

1 believe 12 different markers which he failed to repay at the conclusion of his trip in
2 late March, early April of 2008. We believe the evidence in this case will show that.
3 And I thank you for your time.

4 THE COURT: Thank you.

5 Does defense wish to present their opening argument or reserve it?

6 MR. ALBREGTS: I think we'll argue an opening statement, Your Honor.

7 THE COURT: Very well, you may proceed.

8 MR. ALBREGTS: Thank you.

9 **OPENING STATEMENT BY THE DEFENSE**

10 BY MR. ALBREGTS:

11 As Mr. Semenza said, thank you very much. We do appreciate you coming
12 down. One of the things we got to do in this case was go to Italy and take
13 depositions and the most admired thing we're told by the rest of the world of this
14 country is a trial by jury. It doesn't really exist anywhere else in the world so thank
15 you for your time.

16 Cases are simple and they are complicated. And they're usually simple
17 in their actual construction of what happened and the complicated by the people that
18 participated in that afterwards when we try to explain what happened. That's what
19 happened here. There's some critical facts that I want you to keep in mind what I
20 think will be over the course of the next couple of days, tomorrow and Wednesday.
21 When you listen to the evidence put on by the Wynn against Mr. La Barbera and
22 they basically fall into three categories, but let me run through them with you very
23 quickly.

24 The first is the markers alleged by the Wynn. Twelve markers in total,
25 which actually total up to be \$1,070,000, but we'll leave that for the evidence and the

1 witnesses, were allegedly executed by Mr. La Barbera eight years ago, in
2 April 2008. Eight years ago. Recollections are pretty – pretty faint after eight years.
3 The Wynn waited almost six years to sue on those markers and they only claim
4 you'll be adjudicating here is a breach of contract claim. By the way, the statute of
5 limitations on a breach of contract claim in Nevada is six years.

6 And like life or maybe plays at the Smith Center, there are primary
7 actors in events and then there are peripheral actors. And in this case, this case,
8 the elephant in the room or whatever the metaphor is, ladies and gentlemen, is the
9 two primary actors will not be present here in this courtroom to tell you what
10 happened. And those two primary actors are Mr. La Barbera himself, it's my hope
11 you will learn the reason why when the evidence is presented why he's not here,
12 and an individual named Alex Pariente. And Mr. Pariente was what we call, or what
13 the casino industry calls, the host for Mr. La Barbera and the fellow who spoke fluent
14 Italian and translated for Mr. La Barbera who came here on a junket, some sorts,
15 and spent three days at the Wynn and during that time Mr. Pariente was his host.
16 And this individual, Mr. Pariente, knows more than every witness put together on the
17 Wynn side of the table, but you will not be hearing from him in this trial. Keep that in
18 mind when you listen to the evidence and witnesses.

19 Mr. La Barbera, what you heard Mr. Semenza read to you from, is
20 there's a dispute in the evidence as there always is in cases or we wouldn't be here
21 taking your precious time and why you fulfill your constitutional duties. But
22 Mr. La Barbera we took his deposition last June in Rome over the course of an
23 entire day. And we went through each single marker. Mr. La Barbera emphatically
24 denied on each single marker that it was his signature there. And you'll have
25 evidence, an argument presented by Mr. Semenza, where he does acknowledge his

1 signature on some of the credit agreements or applications. And we exchanged
2 discovery during these cases, some of which has already been admitted into
3 evidence by our agreement. And what Mr. Semenza was telling you on his opening
4 statement there is that Mr. La Barbera admitted to some of those discovery
5 responses that – that might be his signature. But make no mistake about it, that's
6 what you're here to decide in this case, whether Mr. La Barbera executed these
7 credit instruments which the Wynn has the burden of proofing as authentic and
8 genuine. And on that note, in the three days he was there, the Wynn is claiming a
9 million dollars here. As I recall from its records which we'll put into evidence here,
10 the total amount lost by Mr. La Barbera, should you come back and agree that he's
11 responsible or liable for these markers for a million dollars is actually two million
12 dollars over that three-day period of time.

13 Mr. La Barbera, as I told you, won't be present to testify so we will be
14 reading or I will be reading, as if – I don't have a very good Italian accent, joking
15 aside, but I will be reading portions of that deposition to you depending on the
16 Judge's rulings between that time and now. So you will be hearing from
17 Mr. La Barbera, vis-a-vis, the testimony that we elicited from him Rome last June.
18 And I ask you to listen to that testimony and to consider it as worthy and as well as
19 any other testimony you're going to hear here because at least you will hear that
20 much from Mr. La Barbera. You will not hear Mr. Pariente at all.

21 Thank you for your patience and time. I'll do my best not to irritate you
22 during the next two or three days.

23 THE COURT: Thank you.

24 Is the plaintiff ready to call their first witness?

25 MR. SEMENZA: We are, Your Honor. And she should be out there.

1 Ms. Mele.

2 **SANDRA W. MELE**

3 [having been called as a witness and being first duly sworn, testified as follows:]

4 MR. SEMENZA: And Mr. Marshal, I do need to use the Elmo.

5 THE MARSHAL: Okay.

6 THE CLERK: Please state your name and spell it for the record.

7 THE WITNESS: Sandra, S-A-N-D-R-A W., Mele, M-E-L-E.

8 THE CLERK: Thank you.

9 THE WITNESS: My – is that all you wanted?

10 THE CLERK: Unless you have more to your name.

11 THE WITNESS: No, that's it.

12 THE CLERK: Okay.

13 THE WITNESS: This week. That's it.

14 THE CLERK: Thank you.

15 **DIRECT EXAMINATION OF SANDRA W. MELE**

16 BY MR. SEMENZA:

17 Q Good afternoon, Ms. Mele. How are you?

18 A I'm well, thank you.

19 Q Good. Ms. Mele, are you currently employed?

20 A No. I'm retired.

21 Q And when did you retire?

22 A February 27th, 2015.

23 Q Okay. And where did you retire from?

24 A Wynn Las Vegas.

25 Q Prior to your retirement, what was your position at Wynn Las Vegas?

1 A I was the Director of Credit and Collections until about six or eight
2 months before I retired and then they made someone else the Director of
3 Collections and I was just the Director of Credit.

4 Q And who did they make the Director of Collections?

5 A Barbara Conway.

6 Q Okay. And how long were you the Director of Credit and Collections for
7 the Wynn Las Vegas?

8 A I guess about seven or eight years.

9 Q In late March or early April of 2008, was your position the Director of
10 Credit and Collections at Wynn Las Vegas?

11 A I believe so.

12 Q And during the course of your employment as a Director of Credit and
13 Collections at Wynn Las Vegas, have your duties changed at all? Or did your duties
14 change at all?

15 A Not really.

16 Q Okay. Can you tell the jury what your duties were as the Director of
17 Collections and Credit [sic] at Wynn Las Vegas?

18 A As the Director of Collections, I had a credit collection manager who,
19 and I just oversaw the running of the day-to-day things. She took care of all the
20 collections for the people that did not pay their balances, or their outstanding
21 balances. And I, as the – in my credit aspect, I oversaw the day-to-day running of
22 the credit department and made credit decisions and worked with the casino hosts
23 who had high-end customers. I reported to the CFO. I reported to the president and
24 I reported to the chairmen on some things.

25 Q And was that in your capacity as the Director or Credit or both as the

1 Director of Credit and Collections?

2 A Both.

3 Q Is it fair to say that you ran the credit department at Wynn Las Vegas?

4 A Yes.

5 Q Is it fair to say that you ran the collection department at Wynn Las
6 Vegas prior to transferring the position over to a third party?

7 A Barbara ran most of it. I was just there as the sounding board and for
8 any problems that would come up --

9 Q Okay.

10 A -- in the collection department.

11 Q When you were both the Director of Collection and Credit, did you
12 oversee Barbara Conway?

13 A Yes, I did.

14 Q And at some point in time, did she then become elevated to the Director
15 of Collections?

16 A Yes.

17 Q And that was when approximately?

18 A I left in February. It was in the summer before I left so June, July.

19 Q Do you recall when you started with Wynn?

20 A November of 2003.

21 Q Prior to your employment as the Director of Credit and Collections, what
22 was your position at Wynn?

23 A Credit Manager.

24 Q And how long did you hold the position as Credit Manager?

25 A From 2003 until 2008.

1 Q And did you have any other positions while you were employed at
2 Wynn other – other than the Director of Credit and Collection and as a Credit
3 Manager?

4 A No.

5 Q What were your duties, broadly speaking, as a Credit Manager?

6 A Well I got the department up and running so when we opened. I
7 approved credit lines. I hired employees. I disciplined employees. I made credit
8 decisions. I worked on special projects and events when we had them to get
9 everything, make sure everything was all ready for the event and the customers. I
10 had dealings with the customers. I would go up on the casino floor and talk to
11 certain customers, if they were – they had a problem where they wanted to know
12 why they didn't or did get credit or wanted more credit.

13 Q Okay. And so I understand your testimony, did you actually begin your
14 employ at Wynn prior to it opening?

15 A Yes.

16 Q And how long was that?

17 A We opened in April 2005 and I started in November of 2003.

18 Q And during the period of time that you were employed at Wynn prior to
19 its opening, what did you do there?

20 A I wrote policies and procedures for credit. I helped develop the
21 computer system for credit. I hired people. I helped with the design of the office,
22 ordered furniture and all those good things.

23 Q Okay. And before you went to work at the Wynn, where were you
24 employed?

25 A I was employed at Caesars Palace.

1 Q For how long?
2 A Eighteen months.
3 Q Okay. What did you do there?
4 A I was a credit executive.
5 Q And prior to that?
6 A I worked at the Mirage as the Credit Manager.
7 Q How long did you do that for?
8 A '98 to 2001, I was at the Mirage, I believe.
9 Q How long in total have you been working in the gaming industry?
10 A Thirty – 30 to 35 years.
11 Q And how long would you estimate you've been working on the credit
12 side?
13 A All that time.
14 Q How long would you estimate that you've been working on the
15 collection side?
16 A Maybe 11, 12 years.
17 Q Is it your understanding that Wynn Las Vegas has an unrestricted
18 gaming license?
19 A I believe so, I'm not positive.
20 Q And with regard to, you understand, the Defendant in this case is
21 Mario La Barbera?
22 A Yes.
23 Q Did you have any interactions specifically with Mr. La Barbera at all?
24 A Not personally, no.
25 Q Did Mr. La Barbera have a host while he was a patron at Wynn?

1 A I believe it was Alex Pariente.

2 Q And is Mr. Pariente still employed at the Wynn?

3 A No, he is not.

4 Q Did you have authority to issue credit while you were at Wynn?

5 A I did.

6 Q And did that change over time during your employment?

7 A Yes, it did.

8 Q Just prior to your retirement at Wynn, what were you authorized
9 individually as far as the issuance of credit?

10 A One million dollars.

11 Q And in March or April of 2008, do you recall what your authority was for
12 the issuance of credit?

13 A It was either 500 or 750.

14 Q Okay.

15 THE COURT: Is that an exhibit?

16 MR. SEMENZA: It is. It's Exhibit 1 which has been admitted. It's the first
17 page of Exhibit 1, Bates Number WYNN-1.

18 BY MR. SEMENZA:

19 Q Ms. Mele, you can go ahead and open up your exhibit book and turn to
20 Exhibit 1, first page of Exhibit 1. Do you know what this document is, Ms. Mele?

21 A It's an Italian passport.

22 Q Okay. Whose Italian passport is it? If you know.

23 A Mario La Barbera.

24 Q And is this something that Wynn puts in its computer system?

25 A Yes.

1 Q Okay. In what context? Why would it do that?

2 A So that we can identify the customer.

3 Q For international patrons –

4 A Uh-huh.

5 Q -- do they provide only their passport or are there any other things that
6 Wynn will get to verify identity?

7 A Usually it's only their passport.

8 Q Okay. Is it different for noninternational patrons?

9 A Yes.

10 Q Okay. And what do you do as far as identity for noninternational
11 patrons?

12 A Current driver's license, we will take a U.S. passport, if they don't have
13 one. We will take an identification card or a military ID, I believe.

14 Q Okay. And does this passport identify from what country it is issued?

15 A Yes.

16 Q What is it?

17 A Italy.

18 Q And to the best of your knowledge, is this a photo of Mr. La Barbera?

19 A Well, having never seen him, I would have to say that I don't know.

20 Q Okay. It appears to be a photocopy of his passport, though?

21 A Yes.

22 MR. SEMENZA: And I'm going to refer to Exhibit 2, Your Honor. This has
23 also been admitted into evidence.

24 BY MR. SEMENZA:

25 Q And Ms. Mele, this is Exhibit 2.

1 MR. SEMENZA: Thank you, Mr. Marshal.

2 BY MR. SEMENZA:

3 Q And I understand that the jury can't see the entire document, but what
4 is this document, Ms. Mele?

5 A This is a credit application.

6 Q And from which property?

7 A It could be either Wynn or Encore. They were – credit was the same at
8 both properties.

9 Q What is this document, generally?

10 A Generally, it's their name, their residential information. It's their
11 business, their banking information and they sign it to allow us – to say that they
12 want to, that they're applying for credit and the amount of credit is usually on the
13 credit application and they're telling us that it's okay for us to investigate them.

14 Q And I want to walk through the document. Do you know what this
15 number is up in the upper right-hand corner of the document?

16 A That's his customer number with us?

17 Q What does that mean?

18 A That means that we put him into the computer system and the system
19 assigned him this number

20 Q Is that a player's card number?

21 A Yes.

22 Q And does a patron receive an actual physical card bearing that
23 number?

24 A Yes.

25 Q What is that card called?

1 A It's – now it's a room key.

2 Q Was it called a red card at some point?

3 A Yes, it was.

4 Q Okay. Am I correct in that the red card is also a patron's room key?

5 A Yes.

6 Q And there's some language here at the top, typewritten language.

7 Could you read that into the record, please.

8 A Once completed, please mail back or fax it to us at 702-770-1580.

9 Should you have any questions, please feel free to call us at 1-866-770-7107. Upon
10 arriving at Wynn Las Vegas, please proceed to the credit desk adjacent to the main
11 cage where you will complete your application. Positive identification will be
12 required to activate your account. Identification should be in the form of a valid
13 driver's license, a state issued ID, passport, or an active military ID. A major credit
14 card is also required as a second ID.

15 Q And is there information that is requested from the patron below that
16 language?

17 A Yes.

18 Q Okay. And does it appear that Mr. La Barbera completed portions of
19 this credit application?

20 MR. ALBREGTS: Objection. There's no – assuming facts not in evidence in
21 that he completed the application, whose handwriting is on it.

22 MR. SEMENZA: Already been admitted into evidence.

23 MR. ALBREGTS: I understand, but that doesn't mean we know whose
24 handwriting is on it, Your Honor.

25 THE COURT: I'm going to sustain the objection. Lay a foundation.

1 MR. SEMENZA: That's fine.

2 BY MR. SEMENZA:

3 Q Can you identify whose name is listed in the handwritten portion,
4 please?

5 A Mario La Barbera.

6 Q And does it identify a birthdate?

7 A Yes, it does, 6/15/1952.

8 Q Does it identify a street address?

9 A Yes.

10 Q And what is that?

11 A Via Montelbel, Hoko [sic].

12 Q Okay. And what city, if you can read it?

13 A Santa Flavia, Italy.

14 Q Okay.

15 A And there's a zip code of 90012.

16 Q And does it identify in handwritten terms an email address?

17 A Yes.

18 Q Does it identify a credit limit sought?

19 A Yes, 300,000.

20 Q Does it identify a business?

21 A Yes.

22 Q Does it identify the name of the business? You don't have to read it.

23 A Yes, it does identify the name of the business.

24 Q Okay. And does it identify the position?

25 A Yes.

1 Q Okay. Moving down the document, is there bank information provided?
2 A Yes, there is. Credit Swiss.
3 Q Okay. And does it identify what city and what state?
4 A Yes. [coughs] Excuse me. Lugano. And it says CH.
5 Q Okay. And is the document signed?
6 A Yes, it is.
7 Q Do you know who signed the document?
8 A You're talking about the signature on the bottom?
9 Q Yes, the very bottom.
10 A It should be the customer's.
11 Q There is a – some handwriting up above the signature at the bottom.
12 Do you know whose that is?
13 A That's Alex Pariente.
14 Q And do you know why he's initialing there on the document?
15 A Because it's his customer.
16 Q Okay. Based on this document, is – would it be your understanding
17 that Mr. La Barbera submitted a credit application to Wynn Las Vegas?
18 A Yes.
19 THE CLERK: Which exhibit is this one?
20 MR. SEMENZA: This is Exhibit 3.
21 BY MR. SEMENZA:
22 Q And are you there, Ms. Mele?
23 A Yes.
24 Q This is the first page of a two-page document contained in Exhibit 3.
25 What is this document?

1 A This is the credit agreement.

2 Q And let me back up. Let's go back to the prior document, the credit
3 application. Why is the credit application completed?

4 A So that we can investigate the customer and decide if we're going to
5 offer credit. And we need the information to put into the system before we can issue
6 any markers, if we do decide we're going to give credit.

7 Q Okay. Does a credit application have to be completed prior to the
8 issuance of credit?

9 A Yes.

10 Q And on that credit application, back to it, we talked about that there was
11 banking information identified on the credit application, is --

12 A Yes.

13 Q -- that correct? Okay. And why does Wynn want this information?

14 A So that if the customer -- well, if the customer doesn't pay, we can
15 deposit the items into their bank so we have to have their banking information in
16 order to be able to deposit them.

17 Q Okay. Going back to the credit agreement. Again, I understand it's
18 hard to read. Let's focus on the top half of this document, on the first page of it. Is
19 there certain information that is provided, typed into the document?

20 A Yes.

21 Q And what is that? If you can --

22 A That's the information that we took and we entered into the computer
23 from the credit application.

24 Q Okay. And does it identify the same player number?

25 A Yes, it does, half way down, 3580678.

1 Q Okay. And below that, next to the Wynn logo, what information is
2 provided to the right of the Wynn logo?

3 A So that's the customer's first and last name, their Wynn or red card
4 number, their date of birth, and the amount of credit requested.

5 Q Okay. There's also quite a bit of typewritten language below the Wynn
6 logo. Do you see that?

7 A Yes.

8 Q Could you please read that into the record for the jury.

9 A I give Wynn Las Vegas and its representatives permission to obtain and
10 verify credit information from any source, obtain my credit and employment history
11 and exchange information with others about my credit and account experience with
12 Wynn Las Vegas. I agree not to hold any of these entities responsible or liable for
13 the information released. I agree that Wynn Las Vegas will retain the application
14 whether or not it approves the credit line. Before drawing on my line of credit, if
15 granted, I agree to sign credit instruments, i.e., checks, in the amount of the draw. I
16 authorize Wynn Las Vegas to complete any of the following missing items on these
17 credit items: 1) name of the payee, 2) any missing amounts, 3) a date, 4) the name,
18 account number and address and branch of any banks and financial institutions, 5)
19 any electronic encoding of the above items. This information can be for my – for my
20 account from which I now have or may have in the future, the way to withdraw funds
21 regardless of whether that account now exists and whether I provided the
22 information on the account to the Wynn Las Vegas. I acknowledge that irrespective
23 of any currency exchange laws in the country in which I reside, I have the ability and
24 intent to legally repay any advance of money to Wynn Las Vegas. I also
25 acknowledge that any – that an independent agent collecting front money deposits

1 or payments on my debt is my agent and not an agent for Wynn Las Vegas or any of
2 its affiliates. I agree that each draw against my credit line is a separate advance of
3 money by Wynn Las Vegas. If I receive the advance before I execute the credit
4 instrument, I promptly will sign a credit instrument in the amount of the advance. I
5 agree that Nevada law exclusively governs the terms of the credit line, advances, or
6 credit instruments. I agree that Wynn Las Vegas may litigate any dispute involving
7 the credit line, the debt, or the payee in any court, state or federal, in Nevada. I
8 submit to the jurisdiction of any court, state or federal, in Nevada. Besides any
9 amounts authorized by law, I will pay interest in all at a rate of 18 percent per annum
10 from the date of the execution of the credit instrument in all costs of collections
11 including attorney fees and court costs. Wynn Las Vegas, [clears throat], excuse
12 me, Wynn Las Vegas endorses responsible gaming. We will cancel credit, reduce
13 your credit line upon your request. If you or anyone you know may have a gaming
14 problem responsibly – problem gaming responsibly, please call 1-800-522-4700. I
15 agree to the information set forth above is true and accurate to the best of my
16 knowledge.

17 Q Okay. Thank you.

18 A Uh-huh,

19 Q And below that typewritten language is a signature on the left hand
20 side. Do you know whose signature that is?

21 A It's Sidrit and I think it's Maleg [phonetic].

22 Q Who is he?

23 A She –

24 Q Okay.

25 A -- is a host that works for – that worked for Alex Pariente in his

1 department.

