. We therefore direct the district court to revisit the issue of personal jurisdiction over petitioner by holding an evidentiary hearing and issuing findings regarding general jurisdiction. If the district court determines that general jurisdiction is lacking, it shall consider whether the doctrine of transient jurisdiction, as set forth in Cariaga v. District Court, 104 Nev. 544, 762 P.2d 886 (1988), permits the exercise of personal jurisdiction over a corporate defendant when a corporate officer is served within the state. We further direct that the district court shall stay the underlying action, except for matters relating to a determination of personal jurisdiction, until a decision on that issue has been entered. We therefore

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to hold an evidentiary hearing on personal jurisdiction, to issue findings of fact and conclusions of law stating the basis for its decision following that hearing, and to stay the action as set forth in this order until after entry of the district court's personal jurisdiction decision.²


Saitta, J.


Hardesty, J.

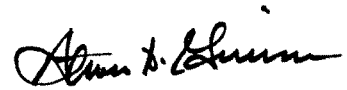

Parraguirre, J.

²Petitioner's motion for a stay is denied as moot in light of this order.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Glaser, Weil, Fink, Jacobs, Howard & Shapiro, LLC
Campbell & Williams
Eighth District Court Clerk

EXHIBIT 4

EXHIBIT 4



CLERK OF THE COURT

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

HEARING ON SANDS CHINA'S MOTION TO STAY

THURSDAY, JUNE 25, 2015

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.

FOR THE DEFENDANTS:

ROBERT CASSITY, ESQ.
JON RANDALL JONES, ESQ.
STEVE L. MORRIS, ESQ.

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

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

1 LAS VEGAS, NEVADA, THURSDAY, JUNE 25, 2015, 8:34 A.M.

2 (Court was called to order)

3 THE COURT: How about Jacobs versus Sands? Do I
4 have everybody I need? I don't see Steve Peek yet, but I see
5 Mr. Cassity.

6 MR. RANDALL JONES: He's in Spain, apparently.

7 THE COURT: So he is on his vacation?

8 MR. CASSITY: He is, Your Honor.

9 THE COURT: And he will return with a better frame
10 of mind.

11 MR. RANDALL JONES: Hopefully. He's with his ex-
12 wife, Your Honor, so -- and their two kids. So you never
13 know. But he has demonstrated his courage.

14 THE COURT: I received two notes from the Nevada
15 Supreme Court, and so I want to make sure that I understand
16 what your position is with respect to the order related to the
17 jurisdictional issue, as opposed to the deposition.

18 MR. RANDALL JONES: Your Honor, it's my
19 understanding -- I've got both the orders here with me, so --

20 THE COURT: I have them, too.

21 MR. RANDALL JONES: Hopefully I understand what
22 they're saying. I understand that the writ has been accepted
23 and there's been an order that the respond come within 20 days
24 and that your order related to jurisdiction has been stayed.
25 That's one order.

1 And then I also understand that the Turnbull
2 deposition --

3 THE COURT: I'm not worried about the Turnbull
4 deposition. That's pretty clear they've stayed that
5 deposition pending a decision on something else.

6 What I'm more concerned about is the language that
7 is included in the -- that is included in the other order,
8 which says, "We stay the District Court's order at issue
9 pending further order of this court." And the order at issue
10 I think is my decision that was issued after the evidentiary
11 hearing, which solely dealt with Sands China's motion to
12 dismiss on evidentiary issues that had been brought four years
13 ago.

14 MR. RANDALL JONES: I'm not sure --

15 THE COURT: Well, that's why I'm asking the question
16 before we get to the motion to stay, because I want to know
17 what you all think they've already stayed, so then I can
18 address any remaining issues. But my interpretation when I
19 read this the first time was they only stayed the order
20 denying Sands China's motion to dismiss on jurisdictional
21 grounds.

22 MR. RANDALL JONES: Well, I would say that it
23 specifically references your order dated June 19th on the
24 first page, bottom of the first page. And it says --

25 THE COURT: Well, but that's the other order. You

1 want to go to the other order. June 19th is Turnbull.
2 MR. RANDALL JONES: Oh. Yes.
3 THE COURT: You want to go to the other order that
4 doesn't say June 19? Mine says 15-19-193 on the bottom. I
5 guess they open different files.
6 MR. RANDALL JONES: Yes.
7 MR. MORRIS: They are different files.
8 MR. RANDALL JONES: Right.
9 THE COURT: And all it says is, the top of the
10 second page -- "Further, we stay the District Court's order at
11 issue pending further order of the court." The only thing I
12 think is at issue in that writ, and I didn't read it as
13 carefully as I would have if I was one of the lawyers, was the
14 order determining jurisdiction, which -- affects Sands China
15 only.
16 MR. MORRIS: I think that's correct.
17 THE COURT: Okay.
18 MR. RANDALL JONES: I think that's correct, too.
19 That would be my --
20 THE COURT: Okay. So we all think that's what
21 they've ordered.
22 MR. RANDALL JONES: Yes.
23 THE COURT: Okay. So, for instance, anything
24 related to Mr. Jones, since he only represents Sands China, is
25 stayed.

1 MR. RANDALL JONES: That -- well, speaking for Sands
2 China, and I don't want to speak for the other parties, but I
3 would -- I would certainly agree that as it relates -- that's
4 my interpretation, Your Honor, as it relates to Sands China
5 the order has been stayed.

6 THE COURT: Okay. And, Mr. Pisanelli, do you agree
7 with that?

8 MR. PISANELLI: I agree that the order you recently
9 entered, which was about jurisdiction, the hearing we had that
10 related, as you said, to the motion to dismiss is stayed.

11 THE COURT: From four years ago.

12 MR. PISANELLI: Is stayed. I'm not sure that
13 there's any consequence to that stay, but it's stayed.

14 THE COURT: Well, no. They're saying I can't
15 exercise any jurisdiction over Sands China at this point --

16 MR. RANDALL JONES: That's my interpretation, Your
17 Honor.

18 THE COURT: -- because I denied their motion to
19 dismiss.

20 So then what we were here on before we got those two
21 orders yesterday afternoon is we were going to talk about the
22 motion to stay that's been filed. Does anybody still want to
23 talk about the motion to stay that's still been filed?

24 MR. RANDALL JONES: Well, Your Honor, I guess I
25 would at least say this. I think that it would seem to make

1 sense to me, Your Honor, that the only thing that -- or at
2 least as I would understand it, that would be remaining is
3 whether or not the stay should be entered with respect to Las
4 Vegas Sands and Mr. Adelson.

5 THE COURT: Who are the other two moving parties in
6 the motion to stay before me today.

7 MR. RANDALL JONES: Right. And so, again, let me
8 just articulate the position from Sands China's position.
9 Based on what you've already said this morning, then I think
10 it makes sense for all concerned that the entire case be
11 stayed, because Sands China doesn't want to be in a position,
12 should the Supreme Court decide at some point in the future
13 that Sands China should be brought back into this case, that
14 it would not have been the beneficiary of any merits discovery
15 that went forward from this point forward, and so that would
16 make -- from Sands China's perspective we think it makes the
17 most sense to stay the rest of the case pending the resolution
18 of the currently pending writ. As you know, we do plan to
19 file another writ, maybe perhaps as early as today, with
20 respect to the trial date.

21 THE COURT: Well, why would you do that, since it's
22 already stayed as of --

23 MR. RANDALL JONES: When I say we I was speaking
24 collectively as we. So you're right. At this point -- I say
25 that as of yesterday, my mindset as of yesterday. But that's

1 my understanding at this point. The other parties intend to
2 go forward with that. And so from Sands China's perspective
3 we still think a stay --

4 THE COURT: And that's on my trial setting order.

5 MR. RANDALL JONES: Yes, that's correct.

6 THE COURT: Okay.

7 MR. RANDALL JONES: And so from Sands China's
8 perspective we still think that makes sense, to stay merits
9 discovery until we can get some more direction from the
10 Supreme Court with respect to at a minimum the jurisdictional
11 question over Sands China.

12 THE COURT: Okay.

13 MR. RANDALL JONES: That's Sands China's position.

14 THE COURT: So then let me go to the movant who
15 remains, since Sands China is not really a movant anymore,
16 since the Supreme Court took care of that.

17 So, Mr. Morris, Mr. Cassity, did you want to say
18 anything about the motion to stay that was filed?

19 MR. MORRIS: I want to say essentially what Mr.
20 Jones just said, and that is I believe because of the -- we
21 have two writs pending, and we have one -- another one that's
22 the subject of a footnote in one of the orders, the order with
23 respect to Turnbull's deposition. We're going to file that.
24 We're order to file that no later than tomorrow. And we will.
25 That rule addresses what we have debated here for the last

1 several weeks, the Rule 41(e) issue and whether the whole
2 proceeding, with the exception --

3 THE COURT: They gave you till Friday to file it.

4 MR. MORRIS: Let me assure you that we have a draft
5 of it. So I won't be up writing it all night. But we will
6 file that. And in connection with that, Your Honor, we will
7 ask, and that is why we are here, so we can say to the Supreme
8 Court what your position is, we will ask that the Supreme
9 Court confirm that the stay of proceedings is across the board
10 until these writs are disposed of.

