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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

LOUISIANA MUNICIPAL POLICE  
EMPLOYEES RETIREMENT  
SYSTEM,

Plaintiff,

v.

STEPHEN A. WYNN, et al.,

Defendants.

2:12-CV-509 JCM (GWF)

**ORDER**

Presently before the court is a request for judicial notice by defendants Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Mark D. Schorr, Alvin V. Shoemaker, D. Boone Wayson, Stephen A. Wynn, and Allan Zemanin support of their reply memorandum (doc. # 137) regarding their motion to dismiss (doc. # 130). (Doc. # 139).

Also before the court is plaintiffs' motion to strike material from defendants' reply memorandum or alternatively for leave to file a sur-reply. (Doc. # 144). Defendants filed a response in opposition (doc. # 146), and plaintiffs filed a reply (doc. # 147).

Defendants request that this court take judicial notice of the following:

(1) Wynn Resorts Limited Form 8-K (filed July 8, 2013);

(2) a hearing transcript regarding the United States' motion to intervene as well as the second amended counterclaim of Aruze USA, Inc and Universal Entertainment Corp. in *Wynn Resorts, Ltd. V. Okada et al.*, Case No. A-12-656710-B, Eighth Judicial District Court, Clark County Nevada;

- 1 (3) a press release issued by the Republic of the Philippines Department of Justice  
2 regarding an investigation into violations of investment laws;
- 3 (4) portions of MGM Resorts International Form 10-K (filed March 1, 2013);
- 4 (5) portions of Las Vegas Sands Corp. Form 10-K (filed March 1, 2013);
- 5 (6) Wynn Resorts, Limited Form DEF 14A (filed March 26, 2013).

6 (Doc. # 139: Attachments 1-7).

7 Plaintiffs argue that it would be improper for the court to take judicial notice of the above  
8 listed documents, and consequently that the portions of defendants' reply that depend upon those  
9 documents should be stricken. Alternatively, plaintiffs argue that sections relating to these  
10 documents in defendants' reply memorandum constitute entirely new argumentation. and thus should  
11 be stricken as procedurally improper. Finally, plaintiffs request that they be granted leave to file a  
12 sur-reply should the court choose not to strike these portions of defendants' reply memorandum.

13 Administrative filings as well as orders and decisions made by other courts can be proper  
14 subjects of judicial notice. *See Bryant v. Carleson*, 444 F.2d 353, 357-58 (9th Cir. 1971). However,  
15 the court cannot and will not take judicial notice of facts contained in such documents that are or  
16 could reasonably be disputed. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001). The  
17 above-listed documents all contain information that contradict key elements of plaintiffs' claims in  
18 this case. As these are assertions of fact that are clearly in dispute, it is not proper for the court to  
19 take judicial notice of these documents or to include them within its consideration of the pending  
20 motion to dismiss. Accordingly, the request for judicial notice will be denied.

21 Under Fed. R. Civ. P. 12(f), "[t]he court may strike from a pleading an insufficient defense  
22 or any redundant, immaterial, impertinent, or scandalous matter." "Motions to strike are generally  
23 regarded with disfavor. . . ." *Mag Instrument, Inc. v. JS Prods., Inc.*, 595 F.Supp.2d 1102, 1106  
24 (C.D. Cal. 2008). The function of a motion to strike pursuant to Rule 12(f) is avoidance of "the  
25 expenditure of time and money that must arise from litigating spurious issues by dispensing with  
26 those issues prior to trial [.]" *Fantasy, Inc. v. Fogarty*, 984 F.2d 1524, *rev'd on other grounds*, 510  
27 U.S. 517 (1994) (internal quotations omitted).

