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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 REPUBLIC OF KAZAKHSTAN,
11
12 Plaintiff,

13 vs.

14 BIG SKY ENERGY CORPORATION,
15
16 Defendant.

Case No. 2:22-cv-00509-JCM-NJK

**RESPONSE TO MOTION TO QUASH
[ECF NO. 22]**

17 Judgment debtor Big Sky moves to quash deposition and document subpoenas Kazakhstan
18 issued to it and its 30(b)(6) representative and sole officer W. Scott Lawler. Because the place of
19 compliance is Arizona, this Court should deny Big Sky’s Motion for lack of jurisdiction.
20 Alternatively, because Big Sky fails to carry its burden to show that the subpoenas should be
21 quashed or modified, particularly with respect to Lawler, the Motion should be denied on the merits.

22 **BACKGROUND**

23 **A. The ICSID Arbitration and 2019 § 1782 Application**

24 In September 2016, Kazakhstan instituted arbitration proceedings against Big Sky in
25 accordance with the Convention on the Settlement of Investment Disputes between States and
26 Nationals of Other States (“ICSID”).¹ During and in connection with the ICSID Arbitration,
27 Kazakhstan instituted a limited-purpose action pursuant to 28 USC § 1782 in the District of Arizona

28 _____
¹ ECF No. 3-2.

1 in which it sought evidence from Lawler for use in the Arbitration (“**2019 § 1782 Application**”).²
 2 In January 2020, the Arizona Court granted Kazakhstan’s application for permission to serve the
 3 subpoena without prejudice to Lawler’s ability to oppose it after being served. Because Big Sky
 4 alludes to the Arizona Court’s denial of Kazakhstan’s 2019 § 1782 Application as somehow bearing
 5 on the instant subpoenas, some additional context is necessary.

6 In the 2019 § 1782 Application, Kazakhstan sought evidence relevant to its jurisdictional
 7 defense in the arbitration under the so-called “denial of benefits” provision of the United-States-
 8 Kazakhstan Bilateral Investment Treaty which allows Kazakhstan to deny treaty protection “to any
 9 company that is controlled by non-U.S. nationals if that company does not conduct substantial
 10 business activities in the United States.”³ Through the subpoena to Lawler, Kazakhstan sought to
 11 obtain evidence addressing the identity of the parties that control Big Sky.⁴

12 Importantly, Kazakhstan had sought the same information in the ICSID Arbitration. And
 13 contrary to Big Sky’s representations that these requests were denied,⁵ these requests were granted
 14 by the Tribunal. On October 4, 2018, Kazakhstan filed an application in the ICSID Arbitration for
 15 an order directing Big Sky to produce documents evidencing both: (a) “the identity and nationality
 16 of the individual(s) who are entitled to give, and/or who in practice ultimately give (whether directly
 17 or through intermediaries), instructions to Lawler in connection with the operations and activities
 18 of [Big Sky]”; and (b) “the identity and nationality of the individual(s) who, as at 19 June 2017
 19 (being the date of the Request for Arbitration), controlled the Claimant and, inter alia, had the
 20 ability to exercise substantial influence over the legal entity’s management, operation and the
 21 selection of members of its board of directors or any other managing body.”⁶ In response, Big Sky
 22 voluntarily produced only a limited number of documents that did not address the issues at the heart
 23 of Kazakhstan’s request. The Tribunal then granted Kazakhstan’s application and ordered Big Sky

24 ² *In Re Application Pursuant to 28 USC 1782 For Discovery From William Scott Lawler*, MC-19-00035-
 25 PHX-DWL (“Arizona Action”). A copy of the 2019 § 1782 Application is attached as **Exhibit A**.

26 ³ ECF No. 22-4 at 1–2

27 ⁴ *Id.*

28 ⁵ ECF No. 22-3 at 17 (“Virtually all of the documents sought in the subpoenas at issue (“Subpoenas”) were sought previously by the Republic of Kazakhstan (“Kazakhstan”) in the ICSID Case No. ARB/17/22 which was an arbitration between Kazakhstan and Big Sky. Big Sky was denied the requested documents in that arbitration”).

⁶ **Exhibit B**.

