

IN THE SUPREME COURT OF THE STATE OF NEVADA

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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.

Case Number: 68265

SANDS CHINA LTD., A CAYMAN
ISLANDS CORPORATION,

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.

Case No. 68275

LAS VEGAS SANDS CORP., A
NEVADA CORPORATION; SANDS
CHINA LTD., A CAYMAN ISLANDS
CORPORATION; AND SHELDON G.
ADELSON, AN INDIVIDUAL,

Petitioners,

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.

**PETITION FOR REHEARING OF EN BANC ORDER, NOVEMBER 4,
2015 REGARDING JURISDICTION IN CASE NO. 68265**

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Pursuant to Nevada Rule of Appellate Procedure 40, Sands China Ltd. ("Sands China") petitions for rehearing of the Court's En Banc Order of November 4, 2015 (referred to herein as the "Decision") on the ground that in sustaining specific jurisdiction over Sands China, the Court has apparently overlooked that it did so on the "reverse agency" theory of the district court that this Court rejected as the basis for general or transient personal jurisdiction in Nevada over Sands China. This renders the Decision internally inconsistent and will undermine its integrity if the Decision is allowed to stand. If reverse agency cannot be the basis for general jurisdiction, it should not be endorsed to uphold specific jurisdiction, as the Decision appears to do.

Sands China raised the issue of "reverse agency" as an insufficient basis for personal jurisdiction throughout its briefing on this writ, along with the absence of fact to find "purposeful availment," which the Court did not address in its Decision before concluding, "Jacobs made a preliminary showing of specific jurisdiction." Decision at 3. These oversights and their legal significance are discussed on a claim-by-claim basis in the brief that follows.

I. INTRODUCTION

The Court's Decision directs the district court to vacate its "determinations that Sands China is subject to personal jurisdiction under general and transient jurisdiction theories . . . ," based on the district court's "unsupported legal premise" that "Sands China utilized the employees of its Nevada-based parent company, Las Vegas Sands, to conduct Sands China's business," which is exclusively in Macau. Decision at 4-5; Sands China's Pet. at 5-7 ("Jurisdictional Facts" section, with appropriate citations

to the appendix). At the same time, the Court held "that Jacobs made a preliminary showing of specific jurisdiction" because "Sands China purposefully availed itself of the privilege of acting in Nevada and that Jacobs's claims arose from those actions." Decision at 3.

This conclusion by the Court overlooks, and thus does not credit, that the basis for the district court's/Jacobs's "preliminary showing" is premised on the *same reverse agency* theory of the district court that the Court condemned as "an unsupported legal premise" to direct the court to vacate its order that Sands China is subject to general and transient jurisdiction, in accordance with the U.S. Supreme Court's decision in *Daimler AG v. Bauman*, 471 U.S. ___, 134 S. Ct. 746 (2014), and this Court's decision in *Viega GmbH v. Eighth Judicial District Court*, 130 Nev. ___, 328 P.3d 1152 (2014) (en banc). Decision at 4–5. "Sands China," this Court said, "lacked the legal authority to control the employees of its parent." *Id.* at 4. Moreover, neither the district court nor this Court in its Decision identified any act or contact with Nevada by Sands China that supports this foreign entity's purposeful availment of Nevada's laws or other benefits.

SPECIFIC JURISDICTION FOR BREACH OF CONTRACT IN MACAU

In concluding that "Jacobs made a preliminary showing of specific jurisdiction," the Court overlooked that the district court based this "preliminary" specific jurisdiction finding on its discredited conclusion No. 145—that the "acts of employees of LVS, as *agent* of SCL, related to compensation and termination of Jacobs *and* SCL's assumption [through employees of LVS] of the Nevada negotiated Term Sheet support the conclusion that specific jurisdiction is appropriate over the breach of contract claim." PA 47312.

This oversight, if allowed to stand, will be an altogether unnecessary rebuke of *Daimler* and establish the novel proposition that a parent corporation, such as Las Vegas Sands, is the agent of its subsidiary, Sands China, thus disregarding more than a century of law to the contrary, that a subsidiary is the agent of its parent. The Court's Decision on specific jurisdiction overlooked the fact that due to its reliance on the reverse agency theory, a proper due process analysis was not done by the district court. It should be reheard and reargued to maintain precedent and symmetry in the law of agency in Nevada, and the integrity of the Decision on personal general and transient jurisdiction.