11 THE COURT: Well, but they haven't stayed it yet.
12 You're asking me now to do that.

13 MR. MORRIS: That's what I said. We'll ask them.
14 And that's why we're here to ask you first.

15 THE COURT: I understand. Because you have to ask
16 me first.

17 MR. MORRIS: That's right.

18 THE COURT: Right. Anything else, Mr. Cassity?

19 MR. CASSITY: Your Honor, no. I just echo what Mr.
20 Jones and Mr. Morris have said --

21 THE COURT: Thanks.

22 MR. CASSITY: -- and point out that, you know, we
23 agree that piecemeal discovery doesn't make sense in this
24 case.

25 THE COURT: You know, I've tried other cases where

1 there's been bankruptcy stays, and then we've got to try them
2 again with the parties who are back. And it's difficult for
3 everybody, but it's the way the system works when there are
4 stays.

5 So Mr. Pisanelli.

6 MR. PISANELLI: Your Honor, I think -- quite
7 certain, actually, we have a different take on whether any
8 portion of this action is stayed. We have the Supreme Court
9 telling us in this order that you've just referenced with the
10 19-193 at the bottom that your order is stayed. So that begs
11 the question as what does that mean by way of a stay of the
12 entire case or a portion of the case --

13 THE COURT: It doesn't stay the entire case. I
14 think we all agree.

15 MR. PISANELLI: It doesn't say anything. It doesn't
16 say anything except an order. So there seems to be the
17 assumption in the defendants' arguments that we are somehow
18 going back to a stay of discovery, merits or otherwise, and I
19 don't think that's the case. If we look at the 2011 order for
20 the writ, it says, quote, "We further direct that the District
21 Court shall stay the underlying action, except for matters
22 relating to the determination of personal jurisdiction, until
23 a decision on that issue has been entered."

24 A decision on that issue has in fact been entered.
25 And so we are now left with this August 2011 order that has no

1 further effect in this case. This order, 2011, has been fully
2 satisfied, and that's why we have now launched into merits
3 discovery.

4 The defendants go up and say that they don't like
5 your order on the motion to dismiss, and the Supreme Court
6 said, okay, on that order, that order itself is stayed. It
7 didn't say that we're going back to the 2011 status, it didn't
8 say that discovery against Sands China Limited is stayed, it
9 didn't say that any aspect other than your order is stayed.
10 We certainly know from past experience in all other cases, as
11 well as the August 2011 order, that if the Supreme Court
12 wanted to stay any aspect of this case as it relates to SCL,
13 it could have said so, just like it did in 2011. But it
14 didn't.

15 As a matter of fact, Your Honor, if you look at the
16 writ that resulted in this new order staying your I'll call it
17 the jurisdictional order, there's not even a request there for
18 a stay. So, you know, how we are jumping logically to the
19 conclusion that some portion of this case other than your
20 order is stayed is lost on me.

21 I'll also throw this out for consideration. I
22 know you don't want to talk about the Turnbull order, but
23 if there --

24 THE COURT: I have it, though.

25 MR. PISANELLI: Yeah. If there in fact was a stay

1 as it relates to SCL or we're going back to the 2011 status,
2 there would have been no need to stay that deposition. You
3 know, we can have a debate of how extraordinary it is for the
4 Supreme Court to be involved in an issue like the location of
5 a deposition. That's a discussion for another day. But they
6 certainly didn't need to take that extraordinary step if, as
7 defendants are now arguing, that discovery against Sands China
8 Limited was stayed anyway in its totality.

9 And so my point is very simple. We are now in the
10 status that we all expected we would be in at the conclusion
11 of the evidentiary hearing and following the entry of your
12 order. We cannot take your order and argue for some type of
13 advantage because of jurisdictional findings that you have,
14 because that issue -- the status quo is now stayed and we're
15 not going to use it to our advantage. But it certainly
16 doesn't mean we go back in time into 2011 as if your order has
17 not been entered. Your order triggered something in this
18 case, and that was discovery is now open against all parties.
19 If they want to close discovery again, they have to ask you,
20 as they have done, to do that. And if you say no, they have
21 to go to the Supreme Court and ask the Supreme Court to stay
22 some or all of the discovery. But as it stands right now
23 discovery is open, the case is proceeding against all of the
24 defendants. And so trying to ride on the coattails of the
25 Sands China order as the other defendants are now saying

1 because -- in other words, there's no discovery against Sands
2 China so let's stop discovery against LVS and Mr. Adelson, is
3 just a fundamentally flawed premise, underlying premise. It's
4 open to everybody, and therefore we should continue to go
5 forward.

6 This idea that we have so much to do and therefore
7 let's do nothing is counterintuitive. Your Honor has made
8 very clear even during the jurisdictional hearing of how you
9 wanted things accomplished. You asked -- strike that -- told
10 us to produce every document we had in the midst of --

11 THE COURT: I gave you more than a couple of the
12 days as the Supreme Court gave Mr. Morris.

13 MR. PISANELLI: Well, you gave us 14 days, and it
14 was an extraordinary task. I hired people in my firm to get
15 it done, and I did, because Your Honor was very clear you want
16 this case moving forward. The defendants, the Nevada-based
17 defendants in particular, request to stop everything. Even if
18 they were right in their underlying premise that Sands China
19 Limited is protected from discovery and therefore so, too,
20 should they, there's no basis for that. There's no prejudice
21 to doing what has to be done in this case at some point
22 anyway.

23 And so I've probably taken more words than I need to
24 say this. Discovery is now open against all of the parties,
25 and I ask Your Honor to keep it moving forward just like you

1 did with us during the jurisdictional hearing. It's time for
2 these defendants to start participating in good faith in all
3 discovery.

4 THE COURT: Thank you.

5 Anything else, Mr. Cassity, Mr. Morris? Mr. Jones?

6 MR. RANDALL JONES: Well --

7 THE COURT: It's stayed. I can't do anything to
8 you.

9 MR. RANDALL JONES: Well, he seemed to be arguing
10 that you could still go forward with discovery against my
11 client. I just want to make sure that -- if the Court's
12 considering that, I have a response to that. If the Court's
13 not, then --

14 THE COURT: Here's what I think he said, and I'm not
15 sure if he really meant it, is he could take non-party
16 depositions of a stayed party. But I don't know if he's going
17 to do that or not.

18 So Mr. Morris, Mr. Cassity?

19 MR. MORRIS: Your Honor, I think you can read these
20 orders -- as ambiguous as they might be with respect to the
21 stay, I think you can read this order by staying your order
22 that vacated the stay --

23 THE COURT: The only thing they stayed was an order
24 that I entered that says --

25 MR. MORRIS: And if you have not --

1 THE COURT: -- "Therefore, it is hereby ordered,
2 adjudged, and decreed defendant Sands China Limited's motion
3 to dismiss for lack of personal jurisdiction or, in the
4 alternative, plaintiff's failure to join an indispensable
5 party is denied."

6 MR. MORRIS: Right. And that if that order --

7 THE COURT: That's all it is.

8 MR. MORRIS: If that order had not been entered, the
9 stay would still be in effect. They stayed your order, and
10 that in my judgment -- we can agree or disagree on this --
11 revives the stay until this writ or these writs are resolved.
12 If you say you're not going to stay proceedings and go ahead,
13 well, say it. We're going to go to the Supreme Court and ask
14 them, after having asked you and been turned down, to stay the
15 whole case until we can straighten out jurisdiction, the
16 deposition of call them parties -- derivative parties, parties
17 by representation being pulled out of a foreign country and
18 into the United States for deposition and your trial order
19 that says, you've got to get this case to trial starting on
20 October the 14th, because on the 19th you believe under Mazuka
21 -- or Maduka that --

22 THE COURT: No. Under Rule 41(e).

23 MR. MORRIS: 41(e), yes. We need to straighten this
24 out. And if you -- I think the Supreme Court was responsive
25 to that point which was raised in the emergency petition for

1 stay of the deposition of David Turnbull.

2 THE COURT: But they didn't say it, Mr. Morris.

3 MR. MORRIS: Well, Your Honor, we're working under
4 compressed time schedules here. I can only make the argument
5 that I have. I can't tell you what they meant. I have no
6 idea what they meant if they didn't express themselves in these
7 orders. And I believe this order can be -- these orders can
8 be interpreted as saying to all of us the stay that was lifted
9 by your order denying Sands China's motion to dismiss is still
10 in effect because we are staying that order.