1 to produce responsive documents. However, Big Sky declined to produce any additional
 2 documents on the basis that it had already produced all responsive documents in its possession,
 3 custody, or control.

4 On April 12, 2019, Kazakhstan served additional document requests on Big Sky that sought
 5 to determine who controlled it at the time it filed the ICSID Arbitration and who was directing its
 6 management. Again, Big Sky vigorously objected to those requests and, again, the Tribunal
 7 ordered Big Sky to respond to the requests. Big Sky still produced no further documents. As a
 8 result of Big Sky's refusal to comply with its document production obligations in the ICSID
 9 Arbitration, Kazakhstan filed the 2019 § 1782 Application.

10 Section 1782 provides federal-court assistance in gathering evidence for use in foreign
 11 tribunals by authorizing district courts to order production of evidence from those within their
 12 jurisdiction.⁷ Assuming statutory requirements are met, district courts consider the *Intel*⁸ factors to
 13 determine whether to provide such assistance, including (1) whether the person from whom the
 14 discovery is sought is a participant in the foreign proceeding or is outside the foreign tribunal's
 15 jurisdictional reach; (2) the nature of the foreign tribunal, the character of the proceedings underway
 16 abroad, and the receptivity of the foreign government or the court or agency abroad to U.S. federal-
 17 court judicial assistance; (3) whether the request attempts to circumvent foreign proof-gathering
 18 restrictions or other policies of a foreign country or the United States; and (4) whether the request
 19 is unduly burdensome.⁹

20 In January 2020, the Arizona Court granted Kazakhstan's application for permission to
 21 serve the subpoena without prejudice to Lawler's ability to oppose it after being served.¹⁰ Only
 22 after the Arizona Court granted permission to serve the subpoena did Big Sky comply with the
 23 Tribunal's order to produce by producing the documents that Kazakhstan had long been seeking in
 24 the ICSID Arbitration—i.e., the same documents that Big Sky had previously and repeatedly
 25 contended did not exist. Lawler then moved to quash. Noting that the "landscape [had] changed
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27 ⁷ *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 273 (2004).

28 ⁸ *Intel Corp.*, 542 U.S. at 264.

⁹ *Id.*

1 dramatically since Kazakhstan filed its § 1782 application” because Big Sky had then produced
 2 “the very documents Kazakhstan wishe[d] to compel Lawler to produce,” the Arizona Court
 3 granted Lawler’s motion to quash.¹¹

4 Even if Kazakhstan had previously sought, in either the ICSID Arbitration or the 2019 §
 5 1782 Application “virtually the same documents it now seeks against Big Sky” and those requests
 6 were previously rejected as Big Sky claims (neither of which is true), this would have no bearing
 7 on the instant subpoenas, which seek information to permit Kazakhstan to collect on the judgment
 8 it obtained against Big Sky, while the previous requests sought information to establish
 9 Kazakhstan’s jurisdictional defense against Big Sky’s claims. Thus, not only were the prior
 10 requests made in different forums applying different legal standards, but the core issues in this
 11 proceeding are entirely different because Big Sky’s claims are no longer in play and its liability has
 12 been established. Neither the Arizona Court nor the ICSID Tribunal considered, much less
 13 addressed, the situation before this Court: what post-judgment discovery would be available in the
 14 event that Kazakhstan prevailed and sought to enforce the judgment.

15 **B. The Default Judgment and Post-Judgment Subpoenas**

16 On November 24, 2021, the ICSID Tribunal rejected Big Sky’s claims and issued an award
 17 in Kazakhstan’s favor.¹² In March 2022, Kazakhstan brought this action to recognize and enforce
 18 the ICSID Award.¹³ After Big Sky failed to appear or otherwise respond to the complaint,
 19 Kazakhstan moved for entry of Clerk’s Default.¹⁴ The Clerk entered default against Big Sky.¹⁵
 20 Kazakhstan then moved for¹⁶ and obtained a default judgment against Big Sky in the full amount
 21 of the award plus applicable interest for a then-total of \$587,030.43 (the “Judgment”).¹⁷ Big Sky
 22 has not satisfied the Judgment, in part or in full, and claims it has no ability to do so.

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 25 ¹¹ ECF No. 22-4.

