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09:34:00 2 UNITED STATES DISTRICT COURT
09:34:00 3 CLARK COUNTY, NEVADA
09:34:00 4 - - - - -
09:34:00 IN THE MATTER OF:
09:34:00 5
09:34:00 WYNN LAS VEGAS, LLC d/b/a WYNN
09:34:00 6 LAS VEGAS, a Nevada limited liability
09:34:00 company,
09:34:00 7 Plaintiff,
09:34:00
09:34:00 8 v. Case No:
A-14-695025-C
09:34:00 9
09:34:00 MARIO LA BARBERA, an individual,
09:34:00 10 Defendant.
09:34:00 - - - - -
09:34:00 11 DEPOSITION OF: MARIO LA BARBERA
09:34:00 12 VOLUME I
09:34:00 13 Thursday, 11 June, 2015
09:34:00 14 AT: 10:05 a.m.
09:34:00 15 Taken at:
09:34:00 16 The Grand Hotel Palatino
09:34:00 Via Cavour
09:34:00 17 Roma
09:34:00 Italy
09:34:00 18
09:34:00 19
09:34:00 20

14:58:45 20 and you ask him, you say, "Bring me a whiskey", or whatever.

14:58:49 21 Whereas in Las Vegas there was always the "piece of skin"

14:58:56 22 who would bring drinks the whole time. And that's the

14:59:08 23 truth.

14:59:09 24 MR. ALBREGTS: Well said.

14:59:13 25 BY MR. SEMENZA:

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14:59:13 1 Q. And I -- I'm -- is it your contention that you drank

14:59:18 2 alcoholic beverages because they were being brought by

14:59:22 3 attractive women?

14:59:26 4 A. Let's say that it was a bonus as the Americans -- an

14:59:31 5 "upgrade", as the Americans say. I think we mean a bonus.

14:59:36 6 Q. Are you married?

14:59:39 7 A. Yes.

14:59:40 8 Q. How long have you been married?

14:59:43 9 A. 40 years.

14:59:44 10 MR. ALBREGTS: Wow.

14:59:48 11 MR. SEMENZA: You're up there too.

14:59:52 12 MR. ALBREGTS: 33.

14:59:54 13 BY MR. SEMENZA:

14:59:55 14 Q. Do you have any children?

14:59:57 15 A. One.

14:59:59 16 Q. And how old?

15:00:03 17 A. 40.

15:00:05 18 THE INTERPRETER: I don't know if it's he or she,
15:00:08 19 but the child is 40. He was born immediately.

15:00:15 20 MR. SEMENZA: Congratulations.

15:00:17 21 MR. ALBREGTS: Good man.

15:00:19 22 BY MR. SEMENZA:

15:00:19 23 Q. Did you tell your wife you were coming out to Las
15:00:21 24 Vegas on your April of 2008 trip?

15:00:25 25 A. Yes, I did.

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15:00:26 1 Q. And was she okay with you coming out?

15:00:31 2 A. Yes, she's -- I don't have this kind of problem
15:00:35 3 usually.

15:00:37 4 Q. Is she aware that you had a gambling addiction?

15:00:43 5 A. Yes.

15:00:48 6 Q. When you spoke with Mr. Pariente after you left the
15:00:52 7 Wynn -- and I think you had said that you spoke to him two
15:00:57 8 or three times over the phone -- did you call him or did he
15:01:02 9 call you?

15:11:27 9 A. Yes, I had much more in Switzerland.

15:11:31 10 BY MR. SEMENZA:

15:11:32 11 Q. Okay. So you had euros in your Banca Popolare
15:11:37 12 account?

15:11:37 13 A. Yes.

15:11:37 14 Q. And how many euros did you think you had during that
15:11:41 15 period of time?

15:11:42 16 A. That's what I just said. I think if you group up
15:11:48 17 investments and everything else, 600,000, 500,000.

15:11:54 18 Q. Okay, so let's -- let's --

15:11:58 19 A. The reason why I remember Switzerland is because we
15:12:00 20 have all the information here. But I can't recall what
15:12:05 21 I had eight years ago. That's it because that's the
15:12:10 22 average, that used to be the average.

15:12:12 23 Q. So again I don't want to spend a lot of time on
15:12:16 24 this, but how much did you have in that account that was
15:12:20 25 cash, not invested?

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15:12:27 1 A. I don't remember. You're talking about the Banca
15:12:30 2 Popolare?

15:12:31 3 Q. Yes.

15:12:32 4 A. I don't remember. I once again say that

15:12:38 5 Credit Suisse is fresh in my mind because I have the

15:12:41 6 statements here. Otherwise I would have to go back to my

15:12:44 7 statements dating back to eight years ago and I can't find

15:12:51 8 them anywhere.

15:12:52 9 Q. Okay.

15:12:52 10 (3:12 p.m.)

15:12:52 11 (Discussion off the record.)

15:12:52 12 (3:14 p.m.)

15:14:34 13 BY MR. SEMENZA:

15:14:37 14 Q. I think I'm getting close.

15:15:22 15 Before you left the Wynn at the end of your trip did

15:15:26 16 you tell anyone that you were so intoxicated that you didn't

15:15:32 17 know that you were signing markers, or something to the

15:15:35 18 equivalent?

15:15:37 19 MR. ALBREGTS: Anyone at all or anyone at the

15:15:39 20 Wynn?

15:15:39 21 BY MR. SEMENZA:

15:15:40 22 Q. Anyone at the Wynn.

15:15:43 23 A. Not at the Wynn, nobody at the Wynn. When I said

15:15:49 24 when I was speaking the last day I was there I said that in

15:15:54 25 five nights I have -- might have slept three or four hours

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15:15:59 1 in five nights.

15:16:01 2 BY MR. SEMENZA:

15:16:02 3 Q. And why was that?

15:16:05 4 A. I just couldn't sleep. I couldn't sleep.

15:16:09 5 Q. But, as far as discussing your level of intoxication

15:16:16 6 during that trip at Wynn, you never spoke to anyone at Wynn

15:16:20 7 about that, did you?

15:16:23 8 A. No.

15:16:27 9 Q. Did you speak to anyone else other than -- well, did

15:16:30 10 you speak to anyone about it?

15:16:34 11 A. Oh, with friends once I got back to Italy, yes.

15:16:44 12 I was a fool to go to Las Vegas.

15:16:53 13 Q. During your conversations with Mr. Pariente after

15:16:59 14 you left the Wynn did you ever discuss with him your level

15:17:04 15 of intoxication on the trip?

15:17:12 16 A. No. I spoke about, mainly after he called me and

15:17:17 17 after he told me what I was getting myself into if I did not

15:17:23 18 pay and the rest and everything else, I didn't speak about

15:17:28 19 this at all with him. Only in conversations around this

15:17:33 20 arrest and that's all.

15:17:45 21 MR. SEMENZA: Could we take just a quick break.

15:17:48 22 (3:17 p.m.)

WYNNLASVEGASmr.barberaFINALdep
(Break taken.)

15:18:09 23

15:18:09 24 (3:24 p.m.)

15:24:48 25 MR. SEMENZA: Jeff, I would like Mr. La Barbera
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15:24:51 1 to sign his signature on a piece of paper for some samplers,

15:25:00 2 if we were to get a handwriting expert.

15:25:05 3 MR. ALBREGTS: Well, the fundamental problem we
15:25:07 4 have with that issue is that any handwriting expert would
15:25:08 5 tell you you have to have samplers contemporaneous with the
15:25:12 6 disputed signature and this is eight years later. But we've
15:25:14 7 spent a lot of time and energy getting over here to Europe,
15:25:19 8 I just want to reserve that objection that these signatures
15:25:22 9 are not contemporaneous with the signature at the time that
15:25:24 10 are allegedly made on the markers in question in 2008.

15:25:33 11 MR. SEMENZA: Can you do -- let's do this. If
15:25:38 12 you can sign this side, a few, and sign a few on this side
15:25:42 13 as well. Make sure there's enough space.

15:25:50 14 THE INTERPRETER: Parallel with the lines?

15:25:52 15 MR. SEMENZA: Just skip some lines.

15:26:21 16 THE INTERPRETER: Is three enough on one column?

15:26:23 17 MR. SEMENZA: Yes. What I would like to do with

16:03:01 1 CERTIFICATE OF DEPONENT

16:03:01 2

16:03:01 3 I, MARIO LA BARBERA, hereby certify that I have read the
16:03:01 4 foregoing pages, numbered 1 through 129, of my deposition of
16:03:01 5 testimony taken in these proceedings on Thursday, June 11,
16:03:01 6 2015 and, with the exception of the changes listed on the
16:03:01 7 next page and/or corrections, if any, find them to be a true
16:03:01 8 and accurate transcription thereof.

16:03:01 9

16:03:01 10 Signed:

16:03:01 11 Name: MARIO LA BARBERA

16:03:01 12 Date:

16:03:01 13

16:03:01 14

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16:03:01 1 CERTIFICATE OF COURT REPORTER
16:03:01 2
16:03:01 3 I, GEORGIA GOULD, an Accredited Real-time Reporter, hereby
16:03:01 4 certify that the testimony of the witness MARIO LA BARBERA
16:03:01 5 in the foregoing transcript, numbered pages 1 through 129,
16:03:01 6 taken on this 11th day of June, 2015 was recorded by me in
16:03:01 7 machine shorthand and was thereafter transcribed by me; and
16:03:01 8 that the foregoing transcript is a true and accurate
16:03:01 9 verbatim record of the said testimony.
16:03:01 10
16:03:01 11
16:03:01 12 I further certify that I am not a relative, employee,
16:03:01 13 counsel or financially involved with any of the parties to
16:03:01 14 the within cause, nor am I an employee or relative of any
16:03:01 15 counsel for the parties, nor am I in any way interested in
16:03:01 16 the outcome of the within cause.
16:03:01 17
16:03:01 18

WYNNLASVEGASmr.barberaFINALdep

16:03:01 19 Signed:

16:03:01 20 Name: GEORGIA GOULD

16:03:01 21 Date:

16:03:01 22

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16:03:01 1 ERRATA SHEET

16:03:01 2 Case Name: Wynn Las Vegas

16:03:01 Witness Name: MARIO LA BARBERA

16:03:01 3 Date: 06/11/2015

Page/Line	From	To
5 ____/____	_____	_____
6 ____/____	_____	_____
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9 ____/____	_____	_____
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11 ____/____	_____	_____
12 ____/____	_____	_____
13 ____/____	_____	_____

WYNNLASVEGASmr.barberaFINALdep

16:03:01	14	____/____	_____	_____
16:03:01	15	____/____	_____	_____
16:03:01	16	____/____	_____	_____
16:03:01	17	____/____	_____	_____
16:03:01	18	____/____	_____	_____
16:03:01	19	____/____	_____	_____
16:03:01	20	____/____	_____	_____
16:03:01	21	Subscribed and sworn to before		
16:03:01	22	me this 11th day of June, 2015.		
16:03:01	23	_____		
16:03:01	24	MARIO LA BARBERA		
	25			

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CERTIFICATE OF COURT REPORTER

I, GEORGIA GOULD, an Accredited Real-time Reporter, hereby
certify that the testimony of the witness MARIO LA BARBERA
in the foregoing transcript, numbered pages 1 through 129,
taken on this 11th day of June, 2015 was recorded by me in
machine shorthand and was thereafter transcribed by me; and
that the foregoing transcript is a true and accurate
verbatim record of the said testimony.

I further certify that I am not a relative, employee,
counsel or financially involved with any of the parties to
the within cause, nor am I an employee or relative of any
counsel for the parties, nor am I in any way interested in
the outcome of the within cause.

Signed: 

Name: GEORGIA GOULD

Date:17/06/15.....


CLERK OF THE COURT

MIL
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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

v.

MARIO LA BARBERA, an individual

Defendant,

Case No.: A-14-695025-C
Dept. No.: XXVIII

**DEFENDANT'S MOTION IN
LIMINE [#3] TO EXCLUDE ANY
EVIDENCE OR ARGUMENT
REGARDING ANY ALLEGED
FORGERY**

Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") hereby moves the Court for an Order excluding any and all evidence, references to evidence, testimony or argument by Defendant Mario La Barbera ("La Barbera"), La Barbera's counsel and any other witness regarding any alleged forgery of his signature on the casino markers at issue or any other document. Because there is not a shred of evidence in this case to suggest his signature was forged, La Barbera and his counsel should not be permitted to raise this issue at trial because such argument is highly prejudicial, making the probative value substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury.

As required by E.D.C.R. 2.47, counsel for Wynn has made a good-faith effort to resolve this matter with La Barbera's counsel in a satisfactory manner but was unsuccessful.

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1 This Motion is made based upon the following points and authorities, the attached
2 declaration of counsel for Wynn as required by E.D.C.R. 2.47, all pleadings and papers on file
3 herein and any oral arguments this Court may entertain at the hearing of this Motion

4 DATED this 29th day of January, 2016.

5 LAWRENCE J. SEMENZA, III, P.C.

6
7 /s/ Christopher D. Kircher

8 Lawrence J. Semenza, III, Esq., Bar No. 7174

9 Christopher D. Kircher, Esq., Bar No. 11176

10 10161 Park Run Drive, Suite 150

11 Las Vegas, Nevada 89145

12 Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
13 Wynn Las Vegas,
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned counsel will appear at the Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, Nevada 89155, Eighth Judicial District Court, Las Vegas, Nevada on the 01 day of ~~January~~ ^{MARCH}, 2016, at 9:00A a.m., before Department XXVIII, or soon thereafter as counsel may be heard for a hearing on **DEFENDANT'S MOTION IN LIMINE [#3] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING ANY ALLEGED FORGERY.**

DATED this 29th day of January, 2016

LAWRENCE J. SEMENZA, III, P.C.

/s/ Christopher D. Kircher

Lawrence J. Semenza, III, Esq., Bar No. 7174

Christopher D. Kircher, Esq., Bar No. 11176

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Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
Wynn Las Vegas, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a collection case involving multiple credit instruments, or casino markers. In the Spring of 2008, La Barbera executed twelve (12) casino markers in favor of Wynn, which are valid and enforceable gaming debts under NRS 463.368, that he has failed to fully repay. The current principal balance due and owing to Wynn is \$1 million. Wynn has brought a Breach of Contract claim against La Barbera.

At trial, La Barbera may attempt to claim that his signatures on the casino markers at issue or other documents were forged despite there being not a shred of evidence to suggest anyone forged his signature. As such, any testimony or argument related to his signature being forged on any document with Wynn must be excluded because the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury. Without an Order excluding such testimony or argument, Wynn will be severely prejudiced.

II. STANDARD OF REVIEW FOR A MOTION IN LIMINE

E.D.C.R. 2.47 specifically authorizes motions in limine to exclude or admit evidence. *See also* NRS 48.015. In Nevada, the granting of a motion in limine is within the Court's discretionary power. *State ex rel. Department of Highways v. Nevada Aggregates & Asphalt Co.*, 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976). The Court's determination is subject to an abuse of discretion analysis. *Id.*

A motion in limine is a motion used to preclude prejudicial or objectionable evidence before it is presented to the jury. *See* E.D.C.R. 2.47, *Peat, Mitchell & Co. v. Superior Court*, 200 Cal. App. 3d 272, 288 (Cal. Ct. App. 1988); *Hyatt v. Sierra Boat Co.*, 79 Cal. App. 3d 325, 337 (Cal. Ct. App. 1978). The primary advantage of the motion in limine is to avoid the futile attempt of trying to undo the harm done where jurors have been exposed to damaging evidence, even where stricken by the court. This scenario has been described as "the obviously futile attempt to 'un-ring the bell' in the event a motion to strike is granted in the proceedings before the jury." *Hyatt*, 79 Cal. App. 3d at 337. "A motion in limine is prophylactic in nature, made to exclude

evidence before it is offered" *Stein-Brief Group, Inc. v. Home Indem. Co.*, 65 Cal. App. 4th 364, 369 (Cal. Ct. App. 1998).

Even if evidence is relevant, it must be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or misleading the jury." NRS 48.035(1). Furthermore, relevant evidence may be excluded "if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence." NRS 48.035(2).

III. ARGUMENT

On January 24, 2014, Wynn initiated this lawsuit against La Barbera. Before this time, La Barbera never raised an issue with Wynn or any other state or local authority regarding the casino markers at issue.

During discovery in this case, La Barbera responded to Wynn's First Set of Request for Admissions and admitted the signatures on his Credit Agreement, Credit Application, Credit Line Increase Requests and, critically, the casino markers at issue "appear[] to be this Defendant's signature." (La Barbera's Responses to First Set of Requests for Admission, Nos. 4-24, attached hereto as **Exhibit 2**.) Further, when asked about the genuineness of the Credit Agreement, Credit Application, Credit Line Increase Requests and the casino markers at issue, he did not deny the requests, again stating it "appears to be this Defendant's signature" on each of those documents. (*Id.*)

During his deposition, he likewise admitted that he executed the Credit Agreement, Credit Application and Credit Line Increase Requests. (Deposition of Mario La Barbera, 24:15-18, 26:11-25, 28:4-30:4, 42:4-14, 46:24-47:2, 48:14-18, 49:1-9, 50:1-5 cited portions attached hereto as **Exhibit 3**.) However, La Barbera's position conveniently changed regarding the casino markers. For the first time, La Barbera asserted that signatures on the casino markers did not look like his own. (*See, e.g., id.* at 35:12-17.) Obviously, this self-serving statement directly contradicts his previous statements in response to Wynn's Requests for Admission. Critically, however, he would not say that his signature was forged on the casino markers and conceded

1 throughout his deposition that he could not remember many details of his trip since it was over
2 seven (7) years ago. For instance, La Barbera testified as follows:

3 Q. Again, so I'm clear and Jeff can object, is the issue with regard to
4 the signature that it does not look like your signature, or is it your
position that this is a forgery?

5 A. I don't know whether this has been forged. But one thing is
6 certain, that this is not my signature.

7 (*Id.* at 43:2-7.)

8 Q. And, as I understand it, even though you don't recall signing the
9 markers -- which means, if you didn't sign them, somebody else
10 must have signed them -- you are still not willing to say that the
markers were forged.

11 A. I cannot say this and I do not say this, I'm just saying it's not my
12 signature.

13 (*Id.* at 122:25-123:5.)

14 Despite conveniently changing his position regarding whether his signature appears on the
15 casino markers, La Barbera has still never alleged in this lawsuit that his signature was forged on
16 any document. Indeed, he never conducted any discovery on this issue because he knows such
17 assertion is completely untrue. Tellingly, La Barbera has never reported such an allegation to any
18 of the appropriate governmental authorities. As the Court knows, Wynn is highly regulated by
19 local, state and federal authorities as a gaming company. And, Wynn has safeguards in place to
20 ensure that the person requesting and signing the casino marker is who they claim to be. There is
21 nothing to suggest that Wynn or its employees violated any local, state or federal regulation
22 related to La Barbera gambling on credit at its casino. In summary, there is simply no evidence in
23 this case to suggest that La Barbera's signature was forged on any document. If La Barbera truly
24 believed that any of his signatures were forged, La Barbera would have informed the proper
25 authorities years ago or conducted discovery on this issue, but he did not.¹

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27 ¹ Furthermore, a "casino record is admissible if kept in the course of an activity which is regularly
28 conducted by a gaming licensee or hotel." *State v. Tapia*, 108 Nev. 494, 496, 835 P.2d 22, 24 (1992)
(citing NRS 52.405(2), NRS 52.415 and NRS 51.135). Likewise, a business record "made at or near the

1 As such, La Barbera cannot satisfy the higher standard of proof to prove forgery at trial.
2 "Forgery may be defined as the making of a false document, with the intent to deceive in a
3 manner which exposes another to loss." *Marlo Beauty Supply, Inc. v. Farmers Ins. Group of*
4 *Cos.*, No. 247224, 2005 Mich. App. LEXIS 1354, *18, 2005 WL 1249249 (Mich. App. May 26,
5 2005) (citing *People v Susalla*, 392 Mich. 387, 392-393; 220 N.W.2d 405 (1974), *Matter of Loyd*,
6 424 Mich. 514, 526; 384 N.W.2d 9 (1986)). "Intent to defraud is the gist of the offense of
7 forgery." *Id.* (citing *People v Gill*, 8 Mich. App. 89, 92-93; 153 N.W.2d 678 (1967)). Therefore,
8 the standard is higher to prove a signature was forged, *i.e.*, clear and convincing evidence as
9 opposed to a preponderance of the evidence. *Id.*; *see also Irving v. Irving*, 122 Nev. 494, 497, 134
10 P.3d 718, 721 (2006) (fraud must be proved by clear and convincing evidence). Because La
11 Barbera cannot meet the higher burden of proof (since no such evidence exists), he should not be
12 permitted to raise the issue at trial due to the highly prejudicial nature of such an allegation
13 against Wynn.

14 Accordingly, the Court should enter an Order excluding any and all testimony or argument
15 that remotely relates to any document produced by Wynn in this case containing a forged
16 signature. Even an inference of impropriety on this issue will confuse the jury and severely
17 prejudice Wynn at trial. This cannot be permitted.

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25 time by, or from information transmitted by, a person with knowledge, all in the course of a regularly
26 conducted activity, as shown by the testimony or affidavit of the custodian or other qualified person, is not
27 inadmissible under the hearsay rule unless the source of information or the method or circumstances of
28 preparation indicate lack of trustworthiness." NRS 51.135; *see also A.L.M.N., Inc. v. Rosoff*, 104 Nev.
274, 285, 757 P.2d 1319, 1326 (1988) ("The basis for the business record exception is that accuracy is
assured because the maker of the record relies on the record in the ordinary course of business activities.")
(quoting *Clark v. City of Los Angeles*, 650 F.2d 1033, 1037 (9th Cir. 1980)).¹ Under Nevada law, the
documents are genuine and admissible evidence as either casino or business records.

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1 **IV. CONCLUSION**

2 Based on the foregoing, the Court should grant Wynn's Motion in Limine [#3] and
3 exclude any and all evidence, references to evidence, testimony or argument that his signature
4 was forged on the casino markers at issue or any other document because it would be unfairly
5 prejudicial, confuse the issues and mislead the jury.