2 Q And to the right, there's another signature.

3 A And that would be the signature of the customer.

4 Q Okay. And would Wynn Las Vegas have issued credit to a patron who
5 had not signed a credit agreement?

6 A No.

7 Q Let's turn to the next page, Ms. Mele. This one I can blow up for you a
8 little bit. Okay, what is this, Ms. Mele?

9 A This is a statement that we have to put on every credit agreement for
10 the customer to sign as requested by gaming – the gaming division.

11 Q Okay. And so is this a – is the credit agreement a two-page document
12 or a one-page document.

13 A It's really a one-page. It's a – you flip it over.

14 Q Okay. So is this provision on the back of the credit agreement?

15 A Yes, it is.

16 Q And could you read this provision into the record, please.

17 A Warning. For the purpose of Nevada law, a credit instrument is
18 identical to a personal check and may be deposited in or presented to a bank or
19 other financial institution on which the credit instrument is drawn. Willfully drawing
20 or passing a credit instrument with the intent to defraud including knowing that there
21 are insufficient funds in the account upon which it may be drawn is a crime in the
22 state of Nevada which may result in criminal prosecution in addition to civil
23 proceedings to collect the outstanding debt.

24 Q Okay. And is there a signature below this language?

25 A Yes, there is.

1 Q And do you have an understanding as to whose signature this would
2 be?

3 A That would be the customer's signature.

4 Q And is this – is the signature, next to the signature, is there a date?

5 A 3/29/08.

6 Q Would Mr. La Barbera have been given any credit if he refused to
7 execute this provision –

8 A No.

9 Q -- or sign below this provision?

10 A No.

11 Q Okay. I'm going to be referring to Exhibit 4. Ms. Mele, can you go
12 ahead and turn to Exhibit 4.

13 A Yes.

14 Q Ms. Mele, can you identify what this document is. This is the first page
15 of Exhibit 4, Bates Number WYNN-39.

16 A This is a credit limit line increase request.

17 Q Okay. And whose name appears on this credit line increase request?

18 A Mario La Barbera.

19 Q Does it identify Mr. La Barbera's account number?

20 A Yes, it does.

21 Q And does it identify a credit limit?

22 A Yes, it does.

23 Q And what's that credit limit?

24 A It's a temporary limit of \$300,000.

25 Q Okay. There's a date up above the account number, correct?

1 A Yes.

2 Q Do you know what that date is?

3 A 8/29/08.

4 Q Okay. Do you know whether Mr. La Barbera was actually on property
5 on August 29th of 2008?

6 A No. No.

7 Q Could I have you go ahead and read into the record the language that
8 is contained – the typewritten language about mid-document.

9 A Before drawing on my permanent or temporary marker limit, if granted, I
10 agree to sign credit instruments, i.e. markers or checks in the amount of the draw. I
11 authorize Wynn Las Vegas to complete any information on the credit instruments as
12 necess – as is necessary for the instrument to be presented for payment, including,
13 excuse me, including but not limited to name of the payee, a date, the name in the
14 account number, and/or address of any of my banks or financial institutions,
15 electronic encoding of the above otherwise, in other – as otherwise authorized by
16 law. I further authorize Wynn Las Vegas to add information relating to my account
17 which I now have or may have in the future regardless of whether that account now
18 exists or whether I provided the information on the account. I agree that each draw
19 against my marker limit is a separate transaction with Wynn Las Vegas. If I receive
20 funds, i.e. cash, chips, tokens, et cetera, before I execute a credit instrument, I will
21 promptly sign a credit instrument in the amount of the funds provided. I agree that
22 the Nevada law exclusively applies to these transactions. I agree that the exclusive
23 jurisdiction of any dispute arising out of – out of or related to any of the above, shall
24 it be at federal or state court, situated in Clark County, Nevada. In addition to any
25 amounts authorized by Nevada law, I agree to pay all costs for collection including

1 attorney's fees and court costs and interest at a rate of 18 percent unless prohibited
2 by Nevada law. And in such cases, at the highest amount permitted by Nevada law
3 from the date of issuance of the marker if dishonored by a financial institution.

4 Q And is there a signature of a patron identified on this document?

5 A Yes, there is.

6 Q Okay. And do you have an understanding as to who this individual is?

7 Who signed the document?

8 A It should be Mr. La Barbera.

9 Q There's a signature to the left as well or initials.

10 A Uh-huh.

11 Q Do you know whose those are?

12 A That's Alex Pariente.

13 Q Thank you. Let's turn to the next page. Well, before we get to the next
14 page, is there something that these credit line increase request forms are currently
15 referred to as?

16 A TTO slips.

17 Q Okay. And a TTO is what?

18 A This Trip Only. So it means that they have that available limit while
19 they are here. When they leave, we take that line away.

20 Q And generally speaking, if a patron increases their credit line during
21 their stay at the Wynn, is there a TTO that identifies that increase in credit?

22 A Yes.

23 Q Showing you the second page of Exhibit 4 which is WYNN-37. Again,
24 can you identify for the jury what this document is?

25 A It's a credit line increase request.

1 Q Okay. Can you identify the date on this request?
2 A 3/31/08
3 Q And what patron is identified?
4 A Mr. La Barbera.
5 Q And does it identify the credit line increase?
6 A Yes, it does.
7 Q Okay. Can you identify for – for us what that is?
8 A From 400,000 to 500,000.
9 Q And, again, is there a signature of a patron identified there?
10 A Yes.
11 Q And do you have an understanding as to whose signature that is?
12 A Mr. La Barbera.
13 Q And is there a set of initials below Mr. La Barbera's signature?
14 A Yes, Alex Pariente.
15 Q Okay. Would a patron be entitled to or be permitted to obtain credit at
16 Wynn prior to the execution of a credit line increase request that went beyond
17 essentially what their credit line was?
18 A Yes, but it would have to be, as it's said in here, has to be signed –
19 Q Understood.
20 A -- immediately upon presentation.
21 Q Okay. Let's turn to the third page. This is WYNN-36. What is this
22 document?
23 A This is a credit line increase request.
24 Q Okay. Can you identify the patron that is listed here?
25 A Mr. La Barbera.

1 Q Can you identify the date that this credit line increase was?
2 A 3/31/08.
3 Q And can you identify the account number that's listed?
4 A 3580678.
5 Q And is it your understanding that that is Mr. La Barbera's player
6 account?
7 A Yes.
8 Q Can you identify the amount increased for us?
9 A Yes, 500,000 to 600,000.
10 Q And is there a signature on this particular document?
11 A Yes, there is.
12 Q By the patron.
13 A Yes.
14 Q And whose signature do you understand this to be?
15 A Mr. La Barbera.
16 Q And is there also a set of initials on the lower left hand side?
17 A Yes.
18 Q And whose initials are those, to your knowledge?
19 A Alex Pariente.
20 Q Is it your understanding that by initialing this credit line increase
21 requests that – well, what is Mr. Pariente doing in initialing these documents?
22 A So there's this line here that says that he's witnessing the signature.
23 Q Okay. So is it your understanding that Mr. Pariente is verifying that the
24 document was signed by Mr. La Barbera?
25 A Yes.

1 Q Let's turn to the next page which is WYNN-35. And what is this
2 document?

3 A Credit line increase request.

4 Q Whose credit line increase request is this?

5 A Mr. La Barbera.

6 Q Can you identify the date for us, please?

7 A 4/2/08.

8 Q And the account number listed.

9 A 38 – 3580678.

10 Q Thank you. And the credit line increase went from what to what?

11 A 600,000 to 650,000.

12 Q And, again, is there a signature at the bottom of this credit line increase
13 request?

14 A Yes, there is.

15 Q And whose signature is this, as far as your understanding goes?

16 A Mr. La Barbera.

17 Q Okay. And is there a set of initials below Mr. La Barbera's signature?

18 A Yes.

19 Q And whose initials are those?

20 A Alex Pariente.

21 Q And is it your understanding that Mr. Pariente is witnessing that
22 Mr. La Barbera signed this document?

23 A Yes.

24 Q Let's turn to the last page of this document. Let me know when you're
25 there.

1 A I'm there.

2 Q And what is this document?

3 A This is a credit line increase request.

4 Q For which patron, Ms. Mele?

5 A Mr. La Barbera.

6 Q And can you identify the date that this credit line increase request was?

7 A 4/3/08.

8 Q And what account number is listed?

9 A 3580678.

10 Q And whose account do you understand that to be?

11 A Mr. La Barbera's.

12 Q And what is this credit line increase request go to – from and to?

13 A It goes from 600 to one million.

14 Q Okay. And is this document signed by the patron?

15 A Yes, it is.

16 Q And whose signature do you understand this to be?

17 A Mr. La Barbera.

18 Q And whose initials at the bottom, left-hand side of this document do you

19 see?

20 A Alex Pariente.

21 Q And, again, what is your understanding as far as what Mr. Pariente is

22 doing in initialing this document?

23 A He's witnessing Mr. La Barbera sign it.

24 Q Now I didn't have you go through and read the language from each one

25 of these credit line increase requests, but is it your understanding that the – the

1 typewritten language is the same for all of these?

2 A Yes.

3 Q Thank you. Generally speaking, Ms. Mele, in your experience, does
4 Wynn give credit to patrons who do not request it?

5 A No.

6 Q And is it your understanding – well, is it your understanding as to
7 whether Wynn gives credit as a marketing tool to patrons?

8 A No.

9 Q Is credit issued to patrons when they request it?

10 A If they deserve it.

11 Q If they qualify for it?

12 A Yes.

13 Q Okay. Are you familiar with front money accounts at Wynn?

14 A Yes.

15 Q Can you identify or describe what a front money account is?

16 A Front money account is when the patron puts up their own money into
17 the casino cage and they play against it. So they can put up chips if they've won,
18 they can put up cash, they can wire the money in, or they can bring a cashier's
19 check in.

20 Q Okay. And does a front money account operate kind of like a bank
21 account?

22 A Yes. They sign for each draw. They sign – what would – what
23 would – what you would think of as a front money withdraw slip but it looks like a
24 marker, but there's no bank on it –

25 Q Okay.

1 A -- at all.

2 Q And you said that individuals can wire money into their front money
3 accounts?

4 A Yes.

5 Q How is that generally done?

6 A They go to their bank and they have instruction -- they've requested
7 instructions from us and we've given them the instructions and then they go to their
8 bank and they give the instructions to their bank and they tell their bank how much
9 they want to wire and then their bank wires it to our bank. And our bank transfers it
10 to our account.

11 Q Okay.

12 [colloquy between opposing counsel]

13 BY MR. SEMENZA:

14 Q Ms. Mele, can I have you turn next to Plaintiff's Proposed Exhibit 19.
15 Do you recognize this document?

16 A It's an email. It was sent to me by Alex Pariente.

17 Q Don't tell me the contents of the --

18 A All right. And I --

19 Q -- email as --

20 A -- forwarded it to my credit manager.

21 Q Do you recall receiving this particular email?

22 A No.

23 Q Pardon?

24 A No.

25 Q Okay. Do you have any reason to doubt that you did in fact receive this

1 email from Mr. Pariente?

2 A No, I have no reason.

3 Q Do you have any doubt in your mind as to whether you forwarded this
4 email to the – to Ms. Delores Devera?

5 A No, I have no doubt.

6 Q Okay. And do you have any reason to dispute that you received this
7 email June 17th of 2008?

8 A No, I have no reason.

9 Q Do you have any reason to dispute that you forwarded this email on
10 June 18th of 2008 to Ms. Devera?

11 A No.

12 Q Is this a document that is kept in the ordinary course of Wynn's
13 business dealings?

14 A Yes.

15 MR. SEMENZA: Your Honor, I'd move for the admission of Exhibit, Plaintiff's
16 Proposed Exhibit 19.

17 MR. ALBREGTS: No objection, Your Honor.

18 THE COURT: It'll be admitted.

19 MR. SEMENZA: Thank you, Your Honor.

20 BY MR. SEMENZA:

21 Q Ms. Mele, can you identify what this document is?

22 A This is an email sent to me by – from Alex Pariente at 9:30 at night.

23 Q Okay.

24 A And in reference to Mr. La Barbera.

25 Q Okay. And who is the email sent to?

1 A Me, Sandy Mele.

2 Q And can you identify what the subject line is?

3 A Mario La Barbera.

4 Q Do you know why the importance is identified as high?

5 A No, I do not.

6 Q Okay. Could you read the email, please?

7 A Hi Sandy, could you please update this customer profile with the

8 following bank information? Banca Popolare Italiana, Filiale di Baghiera, Baghiera;

9 Via diego d'amico, account number 2191028. Thank you.

10 Q Okay. And based upon this email, do you know what you did with it?

11 A I forwarded it the next morning to Delores Devera, who is the Credit

12 Manager and asked her to take care of it.

13 Q Okay. And it says in the email, would you please handle this?

14 A Yes.

15 Q Okay. And what did you – what was your expectation for Mr. Devera in

16 handling it?

17 A To get this into the computer, get it into the customer's file, the bank

18 information and to update it.

19 Q Okay. And going back to Exhibit 2, which was the credit application, is

20 it your understanding that Mr. La Barbera was changing his bank account

21 information from what he had originally provided as part of his credit application?

22 A Yes.

23 Q And to the best of your knowledge, do you know whether this back

24 account information changed was – change was implemented by Wynn?

25 A I would have to say it was, excuse me, it was.

1 Q Do you know whether this email is – which changed Mr. La Barbera's
2 banking information came after his trip, during his trip or before his trip to the Wynn?

3 A It came after his trip. His trip was in March and April.

4 Q Okay. Ms. Mele, can you identify what a marker is?

5 A Marker is a countercheck. It's like a check that you write out of your
6 checkbook for your rent or your mortgage or your car payment. And when it's
7 presented to the bank, it's expected to be paid.

8 Q Is it your understanding that a marker is essentially a personal check?

9 A Yes.

10 Q Can you walk me through the process of how a marker generally is
11 obtained?

12 A Yes. The guest or the customer goes to the table, sits down, presents
13 his red card so that they know who he is and they can identify him. And then he
14 says I have a credit line, I'd like a \$5,000 marker. They then take this number that's
15 on this red card and they give it to the – they write up a slip that's a marker request
16 with the customer's name, red card number, and the amount of the request and they
17 hand that to what is called, we used to call them pit clerks, they don't call them that
18 anymore. Pit administrators, excuse me. And they sit in front of the computer and
19 they type in the customer account number and it brings it up and it shows that the
20 customer has an X number amount of credit and they put it in there he wants \$5,000
21 and they hit the enter key and then it's printed on a machine. The three page – it's a
22 three section, two copy, an original and one copy, document. They take it and they
23 give it to the floorperson. The floorperson then asks the customer to sign it. The top
24 part is the actual marker. And that's dropped into – no, it's not, excuse me, it's given
25 back to the pit clerk and it's held there until the end of the shift. If it's not redeemed

1 prior to the end of the shift, it's sent to the main cage.

2 Q Okay. And how is a marker redeemed?

3 A So if you're sitting in the pit, you can redeem a marker at the table if you
4 win. You can buy it back with your chips and that's why it's kept there in that area
5 where you're sitting. If you get up from the table and it's already been transferred to
6 their – to the main cage, you have to go to the main cage where all the cashiers are,
7 and you tell them you want to buy back your marker. And you give them your red
8 card and you pay it back. You can pay it back with chips, cash, a personal check,
9 chips or cash, make the available – make the amount of the marker available to you
10 immediately. A personal check does not make the amount available to you for,
11 depending upon where you live, three banking – three to five banking days I believe
12 it is or if it's way out of state, it's like seven banking days.

13 Q And when an individual or patron takes out a marker, is there identity
14 verified in some fashion?

15 A Their identity is verified by the pit administrator from the picture that's
16 on their passport or their driver's license that's been scanned into the computer. If
17 they have doubts, they would call the floorperson over or the pit manager, and they
18 would all look at it, look at the customer, so forth and so on. They also verify the
19 signature on the marker with the signature that we have scanned into the computer
20 from their credit agreement.

21 Q Does the floorperson or casino services team lead play a role in
22 verification of identity of a patron when they're taking out a marker?

23 A I think that they might look at the signature in the computer. I'm not
24 positive.

25 Q Okay. Does the dealer play a role at all in it?

1 A No.

2 Q Does the dealer view or watch the patron sign the particular marker?

3 A I don't know.

4 [colloquy between opposing counsel]

5 BY MR. SEMENZA:

6 Q Ms. Mele –

7 MR. SEMENZA: May I approach, Your Honor?

8 THE COURT: Yes.

9 MR. ALBREGTS: Your Honor, for the record, this wasn't provided previously.

10 It's just a blank marker sheet and I just don't want the Court to deem this as a waiver
11 of objections to things not produced before. Thank you.

12 THE COURT: Yeah, this is only a demonstrative –

13 MR. SEMENZA: Correct, Your Honor.

14 THE COURT: -- exhibit.

15 BY MR. SEMENZA:

16 Q Ms. Mele, what is that document?

17 A This is the marker document.

18 Q Okay. Can you sort of show the jury how it's folded?

19 Okay. And then where does the patron sign?

20 A Right here.

21 Q Okay. And is a carbon copy created at the marker?

22 A Right here where it says non-negotiable. The signature comes through
23 onto there.

24 Q After the marker is executed, is there a portion of the marker – a portion
25 of that document that is put in the fill box, I guess? And I may not have that

1 terminology correct. Or do you know?

2 A I don't know.

3 Q Okay.

4 MR. SEMENZA: May I approach, Your Honor?

5 THE COURT: Yes.

6 MR. SEMENZA: Okay.

7 BY MR. SEMENZA:

8 Q Ms. Mele, do you have an understanding as to what information is
9 provided on the marker prior to its execution?

10 A I believe it has the patron's name and address, their red car number,
11 that it's payable to Wynn Las Vegas. It has the amount in U.S. dollars, typed, and
12 then written out.

13 Q Well, when you have a blank marker, is the amount of the marker and
14 the patron identified?

15 A Yes.

16 Q Okay. Is the address in other identifying the date added at a later time,
17 to your knowledge?

18 A I know that the date is.

19 Q Okay. Generally speaking, when is a marker submitted for deposit?

20 A Depending upon the amount of the marker, if it's \$5,000 or less, it's
21 deposited, it's presented within seven to ten days. If it's over 5,000, it's presented, I
22 believe in 14 days up to 10,000, and then I think at 10,000, it goes to 30.

23 Q Thirty days.

24 A Thirty days.

25 Q Okay.

1 A On international customers, it's usually held for 90 days.

2 Q And, at times, are discounts given for prompt payment on casino debts?

3 A Yes, they are, once they're paid.

4 Q Once they're paid.

5 A Yes.

6 Q And generally speaking, what are the considerations that Wynn utilized
7 while you were working there for giving discounts to patrons?

8 A That they lost and we can – we could prove that they lost. I don't know
9 what other considerations were. It really wasn't in my realm.

10 Q Okay. Fair enough. Can I have you turn to Plaintiff's Proposed
11 Exhibit 20, please.

12 [colloquy between opposing counsel]

13 BY MR. SEMENZA:

14 Q Ms. Mele, do you recognize this document?

15 A It's a –

16 Q I don't want to know what it is. Just –

17 A Yes.

18 Q Okay.

19 A I recognize it.

20 Q And did you sign the bottom of this document?

21 A Yes, I did.

22 Q And to your knowledge or to the best of your knowledge, was this
23 document sent?

24 A To the best of my knowledge, it was.

25 Q And who, to the best of your knowledge was it sent to?

1 A Mr. La Barbera.

2 Q Okay. Is this a document that's kept in the ordinary course of business
3 at Wynn Las Vegas.

4 A Yes.

5 MR. SEMENZA: I move for the admission of Exhibit – Plaintiff's Proposed
6 Exhibit 20.

7 MR. ALBREGTS: No objection, Your Honor.

8 THE COURT: Be admitted.

9 MR. SEMENZA: Thank you, Your Honor.

10 Your Honor, I don't know what time you want to break for the day. So it
11 is almost 5.

12 THE COURT: Counsel approach.

13 [Bench Conference begins at 4:58 p.m.]

14 THE COURT: So how much longer do you have?

15 MR. SEMENZA: I don't have very much longer at all –

16 THE COURT: How much --

17 MR. SEMENZA: -- probably 5 or 10 minutes?

18 THE COURT: -- do you have? Do you expect?

19 MR. ALBREGTS: Probably about 15, 20 minutes, maybe half hour at most.

20 MR. SEMENZA: I'm fine in having her come back tomorrow. I don't have an
21 issue with that. I don't want to keep the jury.

22 THE COURT: All right. Yeah, I'm thinking 45 minutes at best so. What do
23 you have scheduled for tomorrow? What's your –

24 MR. SEMENZA: Your Honor, in all honesty, I would anticipate concluding the
25 testimony, plaintiff's testimony tomorrow.