26 ¹² ECF No. 2 (Declaration of Steven Cooper), ECF No. 3-1 (Copy of November 24, 2021, award bearing
 the certification of the Secretary General of ICSID).

27 ¹³ See generally ECF No. 1 (Complaint).

28 ¹⁴ ECF No. 18.

¹⁵ ECF No. 19.

¹⁶ ECF No. 20.

¹⁷ ECF No. 21.

1 In January 2024, Kazakhstan subpoenaed Big Sky and Lawler pursuant to FRCP 45 and 69
 2 to testify at a deposition and produce documents in Phoenix, Arizona.¹⁸ Lawler (a lawyer) wrote
 3 to counsel for Kazakhstan raising three issues with these subpoenas: (1) the subpoenas contained
 4 inconsistent temporal scopes; (2) one of the items (III.2) was hard to follow; and (3) some of the
 5 requests were redundant because they sought documents previously produced in the ICSID
 6 Arbitration.¹⁹ In response, Kazakhstan clarified the temporal scope, the ambiguity with respect to
 7 item III.2, and that items previously produced in the ICSID Arbitration need not be re-produced
 8 but should instead be referenced by bates label and unredacted copies provided, where applicable.²⁰

9 Big Sky subsequently retained counsel, and, due to an inability to reach an agreement for a
 10 production deadline and new deposition dates, Kazakhstan then issued the instant, amended
 11 subpoenas (“Subpoenas”) formalizing the above-described amendments that Kazakhstan had
 12 previously agreed to with Lawler and resetting the deposition and document-production deadlines,
 13 both again to be completed in Phoenix, Arizona.²¹ Counsel for Big Sky and Counsel for Kazakhstan
 14 then conferred regarding the Subpoenas. Kazakhstan offered to consolidate the depositions into a
 15 single deposition depending on Lawler’s providing meaningful testimony,²² while Big Sky offered
 16 only to produce unspecified documents demonstrating its inability to pay.²³ Despite Kazakhstan’s
 17 clarifications and accommodations, Big Sky continued to drag its feet and now moves to quash the
 18 Subpoenas.

ARGUMENT

A. FRCP 69 & 45

21 Federal Rule of Civil Procedure 69 provides for discovery in judgment enforcement
 22 proceedings. Under Rule 69(a)(2), a judgment creditor “may obtain discovery from *any person*—
 23 including the judgment debtor—as provided in” the federal rules or by the procedure of the state
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25 ¹⁸ **Exhibit C** (January 3, 2024, Subpoena to Big Sky); **Exhibit D** (January 3, 2024, Subpoena to Lawler).

26 ¹⁹ **Exhibit E** (February 6, 2024, Letter).

27 ²⁰ **Exhibit F** (February 14, 2024, Letter).

28 ²¹ ECF Nos. 22-1, 22-2.

²² The offer also contemplated that a waiver of the of the seven-hour deadline contained in FRCP 30(d)(1) may be required to complete the combined deposition.

²³ ECF No. 22 at 9.

1 where the court is located.²⁴ Rule 69 permits the judgment creditor to use any discovery device
 2 allowed by the Federal Rules,²⁵ including Rule 45 subpoenas. Under Rule 45(d)(3), “[o]n timely
 3 motion, the court for the district where compliance is required must quash or modify a subpoena
 4 that ... requires disclosure of privileged or other protected matter, if no exception or waiver
 5 applies;” or “subjects a person to undue burden.”²⁶ The movant bears the burden of persuasion on
 6 a motion to quash, including the burden of showing that the motion was filed in the correct district.²⁷

7 Kazakhstan seeks documents and testimony from Big Sky’s 30(b)(6) designee as well as
 8 from Lawler, its in-house attorney, sole corporate representative, and likely also its 30(b)(6)
 9 designee. Big Sky moves to quash both the Big Sky and Lawler Subpoenas, arguing that they seek
 10 privileged information²⁸ and are also unduly burdensome and overbroad because they seek
 11 information related to nonparties and not directly related to Big Sky’s ability to pay.²⁹ Big Sky
 12 further represents that it has no assets that Kazakhstan could execute on to collect the Judgment
 13 and that it is in the process of gathering unspecified documents to demonstrate this, which should
 14 be deemed sufficient to satisfy the Subpoenas.³⁰ Big Sky’s initial production is a scant two pages
 15 reflecting that Alberta and Extra-Provincial Corp. filed its annual return for 2023 as of July of that
 16 year.³¹