SPECIFIC JURISDICTION FOR DEFAMATION

The Court should also allow rehearing to address the distinction between liability for defamation and specific jurisdiction in Nevada over Sands China for an allegedly defamatory statement made by defendant Sheldon Adelson for himself, without any evidence that he was acting as the agent of Sands China in making the statement and was directed to do so by Sands China's board of directors, or that Sands China thereafter ratified his statement. The district court's conclusion No. 159, PA47314 — that Jacobs defamation claim "arises out of Adelson's [personal] statement that he made and published in Nevada"—is not supported by any evidence that Sands China in Macau requested or ratified the statement made by Mr. Adelson in Las Vegas to the *Wall Street Journal*, which thereafter published it worldwide.

Without such evidence, Sands China, as distinguished from Mr. Adelson as an individual, cannot be haled into court in Las Vegas for Mr. Adelson speaking to the press in response to Jacobs's vilification of

Mr. Adelson in the same press. Sands China did not intentionally direct any statement toward Nevada about a Nevada resident, so jurisdiction over Sands China cannot be sustained. *Cf. Calder v. Jones*, 465 U.S. 783 (1984); *see Catholic Diocese of Green Bay, Inc. v. John Doe 119*, 131 Nev. ___, 349 P.3d 518, 521 (2015). Thus, the district court abused its discretion and made a material legal error in concluding that purposeful availment by Sands China was shown, which this Court misapprehended but has perpetuated in its Decision.

*JUDICIAL POLICY CONSIDERATIONS DO NOT SUPPORT PROVIDING
A NEVADA FORUM FOR FOREIGN PLAINTIFF TO ASSERT A FOREIGN
CLAIM*

The Court should also consider whether it would comport with good judicial policy to make a Nevada forum available to a foreign plaintiff employed by a foreign entity in a foreign country to litigate a breach of contract claim arising in his foreign place of employment. In *Arbella Mut. Ins. Co. v. District Ct.*, 122 Nev. 509, 134 P.3d 710, 715 (2006), the Court said "Nevada has an interest in providing a forum for its *residents* [who are injured in Nevada by a foreign defendant's "purposeful contact" with the state] to litigate disputes" arising out contacts with Nevada. (Emphasis added.) Jacobs does not reside in Nevada. He is a resident of Georgia. He was not employed by Sands China to work in Nevada. He worked in Macau. He was not injured in Nevada by his alleged wrongful termination in Macau. More importantly, Sands China did not avail itself of any benefit, laws, or protections offered by the State of Nevada. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004) (explaining the "quid pro quo" justification for asserting specific jurisdiction over a non-resident defendant).

Rehearing is necessary to confirm Sands China's due process rights.

II. LEGAL STANDARD FOR SPECIFIC JURISDICTION

The State of Nevada authorizes its courts to exercise jurisdiction over persons "on any basis not inconsistent with the Constitution of the United States." NRS 14.065. An assertion of personal jurisdiction, however, must comport with due process. *Catholic Diocese*, 131 Nev. at ___, 349 P.3d at 521 (citing *Arbella*, 122 Nev. at 512, 134 P.3d at 715); *Trump v. Eighth Judicial Dist. Ct.*, 109 Nev. 687, 698, 857 P.2d 740, 747 (1993). To satisfy due process, personal jurisdiction must be *reasonably* exercised and only when the defendant has had certain minimum contacts with the forum state "such that the maintenance of suit does not offend traditional notions of fair play and substantial justice." *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945); *Arbella*, 122 Nev. at 516, 134 P.3d at 714. These minimum contacts are required for either "general or all-purpose jurisdiction" or "specific or conduct-linked jurisdiction." *Daimler AG v. Bauman*, 134 S. Ct. 746, 751(2014) (citing *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2851 (2011)).