6 DATED this 29th day of January, 2016.

7 LAWRENCE J. SEMENZA, III, P.C.

8
9 /s/ Christopher D. Kircher

10 Lawrence J. Semenza III, Esq. Bar No. 7174
11 Christopher D. Kircher, Esq. Bar. No. 11176
12 10161 Park Run Drive, Suite 150
13 Las Vegas, NV 89145

14 Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
15 Wynn Las Vegas
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NEFCR 9, I hereby certify that I am an employee with Lawrence J. Semenza, III, P.C., and that on the 29th day of January, 2016, I caused to be sent via Wiznet's online filing system, a true copy of the foregoing **DEFENDANT'S MOTION IN LIMINE [#3] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING ANY ALLEGED FORGERY** to the following:

HOLLEY DRIGGS WALCH FINE WRAY PUZEY THOMPSON
Jeffrey R. Albregts, Esq. - jalbregts@nevadafirm.com
Krista N. Albregts - kalbregts@nevadafirm.com
Heather Stroup - hstroup@nevadafirm.com

/s/ Olivia A. Kelly
An Employee of Lawrence J. Semenza, III, P.C.

EXHIBIT 1

EXHIBIT 1

**DECLARATION OF CHRISTOPHER D. KIRCHER, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION IN LIMINE [#3]**

I, CHRISTOPHER D. KIRCHER, ESQ., states and declares as follows:

1. My law firm represents Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Plaintiff") in its lawsuit against Defendant Mario La Barbera ("Defendant"). I make this Declaration in support of Plaintiff's Motion in Limine [#3] to exclude any and all evidence or argument regarding any alleged forgery of Defendant's signature on the casino markers at issue or any other document. All of the statements contained in this declaration are made on the basis of personal knowledge and I am competent to testify as to the truth of these statements if called upon to do so.

2. During the week of January 25, 2016, I exchanged email correspondence and telephoned Defendant's counsel, Jeffrey Albregts, Esq., to conduct an EDCR 2.47 conference in a good faith effort to confer on the subject of Plaintiff's motions in limine. Among other things, I left a voicemail and emailed Mr. Albregts regarding the topic of Motion in Limine #3. Mr. Albregts later called me but did not agree to exclude any and all evidence or argument regarding any alleged forgery of Defendant's signature.

3. As such, the parties were unable to resolve this matter. I will continue to discuss the issue again with Mr. Albregts in hopes of resolving this issue and the parties will promptly notify the court if we are able to come to any sort of agreement.

4. Plaintiff's Motion is not brought for any improper purpose or to delay these proceedings.

I declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

EXECUTED on this 29th day of January, 2016, at Las Vegas, Nevada.

/s/ Christopher D. Kircher
Christopher D. Kircher, Esq.

EXHIBIT 2

EXHIBIT 2

1 **DISC**
JEFFREY R. ALBRECHTS, ESQ.
2 Nevada Bar No. 0066
HOLLEY, DRIGGS, WALCH,
3 PUZEY & THOMPSON
400 South Fourth Street, Third Floor
4 Las Vegas, Nevada 89101
Telephone: 702/791-0308
5 Facsimile: 702/791-1912

6 *Attorney for Defendant*

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 WYNN LAS VEGAS, LLC,
d/b/a WYNN LAS VEGAS,

11 Plaintiff,

12 v.

13 MARIO LA BARBERA,

14 Defendant.
15

Case No: A-14-695025-C
Dept. No.: XXVIII

DEFENDANT MARIO LABARBERA'S
RESPONSES TO PLAINTIFF'S FIRST
REQUESTS FOR ADMISSIONS TO
DEFENDANT MARIO LABARBERA

16 Defendant, MARIO LA BARBERA, pursuant to Rule 36 of the Nevada Rules of Civil
17 Procedure, hereby responds to Plaintiff's First Requests for Admissions propounded to
18 Defendant Mario LaBarbera as follows:

19 **REQUEST FOR ADMISSIONS NO. 1:**

20 Admit that you have or had a bank account with Banca Popolare Italiana.

21 **RESPONSE:**

22 Admit.

23 **REQUEST FOR ADMISSIONS NO. 2:**

24 Admit that you have never had a bank account with Banca Popolare Italiana.

25 **RESPONSE:**

26 Deny.
27
28

1 REQUEST FOR ADMISSION NO. 3:

2 Admit that you executed the Agreement.

3 RESPONSE:

4 Admit.

5 REQUEST FOR ADMISSIONS NO. 3:

6 Admit that you understood the terms and conditions of the Agreement when you
7 executed it.

8 RESPONSE:

9 Deny.

10 REQUEST FOR ADMISSIONS NO. 4:

11 Admit that your signature appears on the document that is Bates numbered WYNN-
12 00046 -- WYNN-00047.

13 RESPONSE:

14 It appears to be this Defendant's signature.

15 REQUEST FOR ADMISSIONS NO. 5:

16 Admit that you executed the Marker that is Bates numbered WYNN-00002.

17 RESPONSE:

18 It appears to be this Defendant's signature.

19 REQUEST FOR ADMISSIONS NO. 6:

20 Admit that you executed the Marker that is Bates numbered WYNN-00004.

21 RESPONSE:

22 It appears to be this Defendant's signature.

23 REQUEST FOR ADMISSION NO. 8:

24 Admit that you executed the Marker that is Bates numbered WYNN-00007.

25 RESPONSE:

26 It appears to be this Defendant's signature.

27

28

1 **REQUEST FOR ADMISSION NO. 9:**

2 Admit that you executed the Marker that is Bates numbered WYNN-00010

3 **RESPONSE:**

4 It appears to be this Defendant's signature.

5 **REQUEST FOR ADMISSION NO. 10:**

6 Admit that you executed the Marker that is Bates numbered WYNN-00013.

7 **RESPONSE:**

8 It appears to be this Defendant's signature.

9 **REQUEST FOR ADMISSION NO. 11:**

10 Admit that you executed the Marker that is Bates numbered WYNN-00016.

11 **RESPONSE:**

12 It appears to be this Defendant's signature.

13 **REQUEST FOR ADMISSION NO. 12:**

14 Admit that you executed the Marker that is Bates numbered WYNN-00018.

15 **RESPONSE:**

16 It appears to be this Defendant's signature.

17 **REQUEST FOR ADMISSION NO. 13:**

18 Admit that you executed the Marker that is Bates numbered WYNN-00021.

19 **RESPONSE:**

20 It appears to be this Defendant's signature.

21 **REQUEST FOR ADMISSION NO. 14:**

22 Admit that you executed the Marker that is Bates numbered WYNN-00023.

23 **RESPONSE:**

24 It appears to be this Defendant's signature.

25 **REQUEST FOR ADMISSION NO. 15:**

26 Admit that you executed the Marker that is Bates numbered WYNN-00025.

27 **RESPONSE:**

28 It appears to be this Defendant's signature.

1 **REQUEST FOR ADMISSION NO. 16:**

2 Admit that you executed the Marker that is Bates numbered WYNN-00028.

3 **RESPONSE:**

4 It appears to be this Defendant's signature.

5 **REQUEST FOR ADMISSION NO. 17:**

6 Admit that you executed the Marker that is Bates numbered WYNN-00030.

7 **RESPONSE:**

8 It appears to be this Defendant's signature.

9 **REQUEST FOR ADMISSION NO. 18:**

10 Admit that your signature appears on the document Bates numbered WYNN-00033.

11 **RESPONSE:**

12 It appears to be this Defendant's signature.

13 **REQUEST FOR ADMISSION NO. 19:**

14 Admit that you provided Wynn with the handwritten information set forth in the Credit
15 Application that is Bates numbered WYNN-00033.

16 **RESPONSE:**

17 This Defendant does not recall.

18 **REQUEST FOR ADMISSION NO. 20:**

19 Admit that you executed the Credit Line Increase Request identified as document Bates
20 numbered WYNN-00035.

21 **RESPONSE:**

22 It appears to be this Defendant's signature.

23 **REQUEST FOR ADMISSION NO. 21:**

24 Admit that you executed the Credit Line Increase Request identified as document Bates
25 numbered WYNN-00036.

26 **RESPONSE:**

27 It appears to be this Defendant's signature.

28

1 REQUEST FOR ADMISSION NO. 22:

2 Admit that you executed the Credit Line Increase Request identified as document Bates
3 numbered WYNN-00037.

4 RESPONSE:

5 It appears to be this Defendant's signature.

6 REQUEST FOR ADMISSION NO. 23:

7 Admit that you executed the Credit Line Increase Request identified as document Bates
8 numbered WYNN-00038.

9 RESPONSE:

10 It appears to be this Defendant's signature.

11 REQUEST FOR ADMISSION NO. 24:

12 Admit that you executed the Credit Line Increase Request identified as document Bates
13 numbered WYNN-00039.

14 RESPONSE:

15 It appears to be this Defendant's signature.

16 REQUEST FOR ADMISSION NO. 25:

17 Admit that you requested Wynn to increase your credit line to \$1,000,000.00 on April 3,
18 2008.

19 RESPONSE:

20 Deny.

21 REQUEST FOR ADMISSION NO. 26:

22 Admit that you willingly signed the Markers.

23 RESPONSE:

24 Deny.

25 REQUEST FOR ADMISSION NO. 27:

26 Admit that you willingly accepted at least \$1,000,000.00 in credit from Wynn in April of
27 2008.

28 //

1 RESPONSE:

2 Deny.

3 REQUEST FOR ADMISSION NO. 28:

4 Admit that you understood the terms and conditions of the Markers when you executed
5 them.

6 RESPONSE:

7 Deny.

8 REQUEST FOR ADMISSION NO. 29:

9 Admit that you currently owe Wynn at least the principal balance of \$1,000,000.00.

10 RESPONSE:

11 Deny.

12 REQUEST FOR ADMISSION NO. 30:

13 Admit that you did not have sufficient funds in your bank account(s) to satisfy the
14 Markers when you executed them.

15 RESPONSE:

16 Deny.

17 REQUEST FOR ADMISSION NO. 31:

18 Admit that you did have sufficient funds in your bank account(s) to satisfy the Markers
19 when you executed them.

20 RESPONSE:

21 Admit.

22 REQUEST FOR ADMISSION NO. 32:

23 Admit that you did not have sufficient funds in your Banca Popolare Italiana account
24 ending with 2970 to satisfy the Markers when you executed them.

25 RESPONSE:

26 Deny.

27

28

1 **REQUEST FOR ADMISSION NO. 33:**

2 Admit that you did have sufficient funds in your Banca Popolare Italiana account ending
3 with 2970 to satisfy the Markers when you executed them.

4 **RESPONSE:**

5 Admit.

6 **REQUEST FOR ADMISSION NO. 34:**

7 Admit that you knew that you did not have sufficient funds in any of your bank
8 account(s) to satisfy the Markers when you executed them.

9 **RESPONSE:**

10 Deny.

11 **REQUEST FOR ADMISSION NO. 35:**

12 Admit that you gambled at least \$1,000,000.00 on credit at Wynn's casino in April 2008.

13 **RESPONSE:**

14 Deny as this Defendant does not even recall doing so.

15 **REQUEST FOR ADMISSION NO. 36:**

16 Admit that you have been a casino patron of Wynn since at least 2008.

17 **RESPONSE:**

18 Admit, but it was my first time at the Wynn then.

19 **REQUEST FOR ADMISSION NO. 37:**

20 Admit that you have gambled on credit at other casinos besides Wynn.

21 **RESPONSE:**

22 Deny.

23
24 **REQUESTS FOR ADMISSION OF THE GENUINENESS OF DOCUMENTS**

25 **REQUEST FOR ADMISSION NO. 1:**

26 Admit that document Bates numbered WYNN-00001 is a true and correct copy of your
27 Italian passport.

1 **RESPONSE:**

2 Admit.

3 **REQUEST FOR ADMISSION NO. 2:**

4 Admit that document Bates numbered WYNN-00002 is a true and correct copy of a
5 casino marker you executed with Wynn.

6 **RESPONSE:**

7 It appears to be this Defendant's signature.

8 **REQUEST FOR ADMISSION NO. 3:**

9 Admit that documents Bates numbered WYNN-00004-WYNN-00005 is a true and
10 correct copy of a casino marker you executed with Wynn.

11 **RESPONSE:**

12 It appears to be this Defendant's signature.

13 **REQUEST FOR ADMISSION NO. 4:**

14 Admit that documents Bates numbered WYNN-00007-WYNN-00008 is a true and
15 correct copy of a casino marker you executed with Wynn.

16 **RESPONSE:**

17 It appears to be this Defendant's signature.

18 **REQUEST FOR ADMISSION NO. 5:**

19 Admit that documents Bates numbered WYNN-00010-WYNN-00011 is a true and
20 correct copy of a casino marker you executed with Wynn.

21 **RESPONSE:**

22 It appears to be this Defendant's signature.

23 **REQUEST FOR ADMISSION NO. 6:**

24 Admit that documents Bates numbered WYNN-00013-WYNN-00014 is a true and
25 correct copy of a casino marker you executed with Wynn.

26 **RESPONSE:**

27 It appears to be this Defendant's signature.

28 //

1 REQUEST FOR ADMISSION NO. 7:

2 Admit that documents Bates numbered WYNN-00016 is a true and correct copy of a
3 casino marker you executed with Wynn.

4 RESPONSE:

5 It appears to be this Defendant's signature.

6 REQUEST FOR ADMISSION NO. 8:

7 Admit that documents Bates numbered WYNN-00018-WYNN-00019 is a true and
8 correct copy of a casino marker you executed with Wynn.

9 RESPONSE:

10 It appears to be this Defendant's signature.

11 REQUEST FOR ADMISSION NO. 9:

12 Admit that documents Bates numbered WYNN-00021 is a true and correct copy of a
13 casino marker you executed with Wynn.

14 RESPONSE:

15 It appears to be this Defendant's signature.

16 REQUEST FOR ADMISSION NO. 10:

17 Admit that documents Bates numbered WYNN-00023 is a true and correct copy of a
18 casino marker you executed with Wynn.

19 RESPONSE:

20 It appears to be this Defendant's signature..

21 REQUEST FOR ADMISSION NO.11:

22 Admit that documents Bates numbered WYNN-00025-WYNN-00026 is a true and
23 correct copy of a casino marker you executed with Wynn.

24 RESPONSE:

25 It appears to be this Defendant's signature.

26 REQUEST FOR ADMISSION NO. 12:

27 Admit that documents Bates numbered WYNN-00028-WYNN-00029 is a true and
28 correct copy of a casino marker you executed with Wynn.

1 **RESPONSE:**

2 It appears to be this Defendant's signature.

3 **REQUEST FOR ADMISSION NO. 13:**

4 Admit that documents Bates numbered WYNN-00030-WYNN-00031 is a true and
5 correct copy of a casino marker you executed with Wynn.

6 **RESPONSE:**

7 It appears to be this Defendant's signature.

8 **REQUEST FOR ADMISSION NO. 14:**

9 Admit that document Bates numbered WYNN-00046-WYNN-00047 is true and correct
10 copy of the Credit Agreement you executed with Wynn.

11 **RESPONSE:**

12 It appears to be this Defendant's signature.

13 **REQUEST FOR ADMISSION NO. 15:**

14 Admit that the document Bates numbered WYNN-00033 is a true and correct copy of
15 your Credit Application with Wynn.

16 **RESPONSE:**

17 It appears to be this Defendant's signature.

18 **REQUEST FOR ADMISSION NO. 16:**

19 Admit that document Bates numbered WYNN-00035 is a true and correct copy of a
20 Credit Line Increase Request you executed with Wynn.

21 **RESPONSE:**

22 It appears to be this Defendant's signature.

23 **REQUEST FOR ADMISSION NO. 17:**

24 Admit that document Bates numbered WYNN-00036 is a true and correct copy of a
25 Credit Line Increase Request you executed with Wynn.

26 **RESPONSE:**

27 It appears to be this Defendant's signature.

28

1 **REQUEST FOR ADMISSION NO. 18:**

2 Admit that document Bates numbered WYNN-00037 is a true and correct copy of a
3 Credit Line Increase Request you executed with Wynn.

4 **RESPONSE:**

5 It appears to be this Defendant's signature.

6 **REQUEST FOR ADMISSION NO. 19:**

7 Admit that document Bates numbered WYNN-00038 is a true and correct copy of a
8 Credit Line Increase Request you executed with Wynn.

9 **RESPONSE:**

10 It appears to be this Defendant's signature.

11 **REQUEST FOR ADMISSION NO. 20:**

12 Admit that document Bates numbered WYNN-00039 is a true and correct copy of a
13 Credit Line Increase Request you executed with Wynn.

14 **RESPONSE:**

15 It appears to be this Defendant's signature.

16 Dated this 26th day of December 2014.

17 **HOLLEY, DRIGGS, WALCH,**
18 **PUZEY & THOMPSON**

19
20 **JEFFREY R. ALBERTS, ESQ.**
21 Nevada Bar No. 00000000
22
23
24
25
26
27
28

EXHIBIT 3

EXHIBIT 3

1
09:34:00 2 UNITED STATES DISTRICT COURT
09:34:00 3 CLARK COUNTY, NEVADA
09:34:00 4 - - - - -
09:34:00 IN THE MATTER OF:
09:34:00 5
09:34:00 WYNN LAS VEGAS, LLC d/b/a WYNN
09:34:00 6 LAS VEGAS, a Nevada limited liability
09:34:00 company,
09:34:00 7 Plaintiff,
09:34:00
09:34:00 8 v. Case No:
A-14-695025-C
09:34:00 9
09:34:00 MARIO LA BARBERA, an individual,
09:34:00 10 Defendant.
09:34:00 - - - - -
09:34:00 11 DEPOSITION OF: MARIO LA BARBERA
09:34:00 12 VOLUME I
09:34:00 13 Thursday, 11 June, 2015
09:34:00 14 AT: 10:05 a.m.
09:34:00 15 Taken at:
09:34:00 16 The Grand Hotel Palatino
09:34:00 Via Cavour
09:34:00 17 Roma
09:34:00 Italy
09:34:00 18
09:34:00 19
09:34:00 20

09:34:00 21

09:34:00 22

09:34:00 23 Court Reporter:

09:34:00 24 GEORGIA GOULD

09:34:00 Accredited Real-time Reporter

09:34:00 25

1

±

09:34:00 1

A P P E A R A N C E S

09:34:00 2 Appearing for the Plaintiff:

09:34:00

09:34:00 3

LAWRENCE J. SEMENZA

09:34:00

Lawrence J. Semenza, III. P.C.

09:34:00 4

10161 Park Run Drive

09:34:00

Suite 150

09:34:00 5

Las Vegas, Nevada, 89145

09:34:00

Telephone: 702-835-6803

09:34:00 6

09:34:00

STACIE MICHAELS (General Counsel)

09:34:00 7

Wynn Las Vegas

09:34:00

313 Las Vegas Blvd

09:34:00 8

Las Vegas, NV 89109

09:34:00

09:34:00 9 Appearing for the defendant:

09:34:00

09:34:00 10

JEFFREY R. ALBREGTS

09:34:00

Holley, Driggs, Walch, Puzey & Thompson

09:34:00 11

400 South Fourth Street

09:34:00

Las Vegas, NV, 89101

09:34:00 12

Telephone: +1 702-791-0306

09:34:00

09:34:00 13

GIACOMO MIOTTI

09:34:00

Miotti Law Firm

09:34:00 14

00165 Roma

09:34:00

Via Gregorio VII, 154

09:34:00 15

Italy

09:34:00

Telephone: +39 06.6382.354

10:41:56 7 A. The 1st of the 4th, the 1st of April, and the 3rd

10:42:00 8 of April. Would you like to see it, sir?

10:42:03 9 MR. SEMENZA: Yes.

10:42:12 10 MR. ALBREGTS: Giacomo, we'll do it page-by-page.

10:42:14 11 MR. MIOTTI: Yes.

10:42:25 12 BY MR. SEMENZA:

10:42:26 13 Q. Were these amounts in dollars or in euros?

10:42:35 14 A. I had -- I also had a dollar account at

10:42:37 15 Credit Suisse and I wired dollars.

10:42:40 16 Q. Okay. Why did you make these transfers, one in the

10:42:48 17 amount of USD 400,000 and the second in the amount of USD

10:42:51 18 600,000?

10:42:54 19 A. Because I'd run out of money.

10:42:57 20 Q. At that point in time that you wired those funds had

10:43:01 21 you exhausted your credit limit?

10:43:06 22 A. Yes.

10:43:07 23 Q. Prior to the USD 400,000 wire transfer on or

10:43:15 24 about April 1 of 2008, do you recall what your credit limit

10:43:19 25 was?

23

♀

10:43:23 1 A. 200,000.

10:43:25 2 Q. At --

10:43:28 3 A. Then, once the money arrived, I was given a villa.

10:43:38 4 I saw my credit increase and they ruined me.

10:43:46 5 Q. What do you recall your credit limit to be prior to
10:43:53 6 the second wire transfer, USD 600,000?

10:44:00 7 A. 500 is what they gave me. And after the arrival of
10:44:06 8 the 600 I was given a million. (In English): They kill
10:44:29 9 players in Las Vegas.

10:44:34 10 THE INTERPRETER: That was in English, "They kill
10:44:37 11 players in Las Vegas."

10:44:38 12 A. (Answer Interpreted): It's true, they really kill
10:44:40 13 them.

10:44:44 14 BY MR. SEMENZA:

10:44:45 15 Q. Okay. When you arrived at Wynn Las Vegas
10:44:57 16 on March 29, 2008, do you recall reviewing and executing
10:45:04 17 certain documents to establish credit?

10:45:17 18 A. I certainly must have signed --

10:45:24 19 Q. Well --

10:45:26 20 A. -- for example, I do not know that these were
10:45:30 21 checks, nobody explained it to me, nobody explained it to
10:45:33 22 me. I thought that these were some receipts in order to get
10:45:43 23 to obtain the chips. Nobody explained to me this.

10:45:51 24 MR. ALBREGTS: Wait for a question. If he
10:45:56 25 doesn't ask you the question I will ask you the question.

♀

10:46:00 1 A. I just saw it and it came to me.

10:46:02 2 BY MR. SEMENZA:

10:46:03 3 Q. And, before you turn the page, what page are you
10:46:05 4 referring to on that?