17 As explained below, this Court should deny Big Sky’s Motion due to a lack of jurisdiction.
 18 Alternatively, Big Sky’s Motion fails on the merits because Big Sky cannot raise non-privilege
 19 objections to the Lawler Subpoena and, in any event, its blanket privilege objections are improper.
 20 Big Sky’s breadth and burden objections are similarly undeveloped and premised on an
 21 impermissibly cabined view of post-judgment discovery. Accordingly, this Court should deny Big
 22 Sky’s Motion for each of these adequate and independent reasons.

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 24 ²⁴ FRCP 69(a)(2) (emphasis added).

25 ²⁵ FRCP 69, Advisory Comm. Notes to 1970 Amendment.

26 ²⁶ FRCP45(d)(3)(A).

27 ²⁷ *York Hldg., Ltd. v. Waid*, 345 F.R.D. 626, 630 (D. Nev. 2024).

28 ²⁸ Big Sky, however, has not produced a privilege log that would enable Kazakhstan and this Court to
 29 evaluate Big Sky’s clam of privilege.

30 ²⁹ ECF No. 22 at 7–9. Big Sky has not articulated basis for this claim.

31 ³⁰ *Id.* at 2.

³¹ **Exhibit G.**

1 **B. This Court lacks jurisdiction to compel compliance or to modify or quash the**
 2 **Subpoenas because it is not the court in the district of the place of compliance**
 3 **(Arizona).**

4 As Big Sky recognizes and as set out above, Rule 45(d)(3) “lays out the requirements for
 5 quashing or modifying a subpoena.”³² But Big Sky ignores that such a motion must be brought in
 6 “the court for the district where compliance is required[.]”³³ In *York Holding Limited*, this Court
 7 recently addressed whether the place of compliance for a motion to quash is determined by the face
 8 of the subpoena or the location of the subpoenaed party where those locations differ, concluding
 9 that “the place of compliance for the purpose of filing a motion to quash a subpoena seeking
 10 documents from a nonparty is the place where that nonparty is located.”³⁴ Because the subpoenaed
 11 nonparty maintained no presence in Nevada, transacted no business in Nevada, and had no
 12 representatives residing, working, or regularly conducting business in Nevada, and its principal
 13 place of business and representative were instead located in New Hampshire, the Court concluded
 14 that New Hampshire, rather than Nevada, was the place of compliance.³⁵ The Court therefore
 15 denied the motion to quash without prejudice to its refiling in the appropriate forum.³⁶

16 Here, both the face of the Subpoenas themselves as well as Big Sky’s own submission
 17 demonstrate that the place of compliance for both Subpoenas is Phoenix, Arizona.³⁷ That is because
 18 Big Sky acts solely through Lawler, who resides in Arizona, and Big Sky claims it transacts no
 19 business in Nevada (or elsewhere).³⁸ Thus the place of compliance—whether based on either or
 20 both the face of the Subpoenas or the location of Big Sky’s representative—is Arizona, not Nevada.
 21 Accordingly, this Court should deny the Motion for lack of jurisdiction and need not reach
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25 ³² ECF No. 22 at 5.

26 ³³ FRCP 45(d)(3)(A).

27 ³⁴ 345 F.R.D. at 630.

28 ³⁵ *Id.*

³⁶ *Id.*

³⁷ ECF Nos. 22-1, 22-2.

³⁸ ECF No. 22-3 at ¶¶ 2–4 (Lawler attesting that he is the sole officer of Big Sky and also the attorney for Big Sky, which has no other employees).

1 Kazakhstan’s remaining arguments.³⁹ However, to the extent this Court is inclined to proceed
2 further, the Motion fails for several additional adequate and independent reasons.