1 THE COURT: So hers and?
2 MR. SEMENZA: Conway and then the quick four, I believe, individuals.
3 That's it.
4 THE COURT: Okay. You guys have jury instructions done?
5 MR. ALBREGTS: Yeah. There's only -- I just need to talk to L.J. about three
6 of his and then I've got a couple we need to talk about. But we'll be -- we'll be easy
7 on that. In other words, we'll just stick them in front of you, Your Honor, and you just
8 decide one way or the other --
9 THE COURT: All right. We'll be --
10 MR. ALBREGTS: -- and whatever you decide, you decide.
11 THE COURT: -- closing on Wednesday?
12 MR. SEMENZA: Yes.
13 MR. ALBREGTS: Yes, sir.
14 MR. SEMENZA: I think so.
15 THE COURT: Okay.
16 MR. SEMENZA: Are we --
17 MR. ALBREGTS: We'll finish Wednesday.
18 MR. SEMENZA: -- are we full day on Wednesday?
19 THE COURT: Yeah.
20 MR. SEMENZA: Okay. Yeah, we'll --
21 MR. ALBREGTS: Oh then, we'll definitely finish Wednesday, absolutely.
22 MR. SEMENZA: Yeah.
23 THE COURT: Yeah. Okay. Then --
24 MR. ALBREGTS: And then the only other issue besides the jury instructions,
25 Your Honor --

1 THE COURT: What?

2 MR. ALBREGTS: The only other issue besides the jury instructions is we'll
3 have to address the deposition transcript --

4 THE COURT: Yeah.

5 MR. ALBREGTS: -- stuff before I put my case on, that's all.

6 THE COURT: Okay.

7 MR. ALBREGTS: Okay.

8 [Bench Conference ends at 4:59 p.m.]

9 THE COURT: All right, ladies and gentlemen, we're going to take our evening
10 recess. We'll have you take, if you will, I guess an early lunch or at least you don't
11 have to come in until, let's make it 12:30. I have morning calendar in the morning.
12 But then from 12:30, other than breaks, we won't take a lunch break. So eat before
13 you come in. And vote.

14 During this recess, you're admonished, do not talk or converse amongst
15 yourselves or with anyone else on any subject connected with this trial. Or read,
16 watch, or listen to any report of or commentary on the trial, or any person connected
17 with this trial by any medium of information, including without limitation, newspapers,
18 television, radio or Internet. Do not form or express any opinion on any subject
19 connected with the trial until the case is finally submitted to you.

20 Have a good evening.

21 ...

22 ...

23 ...

24 ...

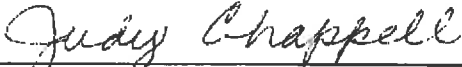
25 ...

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

THE MARSHAL: All rise for the jury.

[Proceeding concluded at 5:01 p.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.



Judy Chappell
Court Recorder

1 PROSPECTIVE JUROR NUMBER 034: I am.

2 MR. SEMENZA: Where are you employed?

3 PROSPECTIVE JUROR NUMBER 034: I work for Scientific Games.

4 MR. SEMENZA: That's right. Okay. And what do you do at Scientific
5 Games?

6 PROSPECTIVE JUROR NUMBER 034: I'm a customer service manager for
7 a call center.

8 MR. SEMENZA: Can you tell me how that job operates essentially generally?

9 PROSPECTIVE JUROR NUMBER 034: It's -- we're going through actually
10 several mergers over the last several years. It was Shuffle Master, then Bally, and
11 then Scientific Games bought WMS and then bought all of us. So customers will
12 call in, like Bellagio Casin -- you know, all casinos and if something's broke then we
13 page out a technician.

14 MR. SEMENZA: So you are the link between the service team or
15 department --

16 PROSPECTIVE JUROR NUMBER 034: Yes.

17 MR. SEMENZA: -- and the customer. Okay. How long have you been
18 there?

19 PROSPECTIVE JUROR NUMBER 034: It'll be 16 -- it was 16 years in April.

20 MR. SEMENZA: Okay. And do you have any technical training? Did you go
21 to school to become a --

22 PROSPECTIVE JUROR NUMBER 034: Uh-uh.

23 MR. SEMENZA: -- nurse or a doctor or anything like that?

24 PROSPECTIVE JUROR NUMBER 034: No.

25 MR. SEMENZA: And is your husband -- are you married?

1 PROSPECTIVE JUROR NUMBER 034: Yes.

2 MR. SEMENZA: Is he in the air force or retired from the air force?

3 PROSPECTIVE JUROR NUMBER 034: Retired from the air force. He was a
4 government contractor and then just recently became a government employee
5 about a year ago.

6 MR. SEMENZA: How long has he been in service?

7 PROSPECTIVE JUROR NUMBER 034: In the military?

8 MR. SEMENZA: Yes.

9 PROSPECTIVE JUROR NUMBER 034: He retired in '99 with 22 years.

10 MR. SEMENZA: Any negative opinions or thoughts about the gaming
11 industry in general.

12 PROSPECTIVE JUROR NUMBER 034: No I don't. I – it's been a long time
13 ago, 30 years ago, when I was married once before. My husband was a gambler.
14 That's been so long ago.

15 MR. SEMENZA: Do you have any strong feelings about that issue?

16 PROSPECTIVE JUROR NUMBER 034: I did it at one time, you know, but,
17 you know, I'm fine now. You know, I just know how bad it can be.

18 MR. SEMENZA: And would you be able to put aside those issues you have
19 with your former husband a long time ago and evaluate the evidence that's
20 presented to you?

21 PROSPECTIVE JUROR NUMBER 034: Absolutely.

22 MR. SEMENZA: In an unbiased and impartial manner?

23 PROSPECTIVE JUROR NUMBER 034: Yes.

24 MR. SEMENZA: Thank you. Have you had any lawsuits personally that
25 you've been involved in?

1 PROSPECTIVE JUROR NUMBER 034: No.
2 MR. SEMENZA: Okay. Thank you very much.
3 Ms. Brown?
4 PROSPECTIVE JUROR NUMBER 035: Yes.
5 MR. SEMENZA: How are you?
6 PROSPECTIVE JUROR NUMBER 035: Fine, thank you.
7 MR. SEMENZA: Are you employed at the Bellagio?
8 PROSPECTIVE JUROR NUMBER 035: Yes.
9 MR. SEMENZA: My notes are correct. And you are what at the Bellagio?
10 PROSPECTIVE JUROR NUMBER 035: Table game supervisor.
11 MR. SEMENZA: How long have you been there?
12 PROSPECTIVE JUROR NUMBER 035: Eighteen years.
13 MR. SEMENZA: Do you have any other family members that work in the
14 casino industry?
15 PROSPECTIVE JUROR NUMBER 035: My husband.
16 MR. SEMENZA: What does he do?
17 PROSPECTIVE JUROR NUMBER 035: He's a casino shift manager at the
18 Flamingo.
19 THE COURT: Can you hear?
20 THE COURT RECORDER: Need to --
21 THE COURT: You need to speak up a little.
22 MR. SEMENZA: How long has he been --
23 THE COURT: Does she have the --
24 MR. SEMENZA: I'm sorry.
25 THE COURT: Oh.

1 MR. SEMENZA: How long has he been in that position?

2 PROSPECTIVE JUROR NUMBER 035: Ten years.

3 MR. SEMENZA: Do you have any negative opinions or beliefs about the
4 casino industry in general?

5 PROSPECTIVE JUROR NUMBER 035: No.

6 MR. SEMENZA: Any negative opinions or belief about gambling in general?

7 PROSPECTIVE JUROR NUMBER 035: No.

8 MR. SEMENZA: Have you been a party to a lawsuit before?

9 PROSPECTIVE JUROR NUMBER 035: No.

10 THE MARSHAL: Put the mic up.

11 PROSPECTIVE JUROR NUMBER 035: No.

12 MR. SEMENZA: Thank you. If you're selected as a juror in this particular
13 matter, would you be able to be unbiased and impartial in evaluating the evidence?

14 PROSPECTIVE JUROR NUMBER 035: Yes.

15 MR. SEMENZA: Thank you. You can go ahead and pass the – thank you
16 very much.

17 Ms. Lucatelli.

18 PROSPECTIVE JUROR NUMBER 036: Hi, how are you?

19 MR. SEMENZA: I'm well. You work at the Monte Carlo?

20 PROSPECTIVE JUROR NUMBER 036: Yes.

21 MR. SEMENZA: And you're in the food and beverage department.

22 PROSPECTIVE JUROR NUMBER 036: Yes.

23 MR. SEMENZA: And what do you do there specifically?

24 PROSPECTIVE JUROR NUMBER 036: Cashier in all the restaurants and
25 in-room dining, taking the orders, and cashing checks, and the buffet and all around.

1 MR. SEMENZA: How long have you been doing that?

2 PROSPECTIVE JUROR NUMBER 036: Twenty years at the Monte Carlo
3 and I opened up – my first job in town was the Mirage, then I opened up Treasure
4 Island and MGM. So about 25 years doing the same thing.

5 MR. SEMENZA: And are you married?

6 PROSPECTIVE JUROR NUMBER 036: No, divorced.

7 MR. SEMENZA: Divorced. Do you have any negative opinions of Wynn Las
8 Vegas?

9 PROSPECTIVE JUROR NUMBER 036: No.

10 MR. SEMENZA: Did you have friends or relatives that work at Encore?

11 PROSPECTIVE JUROR NUMBER 036: Yeah, my brother-in-law, he opened
12 up Wynn and then transferred to Encore when they opened. He's a pit manager.

13 MR. SEMENZA: And if you're selected as a juror in this particular matter,
14 would you be able to be unbiased and impartial in the evaluation of the evidence as
15 presented to you?

16 PROSPECTIVE JUROR NUMBER 036: Yes.

17 MR. SEMENZA: Okay. Just a moment, Your Honor. I think I'm finished.

18 Ms. Lucatelli, do you have any strong opinions about Mr. Wynn, Steve
19 Wynn.

20 PROSPECTIVE JUROR NUMBER 036: No, I just –

21 MR. SEMENZA: No opinions, good bad or indifferent essentially.

22 PROSPECTIVE JUROR NUMBER 036: No.

23 MR. SEMENZA: Thank you, Your Honor.

24 THE COURT: Pass for cause? Does plaintiff pass for cause?

25 MR. SEMENZA: Just a moment. Yes, Your Honor, may be approach?

1 THE COURT: Approach.

2 [Bench Conference begins at 2:07 pm.]

3 MR. SEMENZA: I think based upon my follow up questioning of Mr. Empaces
4 that there would be a basis to excuse him for cause.

5 THE COURT: 027?

6 MR. ALBREGTS: I disagree.

7 MR. SEMENZA: He did say that he did not know whether he could be
8 unbiased and impartial based upon his feelings concerning the gambling industry
9 and gaming.

10 THE COURT: I told you that he was – what I wrote only said potentially and
11 he specifically in your first round said not biased, 027. I don't know why you'd want
12 him on, but because he said his friend works for Wynn, but assuming you're
13 objecting.

14 MR. ALBREGTS: Yeah, no I am. He says – he said that he, you know, it was
15 a personal perception that he didn't impose on anybody else. And I have no –

16 THE COURT: He says he has a hard time with, I guess, gambling in general,
17 but I'm denying the motion for cause.

18 MR. SEMENZA: Thank you, Your Honor.

19 THE COURT: Is that it?

20 MR. SEMENZA: Yes, Your Honor.

21 THE COURT: Okay.

22 [Bench Conference ends at 2:09 p.m.]

23 THE COURT: Other than that, pass for cause? We need it on the record.

24 MR. SEMENZA: Yes, noting –

25 THE COURT: With your discussion.

1 MR. SEMENZA: Yes, thank you.

2 THE COURT: Defendants, --

3 MR. ALBREGTS: Thank you, Your Honor.

4 THE COURT: -- you may inquire.

5 MR. ALBREGTS: Afternoon, I hope you had a good lunch. Let me ask these
6 questions generally for the sake of economy timewise and not to repeat anything
7 that the Judge or Counsel might have asked you so just raise your hand in general if
8 you have an affirmative response to the question.

9 Is the Wynn or the Encore different or distinguished in any of your
10 minds from any other casino or gambling establishment in Las Vegas? Or is it like
11 every other one? It's not special to anyone? Thank you.

12 Do any of you speak languages besides English? Hold on. That
13 would be, thank you. Where's the other one? Okay, thank you.

14 Does anyone here believe that someone coming from another country
15 to the United States should have to speak English? Two people.

16 PROSPECTIVE JUROR NUMBER 036: To live or just to visit?

17 MR. ALBREGTS: I'm sorry.

18 PROSPECTIVE JUROR NUMBER 036: To visit only?

19 MR. ALBREGTS: No, just somebody coming here from another country
20 whether it be France or Italy or a country that doesn't speak English. Do you feel a
21 person visiting the United States should be --

22 [Unknown prospective jurors speaking out loud]

23 MR. ALBREGTS: -- have to speak English. I'm sorry, I'm not talking about
24 immigration, I know it's a political season.

25 It's okay with all of you if visitors come here and they can't speak

1 English? Nobody has a problem with that? Okay. I can ask you further questions if
2 you do. No, okay, you're shaking your head no. I'll accept that.

3 Does anybody feel that if an individual can't speak English while they're
4 here, if whatever happens to them as a consequence is as much as their fault? In
5 other words, that the inability to speak English is no excuse for anything that may
6 happen to them while they're here? You two feel that?

7 UNKNOWN PROSPECTIVE JUROR: One more time. Say that one more
8 time, please.

9 MR. ALBREGTS: If somebody were to be involved in a matter that caused
10 some consequence to the negatively as a result of their inability to speak English, in
11 your mind, is that solely their fault?

12 THE COURT: You're going need -- if you're going, ask individual questions --

13 MR. ALBREGTS: I'll do individually. Yeah, no, no. I got --

14 THE COURT: -- so we can get name and badge number.

15 MR. ALBREGTS: -- I got the responses. Thank you, Your Honor. Appreciate
16 the patience. Excuse me.

17 I'm not a very good clean-up hitter. I always like to bat first. Excuse me
18 for a moment.

19 Let me ask it this way, it was a poor question, I apologize. What you'll
20 find out is my client, Mario La Barbera, from Sicily, Italy, doesn't speak English, read
21 or write --

22 MR. SEMENZA: Your Honor --

23 MR. ALBREGTS: -- comprehend English at all. Does that affect --

24 MR. SEMENZA: Your Honor --

25 MR. ALBREGTS: -- does that affect your ability to --

1 THE COURT: Approach. Are you --

2 MR. ALBREGTS: -- judge this case --

3 THE COURT: Approach.

4 [Bench Conference begins at 2:13 p.m.]

5 THE COURT: Yeah.

6 MR. SEMENZA: He can ask the questions, but he can't basically testify at
7 this point. I mean, he can ask the question related to --

8 MR. ALBREGTS: Not exactly. In fact, in dispute but I can --

9 MR. SEMENZA: What's -- what was the question, Jeff, and maybe I don't
10 have it. If you can just --

11 THE COURT: Maybe his question -- well, anyway I'm overruling the objection.
12 It was an appropriate -- can they be fair and impartial because his client --

13 MR. ALBREGTS: I'll phrase it that way.

14 MR. SEMENZA: Okay.

15 THE COURT: Okay.

16 MR. ALBREGTS: That's fair enough, fair enough.

17 [Bench Conference ends at 2:13 p.m.]

18 THE COURT: Overruled.

19 MR. ALBREGTS: More sleep, I guess.

20 Could all of you still be fair and impartial judging this case in the
21 Defendant Mario La Barbera if you were to learn that he does not read, write, speak
22 or comprehend English whatsoever?

23 THE COURT: Name and badge number.

24 PROSPECTIVE JUROR NUMBER 031: 031, Epling.

25 MR. ALBREGTS: Thank you, Mr. Epling.

1 PROSPECTIVE JUROR NUMBER 031: You're welcome. The way that you
2 mentioned that, you know, asking where the bathroom is and in whatever this case
3 is with a large amount of money and asking for money, that's – we're discussing two
4 different things. I can forgive somebody for walking in the ladies restroom not
5 knowing English, but – does that make sense?

6 MR. ALBREGTS: Yes, sir. Thank you. But otherwise, it matters outside of
7 knowing where the bathroom is more serious matters, that would affect your ability
8 to be impartial and not –

9 PROSPECTIVE JUROR NUMBER 031: I believe so. Yeah.

10 MR. ALBREGTS: Thank you, Mr. Epling.

11 Anybody else here, Mr. Epling's feelings? All right. Could I have the
12 show of those hands again, please.

13 Court's indulgence, thank you.

14 Thank you. Have any of you or a family member, close friend, ever had
15 any interaction with the bad check unit of the district attorney's office, Clark County
16 District Attorney's office? Anybody else? Two people. Thank you.

17 All right. May I specifically question now, Your Honor?

18 THE COURT: Go ahead.

19 MR. ALBREGTS: Thank you.

20 If I checked the box wrong, I apologize. But I think we'll start with you,
21 Mr. Richter.

22 PROSPECTIVE JUROR NUMBER 003: Yes.

23 MR. ALBREGTS: You raised your hand with respect to the English question.

24 PROSPECTIVE JUROR NUMBER 003: Yeah.

25 MR. ALBREGTS: Please – I'm sorry, wait for the microphone, I apologize.

1 Will you share your thoughts with us on that, please?

2 PROSPECTIVE JUROR NUMBER 003: Yeah, like he was saying, I mean,
3 it's one thing to like not – not go in, like, the wrong bathroom, but, like, when it gets
4 something serious, like a large amount of money that – I understand, like, some
5 circumstances, like you can get tricked or stuff like that, but in others, like, you
6 should be able to know, like when it has to do with a large amount of money, should
7 be able to know what you're – what you're doing and what you're saying. And you
8 shouldn't be – still be able to be held accountable for your actions.

9 MR. ALBREGTS: Thank you. And Judge Hardy's mom, I didn't – I didn't
10 have you down as raising your hand, was I correct on that?

11 PROSPECTIVE JUROR NUMBER 005: You're correct, but I kind of agree –

12 THE COURT: Name and badge number.

13 PROSPECTIVE JUROR NUMBER 005: Oh, 005.

14 MR. ALBREGTS: Thank you, Mrs. Hardy.

15 PROSPECTIVE JUROR NUMBER 005: I kind of agree with what he said. If
16 you're going to get involved with something that it involves a lot of money, I would
17 think it would be your responsibility to have it interpreted for you.

18 MR. ALBREGTS: Thank you.

19 Janet.

20 PROSPECTIVE JUROR NUMBER 006: I feel the same.

21 MR. ALBREGTS: Okay. And what --

22 THE COURT: Name and badge number.

23 PROSPECTIVE JUROR NUMBER 006: Ruiz, 006.

24 MR. ALBREGTS: And I also had you marked down as speaking another
25 language.

1 PROSPECTIVE JUROR NUMBER 006: Uh-huh.

2 MR. ALBREGTS: Is that correct?

3 PROSPECTIVE JUROR NUMBER 006: Yes.

4 MR. ALBREGTS: And what language do you speak?

5 PROSPECTIVE JUROR NUMBER 006: Spanish.

6 MR. ALBREGTS: Spanish? Any other languages?

7 PROSPECTIVE JUROR NUMBER 006: No, that's it.

8 MR. ALBREGTS: And have you spoken English and Spanish since you can
9 remember?

10 PROSPECTIVE JUROR NUMBER 006: Yeah.

11 MR. ALBREGTS: Okay. Thank you. Pass the microphone to Ms. Couture.
12 Hope I pronouncing that right.

13 PROSPECTIVE JUROR NUMBER 037: Couture, yes, 037. Yes, I feel the
14 same the way. In more serious matters, if you had an accident, had to go to the
15 hospital or in the case of a lot of money involved, if I was in a foreign country, I
16 would want an interpreter. Somebody who spoke my language that could let me
17 know what's going on. If I was negotiating something, I would want to know I
18 completely understood what I would be getting into.

19 MR. ALBREGTS: Thank you, very much.

20 Next, which would be Ms. Keisa Jenkins.

21 PROSPECTIVE JUROR NUMBER 017: Yes, Keisa Jenkins, 0017 [sic].

22 MR. ALBREGTS: Thank you, Keisa.

23 PROSPECTIVE JUROR NUMBER 017: And I agree with everyone else.

24 Like, if you come to a foreign country, and, you know, you don't know the language,
25 I understand I would want an interpreter also, but when you're dealing with a large

1 amount of money, at some point, no matter, money is money. You would know that
2 you're spending, you know. I think you would know. That's my opinion.

3 MR. ALBREGTS: I appreciate that. If you would pass it to, I think, is it
4 Carolyn?

5 PROSPECTIVE JUROR NUMBER 020: Yes.

6 Did you have –

7 PROSPECTIVE JUROR NUMBER 019: Oh.

8 MR. ALBREGTS: Did you raise your hand too?

9 PROSPECTIVE JUROR NUMBER 019: Yes, uh-huh.

10 MR. ALBREGTS: Oh, I'm sorry. You – oh yes, you're the one that worked for
11 Judge Bennett. I apologize. Go ahead. I'm sorry. What are your thoughts on the
12 matter?