10:46:09 5 MR. ALBREGTS: Wynn 2.

10:46:12 6 BY MR. SEMENZA:

10:46:12 7 Q. All right.

10:46:16 8 A. I'm not sure this is my signature, that's not the
10:46:19 9 way I signed it. Anyway --

10:46:21 10 MR. ALBREGTS: He will ask you very specific
10:46:24 11 questions about all of this.

10:46:25 12 MR. SEMENZA: Mr. La Barbera, can you flip the
10:46:28 13 page.

10:46:29 14 MR. ALBREGTS: To the first page.

10:46:31 15 BY MR. SEMENZA:

10:46:32 16 Q. Do you recall providing Wynn with a copy -- do you
10:46:34 17 recall providing Wynn with your passport?

10:46:42 18 A. I think so, but I don't really remember.

10:46:44 19 Q. Did you understand that that was a requirement to
10:46:48 20 establishing credit at Wynn?

10:46:54 21 A. No, I did not.

10:46:56 22 Q. What do you understand the reason for providing your
10:47:00 23 passport to Wynn to be?

10:47:07 24 A. When one goes to a hotel I assumed it's normal to
10:47:11 25 produce a document.

25

♀

10:47:13 1 Q. And you voluntarily provided your passport to Wynn?

10:47:18 2 A. Certainly I was asked, I think, at reception, and so
10:47:22 3 I supplied it.

10:47:23 4 Q. Did you provide your passport to Mr. Pariente or
10:47:26 5 some other employee at Wynn when you checked in?

10:47:33 6 A. I honestly don't recall.

10:47:38 7 (10:47 a.m.)

10:47:44 8 (Discussion off the record.)

10:47:46 9 (10:48 a.m.)

10:47:55 10 BY MR. SEMENZA:

10:47:55 11 Q. Mr. La Barbera, can I have you turn to Wynn 33. Do
10:48:15 12 you recognize this document?

10:48:22 13 MR. ALBREGTS: Can you translate the title up
10:48:23 14 here? (Pause.)

10:48:32 15 A. The signature is certainly my own.

10:48:34 16 BY MR. SEMENZA:

10:48:34 17 Q. Okay.

10:48:35 18 A. But I don't recall it. It's certainly my signature,
10:48:42 19 it says "Credit Suisse".

10:48:46 20 Q. Do you recall who you were with when you signed this
10:48:50 21 document?

10:48:53 22 A. No, I don't, honestly.

10:48:56 23 Q. And the handwriting -- the printing, right --

10:49:02 24 MR. ALBREGTS: Printing.

10:49:04 25 A. That's mine.

26

♀

10:49:06 1 MR. ALBREGTS: Wait for a question. Sorry.

10:49:11 2 BY MR. SEMENZA:

10:49:11 3 Q. No, that's okay.

10:49:12 4 So from your name at the top of the page to where
10:49:25 5 you have signed, is all of that handwritten writing yours?

10:49:34 6 A. Yes.

10:49:37 7 Q. And how did you know what handwritten information to
10:49:43 8 provide on this form?

10:49:52 9 A. I think I must have been aided, I'm not sure whether
10:49:56 10 it was Pariente or anyone else, I really don't recall.

10:50:01 11 Q. Can you read English?

10:50:04 12 A. No.

10:50:06 13 Q. Can you write English?

10:50:08 14 A. No.

10:50:10 15 Q. Is it fair to say that someone assisted you in
10:50:14 16 completing the form?

10:50:16 17 A. I believe so.

10:50:18 18 Q. Do you recall asking the individual who assisted you
10:50:21 19 in completing the form to translate it or to read it to you
10:50:25 20 in Italian?

10:50:30 21 A. No, this was about filling in with names and
10:50:35 22 a street, city, profession and my -- and the bank, and my
10:50:44 23 bank account.

10:50:44 24 Q. Did you understand that this was required
10:50:47 25 information to establish credit at Wynn?

27

♀
†

10:50:55 1 A. I believe so.

10:50:57 2 Q. And is anything in the document that you had wrote
10:51:02 3 inaccurate?

10:51:06 4 Let me ask a better question. When you completed
10:51:11 5 this form is there anything that you wrote on the form that

10:51:19 6 is inaccurate?

10:51:28 7 A. I think so.

10:51:29 8 Q. What is inaccurate?

10:51:34 9 A. No, I think that it's correct.

10:51:36 10 MR. ALBREGTS: Okay, he understood the question?

10:51:40 11 THE INTERPRETER: Yes, I was just translating
10:51:43 12 literally.

10:51:44 13 MR. ALBREGTS: No, he's a smart guy, he really
10:51:50 14 is.

10:51:50 15 BY MR. SEMENZA:

10:51:51 16 Q. Just so I'm clear, you don't recall anyone -- strike
10:51:55 17 that.

10:51:55 18 You don't recall asking anyone to translate the form
10:52:00 19 to you in Italian prior to or during your completion of the
10:52:05 20 form?

10:52:09 21 A. I think somebody helped me. I think this Pariente
10:52:14 22 gentleman must have helped me fill it in. I don't know,
10:52:17 23 I think.

10:52:18 24 MR. ALBREGTS: One moment.

10:52:18 25 (10:52 a.m.)

10:52:24 1 (Discussion off the record.)

10:52:26 2 (10:53 a.m.)

10:52:50 3 BY MR. SEMENZA:

10:52:50 4 Q. Let me have you turn now to Wynn 46. Do you
10:53:08 5 recognize this document?

10:53:42 6 A. I don't remember it. The signature is my own.

10:53:47 7 Q. When you first arrived at the Wynn and signed this
10:53:53 8 document, Wynn 46, was it your understanding that you were
10:53:58 9 being given a credit line of USD 300,000 as opposed to USD
10:54:06 10 200,000?

10:54:14 11 A. I imagine I must have read this. I don't remember
10:54:18 12 exactly everything. It's seven-and-a-half years ago and --

10:54:29 13 Q. Is it fair to say that you were initially given
10:54:31 14 a USD 300,000 credit line at Wynn?

10:54:37 15 A. I recall 200.

10:54:45 16 Q. And, prior to signing this document, did you ask
10:54:50 17 anyone to translate it into Italian for you?

10:54:54 18 A. No, I didn't.

10:54:58 19 Q. Do you recall who was present with you when you
10:55:00 20 signed this document?

10:55:03 21 A. I believe Pariente, I think.

10:55:09 22 Q. And did Mr. Pariente explain to you the terms of
10:55:13 23 this document when you signed it?

10:55:19 24 A. I don't recall, but I would assume that he must have

10:55:23 25 told me that this was necessary in order to obtain the
29

♀
†

10:55:26 1 credit.

10:55:28 2 Q. Do you recall asking Mr. Pariente, when you signed
10:55:32 3 this, about the terms relating to obtaining credit at Wynn?

10:55:37 4 A. No.

10:55:42 5 Q. Is it fair to say that if you had questions relating
10:55:45 6 to the credit provided to you by Wynn Las Vegas that
10:55:49 7 Mr. Pariente was available to answer those questions?

10:55:59 8 A. This I don't know. For example, he was unable to
10:56:06 9 say something to me about market, and I thought that market
10:56:12 10 was a simple receipt rather than a commitment. Nobody
10:56:17 11 explained this to me at Wynn.

10:56:20 12 Q. You mentioned the term "market" or "marker".

10:56:25 13 A. The ones which they then cashed in, we have the same
10:56:29 14 word "market".

10:56:30 15 Q. Okay. Does Mr. Pariente speak fluent Italian?

10:56:44 16 A. He's south American. Let's say that he muddled
10:56:49 17 through, we were able to understand one another.

10:56:51 18 Q. And when you spoke to Mr. Pariente did you speak to
10:56:54 19 him in Italian?

10:57:01 20 A. Latin, mixed with Italian. A Latin-Italian mix.

10:57:09 21 Q. Okay. Is it fair to say that you -- strike that.

10:57:14 22 During your discussions and conversations with

10:57:17 23 Mr. Pariente is it fair to say that you understood what he

10:57:20 24 was saying?

10:57:25 25 MR. ALBREGTS: Objection as to form, as to what's
30

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10:57:26 1 "fair". Go ahead and answer.

10:57:36 2 A. The question was?

10:57:38 3 BY MR. SEMENZA:

10:57:38 4 Q. Let me ask it a different way. When you were having

10:57:45 5 conversations with Mr. Pariente while at the Wynn

10:57:48 6 in March 2008 did you believe that he understood you and

10:57:54 7 that you understood him?

10:58:01 8 A. Broadly speaking, yes. I didn't know how things

10:58:23 9 worked inside this casino, nobody explained it to me, but

10:58:26 10 anyway we'll get there.

10:58:28 11 Q. And, going back, when you spoke Mr. Pariente you

10:58:31 12 said you spoke Latin, meaning Spanish?

10:58:35 13 A. Yes, Latino and Spanish.

10:58:38 14 Q. So you spoke both Italian and Spanish with him?

11:06:03 24 recall.

11:06:05 25 BY MR. SEMENZA:

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11:06:05 1 Q. You --

11:06:06 2 A. This does not seem my signature to me.

11:06:08 3 Q. So are you saying that it is not your signature on

11:06:11 4 Wynn 2?

11:06:16 5 A. All I'm saying is it doesn't look like my signature.

11:06:19 6 I have this feeling because my signature is definitely what

11:06:23 7 I see here.

11:06:25 8 THE INTERPRETER: Pointing to 47.

11:06:27 9 A. And the other one, I'm introducing Wynn 1 and 2, is

11:06:31 10 different.

11:06:33 11 BY MR. SEMENZA:

11:06:33 12 Q. Again, I just need to clarify. Do you believe that

11:06:37 13 the signature on Wynn 2 was not yours?

11:06:45 14 A. I repeat, I cannot swear that this is not my

11:06:56 15 signature, but neither can I say yes, it is.

11:06:59 16 Q. Okay, you don't know either way?

11:07:07 17 A. Yes, I don't know.

11:07:10 18 Q. Let me have you turn to Wynn 4.

11:07:23 19 A. This one is way out.
11:07:25 20 Q. Okay. Are you saying --
11:07:27 21 A. This is not my signature.
11:07:29 22 Q. This one is not your signature. That is your
11:07:31 23 position?
11:07:34 24 A. Yes. This definitely is not my signature.
11:07:40 25 Q. Okay. Let me have you turn to Wynn 7.

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11:07:55 1 A. I do not sign this way.
11:07:57 2 Q. Is it your position that the signature on Wynn 7 is
11:08:02 3 not yours?
11:08:06 4 A. Neither this one is mine.
11:08:10 5 MR. ALBREGTS: This not his signature?
11:08:13 6 A. This is not my signature.
11:08:14 7 MR. ALBREGTS: Okay.
11:08:17 8 A. It's impossible.
11:08:18 9 MR. ALBREGTS: I understand.
11:08:18 10 A. It's impossible.
11:08:19 11 BY MR. SEMENZA:
11:08:19 12 Q. Let me have you turn to Wynn 10. The document
11:08:38 13 identified on Wynn 10.



CLERK OF THE COURT

MIL
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DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

MARIO LA BARBERA, an individual,

Defendant.

Case No.: A-14-695025-C
Dept. No.: XXVIII

**DEFENDANT'S MOTION IN LIMINE
[#1] TO EXCLUDE ANY EVIDENCE OR
ARGUMENT REGARDING
DEFENDANT'S ALLEGED GAMBLING
ADDICTION**

Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") hereby moves the Court for an Order excluding any and all evidence, references to evidence, testimony or argument by Defendant Mario La Barbera ("La Barbera"), La Barbera's counsel, witnesses or alleged treating physician(s) witnesses that La Barbera has an alleged gambling addiction and/or sickness. In addition, the Court should exclude any treating physician witness that may attempt to testify regarding his gambling addiction and/or sickness.

The Court should exclude such evidence, testimony and argument because it is contrary to Nevada law. Pursuant to NRS 463.368(6), a patron's claim of having a mental or behavioral disorder involving gambling is not a defense to credit instruments. Moreover, the Court should

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1 prohibit such evidence and argument because the probative value is substantially outweighed by
2 the danger of unfair prejudice, confusion of the issues or of misleading the jury.

3 As required by E.D.C.R. 2.47, counsel for Wynn has made a good-faith effort with La
4 Barbera's counsel to resolve this matter in a satisfactory manner but was unsuccessful.

5 This Motion is made based upon the following points and authorities, the attached
6 declaration of counsel for Wynn as required by E.D.C.R. 2.47, all pleadings and papers on file
7 herein and any oral arguments this Court may entertain at the hearing of this Motion

8 DATED this 29th day of January, 2016.

9 LAWRENCE J. SEMENZA, III, P.C.

10
11 /s/ Christopher D. Kircher

12 Lawrence J. Semenza, III, Esq., Bar No. 7174

13 Christopher D. Kircher, Esq., Bar No. 11176

14 10161 Park Run Drive, Suite 150

15 Las Vegas, Nevada 89145

16 Attorneys for Plaintiff Wynn Las Vegas, LLC, d/b/a
17 Wynn Las Vegas
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned counsel will appear at the Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, Nevada 89155, Eighth Judicial District Court, Las Vegas, Nevada on the 01 day of MARCH, 2016 at 9:00A a.m., before Department XXVIII, or soon thereafter as counsel may be heard for a hearing on **DEFENDANT'S MOTION IN LIMINE [#1] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING DEFENDANT'S ALLEGED GAMBLING ADDICTION.**

DATED this 29th day of January, 2016.

LAWRENCE J. SEMENZA, III, P.C.

/s/ Christopher D. Kircher

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Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
Wynn Las Vegas, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a collection case involving multiple credit instruments, or casino markers. La Barbera executed twelve (12) casino markers in favor of Wynn that he has failed to fully repay. The current principal balance due and owing to Wynn is \$1 million. Wynn has brought a Breach of Contract claim against La Barbera.

La Barbera will attempt to raise behavioral defenses related to his alleged gambling addiction, by his own testimony, arguments of counsel, and testimony from other individuals. This type of evidence and argument cannot be permitted because NRS 463.368(6) specifically prohibits a defendant from raising as a defense to the enforcement of a credit instrument that he has a mental or behavioral disorder involving gambling.

Accordingly, the Court should enter an Order excluding any and all evidence, references to evidence, testimony or argument that La Barbera has a gambling addiction and/or sickness. Additionally, the Court should bar any alleged healthcare professional(s) from testifying at trial because their testimony will solely relate to La Barbera's alleged gambling addiction and La Barbera failed to comply with Nevada law on disclosing experts.¹

II. PERTINENT FACTUAL AND PROCEDURAL BACKGROUND

La Barbera was a patron of Wynn's casino in the Spring 2008. Before executing any casino markers with Wynn, La Barbera has admitted he executed a Credit Application and Credit Agreement with Wynn. He has further admitted that he executed numerous Credit Line Increase Requests with Wynn and confirmed that his credit line was increased to \$1 million with Wynn. During his trip, La Barbera executed twelve (12) casino markers totaling \$1,070,000.00 in favor of Wynn, which are valid and enforceable gaming debts under NRS 463.368. After applying money and/or chips that La Barbera provided to Wynn, La Barbera has an outstanding balance with Wynn of \$1 million.

¹ During the E.D.C.R. 2.47 conference, La Barbera's counsel indicated that he did not expect any healthcare professionals to travel to Nevada and testify at trial. Wynn, however, included herein argument related to them out of an abundance of caution.

1 On January 24, 2014, Wynn initiated this lawsuit against La Barbera. Prior to this time,
2 La Barbera never informed Wynn that he had an alleged gambling addiction and/or sickness.

3 On September 16, 2014, La Barbera filed his Answer. (Answer, a true and correct copy is
4 attached hereto as **Exhibit 2.**) In his Answer, he has raised a number of affirmative defenses
5 based upon his alleged gambling addiction despite such a defense being contrary to Nevada law:

6 **NINETEENTH AFFIRMATIVE DEFENSE**

7 Plaintiff's claims are barred against this Defendant because Plaintiff
8 exploited him as a sick and compulsive gambler who has no rational or
9 reasoned ability to stop gambling, all of which Wynn knew when it asked
10 Defendant to execute the allege gaming or credit instruments it seeks to
11 enforce against him herein, but it also used duress, deceit and undue
12 influence in coercing him to execute any credit instruments.

13 **TWENTIETH AFFIRMATIVE DEFENSE**

14 As a matter of public policy and law, Plaintiff Wynn is legally and
15 equitably barred from using NRS 463.368 as a shield to its liability for, or
16 to negate affirmative defenses to, its intentional exploitation of Defendant
17 LaBarbera's [sic] "mental or behavioral disorder involving gambling," i.e.,
18 gambling sickness and addiction, vis a vis unduly influencing and/or
19 coercing him into executing gaming markers or credit instruments
20 including, without limitation, . . . extending gaming credit to him while
21 knowing full well that he suffered from a "mental or behavioral disorder
22 involving gambling," such as addiction or sickness. In short, although this
23 defense may be barred by statute, the Wynn cannot purposely exploit Mr.
24 LaBarbera's [sic] gambling addiction for its own gain and profit and then
25 shield itself from liability for the same pursuant to NRS 463.386.

26 (Id.)

27 Furthermore, La Barbera has disclosed in his Rule 16.1 disclosures "healthcare
28 professional(s)" that will attempt to testify regarding his alleged gambling addiction and/or
sickness. (La Barbera's Initial Disclosures minus Exhibits, attached hereto as **Exhibit 3.**)
Because such a defense is contrary to Nevada law, the Court should enter an Order excluding any
and all evidence, references to evidence, testimony or argument relating to La Barbera having an
alleged gambling addiction or sickness. Additionally, the Court should bar any alleged healthcare
professional from testifying at trial because their testimony will solely relate to La Barbera's
alleged gambling addiction and/or sickness and they were not properly disclosed.

1 **III. STANDARD OF REVIEW FOR A MOTION IN LIMINE**

2 E.D.C.R. 2.47 specifically authorizes motions in limine to exclude or admit evidence. *See*
3 *also* NRS 48.015. In Nevada, the granting of a motion in limine is within the Court's
4 discretionary power. *State ex rel. Department of Highways v. Nevada Aggregates & Asphalt Co.*,
5 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976). The Court's determination is subject to an abuse
6 of discretion analysis. *Id.*

7 A motion in limine is a motion used to preclude prejudicial or objectionable evidence
8 before it is presented to the jury. *See* E.D.C.R. 2.47, *Peat. Mitchell & Co. v. Superior Court*, 200
9 Cal. App. 3d 272, 288 (Cal. Ct. App. 1988); *Hyatt v. Sierra Boat Co.*, 79 Cal. App. 3d 325, 337
10 (Cal. Ct. App. 1978). The primary advantage of the motion in limine is to avoid the futile attempt
11 of trying to undo the harm done where jurors have been exposed to damaging evidence, even
12 where stricken by the court. This scenario has been described as "the obviously futile attempt to
13 'un-ring the bell' in the event a motion to strike is granted in the proceedings before the jury."
14 *Hyatt*, 79 Cal. App. 3d at 337. "A motion in limine is prophylactic in nature, made to exclude
15 evidence before it is offered" *Stein-Brief Group, Inc. v. Home Indem. Co.*, 65 Cal. App. 4th
16 364, 369 (Cal. Ct. App. 1998).

17 Even if evidence is relevant, it must be excluded "if its probative value is substantially
18 outweighed by the danger of unfair prejudice, of confusion of the issues or misleading the jury."
19 NRS 48.035(1). Furthermore, relevant evidence may be excluded "if its probative value is
20 substantially outweighed by considerations of undue delay, waste of time or needless presentation
21 of cumulative evidence." NRS 48.035(2).

22 **IV. ARGUMENT**

23 **A. Evidence and Argument Relating to La Barbera's Alleged Gambling**
24 **Addiction and/or Sickness Should be Excluded Because It Is Not a Defense**
25 **under Nevada Law**

26 Nevada law expressly provides that a "patron's claim of having a mental or behavioral
27 disorder involving gambling . . . [i]s not a defense in any action by a licensee or a person acting
28 on behalf of a licensee to enforce a credit instrument or the debt that the credit instrument

1 represents." NRS 463.368(6). By the plain language of the statute, the Nevada Legislature
2 clearly intended that a person cannot use a claim of being a gambling addict as a defense when a
3 licensee, such as Wynn, seeks to enforce a credit instrument.²

4 Here, Wynn is seeking to enforce La Barbera's twelve (12) casino markers in favor of
5 Wynn. Yet, it is anticipated that La Barbera will inappropriately continue to raise his alleged
6 gambling addiction and sickness as a defense at trial. Accordingly, the Court should enter an
7 Order not permitting at trial any evidence, argument or reference to La Barbera's alleged
8 gambling addiction and/or sickness. Not only is such a defense prohibited by Nevada law, it is
9 also unfairly prejudicial, confuses the issues, will mislead the jury and be a waste of time and
10 resources. *See* NRS 48.035.

11 **B. La Barbera's Purported Healthcare Providers Should Be Excluded Because**
12 **Their Testimony Is Completely Irrelevant, Will Not Assist the Jury, Is**
13 **Barred by Nevada Law and La Barbera Failed to Comply with the Pertinent**
14 **Disclosure Requirements**

14 La Barbera has disclosed "healthcare professional(s)" that "may testify concerning his/her
15 evaluation(s) and/or treatment of Defendant and [their] opinions set forth in medical records,
16 counseling records or substance abuse or addiction evaluation." (Ex. 3.) As set forth previously,
17 any testimony related to La Barbera's alleged mental or behavioral disorder involving gambling
18 must be precluded because such a defense is prohibited under Nevada law. NRS 463.368(6).
19 And, an alleged mental or behavioral disorder involving gambling is precisely what any alleged
20 healthcare professional will attempt to testify about. For this reason, the Court should preclude
21 them from offering any testimony at trial.

22 Even if Nevada law did not bar their anticipated testimony, this testimony is completely
23 irrelevant to the case at hand and will be a waste of time. Only relevant evidence should be
24 admitted a trial and these witnesses do not have relevant testimony. Therefore, this testimony will
25 not assist the jury, but confuse them. *See* NRS 50.275 (Nevada law requires that the witness
26 have, among other things, "specialized knowledge [that] will assist the trier of fact to understand

27 ² The public policy rationale behind this statute is obvious: every person that visited Nevada would attempt
28 to avoid their gambling debts by claiming, as Tofani does, that they are "gambling addicts."