11 THE COURT: I understand your position.

12 Mr. Cassity, anything else?

13 MR. CASSITY: Nothing further, Your Honor. We agree
14 with his statements.

15 THE COURT: I disagree with Mr. Morris's analysis.
16 However, he may be correct in the way the Supreme Court meant
17 to express themselves. But I disagree with it. In addition,
18 it does not appear to me to serve any interest to stay the
19 remainder of the case given the issues related to 41(e). I
20 have concerns, I've expressed them, and I think we need to get
21 this case to trial for those parties who are remaining, unless
22 the Nevada Supreme Court clarifies either Rule 41(e) or the
23 stay issue. Okay?

24 MR. PISANELLI: Thank you, Your Honor.

25 THE COURT: Thanks. Have a nice day.

1 MR. MORRIS: I'm going to stay for a few minutes for
2 the next matter.

3 THE COURT: Okay. What's the next matter.

4 MR. RANDALL JONES: I'm sorry. We also -- I thought
5 we had our motion to seal on calendar, as well.

6 THE COURT: I can't do anything to you. I'm stayed.

7 MR. RANDALL JONES: Fair enough.

8 MR. PISANELLI: So then that motion is --

9 THE COURT: I can't do anything.

10 MR. PISANELLI: -- denied as moot?

11 THE COURT: You know, that's a different issue for
12 another day.

13 MR. RANDALL JONES: Well, I would disagree with that
14 interpretation. I guess it's in limbo.

15 THE COURT: Yeah. I didn't resolve it. It's just
16 sitting there waiting for some day that you'll tell me, gosh,
17 Judge, you can act with respect to my client again, and then I
18 will do so.

19 MR. RANDALL JONES: You know what, while we're here,
20 Judge, then that I guess implicates another issue, which is
21 the motion on the 16th of July, the Guardian and the other
22 party's motion. What do we do with those if we have the stay
23 in place? Are those again in limbo?

24 THE COURT: I'm going to leave them on for now,
25 seeing what happens with the Nevada Supreme Court.

1 MR. RANDALL JONES: Okay.

2 THE COURT: And if they're ordering Mr. Morris to do

3 things on 24 hours', 48 hours' notice, they may be able to do

4 something quickly themselves.

5 MR. RANDALL JONES: Very well.

6 MR. MORRIS: Your Honor, I want you to know that I

7 appreciate being served coffee even if I got turned down.

8 THE COURT: You know, it's -- you don't always have

9 to agree with me, Mr. Morris. But I will always treat

10 everybody respectfully. Have a great day.

11 MR. MORRIS: I'm hoping at some time to reach points

12 of agreement with me more frequently than I have.

13 THE COURT: Hey, I signed Steve Peek's order that he

14 submitted the other day.

15 MR. MORRIS: Thank you.

16 THE PROCEEDINGS CONCLUDED AT 8:53 A.M.

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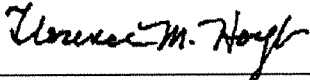
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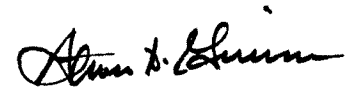
**FLORENCE HOYT
Las Vegas, Nevada 89146**



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EXHIBIT 3

EXHIBIT 3



CLERK OF THE COURT

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

SUPPLEMENTAL 16.1 CONFERENCE

THURSDAY, JUNE 12, 2015

APPEARANCES:

FOR THE PLAINTIFF:

TODD BICE, ESQ.
JORDAN T. SMITH, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
JON RANDALL JONES, ESQ.
IAN P. MCGINN, ESQ.
STEVE L. MORRIS, ESQ.

COURT RECORDER:

PATTI SLATTERY
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, JUNE 12, 2015, 10:41 A.M.

2 (Court was called to order)

3 THE COURT: I scheduled this as a supplemental 16.1
4 and issue related to the objection -- you can sit down, if
5 you'd like -- and a discussion about discovery. So it's
6 basically all the same discussion. I originally -- I went
7 back through the file, and this is a really old file. The
8 original status report that Mr. Peek filed April 22nd, 2011,
9 had a 60-day document production schedule on a rolling
10 schedule. So that's what I went back to as my controlling
11 document, because this was the plan prior to the original
12 stay.

13 So what I'd like to talk about is where we are, how
14 we get places, and what we do to get you set for trial before,
15 as I perceive it, the earliest possible time at which Rule
16 41(e) will expire. And while I understand you have a
17 difference of opinion, my responsibility is to get it to trial
18 before the earliest possible date. I can't be making a
19 judgment call as to who's right or who's wrong on the
20 decision, because someone's rights may then be extinguished by
21 my bad call. And I'm not going to make that call because of
22 what happened in that silly Meduka [phonetic] case.

23 MR. MORRIS: So you're denying the motion?

24 THE COURT: I haven't denied anything yet. I'm
25 listening. I'm still listening.

1 asking, Mr. Morris. And I recognize the calculation that
2 you've made appears to be an appropriate calculation. My
3 concern is -- and you know this, because you've read all the
4 41(e) cases on stays probably in the last month -- the Nevada
5 Supreme Court is not necessarily consistent in the way they
6 have historically made decisions. And while we do have the
7 case from North Las Vegas, the Boren case, we've had so many
8 cases over the years that deal with quirks that the Nevada
9 Supreme Court has found one way or the other as to Rule 41(e).
10 So my procedure after that Meduka case came down that
11 specifically criticized the District Court's management of the
12 cases and getting them to trial was where I have a concern
13 about whether there is a tolling, a stay, or an extension is
14 to request briefing from the parties related to that to see if
15 there is at least a portion of a stay that the parties agree
16 to. I did that in this case a couple of years ago. I did
17 three cases at the same time. I did it in CityCenter, did it
18 in Granite Gaming, and did it in this case. I did them all at
19 the same time because I had a high level of concern and those
20 cases had a history with the Nevada Supreme Court, all three
21 of them.

22 MR. MORRIS: Yes.

23 THE COURT: And for some reason, and I don't
24 remember, because I never got anything on the record and I
25 never got anything in writing, I remember being told in this

1 MR. MORRIS: So as we disagree about the meaning
2 "except," why, you didn't mean to say "again."

3 THE COURT: Well, but when I'm mentioned by name in
4 a case that isn't mine I figure that's again.

5 MR. MORRIS: All right. Well, if that's your --

6 THE COURT: I mean, that's my perception. And
7 that's why I asked in this case for briefing on the 41(e)
8 issue long, long ago, because I had concerns. I'm not
9 foreclosing you from making the argument. You never know.
10 The Supreme Court might give us a hard and fast rule if you go
11 up there. I would love to see a hard and fast rule which made
12 the District Judge's job easier to manage cases where there
13 have been issues that might result in tolling of 41(e) and
14 there is not agreement as to what those are.

15 MR. MORRIS: So I will take that as invitation,
16 which I will accept, to take this to the Supreme Court and
17 say, decide this issue for us --

18 THE COURT: Sure.

19 MR. MORRIS: -- because we can't agree on it.

20 THE COURT: Mr. Morris, you know it doesn't bother
21 me. I would love to have more clarification from them.

22 MR. MORRIS: Okay.

23 THE COURT: But I'm going to give everybody a chance
24 to say anything in case you need anything else before you go
25 visit those folks in Carson City.

1 rule, as I understand it -- the rule is not just an arbitrary
2 rule. I think we hopefully all agree on that. The reason for
3 the rule, the rationale behind the rule was that a party
4 should not have to just sit in limbo, a defendant should have
5 some --

6 THE COURT: That's not my understanding what the
7 purpose of the rule is. The purposes of the rule is so that
8 the parties have access to justice in a timely fashion. And
9 that's the purpose of the rule. And while I certainly
10 understand that the remedy is plaintiff faces dismissal of
11 their claim, that's not the sole goal of the rule. There's
12 other rules that also talk about the District Judges -- in the
13 Judicial Code of Conduct there's rules that talk about the
14 judges' responsibility to make sure cases are timely tried.
15 Unless there's a stipulation in writing, on the record, or in
16 the court minutes, I've got to comply with 41(e). And I
17 understand that Mr. Morris has done a calculation, and I
18 respect the math that he has done. I can't take that risk
19 under some of the things that have happened with the Nevada
20 Supreme Court.

21 MR. RANDALL JONES: Your Honor, I'm just trying to
22 make a record here.

23 THE COURT: I know.

24 MR. RANDALL JONES: And if I would -- I think you
25 anticipated what I was going to say, but, unfortunately, you

1 didn't anticipate all I was going to say. I was going to
2 point out the issues as it relates to a defendant. However, I
3 was not going to short change the plaintiff's aspect of this.
4 So I think there is a rationale to this rule. It was not
5 arbitrary. It is ultimately, as you say, access to justice.
6 And if a defendant is not getting the case resolved and they
7 have to continue forever and ever in a case, that is
8 prejudicial, presumably, to a defendant. So it gives some
9 finality to a defendant, doesn't have to worry about this case
10 is going to go on forever.