3 **C. Big Sky cannot raise non-privilege objections to the Lawler Subpoena and its blanket**
4 **privilege objections lack merit.**

5 “Generally, a party has no standing to seek to quash a subpoena issued to a non-party in
6 the action.”⁴⁰ However, “[t]here is a split in this District as to whether a party has standing to move
7 to quash a non-party subpoena when the party has ‘some personal right or privilege’ in the
8 documents being sought.”⁴¹ Regardless, only the party to which the subpoena is directed has
9 standing to object to the requests on non-privilege grounds, i.e., “on the grounds that they are
10 irrelevant, vague, overbroad, duplicative, unduly burdensome, etc.”⁴² This Court should reject any
11 non-privilege objections to the Lawler Subpoena on this basis alone.

12 Big Sky’s privilege objections also fail on the merits and appear to be nothing more than an
13 effort to delay these proceedings. Citing Nevada state law, Big Sky argues that “any
14 communications between Lawler and Big Sky are privileged and confidential.”⁴³ First, federal
15 privilege law applies in this action, which raised a single federal claim under 22 USC §1650 over
16 which federal district courts have original jurisdiction.⁴⁴ Second, this is not a correct statement of
17 either Nevada or federal privilege law, both of which protect only confidential communications
18 between attorneys and clients for the purpose of giving or receiving legal advice and neither of
19 which make *all* of Lawler’s communications with Big Sky per se privileged regardless of the
20 capacity in which Lawler acted or the purposes for which the communications were made.⁴⁵
21 Notably, Lawler is/was not only Big Sky’s attorney, but also is/was its sole officer and director.
22 Big Sky seems to be taking the position that the attorney-client privilege extends to all

23 ³⁹ See also *4R4 Sons, LLC v. Tru G. Wilhelm, Inc.*, 2022 WL 2905468, at *6 (D. Nev. July 22, 2022)
24 (Koppe, J.) (citation omitted).

25 ⁴⁰ *4R4 Sons, LLC*, 2022 WL 2905468, at * 4.

26 ⁴¹ *Id.* (collecting cases).

27 ⁴² *Experience Hendrix, LLC v. Pitsicalis*, 2023 WL 4247749, at *3 (C.D. Cal. Apr. 18, 2023) (Oliver, J.)
28 (citations omitted).

⁴³ ECF No. 22 at 7.

⁴⁴ *Wilcox v. Arpaio*, 753 F.3d 872, 876 (9th Cir. 2014) (explaining that state law governs privilege
regarding a claim or defense for which state law supplies the rule of decision).

⁴⁵ *In re Grand Jury*, 23 F.4th 1088, 1091 (9th Cir. 2021); *Wynn Resorts, Ltd. v. Eighth Judicial Dist.
Court*, 399 P.3d 334, 374 (Nev. 2017).

1 communications between Lawler and Big Sky, even those that are related to business rather than
 2 legal matters. But the law is the opposite: communications that Lawler made in his capacity as a
 3 corporate officer or director or for purposes of business rather than legal advice would generally
 4 not be privileged.⁴⁶ Additionally, in his declaration, Lawyer represents that he is “also the attorney
 5 for Big Sky,” but he does not specify when he became the attorney for Big Sky (as well as an
 6 officer), and Lawler did not raise privilege in the 2019 § 1782 Action. This suggests that Lawler
 7 was not Big Sky’s attorney at all relevant times and, together with his dual role, further undermines
 8 his broad claims of privilege here. Third, to the extent that certain of the requests call for some
 9 privileged documents, the proper procedure is to produce the non-privileged documents and to log
 10 documents withheld as privileged with sufficient detail to permit Kazakhstan to evaluate the
 11 claim⁴⁷—not to quash the Subpoenas. For all these reasons, this Court should reject Big Sky’s
 12 blanket privilege objections, particularly as to the Lawler Subpoena.