1 the evidence or to determine a fact in issue . . ."); *see also Hallmark v. Eldridge*, 124 Nev. 492,
2 189 P.3d 646, 650 (2008).

3 Finally, the healthcare professional(s) should be barred from testifying at trial because La
4 Barbera clearly failed to meet the expert disclosure requirements for a treating physician.³ Under
5 Rule 16.1(a)(2)(B), within the time to disclose experts a party must disclose the following:

6 [T]he initial disclosure must state the subject matter on which the witness
7 is expected to present evidence under NRS 50.275, 50.285 and 50.305; a
8 summary of the facts and opinions to which the witness is expected to
9 testify; the qualifications of that witness to present evidence under NRS
10 50.275, 50.285 and 50.305, which may be satisfied by the production of a
resume or curriculum vitae; and the compensation of the witness for
providing testimony at deposition and trial, which is satisfied by
production of a fee schedule.

11 Nev. R. Civ. P. 16.1(a)(2)(B).

12 La Barbera has failed to disclose any of this information. As such, it would be extremely
13 prejudicial to Wynn to permit these individuals to testify given that La Barbera failed to satisfy
14 the expert disclosure requirements under Nevada law. *See Nev. R. Civ. P. 16.1(a)(2)(B); see also*
15 *Washoe Cnty. Bd. Of Sch. Trustees v. Pirhala*, 84 Nev. 1, 5, 435 P.2d 756, 758 (1968) (noting that
16 the purpose of discovery is to take the "surprise out of trials of cases so that all relevant facts and
17 information pertaining to the action may be ascertained in advance of trial"); *see also Ghiorzi v*
18 *Whitewater Pools & Spas Inc.*, No. 2:10-cv-01778-JCM-PAL, 2011 U.S Dist. LEXIS 125329,
19 2011 WL 5190804 (D. Nev. Oct. 28, 2011) ("Expert reports are required in order to eliminate
20 "unfair surprise to the opposing party and [to conserve] resources." (citations omitted).

21 Accordingly, the Court should not permit testimony from any healthcare professional(s) at
22 trial regarding any matter.

23
24
25 ³ Wynn presumes that La Barbera will not attempt to argue that the alleged healthcare professional(s) are
26 expert witnesses as contemplated by Rule 16.1(a)(2)(A)-(B) because La Barbera failed to meet the expert
27 disclosure requirements under this rule, such as providing "the qualifications of the witness, including a list
28 of all publications authored by the witness within the preceding 10 years; the compensation to be paid for
the study and testimony; and a listing of any other cases in which the witness has testified as an expert at
trial or by deposition within the preceding four years." *See* Rule 16.1(a)(2)(B).

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1 **V. CONCLUSION**

2 Based on the foregoing, the Court should grant Wynn's Motion in Limine [#1] and exclude
3 any and all evidence, references to evidence, testimony or argument relating to La Barbera's
4 alleged gambling addiction and/or sickness. The Court should also exclude any alleged
5 healthcare professional that may attempt to testify regarding his gambling addiction.

6 DATED this 29th day of January, 2016.

7 LAWRENCE J. SEMENZA, III P.C.

8
9 /s/ Christopher D. Kircher

10 Lawrence J. Semenza III, Esq. Bar No. 7174
11 Christopher D. Kircher, Esq. Bar. No. 11176
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14 Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
15 Wynn Las Vegas
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b) and NEFCR 9, I certify that I am an employee of Lawrence J. Semenza, III, P.C., and that on this 29th day of January, 2016 I caused to be sent through electronic transmission via Wiznet's online system, a true copy of the foregoing **DEFENDANT'S MOTION IN LIMINE [#1] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING DEFENDANT'S ALLEGED GAMBLING ADDICTION** to the following registered e-mail addresses:

Jeffrey R. Albregts, Esq.
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Attorney for Defendant

/s/ Olivia A. Kelly
An Employee of Lawrence J. Semenza, III, P.C.

EXHIBIT 1

EXHIBIT 1

LAWRENCE J. SEMENZA, III, P.C.
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**DECLARATION OF CHRISTOPHER D. KIRCHER, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION IN LIMINE [#1]**

I, CHRISTOPHER D. KIRCHER, ESQ., states and declares as follows:

1. My law firm represents Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Plaintiff") in its lawsuit against Defendant Mario La Barbera ("Defendant"). I make this Declaration in support of Plaintiff's Motion in Limine [#1] (the "Motion") to exclude any and all references to evidence, testimony or argument by Defendant regarding his alleged gambling addiction. All of the statements contained in this declaration are made on the basis of personal knowledge and I am competent to testify as to the truth of these statements if called upon to do so.

2. During the week of January 25, 2016, I exchanged email correspondence and telephoned Defendant's counsel, Jeffrey Albrechts, Esq., to conduct an EDCR 2.47 conference in a good faith effort to confer on the subject of Plaintiff's motions in limine. Among other things, I emailed Mr. Albrechts the topic of Motion in Limine #1. Later, he left me a voicemail and he did not agree to exclude the evidence and argument related to Defendant's alleged gambling addiction. As such, the parties were unable to resolve this matter.

3. Plaintiff's Motion is not brought for any improper purpose or to delay these proceedings.

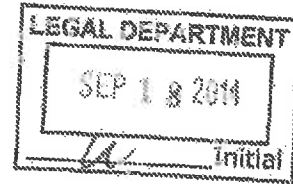
I declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

EXECUTED on this 29th day of January, 2016, at Las Vegas, Nevada.

/s/ Christopher D. Kircher
Christopher D. Kircher, Esq.

EXHIBIT 2

EXHIBIT 2



1 ANS
2 JEFFREY R. ALBREGTS, ESQ.
3 Nevada Bar No. 0056
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11 *Attorneys for Defendant*

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 WYNN LAS VEGAS, LLC,
15 d/b/a WYNN LAS VEGAS,

16 Plaintiff,

17 v.

18 MARIO LA BARBERA,

19 Defendant.

Case No.: A-14-695025-C
Dept. No.: XXVIII

ANSWER TO COMPLAINT

20 Defendant, MARIO LA BARBERA, in answer to the Complaint on file herein, hereby
21 admits, denies and alleges, as follows:

22 PARTIES

23 1. Defendant is without sufficient information or knowledge to form a belief as to
24 the truth of the allegations contained in Paragraph 1 and therefore denies the same.

25 2. Admits the allegations contained in Paragraph 2.

26 BACKGROUND

27 3. Defendant is without sufficient information or knowledge to form a belief as to
28 the truth of the allegations contained in Paragraph 3 and therefore denies the same.

4. Defendant is without sufficient information or knowledge to form a belief as to
the truth of the allegations contained in Paragraph 4 and therefore denies the same.

5. Admits that Defendant LA BARBERA has paid at least \$70,000 to the Wynn, if
not more over the years, but is without sufficient information or knowledge to form a belief as to

1 the truth of the allegations contained in Paragraph 5 and therefore denies the same

2 6. Denies the allegations contained in Paragraph 6.

3 7. Defendant is without sufficient information or knowledge to form a belief as to
4 the truth of the allegations contained in Paragraph 7 and therefore denies the same.

5 **FIRST CAUSE OF ACTION**
6 **(Breach of Contract)**

7 8. Defendant repeats and realleges as though fully set forth herein his answers to
8 paragraphs 1 through 7 of the Complaint.

9 9. Denies the allegations contained in Paragraph 9.

10 10. Defendant is without sufficient information or knowledge to form a belief as to
11 the truth of the allegations contained in Paragraph 10 and therefore denies the same.

12 11. Denies the allegations contained in Paragraph 11.

13 12. Denies the allegations contained in Paragraph 12.

14 **SECOND CAUSE OF ACTION**
15 **(Conversion)**

16 13. Defendant repeats and realleges as though fully set forth herein his answers to
17 paragraphs 1 through 12 of the Complaint.

18 14. Denies the allegations contained in Paragraph 14.

19 15. Denies the allegations contained in Paragraph 15.

20 16. Denies the allegations contained in Paragraph 16.

21 17. Denies the allegations contained in Paragraph 17.

22 **THIRD CAUSE OF ACTION**
23 **(Unjust Enrichment)**

24 18. Defendant repeats and realleges as though fully set forth herein his answers to
25 paragraphs 1 through 17 of the Complaint.

26 19. Denies the allegations contained in Paragraph 19.

27 20. Denies the allegations contained in Paragraph 20.

28 21. Denies the allegations contained in Paragraph 21.

1 22. Denies the allegations contained in Paragraph 22.

2 **FOURTH CAUSE OF ACTION**
3 **(Breach of the Covenant of Good Faith and Fair Dealing)**

4 23. Defendant repeats and realleges as though fully set forth herein his answers to
5 paragraphs 1 through 22 of the Complaint.

6 24. Admits the allegations contained in Paragraph 24.

7 25. Denies the allegations contained in Paragraph 25.

8 26. Denies the allegations contained in Paragraph 26.

9 27. Denies the allegations contained in Paragraph 27.

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 The claims set forth in the Complaint fail for want or lack of consideration.

13 **SECOND AFFIRMATIVE DEFENSE**

14 The claims set forth in the Complaint are barred by the equitable doctrine of laches.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Three of the claims set forth in the Complaint are barred by the applicable statute of
17 limitations. Specifically, Plaintiff's Second Cause of Action for Conversion is barred by the three
18 year statute of limitations set forth in NRS 11.190(3)(c); Plaintiff's Third Cause of Action for
19 Unjust Enrichment is barred by the four year statute of limitations set forth in NRS 11.190(2)(c);
20 and Plaintiff's Fourth Cause of Action for Breach Of The Covenant Of Good Faith And Fair
21 Dealing is barred by the two year statute of limitations set forth in NRS 11.190(4)(e).

22 **FOURTH AFFIRMATIVE DEFENSE**

23 The claims of Plaintiff are barred by the equitable doctrine of estoppel including both
24 promissory and equitable estoppel.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 The claims of Plaintiff are barred by the equitable doctrine of waiver.

27 **SIXTH AFFIRMATIVE DEFENSE**

28 There is no privity of contract between the Wynn and this Defendant.

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SEVENTH AFFIRMATIVE DEFENSE

The alleged credit instruments which Plaintiff seeks to enforce and recover from this Defendant are or were incomplete and therefore unenforceable under Nevada and/or Italian law.

EIGHTH AFFIRMATIVE DEFENSE

To the extent this Defendant executed any legitimate credit instrument on behalf of Plaintiff, he was fraudulently induced to do so by Plaintiff and, indeed, he does not read or write English.

NINTH AFFIRMATIVE DEFENSE

Defendant, as a resident and citizen of the sovereign country of Italy, is entitled as a matter of law to the protections and privileges of Italian law and citizenship including, without limitation, that gambling markers, instruments or contracts for gambling debt, are unenforceable in Italy as a matter of public policy.

TENTH AFFIRMATIVE DEFENSE

As a matter of law, this Defendant has not converted any property of Plaintiff and, indeed, this Defendant has never been in possession of any property of Plaintiff, tangible or intangible, nor does providing someone "credit" create property which could be converted. In other words, credit is intangible at best and does not create rights in property which may be subject to claims for conversion once that credit is not paid. In summary, Plaintiff did not make any kind of loan to this Defendant as no funds were ever exchanged between them.

ELEVENTH AFFIRMATIVE DEFENSE

This Defendant has not been unjustly enriched at the expense and to the detriment of Plaintiff and, indeed, the Wynn is out of pocket nothing here.

TWELFTH AFFIRMATIVE DEFENSE

To the extent that the Complaint states any claim in tort against this Defendant, the damages sustained by Plaintiff, if any, were caused by its own errors, acts and/or omissions.

THIRTEENTH AFFIRMATIVE DEFENSE

To the extent that the Complaint states any claim in tort against this Defendant, the damages sustained by Plaintiff, if any, were caused by the acts, errors and/or omissions of third

1 parties over whom this Defendant had no authority or control.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 To the extent that this Defendant executed any credit instruments or markers in favor of
4 Plaintiff, such instruments or markers were procured by Plaintiff from him through a series of
5 misrepresentations by Plaintiff to him including, without limitation, that the markers would not
6 be enforced; that if the markers were enforced, they would be discounted; or if the markers were
7 enforced, Defendant would be able to make payments to Plaintiff over time; and that the
8 instruments or markers were enforceable in Italy (which is not true).

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 To the extent that this Defendant executed any gaming markers or credit instruments on
11 behalf of Plaintiff, he was not aware of what they were when he executed the same, meaning he
12 mistakenly executed as much at the instance and request of Plaintiff and without any
13 understanding or knowledge of what they were, let alone whether they were enforceable here or
14 in Italy.

15 **SIXTEENTH AFFIRMATIVE DEFENSE**

16 The claims of Plaintiff are barred by the equitable doctrine of unclean hands.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 Plaintiff did not properly present any credit instruments or markers to Defendant's bank
19 in Italy and is therefore barred from enforcing the same here or there.

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 Plaintiff unduly influenced and coerced this Defendant into executing any markers or
22 gaming instruments for its benefit, to the extent that this Defendant actually executed any.

23 **NINETEENTH AFFIRMATIVE DEFENSE**

24 Plaintiff's claims are barred against this Defendant because Plaintiff exploited him as a
25 sick and compulsive gambler who has no rational or reasoned ability to stop gambling, all of
26 which Wynn knew when it asked Defendant to execute the alleged gaming or credit instruments
27 it seeks to enforce against him herein, but it also used duress, deceit and undue influence in
28 coercing him to execute any credit instruments.

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2 **TWENTIETH AFFIRMATIVE DEFENSE**

3 As a matter of public policy and law, Plaintiff Wynn is legally and equitably barred from
4 using NRS 463.368 as a shield to its liability for, or to negate affirmative defenses to, its
5 intentional exploitation of Defendant LaBarbera's "mental or behavioral disorder involving
6 gambling," i.e., gambling sickness or addiction, *vis a vis* unduly influencing and/or coercing him
7 into executing gaming markers or credit instruments including, without limitation, making false
8 promises to him that such instruments would not be enforced; using alcohol and *comps* to unduly
9 influence or coerce him into executing such gaming markers or credit instruments; having him
10 execute such gaming markers or credit instruments while he was clearly inebriated and/or
11 otherwise impaired; and extending gaming credit to him while knowing full well that he suffered
12 from a "mental or behavioral disorder involving gambling," such as addiction or sickness. In
13 short, although this defense may be barred by statute, the Wynn cannot purposely exploit Mr.
14 LaBarbera's gambling addiction for its own gain and profit and then shield itself from liability
15 for the same pursuant to NRS 463.368.

16 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

17 This Defendant has been required to retain an attorney to defend himself and may be
18 entitled to recover attorneys' fees and costs under Nevada law.

19 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

20 Pursuant to the provision of Nevada Rule of Civil Procedure 11, at the time of filing of
21 the Answer/Amended Answer to the Complaint, all possible affirmative defenses may not have
22 been alleged inasmuch as insufficient facts and relevant information may not have been available
23 after reasonable inquiry, and therefore, Defendant reserves the right to amend this Answer to the
24 Complaint to allege additional affirmative defenses if subsequent investigation so warrants.

25 WHEREFORE, Defendant prays for judgment, as follows:

26 1. That Plaintiff WYNN take nothing by reason of its complaint filed against him
27 herein; that this action be dismissed against him with prejudice.
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- 2. For attorney's fees plus costs of suit incurred herein.
- 3. For such other relief as just and proper in the premises.

Dated this 16th day of September, 2014.

**HOLLEY DRIGGS, WALCH,
PUZEY & THOMPSON**

JEFFREY R. HARRIS, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Defendant

1 CERTIFICATE OF MAILING

2 I HEREBY CERTIFY that, on the 16th day of September, 2014, and pursuant to NRCP
3 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing
4 Defendant's Answer to Complaint, postage prepaid and addressed to:

5 Ms. Stacie Michaels, Esq.
6 3131 Las Vegas Blvd. So.
7 Las Vegas, NV 89109
8 *Attorneys for Plaintiff*

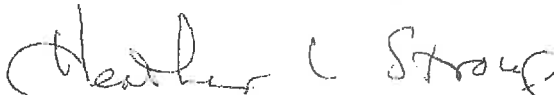
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10 An employee of Holley, Driggs, Walch,
11 Puzey & Thompson
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EXHIBIT 3

EXHIBIT 3

1 DDW
2 JEFFREY R. ALBREGTS, ESQ.
3 Nevada Bar No. 0066
4 E-mail: jalbregts@nevadafirm.com
5 HOLLEY, DRIGGS, WALCH,
6 PUZEY & THOMPSON
7 400 South Fourth Street, Third Floor
8 Las Vegas, Nevada 89101
9 Telephone: 702/791-0308
10 Facsimile: 702/791-1912

11 *Attorneys for Defendant*

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

14 WYNN LAS VEGAS, LLC d/b/a
15 WYNN LAS VEGAS,

16 Plaintiff,

17 v.

18 MARIO LA BARBERA,

19 Defendant.

Case No: A-14-695025-C
Dept. No: Dept No. XXVIII

DEFENDANT MARIO LA BARBERA'S
INITIAL DISCLOSURES PURSUANT
TO NRCP 16.1

20 Defendant, pursuant to NRCP 16.1, hereby submits the following initial disclosures:

21 I.

22 DEFENDANT'S LIST OF DOCUMENTS:

- 23 1. Collection letter from Barbara Conway as Wynn's Casino Collection Manager to
24 Defendant dated December 15, 2008; bate stamped LA BAR 00001.
- 25 2. European Union Directive on Data Protection dated October 24, 1995; bate
26 stamped LA BAR 00002 to LA BAR 00031.
- 27 3. Italian law on privacy and confidentiality, dated June 30, 2003, bate stamped LA
28 BAR 00032 to 00170.
4. Copy of Criminal Complaint, to be supplemented.
5. Medical Records, to be supplemented.
6. Registration Records for Compulsive Gambling, to be supplemented.

- 1 7. Any and all documents identified by all other parties.
2 8. Defendant reserves the right to supplement this list of documents during
3 discovery.

4 II.

5 DEFENDANTS' LIST OF WITNESSES:

- 6 1. Mario LaBarbera, Defendant
7 c/o Jeffrey R. Albregts, Esq.
8 Holley Driggs Walsh Puzey & Thompson
9 400 South Fourth Street, 3rd Floor
10 Las Vegas, NV 89101

11 The Defendant may testify to any facts of which he has knowledge.

- 12 2. Alberto dell'Utri
13 Resident of Italy
14 Address to be supplemented.

15 Mr. dell'Utri may testify to facts of which he has personal knowledge concerning
16 Defendant and his gambling.

- 17 3. Health care professional(s)
18 Name/Address to be supplemented

19 Defendant's physician(s) or counselors may testify concerning his/her evaluation(s)
20 and/or treatment of Defendant and opinions set forth in medical records, counseling records or
21 substance abuse or addiction evaluations.

- 22 4. Person Most Knowledgeable at Wynn Las Vegas
23 Re: Gaming Practices, Player's Club/Awards/Comps/Enticements
24 c/o Lawrence J. Semenza, III, Esq.
25 10161 Park Run Drive, Suite 150
26 Las Vegas, NV 89145

27 The Person Most Knowledgeable at Wynn regarding its Player's Club and Award
28 Program, casino "comps" and knowledge of player ratings, typical credit lines extended and
special accommodations/privileges/awards or other "perks" made for the gaming clientele of
Wynn Las Vegas, and specially made available to Defendant herein, is expected to testify
regarding his or her knowledge of the facts and circumstances of this case.

1 5. Barbara Conway
2 Re: Extension of Credit, Casino "Markers", and Collections Dept.
3 c/o Lawrence J. Semenza, III, Esq.
4 10161 Park Run Drive, Suite 150
5 Las Vegas, NV 89145

6 Barbara Conway may testify regarding the Wynn's policies and procedures regarding the
7 extension of credit instruments (offers to clientele to extend "markers") in general, and
8 specifically as it relates to Defendant herein; she is expected to testify on Wynn Las Vegas'
9 collection process and procedures for extension, repayment and processing of "markers" and
10 payments from its clientele including overseas clientele, including all such offers specifically
11 made available to Defendant herein, is expected to testify regarding her knowledge of the facts
12 and circumstances of this case.

13 Any and all person or persons identified by all other parties.

14 Defendant reserves the right to supplement this list of witnesses during discovery.

15 III.

16 DAMAGES

17 Pursuant to NRCP 16.1(a)(1)(C), Defendant discloses the following computation of
18 damages.

19 To be determined.


20 IV.

21 INSURANCE POLICIES

22 Not applicable.

23 DATED this 26th day of January, 2015.

24 HOLLEY, DRIGGS, WALCH,
25 PUZEY & THOMPSON

26 
27 JEFFREY R. ALBRECHT, ESQ.
28 Nevada Bar No. 006603

RECEIPT OF COPY

RECEIPT OF COPY of the foregoing Defendant Mario La Barbera's Initial
Disclosures Pursuant to NRCP 16.1 is hereby acknowledged this 24 day of January, 2015.

Lawrence J. Semenza, III, Esq. 1/26/15

Lawrence J. Semenza, III, Esq.

NSB No. 7174

Christopher D. Kircher, Esq.

NSB No. 11176

10161 Park Run Drive

Suite 150

Las Vegas, NV 89145


CLERK OF THE COURT

MIL
LAWRENCE J. SEMENZA, III, ESQ., Bar No. 7174
E-mail: ljs@semenzalaw.com
CHRISTOPHER D. KIRCHER, ESQ., Bar No. 11176
Email: cdk@semenzalaw.com
LAWRENCE J. SEMENZA, III, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Telephone: (702) 835-6803
Facsimile: (702) 920-8669

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

MARIO LA BARBERA, an individual

Defendant,

Case No.: A-14-695025-C
Dept. No.: XXVIII

**DEFENDANT'S MOTION IN
LIMINE [#2] TO EXCLUDE ANY
EVIDENCE OR ARGUMENT
REGARDING DEFENDANT'S
ALLEGED INTOXICATION**

Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") hereby moves the Court for an Order excluding any and all evidence, references to evidence, testimony or argument by Defendant Mario La Barbera ("La Barbera"), La Barbera's counsel and any other witness regarding La Barbera's alleged alcohol consumption and whether he was incapacitated, intoxicated and/or impaired during the time he was at Wynn's property. Such evidence and argument is highly prejudicial, making the probative value substantially outweighed by the danger of unfair prejudice, or confusion of the issues or misleading the jury.