13 PROSPECTIVE JUROR NUMBER 019: Tourism, gambling is tourism so
14 when people come from another country, they're coming to gamble. And if you're
15 coming to gamble, you know exactly what you're doing. My opinion. If he's coming
16 to gamble, he knows he could win or he could lose and if he loses then you have
17 consequences.

18 MR. ALBREGTS: So if I understood your answer correctly, Ms. Cherry-Clark,
19 it doesn't matter to you whether he can read, write, speak English or comprehend it.

20 PROSPECTIVE JUROR NUMBER 019: Pardon me?

21 MR. ALBREGTS: It doesn't matter to you one way or the other whether
22 Mr. La Barbera –

23 PROSPECTIVE JUROR NUMBER 019: No, because I think they should be
24 able to – they should know what they're doing.

25 MR. ALBREGTS: Thank you very much.

1 PROSPECTIVE JUROR NUMBER 020: Harner, 0 – 020.
2 MR. ALBREGTS: Carolyn Hammer [sic].
3 PROSPECTIVE JUROR NUMBER 020: H-A-R-N-E-R.
4 MR. ALBREGTS: Okay, thank you.
5 THE COURT: Counsel –
6 MR. ALBREGTS: What are your thoughts?
7 PROSPECTIVE JUROR NUMBER 020: I basically agree with what's been
8 said.
9 THE COURT: You stretching?
10 MR. SEMENZA: No, I'll go ahead and let her finish, but I would like to
11 approach.
12 PROSPECTIVE JUROR NUMBER 020: I agree with what's been said.
13 MR. ALBREGTS: Thank you for your –
14 THE COURT: Approach.
15 MR. ALBREGTS: We need to approach?
16 [Bench Conference begins at 2:20 p.m.]
17 MR. SEMENZA: Your Honor, I appreciate Mr. Albregts' questioning relating
18 to this; however, there is no defense associated with failure to know the language.
19 There is no defense to failure to read a contract beforehand. So this line of
20 questioning I think is a bit prejudicial because it's not at issue in this case based
21 upon the case law.
22 THE COURT: Well, if it's your intention, if you're trying to show a bias, you're
23 asking them basically a fact question. And if they decide that they, you know, one
24 way or the other, it's not showing a bias. It's showing their determination of a fact
25 issue.

1 MR. SEMENZA: Right.

2 THE COURT: And it's –

3 MR. ALBREGTS: Well I'm inquiring as to their bias or impartiality based on

4 his inability to read, write or speak English. And they all raised their –

5 MR. SEMENZA: That's –

6 MR. ALBREGTS: -- hands, so I just wanted to elaborate –

7 THE COURT: They haven't shown – they haven't --

8 MR. ALBREGTS: -- so I know which one to perempt or not.

9 THE COURT: -- said a bias. They – the way you ask it and the quest – the

10 MR. ALBREGTS: Well I'll ask that straight up question.

11 THE COURT: -- answer you're getting –

12 MR. ALBREGTS: All right.

13 THE COURT: -- is they feel – you're basically trying your case now and it's

14 not going well. That's not allowed.

15 MR. ALBREGTS: You're not going to excuse all of them for cause --

16 THE COURT: I'm not going to --

17 MR. ALBREGTS: -- if I ask you to?

18 THE COURT: -- excuse them all for cause because there is no cause. If you

19 want to ask can they be fair and impartial regarding the evidence. So far you've

20 asked them if they – you've asked them a fact decision regarding the ultimate

21 issue –

22 MR. ALBREGTS: Well, I'll switch it to --

23 THE COURT: -- or part of the ultimate issue. So –

24 MR. ALBREGTS: -- fair and impartial, I guess.

25 THE COURT: Okay. Thank you.

1 MR. SEMENZA: Thank you.

2 [Bench Conference ends at 2:22 p.m.]

3 MR. ALBREGTS: Let me ask it to you this way. Can you – can you still
4 weigh the evidence fairly and impartially notwithstanding the fact that Mr. La Barbera
5 doesn't comprehend English?

6 PROSPECTIVE JUROR NUMBER 023: My name's Reizian-Terwilleger and
7 my badge number's 023. And I have students who don't speak English and don't
8 understand any of the directions that I give them unless I physically point to what I'm
9 doing and even then, in my opinion, would be really difficult for me to say that he
10 could have possibly known what was going if he doesn't speak English or read or
11 write English and there wasn't an interpreter present. So I would be thinking that no
12 one should have entered into any contract with him of any kind or any kind of that
13 because he couldn't possibly known what he was doing.

14 MR. ALBREGTS: Thank you. Would you pass the microphone?

15 Ms. Bourgon, this is going to seem somewhat unusual, but do we know
16 each other?

17 PROSPECTIVE JUROR NUMBER 039: No.

18 MR. ALBREGTS: We've never met in the past or been involved in a case?

19 PROSPECTIVE JUROR NUMBER 039: No.

20 MR. ALBREGTS: It's just my old age then affecting me. Deja vu all over
21 again, I guess. I thought we had, but you're certain of that.

22 PROSPECTIVE JUROR NUMBER 039: Yes.

23 MR. ALBREGTS: Okay. All right. Yes, please. Trying to ask the question
24 the right way, not to annoy anybody in the room. It's just simply can you be impartial
25 and unbiased in considering the evidence in this case if you learn that

1 Mr. La Barbera could not read, write, speak or comprehend English?

2 PROSPECTIVE JUROR NUMBER 025: Rogers-Pokorny, badge number
3 025. I would hope that I can do that.

4 MR. ALBREGTS: Thank you.

5 PROSPECTIVE JUROR NUMBER 025: It – okay.

6 MR. ALBREGTS: I think we're supposed to go all the way to the other end
7 first.

8 THE COURT: It doesn't matter. If you want to go that way, that's fine.

9 MR. ALBREGTS: All right. Thank you very much. And that would be – name
10 and badge number.

11 PROSPECTIVE JUROR NUMBER 036: 036, Sheila Lucatelli.

12 MR. ALBREGTS: Sheila Lucatelli.

13 THE COURT: And ladies and gentlemen, we're not asking you to make a
14 decision or give us an opinion on any of the facts that may or may not, and I say
15 may or may not, because you don't know any of the facts in this case yet. What
16 we're trying to do and certainly what the parties would like to find out is whether or
17 not you have any bias or prejudice, bias is something in favor, prejudice is
18 something against, one way or the other, on any of the issues that might be involved
19 in the case.

20 We want to know, and some people may or may not be able to be fair
21 and impartial on specific issues because they have prior biases. And that's
22 absolutely legitimate to inquire as to maybe you have come in with baggage that,
23 you know, if it was a criminal case and maybe you're up for, you know, maybe
24 you're – had that crime or had that crime against you. So we want to inquire as to
25 your biases or prejudices. But we're not asking you, and I don't want you, to make a

1 decision as to the facts of the case which of course you don't even know yet. So
2 basically whether or not you can be fair and impartial to both sides just looking at
3 what they are as -- as they come in here.

4 Does that make sense? Do you understand? Any questions?

5 Okay go ahead, continue.

6 PROSPECTIVE JUROR NUMBER 036: Okay, well, then I don't need to
7 explain. I can be impartial --

8 MR. ALBREGTS: Thank you.

9 PROSPECTIVE JUROR NUMBER 036: -- and I've got to see the facts first.

10 MR. ALBREGTS: Thank you very much. That's all I'm asking.

11 Same answer?

12 PROSPECTIVE JUROR NUMBER 035: Yeah. The only thing I would like to
13 say is that working in Bellagio, and I work with -- in the high-limit baccarat area, in a
14 casino like Bellagio or Wynn, they've got a whole staff international marketing that
15 looks after people like Mr. La Barbera and Mr. La Barbera is going to have people all
16 around him that is going to speak Italian in whatever dialect, if it's Italy or Sicily,
17 they'll even have dealers dealing to him and supervisors watching the game who will
18 speak Italian. This is something --

19 THE COURT: Name and badge number, sorry.

20 PROSPECTIVE JUROR NUMBER 035: -- that the casinos provide.

21 MR. ALBREGTS: Name and badge number, ma'am.

22 PROSPECTIVE JUROR NUMBER 035: Brown, 035.

23 MR. ALBREGTS: Thank you very much for your --

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NUMBER 035: So.

1 MR. ALBREGTS: Can you be impartial and unbiased?

2 PROSPECTIVE JUROR NUMBER 035: Yes, I can.

3 MR. ALBREGTS: Thank you.

4 PROSPECTIVE JUROR NUMBER 034: Yes.

5 MR. ALBREGTS: And your name and badge number.

6 PROSPECTIVE JUROR NUMBER 034: Naylor, 034.

7 MR. ALBREGTS: Thank you, Ms. Naylor.

8 And then I think it's Carlos.

9 PROSPECTIVE JUROR NUMBER 033: Yep. Carlos Saucedo, 033. I guess
10 I can. I mean, I've had experiences where immediate family members due to
11 language issues have been taken advantage of. But, I mean, other than that I can
12 listen to the facts of the case.

13 MR. ALBREGTS: Thank you very much.

14 Ms. Smith –

15 PROSPECTIVE JUROR NUMBER 032: Smith-Taylor, 032.

16 MR. ALBREGTS: Ms. Smith-Taylor.

17 PROSPECTIVE JUROR NUMBER 032: Yes.

18 MR. ALBREGTS: Yes, thank you.

19 PROSPECTIVE JUROR NUMBER 031: 031, Epling. No.

20 MR. ALBREGTS: Thank you, Mr. Epling.

21 PROSPECTIVE JUROR NUMBER 038: Lowe, 038. I can be fair.

22 MR. ALBREGTS: Thank you very much, Mrs. Lowe – or Ms. Lowe,
23 Mrs. Lowe.

24 Yes, ma'am.

25 PROSPECTIVE JUROR NUMBER 029: Daly, 029. Yes, I could be –

1 MR. ALBREGTS: Thank you, Ms. Daly.
2 PROSPECTIVE JUROR NUMBER 029: -- fair.
3 MR. ALBREGTS: Mr. Empaces.
4 PROSPECTIVE JUROR NUMBER 027: Empaces, 027. No. No.
5 MR. ALBREGTS: No, you can't be impartial or unbiased?
6 PROSPECTIVE JUROR NUMBER 027: No.
7 MR. ALBREGTS: Thank you.
8 THE COURT: I'm sorry. You cannot be fair and impartial?
9 PROSPECTIVE JUROR NUMBER 027: That is correct.
10 MR. ALBREGTS: For what reasons, sir.
11 PROSPECTIVE JUROR NUMBER 027: Just because I've -- I've been to a
12 foreign country and I don't speak it and I wouldn't put myself in that position without
13 asking, honestly.
14 MR. ALBREGTS: All right. Thank you.
15 Mr. Deandrade.
16 PROSPECTIVE JUROR NUMBER 041: Yeah.
17 MR. ALBREGTS: Thank you. Just wanted to make sure. There was another
18 name there before, I got the right the one. Can you be impartial and unbiased?
19 PROSPECTIVE JUROR NUMBER 041: Yes, I can.
20 MR. ALBREGTS: All right. Thank you very much, sir. Your badge number,
21 I'm sorry.
22 PROSPECTIVE JUROR NUMBER 041: Oh, 041.
23 MR. ALBREGTS: Thank you.
24 That's all I have, Your Honor.
25 THE COURT: Counsel, approach.

1 MR. ALBREGTS: Yes, sir.

2 [Bench Conference begins at 2:29 p.m.]

3 MR. ALBREGTS: If I – Mr. Empaces, I guess, is – I would for cause
4 Mr. Naylor [sic] and Mr. Empaces who both said they couldn't be unbiased and
5 impartial.

6 THE COURT: Let's do one at a time. Mr. Empaces, any opposition.

7 MR. SEMENZA: No opposition. He should be stricken for cause.

8 THE COURT: Yeah, he said he –

9 MR. ALBREGTS: You wanted him for cause, anyway, right?

10 MR. SEMENZA: Uh-huh.

11 THE COURT: -- can't be fair. So he'll be gone.

12 Now who was the other?

13 MR. ALBREGTS: John Epling, number 15.

14 MR. SEMENZA: I would like to question him further.

15 THE COURT: In seat 15, he's badge number 031.

16 MR. SEMENZA: That's fine.

17 MR. ALBREGTS: I don't blame you.

18 THE COURT: I'm sorry.

19 MR. ALBREGTS: All the ones I was going to throw out at lunch, I've changed
20 my mind now. What a process.

21 THE COURT: All right. You want to traverse –

22 MR. SEMENZA: Yes.

23 THE COURT: -- 031. Okay.

24 MR. ALBREGTS: All right. Thank you.

25 [Bench conference ends at 2:29 p.m.]

1 MR. ALBREGTS: Thank you very much.

2 THE COURT: Plaintiff, you may traverse.

3 MR. SEMENZA: Thank you, Your Honor.

4 Mr. Epling, I want to make sure that I understood your last answer to
5 Mr. Albregts' question regarding whether you could be fair and impartial as it relates
6 to individuals that may not speak English or have language issue problems. I want
7 to make sure that I understood your answer correctly. Is your position –

8 Thank you. I apologize.

9 -- that you could not be fair and impartial relating to this particular
10 matter based upon an individual that does not speak English or has a different
11 language than others.

12 PROSPECTIVE JUROR NUMBER 031: Okay, 031, last name Epling. I don't
13 think that I could judge it fairly because we are brought up that absence of
14 knowledge does not presume innocence. We cannot go through a red light and
15 then tell a officer, oh, I didn't see it, I didn't, it's my fault. And I'm looking at this
16 when you're dealing with large amounts of money at your level which I have no
17 concept of, but I'm sure that those people are well cared for.

18 MR. SEMENZA: Let me ask you --

19 PROSPECTIVE JUROR NUMBER 031: I say, no, no, I'm sorry.

20 MR. SEMENZA: Let me ask you a different question. If you are, in fact,
21 instructed on the law as it relates to this particular case, would you be able to follow
22 the law in rendering a decision based upon the law that is presented to you?

23 PROSPECTIVE JUROR NUMBER 031: If I was – all right, if you look at the
24 law and only the law and you ignore what was already discussed and you have to
25 make a basis on that, then yes, but personal, you know, the knowledge is not gone.

1 MR. SEMENZA: Understood.

2 May we approach, Your Honor.

3 THE COURT: Yes.

4 [Bench Conference begins at 2:32 p.m.]

5 MR. SEMENZA: The -- Mr. Eplinger's [sic] statement is from consistent with
6 the law. With English or lack of knowing a foreign language or the language is not
7 an excuse. That's not in dispute. I mean, that's essentially what the law is. That's
8 what Mr. Epling and the rest of the jurors are going to be instructed upon. So it is
9 entirely consistent with what the law is, his opinion. And so he did say that he could
10 follow the law which is what he will be instructed on. So I don't think that there is a
11 basis to excuse him for cause.

12 MR. ALBREGTS: I disagree. I think his --

13 THE COURT: I understand that. Okay.

14 MR. ALBREGTS: -- well, his facial expressions along with his answers show
15 that that's going to be a cause and the bias in him and not impartial.

16 THE COURT: All right. I'm excusing him for cause. He said -- he said it
17 would affect his ability to be fair and impartial. Then I think he said I don't think I
18 could judge it fairly. So I'm excusing 027 and 031.

19 MR. ALBREGTS: Okay.

20 THE COURT: Now we're going to substitute them. Then since it was -- you
21 can start because they're new --

22 MR. SEMENZA: That's fine.

23 THE COURT: -- and then you'll go to just those two.

24 MR. SEMENZA: That's fine.

25 THE COURT: Okay.

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

[Bench Conference ends at 2:33 p.m.]

THE COURT: Ladies and gentlemen, I'm going to thank and excuse Mr., and I'm hope I'm – Empaces, Empaces, 027. And Mr. Epling, 031. You can go down to third floor, jury services. You're excused.

Call the next in line.

THE CLERK: Bar – or Shane Barnett, badge number 043, you'll be in seat number 12 which is the second seat from this side.

And Monica Lee, badge number 045, you'll be in seat number 15 which is in the middle up front.

THE COURT: Yeah, let's start off. Name and badge number.

PROSPECTIVE JUROR NUMBER 043: Shane Barnett, 043.

THE COURT: Same questions. Where do you work?

PROSPECTIVE JUROR NUMBER 043: Healthcare Partners of Nevada in the IT Department.

THE COURT: And do you have a significant other?

PROSPECTIVE JUROR NUMBER 043: Yes.

THE COURT: Where does she work?

PROSPECTIVE JUROR NUMBER 043: She's a homemaker. She's at home.

THE COURT: Ever served on a jury?

PROSPECTIVE JUROR NUMBER 043: Yes.

THE COURT: Criminal or civil?

PROSPECTIVE JUROR NUMBER 043: Criminal.

THE COURT: And did you reach a verdict?

PROSPECTIVE JUROR NUMBER 043: I was dismissed before deliberation

1 because I was an alternate so I don't know.

2 THE COURT: Okay. Thank you.

3 Pass it to – she has my list. So.

4 THE CLERK: Monica Lee.

5 THE COURT: Ms. --

6 PROSPECTIVE JUROR NUMBER 045: Lee, 045.

7 THE COURT: Thank you. Same questions.

8 PROSPECTIVE JUROR NUMBER 045: I'm not working right now. I do not
9 have –

10 THE COURT: What do you normally do?

11 PROSPECTIVE JUROR NUMBER 045: Well, I haven't worked for a long
12 time.

13 THE COURT: Oh, okay. Significant other?

14 PROSPECTIVE JUROR NUMBER 045: No significant other.

15 THE COURT: Ever been on a jury?

16 PROSPECTIVE JUROR NUMBER 045: No.

17 THE COURT: Thank you. Defendants, you my inquire.

18 MR. ALBREGTS: You know for the sake of economy, Ms. Lee and

19 Mr. Barnett, thank you for your patience. I'll ask you both the same questions and
20 then ask you specific ones if I get a response. So do either of you have a family
21 member or close friend that works for the Wynn or the Encore?

22 PROSPECTIVE JUROR NUMBER 045: No.

23 PROSPECTIVE JUROR NUMBER 043: My sister used to.

24 THE COURT: Okay. And when was that, Mr. Barnett?

25 PROSPECTIVE JUROR NUMBER 043: I want to say it was about a year ago

1 she left there.

2 MR. ALBREGTS: And what did she do there, sir?

3 PROSPECTIVE JUROR NUMBER 043: Housekeeping.

4 MR. ALBREGTS: But she doesn't work there any longer?

5 PROSPECTIVE JUROR NUMBER 043: No.

6 MR. ALBREGTS: Okay. Do either of you gamble?

7 PROSPECTIVE JUROR NUMBER 045: No.

8 PROSPECTIVE JUROR NUMBER 043: No.

9 MR. ALBREGTS: Okay. Do either of you consider gambling immoral or
10 wrong?

11 PROSPECTIVE JUROR NUMBER 045: No.

12 PROSPECTIVE JUROR NUMBER 043: No.

13 MR. ALBREGTS: I presume that if I –

14 THE COURT: We need – we need to have the badge number just for the
15 record.

16 MR. ALBREGTS: I'm sorry.

17 PROSPECTIVE JUROR NUMBER 045: Oh, 045. No.

18 MR. ALBREGTS: Ms. Lee.

19 And Mr. Barnett.

20 PROSPECTIVE JUROR NUMBER 043: 043, no.

21 MR. ALBREGTS: Okay. And I assume if neither of you gamble, neither of
22 you have ever gambled on credit.

23 PROSPECTIVE JUROR NUMBER 045: 045, no.

24 PROSPECTIVE JUROR NUMBER 043: 043, no.

25 MR. ALBREGTS: Have you or any member of your family worked for any

1 hotel or establishment or casino in town, besides the Wynn Encore?

2 PROSPECTIVE JUROR NUMBER 045: 045, no.

3 PROSPECTIVE JUROR NUMBER 043: 043, no. My sister has worked at
4 several different hotels including the Wynn, but I think she's the only person in my
5 family.

6 MR. ALBREGTS: Do either of you have any negative feelings towards the
7 Wynn, the Encore, or Mr. Wynn himself?

8 PROSPECTIVE JUROR NUMBER 045: 045, no.

9 MR. ALBREGTS: Mr. Barnett.

10 PROSPECTIVE JUROR NUMBER 043: 043, not as a company or as a
11 industry. I know my sister's had bad experiences, but I think a lot of people have so
12 I can't really put that on the Wynn itself.

13 MR. ALBREGTS: Would that affect your ability, Mr. Barnett, to be impartial or
14 unbiased in this case?

15 PROSPECTIVE JUROR NUMBER 043: No.

16 MR. ALBREGTS: Okay. Have either of you ever been a party to a lawsuit?

17 PROSPECTIVE JUROR NUMBER 045: 045, no.

18 PROSPECTIVE JUROR NUMBER 043: 043, no.

19 MR. ALBREGTS: And can both of you be impartial or unbiased with respect
20 to – let me phrase it's the same way I did, I'm sorry, strike that, with respect to Mr.
21 Wynn. Do either of you have any negative feelings that would affect your ability to
22 be unbiased and impartial with respect to Mr. La Barbera if he cannot comprehend,
23 read, or write English?