11 Conversely, it allows a plaintiff to get to trial
12 for the same reasons, that their case isn't sitting out there
13 in limbo and they can get -- if they are entitled to relief,
14 that they get that relief at some point in time.

15 So then there's the third component, which you
16 talked about, is the judge's obligation to enforce the rules.
17 But I assume that the Court agrees that you don't just enforce
18 the rules arbitrarily, you enforce the rules as it applies to
19 the purpose behind the rules, which is that the -- justice
20 being served. So if we -- hopefully we would all agree on
21 those ideals.

22 With that said, in this particular case you have to
23 -- I hope the Court would balance the ideal of getting this
24 case to trial within five years versus the impact of doing so
25 on the parties involved. In this case I believe it is

1 patently obvious because of the nature of this case and the
2 history of this case that trying to get the merits discovery
3 done in two months is going to be severely prejudicial to the
4 plaintiffs if not the -- excuse me, to the defendants, if not
5 the plaintiff himself. But if he wants to make that choice,
6 that's his choice. But we are objecting to that.

7 And here's the concern I have, Judge. If the rule
8 is to protect the parties from getting -- in this case the
9 plaintiff from being summarily denied his right to trial, we
10 have said on the record we will agree. We have agreed. We
11 will stipulate. We have stipulated. So there is no chance --
12 I mean, that was one of their big objections in their
13 opposition.

14 THE COURT: So what is your proffered stipulation?

15 MR. RANDALL JONES: The stipulation is we agree that
16 the five year rule has been tolled and it will not expire on
17 October 19th, 2015, and it has been tolled for the period of
18 time that the matter was stayed by the -- the action was
19 stayed by the Supreme Court order. And it has been stayed,
20 based on our calculations -- excuse me, tolled until
21 July 22nd, 2019. So now you've heard it both verbally and in
22 writing.

23 THE COURT: So is that your offer to the plaintiffs
24 of what you would stipulate to if they stipulated, which is
25 you would stipulate that the five year rule has been tolled

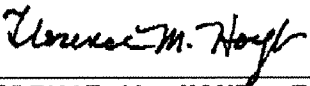
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Las Vegas, Nevada 89146



FLORENCE M. HOYT, TRANSCRIBER

EXHIBIT 2

EXHIBIT 2

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DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

STEVEN JACOBS,

Plaintiff(s),

vs

LAS VEGAS SANDS CORP, ET AL,

Defendants.

Case No. 10 A 627691
Dept. No. XI

BUSINESS COURT SCHEDULING ORDER
AND AMENDED ORDER SETTING CIVIL JURY TRIAL,
PRE-TRIAL AND CALENDAR CALL

This BUSINESS COURT SCHEDULING ORDER AND AMENDED TRIAL SETTING ORDER is entered following the Hearing conducted on June 12, 2015. Pursuant to NRCP 16.1(f) this case has previously been deemed complex and all discovery disputes will be resolved by this Court. Filing of the Joint Case Conference Report has previously been waived. This Order may be amended or modified by the Court upon good cause shown.

IT IS HEREBY ORDERED that the parties will comply with the following deadlines:

Initial Rule 16.1 Disclosures¹ **06/22/15**

Expert Disclosures are Due² **07/17/15**

Rebuttal Expert Disclosures are Due **08/14/15**

Percipient Discovery Cut-Off **08/07/15**

¹ Certain parties did not make Rule 16.1 disclosures following the original Rule 16 conference and prior to entry of the stay. This deadline applies to those parties.

² This deadline applies to any issue on which an expert will be presented where the party offering the expert bears the burden of proof.

RECEIVED
JUN 12 2015
CLERK OF THE COURT

1 Expert Discovery Cut-Off

09/04/15

2 Dispositive Motions to be filed by

08/07/15

3 Motions in Limine to be filed by

08/14/15

4 **IT IS FURTHER ORDERED THAT:**

5
6 A. The above entitled case is set to be tried to a jury on **October 14, 2015 at**
7
8 **9:00a.m.**

9 B. The calendar call will be held pursuant to EDCR 2.69³ on **October 12, 2015 at**
10
11 **9:00a.m.**

12 C. The Final Pre-Trial Conference pursuant to EDCR 2.68⁴ will be held with the designated
13 will be held on **September 18, 2015 at 9:00am.** Parties must disclose 48 hours prior to the Final
14 Pre-Trial Conferences and bring to the Final Pre-Trial Conferences the following:
15

16
17 ³ **Rule 2.69. Calendar call.**

- 18 (a) Unless otherwise directed by the court, trial counsel must bring to calendar call:
- 19 (1) All exhibits already marked by counsel for identification purposes.
 - 20 (2) Typed exhibit lists with all stipulated exhibits marked as admitted.
 - 21 (3) Jury instructions in 2 groups: the agreed upon set and the contested set. The contested instructions must
 - 22 contain the name of the party proposing the same and the citations relied upon for authority.
 - 23 (4) Proposed voir dire questions.
 - 24 (5) Original depositions.
 - 25 (6) A list of equipment needed for trial which is not usually found in the courtroom, i.e., overhead, VCR
 - 26 and monitor, view box, etc. At calendar call the court or its designee will inform counsel if such equipment is
 - 27 available in house or if counsel must procure the same and bring to the courtroom.
 - 28 (7) Courtesy copies of legal briefs on trial issues. Originals must be filed and a copy served on opposing
 - counsel at or before the close of trial.

24 ⁴ That rule provides in pertinent part:

25 **Rule 2.68. Final pre-trial conference.**

- 26 (b) At the pre-trial conference, the court may consider the following subjects:
- 27 (1) Prospects of settlement.
 - 28 (2) Use of depositions at trial in lieu of live testimony.
 - (3) Time required for trial.
 - (4) Alternate methods of dispute resolution.
 - (5) Readiness of case for trial.
 - (6) Any other matters.

- (1) Typed exhibit lists;
- (2) All exhibits already marked by counsel for identification purposes.
- (3) List of depositions;
- (4) List of equipment needed for trial, including audiovisual equipment;⁵ and
- (5) Courtesy copies of any legal briefs on trial issues.
- (6) Demonstrative Exhibits⁶
- (7) Power Points to be used in Opening Statements

D. The Joint Pre-Trial Memorandum must be filed no later than **September 17, 2015**, with a courtesy copy delivered to Department XI. All parties, (Attorneys and parties in proper person) **MUST** comply with **ALL REQUIREMENTS** of NRCP 16.1a(3)⁷, E.D.C.R. 2.67⁸, 2.68 and 2.69.

(c) The pre-trial conference must be attended by designated trial counsel who are knowledgeable and prepared for such conference. Should the designated trial counsel fail to appear at the pre-trial conference or to comply with this rule, an ex parte hearing may be held and judgment of dismissal or default or other appropriate judgment entered or other sanctions imposed.

⁵ If counsel anticipate the need for audio visual equipment during the trial, a request must be submitted to the District Courts AV department following the calendar call. You can reach the AV Dept at 671-3300 or by e-mail at CourtHelpDesk@ClarkCountyCourts.us.

⁶ This deadline does not apply to a demonstrative exhibit intended to illustrate a single witness's testimony or utilized solely during Opening Statement or Closing Argument.

⁷ NRCP 16.1(a)(3) provides in pertinent part:

(3) **Pretrial Disclosures.** In addition to the disclosures required by Rule 16.1(a)(1) and (2), a party must provide to other parties the following information regarding the evidence that it may present at trial, including impeachment and rebuttal evidence:

(A) The name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present, those witnesses who have been subpoenaed for trial, and those whom the party may call if the need arises;

(B) The designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

(C) An appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

Unless otherwise directed by the court, these disclosures must be made at least 30 days before trial. Within 14 days thereafter, unless a different time is specified by the court, a party may serve a list disclosing (i) any objections to the use under Rule 32(a) of a deposition designated by another party under subparagraph (B), and (ii) any objection, together with the grounds therefor, that may be made to the admissibility of materials identified under subparagraph (C). Objections not so disclosed, other than objections under NRS 48.025 and 48.035, shall be deemed waived unless excused by the court for good cause shown.

Counsel should include in the Memorandum an identification of orders, on all motions in limine or motions for partial summary judgment previously made, a summary of any anticipated legal issues remaining, a brief summary of the opinions to be offered by any witness to be called to offer opinion testimony as well as any objections to the opinion testimony.

E. All pretrial motions, however styled, will be filed in compliance with EDCR 2.20⁹ and 2.27¹⁰ unless those requirements are specifically modified in this Order. All dispositive

That rule provides in pertinent part:

Rule 2.67. Meetings of counsel before calendar call or final pretrial conference; pretrial memorandum.