As required by E.D.C.R. 2.47, counsel for Wynn has made a good-faith effort to resolve this matter with La Barbera's counsel in a satisfactory manner but was unsuccessful.

LAWRENCE J. SEMENZA, III, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Telephone: (702) 835-6803

1 This Motion is made based upon the following points and authorities, the attached
2 declaration of counsel for Wynn as required by E.D.C.R. 2.47, all pleadings and papers on file
3 herein and any oral arguments this Court may entertain at the hearing of this Motion

4 DATED this 29th day of January, 2016.

5 LAWRENCE J. SEMENZA, III, P.C.

6
7 /s/ Christopher D. Kircher

8 Lawrence J. Semenza, III, Esq., Bar No. 7174

9 Christopher D. Kircher, Esq., Bar No. 11176

10 10161 Park Run Drive, Suite 150

11 Las Vegas, Nevada 89145

12 Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
13 Wynn Las Vegas,
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LAWRENCE J. SEMENZA, III, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Telephone: (702) 835-6803

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned counsel will appear at the Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, Nevada 89155, Eighth Judicial District Court, Las Vegas, Nevada on the 01 ^{MARCH} day of ~~January~~, 2016, at 9:00A a.m., before Department XXVIII, or soon thereafter as counsel may be heard for a hearing on **DEFENDANT'S MOTION IN LIMINE [#2] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING DEFENDANT'S ALLEGED INTOXICATION.**

DATED this 29th day of January, 2016

LAWRENCE J. SEMENZA, III, P.C.

/s/ Christopher D. Kircher

Lawrence J. Semenza, III, Esq., Bar No. 7174

Christopher D. Kircher, Esq., Bar No. 11176

10161 Park Run Drive, Suite 150

Las Vegas, Nevada 89145

Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
Wynn Las Vegas, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a collection case involving multiple credit instruments, or casino markers. La Barbera executed twelve (12) casino markers in favor of Wynn that he has failed to fully repay. The current principal balance due and owing to Wynn is \$1,000,000.000. Wynn has brought a Breach of Contract claim against La Barbera.

At trial, La Barbera will attempt to assert he lacked the capacity to contract because he was allegedly consuming alcohol at the time he executed the casino markers at issue. However, La Barbera did not raise this incapacity issue until years after he executed the casino markers at issue and only after Wynn commenced the instant litigation.¹ Due to La Barbera's calculated failure to timely raise this alleged issue, Wynn has been severely prejudiced because it could not investigate and gather vital evidence related to this unsubstantiated allegation. Moreover, La Barbera has no evidence to corroborate these unsubstantiated allegations and he never said during his deposition that he was so intoxicated when he signed the casino markers that it deprived him of his judgment. As such, any testimony or argument regarding his alleged consumption of alcohol while gambling must be excluded because the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury.

II. PERTINENT FACTUAL AND PROCEDURAL BACKGROUND

La Barbera was a patron of Wynn's casino in the Spring 2008. Before executing any casino markers with Wynn, La Barbera has admitted he executed a Credit Application and Credit Agreement with Wynn. He further admitted that he executed numerous Credit Line Increase Requests with Wynn and confirmed that his credit line was increased to \$1 million with Wynn. During his trip, La Barbera executed twelve (12) casino markers totaling \$1,070,000.00 in favor of Wynn, which are valid and enforceable gaming debts under NRS 463.368. After applying

¹ Wynn obviously believes that La Barbera had the capacity to contract and that La Barbera has concocted this defense because this is the exact same defense that numerous other Italian patrons have raised in hopes of avoiding their substantial debts in Nevada.

1 money and/or chips that La Barbera provided to Wynn, La Barbera has an outstanding balance
2 with Wynn of \$1 million.

3 On January 24, 2014, Wynn initiated this lawsuit against La Barbera. Before this time, La
4 Barbera never raised an issue with Wynn regarding his outstanding debt, including that he was
5 intoxicated at the time he signed the casino markers at issue.

6 On September 16, 2014, La Barbera filed his Answer. (Answer, attached hereto as
7 **Exhibit 2.**) In his Twentieth Affirmative Defense, La Barbera vaguely raises a defense based
8 upon allegedly being intoxicated while gambling, stating Wynn had "him execute such gaming
9 markers or credit instruments while he was clearly inebriated and/or otherwise impaired"
10 (*Id.*) Prior to this time, La Barbera had never claimed that he was impaired or intoxicated in any
11 manner when he executed the casino markers.

12 During discovery, Wynn took La Barbera's deposition. During his deposition, he never
13 stated that he was so intoxicated when he signed the casino markers that it deprived him of his
14 judgment. Instead, he admitted that Wynn did not force him to consume alcohol; he never
15 complained to anyone with Wynn that he was too intoxicated to gamble or sign the casino
16 markers; and he executed the casino markers over multiple days. Quite tellingly, he also failed to
17 identify any specific facts about how much he drank, when he drank or for how long. He merely
18 stated during his deposition that he *voluntarily* drank while gambling because "attractive women"
19 offered him drinks. (Deposition of Mario La Barbera, 103:1-5, cited portions attached hereto as
20 **Exhibit 3.**)

21 Accordingly, the Court should enter an Order excluding any and all evidence, references
22 to evidence, testimony or argument that relates to La Barbera consuming alcohol while gambling
23 or being incapacitated in any manner. Otherwise, Wynn will be severely prejudiced.

24 **II. STANDARD OF REVIEW FOR A MOTION IN LIMINE**

25 E.D.C.R. 2.47 specifically authorizes motions in limine to exclude or admit evidence. *See*
26 *also* NRS 48.015. In Nevada, the granting of a motion in limine is within the Court's
27 discretionary power. *State ex rel. Department of Highways v. Nevada Aggregates & Asphalt Co.*,
28

1 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976). The Court's determination is subject to an abuse
2 of discretion analysis. *Id.*

3 A motion in limine is a motion used to preclude prejudicial or objectionable evidence
4 before it is presented to the jury. *See* E.D.C.R. 2.47, *Peat. Mitchell & Co. v. Superior Court*, 200
5 Cal. App. 3d 272, 288 (Cal. Ct. App. 1988); *Hyatt v. Sierra Boat Co.*, 79 Cal. App. 3d 325, 337
6 (Cal. Ct. App. 1978). The primary advantage of the motion in limine is to avoid the futile attempt
7 of trying to undo the harm done where jurors have been exposed to damaging evidence, even
8 where stricken by the court. This scenario has been described as "the obviously futile attempt to
9 'un-ring the bell' in the event a motion to strike is granted in the proceedings before the jury."
10 *Hyatt*, 79 Cal. App. 3d at 337. "A motion in limine is prophylactic in nature, made to exclude
11 evidence before it is offered" *Stein-Brief Group. Inc. v. Home Indem. Co.*, 65 Cal. App. 4th
12 364, 369 (Cal. Ct. App. 1998).

13 Even if evidence is relevant, it must be excluded "if its probative value is substantially
14 outweighed by the danger of unfair prejudice, of confusion of the issues or misleading the jury."
15 NRS 48.035(1). Furthermore, relevant evidence may be excluded "if its probative value is
16 substantially outweighed by considerations of undue delay, waste of time or needless presentation
17 of cumulative evidence." NRS 48.035(2).

18 **III. ARGUMENT**

19 A presumption exists that a party has capacity at the time they execute a contract. *Lynn v.*
20 *Magness*, 191 Md. 674, 682, 62 A.3d 604, 608 (1948). To overcome this presumption, that party
21 has the burden to provide evidence of incapacity. *Id.* at 682, 62 A.3d at 608; *see also*
22 *BankCherokee v. Insignia Dev., LLC*, 779 N.W.2d 896, 902 (Minn. App. 2010) ("Although the
23 purpose of an affirmative defense is to defeat another claim, rather than seek damages, assertion
24 of an affirmative defense nonetheless requires the defendant to maintain the assertion by
25 proffering evidence to satisfy the burden of proof.").

26 To successfully assert lack of capacity to contract, "it must be shown that a man was
27 incapable of exercising judgment, of understanding the proposed engagement, and of knowing
28 what he was about when he entered into the contract, or else it would be held binding." *Seeley v.*

1 *Goodwin*, 39 Nev. 315, 324, 156 P. 934, 937 (1916); *see also Babcock v. Engel*, 58 Mont. 597,
2 194 P. 137 (1920) ("Intoxication must be so deep and excessive as to deprive one of his
3 understanding. If intoxication is relied on as a defense, it must be to such a degree that the party
4 who wishes to avoid his contract on this ground must have been deprived of his reason and
5 understanding.").

6 Furthermore, it is not enough that a person was under the influence of alcohol at the time
7 they executed the contract. *Stockmen's Guaranty Loan Co. v. Sanchez*, 194 P. 603, 605, 26 N.M.
8 499, 505 (1920) ("Assuming that the appellant was slightly under the influence of liquor at the
9 time, the evidence falls far short of showing that he was so intoxicated as to be incapable of
10 knowing what he was doing, which seems to be the extent of intoxication required to avoid a
11 contract entered into by a drunkard."). And, courts have found that voluntary intoxication will not
12 set aside a contract. *See Cook v. Bagnell Timber Co.*, 78 Ark. 47, 48, 94 S.W. 695 (1906)
13 ("[T]he contract of a person partially intoxicated at the time will not be set aside because of his
14 intoxication. That condition results from his own act, and entitles him to no consideration
15 whatever in either a court of law or of equity.").

16 Finally, the Nevada Supreme Court has held that an incapacitated party "will be deemed to
17 have ratified the contract unless within a reasonable time after becoming sober he takes steps to
18 disaffirm it." *Seeley*, 39 Nev. at 323, 156 P. at 936 (emphasis added); *see also Stockmen's*
19 *Guaranty Loan Co.*, 194 P. at 605, 26 N.M. at 505 ("assuming that the appellant was
20 incapacitated by drunkenness at the time of the execution of the [contract], he nevertheless
21 ratified his act by the numerous subsequent acts of affirmance" after he was sober).

22 At trial, La Barbera will attempt to raise that he was "inebriated and/or otherwise
23 impaired" when he executed the casino markers at issue. (Ex. 2.) However, there is not a shred
24 of evidence to support this allegation. In fact, La Barbera never claimed during his deposition
25 that he was so intoxicated when he signed the casino markers that it deprived him of his
26 judgment. Moreover, he conceded that Wynn did not force him to consume alcohol.

1 Tellingly, La Barbera never informed Wynn of his purported alcohol consumption or
2 intoxication before, during or after he signed the casino markers at issue. He conceded this fact
3 during his deposition. (Ex. 3, 110:15-111:20.) Because he never timely raised this issue, Wynn
4 could not conduct an investigation into this completely unsubstantiated allegation and gather vital
5 evidence such as video surveillance of La Barbera gambling or statements from witnesses before
6 their memories faded. This evidence would have clearly shown that his assertion of
7 incapacitation is untrue. La Barbera's failure to timely inform Wynn limits the extent of evidence
8 that Wynn may present at trial to rebut his unsubstantiated, self-serving allegations of
9 intoxication. As such, La Barbera's untimeliness in raising this unsubstantiated defense has
10 severely prejudiced Wynn.

11 Pursuant to NRS 48.035(1), evidence must be excluded "if its probative value is
12 substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of
13 misleading the jury." This is clearly the case here. In addition to the unfair prejudice to Wynn,
14 any testimony or argument regarding La Barbera's alleged consumption of alcohol will confuse
15 the issues and completely mislead the jury. His uncorroborated, self-serving testimony that he
16 was drinking while gambling does not establish that he was incapacitated. The jury, however,
17 will be misled and will likely make improper inferences if any testimony or argument regarding
18 his consumption of alcohol is permitted. This cannot be allowed to occur.

19 Accordingly, the Court should not permit at trial any testimony, argument or other alleged
20 evidence to La Barbera's alleged alcohol consumption and whether he was incapacitated,
21 intoxicated and/or impaired.

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LAWRENCE J. SEMENZA, III, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Telephone: (702) 835-6803

1 **IV. CONCLUSION**

2 Based on the foregoing, the Court should grant Wynn's Motion in Limine [#2] and
3 exclude any and all evidence, references to evidence, testimony or argument regarding La
4 Barbera's alleged alcohol consumption and whether he was incapacitated, intoxicated and/or
5 impaired because it would be unfairly prejudicial, confuse the issues and mislead the jury.

6 DATED this 29th day of January, 2016.

7 LAWRENCE J. SEMENZA, III, P.C.

8
9 /s/ Christopher D. Kircher

10 Lawrence J. Semenza III, Esq. Bar No. 7174
11 Christopher D. Kircher, Esq. Bar. No. 11176
12 10161 Park Run Drive, Suite 150
13 Las Vegas, NV 89145

14 Attorneys for Plaintiff Wynn Las Vegas, LLC d/b/a
15 Wynn Las Vegas
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NEFCR 9, I hereby certify that I am an employee with Lawrence J. Semenza, III, P.C., and that on the 29th day of January, 2016, I caused to be sent via Wiznet's online filing system, a true copy of the foregoing **DEFENDANT'S MOTION IN LIMINE [#2] TO EXCLUDE ANY EVIDENCE OR ARGUMENT REGARDING DEFENDANT'S ALLEGED INTOXICATION** to the following:

HOLLEY DRIGGS WALCH FINE WRAY PUZEY THOMPSON
Jeffrey R. Albregts, Esq. - jalbregts@nevadafirm.com
Krista N. Albregts - kalbregts@nevadafirm.com
Heather Stroup - hstroup@nevadafirm.com

/s/ Olivia A. Kelly
An Employee of Lawrence J. Semenza, III, P.C.

EXHIBIT 1

EXHIBIT 1

**DECLARATION OF CHRISTOPHER D. KIRCHER, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION IN LIMINE [#2] TO EXCLUDE EVIDENCE OR ARGUMENT
REGARDING DEFENDANT'S ALLEGED INTOXICATION**

I, CHRISTOPHER D. KIRCHER, ESQ., states and declares as follows:

1. My law firm represents Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Plaintiff") in its lawsuit against Defendant Mario La Barbera ("Defendant"). I make this Declaration in support of Plaintiff's Motion in Limine [#2] to exclude any and all evidence or argument regarding Defendant's alleged intoxication at the time he executed the credit instruments at issue in this lawsuit. All of the statements contained in this declaration are made on the basis of personal knowledge and I am competent to testify as to the truth of these statements if called upon to do so.

2. During the week of January 25, 2016, I exchanged email correspondence and telephoned Defendant's counsel, Jeffrey Albregts, Esq., to conduct an EDCR 2.47 conference in a good faith effort to confer on the subject of Plaintiff's motions in limine. Among other things, I emailed Mr. Albregts the topic of Motion in Limine #2. Later, he left me a voicemail and he did not agree to exclude the evidence and argument related to Defendant's alleged intoxication and/or incapacitation. As such, the parties were unable to resolve this matter.

3. Plaintiff's Motion is not brought for any improper purpose or to delay these proceedings.

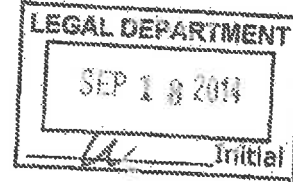
I declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

EXECUTED on this 29th day of January, 2016, at Las Vegas, Nevada.

/s/ Christopher D. Kircher
Christopher D. Kircher, Esq.

EXHIBIT 2

EXHIBIT 2



ANS
JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
E-mail: jalbregts@nevadafirm.com
HOLLEY, DRIGGS, WALCH,
PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

WYNN LAS VEGAS, LLC,
d/b/a WYNN LAS VEGAS,

Plaintiff,

v.

MARIO LA BARBERA,

Defendant.

Case No.: A-14-695025-C
Dept. No.: XXVIII

ANSWER TO COMPLAINT

Defendant, MARIO LA BARBERA, in answer to the Complaint on file herein, hereby admits, denies and alleges, as follows:

PARTIES

1. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies the same.

2. Admits the allegations contained in Paragraph 2.

BACKGROUND

3. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies the same.

4. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies the same.

5. Admits that Defendant LA BARBERA has paid at least \$70,000 to the Wynn, if not more over the years, but is without sufficient information or knowledge to form a belief as to

1 the truth of the allegations contained in Paragraph 5 and therefore denies the same

2 6. Denies the allegations contained in Paragraph 6.

3 7. Defendant is without sufficient information or knowledge to form a belief as to
4 the truth of the allegations contained in Paragraph 7 and therefore denies the same.

5 **FIRST CAUSE OF ACTION**
6 **(Breach of Contract)**

7 8. Defendant repeats and realleges as though fully set forth herein his answers to
8 paragraphs 1 through 7 of the Complaint.

9 9. Denies the allegations contained in Paragraph 9.

10 10. Defendant is without sufficient information or knowledge to form a belief as to
11 the truth of the allegations contained in Paragraph 10 and therefore denies the same.

12 11. Denies the allegations contained in Paragraph 11.

13 12. Denies the allegations contained in Paragraph 12.

14 **SECOND CAUSE OF ACTION**
15 **(Conversion)**

16 13. Defendant repeats and realleges as though fully set forth herein his answers to
17 paragraphs 1 through 12 of the Complaint.

18 14. Denies the allegations contained in Paragraph 14.

19 15. Denies the allegations contained in Paragraph 15.

20 16. Denies the allegations contained in Paragraph 16.

21 17. Denies the allegations contained in Paragraph 17.

22 **THIRD CAUSE OF ACTION**
23 **(Unjust Enrichment)**

24 18. Defendant repeats and realleges as though fully set forth herein his answers to
25 paragraphs 1 through 17 of the Complaint.

26 19. Denies the allegations contained in Paragraph 19.

27 20. Denies the allegations contained in Paragraph 20.

28 21. Denies the allegations contained in Paragraph 21.

1 22. Denies the allegations contained in Paragraph 22.

2 **FOURTH CAUSE OF ACTION**
3 **(Breach of the Covenant of Good Faith and Fair Dealing)**

4 23. Defendant repeats and realleges as though fully set forth herein his answers to
5 paragraphs 1 through 22 of the Complaint.

6 24. Admits the allegations contained in Paragraph 24.

7 25. Denies the allegations contained in Paragraph 25.

8 26. Denies the allegations contained in Paragraph 26.

9 27. Denies the allegations contained in Paragraph 27.

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 The claims set forth in the Complaint fail for want or lack of consideration.

13 **SECOND AFFIRMATIVE DEFENSE**

14 The claims set forth in the Complaint are barred by the equitable doctrine of laches.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Three of the claims set forth in the Complaint are barred by the applicable statute of
17 limitations. Specifically, Plaintiff's Second Cause of Action for Conversion is barred by the three
18 year statute of limitations set forth in NRS 11.190(3)(c); Plaintiff's Third Cause of Action for
19 Unjust Enrichment is barred by the four year statute of limitations set forth in NRS 11.190(2)(c);
20 and Plaintiff's Fourth Cause of Action for Breach Of The Covenant Of Good Faith And Fair
21 Dealing is barred by the two year statute of limitations set forth in NRS 11.190(4)(e).

22 **FOURTH AFFIRMATIVE DEFENSE**

23 The claims of Plaintiff are barred by the equitable doctrine of estoppel including both
24 promissory and equitable estoppel.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 The claims of Plaintiff are barred by the equitable doctrine of waiver.

27 **SIXTH AFFIRMATIVE DEFENSE**

28 There is no privity of contract between the Wynn and this Defendant.

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 The alleged credit instruments which Plaintiff seeks to enforce and recover from this
3 Defendant are or were incomplete and therefore unenforceable under Nevada and/or Italian law.

4 **EIGHTH AFFIRMATIVE DEFENSE**

5 To the extent this Defendant executed any legitimate credit instrument on behalf of
6 Plaintiff, he was fraudulently induced to do so by Plaintiff and, indeed, he does not read or write
7 English.

8 **NINTH AFFIRMATIVE DEFENSE**

9 Defendant, as a resident and citizen of the sovereign country of Italy, is entitled as a
10 matter of law to the protections and privileges of Italian law and citizenship including, without
11 limitation, that gambling markers, instruments or contracts for gambling debt, are unenforceable
12 in Italy as a matter of public policy.

13 **TENTH AFFIRMATIVE DEFENSE**

14 As a matter of law, this Defendant has not converted any property of Plaintiff and,
15 indeed, this Defendant has never been in possession of any property of Plaintiff, tangible or
16 intangible, nor does providing someone "credit" create property which could be converted. In
17 other words, credit is intangible at best and does not create rights in property which may be
18 subject to claims for conversion once that credit is not paid. In summary, Plaintiff did not make
19 any kind of loan to this Defendant as no funds were ever exchanged between them.

20 **ELEVENTH AFFIRMATIVE DEFENSE**

21 This Defendant has not been unjustly enriched at the expense and to the detriment of
22 Plaintiff and, indeed, the Wynn is out of pocket nothing here.

23 **TWELFTH AFFIRMATIVE DEFENSE**

24 To the extent that the Complaint states any claim in tort against this Defendant, the
25 damages sustained by Plaintiff, if any, were caused by its own errors, acts and/or omissions.

26 **THIRTEENTH AFFIRMATIVE DEFENSE**

27 To the extent that the Complaint states any claim in tort against this Defendant, the
28 damages sustained by Plaintiff, if any, were caused by the acts, errors and/or omissions of third

1 parties over whom this Defendant had no authority or control.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 To the extent that this Defendant executed any credit instruments or markers in favor of
4 Plaintiff, such instruments or markers were procured by Plaintiff from him through a series of
5 misrepresentations by Plaintiff to him including, without limitation, that the markers would not
6 be enforced; that if the markers were enforced, they would be discounted; or if the markers were
7 enforced, Defendant would be able to make payments to Plaintiff over time; and that the
8 instruments or markers were enforceable in Italy (which is not true).