24 PROSPECTIVE JUROR NUMBER 045: 045, no.

25 PROSPECTIVE JUROR NUMBER 043: 043, no.

1 MR. ALBREGTS: Thank you. And I take it neither one of you have ever met
2 Mr. La Barbera, Mario La Barbera.

3 PROSPECTIVE JUROR NUMBER 043: Correct.

4 PROSPECTIVE JUROR NUMBER 045: Correct.

5 MR. ALBREGTS: Okay. Have either of you or any member of your family
6 ever had any interaction with the Clark County District Attorney's Bad Check Unit
7 office?

8 PROSPECTIVE JUROR NUMBER 045: 045, no.

9 PROSPECTIVE JUROR NUMBER 043: 043, no.

10 MR. ALBREGTS: Is there anything that either have heard while sitting here
11 during Mr. Semenza's much more competent voir dire as well as my voir dire that
12 would affect either of your ability to be unbiased or impartial in weighing the
13 evidence in this case?

14 PROSPECTIVE JUROR NUMBER 045: 045, no.

15 PROSPECTIVE JUROR NUMBER 043: 043, no.

16 MR. ALBREGTS: Okay. Ms. Lee, specifically I noticed on the sheet here that
17 you are widowed. Is that correct?

18 PROSPECTIVE JUROR NUMBER 045: Correct.

19 MR. ALBREGTS: What did your spouse do while he was alive?

20 PROSPECTIVE JUROR NUMBER 045: He was in the armed forces.

21 MR. ALBREGTS: Okay. I take it he's never worked for a casino or in the
22 gaming industry --

23 PROSPECTIVE JUROR NUMBER 045: Correct.

24 MR. ALBREGTS: -- or he never did? Thank you.

25 PROSPECTIVE JUROR NUMBER 045: No.

1 MR. ALBREGTS: Thank you, Ms. Lee.

2 I'll pass for cause.

3 THE COURT: Plaintiffs, you may inquire of the –

4 MR. ALBREGTS: Thank you for your patience.

5 MR. SEMENZA: Thank you. Do either of you have any negative attitudes
6 towards attorneys?

7 PROSPECTIVE JUROR NUMBER 045: 045, no.

8 PROSPECTIVE JUROR NUMBER 043: 043, no.

9 MR. SEMENZA: Thank you. And have either one of you ever had a negative
10 experience personally at the Wynn?

11 PROSPECTIVE JUROR NUMBER 045: The last time I went in there, they
12 kind of got on my nerves.

13 MR. SEMENZA: Okay. Could you explain how so?

14 PROSPECTIVE JUROR NUMBER 045: It was my friend's birthday so went
15 to eat dinner at Prime at Bellagio. And then after that we were going to go to a club
16 at the Wynn. And then for some reason, they stopped us and they were questioning
17 us, I don't know why.

18 THE CLERK: Name and badge number.

19 PROSPECTIVE JUROR NUMBER 045: That's Lee, 045.

20 MR. SEMENZA: How long ago was this?

21 PROSPECTIVE JUROR NUMBER 045: I would say maybe like a year ago.

22 MR. SEMENZA: And how about you? Any negative experiences at the Wynn
23 personally?

24 PROSPECTIVE JUROR NUMBER 043: No, 043, no.

25 MR. SEMENZA: And going back to you, I apologize Ms. Lee, was there

1 anything that happened as a result of this incident, was anyone trespassed, was
2 anyone arrested –

3 PROSPECTIVE JUROR NUMBER 045: No.

4 MR. SEMENZA: Nothing like that.

5 THE CLERK: 045.

6 MR. SEMENZA: Were you able to go to the club?

7 PROSPECTIVE JUROR NUMBER 045: Yes.

8 MR. SEMENZA: Okay.

9 THE COURT: Ms. Lee, 045.

10 MR. SEMENZA: Thank you.

11 And you had said your sister had worked at the Wynn for a period of
12 time?

13 PROSPECTIVE JUROR NUMBER 043: Yes.

14 MR. SEMENZA: And how long ago was she employed there?

15 PROSPECTIVE JUROR NUMBER 043: She left I want to say is about a year
16 ago, she quit there.

17 MR. SEMENZA: Okay.

18 THE CLERK: Name and badge number, please.

19 PROSPECTIVE JUROR NUMBER 043: 043.

20 MR. SEMENZA: And what did she do there?

21 PROSPECTIVE JUROR NUMBER 043: Housekeeping.

22 MR. SEMENZA: Okay. And did she ever discuss with you whether she had
23 negative experiences at the Wynn?

24 PROSPECTIVE JUROR NUMBER 043: Yeah, she did.

25 MR. SEMENZA: Did she elaborate and go into detail about what those

1 experiences may have been?

2 PROSPECTIVE JUROR NUMBER 043: Only that it was very physically –
3 very physically demanding at that location. They're very strict there compared to
4 some of the other properties she's worked at.

5 MR. SEMENZA: Would what she told you relating to her employment at the
6 Wynn have any impact or affect on your ability to judge the evidence in this case
7 and render a verdict, fairly and impartially?

8 PROSPECTIVE JUROR NUMBER 043: No.

9 MR. SEMENZA: Have either one of you either worked for a bank or had
10 family members that worked for a bank?

11 PROSPECTIVE JUROR NUMBER 045: No.

12 PROSPECTIVE JUROR NUMBER 043: 043, no.

13 MR. SEMENZA: Thank you.

14 Would that negative experience, Ms. Lee, that you had at Wynn impact
15 your ability to be fair and unbiased with regard to the adjudication of this particular
16 case?

17 PROSPECTIVE JUROR NUMBER 045: The truth is I don't really care about
18 the Wynn and I don't care really about the reason is, but it wouldn't bother me if he
19 got the money back or not.

20 MR. SEMENZA: Okay. Would that – is, well expanding a little bit on that
21 issue, do you have any biases against Wynn based upon your experience?

22 PROSPECTIVE JUROR NUMBER 045: No, not really. Like I said, I don't
23 really care.

24 MR. SEMENZA: It wouldn't impact your ability to be fair and impartial in any
25 way as a result of your experience, would it?

1 PROSPECTIVE JUROR NUMBER 045: No.

2 MR. SEMENZA: There's a note on the juror list that identifies that you are or
3 were an accountant, is that correct?

4 PROSPECTIVE JUROR NUMBER 045: No, that is not correct.

5 MR. SEMENZA: Have you ever been an accountant?

6 PROSPECTIVE JUROR NUMBER 045: No, I do not like math.

7 MR. SEMENZA: Was your spouse at all in the financial field?

8 PROSPECTIVE JUROR NUMBER 045: No, he was not. He was medical.

9 MR. SEMENZA: Medical, okay. How long have you been in Las Vegas,
10 Ms. Lee.

11 PROSPECTIVE JUROR NUMBER 045: I moved here in 2011.

12 MR. SEMENZA: Where from?

13 PROSPECTIVE JUROR NUMBER 045: Originally – well, originally I was
14 born and raised in Orange County, California and then being in the armed forces,
15 we, like, moved around.

16 MR. SEMENZA: Was your husband stationed at Nellis for a period of time?

17 PROSPECTIVE JUROR NUMBER 045: No.

18 MR. SEMENZA: Was he ever stationed here in Las Vegas?

19 PROSPECTIVE JUROR NUMBER 045: No.

20 MR. SEMENZA: What branch of the military was he in?

21 PROSPECTIVE JUROR NUMBER 045: He was in the air force for ten years
22 and he crossed over into the army.

23 MR. SEMENZA: Have you – either of you been parties to any lawsuits? That
24 question may have been asked and I apologize if it was.

25 PROSPECTIVE JUROR NUMBER 045: 045, no.

1 PROSPECTIVE JUROR NUMBER 043: 043, no.

2 MR. SEMENZA: Do either of you have any negative feelings relating to
3 gambling, generally speaking?

4 PROSPECTIVE JUROR NUMBER 045: 045, no.

5 PROSPECTIVE JUROR NUMBER 043: 043, no.

6 MR. SEMENZA: Just a moment, Your Honor. Pass the potential jurors for
7 cause, Your Honor.

8 THE COURT: Thank you. Ladies and gentlemen, we have a panel. Those of
9 you left in the audience, we are not going to need your services. I appreciate you
10 being here all day and participating. You have certainly done your duty the same as
11 everybody else. You didn't get called, but you were here and available so we
12 certainly, I certainly appreciate it, all the parties do. It's part of our system of justice
13 and it is necessary. Even though, you know, some people say, oh, well all I did is
14 sit – sit around and wait, but unfortunately that's how the process has to occur. So
15 in any event, we appreciate your being here. You can either go down to third floor
16 and report to them or do it online. You're excused.

17 Ladies and gentlemen, right now the parties are going to pass back and
18 forth their peremptory challenge list. I should have said before, I have my cell phone
19 because that's how I communicate with both the marshal sometimes and mostly my
20 office. Sometimes I'll even have to sign a warrant so take a break, et cetera. Plus
21 they've asked me already if we needed more jurors, things like that. I'm not playing
22 Candy Crush on it and you're not allowed to use your cell phones because you're
23 jurors and you can't be doing research or the things that I'm sure you would like to
24 be doing. So while they're doing that, I'm going to go ahead and read you the
25 pretrial instructions.

1 Each case starts by plaintiff filing a document called a complaint with the clerk
2 of the court. In this complaint, the plaintiff makes certain allegations as to why he or
3 she is suing the Defendant. The document is served on the Defendant and he or
4 she files an answer. In the answer, the Defendant will admit some of the allegations
5 in the complaint and deny others. Let's say we're talking about a motor vehicle
6 collision, both parties may agree as to the date or the time and location of the
7 collision but certainly they may not disagree as to who's at fault. They may disagree
8 as to the amount of the damages. The purpose of a jury trial is to arrive at a
9 resolution of a dispute in a courtroom setting based upon very strict rules of both law
10 and procedure.

11 All parties to this lawsuit start off on an even playing field. They are
12 even Steven. The plaintiff has what is called the burden of proof. It is the plaintiff's
13 job to show you by the end of the trial that its side of the case is more convincing
14 than that of the Defendant. If you imagine the scales of justice -- my staff gave me
15 this -- at rest at perfect equilibrium at the start of the trial, the plaintiff must tip these
16 scales in their favor by the end of the trial or the plaintiff cannot win the lawsuit. The
17 burden of proof in a civil case is called preponderance of the evidence. This is
18 different from what I'm sure you've heard about in a criminal case, beyond a
19 reasonable doubt. Preponderance simply means when you stack up all the factors
20 for and against each party, that the scale is slightly heavier on the plaintiff's side.
21 We ask that you do not make up your mind about the ultimate verdict in this case
22 until you have heard all the evidence, all the witnesses.

23 We ask that you keep an open mind throughout the trial and not begin
24 to make up your mind about what the facts are until you and your fellow jurors go
25 back to the jury deliberation room to deliberate. We ask that you base your verdict

1 solely upon the evidence brought out at the trial and the law that applies to the
2 evidence and not based upon sympathy or public opinion.

3 I'll read to the long admonishment. It explains more – more of the
4 details.

5 Ladies and gentlemen, you are admonished that no juror may declare
6 to a fellow juror any fact relating to this case of his or her own knowledge. And if
7 any juror discovers during the trial or after the jury has retired that he or she has any
8 – or any other juror has personal knowledge of any fact or controversy in this case,
9 he or she shall disclose that situation to me in the absence of the other jurors. What
10 that means is if you find out during the trial that one of the witnesses is your son or
11 daughter's baseball coach and you didn't know his name, but you just called him
12 coach and you find out after he testifies, you must inform the court and you do that
13 by writing it down and giving it to the marshal. The marshal will present it to the
14 court and we will discuss.

15 During the course of the trial, the attorneys for both sides, court
16 personnel and the parties, other than the marshal, are not allowed to talk to you. It's
17 not that we're being antisocial, it's simply that we're bound by ethics and the law not
18 to speak to you because to do so might contaminate your verdict. We're not even
19 allowed to say hi to you in the hallway or in the elevators. If you should recognize a
20 witness or be familiar with the facts of the case when the witness is testifying, please
21 write it down and give it to the marshal. You're also admonished not to visit the
22 scene of any of the acts or occurrences in the case. Certainly that's not going to be
23 the issue here.

24 The parties may sometimes present objections to some of the
25 testimony or other evidence. At times, I may sustain those objections or direct that

1 you disregard certain testimony or exhibits. You must not consider any evidence to
2 which an objection has been sustained or which I've instructed you to disregard. It
3 is the duty of the lawyer to object to the evidence which he or she believes may not
4 be properly offered. And you should not be prejudiced in any way against the
5 lawyer who makes the objections on behalf of his or her client. Throughout the trial,
6 if you cannot hear a question asked by an attorney or an answer given by a witness,
7 raise your hand, wave, speak up. We will ask them to repeat or rephrase the
8 question. Also we do take breaks every hour. I don't make you raise your hand if
9 you need to use the bathroom, but if we took a break or whatever and you need to
10 take another one, just go ahead and raise your hand again. Wave at Steve or
11 myself and we'll take another break. If you wish you may take notes to help you
12 remember what any witnesses said. If you do take notes, please make sure that
13 while you're writing the answer to question number one, question number two isn't
14 being asked and answered and you miss out on the next question. You should rely
15 upon your own memory of what was said and not be overly influenced by the notes
16 of other jurors when you go back to deliberate.

17 This case will proceed in the following order. First the plaintiff has the
18 opportunity to make an opening statement outlining its case and suggesting to you
19 what it believes the evidence will be. The Defendant may then make its opening
20 statement or it may reverse it – reserve its right to make an opening statement until
21 after the plaintiff has put on all of its evidence. Opening statements are a synopsis
22 and overview of what the attorney believes the testimony will be. Opening
23 statements of the attorneys are not evidence. After all, the attorneys are not
24 witnesses to any of the facts of this case. The plaintiff will then introduce evidence
25 and call witnesses. At the conclusion of the plaintiff's case, the defense may then

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

[Proceeding resumed at 3:12 p.m.]

[Outside the presence of the jury]

THE COURT: Be seated. Okay, we're on the record, we're outside the presence. Do you have the – did you finish the peremptts?

MR. ALBREGTS: Yes, sir.

MR. SEMENZA: We did, Your Honor.

THE COURT: Are there any *Batson* or *JEB versus Alabama* challenges?

MR. SEMENZA: No.

MR. ALBREGTS: No, sir.

THE COURT: Both know what that is?

MR. ALBREGTS: You can enlighten me, Your Honor. I'm never too stupid to be educated. Think about that one, that was a twisted –

THE COURT: Regarding excluding or making peremptory challenges based on race, religion, ethnicity, et cetera.

MR. ALBREGTS: Okay, that's what I thought.

MR. SEMENZA: No, Your Honor.

MR. ALBREGTS: No, Your Honor.

THE COURT: Okay. So I'm going to finish reading this just so it's --

THE CLERK: Can I see that real quick? Or they need to need –

THE COURT: No, I'm going to finish reading the instructions and the pretrial instructions and then I'll –

MR. ALBREGTS: I'll need a potty break before we recommence again, Your Honor, one of these days.

THE COURT: Did you get a break? Take a break now, then.

MR. ALBREGTS: Are you sure?

1 THE COURT: Yes.

2 MR. ALBREGTS: Thank you very much, sir.

3 THE COURT: Yes, let's take a break now.

4 MR. ALBREGTS: Is that all right, L.J.?

5 MR. SEMENZA: No. Yes.

6 THE COURT: Because after we do that it'll take probably ten minutes. We'll
7 go into closings.

8 MR. SEMENZA: Closings?

9 THE COURT: I mean openings.

10 MR. SEMENZA: How lucky. Wonderful.

11 THE COURT: Take your break.

12 MR. SEMENZA: We'll be done today.

13 THE CLERK: I didn't even catch that.

14 THE COURT: I would like to.

15 [Proceeding recessed at 3:14 p.m.]

16 [Proceeding resumed at 3:28 p.m.]

17 [Outside the presence of the jury.]

18 THE COURT: Okay, I did ask you, you used the – you went to four and one
19 with the perempts.

20 MR. SEMENZA: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. ALBREGTS: It was L.J.'s idea.

23 MR. SEMENZA: Unless you'd like to switch that around, Jeff.

24 THE COURT: No. In other words, because we didn't do random, random,
25 you don't get five perempts, you only get four and one to be used on the alternates.

1 You chose the –
2 THE CLERK: That's the –
3 THE COURT: Okay.
4 You chose the old method. So the last two are Carlos and Sandra.
5 Those are going to be the alternates, correct?
6 MR. SEMENZA: I believe so, Your Honor.
7 THE CLERK: They haven't gotten the final because you usually have them
8 double check everything first.
9 THE COURT: All right. Well then you can do that now.
10 MR. ALBREGTS: Wat to approach? Okay.
11 THE COURT: It can be outside the presence. Make sure –
12 THE CLERK: And then, here, you can take these as the --
13 MR. SEMENZA: Thank you, Your Honor.
14 THE COURT: This is the –
15 MR. ALBREGTS: Here you go, L.J.
16 MR. SEMENZA: Oh, thanks.
17 THE CLERK: If it's wrong, let me know. It's possible.
18 MR. ALBREGTS: But who are the alternates now, 9 and 10?
19 THE CLERK: Yeah, that's the last two.
20 MR. ALBREGTS: How we have only one man on the jury.
21 THE COURT: You only have what?
22 MR. ALBREGTS: One man on the jury. See how biased we were. I didn't
23 even notice that until now.
24 MR. SEMENZA: Okay. I think that's correct.
25 THE COURT: Okay.

1 MR. ALBREGTS: Looks correct to me.
2 THE COURT: Did you check it?
3 MR. ALBREGTS: Yeah, it looks correct to me too.
4 THE COURT: Okay.
5 MR. ALBREGTS: You know all those names are on there, right?
6 THE CLERK: These are --
7 THE COURT: What?
8 MR. ALBREGTS: Yeah, --
9 THE CLERK: -- yours to hold.
10 MR. SEMENZA: Thank you.
11 MR. ALBREGTS: -- might as well. There you go, sir.
12 Thank you, thank you. Thank you, Kathy.
13 THE COURT: All right. Bring them in.
14 Are you going to read the -- who's on the jury or who's --
15 THE CLERK: It doesn't matter, whichever way you want to go. I've got the
16 sheet here so I can --
17 THE COURT: All right. Let's --
18 THE CLERK: Actually, do you have the other sheet?
19 THE COURT: Which one?
20 THE CLERK: That one. Do you need it?
21 THE COURT: No.
22 THE CLERK: Okay.
23 THE COURT: So the read the names --
24 THE MARSHAL: All rise for the jury.
25 THE COURT: -- ones that are excused.

1 THE CLERK: Okay.

2 [In the presence of the jury]

3 THE COURT: All right. Please be seated. Ladies and gentlemen, I want to
4 thank all of you for participating.

5 You raising your hand?

6 PROSPECTIVE JUROR NUMBER 037: Yes.

7 THE COURT: I'm sorry.

8 PROSPECTIVE JUROR NUMBER 037: Yes.

9 THE COURT: Do you have a question?

10 PROSPECTIVE JUROR NUMBER 037: Well, he said -- he said to raise my
11 hand if I had any --

12 THE COURT: You need --

13 THE MARSHAL: If you have a question, you --

14 THE COURT: You need to write it down. So, give her -- give her --

15 THE MARSHAL: I got it, Your Honor.

16 THE COURT: While you're doing that, I want to -- I want to thank everybody
17 for being here. Some of you will not be on the panel and that is not reflect in any
18 way on just about anything. It's only because the parties, for whatever reason, may
19 feel that you're not the right person for this particular case. But you've participated
20 and done so fully. It's -- most of the day has gone by and you spent the day here
21 and listened and paid attention. And we all appreciate that. It is important and so
22 the process isn't always the most efficient, but it is the best way we know how to do
23 it.

24 Did you finish your question?

25 Thank you.

1 Okay, the clerk is now going to read the names of the individuals who
2 are dismissed. As I said, I want to thank you. You can either go down to third floor
3 jury services and report to them or do it online that you have been excused.

4 Go ahead.

5 THE CLERK: Tyler Richter, badge number 003. Julie Couture, badge
6 number 037. Chelsa [sic] Jenkins – or Kelsa [sic] Jenkins, badge number 017.
7 Marilyn Cherry-Clark, badge number 019. Lori Reizian-Terwilleger, badge number
8 023. Heather Roger-Pokorny, badge number 025. Joseph Deandrade, badge
9 number 041. Monica Lee, badge number 045. Catherine Brown, badge number
10 035. Sheila Lucatelli, badge number 036.