The district court's May 28, 2015 decision made 126 "[f]indings of [f]act," which can be divided into three categories: (1) general findings to establish background facts; (2) findings suggesting Sands China's activities were controlled by employees of its majority shareholder, Las Vegas Sands; and (3) findings suggesting Sands China had the right to control Las Vegas Sands employees and did so. The Court's Decision correctly rejected these findings as bases for personal jurisdiction, and correctly held that the conduct of Las Vegas Sands employees "could not be attributed to Sands

China for general jurisdiction purposes." Decision at 4. These infirm findings by the district court cannot support specific jurisdiction either.

Unless Jacobs had demonstrated that Sands China either directed "[its] activities or engaged in some transaction *with the forum or a resident thereof*" or otherwise performed acts by which it "avail[ed itself] of the privilege of conducting activities in the forum," which Jacobs did not show, haling Sands China into a Nevada forum denies it due process of law. *Schwarzenegger*, 374 F.3d at 802; *Catholic Diocese*, 131 Nev. at ___, 349 P.3d at 521 ("mere unilateral activity by those who claim some relationship with non-resident defendant cannot satisfy the requirement of contact with the forum state").

A. Purposeful Availment Was Not Established

Neither the district court nor this Court in its Decision cites any evidence of contact "with the forum or [a] resident thereof" by which Sands China allegedly availed itself of the privilege of conducting business in Nevada, or otherwise invoked the benefit and protections of Nevada's laws. *Id.* Absent such facts, there is no "finding" by the district court sufficient to support purposeful availment by Sands China of the protection of Nevada's laws, a requirement for specific personal jurisdiction, unless the Court were to endorse reverse agency to hold that Sands China was acting as the principal of Las Vegas Sands and directed its parent, as its agent, to direct conduct towards Nevada that injured Jacobs *in this state*.

Negotiation of the Term Sheet for employment of Jacobs in Macau prior to Sands China's existence cannot reasonably be construed as an affirmative act by Sands China in Nevada. The "conduct" of Term Sheet

negotiations that the district court pointed to in its specific jurisdiction analysis for each cause of action therefore fails to satisfy the two requirements of the Court's decision in *Arbella* (purposeful contact aimed at Nevada *plus* injury in Nevada from that purposeful contact) to support the reasonableness requirement, discussed by the U.S. Supreme Court in *Daimler*, to sustain jurisdiction over Sands China.

B. Purposeful Direction (Essential to Jacobs's Tort Claims) Was Not Established

When tort claims are involved, "purposeful direction" is the appropriate test to evaluate specific jurisdiction of the forum. The U.S. Supreme Court has outlined a three-part "effects test" to establish purposeful direction. *Calder v. Jones*, 465 U.S. 783 (1984); *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475 (1985). The plaintiff must show that the non-resident corporation "1) committed an intentional act, 2) expressly aimed at the forum state, 3) causing harm that the defendant knows is likely to be suffered *in the forum state*." *Schwarzenegger*, 374 F.3d at 803 (citing *Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1111 (9th Cir.2002) (emphasis added)). Jacobs did not establish any of these requirements.

C. Jacobs's Claims Did Not Arise Out of Forum Activity Directed by Sands China.

He must show that "but-for" acts directed by Sands China in Nevada, he would not have been damaged. *Doe v. Unocal Corp.*, 248 F.3d 915, 924-25 (9th Cir. 2001). But Jacobs has not shown a causal link between acts in Nevada that injured him in Nevada and that were directed at Nevada or at him as a resident of Nevada. Thus, Nevada cannot exercise specific jurisdiction of Sands China for acts in Macau and maintain compliance

with due process. *Id.*; *Baker v. District Ct.*, 116 Nev. 527, 531-32, 999 P.2d 1020, 1023 (1999).

D. The Exercise of Jurisdiction Over a Foreign Defendant Must be Reasonable

Under the "effects test," the exercise of jurisdiction is reasonable only if the effect of the harm caused by the conduct directed to the forum is realized in the forum, which did not occur here. *Calder v. Jones, supra*; *cf. Judas Priest v. Dist. Ct.*, 104 Nev. 424, 427, 760 P.2d 137, 139 (1988) (jurisdiction over rock band held reasonable because the band recorded a record album for distribution in Nevada that allegedly caused the Nevada listener/plaintiff to commit suicide. "[T]he state has a strong interest in protecting its citizens from personal injury").