(a) Prior to any calendar call or final pretrial conference, the designated trial attorneys for all the parties must meet together to exchange their exhibits and lists of witnesses, and arrive at stipulations and agreements, all for the purpose of simplifying the issues to be tried. The plaintiff must designate the time and place of the meeting which must be within Clark County, unless the parties agree otherwise. At this conference between counsel, all exhibits must be exchanged and examined and counsel must also exchange a list of the names and addresses of all witnesses, including experts, to be called at the trial. The attorneys must then prepare a joint pretrial memorandum which must be served and filed not less than 15 days before the date set for trial. If agreement cannot be reached, a memorandum must be prepared separately by each attorney and so submitted. A courtesy copy of each memorandum must be delivered to the court at the time of filing.

(b) The pretrial memorandum must be as concise as possible and must state the date the conference between the parties was held, the persons present, and include in numerical order the following items:

- (1) A brief statement of the facts of the case.
- (2) A list of all claims for relief designated by reference to each claim or paragraph of a pleading and a description of the claimant's theory of recovery with each category of damage requested.
- (3) A list of affirmative defenses.
- (4) A list of all claims or defenses to be abandoned.
- (5) A list of all exhibits, including exhibits which may be used for impeachment, and a specification of any objections each party may have to the admissibility of the exhibits of an opposing party. If no objection is stated, it will be presumed that counsel has no objection to the introduction into evidence of these exhibits.
- (6) Any agreements as to the limitation or exclusion of evidence.
- (7) A list of the witnesses (including experts), and the address of each witness which each party intends to call. Failure to list a witness, including impeachment witnesses, may result in the court's precluding the party from calling that witness.
- (8) A brief statement of each principal issue of law which may be contested at the time of trial. This statement shall include with respect to each principal issue of law the position of each party.
- (9) An estimate of the time required for trial.
- (10) Any other matter which counsel desires to bring to the attention of the court prior to trial.

That rule provides in pertinent part:

Rule 2.20. Motions; contents; responses and replies; calendaring a fully briefed matter.

(a) Unless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities.

1 motions must be in writing and filed no later than **August 7, 2015**. Orders shortening time will not
2 be signed except in extreme emergencies.

3
4 F. All motions in limine must be filed in compliance with EDCR 2.47¹¹ and filed no later
5 than **August 14, 2015**. Orders shortening time will not be signed except in extreme
6 emergencies.

7
8
9 (b) All motions must contain a notice of motion setting the same for hearing on a day when the district judge to
10 whom the case is assigned is hearing civil motions in the ordinary course. The notice of motion must include the
11 time, department, and location where the hearing will occur.

12 (c) A party filing a motion must also serve and file with it a memorandum of points and authorities in support of
13 each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not
14 meritorious, as cause for its denial or as a waiver of all grounds not so supported.

15 * * *

16 ¹⁰ That rule provides in pertinent part:

17 **Rule 2.27. Exhibits.**

18 (a) Exhibits that are submitted to the court that are in excess of 10 pages in length must be numbered
19 consecutively in the lower right-hand corner of the document. Exhibits shall be separated by sheets with the
20 identification "Exhibit ____" centered in the separator page in 24-point font or larger.

21 (b) Where the exhibits to be submitted are collectively in excess of 100 pages, the exhibits must be filed as a
22 separate appendix and must include a table of contents identifying each exhibit and the numbering sequence of the
23 exhibits.

24 (c) Unless otherwise ordered by the court, exhibits that are in a format other than documents that can be scanned
25 may not be filed in support of pretrial and post-trial briefs. Where the court enters an order permitting the filing of
26 non-documentary exhibits in support of pretrial and post-trial briefs which contain audio or video information, the
27 filing must be filed with a captioned cover sheet identifying the exhibit(s) and the document(s) to which it relates
28 and be accompanied by a transcript of the contents of the exhibit.

(d) Oversized exhibits shall be reduced to eight and one-half inches by eleven inches (8.5" x 11") unless
otherwise permitted by the court or unless such reduction would destroy legibility. An oversized exhibit that cannot
be reduced shall be filed manually and separately with a captioned cover sheet identifying the exhibit and the
document(s) to which it relates.

¹¹ That rule provides in pertinent part:

Rule 2.47. Motions in limine. Unless otherwise provided for in an order of the court, all motions in limine to
exclude or admit evidence must be in writing and filed not less than 45 days prior to the date set for trial and must be
heard not less than 14 days prior to trial.

(a) The court may refuse to sign orders shortening time and to consider any oral motion in limine and any
motion in limine which is not timely filed or noticed.

(b) Motions in limine may not be filed unless an unsworn declaration under penalty of perjury or affidavit of
moving counsel is attached to the motion setting forth that after a conference or a good-faith effort to confer, counsel
have been unable to resolve the matter satisfactorily. A "conference" requires a personal or telephone conference
between or among counsel. Moving counsel must set forth in the declaration/affidavit what attempts to resolve the
matter were made, what was resolved, what was not resolved and the reasons therefore. If a personal or telephone
conference was not possible, the declaration/affidavit shall set forth the reasons.

1 G. Counsel shall meet, review, and discuss the proposed jury questionnaire. Counsel will
2 submit in Word format the joint proposed jury questionnaire on or before **September 11,**
3 **2015** or if no agreement has been reached the competing versions in Word format on or before
4 September 13, 2015. The Court will freely grant requests for inclusion of questions by the
5 Parties. Upon submission of the proposed jury questionnaire, the Court will review the jury
6 questionnaire and will make any appropriate modifications. A hearing will be held on any
7 objections to the jury questionnaire on **September 14, 2015 at 9:00 a.m.**
8
9

10 H. All original depositions anticipated to be used in any manner during the trial must be
11 delivered to the clerk prior to the final Pre-Trial Conference. If deposition testimony is anticipated to be
12 used in lieu of live testimony, a designation (by page/line citation) of the portions of the testimony to be
13 offered must be filed and served by facsimile or hand, two (2) judicial days prior to the final Pre-Trial
14 Conference. Any objections or counterdesignations (by page/line citation) of testimony must be filed and
15 served by facsimile or hand, one (1) judicial day prior to the final Pre-Trial Conference commencement.
16 If video depositions are sought to be used during the Trial, all edits must be completed and be available to
17 be played to the Court at the Calendar Call. Counsel shall advise the clerk prior to publication.
18

19 I. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
20 exhibits must comply with EDCR 2.27.¹² Two (2) sets must be three hole punched placed in three ring
21 binders along with the exhibit list. The sets must be delivered to the clerk prior to the final Pre-Trial
22 Conference. Any demonstrative exhibits including exemplars anticipated to be used must be disclosed
23 prior to the calendar call. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel shall be
24 prepared to stipulate or make specific objections to individual proposed exhibits. Unless otherwise
25 agreed to by the parties, demonstrative exhibits are marked for identification but not admitted into
26 evidence.
27
28

¹² Alternatively the parties may agree to utilize the Court's electronic exhibit protocol.

1 J. In accordance with EDCR 2.67, counsel shall meet, review, and discuss items to be
2 included in the Jury Notebook. Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel shall be
3 prepared to stipulate or make specific objections to items to be included in the Jury Notebook.


4 K. In accordance with EDCR 2.67, counsel shall meet and discuss preinstructions to the
5 jury, jury instructions, special interrogatories, if requested, and verdict forms. Each side shall provide the
6 Court, at the final Pre-Trial Conference, an agreed set of jury instructions and proposed form of verdict
7 along with any additional proposed jury instructions with an electronic copy in Word format.

9 L. In accordance with EDCR 7.70, counsel shall file and serve by facsimile or hand, two (2)
10 judicial days prior to the final Pre-Trial Conference, follow up Voir Dire to Jury Questionnaire responses
11 proposed to be conducted pursuant to conducted pursuant to EDCR 2.68.

12 **Failure of the designated trial attorney or any party appearing in proper person to appear**
13 **for any court appearances or to comply with this Order shall result in any of the following: (1)**
14 **dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial date;**
15 **and/or any other appropriate remedy or sanction.**

17 Counsel is required to advise the Court immediately when the case settles or is otherwise resolved
18 prior to trial. A stipulation which terminates a case by dismissal shall also indicate whether a Scheduling
19 Order has been filed and, if a trial date has been set, the date of that trial. A copy should be given to
20 Chambers.

21 Dated this 12th day of June, 2015.

22
23
24 
25 Elizabeth Gonzalez, District Court Judge

26
27 **Certificate of Service**

28 I hereby certify, that on the date filed, this Order was served on the parties identified on

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Wiznet's e-service list.