11 THE COURT: Thank you all. Okay, go ahead and reseat them.

12 THE CLERK: Okay.

13 THE COURT: We basically, you know, want to move you in the center in
14 case we use this. So.

15 THE CLERK: Mr. Barnett, we're going to have you move to the back on this
16 side. And we're going to have – everybody just move in to sit together. Just move
17 to the center. Yes, that's correct. There you go.

18 THE COURT: Okay. Swear them in.

19 THE CLERK: Okay, please rise. Raise your right hand. You and each of you
20 do solemnly swear that you will well and truly try the case at issue a true verdict
21 rendering according to the evidence, so help you God.

22 Please be seated.

23 THE COURT: All right. Because somebody needed to take a break, I didn't
24 finish the instructions so let me finish with the instructions before we go into opening
25 statements.

1 Since the plaintiff has the burden of proof, the plaintiff gets to argue to
2 you twice at the end of the trial. Plaintiff will argue, the defense will argue, and then
3 the plaintiff has the opportunity to rebut the Defendant's argument. The evidence
4 you are to consider consists of testimony of witnesses and exhibits admitted into
5 evidence. The term witness means anyone who testifies in person or by way of a
6 deposition and it may include the parties to the lawsuit. A deposition is simply an
7 examination of the witness at a prior date, under oath, with the attorneys present
8 where the testimony is taken down in written format and those written questions and
9 answers will be read to you during the trial. Admission of evidence in court is
10 governed by rules of law. From time to time, it may be the duty of the parties to
11 object and as I said before, it is not for you to make any interpretation of the
12 objections or concern yourself with any of the Court's rulings on the objections.

13 Further, you must not consider anything which may or may not occur
14 outside the courtroom. That includes anything that the witnesses and/or the parties
15 may do outside the courtroom. While you're in the courthouse, please always wear
16 your badge. Marshal will give you blue badges when you leave on your next break.
17 Those will identify you as jurors in Department 28. You can keep the white ones as
18 a souvenir or whatever. Just remember that while you're in the courthouse, if you're
19 making even idle conversation with someone, you may or may not know whether or
20 not they are a witness in this case. And that is why you should not talk to anyone
21 other than your other fellow jurors in this case and then you're not allowed to
22 discuss this case until you go back to the deliberation room to deliberate. Don't do
23 any Googling or whatever information source you use in order to look up anything
24 regarding this case.

25 There are two types of evidence in a case, direct and circumstantial.

1 Direct evidence is testimony by a witness of what they saw or heard or did.
2 Circumstantial evidence is testimony or exhibits which are proof of a particular fact
3 from which if that fact is proven, you can infer the existence of a second fact. In
4 other words, if you go outside and there's water all over the streets, you can infer
5 that it rained. If you go out and it's – that's circumstantial evidence. If you go out
6 and there's rain falling on your head, that's direct evidence that it's raining. You may
7 consider both direct and circumstantial evidence in deciding this case. The law
8 permits you to give equal weight to both types of evidence, but it is for you to decide
9 how much weight to give any particular piece of evidence. Opening statements and
10 closing arguments, as I said before, are not evidence.

11 I may during the trial take notes on a particular issue. You shouldn't
12 pay any attention. It doesn't reflect any particular anything. It means that maybe I'm
13 preparing for legal argument regarding the case. Certainly do not read any articles.
14 I doubt they'll be any news articles on this, but when it comes to the Internet, you
15 never know. Do not make your mind up about what the verdict should be until after
16 you have gone to the jury room to deliberate. It is important throughout the trial to
17 keep an open mind. At the end of the trial, you'll have to make your decision based
18 upon what you recall of the evidence. You will not have written transcript to consult.
19 Even though we have court recorder, who records all the testimony, it is very difficult
20 and time consuming for the reporter – recorder, excuse me, to do read backs.
21 Therefore, I would urge you to pay close attention to the testimony.

22 In Nevada, you may, jurors, may ask questions of witnesses. You do
23 so by writing down your question. At the end of the witness' testimony after both
24 sides have gotten a chance to ask all their questions, I'll ask you if you have any
25 questions. You will write them down and present them. Not all questions are

1 complicated things are very, very simple. Sometimes they're right and sometimes
2 they're wrong. It all really depends. But I fundamentally believe that this is in fact a
3 very, very simple and straightforward case. The evidence in this case will show that
4 Mr. La Barbera has failed to repay a gambling debt to Wynn Las Vegas. And the
5 amount that Mr. La Barbera owes the Wynn is a flat one million dollars. Mr. La
6 Barbera is from Italy, he's a citizen of Italy and in March, the end of March in 2008,
7 he came to Las Vegas and stayed at the Wynn for a period of time. His stay was
8 from late March to early April of 2008 and he stayed at the hotel during his trip.
9 During that trip, he received various complimentaries from the hotel which we'll hear
10 about, in all likelihood, as part of this particular case. When Mr. La Barbera arrived
11 at the Wynn, I believe it was March 29th, 2008, he provided the Wynn with his
12 passport and Wynn took his passport and made a photocopy of that document and
13 basically placed it into their computer system. And that's something we will take a
14 look at during
15 this – this case. In addition to providing a copy of his passport, Mr. La Barbera also
16 completed a document called a credit application. And on that particular document,
17 Mr. La Barbera identified his name, his address, his profession, his banking
18 information and he signed that credit application seeking a credit line of \$300,000
19 from the Wynn. After he completed the credit application, Mr. La Barbera then
20 completed what's called a credit agreement. And that credit agreement, again, is a
21 two-page form with certain typewritten language on it that Mr. La Barbera signed in
22 two different places on two different pages. Again, Mr. La Barbera, during that
23 process, identified and wanted to obtain a credit line of \$300,000 which he was
24 given.

25 While Mr. La Barbera was staying here at the Wynn, in addition to the

1 credit application, in addition to the credit agreement, he also signed credit line
2 increase request forms that you'll – we'll commonly refer to it as TTOs. TTOs, the
3 acronym is for This Trip Only. And during his trip, he signed various TTOs
4 increasing his credit line at the Wynn from that \$300,000 figure all the way up to
5 one million dollars. In the context of, pardon me just a moment. In the context of his
6 stay here at the Wynn and while he was gambling, Mr. La Barbera executed a whole
7 host of what are called markers. And a marker, the evidence will establish, is
8 essentially looks like a personal check. It's presented to the patron after
9 identification is checked and the identity of the patron is verified. It requests a
10 certain amount of credit. The patron then signs that document and then receives
11 gaming chips in response to the execution of the marker. That's how a patron at the
12 Wynn and other casinos obtain credit and utilize their credit at the casino. I believe
13 that the markers at issue in this case, there are a total of 12 and they were executed
14 during the course of Mr. La Barbera's stay here at the Wynn.

15 Mr. La Barbera, in his responses to written discovery that was
16 propounded in this particular case, identifies in response to questions posed as to
17 whether he signed these markers or not, identifies when asked did he sign each of
18 these particular markers. Mr. La Barbera identified and I quote: it appears to be this
19 defendant's signature.

20 What that means essentially is, at least in our viewpoint, Mr. La Barbera
21 acknowledges he signed the various markers at issue in this particular case. The
22 marker, by the way, at issue in this case, pardon me, one of which was taken out on
23 April 1st of 2008, and I believe the remaining markers were all taken out on April 3rd
24 of 2008. Now what happens when a patron takes out a marker at Wynn. A couple
25 of things can happen. So if the patron takes out the marker and receives chips in

1 response, the patron will generally utilize those chips to continue to gamble.
2 Hypothetically speaking, if that patron ends up winning at the table, the patron can
3 then turn around and ask to rebuy that marker, take it back. And in doing so, will
4 then give up a certain amount of chips representing the value of that marker. In
5 addition to that, the patron, if the marker has been transferred over to the cage or at
6 the conclusion of a session by which the patron is playing, the same is true. The
7 patron can go to the cage of the casino and rebuy his marker if he has the chips by
8 which to do so.

9 Now it's not always the situation where a particular patron will pay in full
10 the value of those markers while he is on property. And in many instances, it is only
11 after the patron has returned home by which the patron then pays back the value of
12 those markers. In this particular case, Mr. La Barbera did not repay the value of that
13 million dollars in markers at the conclusion of his trip. And in fact, he returned to
14 Italy. After which Wynn made repeated attempts to try and collect those amounts
15 that were owed to it by virtue of letters, but Mr. La Barbera refused to pay. What
16 was Wynn left to do? Well, because these are markers and basically negotiable
17 instruments or checks, what Wynn does is it deposits those markers for payment
18 with the particular patron's bank if in fact the patron does not already pay for those
19 or pay those back before doing so. So that's what happened in this particular case.
20 Mr. La Barbera leaves the property, goes back to Italy, requests were made for
21 payment, those were refused essentially. Wynn was then forced to deposit those
22 markers with Mr. La Barbera's bank in Italy and low and behold, all the markers
23 were returned unpaid. And that's the situation we find ourselves here today.

24 There are a couple other issues that I want to highlight that will be
25 addressed during the testimony here during this trial. One of which is something

1 called front money account. And a front money account is essentially, for all intents
2 and purposes, a bank account at the casino. You can deposit money into your front
3 money account and you can withdraw money from your front money account. And
4 that's something that we'll discuss in detail during the testimony in this particular
5 case. For example, when Mr. La Barbera arrived at the Wynn, for the first day or
6 two, he won quite a bit of money. And so he took chips and deposited those chips
7 into his front money account. In addition to that, Mr. La Barbera made two wire
8 transfers from Italy into his front money account it went. One of which was for
9 \$400,000, the other was for \$600,000. So in addition to the front money he had on
10 deposit from winning at the Wynn early on, he also had a million dollars resulting
11 from a wire transfer that was made into his front money account. You'll hear about
12 that as well.

13 Now Mr. La Barbera was quite the gambler and he liked to play roulette.
14 I believe he liked to play single zero roulette which I believe is European and less
15 common here in the United States. But Mr. La Barbera did play roulette quite a bit.
16 And his level of play during his trip here was quite high. Mr. La Barbera wasn't the
17 5, 10, 15, 20-dollar player that we commonly see at the casino. In fact, you'll hear
18 that Mr. La Barbera's average bet was quite significant, at times exceeding \$50,000
19 per spin of the roulette wheel. So it's certainly understandable that at the end of
20 Mr. La Barbera's trip, in addition to winning when he got here, in addition to wiring
21 the million dollars into his front money account, he ended up losing. And he ended
22 up losing a million dollars which is what we're seeking here as a part of this lawsuit.

23 I told you, well, I wanted to keep this short and I am going to keep this
24 short. We believe at the end of the presentation of the evidence that we will have
25 established that Mr. La Barbera owes the Wynn a million dollars, based upon I

1 MR. SEMENZA: And has she fully recovered?

2 PROSPECTIVE JUROR NUMBER 003: Her back still hurts, but, yeah.

3 MR. SEMENZA: Any other family members?

4 PROSPECTIVE JUROR NUMBER 003: No.

5 MR. SEMENZA: Do you believe that you could be fair and impartial in this
6 particular case based upon what you've heard so far?

7 PROSPECTIVE JUROR NUMBER 003: I don't know just because for
8 gambling debts in general, I – I have many family and family friends that have
9 struggled with gambling and that, to me, just – just put a sour taste in my mouth, in
10 general, at first. So.

11 MR. SEMENZA: You currently gamble?

12 PROSPECTIVE JUROR NUMBER 003: No.

13 MR. SEMENZA: And did – did you identify that you had taken out credit at
14 casinos before?

15 PROSPECTIVE JUROR NUMBER 003: No, not me.

16 MR. SEMENZA: Okay. Thank you.

17 Okay, could I have you pass the mic, please. Thank you.

18 Ms. Hardy, are you currently employed?

19 PROSPECTIVE JUROR NUMBER 005: No.

20 MR. SEMENZA: And how long have you been – are you retired?

21 PROSPECTIVE JUROR NUMBER 005: Tired. No, I haven't worked outside
22 the home.

23 MR. SEMENZA: And you said your husband was Joe Hardy?

24 PROSPECTIVE JUROR NUMBER 005: Yes.

25 MR. SEMENZA: And he's a state Senator?

1 PROSPECTIVE JUROR NUMBER 005: Yes.

2 MR. SEMENZA: Okay. Do you get involved in politics at all?

3 PROSPECTIVE JUROR NUMBER 005: Yes.

4 MR. SEMENZA: In what – in what context?

5 PROSPECTIVE JUROR NUMBER 005: I do a lot of his paperwork. And I

6 wanted to say I think that he was once sued in his medical practice years and years

7 ago. And I think once that there was a lawsuit over a political sign years ago.

8 MR. SEMENZA: Okay. And that's the only lawsuit –

9 PROSPECTIVE JUROR NUMBER 005: Yeah.

10 MR. SEMENZA: -- that you recall? Okay. Do you have children?

11 PROSPECTIVE JUROR NUMBER 005: We have eight children.

12 MR. SEMENZA: Okay.

13 PROSPECTIVE JUROR NUMBER 005: One happens to be a District Court

14 Judge.

15 MR. SEMENZA: Okay, thank you for that. Actually, I still have a couple of

16 questions for you. I appreciate it. And do you believe that you could be fair and

17 impartial if you're selected to stay on this particular jury?

18 PROSPECTIVE JUROR NUMBER 005: Yes.

19 MR. SEMENZA: Thank you. You can go ahead and pass.

20 Ms. Ruiz, how are you?

21 PROSPECTIVE JUROR NUMBER 006: Good, thank you.

22 MR. SEMENZA: Good. You just graduated from high school?

23 PROSPECTIVE JUROR NUMBER 006: Yes, I have.

24 MR. SEMENZA: And am I correct that you don't yet have a job, but –

25 PROSPECTIVE JUROR NUMBER 006: No.

1 MR. SEMENZA: -- you're looking for one?

2 PROSPECTIVE JUROR NUMBER 006: Yeah, I am.

3 MR. SEMENZA: What kind of things do you want to do for work?

4 PROSPECTIVE JUROR NUMBER 006: Well, I have an aunt that works at
5 CSN so I'm trying to get a job while I go into college.

6 MR. SEMENZA: Okay. So is it your intention to go college?

7 PROSPECTIVE JUROR NUMBER 006: Yes, it is.

8 MR. SEMENZA: What kind of major do you want to take?

9 PROSPECTIVE JUROR NUMBER 006: Bachelors.

10 MR. SEMENZA: Okay.

11 PROSPECTIVE JUROR NUMBER 006: But I'm learning to be an
12 orthodontist.

13 MR. SEMENZA: An orthodontist. Okay, great. And if you're selected for this
14 jury, do you think you can be fair and impartial to both sides?

15 PROSPECTIVE JUROR NUMBER 006: Yes, but in my family -- in my family
16 one member had a lawsuit on someone else. So.

17 MR. SEMENZA: Okay. What -- was it a personal injury case? Was it a civil
18 lawsuit? What did it involve generally?

19 PROSPECTIVE JUROR NUMBER 006: I don't remember because I was
20 very young and it was -- I don't remember because I was not part of the
21 conversation.

22 MR. SEMENZA: Have you ever been a party to a lawsuit?

23 PROSPECTIVE JUROR NUMBER 006: No, I have not.

24 MR. SEMENZA: And the lawsuit that you're referencing, was it -- did that
25 involve parents, brother, aunts, uncles?

1 PROSPECTIVE JUROR NUMBER 006: Uncles and cousins.
2 MR. SEMENZA: Okay. When do you think you'll start at – in college?
3 PROSPECTIVE JUROR NUMBER 006: The fall, hopefully.
4 MR. SEMENZA: In the fall? And the job you're looking for is currently at
5 CSN?
6 PROSPECTIVE JUROR NUMBER 006: Yes.
7 MR. SEMENZA: Have you applied and interviewed?
8 PROSPECTIVE JUROR NUMBER 006: I'm currently talking to a recruiter.
9 MR. SEMENZA: Okay. Do you have any family members that gamble?
10 PROSPECTIVE JUROR NUMBER 006: Yes, I do.
11 MR. SEMENZA: And have they had any issues with gambling at all?
12 PROSPECTIVE JUROR NUMBER 006; Not that I've known.
13 MR. SEMENZA: Thank you very much.
14 PROSPECTIVE JUROR NUMBER 006: Thank you.
15 MR. SEMENZA: Ms. Couture, how are you?
16 PROSPECTIVE JUROR NUMBER 037: Good.
17 MR. SEMENZA: Good. You had mentioned, I believe, that you are
18 self-employed, is that correct?
19 PROSPECTIVE JUROR NUMBER 037: Yes.
20 MR. SEMENZA: What kind of work do you do?
21 PROSPECTIVE JUROR NUMBER 037: I'm in sales. I'm a manufacturer's
22 rep of decorative lighting products for the hotels. And actually Wynn Design and
23 Development is one of my clients.
24 MR. SEMENZA: Okay.
25 PROSPECTIVE JUROR NUMBER 037: In addition to MGM, Mirage,

1 Harrah's, all of the major hotels in town that designers select my products and then
2 once they're installed, my companies pay me a commission. I have one company
3 based in Italy and my other six companies are based in the U.S.

4 MR. SEMENZA: Is one those companies Targetti?

5 PROSPECTIVE JUROR NUMBER 037: No. Barovier & Toso in Murano.

6 MR. SEMENZA: What company do you – well, what company do you do
7 sales for or are there a whole host of them?

8 PROSPECTIVE JUROR NUMBER 037: Well Barovier & Toso is one of my
9 companies in Italy that Wynn Design and Development uses. But Fine Art Lamps in
10 Florida. I have company in Arkansas, Ashley Lighting. One in Oregon, and I've
11 been in sales for about 20 years doing what I do.

12 MR. SEMENZA: Okay. And who at Wynn Design Development do you work
13 with?

14 PROSPECTIVE JUROR NUMBER 037: The design – people in the design
15 department under Roger Thomas.

16 MR. SEMENZA: Have you had any issues with Wynn Design Development at
17 all?

18 PROSPECTIVE JUROR NUMBER 037: Not really. I mean, I make my – I
19 make my income indirectly by, you know, getting our products specified with them.
20 So.

21 MR. SEMENZA: In addition to other casinos.

22 PROSPECTIVE JUROR NUMBER 037: In addition to other casinos.

23 MR. SEMENZA: Do you have any bias or prejudices against either
24 Mr. La Barbera in this case or Wynn?

25 PROSPECTIVE JUROR NUMBER 037: No.

1 MR. SEMENZA: Thank you.

2 PROSPECTIVE JUROR NUMBER 017: Hello.

3 MR. SEMENZA: How are you?

4 PROSPECTIVE JUROR NUMBER 017: I'm fine. How are you?

5 MR. SEMENZA: Ms. Jenkins?

6 PROSPECTIVE JUROR NUMBER 017: Yes.

7 MR. SEMENZA: Let me consult my notes. You're currently employed at the

8 Excalibur?

9 PROSPECTIVE JUROR NUMBER 017: Yes.

10 MR. SEMENZA: How long have you been employed there?

11 PROSPECTIVE JUROR NUMBER 017: 17 years.

12 MR. SEMENZA: Okay. Great. Do you enjoy your work there?

13 PROSPECTIVE JUROR NUMBER 017: Yes.

14 MR. SEMENZA: Before you worked at the Excalibur, where did you work?

15 PROSPECTIVE JUROR NUMBER 017: I worked as a preschool teacher for

16 the Clark County School Parks and Recreation.

17 MR. SEMENZA: Okay.

18 PROSPECTIVE JUROR NUMBER 017: They used to have, like, preschools.

19 I worked for Bank of America as a teller.

20 MR. SEMENZA: Okay.

21 PROSPECTIVE JUROR NUMBER 017: I worked at Hushpuppies as a

22 cashier.

23 MR. SEMENZA: That's going back a ways. Okay. Thank you.

24 PROSPECTIVE JUROR NUMBER 017: No, these are all together.

25 MR. SEMENZA: Oh, are they? Okay. So you were holding down three and

1 four jobs at a time.

2 PROSPECTIVE JUROR NUMBER 017: Yeah.

3 MR. SEMENZA: Okay. And you said you're divorced?

4 PROSPECTIVE JUROR NUMBER 017: Yes.

5 MR. SEMENZA: Do you have a significant other at this point.

6 PROSPECTIVE JUROR NUMBER 017: Well technically I'm legally married.

7 MR. SEMENZA: Okay.

8 PROSPECTIVE JUROR NUMBER 017: But we are --

9 MR. SEMENZA: Separated.

10 PROSPECTIVE JUROR NUMBER 017: Yes.

11 MR. SEMENZA: Okay. And you had mentioned, I think, if I -- my notes are
12 correct that you were involved in a lawsuit.

13 PROSPECTIVE JUROR NUMBER 017: Yes.

14 MR. SEMENZA: And can you tell me a little bit about that?

15 PROSPECTIVE JUROR NUMBER 017: I was sued for -- my cousin sued me
16 before for, we got into it. She let me borrow some money and it was supposedly, I
17 was supposed to pay a bill back, you know, advice thing, but what it came out to be
18 is I didn't have to pay her nothing back because I showed that I paid her the
19 bills -- paid the bills for her.