The alleged harm to Jacobs, a resident of Georgia, from allegedly being wrongfully terminated in Macau by Sands China did not have an effect in Nevada on a Nevada resident.

III. ARGUMENT

Jurisdiction Over Sands China Cannot be Sustained Unless the Reverse Agency Theory this Court Rejected for General and Transient Jurisdiction is Resurrected for Specific Jurisdiction.

The district court found specific jurisdiction over all of Jacobs's breach of contract claims because:

1. Plaintiff and LVSC negotiated an employment agreement (the "Term Sheet Agreement") in Nevada;
2. SCL thereafter "assumed" LVSC's obligations under the agreement; and
3. LVSC and SCL then breached the agreement.

PA47310-12, ¶¶ 132–46.

The district court based these generalized findings on acts performed by Las Vegas Sands personnel in Nevada, which this Court's Decision rejected as a basis for personal jurisdiction. The district court did not find a single fact that would support the conclusion that Sands China either invoked the benefit or protection of Nevada's laws or that, by its conduct, purposefully availed itself of the benefit of doing business in Nevada, such that it could reasonably expect to be haled into a Nevada courtroom. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980) ("the foreseeability that is critical to the due process analysis . . . is that the defendant's conduct and connection with the forum state is such that [it] should reasonably anticipate being haled into court there").

The district court attempted to account for this failure of proof by invoking "incorporator liability," relying on inapposite cases involving forum residents and/or services to be rendered in the forum, neither of which is involved in this case. *E.g., Rees v. Mosaic Techs, Inc.*, 742 F.2d 765, 768-69 (3rd Cir. 1984) (cited by Jacobs in Ans. Br. at 42). No legal basis exists by which the acts of an incorporator (Las Vegas Sands) could be imputed to a foreign corporation not in existence (Sands China) to later establish personal jurisdiction over the foreign corporation for an alleged breach of contract that *did not arise* out of the actions of the incorporator *that did not invoke the forum's laws or protections and were not directed at the forum*.

Thus, Sands China could not have reasonably anticipated being haled into a Nevada court from Jacobs' negotiations with Las Vegas Sands for the Term Sheet before Sands China existed: "[I]t is the defendant, not the plaintiff or third parties, who must create contacts with the forum state."

Walden v. Fiore, 134 S. Ct. 1115, 1121 (2014). Moreover, the defendant's suit-related conduct, must establish a substantial connection with the forum state, *id.*, and personal jurisdiction must also exist *at the time of the facts giving rise to plaintiff's claim*. *Farmers Ins. Exch. v. Portage La Prairie Mut. Ins. Co.*, 907 F.2d 911, 913 (9th Cir. 1990) (emphasis added). Neither was present here.

Nevertheless, the district court concluded, without distinguishing between the alleged contracts Jacobs is suing on, that specific jurisdiction exists because "negotiations, consequences, terms, and parties' course of dealing arising from the option grant are primarily connected to Nevada." PA47311 ¶ 136. "Connected to Nevada," however, does not equal "purposeful availment" by Sands China to serve the market in Nevada or "of enjoying the protections of the laws" of the State of Nevada. *Arbella*, 122 Nev. at 513, 134 P.3d at 712–13; *Schwarzenegger*, 374 F.3d at 802. Nor did the district court find that "but-for" negotiations in Nevada, Jacobs would not have sustained an injury in Macau from actions taken in Macau. *Doe*, 248 F.3d at 924-25; *Arbella*, 122 Nev. at 513, 134 P.3d at 712–13; see *Daimler*, 134 S. Ct. at 741 (specific jurisdiction is "conduct-linked" jurisdiction.)

