

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Case Number: 68309

District Court Case Number  
A627691-B

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.

**REPLY IN SUPPORT OF  
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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## I. INTRODUCTION

Jacobs's opposition to a reasonable stay of proceedings until the Court decides whether Sands China Ltd. ("SCL") is subject to jurisdiction and imposes party and claims order to this off-the-rails lawsuit is rich in self-indulgent rhetoric but short on substance: *E.g.*, "Petitioners untenably ask for more delay"; they "make no honest showing"; their "cries for due process are particularly offensive"; they "have already obtained an unprecedented delay of Jacobs's rights"; "Jacobs' rights have been sabotaged long enough"; etc., *ad nauseam*. Opposition, *passim*. This diatribe, a hallmark of Jacobs's advocacy, overlooks the following stay-favoring factors the current emergency motion addresses, drawn from the decision in *Hansen v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 6 P.3d 982 (2000).

## II. ARGUMENT

### A. The Object Of The Writ Will Be Defeated If The Stay Is Denied.

Jacobs does not rebut SCL's showing that the object of the writ petitions will be defeated (and SCL will suffer irreparable harm) if forced to produce merits discovery, foreign witnesses in the U.S. for discovery, and then go to trial before the jurisdictional issue is decided.<sup>1</sup> Nor does Jacobs rebut the other Petitioners' showing that the object of the writ petition will be defeated if they are forced to respond to discovery and complete fact discovery by August 7, 2015 and prepare for a trial that is currently set for October 14, 2015, which they point out is not reasonably

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<sup>1</sup> These facts distinguish *Hansen, supra*, as authority for denying a stay because, unlike this lawsuit, discovery was needed to establish the district court's jurisdiction. Here, the district court and Jacobs had years of jurisdictional discovery prior to the court's error-laden decision on May 28, 2015, following an evidentiary hearing, that is the subject of the pending writ petition in case no. 68265.

possible and consistent with due process. Without a stay of the district court's accelerated and completely unnecessary discovery and trial schedule, the object of the Petitioners' writ petitions *will be* defeated.

**B. Petitioners Will Suffer Irreparable Harm If The Current Trial Order Deadlines Are Not Stayed.**

Jacobs characterizes the reason for Petitioners' motion for a stay as a desire to cause delay and prevent discovery. Nowhere in his opposition does he address the two reasons Petitioners articulate to request a stay: (1) SCL should not be compelled to respond to merits discovery when this Court has not yet determined whether it is subject to jurisdiction in Nevada; and (2) the October trial date and the resulting accelerated discovery deadlines will force Defendants to conduct all merits-related fact discovery in just six weeks (by August 7, 2015) and prepare for trial in less than four months (after a four-year stay on merits discovery). This entirely unnecessary and compressed discovery and trial schedule will irreparably harm the Petitioners because they simply do not have sufficient time to conduct discovery and prepare for trial. And *that* would work a *denial* of due process on them.

Unlike Jacobs, who has had nearly unfettered access to merits discovery under the guise of and in addition to jurisdictional discovery, this Court's 2011 stay order precluded Defendants from taking any discovery or advancing the case and their defense toward trial for almost four years. Now that Jacobs has substantially completed discovery, he complains about the length of the discovery period for jurisdiction. Jacobs, however, not the Petitioners, is responsible for the "delay" occasioned by jurisdictional discovery because he pursued a "scorched earth" discovery plan in search of largely jurisdictionally irrelevant facts, sought sanctions for conduct that did not warrant sanctions for "deception" because none existed, and continually changed his theories of jurisdiction after August

2011. It would be patently unfair for the Defendants to now be compelled to comply with the district court's Trial Order, which sets the trial for October 14, 2015, the Expert Disclosure deadline for July 17, 2015, and the fact discovery cut-off date for August 7, 2015 when the Petitioners have not had the opportunity to conduct discovery and prepare their defenses to Jacobs's claims for almost 4 years.

**C. Jacobs Will Not Be Prejudiced By A Stay.**

Although Jacobs contends that several unidentified witnesses are elderly and he is concerned about the preservation of evidence, these concerns do not show that he would be prejudiced by a brief delay in discovery and continuance of the trial date, which Petitioners stipulated to extend in order to relieve the district court's unreasonable doubt about application of the five year rule in NRCP 41(e). Instead, Jacobs's opposition demonstrates that his insistence on maintaining the district court's unreasonable discovery and trial schedule is intended to prejudice the Petitioners' ability to defend themselves on the merits.

**D. Petitioners Have Presented A Substantial Case On The Merits Of These Important Legal Questions.**

Jacobs does not contend in his opposition that Petitioners are not likely to prevail on the merits of either the Rule 41(e) issue or on the jurisdictional issue. Moreover, his reliance on *Hansen v. Eighth Judicial District Court* is misplaced because that case is distinguishable on its facts as authority to deny a stay in this matter. 116 Nev. 650, 6 P.3d 982. In *Hansen*, a stay was denied because (inter alia) the petitioner failed to raise a "substantial legal question" or demonstrate that the object of his writ would be defeated absent a stay. *Id.* at 659, 6 P.3d at 987. Here, by contrast, this Court has ordered an answer to SCL's jurisdictional petition, while staying the district court's jurisdictional order, *and* Jacobs has made no attempt to defend the district court's flawed interpretation and prejudicial application of Rule 41(e). Therefore, Petitioners have met the *Hansen* requirements and

presented a "substantial case on the merits" involving serious legal questions. *Id.*; n.1, *supra*.

### III. CONCLUSION

Petitioners 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 in case no. 68265.

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## CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the following document: **REPLY IN SUPPORT OF 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** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows:

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Pursuant to Nev. R. App. P. 25(b), I further certify that I caused the same document to be hand delivered in a sealed envelope, on the date and to the addressee(s) shown below:

**VIA HAND DELIVERY ON 7/1/2015**

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

DATED this 30th day of June, 2015.

By: /s/ PATRICIA FERRUGIA