

**BROWNSTEIN HYATT FARBER SCHRECK, LLP**  
100 NORTH CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106  
(702) 382-2101

1 Mitchell J. Langberg, Esq., Nevada Bar No. 10118  
2 Laura E. Bielinski, Esq., Nevada Bar No. 10516  
3 Joanna M. Myers, Esq., Nevada Bar No. 12048  
4 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
5 100 North City Parkway, Suite 1600  
6 Las Vegas, Nevada 89106  
7 mlangberg@bhfs.com  
8 lbielinski@bhfs.com  
9 jmyers@bhfs.com  
10 Telephone: (702) 382-2101  
11 Facsimile: (702) 382-8135  
12 *Attorneys for Wynn Las Vegas, LLC*  
13 *d/b/a Wynn Las Vegas*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

14 WYNN LAS VEGAS LLC  
15 d/b/a WYNN LAS VEGAS, a Nevada  
16 limited liability company,

17 Plaintiff,

18 v.

19 GGW DIRECT, LLC, a Delaware limited  
20 liability company; GGW BRANDS, LLC,  
21 a Delaware limited liability company;  
22 GGW EVENTS, LLC, a Delaware limited  
23 liability company; MANTRA FILMS,  
24 INC., a suspended Oklahoma corporation;  
25 BLUE HORSE TRADING, LLC, a  
26 California limited liability company; PEPE  
27 BUS, LLC, an inactive Montana limited  
28 liability company; SANDS MEDIA, INC.,  
a revoked Nevada domestic corporation;  
JOSEPH R. FRANCIS, an individual,  
DAVID R. HOUSTON, an individual; and  
DAVID R. HOUSTON, LTD., a Nevada  
professional corporation, doing business as  
THE LAW OFFICE OF DAVID R.  
HOUSTON,

Defendants.

Case No. 2:12-CV-02066-JCM-PAL

**ORDER GRANTING WYNN  
LAS VEGAS, LLC'S EMERGENCY MOTION  
TO REMAND**

1 Plaintiff Wynn Las Vegas, LLC's ("Wynn") Emergency Motion to Remand came on for  
2 hearing on December 13, 2012. Having considered the Emergency Motion to Remand and  
3 supporting papers, Defendants GGW Direct, LLC, GGW Brands, LLC, and GGW Events,  
4 LLC's (collectively, "Defendants") Notice of Removal and supporting papers, the Supplemental  
5 Declaration of Joseph Francis in Support of Removal, the pleadings and papers on file herein,  
6 and the arguments of counsel, and good cause appearing therefor:

7 THE COURT HEREBY FINDS THAT:

8 1. Defendants' Notice of Removal was untimely under 28 U.S.C. § 1446.  
9 Defendants' factual basis for removal is predicated primarily on the supporting declarations of  
10 Defendant Joseph R. Francis ("Francis"). Francis' declarations state that Francis only recently  
11 discovered the facts that allegedly make this case removable—specifically that he only  
12 discovered in November 2012 that Defendant Sands Media, Inc. ("Sands") had no assets and  
13 had not been in business since 2009.

14 However, Mr. Francis' testimony is not credible in light of his prior sworn testimony in  
15 another action. Specifically, in a judgment debtor's exam taken in August 2011, Mr. Francis  
16 testified: (1) that he knew Sands was not an ongoing business, that it was closed down and that  
17 nobody had assumed Sands' business; and (2) when asked if Sands had more liabilities than the  
18 value associated with the company, he testified, "[b]ut there would be just liabilities, a lot of  
19 them I believe . . . ." Francis' prior and current testimony cannot be reconciled, and the Court  
20 finds that Francis first ascertained the facts giving rise to Defendants' Notice of Removal in  
21 August 2011, long before Wynn filed this action in April 2012.

22 2. Because the Court finds that Defendants' Notice of Removal was untimely, it  
23 need not reach the parties' arguments on whether the Court should disregard Defendants David  
24 R. Houston, David R. Houston, Ltd. and Sands' citizenship for purposes of its removal analysis.

25 ///

26 ///

27 ///


28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Wynn's Emergency Motion to Remand is GRANTED;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this action is HEREBY REMANDED to the Eighth Judicial District Court, Clark County, Nevada, Department XI.

ENTERED December 14, 2012.

  
UNITED STATES DISTRICT COURT JUDGE

<p>RESPECTFULLY SUBMITTED BY:</p> <p>BROWNSTEIN HYATT FARBER SCHRECK, LLP</p> <p>By: <u>/s/ Laura E. Bielinski</u> Mitchell J. Langberg, Esq., No. 10118 Laura E. Bielinski, Esq., No. 10516 Joanna M. Myers, Esq., No. 12048 100 North City Parkway, Suite 1600 Las Vegas, Nevada 89106</p> <p><i>Attorneys for Wynn Las Vegas, LLC d/b/a Wynn Las Vegas</i></p>	<p>APPROVED AS TO FORM AND CONTENT BY:</p> <p>PARKER SCHEER LAGOMARSINO LLP</p> <p>By: <u>/s/ Jacob G. Leavitt</u> Andre M. Lagomarsino, Esq., No. 6711 Jacob G. Leavitt, Esq., No. 12608 9555 South Eastern Avenue, Suite 210 Las Vegas, Nevada 89123 <i>Counsel for Defendant Joseph R. Francis</i></p> <p>DAVID OTTO &amp; AFFILIATES, PC</p> <p>By: <u>/s/ David J. Otto</u> David J. Otto, Esq., No. 5449 2300 West Sahara Ave., Suite 800 Las Vegas, NV 89102 <i>Attorney for Defendants GGW Direct, LLC, GGW Brands, LLC and GGW Events, LLC</i></p>
---	---