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 To the extent that this Defendant executed any gaming markers or credit instruments on
11 behalf of Plaintiff, he was not aware of what they were when he executed the same, meaning he
12 mistakenly executed as much at the instance and request of Plaintiff and without any
13 understanding or knowledge of what they were, let alone whether they were enforceable here or
14 in Italy.

15 **SIXTEENTH AFFIRMATIVE DEFENSE**

16 The claims of Plaintiff are barred by the equitable doctrine of unclean hands.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 Plaintiff did not properly present any credit instruments or markers to Defendant's bank
19 in Italy and is therefore barred from enforcing the same here or there.

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 Plaintiff unduly influenced and coerced this Defendant into executing any markers or
22 gaming instruments for its benefit, to the extent that this Defendant actually executed any.

23 **NINETEENTH AFFIRMATIVE DEFENSE**

24 Plaintiff's claims are barred against this Defendant because Plaintiff exploited him as a
25 sick and compulsive gambler who has no rational or reasoned ability to stop gambling, all of
26 which Wynn knew when it asked Defendant to execute the alleged gaming or credit instruments
27 it seeks to enforce against him herein, but it also used duress, deceit and undue influence in
28 coercing him to execute any credit instruments.

1
2 **TWENTIETH AFFIRMATIVE DEFENSE**

3 As a matter of public policy and law, Plaintiff Wynn is legally and equitably barred from
4 using NRS 463.368 as a shield to its liability for, or to negate affirmative defenses to, its
5 intentional exploitation of Defendant LaBarbera's "mental or behavioral disorder involving
6 gambling," i.e., gambling sickness or addiction, *vis a vis* unduly influencing and/or coercing him
7 into executing gaming markers or credit instruments including, without limitation, making false
8 promises to him that such instruments would not be enforced; using alcohol and *comps* to unduly
9 influence or coerce him into executing such gaming markers or credit instruments; having him
10 execute such gaming markers or credit instruments while he was clearly inebriated and/or
11 otherwise impaired; and extending gaming credit to him while knowing full well that he suffered
12 from a "mental or behavioral disorder involving gambling," such as addiction or sickness. In
13 short, although this defense may be barred by statute, the Wynn cannot purposely exploit Mr.
14 LaBarbera's gambling addiction for its own gain and profit and then shield itself from liability
15 for the same pursuant to NRS 463.368.

16 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

17 This Defendant has been required to retain an attorney to defend himself and may be
18 entitled to recover attorneys' fees and costs under Nevada law.

19 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

20 Pursuant to the provision of Nevada Rule of Civil Procedure 11, at the time of filing of
21 the Answer/Amended Answer to the Complaint, all possible affirmative defenses may not have
22 been alleged inasmuch as insufficient facts and relevant information may not have been available
23 after reasonable inquiry, and therefore, Defendant reserves the right to amend this Answer to the
24 Complaint to allege additional affirmative defenses if subsequent investigation so warrants.

25 WHEREFORE, Defendant prays for judgment, as follows:

26 1. That Plaintiff WYNN take nothing by reason of its complaint filed against him
27 herein; that this action be dismissed against him with prejudice.
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- 2. For attorney's fees plus costs of suit incurred herein.
- 3. For such other relief as just and proper in the premises.

Dated this 16th day of September, 2014.

**HOLLEY DRIGGS, WALCH,
PUZEY & THOMPSON**

JEFFREY R. ALLEN, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 16th day of September, 2014, and pursuant to NRCP
5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing
Defendant's Answer to Complaint, postage prepaid and addressed to:

Ms. Stacie Michaels, Esq.
3131 Las Vegas Blvd. So.
Las Vegas, NV 89109
Attorneys for Plaintiff



An employee of Holley, Driggs, Walch,
Puzey & Thompson

EXHIBIT 3

EXHIBIT 3

CIVIL COVER SHEET

County, Nevada

A-14-695025-C

XXVI 11

Case No.:

(Assigned to Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): Wynn Las Vegas, LLC
d/b/a Wynn Las Vegas
3131 Las Vegas Blvd. So.
Las Vegas, Nevada 89109
Attorney (name/address/phone): Kim Sinatra, 3131 LV Blvd
Las Vegas, Nevada 89109

Defendant(s) (name/address/phone): Maria La Barbera
via Modello 4040,
Santa Flavia
Palermo, Italy 90017
Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases		
Real Property		Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal <input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suits <input type="checkbox"/> Other Civil Matters	

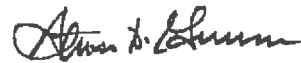
III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)
☐ Investments (NRS 104 A-1-4)
☐ Deceptive Trade Practices (NRS 398)
☐ Trademarks (NRS 390A)
☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

JANUARY 24, 14
Date

[Signature]
Signature of filing party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 COMP

2 Kimmarré Sinatra

3 Nevada Bar No. 8665

4 Stacie Michaels

5 Nevada Bar No. 9705

6 Wynn Las Vegas, LLC

7 3131 Las Vegas Boulevard South

8 Las Vegas, Nevada 89109

9 (702) 770-2112 Direct

10 (702) 770-1518 Facsimile

11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

12 WYNN LAS VEGAS, LLC

13 d/b/a WYNN LAS VEGAS,

14 Plaintiff,

15 vs.

16 MARIO LA BARBERA,

17 Defendant

A- 14- 695025- C

Case No.:

XXVIII

Dept No.:

COMPLAINT

18 Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") complains against
19 Defendant Mario La Barbera ("La Barbera") as follows:

PARTIES

21 1. Wynn is a Nevada Limited Liability Company existing under and by virtue of
22 the laws of the State of Nevada.

23 2. Upon information and belief, La Barbera is a resident of the country of Italy.

BACKGROUND

24 3. On April 1, 2008, La Barbera executed one (1) credit instrument in favor of
25 Wynn; Document Number 70601126 in the amount of \$120,000.00.

1 4. On April 3, 2008, La Barbera executed eleven (11) credit instruments in favor of
2 Wynn totaling \$1,070,000.00 as follows:
3

No.	Item No.	Amount
4 1	70602091	\$100,000.00
5 2	70602095	\$100,000.00
6 3	70601892	\$100,000.00
7 4	70601898	\$100,000.00
8 5	70601900	\$ 50,000.00
9 6	70601883	\$100,000.00
10 7	70601886	\$ 50,000.00
11 8	70601890	\$ 50,000.00
12 9	70602099	\$100,000.00
13 10	70602104	\$100,000.00
14 11	70602124	\$100,000.00

15
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17
18 5. To date La Barbera has paid \$70,000 and balance of \$1,000,000.00 remains
19 unpaid.
20

21 6. La Barbera presently owes Wynn \$1,000,000.00 plus its reasonable attorneys'
22 fees, costs and interest.

23 7. Wynn employees and/or representatives made attempts to resolve payment of the
24 outstanding amounts, but were unsuccessful.
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FIRST CAUSE OF ACTION

(Breach of Contract)

8. Wynn incorporates the allegations contained in paragraphs 1 to 6 as though fully set forth herein.

9. In consideration of the \$1,000,000.00 in credit given to La Barbera, which he willingly accepted from Wynn, La Barbera agreed to repay his debt.

10. To date and despite repeated demands, La Barbera has refused to repay the \$1,000,000.00 that he owes to Wynn.

11. As a result, Wynn has been damaged in an amount that exceeds \$10,000.00.

12. Wynn has been forced to hire an attorney to prosecute this action and therefore seeks recovery of its attorneys' fees and court costs.

SECOND CAUSE OF ACTION

(Conversion)

13. Wynn incorporates the allegations contained in paragraphs 1 to 11 as though fully set forth herein.

14. By taking the \$1,000,000.00 in credit and refusing to pay the amount despite repeated attempts by Wynn to collect payment, La Barbera has wrongfully exercised dominion and control over Wynn's property.

15. La Barbera has exercised this dominion in derogation, exclusion and defiance of Wynn's rights in its property.

16. As a result, Wynn has been damaged in an amount that exceeds \$10,000.00.

17. Wynn has been forced to hire an attorney to prosecute this action and therefore seeks recovery of its attorneys' fees and court costs.

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THIRD CAUSE OF ACTION

(Unjust Enrichment)

18. Wynn incorporates the allegations contained in paragraphs 1 to 16 as though fully set forth herein.

19. Wynn conferred a benefit on La Barbera by providing him with \$1,000,000.00 in credit.

20. Given the nature of this benefit, it would be inequitable to allow La Barbera to accept and retain the \$1,000,000.00 in credit without repayment of the value thereof.

21. La Barbera accepted and retained this benefit.

22. Because La Barbera has refused to repay the value of this benefit, he has been unjustly enriched in an amount equal to \$1,000,000.00.

FOURTH CAUSE OF ACTION

(Breach of the Covenant of Good Faith and Fair Dealing)

23. Wynn incorporates the allegations contained in paragraphs 1 to 21 as though fully set forth herein.

24. Implied in every contract is the obligation of good faith and fair dealing.

25. Defendant breached the implied covenant of good faith and fair dealing by, among other things, failing to pay the value of the credit instruments he executed in favor of Wynn, which was in the amount of \$1,000,000.00.

26. As a result, Wynn has been damaged in an amount that exceeds \$10,000.00.

27. Wynn has found it necessary to use the services of an attorney to prosecute this action and seeks reasonable attorney's fees and recovery of court costs.

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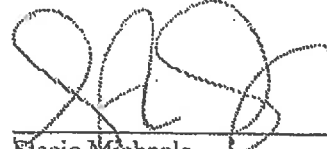
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WHEREFORE, Wynn prays for judgment as follows:

1. For damages in an amount to be determined at trial, but in excess of \$10,000.00;
2. Attorney's fees and costs of suit;
3. Prejudgment and post-judgment interest on the amounts owed; and
4. Any further relief this Court deems proper.

Dated this 24 day of January 2014.

WYNN LAS VEGAS, LLC



Stacie Michaels
Nevada Bar No. 9705
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
Attorney for Plaintiff

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE


CLERK OF THE COURT

APR 11 2014

SUMM

DISTRICT COURT
CLARK COUNTY, NEVADA

Steven G. Grierson
CLERK OF THE COURT

WYNN LAS VEGAS, LLC
d/b/a WYNN LAS VEGAS,
Plaintiff,
vs.
MARIO LA BARBERA,
Defendant

Case No.: A-14-695025-C

Dept. No.: XXVIII

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiffs against you for the relief set forth in the Complaint

MARIO LA BARBERA

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

- a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
- b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The object of this action is brought to recover a judgment for failure to repay debts associated with credit instruments

5. The State of Nevada, its political subdivision, agencies, officers, employees, board members and legislators, each have 45 days after service of this summons within which to file an answer or other responsive pleading to the Complaint.

Issued at the request of:

Stacie Michaels
Stacie Michaels
Nevada Bar No. 9705
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-2112
Attorney for Plaintiff

STEVEN GRIERSON, CLERK OF COURT

By: *Stacie Michaels* 2-14-14
Deputy Clerk Date
County Courthouse
200 Lewis Avenue
Las Vegas, Nevada 89155

ALLISON BENNHORST

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

Steven G. Grierson
CLERK OF THE COURT

APR 11 2014

CIVIL COVER SHEET

County, Nevada

Case No.:

(Indicate Clerk's Office)

A-14-695025-C

XXVI 11

I. Party Information

Plaintiff(s) (name/address/phone): Wynn Las Vegas, LLC
d/b/a Wynn Las Vegas
3131 Las Vegas Blvd. So.
Las Vegas, Nevada 89109
Attorney (name/address/phone): Kim Sinatra, 3131 LV Blvd
Las Vegas, Nevada 89109

Defendant(s) (name/address/phone): Maria La Barbera
Via Modello 4040,
Santa Flavia
Palermo, Italy 90017
Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases		
Real Property <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful Termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	Other Civil Filing Types <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Agent	
	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only)

☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)

☐ Investments (NRS 104 Aet. 8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 680A)

☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

January 25, 14
 Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

ANS
JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
E-mail: jalbregts@nevadafirm.com
HOLLEY, DRIGGS, WALCH,
PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

WYNN LAS VEGAS, LLC,
d/b/a WYNN LAS VEGAS,

Plaintiff,

v.

MARIO LA BARBERA,

Defendant.

Case No.: A-14-695025-C
Dept. No.: XXVIII

ANSWER TO COMPLAINT

Defendant, MARIO LA BARBERA, in answer to the Complaint on file herein, hereby
admits, denies and alleges, as follows:

PARTIES

1. Defendant is without sufficient information or knowledge to form a belief as to
the truth of the allegations contained in Paragraph 1 and therefore denies the same.

2. Admits the allegations contained in Paragraph 2.

BACKGROUND

3. Defendant is without sufficient information or knowledge to form a belief as to
the truth of the allegations contained in Paragraph 3 and therefore denies the same.

4. Defendant is without sufficient information or knowledge to form a belief as to
the truth of the allegations contained in Paragraph 4 and therefore denies the same.

5. Admits that Defendant LA BARBERA has paid at least \$70,000 to the Wynn, if
not more over the years, but is without sufficient information or knowledge to form a belief as to

1 the truth of the allegations contained in Paragraph 5 and therefore denies the same

2 6. Denies the allegations contained in Paragraph 6.

3 7. Defendant is without sufficient information or knowledge to form a belief as to
4 the truth of the allegations contained in Paragraph 7 and therefore denies the same.

5 **FIRST CAUSE OF ACTION**
6 **(Breach of Contract)**

7 8. Defendant repeats and realleges as though fully set forth herein his answers to
8 paragraphs 1 through 7 of the Complaint.

9 9. Denies the allegations contained in Paragraph 9.

10 10. Defendant is without sufficient information or knowledge to form a belief as to
11 the truth of the allegations contained in Paragraph 10 and therefore denies the same.

12 11. Denies the allegations contained in Paragraph 11.

13 12. Denies the allegations contained in Paragraph 12.

14 **SECOND CAUSE OF ACTION**
15 **(Conversion)**

16 13. Defendant repeats and realleges as though fully set forth herein his answers to
17 paragraphs 1 through 12 of the Complaint.

18 14. Denies the allegations contained in Paragraph 14.

19 15. Denies the allegations contained in Paragraph 15.

20 16. Denies the allegations contained in Paragraph 16.

21 17. Denies the allegations contained in Paragraph 17.

22 **THIRD CAUSE OF ACTION**
23 **(Unjust Enrichment)**

24 18. Defendant repeats and realleges as though fully set forth herein his answers to
25 paragraphs 1 through 17 of the Complaint.

26 19. Denies the allegations contained in Paragraph 19.

27 20. Denies the allegations contained in Paragraph 20.

28 21. Denies the allegations contained in Paragraph 21.

1 22. Denies the allegations contained in Paragraph 22.

2 **FOURTH CAUSE OF ACTION**
3 **(Breach of the Covenant of Good Faith and Fair Dealing)**

4 23. Defendant repeats and realleges as though fully set forth herein his answers to
5 paragraphs 1 through 22 of the Complaint.

6 24. Admits the allegations contained in Paragraph 24.

7 25. Denies the allegations contained in Paragraph 25.

8 26. Denies the allegations contained in Paragraph 26.

9 27. Denies the allegations contained in Paragraph 27.

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 The claims set forth in the Complaint fail for want or lack of consideration.

13 **SECOND AFFIRMATIVE DEFENSE**

14 The claims set forth in the Complaint are barred by the equitable doctrine of laches.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Three of the claims set forth in the Complaint are barred by the applicable statute of
17 limitations. Specifically, Plaintiff's Second Cause of Action for Conversion is barred by the three
18 year statute of limitations set forth in NRS 11.190(3)(c); Plaintiff's Third Cause of Action for
19 Unjust Enrichment is barred by the four year statute of limitations set forth in NRS 11.190(2)(c);
20 and Plaintiff's Fourth Cause of Action for Breach Of The Covenant Of Good Faith And Fair
21 Dealing is barred by the two year statute of limitations set forth in NRS 11.190(4)(e).

22 **FOURTH AFFIRMATIVE DEFENSE**

23 The claims of Plaintiff are barred by the equitable doctrine of estoppel including both
24 promissory and equitable estoppel.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 The claims of Plaintiff are barred by the equitable doctrine of waiver.

27 **SIXTH AFFIRMATIVE DEFENSE**

28 There is no privity of contract between the Wynn and this Defendant.

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SEVENTH AFFIRMATIVE DEFENSE

The alleged credit instruments which Plaintiff seeks to enforce and recover from this Defendant are or were incomplete and therefore unenforceable under Nevada and/or Italian law.

EIGHTH AFFIRMATIVE DEFENSE

To the extent this Defendant executed any legitimate credit instrument on behalf of Plaintiff, he was fraudulently induced to do so by Plaintiff and, indeed, he does not read or write English.

NINTH AFFIRMATIVE DEFENSE

Defendant, as a resident and citizen of the sovereign country of Italy, is entitled as a matter of law to the protections and privileges of Italian law and citizenship including, without limitation, that gambling markers, instruments or contracts for gambling debt, are unenforceable in Italy as a matter of public policy.

TENTH AFFIRMATIVE DEFENSE

As a matter of law, this Defendant has not converted any property of Plaintiff and, indeed, this Defendant has never been in possession of any property of Plaintiff, tangible or intangible, nor does providing someone "credit" create property which could be converted. In other words, credit is intangible at best and does not create rights in property which may be subject to claims for conversion once that credit is not paid. In summary, Plaintiff did not make any kind of loan to this Defendant as no funds were ever exchanged between them.

ELEVENTH AFFIRMATIVE DEFENSE

This Defendant has not been unjustly enriched at the expense and to the detriment of Plaintiff and, indeed, the Wynn is out of pocket nothing here.

TWELFTH AFFIRMATIVE DEFENSE

To the extent that the Complaint states any claim in tort against this Defendant, the damages sustained by Plaintiff, if any, were caused by its own errors, acts and/or omissions.

THIRTEENTH AFFIRMATIVE DEFENSE

To the extent that the Complaint states any claim in tort against this Defendant, the damages sustained by Plaintiff, if any, were caused by the acts, errors and/or omissions of third

1 parties over whom this Defendant had no authority or control.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 To the extent that this Defendant executed any credit instruments or markers in favor of
4 Plaintiff, such instruments or markers were procured by Plaintiff from him through a series of
5 misrepresentations by Plaintiff to him including, without limitation, that the markers would not
6 be enforced; that if the markers were enforced, they would be discounted; or if the markers were
7 enforced, Defendant would be able to make payments to Plaintiff over time; and that the
8 instruments or markers were enforceable in Italy (which is not true).

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 To the extent that this Defendant executed any gaming markers or credit instruments on
11 behalf of Plaintiff, he was not aware of what they were when he executed the same, meaning he
12 mistakenly executed as much at the instance and request of Plaintiff and without any
13 understanding or knowledge of what they were, let alone whether they were enforceable here or
14 in Italy.

15 **SIXTEENTH AFFIRMATIVE DEFENSE**

16 The claims of Plaintiff are barred by the equitable doctrine of unclean hands.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 Plaintiff did not properly present any credit instruments or markers to Defendant's bank
19 in Italy and is therefore barred from enforcing the same here or there.

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 Plaintiff unduly influenced and coerced this Defendant into executing any markers or
22 gaming instruments for its benefit, to the extent that this Defendant actually executed any.

23 **NINETEENTH AFFIRMATIVE DEFENSE**

24 Plaintiff's claims are barred against this Defendant because Plaintiff exploited him as a
25 sick and compulsive gambler who has no rational or reasoned ability to stop gambling, all of
26 which Wynn knew when it asked Defendant to execute the alleged gaming or credit instruments
27 it seeks to enforce against him herein, but it also used duress, deceit and undue influence in
28 coercing him to execute any credit instruments.

1
2 **TWENTIETH AFFIRMATIVE DEFENSE**

3 As a matter of public policy and law, Plaintiff Wynn is legally and equitably barred from
4 using NRS 463.368 as a shield to its liability for, or to negate affirmative defenses to, its
5 intentional exploitation of Defendant LaBarbera's "mental or behavioral disorder involving
6 gambling," i.e., gambling sickness or addiction, *vis a vis* unduly influencing and/or coercing him
7 into executing gaming markers or credit instruments including, without limitation, making false
8 promises to him that such instruments would not be enforced; using alcohol and *comps* to unduly
9 influence or coerce him into executing such gaming markers or credit instruments; having him
10 execute such gaming markers or credit instruments while he was clearly inebriated and/or
11 otherwise impaired; and extending gaming credit to him while knowing full well that he suffered
12 from a "mental or behavioral disorder involving gambling," such as addiction or sickness. In
13 short, although this defense may be barred by statute, the Wynn cannot purposely exploit Mr.
14 LaBarbera's gambling addiction for its own gain and profit and then shield itself from liability
15 for the same pursuant to NRS 463.368.

16 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

17 This Defendant has been required to retain an attorney to defend himself and may be
18 entitled to recover attorneys' fees and costs under Nevada law.

19 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

20 Pursuant to the provision of Nevada Rule of Civil Procedure 11, at the time of filing of
21 the Answer/Amended Answer to the Complaint, all possible affirmative defenses may not have
22 been alleged inasmuch as insufficient facts and relevant information may not have been available
23 after reasonable inquiry, and therefore, Defendant reserves the right to amend this Answer to the
24 Complaint to allege additional affirmative defenses if subsequent investigation so warrants.

25 WHEREFORE, Defendant prays for judgment, as follows:

26 1. That Plaintiff WYNN take nothing by reason of its complaint filed against him
27 herein; that this action be dismissed against him with prejudice.
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2. For attorney's fees plus costs of suit incurred herein.
3. For such other relief as just and proper in the premises.

Dated this 16th day of September, 2014.

**HOLLEY DRIGGS, WALCH,
PUZEY & THOMPSON**

JEFFREY R. ALDRIDGE, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Defendant

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Ms. Stacie Michaels, Esq.
3131 Las Vegas Blvd. So.
Las Vegas, NV 89109
Attorneys for Plaintiff

An employee of Holley, Driggs, Walch,
Puzey & Thompson

1 SUMM

2 DISTRICT COURT
CLARK COUNTY, NEVADA

Ann D. Shuman
CLERK OF THE COURT

3 WYNN LAS VEGAS, LLC

4 d/b/a WYNN LAS VEGAS,

5 Plaintiff,

6 vs.