13 **D. Big Sky’s conclusory breadth and burden arguments provide no basis to quash the**
 14 **Subpoenas.**

15 “It has long been clear that a party claiming that discovery imposes an undue burden must
 16 ‘allege specific facts which indicate the nature and extent of the burden, usually by affidavit or
 17 other reliable evidence.’”⁴⁸ “Conclusory or speculative statements of harm, inconvenience, or
 18 expense are plainly insufficient,” as is “identifying the generalized burden of being deposed while
 19 holding a position as a corporate officer[.]”⁴⁹

20 According to Big Sky, only the unspecified documents it is gathering to show its purported
 21 lack of assets are relevant,⁵⁰ so “any information sought not directly related to the assets of Big
 22

23 ⁴⁶ *Dolby Lab. Licensing Corp v. Adobe, Inc.*, 402 F.Supp.3d 865, 866 (N.D. Cal. 2019) (recognizing
 24 unique role played by in-house counsel, who “‘may be involved intimately in the corporation’s day to day
 25 business activities and frequently serve as integral players in business decisions or activities” and that in-
 26 house counsel’s business advice is not protected by attorney-client privileged) (citing *United States v.*
 27 *ChevronTexaco Corp.*, 241 F.Supp.2d 1065, 1077 (N.D. Cal. 2002)).

⁴⁷ FRCP 45(e)(2).

⁴⁸ *Nationstar Mortgage, LLC v. Flamingo Trails No. 7 Landscape Maintenance Assoc.*, 316 F.R.D. 327,
 334 (D. Nev. 2016) (citation omitted).

⁴⁹ *Id.* (citation omitted).

⁵⁰ ECF No. 22 at 4 (representing that Big Sky “is in the process of producing all information related to its
 28 lack of assets” and that all information besides these unspecified documents is irrelevant and/or
 privileged).

1 Sky” is “completely irrelevant” and thus per se unduly burdensome.⁵¹ Big Sky also argues that
 2 Kazakhstan may not seek information on other, non-party entities.⁵² Besides these relevancy and
 3 party based objections, Big Sky does not attempt to show that the Subpoenas are unduly
 4 burdensome.⁵³ Again, Big Sky lacks standing to raise breadth and burden objections regarding the
 5 Lawler Subpoena. Regardless, Big Sky’s undeveloped breadth and burden arguments are based on
 6 an impermissibly narrow view of discovery into a judgment debtor.

7 The Supreme Court has described “[t]he rules governing discovery in post judgment
 8 execution proceedings” as “quite permissive” and co-extensive with that permitted under the
 9 federal rules.⁵⁴ In the federal system, the general rule is that “[p]arties may obtain discovery
 10 regarding any nonprivileged matter that is relevant to any party’s claim or defense.”⁵⁵ Relevance,
 11 in turn, is broad and “encompass[e]s any matter that bears or reasonably could lead to other matter
 12 that could bear on, any issue that is or may be in the case.”⁵⁶

13 The question at this stage is not whether Kazakhstan can reach the assets of Lawler, Big
 14 Sky Kazakhstan, Vaninn Capital PCC or the other inquired-into entities to satisfy its Judgment
 15 against Big Sky; but rather whether the information sought about (or in Lawler’s case, from) these
 16 nonparties is relevant to the search for Big Sky’s assets.⁵⁷ Big Sky has made no effort to
 17 demonstrate how this information will not be relevant in the search for Big Sky’s assets. As courts
 18 within the Ninth Circuit have recognized, “a judgment creditor must be given freedom to make a
 19 broad inquiry to discover hidden or concealed assets of the judgment debtor” and is “*entitled* to fish
 20 for assets of the judgment debtor.”⁵⁸ Big Sky’s proposal to limit the Subpoenas to only those
 21

22 ⁵¹ *Id.* at 7.

23 ⁵² *Id.* at 8.

24 ⁵³ *Id.* at 7–11.

25 ⁵⁴ *Republic of Argentina v. NML Capital, Ltd.*, 573 U.S. 134, 138–39 (2014) (citing 12 C. Wright, A.
 26 Miller, & R. Marcus, *Federal Practice and Procedure* § 3014, p. 160 (2d ed. 1997) for the proposition that
 the court “may use the discovery devices provided in the federal rules or may obtain discovery in the
 manner provided by the practice of the state in which the district court is held”).

27 ⁵⁵ *Republic of Argentina*, 573 U.S. at 138–39.

⁵⁶ *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978) (citation omitted).

⁵⁷ *Experience Hendrix, LLC v. Pitsicalis*, 2023 WL 4247749, at *4 (C.D. Cal. Apr. 18, 2023) (Oliver, J.).