- J. Stephen Peek, Esq. (Holland & Hart)
- Randall Jones (Kemp Jones Coulthard)
- Steve Morris (Morris Law)
- James J. Pisanelli, Esq. (Pisanelli Bice)

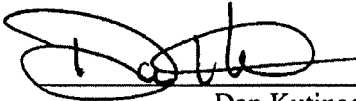

Dan Kutinac

EXHIBIT 1

EXHIBIT 1


CLERK OF THE COURT

ORDD

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

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,)	CASE NO. A627691-B
)	
Plaintiff,)	DEPT NO: XI
v.)	
)	ORDER DENYING
LAS VEGAS SANDS CORP., a Nevada)	DEFENDANTS' OBJECTION
corporation; SANDS CHINA LTD., a)	TO THE ORDER SETTING
Cayman Islands corporation, et al.,)	CIVIL JURY TRIAL, PRE-
)	TRIAL AND CALENDAR
)	CALL; AND MOTION TO
Defendants.)	VACATE AND RESET TRIAL
)	BASED ON TOLLING OF
)	FIVE-YEAR RULE
AND ALL RELATED MATTERS.)	
)	


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1 The Objection and Motion to Vacate Trial Date Based on Tolling
2 of the Five Year Rule [NRCp 41(e)] having come on for hearing on June 12,
3 2015, Todd Bice, Pisanelli Bice PLLC, appearing for plaintiff Steven Jacobs;
4 Steve Morris, Morris Law Group, appearing for defendant Sheldon Adelson;
5 J. Stephen Peek, Holland & Hart LLP, appearing for defendant Las Vegas
6 Sands Corp.; and J. Randall Jones, Kemp, Jones & Coulthard, LLP,
7 appearing for Sands China, Ltd.

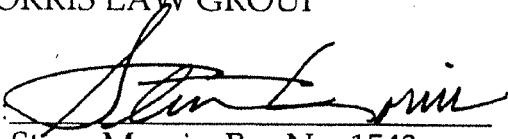
8 Now, having considered the Objection and Motion and heard
9 the arguments of counsel, and good cause appearing, the Objection and ^{is overruled}
10 Motion ^{is} ~~are~~ DENIED.

11
12 
13 DISTRICT COURT JUDGE

14 DATED: Jun 12, 2015

15 Respectfully submitted by:

16 MORRIS LAW GROUP

17
18 By: 
19 Steve Morris, Bar No. 1543
20 Ryan M. Lower, Bar No. 9108
21 900 Bank of America Plaza
22 300 South Fourth Street
23 Las Vegas, NV 89101

24 Attorneys for Sheldon G. Adelson
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jun 29 2015 01:08 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

LAS VEGAS SANDS CORP., a Nevada
corporation, SANDS CHINA LTD., a Cayman
Islands corporation, and SHELDON G.
ADELSON, an individual,

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: 68309

District Court Case Number
A627691-B

**EMERGENCY MOTION
UNDER NRAP27(e) TO
STAY ALL PROCEEDINGS
IN THE DISTRICT COURT
PENDING DECISION ON
DEFENDANTS' PREVIOUS
AND PENDING
PETITIONS FOR WRIT OF
PROHIBITION OR
MANDAMUS AND THIS
WRIT PETITION—
IMMEDIATE RELIEF
NEEDED**

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Attorneys for Petitioners

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Petitioners Las Vegas Sands Corp. ("LVSC"), Sands China Ltd. ("SCL"), and Sheldon G. Adelson (collectively "Petitioners") respectfully move the Court to enter an order staying all proceedings in the district court in this case, including the scheduled October 2015 trial date and discovery/pre-trial deadlines, until this Court has an opportunity to rule on (1) the pending petitions for writ of mandamus or prohibition that SCL filed on June 19 and 22, *and* (2) the petition filed on June 26, 2015, which challenges the district court's June 12, 2015 Order Denying Defendants' Motion to Vacate and Reset Trial Based on Tolling of Five-Year Rule, Ex. 1, hereto, and the district court's Amended Trial Order (the "Trial Order, Ex. 2, hereto.

The first two petitions are in this Court's case nos. 68265 and 68275, respectively. In case no. 68265, SCL seeks review of the district court's denial of its motion to dismiss for lack of personal jurisdiction. An answer has been ordered in that case, and on June 23, 2015, this Court issued an order staying the district court's jurisdictional order "pending further order of this Court." In case no. 68275, SCL seeks review of the district court's order requiring one of its independent outside directors, who resides in Hong Kong, to immediately appear for a deposition in Hawaii. The Court has also granted a stay of that order.

The latest petition filed on June 26, as the Court directed, challenges the district court's decision to schedule an October 14, 2015 trial date, which the district court claimed she was obliged to do, based solely on her fear that this Court might abandon its clear published precedents and find that the five-year rule in Rule 41(e) had somehow *not* been tolled during the nearly four years in which all merits proceedings in this action were stayed in accordance with this Court's August 26, 2011 stay order.

Defendants seek a stay of all proceedings on two independent grounds. First, the district court's manifestly unreasonable and highly prejudicial October 2015 trial date is directly contrary to controlling precedents of this Court. In *Boren v. City of North Las Vegas*, 98 Nev. 5, 638 P.2d 404, 405 (1982), this Court adopted a clear and unequivocal "rule" that "[a]ny period during which the parties are prevented from bringing an action to trial by reason of a stay order shall not be computed in determining the five-year period of Rule 41(e)." (Emphasis added). The district court asserted that *Boren* is unclear, citing this Court's unpublished decision in "that silly *M[a]duka* case" (case no. 57299, 2011 WL 4378796) as evidence of this Court's supposedly "quirky" decision-making on the stay issue. The district court declined to change the trial date out of fear that this Court might not follow the rule in *Boren* and might order Jacobs's suit dismissed if it was not tried by October 2015. 6/12/15 Excerpts of Tr. of Supp. 16.1 Conference at 2:22, Ex.3, hereto. But at the same time, the district court *invited* this Court's review of her ruling on the five year rule in Rule 41(e), stating that it "would love to have more clarification from them" and "would love to see a hard and fast rule" on Nev. R. Civ. P. 41(e). *Id.* at 8:11, 21.

As *Boren* and the cases cited in Defendants' latest petition demonstrate, this Court has already announced the "hard and fast rule" the district court seeks. The district court found inconsistencies and "quirks" in the rule where there were none. The Court should accept the district court's invitation to again reaffirm *Boren* and eliminate all doubt that the Court's August 2011 stay order tolled the five-year period, thus eliminating any claimed necessity for an October 2015 trial.

Until it does so, however, the Court should stay the extraordinarily short and unachievable deadlines set forth in the district court's Trial Order, Ex. 2, that were scheduled to meet the unreasonable October 2015 trial date. As explained below, this Court's 2011 stay precluded Defendants from taking any discovery or advancing the case toward trial for almost four years. The district court's discovery deadlines set in its trial order do not permit Defendants reasonable time to prepare their defense or respond to the massive discovery Plaintiff seeks.

Second, a stay is particularly appropriate because this Court's June 23 order staying the district court's finding of jurisdiction over SCL necessarily returns the parties to the status quo before the district court entered its jurisdictional ruling. That means the August 26, 2011 order of this Court staying all proceedings except those relating to the question of jurisdiction over SCL remains in effect.

In a hearing on June 25, 2015, the district court agreed that this Court's June 23 Order had the effect of reinstating the stay of all proceedings with respect to SCL but inexplicably refused to stay the proceedings with respect to LVSC and Mr. Adelson.¹ The court also

¹ Defendants had filed a motion for a stay of all proceedings with the district court before this Court issued its June 23, 2015 Orders setting a briefing schedule with respect to SCL's jurisdictional writ and staying both the district court's Order finding jurisdiction as to SCL and its order regarding David Turnbull's deposition. That stay motion was filed in anticipation of the additional writ filed on June 26, 2015, challenging the trial setting based on the five-year rule. In the June 25 hearing, the district court agreed that this Court's June 23 Order had the effect of staying all proceedings as to SCL, but denied any stay as to the other Defendants. The district court's order not only severely prejudices the remaining Defendants in a manner contrary to this Court's 2011 order, but also prejudices SCL insofar as it allows Jacobs and others to litigate matters affecting SCL's rights, such as a pending motion for access to material stolen by Jacobs from SCL in 2010. The district court has not yet entered an order on

declined to confirm that this Court's June 23 stay order extends to proceedings now pending before the district court that require her to act while the writ petitions are pending resolution in this Court. In fact, the district court did not reject Plaintiff's claim that this Court's June 23 order *stayed nothing and* that discovery should continue against SCL while the writ petition that will determine whether SCL is subject to jurisdiction is being decided. Tr. of Hrg. on Mot. To Stay, 06/25/15, at 15:15–23, Ex. 4 hereto. Defendants file this motion to seek clarification of the scope of this Court's June 23, 2015 stay order in case no.68265 and put this nonsense to rest.