7 MARIO LA BARBERA,

8 Defendant

Case No.: A-14-695025-C

Dept. No.: XXVIII

SUMMONS

9 NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT
10 YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE
11 INFORMATION BELOW.

12 TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiffs against you for the relief set
13 forth in the Complaint

14 MARIO LA BARBERA

15 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you
16 exclusive of the day of service, you must do the following:

- 17 a. File with the Clerk of this Court, whose address is shown below, a formal written
18 response to the Complaint in accordance with the rules of the Court, with the appropriate
19 filing fee.
20 b. Serve a copy of your response upon the attorney whose name and address is shown
21 below.

22 2. Unless you respond, your default will be entered upon application of the Plaintiff and this
23 Court may enter a judgment against you for the relief demanded in the Complaint, which could result in
24 the taking of money or property or other relief requested in the Complaint.

25 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so
26 that your response may be filed on time.

27 4. The object of this action is brought to recover a judgment for failure to repay debts associated
28 with credit instruments

5. The State of Nevada, its political subdivision, agencies, officers, employees, board members
and legislators, each have 45 days after service of this summons within which to file an answer or other
responsive pleading to the Complaint.

Issued at the request of:

STEVEN GRIERSON, CLERK OF COURT

Stacie Mitchell
Stacie Mitchell

Nevada Bar No. 9705

3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-2112

Attorney for Plaintiff

By

Allison Behrhorst
Deputy Clerk

Date

County Courthouse

200 Lewis Avenue
Las Vegas, Nevada 89155

ALLISON BEHRHORST

(TRADUZIONE)

CITAZIONE

**TRIBUNALE DISTRETTUALE
CONTEA DI CLARK, NEVADA**

WYNN LAS VEGAS, LLC
operante come WYNN LAS VEGAS,
Attore,
contro
MARIO LA BARBERA,
Convenuto

Causa n.: A-14-695025-C

Sezione n.: XXVIII

CITAZIONE



AVVISO! LEI È STATO CITATO IN GIUDIZIO. IN ASSENZA DI SUA REPLICA ENTRO 20 GIORNI, IL TRIBUNALE POTRÀ PRONUNCIARSI A SUO SFAVORE SENZA AVERLA SENTITA. LA PREGHIAMO DI LEGGERE LE INFORMAZIONI CHE SEGUONO.

use of legal
AL CONVENUTO: L'Attore ha presentato un Ricorso civile contro di Lei per ottenere il risarcimento indicato nel Ricorso

MARIO LA BARBERA

1. Qualora intenda costituirsi in giudizio, dovrà provvedere ai seguenti adempimenti entro 20 giorni dalla notifica, escluso il giorno di notifica, del presente Atto di Citazione:
 - a. depositare presso il Cancelliere di questo Tribunale, all'indirizzo indicato in calce, una replica formale e scritta al Ricorso in conformità al regolamento del Tribunale, versando la relativa tassa di deposito.
 - b. Notificare copia della Sua memoria di replica al legale il cui nome e indirizzo sono indicati in calce.
2. In assenza di Sua replica, la Sua mancata costituzione sarà messa agli atti su istanza dell'Attore e questo Tribunale potrà emettere sentenza a Suo sfavore accogliendo la domanda di cui al Ricorso, disponendo eventuale confisca di denaro o beni o altri provvedimenti richiesti nel Ricorso.
3. Nel caso in cui intenda avvalersi dell'assistenza di un legale per la causa in oggetto, La invitiamo a provvedervi tempestivamente, affinché la Sua replica possa essere depositata nei termini.
4. La presente causa è stata promossa per ottenere una sentenza di condanna per il mancato pagamento di debiti rappresentati da titoli di credito.

5. Lo Stato del Nevada, la sua suddivisione politica, le agenzie, i funzionari, dipendenti, consiglieri e legislatori dello stesso avranno, ciascuno, un termine di 45 giorni dalla data di notifica del presente atto di citazione per depositare un atto di risposta o altra memoria di replica al Ricorso.

Emesso su richiesta di:

[firma illeggibile]

Stacie Michaels
Albo Avvocati del Nevada N. 9705
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-2112
Legale dell'Attore

**STEVEN GRIERSON,
CANCELLIERE DEL TRIBUNALE**

Allison Behrhorst 24-1-14
[firma e timbro] Data
Vice Cancelliere
Palazzo di Giustizia Distrettuale
200 Lewis Avenue
Las Vegas, Nevada 89155

una Behrhorst

A-14-695025-C

XXVIII

MODULO CAUSA CIVILE

Contea, Nevada

Causa n. _____

(Assegnato dalla Cancelleria)

I. DATI RELATIVI ALLE PARTI

Attore/i (nome, indirizzo, telefono)	Wynn Las Vegas, LLC, operante come Wynn Las Vegas, LLC, 3131 Las Vegas Boulevard South Las Vegas, Nevada 89109	Convenuto/i (nome, indirizzo, telefono)	Mario La Barbera Via Modello, 4040 Santa Flavia Palermo, Italia -90017
Legale/i (nome, indirizzo, telefono)	Kim Sinatra, 3131 LV Blvd Las Vegas, Nevada 89109 (702) 770-2112	Legale/i (nome, indirizzo, telefono)	

ma *deluglia*

II. NATURA DELLA CAUSA (si prega di verificare la relativa categoria in grassetto e sottocategoria, ove opportuno)

Richiesta arbitrato ☐

Cause civili

Immobili	Illeciti civili	
<input type="checkbox"/> Locatore/Conduttore	Negligenza/responsabilità	<input type="checkbox"/> Responsabilità da prodotto
<input type="checkbox"/> Detenzione illegale	<input type="checkbox"/> Resp. - circolazione	<input type="checkbox"/> Responsabilità prodotti/motoveicoli
<input type="checkbox"/> Titolo sulla Proprietà	<input type="checkbox"/> Resp. - professionale medico- dentistica	<input type="checkbox"/> Altri illeciti/ Responsabilità da prodotto
<input type="checkbox"/> Pignoramento	<input type="checkbox"/> Resp. - fabbricati (cedimento, crollo)	<input type="checkbox"/> Comportamenti dolosi
<input type="checkbox"/> Vincoli	<input type="checkbox"/> Resp. - altro	<input type="checkbox"/> Illeciti/Diffamazione (calunnia e diffamazione)
<input type="checkbox"/> Pacifico godimento		<input type="checkbox"/> Interferenza in diritti contrattuali
<input type="checkbox"/> Esatto adempimento		<input type="checkbox"/> Illeciti in materia di lavoro (risoluzione illecita)
<input type="checkbox"/> Espropriazione / pubblica utilità		<input type="checkbox"/> Altri illeciti
<input type="checkbox"/> Altri immobili		<input type="checkbox"/> Anti-trust
<input type="checkbox"/> Suddivisione		<input type="checkbox"/> Truffa/falsa dichiarazione
<input type="checkbox"/> Pianificazione/ urbanistica		<input type="checkbox"/> Assicurazione
		<input type="checkbox"/> Illecito amministrativo
		<input type="checkbox"/> Concorrenza sleale

Omologazione		Altri tipi di procedimenti civili	
Valore del patrimonio stimato: _____	<input type="checkbox"/> Difetto di costruzione	<input type="checkbox"/> Appello da Tribunale di grado inferiore (indicare il tipo di causa nella relativa casella)	
<input type="checkbox"/> Amministrazione sommaria	<input type="checkbox"/> Capitolo 40	<input type="checkbox"/> Trasferimento da Justice Court	
<input type="checkbox"/> Amministrazione generale	<input type="checkbox"/> Generale	<input type="checkbox"/> Appello Civile Justice Court	
<input type="checkbox"/> Amministrazione speciale	<input checked="" type="checkbox"/> Inadempimento Contrattuale	<input type="checkbox"/> Ingiunzioni	
<input type="checkbox"/> Beni vincolati	<input type="checkbox"/> Edilizia e costruzioni	<input type="checkbox"/> Altri procedimenti speciali	
<input type="checkbox"/> Trust/curatela	<input type="checkbox"/> Assicurazioni	<input type="checkbox"/> Altre azioni civili	
<input type="checkbox"/> Trustee persone fisiche	<input checked="" type="checkbox"/> Titoli commerciali	<input type="checkbox"/> Compromesso per minori	
<input type="checkbox"/> Trustee persone giuridiche	<input type="checkbox"/> Altri contratti/azioni/sentenze	<input type="checkbox"/> Conversione della proprietà	
<input type="checkbox"/> Altra omologazione	<input type="checkbox"/> Riunione atti	<input type="checkbox"/> Danni proprietà	
	<input type="checkbox"/> Contratto di lavoro	<input type="checkbox"/> Sicurezza lavoro	
	<input type="checkbox"/> Garanzia	<input type="checkbox"/> Esecuzione sentenze	
	<input type="checkbox"/> Contratto di vendita	<input type="checkbox"/> Sentenze straniere - Civile	
	<input type="checkbox"/> Uniform Commercial Code	<input type="checkbox"/> Altri beni personali	
	<input type="checkbox"/> Istanza civile di riesame giudiziario	<input type="checkbox"/> Recupero beni	
	<input type="checkbox"/> Mediazione in caso di pignoramento	<input type="checkbox"/> Azione di responsabilità azionisti	
	<input type="checkbox"/> Altri procedimenti amministrativi	<input type="checkbox"/> Altre civili	
	<input type="checkbox"/> Motorizzazione Civile		
	<input type="checkbox"/> Appello in materia retribuzione lavoratori		

III. BUSINESS COURT ADITA (si prega di verificare la relativa categoria: solo per le Contee di Clark e Washoe)

<input type="checkbox"/> Capitoli NRS 78-88	<input type="checkbox"/> Investimenti (NRS 104, art. 8)	<input type="checkbox"/> Gestione potenziata cause/business
<input type="checkbox"/> Beni (NRS 90)	<input type="checkbox"/> Pratiche commerciali ingannevoli (NRS 598)	<input type="checkbox"/> Altre materie di competenza di Business Court
<input type="checkbox"/> Titoli (NRS 90)	<input type="checkbox"/> Marchi (NRS 600A)	

Data: 24 gennaio 2014

Firma attore o rappresentante

Vedasi retro per cause in materia di diritto di famiglia



Depositato in via telematica
24/01/2014 11:57:00

firma illeggibile]

**CANCELLIERE DEL
TRIBUNALE**

RICORSO

Kimmarie Sinatra
Albo Avvocati del Nevada N. 8665
Stacie Michaels
Albo Avvocati del Nevada N. 9705
Wynn Las Vegas, LLC
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-2112 *Diretto*
(702) 770-1518 *Fax*
Legale dell'Attore

**TRIBUNALE DISTRETTUALE
CONTEA DI CLARK, NEVADA**

no *Adugna*
WYNN LAS VEGAS, LLC
operante come WYNN LAS VEGAS,
Attore,
contro
MARIO LA BARBERA
Convenuto

Causa n.: A-14-695025-C
Sezione n.: XXVIII

RICORSO

L'Attore Wynn Las Vegas, LLC operante come Wynn Las Vegas ("Wynn") ricorre contro il Convenuto MARIO LA BARBERA ("La Barbera") come segue:

PARTI

1. Wynn è una Società a Responsabilità Limitata del Nevada esistente ai sensi e in virtù delle leggi dello Stato del Nevada.
2. Da informazioni e conoscenza, La Barbera risiede in Italia.

PREMESSA IN FATTO

3. In data 1 aprile 2008, La Barbera ha sottoscritto un (1) titolo di credito a favore di Wynn: Documento Numero 70601126, per l'importo di \$120.000,00.

4. In data 3 aprile 2008, La Barbera ha sottoscritto undici (11) titoli di credito a favore di Wynn, per un importo totale di \$1.070.000,00, come di seguito indicato:



n.	Doc. n.	Importo
1	70602091	\$100.000,00
2	70602095	\$100.000,00
3	70601892	\$100.000,00
4	70601898	\$100.000,00
5	70601900	\$ 50.000,00
6	70601883	\$100.000,00
7	70601886	\$ 50.000,00
8	70601890	\$ 50.000,00
9	70602099	\$100.000,00
10	70602104	\$100.000,00
11	70602124	\$100.000,00

5. Ad oggi, La Barbera ha pagato \$70.000,00 e il saldo da rimborsare ammonta a \$1.000.000,00.

6. Alla presente data, La Barbera deve a Wynn \$1.000.000,00, oltre all'importo delle spese legali ragionevolmente sostenute da quest'ultima, oneri e interessi.

7. I dipendenti e/o rappresentanti di Wynn hanno tentato invano di ottenere la regolarizzazione del pagamento degli importi dovuti.

PRIMA CAUSA PETENDI
(Inadempimento Contrattuale)

8. Wynn rimanda alle deduzioni svolte nei paragrafi da 1 a 6, da intendersi come se qui integralmente riportate.

9. A fronte del credito di \$1.000.000,00 concesso a La Barbera, che quest'ultimo ha accettato volontariamente da Wynn, La Barbera ha accettato di rimborsare il suo debito.

10. Ad oggi e nonostante ripetuti solleciti, La Barbera si è rifiutato di restituire l'importo di \$1.000.000,00 dovuto a Wynn.

11. In conseguenza di ciò, Wynn ha subito un danno di oltre \$10.000,00.

12. Wynn è stata costretta a rivolgersi ad un legale per intentare la presente causa e chiede pertanto il rimborso delle spese legali e processuali.

SECONDA CAUSA PETENDI
(Inversione del Possesso)

13. Wynn rimanda alle deduzioni svolte nei paragrafi da 1 a 11, da intendersi come se qui integralmente riportate.

14. Prendendo a prestito \$1.000.000,00 e rifiutando di restituire il relativo importo, nonostante i ripetuti tentativi di Wynn di riscuotere il pagamento, La Barbera ha esercitato illegalmente potere e controllo sul patrimonio di Wynn.

15. La Barbera ha esercitato tale potere sul patrimonio di Wynn in deroga, con esclusione e in violazione dei diritti di quest'ultima sullo stesso.

16. In conseguenza di ciò, Wynn ha subito un danno di oltre \$10.000.00.

17. Wynn è stata costretta a rivolgersi ad un legale per intentare la presente causa e chiede pertanto il rimborso delle spese legali e delle spese processuali.

TERZA CAUSA PETENDI
(Ingiustificato Arricchimento)

18. Wynn rimanda alle deduzioni svolte nei paragrafi da 1 a 16, da intendersi come se qui integralmente riportate.

19. La Barbera ha beneficiato dell'importo di \$1.000.000,00 concessogli a credito da Wynn.

20. In considerazione della natura di tale prestito, sarebbe iniquo consentire a La Barbera di accettare e trattenere l'importo di \$1.000.000,00 concesso a credito senza rimborsarlo.

21. La Barbera ha accettato e trattenuto tale prestito.

22. Poiché La Barbera ha rifiutato di restituire l'importo del prestito, il medesimo si è indebitamente arricchito di un importo pari a \$1.000.000,00.

QUARTA CAUSA PETENDI
(Violazione dell'Obbligo di Buona Fede e Comportamento Leale)

23. Wynn rimanda alle deduzioni svolte nei paragrafi da 1 a 21, da intendersi come se qui integralmente riportate.

24. Qualsiasi contratto comporta l'obbligo di buona fede e lealtà nell'esecuzione.

25. Non rimborsando i titoli di credito sottoscritti a favore di Wynn per un importo di \$1.000.000,00, il Convenuto ha, tra l'altro, violato tale obbligo implicito di buona fede e comportamento leale.

26. In conseguenza di ciò, Wynn ha subito un danno di oltre \$10.000.00.

27. Wynn è stata costretta a rivolgersi ad un legale per intentare la presente causa e chiede pertanto il rimborso delle spese legali e delle spese processuali.

TANTO PREMESSO, Wynn chiede al Tribunale di disporre quanto segue:

1. risarcimento dei danni per un importo da determinarsi in sede processuale, ma comunque in misura superiore a \$10.000,00;
2. rimborso delle spese legali e processuali;
3. corresponsione degli interessi pre- e post-giudizio sugli importi dovuti; nonché
4. qualsiasi ulteriore risarcimento ritenuto opportuno dal Tribunale.

Addì, 24 gennaio 2014

WYNN LAS VEGAS, LLC
[firma illeggibile]

Stacie Michaels
Albo Avvocati del Nevada N. 9705
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
Legale dell'Attore

[Handwritten signature]

COPIA AUTENTICATA
IL DOCUMENTO ALLEGATO È UNA
COPIA AUTENTICA E CONFORME
DELL'ORIGINALE AGLI ATTI

[firma illeggibile]
CANCELLIERE DEL TRIBUNALE
(timbro)
11 APR 2014

TRIBUNALE ORDINARIO DI ROMA

Ufficio Asseveramento Perizie e Traduzioni

VERBALE DI GIURAMENTO

CRONOLOGICO

N. 7957-4

Addi 20 GIUGNO 2014 avanti al sottoscritto Cancelliere è presente

LA Signor A. MADDAUENA DE ANGELIS

(iscritto/non iscritto all'Albo dei Consulenti Tecnici del Tribunale di

dal _____) identificato con documento

CARTA DI IDENTITÀ
AT 9078527

N. AT 9078527 rilasciato dal COMUNE DI ROMA

il 27/09/2012 il quale chiede di asseverare con giuramento la traduzione

dalla lingua INGUESE alla lingua ITALIANA dei seguenti

documenti, uniti in: originale / copia conforme all'originale / fotocopia semplice:

SUMMONS AND COMPLAINT "WYNN LAS VEGAS
LLC VS MARIO LA BARBERA"

Il Cancelliere, previa ammonizione sulla responsabilità penale (art.483 c.p.) derivante da dichiarazioni mendaci, invita il comparente al giuramento, che egli presta ripetendo:

"Giuro di avere bene e fedelmente adempiuto all'incarico affidatomi al solo scopo di far conoscere la verità".

Letto, confermato e sottoscritto.

Francesco Spatola



IL CANCELLIERE GI
Francesco Spatola

N.B. L'Ufficio non si assume alcuna responsabilità per quanto riguarda il contenuto e la regolarità formale del documento tradotto.



PROCURA DELLA REPUBBLICA
presso il Tribunale di Termini Imerese

Oggetto: autorizzazione alla notificazione da eseguirsi in territorio nazionale ai sensi dell'art. 71 l. n. 218/1995.

Il Pubblico Ministero,
vista l'istanza depositata in data 07.07.2014 con cui, nell'interesse della società "Wynn Las Vegas, LLC", è stata richiesta l'autorizzazione al Pubblico Ministero territorialmente competente a procedere alla notificazione di atti giudiziari provenienti da uno Stato estero nei confronti di LA BARBERA Mario, nato a Palermo, il 15.06.1952, residente in Santa Flavia, Via Mondello, nr. 40,
letto l'art. 71 l. n. 218/1995,

AUTORIZZA

la notificazione degli atti giudiziari indicati nell'istanza depositata in data 07.07.2014 nell'interesse della società "Wynn Las Vegas, LLC" nei confronti di LA BARBERA Mario, nato a Palermo, il 15.06.1952, residente in Santa Flavia, Via Mondello, nr. 40.

Manda alla Segreteria per quanto di competenza.

Termini Imerese, li 9 luglio 2014.



IL PUBBLICO MINISTERO
Dott. Francesco Gualtieri

ORIGINALE

U.N.E.P. TERMINI IMERESE

Mod. E/

Mod. F/

Mod. A/0/2014 Cron. 7.061 Dest. 1/1

Data Ric. 17/07/2014

Data Udienza

Trasferta 9,59

Sp. postale 0,00

Istante: WINN LAS VEGAS LLC

Richiedente: GJOMAMARCAJ AVV. ALESSANDRO

VIA LIBERTA'

26 BAGHERIA

Relazione di Notificazione

Richiesto come in atti, lo sottoscritto Ufficiale Giudiziario addetto all'Ufficio Unico suintestato, ho notificato il presente atto a

MARIO LA BARBERA NATO IN PALERMO IL 15.06.1952

SANTA FLAVIA - VIA MONDELLO, 40

mediante consegna di copia conforme all'originale a mani di persona qualificatasi per

BARBERA FRANCESCA

capace e convivente, che si incarica della consegna in sua precaria assenza.

Santa Flavia,

L'Ufficiale Giudiziario DANINO PULEO

Firma Portiere/vicino di casa

24/07/14

Compilato avviso ex art. 139 660 c.p.c. in data

L'Ufficiale Giudiziario

Spedita Raccomandata N.

in data

Ai sensi dell'art. 140 c.p.c., curando il deposito della copia dell'atto in busta chiusa e sigillata completa di numero cronologico, nella Casa Comunale di _____, per non aver rinvenuto alcuno all'indicato domicilio e/o per l'assenza o il rifiuto di persone idonee a cui poter consegnare l'atto ai sensi di legge.

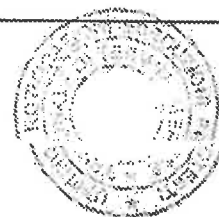
L'Ufficiale Giudiziario

Spedita Raccomandata A.R. N.

in data

Eseguita affissione a norma di legge in data

L'Ufficiale Giudiziario



ORIGINALE

N. Reg. 0 /2014

Cron.: 7.061

N.dest.: 1.

Data Ric. 17/07/2014



UNEP
TRIBUNALE DI
TERMINI IMERESE

Ricevuta e Specifica dell'Atto



Mod. E/

Mod. F/

SPECIFICA

Diritti	2,58
Trasferte	9,59
10% trasferte	0,96
Dir. autenticaz.	
Spesa postale	
Bolli	
Tot. specifica	13,13

(10% versato in modo virtuale)

Si rilascia ricevuta al richiedente GJOMAMARCAJ AVV. ALESSANDRO della richiesta di notifica e dell'importo della specifica.