A. The Sands China Hong Kong Option Grant Does Not Support Jurisdiction

The district court also asserted jurisdiction over Jacobs's claim involving the Hong Kong stock option agreement because it summarily concluded that "[t]he facts related to Jacobs's termination are intimately related to the breach of the option grant." PA47311 ¶ 136. So what? The Term Sheet did not involve services to be rendered in Nevada or in any way take advantage of Nevada's laws, nor did the option agreement. Nevertheless the district court characterized it as a "Nevada contract" and

concluded with the bizarre notion that "by accepting the benefits that Jacobs was providing [in Macau] pursuant to a Nevada contract, Sands China [operating exclusively in Macau] could reasonably foresee being hailed [sic] into a Nevada Court," PA47311 ¶ 139, on the Hong Kong option agreement. The court went on to say, without any authority for support, that "[w]here the Court has personal jurisdiction over one contract, the Court may exercise jurisdiction over intimately related contracts even though the parties are not identical. PA 47312 ¶ 146; *but see Seiferth v. Helicopteros Atuneros, Inc.*, 472 F.3d 266, 275 (9th Cir. 2006) ("exercise of jurisdiction over one claim to justify exercise of jurisdiction over a different claim that does not arise out of or relate to the defendant's forum contacts would violate the Due Process Clause"); 5B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure*, Civil 3d 1351 at 299 n.30 (2004) ("There is no such thing as supplemental specific personal jurisdiction; if separate claims are pled, specific jurisdiction must independently exist for each claim and the existence of personal jurisdiction for one claim will not provide the basis for another claim.").

These summary, evidence-shy conclusions by the district court wholly ignore the fact that the Sands China share option grant was awarded to Jacobs by the Sands China compensation committee *in Macau*. PA47294 ¶ 54. The option agreement evidencing that award was delivered to him *in Macau*, based on work he performed *in Macau*, and by its express terms is *subject to Hong Kong law*. *Id.* ¶¶ 54-55. This contract is unconnected and foreign to Nevada.

B. The Macau Tort Claims of Conspiracy and Aiding and Abetting Are Not Subject to Jurisdiction in Nevada.

Jacobs also makes a claim against Sands China for "Aiding and Abetting Tortious Discharge in Violation of Public Policy," PA2756R-S ¶¶ 84–89, as well as a claim for "Civil Conspiracy Tortious Discharge in Violation of Public Policy." PA2756S at ¶¶ 90–95. Because these are tort claims they should have been separately analyzed under the purposeful direction (or "effects") test. *Calder*, 465 U.S. at 789; *Schwarzenegger*, 374 F.3d at 803. That would have required the district court to show that Sands China "1) committed an intentional act, 2) expressly aimed at the forum state, 3) causing harm that the defendant knows is likely to be suffered *in the forum state*." *Schwarzenegger*, 374 F.3d at 803 (emphasis added).

The district court, however, failed to so analyze these claims. Instead, it turned to reverse agency and found specific jurisdiction over these claims based on the acts of "LVS employees within Nevada" acting for Sands China. PA47312–14 ¶¶ 147–156. The court concluded that Mike Leven and Mr. Adelson formulated a "strategy" in Nevada to terminate Jacobs in Macau, PA47313 at ¶ 150, and used LVS employees to execute the plan in Macau. *Id.* at ¶ 151. Nevertheless, there is no evidence that this activity was aimed at Nevada and produced an injury in Nevada. Indeed, the district court's own conclusions are to the contrary: the alleged acts taken in Nevada were not "expressly aimed at [Nevada]" — *Schwarzenegger*, 374 F.3d at 803—the acts were directed at Macau. The harm from defendant's alleged conspiracy to terminate Jacobs would be felt in Macau, where Jacobs was employed, not in Nevada.

Under *Calder* and its progeny, the district court's assertion of specific jurisdiction over these tort claims is not consistent with due process.

Moreover, the findings and conclusions made by the district court, even if credited as true, do not satisfy the purposeful availment standard declared by the U.S. Supreme Court in *Burger King*, 471 U.S. at 475, and by this Court, *e.g.*, in *Arbella*, 134 P.3d at 712–13.

C. Sands China is Not Subject to Jurisdiction for The Defamation Claim.

The district court also found specific jurisdiction over Sands China for the defamation claim against Mr. Adelson that arose long after the suit was in progress. PA47314 ¶¶ 157–162. Jacobs initially asserted this claim only against Mr. Adelson; he later amended to assert defamation against all defendants, based on Mr. Adelson's status as the Chairman of both LVS and Sands China. Because defamation is a tort claim, it should have been – but was not – evaluated under *Calder's* "purposeful direction" standard: Did Sands China direct Mr. Adelson to make the defamatory statement?