This Emergency Motion is based on the following memorandum of points and authorities, the papers and pleadings on file herein and in case nos. 68265 and 68275. The stay sought here was first sought from the district court, as Nev. R. App. P. 8 requires. Although the district court concluded that this Court's stay in case no. 68265 requires all proceedings involving SCL to be stayed, it declined to confirm that the stay applies to pending matters and denied the stay with respect to LVSC and Mr. Adelson, who was recently added as a Defendant, on June 25. Tr. of Hrg. on Mot. to Stay, 15:7–23, Ex. 4, hereto. *See* n.1, *supra*.

This Emergency Motion is necessary to ensure that this Court's orders are properly carried out and that LVSC and Mr. Adelson are not prejudiced by the unattainable deadlines the district court has set and imposed on these Defendants.

Defendants' motion to stay and the parties have submitted competing orders about whether current proceedings against SCL are stayed. It is clear, however, that the district court denied any relief to the other two Defendants, necessitating this emergency motion.

MORRIS LAW GROUP

By: /s/ STEVE MORRIS

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Attorneys for Petitioners

**PETITIONERS' MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF EMERGENCY MOTION UNDER
NEV. R. APP. P. 27(e) TO STAY ALL PROCEEDINGS PENDING
DECISION ON PENDING PETITIONS FOR WRIT OF
PROHIBITION OR MANDAMUS AND THIS WRIT.**

I. INTRODUCTION

Nearly four years ago, on August 26, 2011, this Court granted SCL's writ challenging the district court's finding that it had personal jurisdiction over SCL, directed the court to "revisit the issue of personal jurisdiction over petitioner by holding an evidentiary hearing and issuing findings regarding general jurisdiction," and stayed "the underlying action, except for matters relating to a determination of personal jurisdiction." Nev. Sup. Ct. Aug. 26, 2011 Order at 3, Ex. 5, hereto. That stay ensured that SCL would not have to respond to merits discovery until the jurisdictional issue is resolved. But the stay also served the ends of efficiency by

preventing piecemeal discovery of LVSC alone in the event that SCL was found to be subject to jurisdiction.

The Court's decision to stay the entire action as to all Defendants until the jurisdictional issue is fully resolved was appropriate in 2011, and it is appropriate now. The district court has not only again erroneously found that SCL is subject to jurisdiction, but has also imposed a punitive trial schedule based on a fundamental misinterpretation and misapplication of Rule 41(e), and ordered a member of SCL's Board of Directors (who is based in Hong Kong) to appear on five-days notice for deposition "on American soil" in Hawaii, which has been stayed by the Court's stay order in case no. 68275.

With respect to the jurisdictional issue, on June 22, 2015, SCL filed a petition for mandamus in case no. 68265 asking the Court to review the district court's findings of jurisdiction over SCL. The Court has now accepted briefing on that petition and on June 23, 2015 stayed the district court's order finding jurisdiction. By virtue of the June 23, 2015, stay order, the August 2011 stay of all merits proceedings as to all Defendants should be reinstated, or confirmed as reinstated by the stay in case no. 68265, until the Court has decided SCL's challenge to the district court's jurisdictional ruling and her order regarding deposition of foreign citizens in the United States, which is the subject of case no. 68275.

In addition, on June 29, 2015, Defendants filed a petition for mandamus in case no. 68309 which provides yet another ground for a stay as to all Defendants. In the petition, Defendants challenge the district court's decision setting an October 2015 trial date and pre-trial discovery schedule with a fact discovery cut-off date of August 7, 2015. The district court's trial schedule rests on a fundamental misinterpretation and

erroneous application of Nev. R. Civ. P. 41(e) and rejects as binding precedent this Court's decision in *Boren*, 98 Nev. at 5, 638 P.2d at 405. As *Boren* makes clear, Rule 41(e)'s five-year rule was tolled during the pendency of this Court's August 2011 stay. The district court's stated fear that *Boren* does not apply and that Plaintiff's lawsuit might have to be dismissed for want of prosecution if it was not tried in October—even though Defendants stipulated on the record that the Rule 41(e) period was tolled during the four-year period of the stay—is wholly unfounded and contrary to law. The discovery and trial schedule set by the district court's Trial Order should be stayed while the Court considers the Petition filed in case no. 68309.

Absent a stay, Petitioners will be irreparably prejudiced in several ways. First, as this Court has already concluded, it makes no sense for discovery to proceed while the issue of jurisdiction over SCL remains undecided. Second, subjecting Defendants to the kind of forced-march discovery and trial preparation in double time, as contemplated by the pre-trial scheduling order will greatly prejudice Defendants. As Plaintiff no doubt intends, this extraordinarily harsh Trial Order also creates the very real risk that the Defendants will be unable to meet the deadlines it establishes and the district court's expectations, subjecting them to yet another round of potential sanctions motions in that court. In short, the current schedule set out in the Trial Order threatens to deprive the Petitioners/Defendants, of their due process right to a reasonable opportunity to mount a defense to Jacobs' scurrilous charges against them.

Plaintiff will not suffer an injury from a short stay of proceedings in the district court while the disorder in this case is addressed and resolved by this Court's disposition of the three pending writ petitions.

Petitioners have stipulated on the record to an extension of the five-year rule. Ex. 3, Excerpts of Tr. of Supp. 16.1 Conference at p. 26. It is *Plaintiff* who refuses to agree that Rule 41(e) has been tolled, no doubt because he thinks the unrealistic discovery deadlines and trial date imposed by the Trial Order on the Defendants will give him a tactical advantage in the litigation. That is precisely the kind of gamesmanship the Court should not countenance or encourage by declining the stay sought by this emergency motion.

Accordingly, Petitioners respectfully urge the Court to stay, or confirm that all proceedings on the merits, including the deadlines set out in the Trial Order, are stayed as to all Defendants, until the Court has had an opportunity to consider the two writ petitions SCL filed on June 19, and 22, 2015 and the writ petition all of Defendants filed on June 26, 2015.

II. RELEVANT FACTS

On May 28, 2015, the district court entered its Amended Decision and Order finding that it had personal jurisdiction over SCL with respect to the claims asserted against it in Jacobs' Third Amended Complaint. The district court held that it had general, transient, and specific jurisdiction over SCL; in support of that conclusion, the district court relied not only on the evidence presented at the jurisdictional hearing (at which SCL was not permitted to present any evidence), but also on the adverse inference sanction imposed through the district court's March 6, 2015 Order. On June 19, 2015, SCL filed a petition for a writ of mandamus or prohibition (no. 68265) seeking reversal of the district court's May 28, 2015 Amended Decision and Order. That petition argues that the district court applied the wrong legal standards, misinterpreted the evidence, and

abused its discretion by finding jurisdiction-by-sanction over SCL, a foreign company that does no business in the United States.

The day *before* it issued its Amended Decision and Order, the district court set October 14, 2015 as the trial date for this case. *See* 5/27/15 Order Setting Civil Jury Trial, Pre-Trial and Calendar Call. Ex. 5 hereto. On May 29, 2015, Plaintiff served a Request for Production of Documents on LVSC, seeking 86 categories of documents. On June 1, 2015 Plaintiff served a deposition notice on SCL for the deposition of SCL's Independent Director David Turnbull, who resides and works in Hong Kong, which Plaintiff scheduled to be taken in Las Vegas on June 17, 2015. On June 2, Plaintiff filed his Motion for Leave to File a Fourth Amended Complaint ("FAC"), seeking to add Venetian Macau Ltd. ("VML, a Macau corporation") as a Defendant for the first time. The proposed FAC also expands Plaintiff's claims against SCL yet again, to include claims for breach of contract and breach of the duty of good faith and fair dealing based on the purported term sheet Plaintiff signed with LVSC, which Plaintiff claims was assigned or transferred to both VML and SCL at some unidentified point in time. On June 3, Plaintiff filed a motion for expedited discovery, asking the Court to shorten the deadlines for document production and notice for depositions provided for in the Nevada Rules of Civil Procedure, on the theory that Plaintiff needed *expedited discovery* in order to prepare for the October 2015 trial. Finally, on June 15, 2015, Plaintiffs served fourteen interrogatories on SCL, along with a Request for Production of Documents seeking 60 categories of documents.

Petitioners/Defendants objected to Plaintiff's motion for expedited discovery, which the district court denied without prejudice *as premature*. Petitioners/Defendants also objected to the trial setting, and on

June 10 filed a Motion to Vacate and Reset Trial Based on Tolling of Five-Year Rule. The district court denied Defendants' motions, even though the Defendants stipulated on the record to an extension of the 5-years-to-trial Rule 41(e). Ex. 1, Order Denying Def's Mot. to Vacate and Reset Trial; Ex. 3, Excerpts of Tr. of Supp. 16.1 Conference at p. 26. The district court entered an Amended Order Setting Civil Jury Trial on June 12, 2015. Ex. 6, Trial Order.