Data: 17/07/2014

L'ufficiale Giudiziario

**OFFICE FOR SERVICE, ENFORCEMENT AND PROTESTS
OF TERMINI IMERESE**

ORIGINAL

Form E/ Form F/

Form A/0 -2014 Chron. No. **7.061** Dest 1/1 Rec. Date **17/07/2014**

Hearing Date

Travel 9.59

Postage 0.00

Plaintiff: WYNN LAS VEGAS LLC
Applicant: ALESSANDRO GJOMAMARCAJ, ESQ.
VIA LIBERTA' 26 BAGHERIA

Certificate of Service

I, the undersigned Process Server in charge of the above Office, as requested in the papers of the case, served this writ on
MARIO LA BARBERA, born in PALERMO on 15.06.1952
SANTA FLAVIA- VIA MONDELLO 40

by delivering by hand a certified true copy thereof to a person who identified himself as **BRUNI FRANCESCO** - brother in law.

who, capable and cohabiting, agreed to manage delivery of process in the recipient's temporary absence.
Santa Flavia, The Clerk of the Court

Signature of janitor/neighbour **24/07/14**

Notice drafted pursuant to Article ☐ 139 ☐ 160 of the Code of Civil Procedure on The Process Server [signature]

Registered Letter No. sent on

Pursuant to Article 140 of the Italian Code of Civil Procedure, I handed in a copy of the above writ in a sealed envelope, complete with chronological number, at the Town Hall of , since there was nobody at the address specified and/or nobody authorised to receive process pursuant to the law was in or available.

Registered Letter No. sent on

The Process Server

Notice affixed pursuant to the law on

The Process Server

Office for Service Enforcement and Protests
of the Court of Termini Imerese

ORIGINAL

OFFICE FOR SERVICE, ENFORCEMENT AND PROTESTS Form E/ Form F/
Receipt and details of the writ

REG. No. **0 /2014**
Chron. No. **7.061**
Dest. No. **1**
Compl. No. **17.07.2014**

DETAILS

Charges	2.58
Travel	9.59
10% Travel	0.96
Cert. charges	
Stamp Duties	
Total	13.13

Receipt of application for service and charge details
issued to the Applicant **ALESSANDRO GJOMAMARCAJ, ESQ.**

Date **17/07/2014**

The Process Server (Initials)

TRIBUNALE ORDINARIO DI ROMA
Ufficio Asseveramento Perizie e Traduzioni

VERBALE DI GIURAMENTO

CRONOLOGICO

1) N. 15636

Addì 16-12-2014 avanti al sottoscritto Cancelliere è presente

Signor a FRANCESCA CORONA

(iscritto/non iscritto all'Albo dei Consulenti Tecnici del Tribunale di _____)

dal _____) identificato con documento CARTA IDENTITÀ

N. AT 7/14648 rilasciato da CORRONE DI REGGIO CALABRIA

il 20/4/2012 il quale chiede di asseverare con giuramento la traduzione

dalla lingua ITALIANA alla lingua INGLESE

del documento VERBALE DI GIURAMENTO, AUTORIZZAZIONE ALLA IDENTIFICAZIONE DI

ESGOMIRSI INTERTERITORIO NAZIONALE DI SEDI DELL'ART. 742 - 20/1995, RELAZIONE DI IDENTIFICAZIONE

unito in: originale / copia conforme all'originale / fotocopia semplice:

Il Cancelliere, previa ammonizione sulla responsabilità penale (art.483 c.p.) derivante da dichiarazioni mendaci, invita il comparente al giuramento, che egli presta ripetendo:

"Giuro di avere bene e fedelmente adempiuto all'incarico affidatomi al solo scopo di far conoscere la verità".

Letto, confermato e sottoscritto.

Francesca Corona



CANCELLIERE CI
Fallita Gioacchino

[Signature]

N.B. L'Ufficio non si assume alcuna responsabilità per quanto riguarda il contenuto e la regolarità formale del documento tradotto.

CIVIL COVER SHEET

County, Nevada

Case No.:

(Signature of Clerk's Office)

A-14-695025-C

XXVI 11

I. Party Information

Plaintiff(s) (name/address/phone): Wynn Las Vegas, LLC
d/b/a Wynn Las Vegas
3131 Las Vegas Blvd. So.
Las Vegas, Nevada 89109
Attorney (name/address/phone): Las Vegas, Nevada 89109
Kim Sinatra, 3131 LV Blvd
Las Vegas, Nevada 89109

Defendant(s) (name/address/phone): Mario La Barbera
Via Modello 4040,
Santa Flavia
Palermo, Italy 90017
Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases		
Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantees <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal <input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)
☐ Investments (NRS 104A-8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 600A)
☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

January 25, 14
Date

Signature of initiating party or representative

See other side for family-related case filings.

COURT OF ROME

Sworn Translations and Expert Reports

OATH STATEMENT

**Chronological No.
7957 - 4**

This 20th day of June 2014, before me, the Clerk of the Court, the following person appears:

MS. MADDALENA DE ANGELIS

(registered/not registered with the Register of the Court Experts of the Court of _____ since _____), identified by *Identity Card No. AT 9078527* issued by the *CITY OF ROME* on 27 September 2012, who requests to take an oath regarding the translation from *ENGLISH* into *ITALIAN* of the following documents, enclosed hereto as original/ true copy to the original/ simple photocopy:

SUMMONS AND COMPLAINT "WYNN LAS VEGAS LLC VS MARIO LA BARBERA".

The Clerk of the Court, after warning of criminal liability attaching to misrepresentations (under Article 483 of the Italian Criminal Code), invites the appearing person, who accepts, to take an oath as follows: **"I do swear that I duly completed the tasks assigned to me with the only purpose of letting the truth be known"**.

Read, confirmed and signed.

Signature: Maddalena De Angelis

Stamp of the Court of Rome

Stamp and signature of the Clerk of the Court, Mr. Francesco Sbaressa

Please note that this Office assumes no liability regarding the content and the formal accuracy of the translated document.



PROCURA DELLA REPUBBLICA
presso il Tribunale di Termini Imerese

Oggetto: autorizzazione alla notificazione da eseguirsi in territorio nazionale ai sensi dell'art. 71 l. n. 218/1995.

Il Pubblico Ministero,
vista l'istanza depositata in data 07.07.2014 con cui, nell'interesse della società "Wynn Las Vegas, LLC", è stata richiesta l'autorizzazione al Pubblico Ministero territorialmente competente a procedere alla notificazione di atti giudiziari provenienti da uno Stato estero nei confronti di LA BARBERA Mario, nato a Palermo, il 15.06.1952, residente in Santa Flavia, Via Mondello, nr. 40, letto l'art. 71 l. n. 218/1995,

AUTORIZZA

la notificazione degli atti giudiziari indicati nell'istanza depositata in data 07.07.2014 nell'interesse della società "Wynn Las Vegas, LLC" nei confronti di LA BARBERA Mario, nato a Palermo, il 15.06.1952, residente in Santa Flavia, Via Mondello, nr. 40.

Manda alla Segreteria per quanto di competenza.

Termini Imerese, lì 9 luglio 2014,



IL PUBBLICO MINISTERO

Dott. Francesco Gualtieri

ORIGINALE

U.N.E.P. TERMINI IMERESE

Mod. E/

Mod. F/

Mod. A / 0 / 2014 Cron. 7.061 Dest. 1/1



Data Ric. 17/07/2014

Data Udienza

Trasferta 9,59

Sp.postale 0,00

Istante: WINN LAS VEGAS LLC

Richiedente: GJOMAMARCAJ AVV. ALESSANDRO

VIA LIBERTA'

26

BAGHERIA



Relazione di Notificazione

Richiesto come in atti, io sottoscritto Ufficiale Giudiziario addetto all'Ufficio Unico suintestato, ho notificato il presente atto a
MARIO LA BARBERA NATO IN PALERMO IL 15.06.1952

SANTA FLAVIA - VIA MONDELLO, 40

mediante consegna di copia conforme all'originale a mani di persona qualificata per

BARBARA FRANCESCO

Capomonte

capace e convivente, che si incarica della consegna in sua precaria assenza.

Santa Flavia,

Firma Portiere/vicino di casa

20/07/14

L'Ufficiale Giudiziario **DANIELLO PULEO**

Compilato avviso ex art. ☐ 139 ☐ 660 c.p.c. in data

L'Ufficiale Giudiziario

Mario Spataro

Spedita Raccomandata N. _____ in data _____

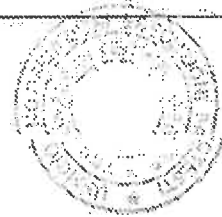
Ai sensi dell'art. 140 c.p.c., curando il deposito della copia dell'atto in busta chiusa e sigillata completa di numero cronologico, nella Casa Comunale di _____, per non aver rinvenuto alcuno all'indicato domicilio e/o per l'assenza o il rifiuto di persone idonee a cui poter consegnare l'atto ai sensi di legge.

L'Ufficiale Giudiziario _____

Spedita Raccomandata A.R. N. _____ in data _____

Eseguita affissione a norma di legge in data _____

L'Ufficiale Giudiziario _____



ORIGINALE

N. Reg. **0** / 2014

Cron.: **7.061**

N.dest.: **1**

Data Ric. 17/07/2014



Mod. E/

Mod. F/

SPECIFICA	
Diritti	2,58
Trasferta	9,59
10% trasferta	0,96
Dir autenticaz.	
Spese postale	
Bolli	
Tot. specifica	13,13

(10% versato in modo virtuale)

Si rilascia ricevuta al richiedente **GJOMAMARCAJ AVV. ALESSANDRO** della richiesta di notifica e dell'importo della specifica.

Data: 17/07/2014

L'Ufficiale Giudiziario _____

4

**OFFICE OF THE PUBLIC PROSECUTOR
AT THE COURT OF TERMINI IMERESE**

**RE: Authorisation for service of process in the territory of the Italian Republic
pursuant to Article 71 of Law 218/1995**

I

THE PUBLIC PROSECUTOR,

Having regard to the application, filed on 07.07.2014 in the interest of Wynn Las Vegas, LLC, for authorisation from the territorially-competent Public Prosecutor to serve in Italy certain foreign writs against Mario LA BARBERA, born in Palermo on 15 June 1962 and resident in Santa Flavia, Via Mondello 40

Having regard to Article 71 of Law No. 218/1995

HEREBY AUTHORISES

service of the writs specified in the application filed on 07.07.2014 in the interest of Wynn Las Vegas, LLC against Mario LA BARBERA, born in Palermo on 15 June 1962 and resident in Santa Flavia, Via Mondello 40

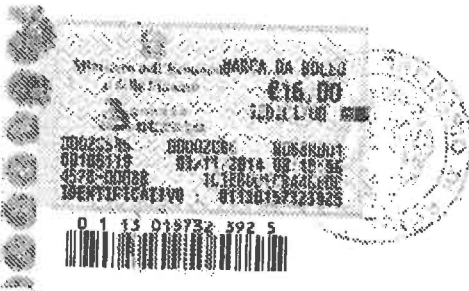
ORDERS the Records Office to fulfil all the required formalities.

Termini Imerese, 9 July 2014

Handwritten signature

**The Public Prosecutor,
Francesco Gualtieri
[signature]**

**[stamp of the Public Prosecutor's Office
of Termini Imerese]**



1 **MOT**
2 **JEFFREY R. ALBREGTS, ESQ.**
3 Nevada Bar No. 0066
4 **KRISTA N. ALBREGTS, ESQ.**
5 Nevada Bar No. 13301
6 **HOLLEY, DRIGGS, WALCH, FINE,**
7 **WRAY, PUZEY & THOMPSON**
8 400 South Fourth Street, Third Floor
9 Las Vegas, Nevada 89101
10 Telephone: 702/791-0308
11 Facsimile: 702/791-1912
12 *Attorneys for Defendant*

Electronically Filed
09/11/2015 12:56:10 PM



CLERK OF THE COURT

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 WYNN LAS VEGAS, LLC d/b/a
11 WYNN LAS VEGAS, a Nevada
12 limited liability company,

Plaintiff,

13 v.

14 MARIO LA BARBERA, an individual,

15 Defendant.

Case No.: A-14-695025-C
Dept. No.: XXVIII

**DEFENDANT'S MOTION TO DISMISS
OR FOR SUMMARY JUDGMENT,
PURSUANT TO NRCP 56, AS
PLAINTIFF'S CLAIMS ARE BARRED
BY THE STATUTE OF LIMITATIONS**

**DATE OF HEARING:
TIME OF HEARING:**

17 Defendant hereby moves this honorable court, pursuant to NRCP 56, for an order
18 dismissing this case with prejudice on the ground that all of Plaintiff's claims are barred by the
19 applicable statute limitations as a matter of law.

20 This motion is made and based upon the points and authorities and exhibits attached
21 hereto as well as the pleadings on file herein.

22 Dated this 10 day of September, 2015.

23 **HOLLEY, DRIGGS, WALCH, FINE,**
24 **WRAY, PUZEY & THOMPSON**

25 **JEFFREY R. ALBREGTS, ESQ.**
26 Nevada Bar No. 0066
27 **KRISTA N. ALBREGTS, ESQ.**
28 Nevada Bar No. 13301
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Defendant

1 **NOTICE OF MOTION**

2 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

3 YOU, and each of you, will please take notice that the undersigned will bring the above
4 and foregoing **DEFENDANT'S MOTION TO DISMISS OR FOR SUMMARY,**
5 **PURSUANT TO NRCP 56, AS PLAINTIFF'S CLAIMS ARE BARRED BY THE**
6 **STATUTE OF LIMITATIONS** for hearing before the above-entitled Court on the 20th
7 day of OCT, 2015 at 9:00 a.m. of said day in Department XXVIII of said Court.
8

9 Dated this 10th day of September, 2015.

10 **HOLLEY, DRIGGS, WALCH, FINE,**
11 **WRAY, PUZEY & THOMPSON**

12 _____
13 JEFFREY R. ALBREGTS, ESQ.
14 Nevada Bar No. 0066
15 KRISTA N. ALBREGTS
16 Nevada Bar No. 13301
17 400 South Fourth Street, Third Floor
18 Las Vegas, Nevada 89101

19 *Attorneys for Defendant*
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POINTS AND AUTHORITIES

I. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff commenced this action against Defendant Mario La Barbera on April 7, 2014, alleging claims for breach of contract, conversion, unjust enrichment, and breach of the covenant of good faith and fair dealing, all arising out of a series of casino markers this Defendant allegedly executed with Plaintiff on April 3, 2008, more than six years before this action was filed.¹ The relevant statutory periods for each of these claims are as follows: six years for an action upon a contract, obligation or liability based upon an instrument (N.R.S. 11.190(1)(b)); four years for an action upon a contract, obligation or liability not based upon an instrument or writing (N.R.S. 11.190(2)(c)); three years for an action for taking, detaining or injuring personal property (N.R.S. 11.190(3)(c)); and two years for most torts (N.R.S. 11.190(4)). Plaintiff commenced this action more than six years after the date the casino markers were executed, longer than the statute of limitations for all of these claims. Thus, Plaintiff is barred by the applicable statute from bringing each of claims against Defendant as a matter of law.

II. LEGAL ARGUMENT

N.R.C.P. 56 provides in pertinent part:

(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before the time fixed for the hearing. Motions for summary judgment and responses thereto shall include a concise statement setting forth each fact material to the disposition of the motion which the party claims is or is not genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. An order granting summary judgment shall set forth the undisputed material facts and legal determinations on which the court granted summary judgment.

¹ Paragraph 4 of Plaintiff's Complaint alleges that Defendant executed 11 markers totaling \$1,070,000 but they actually only total \$950,000. Further confusing Plaintiff's claims is the allegation this Defendant also paid Plaintiff \$70,000 back on these markers when, in fact, he did not ever do so.

1
2 A court can dismiss a complaint as a matter of law if the action is barred by the statute of
3 limitations.

4 NRS § 11.190 sets forth the statutory periods of limitations for the relevant claims, as
5 follows:

6 1. Within 6 years:

7 ... (b) An action upon a contract, obligation or liability founded upon an instrument in writing,
except those mentioned in the preceding sections of this chapter.

8 2. Within 4 years:

9 ... (c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

10 3. Within 3 years:

11 ... (c) An action for taking, detaining or injuring personal property, including actions for specific
recovery thereof...

12 4. Within 2 years:

13 ... (e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a
person or for the death of a person caused by the wrongful act or neglect of another. N.R.S. §
11.190.

14 Furthermore, NRS § 11.200 provides for the computation of time for each of these statutory
15 periods:

16 **Computation of time.** The time in NRS 11.190 shall be deemed to date from the last transaction
or the last item charged or last credit given; and whenever any payment on principal or interest has
17 been or shall be made upon an existing contract, whether it be a bill of exchange, promissory note
or other evidence of indebtedness if such payment be made after the same shall have become due,
18 the limitation shall commence from the time the last payment was made. N.R.S. § 11.200.

19 Plaintiff's claim for breach of contract is an obligation or liability founded upon an
20 instrument in writing and thus, the applicable statutory period of limitation here is six years
21 pursuant to NRS 11.190(1)(b). Plaintiff's claim for conversion is an action for taking or
22 detaining personal property, and as such, its period of limitation is three years pursuant to NRS
23 11.190(3)(c). *Hartford Acc. and Indem. Co. v. Rogers*, 613 P.2d 1025, 1026, 96 Nev. 576
24 (1980), citing NRS 11.190(3)(c) "the statute of limitation for conversion is three years and runs
25 from the time of taking." Plaintiff's alternative claim for unjust enrichment is an action upon a
26 contract, obligation or liability not founded upon an instrument in writing, and as such, its
27 statutory period of limitation is four years pursuant to NRS 11.190(2)(c). *In re Amerco*
28 *Derivative Litig. Glenbrook Capital Ltd. P'ship*, 252 P.3d 681, 703, 127 Nev. Adv. Op. 17

1 (2011), citing NRS 11.190(2)(c), "the statute of limitation for an unjust enrichment claim is four
2 years." Finally, to the extent Plaintiff alleges any claim in tort, the applicable statute of
3 limitation is two years pursuant to NRS 11.190(4)(e).

4 Significantly, as if to hedge its case on this issue, Plaintiff also alleged (unnecessarily) in
5 its Complaint (Para.5) that Defendant paid \$70,000.00 towards the balance of these markers, but
6 then it fails to even allege a date on which such payment was made, or provide any evidence
7 whatsoever of any such alleged payment. In fact, Plaintiff has produced no evidence pursuant to
8 NRCP 16.1 to show that the statutory period of limitation for its claims here should not run from
9 any other date than April 3, 2008. See NRS 11.200. Because Plaintiff filed its claims more than
10 six years after April 3, 2008, this Court is barred as a matter of law from granting Plaintiff any
11 relief on them. Thus, Defendant is entitled to Summary Judgment dismissing Plaintiff's claims
12 with prejudice pursuant to NRCP 56.

13 **III.**
14 **CONCLUSION**

15 For these reasons, Defendant hereby respectfully requests that this Court dismiss this case
16 with prejudice, pursuant to NRCP 56, as all of Plaintiff's claims are barred by the applicable
17 statute of limitations as a matter of law.

18 Dated this 10th day of September, 2015.

19 **HOLLEY, DRIGGS, WALSH, FINE**
20 **WRAY, PUZEY & THOMPSON**

21 
22

JEFFREY R. ALBREGTS, ESQ., NO. 0066.
23 KRISTA N. ALBREGTS, ESQ., NO. 13301
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that pursuant to NRCP 5(b) and NEFCR 9, that I am an employee of Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson, and that on the 11th day of September, 2015, I caused to be sent through electronic transmission via Wiznet's online system, a true and correct copy of the foregoing **DEFENDANT'S MOTION TO DISMISS, OR FOR SUMMARY JUDGMENT, PURSUANT TO NRCP 56, AS PLAINTIFF'S CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS**, addressed to:

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Christopher D. Kircher, Esq.
LAWRENCE J. SEMENZA, III, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
Attorneys for Plaintiff



An employee of Holley, Driggs, Walch, Fine,
Wray, Puzey & Thompson



CLERK OF THE COURT

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13 Facsimile: 702/791-1912
14 *Attorney for Defendant*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 WYNN LAS VEGAS, LLC d/b/a
12 WYNN LAS VEGAS, a Nevada
13 limited liability company,

14 Plaintiff,

15 v.

16 MARIO LA BARBERA, an individual,
17 Defendant.

Case No: A-14-695025-C
Dept. No.: XXVIII

STIPULATION AND ORDER

18 IT IS HEREBY AGREED AND STIPULATED, by and between Defendant Mario La
19 Barbera, by and through his attorneys Jeffrey R. Albregts, Esq., and Krista N. Albregts, Esq., of
20 Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson, and Plaintiff Wynn Las Vegas, LLC,
21 d/b/a Wynn Las Vegas, by and through its attorneys Lawrence J. Semenza, III, Esq., and
22 Christopher D. Kircher, Esq., of Lawrence J. Semenza, III, P.C., as follows:

- 23 1. Pursuant to N.R.C.P. 41(a)(1), Plaintiff hereby voluntarily dismisses its Second
24 Claim For Relief for Conversion, Third Claim For Relief for Unjust
25 Enrichment, and Fourth Claim For Relief for Breach of the Covenant of Good
26 Faith and Fair Dealing.
27 2. Defendant hereby withdraws his Motion To Dismiss or For Summary
28 Judgment, and upon this Court's entry of this Order, will file a Notice of

1 Withdrawal of this Motion and the Court may vacate the hearing date of
2 October 20, 2015.

3 3. The remaining claim against Defendant in this matter shall be Plaintiff's First
4 Claim for Relief for Breach of Contract.

5 Dated this 12 day of October, 2015.

Dated this 12 day of October, 2015.

6 HOLLEY, DRIGGS, WALCH, FINE
7 WRAY, PUZEY & THOMPSON

LAWRENCE J. SEMENZA, III, P.C.

8
9
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11 Jeffrey R. Albregts, Esq.
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[illegible]

DATED this 14th day of October, 2015.

15.

Ronald J. Israel
~~DISTRICT COURT JUDGE~~

RONALD J. ISRAEL

HOLLEY, DRIGGS, WALCH, FINE,
WRAY, PUZEY & THOMPSON

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In The
SUPREME COURT
For The
STATE OF NEVADA

Electronically Filed
Apr 03 2017 04:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

MARIO LABARBERA

Appellant.

v.

WYNN LAS VEGAS, LLC, D/B/A WYNN LAS VEGAS,

Respondent.

*Appeal from Judgment on Jury Verdict,
Eighth Judicial District Court, State of Nevada, County of Clark
District Court Case No. A-14-695025-C – Hon. Ronald J. Israel*

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