The district court, however, found specific jurisdiction over Sands China for defamation, not for directing its Chairman to make a statement, but for Mr. Adelson's alleged and irrelevant "inconsistent testimony" as to whom he was speaking for when he made the statement that was published in the *Wall Street Journal*. PA47314–15 ¶¶ 161–62. This might be of interest and relevant for liability purposes, but to establish jurisdiction over Sands China for defamation in Nevada, Jacobs was required to show – but did not – that the company: "1) committed an intentional act, 2) expressly aimed at the forum state, 3) causing harm that the defendant knows is likely to be suffered in the forum state." *Schwarzenegger*, 374 F.3d at 803 (summarizing and enumerating these three requirements of the *Calder* "effects" test).

As to the first element, the district court concluded that Sands China "[could] be liable for the defamatory statements of its executives acting within the scope of their authority," PA471314 ¶ 157. But this "finding" confuses and conflates the test for liability with the test for specific jurisdiction. As shown above, under both *Daimler* and *Viega*, a non-resident corporation can be subject to specific jurisdiction only if it *directs* its intentional acts to the forum and these specific acts allegedly give rise to liability. *Daimler AG v. Bauman*, 471 U.S. ___, 134 S. Ct. at 759; *Viega*, 130 Nev. ___, 328 P.3d at 1158. Accordingly, the mere fact that Mr. Adelson made the allegedly defamatory statement does not establish specific jurisdiction over Sands China unless Sands China directed him to make the statement.

Yet the district court made no finding—and Plaintiff presented *no evidence*—*showing* that Sands China *directed* Mr. Adelson to make the allegedly defamatory statement or that the board ratified the statement. *None*. So, assuming for the sake of debate that Mr. Adelson was an agent of Sands China, Jacobs still did not meet the principal requirement for specific personal jurisdiction over Sands China: He did not show that Sands China directed its agent to engage in acts directed to the forum which allegedly give rise to liability. *Schwarzenegger*, 374 F.3d at 803; *Calder*, 465 U.S. at 789.

The district court's reference to a corporation's potential liability for statements made by its Chairman *speaking for himself* improperly conflated jurisdiction over Sands China with the liability of Mr. Adelson if his statement is found to be defamatory, which this Court overlooked when it

held that "Jacobs made a preliminary showing of specific jurisdiction."
Decision at 3.

IV. CONCLUSION

The "district court's preliminary conclusion that Sand's China purposefully availed itself of the privilege of acting in Nevada and that Jacobs's claims arose from those actions," Decision at 3, is not supported by any evidence of contacts with Nevada by Sands China that injured Jacobs, a non-resident, in Nevada. Sands China, a subsidiary of Las Vegas Sands Corp., did not and could not direct its parent, as its "agent" or otherwise, to undertake any action in Nevada that injured non-resident Jacobs here. For these reasons, it would be unreasonable to provide a Nevada forum to litigate Jacobs's Macau claims arising from alleged wrongful conduct in Macau by his Macau employer.

Rehearing and withdrawal of the Court's Decision on specific jurisdiction is necessary to preserve due process, prevent a miscarriage of law and justice, and preserve the integrity of the Court's rejection of the district court's reverse agency theory of personal jurisdiction that *Daimer* and this Court's decision in *Viega* do not countenance.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this petition for rehearing complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this petition for rehearing has been prepared in a proportionally spaced typeface using Microsoft Office Word 2007 in 14 point Palatino font.

2. I further certify that this petition for rehearing complies with the page- or type-volume limitations of NRAP 40(b)(3) and 32(a)(7) because, excluding the parts of the petition exempted by NRAP 32(a)(7)(C), it does not exceed 4,667 words.

3. Finally, I hereby certify that I have read this petition for rehearing, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

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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: **PETITION FOR REHEARING OF EN BANC ORDER, NOVEMBER 4, 2015 REGARDING JURISDICTION IN CASE NO. 68265** 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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VIA HAND DELIVERY on November 24th, 2015

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DATED this 23rd day of November, 2015.

By: /s/ Fiona Ingalls