28 ⁵⁸ *Id.* (emphasis in original) (citing *Gersh v. Anglin*, 2021 WL 461570, at *3 (D. Mont. Feb. 9, 2021)
 (DeSoto, J.) (cleaned up)); *Sequoia Prop. & Equip. Ltd. P’ship. v. United States*, 2002 WL 32388132, at
 *3 (E.D. Cal. June 3, 2022) (Oneill, J.) (explaining that “[a] judgment creditor ‘must be given the freedom

1 unspecified documents it believes are directly relevant to demonstrating its lack of assets would
 2 thwart the permissive, broad inquiry contemplated by the rules and put the fox in charge of the hen
 3 house, as further demonstrated by its dilatory discovery tactics in the ICSID Arbitration and the
 4 2019 § 1782 Action and its recent paltry two-page production.⁵⁹

5 The record of the ICSID Arbitration shows that there are complex contractual arrangements
 6 among Lawler, Big Sky Kazakhstan, Ingalls & Snyder Value Partners L.P., Vannin Capital PCC,
 7 and others that may assist in identifying assets that may be available for application to and
 8 satisfaction of the Judgment or may have been fraudulently transferred⁶⁰ to avoid payment of that
 9 Judgment. For example, Kazakhstan seeks to examine the following:

- 10 • Big Sky Kazakhstan is a wholly owned subsidiary of Big Sky and was the owner of
 11 the Kazakh limited liability partnership that formed the subject of the ICSID
 12 Arbitration.
- 13 • Vannin Capital PCC entered into an arbitration funding agreement with Big Sky and
 14 Big Sky Kazakhstan for the ICSID Arbitration. The heavily redacted arbitration
 15 funding agreement produced in the ICSID Arbitration showed that the arbitration
 16 was being managed by a British Virgin Island company, Agrima Limited.
- 17 • Ingalls & Snyder is a United States investment firm. In 2006, Big Sky issued a USD
 18 15 million convertible note to Ingalls & Snyder. Correspondence between Big Sky
 19 and Ingalls & Snyder shows that Ingalls & Snyder was due to take over control of
 20 the company and that Ingalls had been responsible for funding Big Sky between
 21 2012–2013. Ingalls & Snyder also exercised control over Big Sky’s finances.

22 Because these documents bear on Kazakhstan’s search for assets against which to execute
 23 its Judgment against Big Sky, Big Sky’s conclusory relevance-based breadth and burden objections
 24 must be denied. Allowing Big Sky to produce only what it deems to be relevant rather than fully
 25

26 to make a broad inquiry to discover[] hidden or concealed assets of the judgment debtor”) (quoting
 27 *Caisson Corp. v. Cty. W. Bldg. Corp.*, 62 F.R.D. 331, 334 (E.D. Pa. 1974)).

28 ⁵⁹ Ex. G.

⁶⁰ Nevada law allows creditors to seek to avoid the transfers of assets made for the purpose of hindering,
 delaying and defrauding creditors. *See generally* the Nevada Uniform Fraudulent Transfer Act, NRS
 112.140 to 112.250; *see also* NRS 21.330.

1 responding to Kazakhstan’s requests would only permit Big Sky to continue to conceal relevant
2 information from Kazakhstan—a very real danger given Big Sky’s (and Lawler’s) discovery track
3 records.

4 **CONCLUSION**

5 Big Sky brought a spurious claim against Kazakhstan in the ICSID Arbitration—a claim
6 that Big Sky justly lost. Kazakhstan is now seeking to recoup what it was awarded in that action
7 for defending itself. Big Sky is trying to hide information that Kazakhstan could use to collect what
8 it was awarded but has failed to carry its burden to show that the Motion was brought in the correct
9 district. This Court should deny the Motion on this basis alone. To the extent this Court is inclined
10 to address Big Sky’s Motion on the merits, Big Sky fails to carry its burden to show that the
11 Subpoenas should be quashed or modified. This Court should therefore deny Big Sky’s Motion in
12 full.

13 Dated: July 29, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on the date below, I electronically transmitted the foregoing **RESPONSE TO MOTION TO QUASH [ECF NO. 22]** to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

DATED this 29th day of July 2024.

/s/ Mary Full
An employee of SNELL & WILMER L.L.P.

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