

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS, LIMITED AND  
STEVE A. WYNN,  
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

KAZUO OKADA; UNIVERSAL  
ENTERTAINMENT CORPORATION;  
AND ARUZE USA, INC.,  
Real Parties in Interest.

No. 74591

**FILED**

FEB 06 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioners summary judgment.

Petitioners challenge the district court's refusal to grant them business judgment rule protection from real parties in interest's claims, even though the court granted summary judgment to the corporation's disinterested directors on the claims against them individually after finding that they were protected under the business judgment rule. Yesterday,

however, the district court orally vacated its order granting summary judgment to the disinterested directors serving on November 1, 2011,<sup>1</sup> meaning those directors' liability and protections therefrom will be determined in future proceedings. The district court's reversal on that matter impacts the issues surrounding petitioners' liability and business judgment rule protections, the arguments concerning which are necessarily affected by the protections given and denied to the disinterested directors. *Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court*, 133 Nev., Adv. Op. 52, 399 P.3d 334, 341–42 (2017) (recognizing that the business judgment rule presumes directors make informed, good faith business decisions, with the belief that the action is in the corporation's best interests).

Therefore, although petitioners urge us to consider the separate issue of corporate liability under the business judgment rule,<sup>2</sup> we decline to do so at this time, as any such ruling would be merely advisory. *Archon Corp. v. Eighth Judicial Dist. Court*, 133 Nev., Adv. Op. 101, 407 P.3d 702, 708-10 (2017) (declining to consider a petition seeking advisory mandamus when doing so would present inefficiencies and would not advance the case, and when the issue was inadequately developed and of insufficient novelty, importance, and recurrence potential). Accordingly, we deny this petition

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<sup>1</sup>It is unclear from the transcript of the district court proceedings on February 5, 2018, whether the district court's order granting summary judgment still applies to any disinterested directors.


<sup>2</sup>The parties did not argue, and we also do not address, whether the good faith provision arising out of Article VII, Section 7 of the corporation's articles of incorporation offers the same protections to the corporation as the business judgment rule offers to the directors.

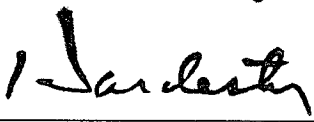
for extraordinary writ relief, without prejudice, *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1344, 950 P.2d 280, 281 (1997), and we vacate today's oral argument in this case.

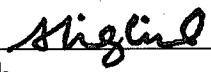
It is so ORDERED.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Stiglich

cc: Hon. Elizabeth Goff Gonzalez, Chief Judge  
Pisanelli Bice, PLLC  
Campbell & Williams  
BuckleySandler LLP  
Holland & Hart LLP/Las Vegas  
Kemp, Jones & Coulthard, LLP  
Morris Law Group  
Eighth District Court Clerk

<sup>3</sup>Real parties in interest's February 6, 2018, motion to strike petitioners' response to the status report is denied.