20 MR. SEMENZA: Okay. And was that lawsuit filed here in Clark County or --

21 PROSPECTIVE JUROR NUMBER 017: Yes.

22 MR. SEMENZA: -- somewhere else?

23 PROSPECTIVE JUROR NUMBER 017: Here.

24 MR. SEMENZA: How long ago was that?

25 PROSPECTIVE JUROR NUMBER 017: Like 12 years ago.

1 MR. SEMENZA: Quite a ways. And that was resolved, that case?

2 PROSPECTIVE JUROR NUMBER 017: Yes.

3 MR. SEMENZA: What shift do you work at the Excalibur?

4 PROSPECTIVE JUROR NUMBER 017: We're on varied shifts.

5 MR. SEMENZA: It depends.

6 PROSPECTIVE JUROR NUMBER 017: Like, yeah, I worked graveyard last
7 night. So I work different shifts.

8 MR. SEMENZA: So you haven't had a lot of sleep today.

9 PROSPECTIVE JUROR NUMBER 017: No, not yet.

10 MR. SEMENZA: Well thank you for being here. If you could pass the mic, I'd
11 appreciate it.

12 Ms. Cherry-Clark, how are you?

13 PROSPECTIVE JUROR NUMBER 019: Fine, thank you.

14 MR. SEMENZA: Good. Am I correct that you are a teacher?

15 PROSPECTIVE JUROR NUMBER 019: Yes, I am.

16 MR. SEMENZA: And could you remind me where you are teaching currently?

17 PROSPECTIVE JUROR NUMBER 019: I'm at a charter school, Rainbow
18 Dreams.

19 MR. SEMENZA: Okay. Where's that located?

20 PROSPECTIVE JUROR NUMBER 019: It's at 950 West Lake Mead.

21 MR. SEMENZA: And is it daycare, elementary school, middle –

22 PROSPECTIVE JUROR NUMBER 019: It's elementary, K through 5.

23 MR. SEMENZA: All right. How long have you been there?

24 PROSPECTIVE JUROR NUMBER 019: I've only been there one year. I was
25 with CCSD before that.

1 MR. SEMENZA: Were you a teacher at CCSD before?
2 PROSPECTIVE JUROR NUMBER 019: Yes.
3 MR. SEMENZA: And what did you teach for CCSD?
4 PROSPECTIVE JUROR NUMBER 019: Fifth grade.
5 MR. SEMENZA: All right. What school or schools?
6 PROSPECTIVE JUROR NUMBER 019: John F. Mendoza.
7 MR. SEMENZA: Would you have any biases or prejudice against either the
8 Wynn or Mr. La Barbera in this –
9 PROSPECTIVE JUROR NUMBER 019: No, I don't. Uh-uh.
10 MR. SEMENZA: -- particular? Do you have any reservations about serving
11 on a jury?
12 PROSPECTIVE JUROR NUMBER 019: Nope. Before I was a teacher, I was
13 a paralegal for an attorney here in Las Vegas.
14 MR. SEMENZA: Oh.
15 PROSPECTIVE JUROR NUMBER 019: And that attorney is now a sitting
16 judge.
17 MR. SEMENZA: Who is that?
18 PROSPECTIVE JUROR NUMBER 019: Judge Karen Bennett-Haron.
19 MR. SEMENZA: Did you enjoy working as a paralegal?
20 PROSPECTIVE JUROR NUMBER 019: I did.
21 MR. SEMENZA: Good.
22 PROSPECTIVE JUROR NUMBER 019: Uh-huh.
23 MR. SEMENZA: Okay, thank you very much.
24 PROSPECTIVE JUROR NUMBER 019: Okay.
25 MR. SEMENZA: Ms. Harner, how are you?

1 PROSPECTIVE JUROR NUMBER 020: Good.

2 MR. SEMENZA: Good. And remind us what you do?

3 PROSPECTIVE JUROR NUMBER 020: Fourth grade teacher.

4 MR. SEMENZA: Okay. Where at?

5 PROSPECTIVE JUROR NUMBER 020: At Lucille Rogers Elementary.

6 MR. SEMENZA: How long have you been a teacher?

7 PROSPECTIVE JUROR NUMBER 020: I'm just starting this year. I was at
8 Goolsby last year.

9 MR. SEMENZA: Okay. Are you happy to have the summer off or not?

10 PROSPECTIVE JUROR NUMBER 020: I'm happy to have the summer off,
11 yes.

12 MR. SEMENZA: And have you been a party to a lawsuit before?

13 PROSPECTIVE JUROR NUMBER 020: No.

14 MR. SEMENZA: Have you ever had any family members that were parties to
15 lawsuits?

16 PROSPECTIVE JUROR NUMBER 020: Not that I know of.

17 MR. SEMENZA: Just a moment. And I believe you were one of the
18 individuals that raised their hands as far as past due or collections issue. Am I
19 correct about that?

20 PROSPECTIVE JUROR NUMBER 020: Yes, during my marriage there was a
21 lot of collections issues.

22 MR. SEMENZA: Okay. And have those issues been resolved?

23 PROSPECTIVE JUROR NUMBER 020: No, they were sort of dumped on me
24 because my ex is on disability.

25 MR. SEMENZA: Okay. And so those issues are still working themselves

1 out?

2 PROSPECTIVE JUROR NUMBER 020: Uh-huh.

3 MR. SEMENZA: Do you have any ill feelings, animosity towards any of those
4 companies that are attempting to collect on that debt or debts?

5 PROSPECTIVE JUROR NUMBER 020: You do what you can do.

6 MR. SEMENZA: Would you have any bias or prejudice against Wynn in this
7 particular case for seeking the amounts that Mr. La Barbera's alleged to owe it in
8 this particular case?

9 PROSPECTIVE JUROR NUMBER 020: You know, until I understand what
10 it's all about, I really can't comment.

11 MR. SEMENZA: And did you identify that you had ever declared bankruptcy
12 before?

13 PROSPECTIVE JUROR NUMBER 020: No, my husband had.

14 MR. SEMENZA: Okay.

15 PROSPECTIVE JUROR NUMBER 020: My ex.

16 MR. SEMENZA: How long ago was that?

17 PROSPECTIVE JUROR NUMBER 020: It's probably been 10 years.

18 MR. SEMENZA: And do you have any children you're caring for or other
19 family members that you currently staying with you, anything like that?

20 PROSPECTIVE JUROR NUMBER 020: My daughter and her son are staying
21 with me.

22 MR. SEMENZA: Okay. Okay, thank you.

23 I'm going to butcher your name, but is it Rayzahn [phonetic]
24 Terwilleger?

25 PROSPECTIVE JUROR NUMBER 023: Reizian-Terwilleger.

1 MR. SEMENZA: Reizian-Terwilleger. Okay, great. And you said your
2 husband was a vineyard consultant?

3 PROSPECTIVE JUROR NUMBER 023: Yes, in Kingman, Arizona.

4 MR. SEMENZA: What specifically does he do?

5 PROSPECTIVE JUROR NUMBER 023: He monitors the growth and planting
6 of grapevines. And trains personnel to tend the grapevines and the irrigation and
7 fertilization. And he participates in doing those things as well as picking the grapes.

8 MR. SEMENZA: Great. Is that just in Kingman or does he go other areas?

9 PROSPECTIVE JUROR NUMBER 023: No, just in Kingman, Arizona.

10 MR. SEMENZA: Is that a growing business? I didn't know that they grow
11 grapes in Kingman.

12 PROSPECTIVE JUROR NUMBER 023: Actually, quite – there's several
13 people growing grapes in Kingman.

14 MR. SEMENZA: Oh, wow, okay. How long has he been doing that?

15 PROSPECTIVE JUROR NUMBER 023: I think it's seven years now.

16 MR. SEMENZA: Does he commute every day from here to Kingman or does
17 he do something else?

18 PROSPECTIVE JUROR NUMBER 023: No, he lives in Kingman, Arizona
19 and I usually go there.

20 MR. SEMENZA: Okay. Understood. And you're a teacher?

21 PROSPECTIVE JUROR NUMBER 023: Yes.

22 MR. SEMENZA: And where are you teaching?

23 PROSPECTIVE JUROR NUMBER 023: At M.J. Christensen Elementary
24 School.

25 MR. SEMENZA: And what grade?

1 PROSPECTIVE JUROR NUMBER 023: K through 5. I teach art.

2 MR. SEMENZA: Great. How long have you been doing that at that school?

3 PROSPECTIVE JUROR NUMBER 023: At that school, 6 years and I'll

4 continue this coming year as well.

5 MR. SEMENZA: And if my notes are accurate, you'd identified that you've

6 been a party to a lawsuit before?

7 PROSPECTIVE JUROR NUMBER 023: Yes.

8 MR. SEMENZA: Could you tell us just briefly what that was about?

9 PROSPECTIVE JUROR NUMBER 023: Actually two lawsuits involving
10 personal injury and they were auto accidents. And I was in a car in both instances
11 that was struck by another person and had injuries to my back and my neck.

12 MR. SEMENZA: Have you fully recovered?

13 PROSPECTIVE JUROR NUMBER 023: Pretty much.

14 MR. SEMENZA: Okay. And are both those lawsuits resolved?

15 PROSPECTIVE JUROR NUMBER 023: No.

16 MR. SEMENZA: They're still ongoing.

17 PROSPECTIVE JUROR NUMBER 023: One is.

18 MR. SEMENZA: One is. Okay. And do you have an attorney?

19 PROSPECTIVE JUROR NUMBER 023: Yes.

20 MR. SEMENZA: Who's your attorney?

21 PROSPECTIVE JUROR NUMBER 023: Christopher Burk.

22 MR. SEMENZA: Do you know which department is handling your auto
23 accident case?

24 PROSPECTIVE JUROR NUMBER 023: I have no idea.

25 MR. SEMENZA: Okay. Fair enough. Would you have any issues or, as far

1 as sitting on this particular jury, in treating both sides fairly?

2 PROSPECTIVE JUROR NUMBER 023: No.

3 MR. SEMENZA: And just because Wynn is a company or a limited liability
4 company, that wouldn't influence your decision making in any way, would it?

5 PROSPECTIVE JUROR NUMBER 023: No.

6 MR. SEMENZA: Okay. If you could pass the mic, please.

7 Ms. Bourgon?

8 PROSPECTIVE JUROR NUMBER 039: Uh-huh.

9 MR. SEMENZA: You work at the credit union.

10 PROSPECTIVE JUROR NUMBER 039: Correct.

11 MR. SEMENZA: Okay. And tell us a little bit about what you do there.

12 PROSPECTIVE JUROR NUMBER 039: I'm an Operations Manager in the
13 back office. I've been there for 15 years. We process, excuse me, ATMs, we do the
14 mail. We also do – I'm the custodian of records so I do all the subpoenas and I am
15 the one will, you know, will represent the credit union. We handle all the online bill
16 pay, return – we don't do return checks, but we do remote deposits when they do
17 their checks through the phones.

18 MR. SEMENZA: Okay.

19 PROSPECTIVE JUROR NUMBER 039: I'm also an IRA specialist so we do a
20 little bit of everything.

21 MR. SEMENZA: Now, do you work for all of the branches here in Clark
22 County?

23 PROSPECTIVE JUROR NUMBER 039: I work at the main branch at McLeod
24 and Flamingo. We have eight locations, but I'm – we're considered operations
25 support services so we support all the branches for anything request or anything like

1 that.

2 MR. SEMENZA: Okay. Do you have any legal training at all?

3 PROSPECTIVE JUROR NUMBER 039: No.

4 MR. SEMENZA: Aside from the subpoenas, do you have any daily
5 involvement with issues concerning bounced checks or anything like that?

6 PROSPECTIVE JUROR NUMBER 039: My department does get notified
7 because certain things, like I will have to deactivate them from remote deposit so
8 they can't do that or use the ATMS. So we do work with Loss Prevention when
9 things like that happen.

10 MR. SEMENZA: And you said your husband was at the airport?

11 PROSPECTIVE JUROR NUMBER 039: Yeah, he works for Department of
12 Aviation.

13 MR. SEMENZA: How long have you been at the credit union?

14 PROSPECTIVE JUROR NUMBER 039: Fifteen years.

15 MR. SEMENZA: And you have served on a jury before?

16 PROSPECTIVE JUROR NUMBER 039: I got picked for a jury, came back the
17 second day and they had solved the case.

18 MR. SEMENZA: It settled. Thank you. How long has your husband been
19 working at the airport?

20 PROSPECTIVE JUROR NUMBER 039: He's almost, let's see, 25 years.

21 MR. SEMENZA: Specifically what does he do?

22 PROSPECTIVE JUROR NUMBER 039: What he does, he's an IT Manager,
23 but he's involved in like all the kiosks and he's more of the innovator of touch
24 screens to improve the airport. Kind of innovation and kind of things like that.

25 MR. SEMENZA: And boarding passes and all –

1 PROSPECTIVE JUROR NUMBER 039: Boarding passes, came up with
2 RFID, the new – the little chips he was involved in that whole thing that started
3 probably like five, six years ago.

4 MR. SEMENZA: Okay. Is there any reason that you can think of as to why
5 you might be biased or prejudiced in this particular case as it relates to either the
6 Wynn or Mr. La Barbera?

7 PROSPECTIVE JUROR NUMBER 039: No.

8 MR. SEMENZA: Thank you. If you could pass the mic, I'd appreciate it.

9 Ms. Rogers-Pokorny?

10 PROSPECTIVE JUROR NUMBER 025: Yes.

11 MR. SEMENZA: And you're dental hygienist?

12 PROSPECTIVE JUROR NUMBER 025: I am.

13 MR. SEMENZA: How long have you been working?

14 PROSPECTIVE JUROR NUMBER 025: I've been a dental hygienist for 17
15 years now. I worked for one gentleman for 16 years and I've worked in my other
16 office for 10.

17 MR. SEMENZA: Great. And your husband works at the Venetian in IT?

18 PROSPECTIVE JUROR NUMBER 025: He does.

19 MR. SEMENZA: What kind of work does he do for that?

20 PROSPECTIVE JUROR NUMBER 025: He is in the group that determines all
21 of their software needs and they head up all the software installations and all of that.
22 My husband's background is in the other side of gaming where they make all
23 the – he's worked in every aspect. Slots, table games, progressives, all of that. He
24 just recently started working for the hotel side and is rounding out his wheelhouse in
25 that department.

1 MR. SEMENZA: Great. So he does work specifically on gaming and the
2 machines, the slot machines, that sorts of things.

3 PROSPECTIVE JUROR NUMBER 025: That's part of it, but mostly it's hotel
4 operations at this point. So like the software used for point of service, you know,
5 check in, all of that, banking, accounting.

6 MR. SEMENZA: Has he ever worked for the Wynn in any capacity?

7 PROSPECTIVE JUROR NUMBER 025: He has as -- he worked for Shuffle
8 Master. He worked for DEQ. He worked for Aristocrat. He worked for Bally's. And
9 I believe in all of those instances, he did have contact with people there in selling
10 them. He didn't -- he didn't sell equipment or games, but he did have to be in
11 contact with the client for installation training, all of that.

12 MR. SEMENZA: Okay. In your household, is it just you two? Or do you have
13 children?

14 PROSPECTIVE JUROR NUMBER 025: Oh, it's just the two of us. I got
15 married later.

16 MR. SEMENZA: And how long have you guys been here in Las Vegas?

17 PROSPECTIVE JUROR NUMBER 025: Oh my gosh. My husband was born
18 and raised here so he's been here 53 years. I moved here when I was 5 years old,
19 so I've been here 48 years.

20 MR. SEMENZA: Great. Just one moment.

21 Your Honor, do you want to take a break or do you want me to keep
22 going. It's almost noon. I'm happy to continue, if you like.

23 THE COURT: Well, you can go until noon if that's --

24 MR. SEMENZA: That's perfect.

25 THE COURT: -- or did you finish with?

1 MR. SEMENZA: Yes, thank you.

2 If you could pass the mic all the way down.

3 PROSPECTIVE JUROR NUMBER 025: Okay.

4 Mr. Leary, how are you?

5 PROSPECTIVE JUROR NUMBER 026: I'm fine.

6 MR. SEMENZA: Okay. I want to sort of get a little more into what you do and
7 your relationship to the various casinos and Wynn. Do you own your own
8 company?

9 PROSPECTIVE JUROR NUMBER 026: No, I do not.

10 MR. SEMENZA: Okay. What company do you work for?

11 PROSPECTIVE JUROR NUMBER 026: Compass Group.

12 MR. SEMENZA: Compass Group. Okay. And what do they do?

13 PROSPECTIVE JUROR NUMBER 026: I work at the sixth largest employer
14 in the world. We run food and beverage and management operations globally.

15 MR. SEMENZA: Okay. And as far as the food and beverage, do you work
16 directly with Wynn?

17 PROSPECTIVE JUROR NUMBER 026: I've worked with some of the chefs
18 that work at Wynn.

19 MR. SEMENZA: Okay. But not with Wynn directly, just some of the
20 acknowledgeables.

21 PROSPECTIVE JUROR NUMBER 026: Not with Wynn directly.

22 MR. SEMENZA: Do you still work with some of the chefs directly that are at
23 Wynn?

24 PROSPECTIVE JUROR NUMBER 026: Yes.

25 MR. SEMENZA: And what does Compass do for the chefs or the hotels?

1 PROSPECTIVE JUROR NUMBER 026: There's partnerships and depends.
2 Sometimes it's a direct hire, sometimes it's a partnership, sometimes they are chef
3 ownership.

4 MR. SEMENZA: Okay. Do you guys provide food services, tablecloths, what
5 kind of stuff specifically?

6 PROSPECTIVE JUROR NUMBER 026: Mainly food service but also facility
7 services.

8 MR. SEMENZA: Okay.

9 PROSPECTIVE JUROR NUMBER 026: Virtually anything in that arena.

10 MR. SEMENZA: You provide logistics as far as getting food from one location
11 to the restaurants?

12 PROSPECTIVE JUROR NUMBER 026: Yes we do.

13 MR. SEMENZA: Okay. That helps. I appreciate it. And I think you had
14 mentioned that you either had some negative experiences with Wynn or something
15 to that effect? Could you just share --

16 PROSPECTIVE JUROR NUMBER 026: Correct.

17 MR. SEMENZA: -- a little bit more on that?

18 PROSPECTIVE JUROR NUMBER 026: Several. Just my own experiences
19 and just some of the -- I'll say the business practices. I'm not -- I don't agree with
20 them.

21 MR. SEMENZA: Okay.

22 PROSPECTIVE JUROR NUMBER 026: In some cases.

23 MR. SEMENZA: And does that relate to your involvement with the Compass
24 Group and the businesses relating to food?

25 PROSPECTIVE JUROR NUMBER 026: More personal.

1 MR. SEMENZA: More personal.

2 PROSPECTIVE JUROR NUMBER 026: Uh-huh.

3 MR. SEMENZA: As far as business relations with the Wynn or as a patron of
4 the Wynn or something else?

5 PROSPECTIVE JUROR NUMBER 026: A little of both.

6 MR. SEMENZA: Do you – and you said you still work with some of those
7 chefs at the Wynn.

8 PROSPECTIVE JUROR NUMBER 026: Yes.

9 MR. SEMENZA: What restaurants are they involved in, do you know?

10 PROSPECTIVE JUROR NUMBER 026: Paul Bartolotta.

11 MR. SEMENZA: Bartolotta?

12 PROSPECTIVE JUROR NUMBER 026: That's one.

13 MR. SEMENZA: Okay.

14 PROSPECTIVE JUROR NUMBER 026: The sushi Asian, I don't recall the
15 name of it right now, but those are the two that come to mind right now.

16 MR. SEMENZA: And I understand you're married?

17 PROSPECTIVE JUROR NUMBER 026: Yes.

18 MR. SEMENZA: Your wife works for the chamber.

19 PROSPECTIVE JUROR NUMBER 026: Yes.

20 MR. SEMENZA: Okay. What is that?

21 PROSPECTIVE JUROR NUMBER 026: The U.S. chamber?

22 MR. SEMENZA: U.S. chamber, yeah.

23 PROSPECTIVE JUROR NUMBER 026: Of commerce.

24 MR. SEMENZA: Okay. And what does she do there?

25 PROSPECTIVE JUROR NUMBER 026: She's a director.

1 MR. SEMENZA: Of the whole thing?

2 PROSPECTIVE JUROR NUMBER 026: No, she oversees veteran services
3 and the Hiring Our Heroes program nationally.

4 MR. SEMENZA: Okay. And do you believe that you could be impartial and
5 unbiased in this particular case in evaluating the evidence and with regard to the
6 Wynn and with regard to Mr. La Barbera?