According to the district court judge, her refusal to alter the trial date was based solely on the fear that this Court might decide that the five-year rule expired on the fifth anniversary of the filing of the lawsuit, notwithstanding the fact that this Court's August 2011 stay prevented the parties from bringing the case to trial for almost four years. The court recognized that Defendants' analysis of the time by which Rule 41(e) was extended "appears to be appropriate calculation" (Ex. 3, Excerpts of Tr. of Supp. 16.1 Conference at 4:1–2). But the district court was unwilling to rely on Defendants' stipulation or on this Court's decision in *Boren*. The court expressed concern that "the Nevada Supreme Court is not necessarily consistent in the way that they have historically made decisions" and said she was worried about possible "quirks that the Nevada Supreme Court has found one way or another as to Rule 41(e)." Ex. 3, Excerpts of Tr. of Supp. 16.1 Conference at 4:4–9. The court said it "would love to have more clarification from them" and invited this Court to "make[] a recalculation or issue[] an order" clarifying the Rule. *Id.* at 8:11–21.

On June 18, 2015, the district court granted Plaintiff's motion for leave to file the proposed FAC as to SCL, but denied his attempt to add VML (another foreign corporation that has not had any contact with the forum) to the litigation. Ex. 7, Excerpts of Tr. of Hrg. on Mot to Am. 10:4–

17. The district court recognized that it would be unfair to allow Plaintiff to add a new party at the eleventh hour while at the same time he refuses to stipulate to an extension of the five-year rule and insists that the case must go to trial in October 2015. *See id.*

The writ petition in case no. 68309 and this emergency motion contend that the Court's August 26, 2011 stay order did indeed toll the five-year rule, eliminating any necessity for the fire-drill pretrial proceedings the district court has initiated by its Trial Order. And on this past Thursday, June 25, the district court recognized that the stay this Court entered on June 24 in response to SCL's petition regarding the jurisdictional ruling stayed all proceedings with respect to SCL but declined to expressly say so or to stay proceedings to arrest the fire drill with respect to the other Defendants while this Court addresses the impact of its August 2011 stay order on Rule 41(e).

III. ARGUMENT

A. The Object of the Pending Writ Petitions Would Be Defeated and Petitioners/Defendants Would Suffer Irreparable Harm if the Current Trial Order Deadlines Are Not Stayed.

The pending writ petitions challenge not only the district court's jurisdiction over SCL, but also the court's pre-trial scheduling order which requires the trial to be held just four months after making its jurisdictional ruling. As Defendants explain in petition case no. 68309, this punitive schedule resulted directly from the district court's fundamental misinterpretation of Rule 41(e) and *Boren*—an issue on which the court expressly requested guidance from this Court. In the absence of a stay, this schedule will not provide Defendants sufficient and reasonable time to develop their respective defenses or to respond to Plaintiff's discovery

requests. Plaintiff himself took tens of thousands of documents with him when he was terminated; just reviewing those documents is likely to take months.

Similarly, as the Court recognized in granting the original August 2011 stay, none of the Defendants should be forced to trial under such adverse conditions until the issue of personal jurisdiction over SCL is finally resolved. Forcing SCL or any of the other Defendants to respond to massive discovery requests and to produce (for example) witnesses *in the United States* who live and work abroad would subject Defendants to harm that could not be remedied if the Court were to agree that SCL is not subject to jurisdiction—or if the Court were to agree that the district court misinterpreted Rule 41(e) in setting the trial schedule.

Indeed, the district court has been so fixated on finding a basis to assert jurisdiction over SCL that the court has completely ignored the rights of the other Defendants in this case, Mr. Adelson and LVSC. The compressed discovery schedule is especially prejudicial to Mr. Adelson, who was only recently haled back into the case by Plaintiff's third amended complaint. It is also severely prejudicial to LVSC because it has been sharply limited in the discovery it was allowed to seek prior to May 28, 2015.

The prejudice here is compounded by the deadlines set in the district court's Trial Order, Ex. 2, which require all but expert discovery to be completed by August 7, 2015—a mere six weeks from now! The fire-drill these deadlines would necessitate is wholly unnecessary because the October trial date is unnecessary. Quite apart from the question of personal jurisdiction over SCL, Petitioners should be given breathing room to seek the guidance the district court has said it needs from this Court on

the question of whether the August 2011 stay tolled the five-year rule, thus making it unnecessary to rush this case to trial.

This Court should have the opportunity to decide first whether the district court has the power to exercise jurisdiction over SCL at all and then, if it does, whether there is any legitimate reason to force the Defendants to trial in October without a reasonable fair, opportunity to prepare for trial.

B. Plaintiff Will Not Be Harmed if this Court Grants this Stay.

Unlike Petitioners/Defendants, who would be irreparably harmed if a stay is denied, Plaintiff would not be prejudiced by a short stay to allow this Court to consider Petitioners' pending writ petitions. If SCL prevails on its jurisdictional writ, Plaintiff has no right at all to pursue SCL in this forum. And if the Court confirms what its own decisions (*e.g.*, *Boren, supra*) plainly say—a stay that prevents the plaintiff from bringing a case to trial tolls the five-year rule—Plaintiff and the district court will have the benefit of certainty.

Even if the Court denies both petitions, Plaintiff would not suffer harm. A brief delay in discovery to ensure that the jurisdictional issue is properly resolved would not prejudice Plaintiff. And if Plaintiff believes he needs additional time to bring the case to trial, he need only acknowledge the extension of the five-year rule as a consequence of the August 2011 stay. Defendants have so stipulated. Under these circumstances, the only "harm" Plaintiff might suffer is loss of the unfair tactical advantage he seeks to exercise against the Defendants by insisting on an unreasonable trial date.

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

In *Hansen*, the 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. 650, 659, 6 P.3d 982, 987 (2000) (citations omitted). Petitioners have, at the very least, met that standard, as the writ petition underlying this emergency motion shows.

D. One Point of Clarification From the Court is Needed.

When the Court ordered the Plaintiff to answer the jurisdictional writ petition (case no. 68265), it did not specify that SCL would have an opportunity to file a reply. SCL asks the Court to clarify in its response to this emergency motion that SCL may file a reply and set a reasonable time for filing it.

IV. CONCLUSION

Defendants respectfully request the Court to stay all proceedings in the district court pending rulings on the pending writs, and confirm that Petitioners will have the opportunity to file a reply in support of its jurisdictional writ petition and this one.

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**VERIFICATION AND NRAP 27(E)
CERTIFICATE OF NEED FOR EMERGENCY RELIEF**

I, Steve Morris, declare as follows:

1. I am a lawyer with Morris Law Group, counsel of record for Sheldon G. Adelson, one of the Defendants in the district court action, and Las Vegas Sands and SCL for proceedings in this Court.

2. I verify I have read the foregoing **EMERGENCY MOTION UNDER NRAP 27(e) TO STAY ALL PROCEEDINGS IN THE DISTRICT COURT PENDING DECISION ON DEFENDANTS' PREVIOUS AND PENDING PETITIONS FOR WRIT OF PROHIBITION OR MANDAMUS AND THIS WRIT PETITION—IMMEDIATE RELIEF NEEDED**; that the same is true to my own knowledge, except for those matter therein stated on information and belief, and as to those matters, I believe them to be true.

3. I certify emergency relief is needed because the district court has set an October 2015 trial date with unreasonable and, for the defendants, unachievable discovery and pre-trial deadlines based on the district court's erroneous finding the five-year rule in Rule 41(e) was somehow not tolled during the nearly four years in which all proceedings except those related to personal jurisdiction over SCL were stayed in accordance with this Court's order on August 26, 2011. Moreover, emergency relief is needed because the district court's Trial Order is severely prejudicial to Mr. Adelson and LVSC because it does not give them sufficient time conduct discovery or prepare for trial.

4. The names, telephone numbers, and office addresses of the attorneys for the other parties is a follows: The contact information (including telephone number) for the other attorneys in this case is James J. Pisanelli, Todd L. Bice, and Debra Spinelli, PISANELLI BICE PLLC, 400

South 7th Street, Las Vegas, NV 89101, (702) 214-2100, attorneys for Steven C. Jacobs, Real Party in Interest.

5. The attorneys in the preceding paragraph were given notice of this motion at the hearing in the district court on June 25, 2015 and will be hand served with a copy of this motion as soon as it is filed.

6. I declare the foregoing under penalty of perjury under the laws of the State of Nevada.

Signed this 29th day of June, 2015.

/s/ STEVE MORRIS

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 **EMERGENCY MOTION UNDER NRAP27(e) TO STAY ALL PROCEEDINGS IN THE DISTRICT COURT PENDING DECISION ON DEFENDANTS' PREVIOUS AND PENDING PETITIONS FOR WRIT OF PROHIBITION OR MANDAMUS AND THIS WRIT PETITION—IMMEDIATE RELIEF NEEDED** to be delivered, in a sealed envelope, 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 HAND DELIVERY

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Attorneys for Steven C. Jacobs, Real Party in Interest

DATED this 29th day of June, 2015.

By: /s/ PATRICIA FERRUGIA