7 PROSPECTIVE JUROR NUMBER 026: I'd say probably not at this point.

8 MR. SEMENZA: Okay. Thank you for your honesty.

9 Mr. Empaces, did I –

10 PROSPECTIVE JUROR NUMBER 027: Yes, sir.

11 MR. SEMENZA: -- did I say that correctly?

12 PROSPECTIVE JUROR NUMBER 027: Perfect.

13 MR. SEMENZA: Okay. Thank you. You had mentioned that you had a friend
14 that worked at the Encore.

15 PROSPECTIVE JUROR NUMBER 027: Yes.

16 MR. SEMENZA: Are they still employed there?

17 PROSPECTIVE JUROR NUMBER 027: I don't know currently. I haven't
18 spoken to him in a few months. I've been on, basically, traveling for work and he's
19 been kind of doing his own thing, but the last time we did speak he was an
20 employee.

21 MR. SEMENZA: Last time you did speak he was?

22 PROSPECTIVE JUROR NUMBER 027: Yes. He was an employee.

23 MR. SEMENZA: What is he – what did he do or does do for Wynn of Encore?

24 PROSPECTIVE JUROR NUMBER 027: He was a busser.

25 MR. SEMENZA: And you said you are employed by Serco, did I get that

1 right?

2 PROSPECTIVE JUROR NUMBER 027: Serco, Inc., yes.

3 MR. SEMENZA: What do they do?

4 PROSPECTIVE JUROR NUMBER 027: Basically I – they do software.

5 MR. SEMENZA: Okay.

6 PROSPECTIVE JUROR NUMBER 027: And basically they have a parent
7 company out in Europe, I think it is. Not too sure because I've been working for
8 them about a year and change. Don't know too much about their history. Been
9 busy working for them.

10 MR. SEMENZA: Okay.

11 PROSPECTIVE JUROR NUMBER 027: But, yeah. So they're currently
12 located in Reston, Virginia so I'm – basically I'm mobile employee for them.

13 MR. SEMENZA: Great. And it's primarily IT related?

14 PROSPECTIVE JUROR NUMBER 027: Yes, sir.

15 MR. SEMENZA: If you were selected to be on the jury, would you have any
16 biases or prejudices against either of the parties in this particular case?

17 PROSPECTIVE JUROR NUMBER 027: Not necessarily, just gambling in
18 general. Just I've had some family members who've kind of bickered because of it.
19 It's, I mean, as far as, like, to each their own, but as far as I've seen some of
20 the – the nastiness that it can bring out in people. So.

21 MR. SEMENZA: Is that because of disputes between family members?

22 PROSPECTIVE JUROR NUMBER 027: Family members, their – I guess
23 their vices towards casinos and gambling in general. So I try personally to stay
24 away from it myself even though I'm may know, like, one of the cowgirls of
25 gambling's kind of interesting. But, you know, I always tell people you leave the

1 Strip and there's quite a pretty decent residential areas in town. So.

2 MR. SEMENZA: Do you have a negative opinion about gambling in general?

3 PROSPECTIVE JUROR NUMBER 027: No. I've just seen it – the things that
4 it can do, just like anything else, you know, that you have a vice for, you know.

5 MR. SEMENZA: Got it. If you could pass the mic, I'd appreciate it.

6 Ms. Daly.

7 PROSPECTIVE JUROR NUMBER 029: Correct.

8 MR. SEMENZA: How are you?

9 PROSPECTIVE JUROR NUMBER 029: Good.

10 MR. SEMENZA: Good. You work for the Department of Veterans Affairs?

11 PROSPECTIVE JUROR NUMBER 029: I do.

12 MR. SEMENZA: And you're married to a retired police officer.

13 PROSPECTIVE JUROR NUMBER 029: I am.

14 MR. SEMENZA: Was he a police officer here in Las Vegas?

15 PROSPECTIVE JUROR NUMBER 029: No.

16 MR. SEMENZA: In New York, I think.

17 PROSPECTIVE JUROR NUMBER 029: Correct.

18 MR. SEMENZA: Was he involved with 911 at all?

19 PROSPECTIVE JUROR NUMBER 029: Yes.

20 MR. SEMENZA: Was he one of the first responders?

21 PROSPECTIVE JUROR NUMBER 029: No.

22 MR. SEMENZA: And did he retire from the New York Police Department or
23 did he retire –

24 PROSPECTIVE JUROR NUMBER 029: Yes, he did. He retired from the
25 New York Police Department.

1 MR. SEMENZA: Is he working here at all?
2 PROSPECTIVE JUROR NUMBER 029: No.
3 MR. SEMENZA: And what do you in your position?
4 PROSPECTIVE JUROR NUMBER 029: I'm a CT Technologist, I do CT
5 scans.
6 MR. SEMENZA: Oh, okay. Do you work at Nellis?
7 PROSPECTIVE JUROR NUMBER 029: No.
8 MR. SEMENZA: At the new VA facility?
9 PROSPECTIVE JUROR NUMBER 029: Correct.
10 MR. SEMENZA: And how long have you been there?
11 PROSPECTIVE JUROR NUMBER 029: Eight years.
12 MR. SEMENZA: Am I correct that you had had some family members that
13 were involved in litigation?
14 PROSPECTIVE JUROR NUMBER 029: Yes.
15 MR. SEMENZA: Can you just briefly tell me about that?
16 PROSPECTIVE JUROR NUMBER 029: My mother had a medical
17 malpractice suit against a manufacturer of a birth control device.
18 MR. SEMENZA: How long ago was that?
19 PROSPECTIVE JUROR NUMBER 029: More than 20 years ago.
20 MR. SEMENZA: And was that litigated here in Nevada or some other
21 location?
22 PROSPECTIVE JUROR NUMBER 029: No, it was in New Jersey.
23 MR. SEMENZA: In New Jersey. And the case resolved itself?
24 PROSPECTIVE JUROR NUMBER 029: They settled.
25 MR. SEMENZA: They settled. Okay. Any other litigation or lawsuits that

1 you've been involved with?

2 PROSPECTIVE JUROR NUMBER 029: I've actually been involved with a
3 personal injury lawsuit.

4 MR. SEMENZA: You as the plaintiff?

5 PROSPECTIVE JUROR NUMBER 029: Me as the plaintiff.

6 MR. SEMENZA: How long ago was that?

7 PROSPECTIVE JUROR NUMBER 029: About 10 years.

8 MR. SEMENZA: Was that here in Las Vegas?

9 PROSPECTIVE JUROR NUMBER 029: Yes, it was.

10 MR. SEMENZA: Did that resolve itself, did it settle?

11 PROSPECTIVE JUROR NUMBER 029: It settled.

12 MR. SEMENZA: Do you recall who your attorney was?

13 PROSPECTIVE JUROR NUMBER 029: Glen Lerner.

14 MR. SEMENZA: Do you have any negative feelings about attorneys at all as
15 a result of either that lawsuit or your mother's litigation?

16 PROSPECTIVE JUROR NUMBER 029: I don't have a negative opinion about
17 attorneys.

18 MR. SEMENZA: And do you have any issues as far as prejudice or bias with
19 regard to either Wynn or Mr. La Barbera in this case?

20 PROSPECTIVE JUROR NUMBER 029: Before I worked at the Department
21 of Veterans Affairs, I was a floorperson at the Venetian. I worked with a lot of
22 marker players. I worked with that kind of player and so I do think I have a little bit
23 of an opinion regarding that.

24 MR. SEMENZA: Okay. But you think you can put that aside and be impartial
25 with regard to adjudicating this case on the evidence?

1 PROSPECTIVE JUROR NUMBER 029: I could try.

2 MR. SEMENZA: Did you – were you involved with high roller players?

3 PROSPECTIVE JUROR NUMBER 029: Yes.

4 MR. SEMENZA: Was that exclusively what you did at the Venetian as a
5 floorperson?

6 PROSPECTIVE JUROR NUMBER 029: Work with high roller players?

7 MR. SEMENZA: Yes.

8 PROSPECTIVE JUROR NUMBER 029: No. Worked with all players.

9 MR. SEMENZA: All sorts of players.

10 PROSPECTIVE JUROR NUMBER 029: Correct.

11 MR. SEMENZA: Lower and high end? Okay.

12 PROSPECTIVE JUROR NUMBER 029: Correct.

13 MR. SEMENZA: How long did you do that for?

14 PROSPECTIVE JUROR NUMBER 029: I worked in the cas – I worked at the
15 Venetian five years, before that I worked at the Flamingo as a dealer and then down
16 the line.

17 MR. SEMENZA: Okay. Thank you. If you could –

18 PROSPECTIVE JUROR NUMBER 029: You're welcome.

19 MR. SEMENZA: -- pass the mic.

20 THE COURT: Okay, it's 12 o'clock so we'll let you go to lunch. Although I
21 haven't read you the long admonishment, you need to understand that first of all,
22 none of you know really anything about what this case is about and so not only is
23 there no reason to talk about it, but you're not allowed to talk about this case. And
24 that includes with your fellow potential venire person, potential jurors. I tell people
25 and I'll, if you're chosen, I'll read you the speech, but attorneys and certainly

1 witnesses and parties are not allowed to talk to you. And that means including
2 saying hi in the elevator or acknowledging you at all because that could be
3 interpreted as trying to curry your favor. So when I did trials and I was in the jury
4 because I didn't always know who was there, you have to, you know, look at the
5 floor and don't say hi to somebody not knowing who they are. If you have a badge,
6 you can talk to your fellow jurors but not about this trial. So I'll have you come back
7 at 1:20. Give you a little extra time to get out of here. There's restaurants across
8 the street and Capriotti's is in the courthouse. So.

9 Ladies and gentlemen, we're going to take this recess until 1:20.
10 During this recess, you're admonished, do not talk or converse amongst yourselves
11 or with anyone else on any subject connected with this trial. Do not read, watch, or
12 listen to any report of or commentary on the trial, or any person connected with this
13 trial by any medium of information, including without limitation, newspapers,
14 television, radio or Internet. Do not form or express any opinion on any subject
15 connected with this trial until the case is finally submitted to you.

16 Don't Google, don't go on any information, don't look up the names of
17 the attorneys, don't look up the names of the parties, don't do any research
18 regarding this case. It will not reflect favorably upon you. Don't go on social media,
19 don't – don't put on Facebook something about the trial. It's – we, believe me, we'll
20 find out and it is not a good thing.

21 So, thank you. Have a good lunch.

22 [Proceeding recessed at 12:04 p.m.]

23 [Proceeding resumed at 1:29 p.m.]

24 [Outside the presence of the jury]

25 THE COURT: Okay. Anything – any challenges or anybody you've agreed to

1 let off?

2 MR. SEMENZA: I haven't talked to Mr. Albregts about it, but I think seat
3 number 11, Mr. Thomas Leary. After I did some follow up questioning of Mr. Leary, I
4 think it is evident that he does, in fact, have some bias.

5 THE COURT: But first he was, I thought he was biased against your guy, but
6 now it appears he's biased –

7 MR. SEMENZA: That's why I wanted to ask.

8 THE COURT: But nobody asked, or you didn't ask, what –

9 MR. ALBREGTS: The reason was.

10 THE COURT: Yeah, I don't know that if he can't be fair that he needs to say
11 what his reason is. Do you want to traverse him? Outside the presence.

12 MR. ALBREGTS: I wouldn't mind find the reason because as I understand it's
13 the business practices, it doesn't have to do with gaming. And this is a gaming
14 case, but.

15 THE COURT: Right. But he did – my quote is the second time he said, I
16 probably not fair, but –

17 MR. ALBREGTS: He said he had negative feelings about their business
18 practices and when L.J. asked him if he could fair, I thought he said probably not is
19 what I –

20 THE COURT: So I'll let you traverse him if you certainly want to.

21 MR. ALBREGTS: I – it's just a question of whether you excuse him for cause
22 or L.J. uses a peremptory challenge so.

23 THE COURT: Well, at this point, --

24 MR. ALBREGTS: I doubt he's going to –

25 THE COURT: -- it's always a question and – but, if you don't think they've

1 shown cause, then I'll let you traverse him. We'll bring him in now.

2 MR. ALBREGTS: Oh, you want to do that right now, out of order?

3 THE COURT: Yeah, outside the presence.

4 MR. ALBREGTS: Okay.

5 THE COURT: I'll let you –

6 MR. ALBREGTS: All right.

7 THE CLERK: That's number 11, that's badge number 026.

8 THE COURT: Thomas Leary.

9 THE MARSHAL: Bring him now?

10 THE CLERK: Yes.

11 THE MARSHAL: Okay.

12 THE COURT: Because I – twice, I believe, he said – well at the first time was
13 in my general and then the second he said probably not. And I don't even know
14 who he favors or doesn't really other than, it seemed like both.

15 THE CLERK: Go ahead and --

16 THE COURT: Mr. Leary, just take a seat anywhere. We have a few
17 questions.

18 PROSPECTIVE JUROR NUMBER 026: Sure.

19 THE COURT: Go ahead.

20 MR. ALBREGTS: Thank you.

21 Hello, Mr. Leary.

22 PROSPECTIVE JUROR NUMBER 026: Hello.

23 MR. ALBREGTS: I'm Jeff Albregts, again, counsel for the Defendant. We
24 just want to ask you a couple more questions about your answers on voir dire, if you
25 don't mind. My notes reflect and I think Mr. Semenza's and the Judge's is that, and

1 I hope I wrote this down accurately, that – that you just don't approve of the
2 business practices of the Wynn. Is that correct? Is that what you told us?

3 PROSPECTIVE JUROR NUMBER 026: I said some.

4 MR. ALBREGTS: Some. Okay. And can you explain to us, and I think you
5 said you had a negative impression of the Wynn because of those business
6 practices.

7 PROSPECTIVE JUROR NUMBER 026: Correct and personal.

8 MR. ALBREGTS: Okay. Can you elaborate on that and tell us?

9 PROSPECTIVE JUROR NUMBER 026: Tell you what?

10 MR. ALBREGTS: What – give more detail to why you have an negative
11 impression of the Wynn. Let me ask you this –

12 PROSPECTIVE JUROR NUMBER 026: Poor experiences, poor service, their
13 way of doing business as a whole. How they hold themselves as a property, they
14 are nonresponsive. Contracts that they put in place with some of the people they
15 know, how they go about doing that. Just their choice of how they choose to do
16 business is not something that I agree with.

17 MR. ALBREGTS: Okay. I appreciate your patience. So based on that, you
18 don't feel that you could be objective and unbiased with respect to listening to this
19 case?

20 PROSPECTIVE JUROR NUMBER 026: Not to be fair. I'd put myself in, no,
21 it's just, I don't believe so.

22 MR. ALBREGTS: That's all I have, Your Honor.

23 THE COURT: Counsel, approach.

24 [Bench Conference begins at 1:33 p.m.]

25 MR. ALBREGTS: I want to keep him.

1 MR. SEMENZA: I think for the record he's joking.
2 THE COURT: Challenge for cause.
3 MR. SEMENZA: Of course, Your Honor.
4 THE COURT: And you opposing it? Or no?
5 MR. ALBREGTS: Yeah.
6 THE COURT: Okay. I think he's --
7 MR. ALBREGTS: But I defer to you. It's -- just want --
8 THE COURT: No, I understand.
9 MR. ALBREGTS: -- you to make the call that's all.
10 THE COURT: And I -- that's my job. I think he's said on two separate
11 occasions, I -- if there was any waffling, it has to do with the Bitnan case, what --
12 MR. ALBREGTS: Right.
13 THE COURT: Or *Jitnan* -- *Jitnan* case --
14 MR. ALBREGTS: *Jitnan*.
15 THE COURT: -- which says if you waffle that we're supposed to certainly side
16 on selecting unbiased. So I'm going to dismiss him for cause.
17 MR. ALBREGTS: Okay.
18 THE COURT: All right.
19 MR. SEMENZA: And, Your Honor, I think I have the same concerns relating
20 to number 12, Mr. Empaces. I think he was a bit of a waffler as well.
21 THE COURT: We'll discuss that in a second.
22 MR. SEMENZA: Thank you.
23 THE COURT: But let me release him.
24 MR. ALBREGTS: Yeah, I don't think he was quite the same from my notes,
25 but.

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

[Bench Conference ends 1:34 p.m.]

THE COURT: Mr. Leary, I want to thank you for being here today. Appreciate your candor. You know, not everybody's right for every particular case. So we're going to let you either go down to third floor jury services and report to them or do it on the Internet. Thank you.

PROSPECTIVE JUROR NUMBER 026: Thank you.

THE COURT: You're excused. And please don't talk to any of the other jurors.

PROSPECTIVE JUROR NUMBER 026: Understood.

MR. ALBREGTS: Wish you the best of luck, Mr. Leary.

PROSPECTIVE JUROR NUMBER 026: Thank you.

THE COURT: Okay. Mr. Empaces. Remember, I can't pronounce it, 027.

MR. ALBREGTS: So Leary's off.

THE COURT: What's your challenge?

MR. SEMENZA: Let me find him. Just a moment. Where is he?

THE COURT: I'll tell you – you can, my notes, friend works for the Wynn, but he specifically said he's not biased.

MR. SEMENZA: My recollection, Your Honor, and I may – okay. My recollection, Your Honor, was that he was essentially a waffler as far as whether he could or could not be impartial relating to this matter. So I'm certainly comfortable based upon your notes and Mr. Rickard's notes that I can flush that out a bit more. So.

THE COURT: That's fine. Yeah, we're not done, but I figured that Mr. Leary since he'd said it twice, it was – might as well replace them now.

Okay, then let's get the rest of them in. We'll replace Mr. Leary.

1 THE MARSHAL: All rise for the jury.
2 [In the presence of the jury]
3 THE COURT: Please be seated.
4 Good afternoon, ladies and gentlemen. You all fell asleep over lunch.
5 Call the next person in line.
6 THE CLERK: Joseph Deandrade, badge number 041, you'll be in seat
7 number 11.
8 MR. SEMENZA: Ms. Clerk, did you say seat number 1.
9 THE CLERK: Eleven.
10 MR. SEMENZA: Okay, thank you.
11 THE COURT: Mr. Deandrade, badge number 041, do you remember the
12 questions. How about where do you work?
13 PROSPECTIVE JUROR NUMBER 041: Sam's Town.
14 THE COURT: And what do you do?
15 PROSPECTIVE JUROR NUMBER 041: I work in the marketing department
16 as a promotions coordinator.
17 THE COURT: Do you have a significant other?
18 PROSPECTIVE JUROR NUMBER 041: Yes, she's in school.
19 THE COURT: In school?
20 PROSPECTIVE JUROR NUMBER 041: Yes.
21 THE COURT: A student?
22 PROSPECTIVE JUROR NUMBER 041: Yes.
23 THE COURT: Okay. Have you ever served on a jury before?
24 PROSPECTIVE JUROR NUMBER 041: No.
25 THE COURT: Thank you.

1 Plaintiff, you may inquire.

2 MR. SEMENZA: Thank you.

3 Would you pronounce your name for me? I want to make sure I get it
4 correct.

5 PROSPECTIVE JUROR NUMBER 041: Deandrade.

6 MR. SEMENZA: Deondrade [phonetic].

7 PROSPECTIVE JUROR NUMBER 041: Deandrade.

8 MR. SEMENZA: Deandrade. Okay.

9 PROSPECTIVE JUROR NUMBER 041: Yeah.

10 MR. SEMENZA: Thank you. I'm going to jump around just for a few
11 moments. Ms. Cherry-Clark.

12 Could I have you pass the microphone back to her for a moment.

13 I wanted to find out what kind of work you did as a paralegal.

14 PROSPECTIVE JUROR NUMBER 019: Criminal, civil, domestic.

15 MR. SEMENZA: All of it, basically.

16 PROSPECTIVE JUROR NUMBER 019: All of it, uh-huh.

17 MR. SEMENZA: All right. Did you do any marker cases, any collection
18 cases –

19 PROSPECTIVE JUROR NUMBER 019: Yes.

20 MR. SEMENZA: -- relating to casinos?

21 PROSPECTIVE JUROR NUMBER 019: Yeah. No, not to casinos, no.

22 MR. SEMENZA: Not to casinos, but collection cases?

23 PROSPECTIVE JUROR NUMBER 019: Uh-huh.

24 MR. SEMENZA: Would that in any way affect your ability to sit on this
25 particular jury?

1 PROSPECTIVE JUROR NUMBER 019: No.

2 MR. SEMENZA: Okay. Thank you.

3 And how about Ms. Bourgon.

4 Pass it down.

5 When we had talked earlier, you had identified that you in a number of
6 different instances had been a custodian of record. Can you tell me what that
7 means to you?

8 PROSPECTIVE JUROR NUMBER 039: What that means to me is giving the
9 proper documentation wherein the other attorneys requested so they can see
10 exactly what, like, I do, like, statements, check copies. I feel that's my duty to be
11 able to give those documentations to whoever. Like, I do grand juries, I do that too.
12 So I feel that's my duty as working at the credit union, but also the right thing to do.

13 MR. SEMENZA: Okay. And the types of subpoenas you got that you
14 respond to as a custodian of record are what? What kinds of subpoenas?

15 PROSPECTIVE JUROR NUMBER 039: We do grand juries, we do federal.
16 We do, like, cases that are here. So we get all types of requests. We don't do any
17 requests for out of state because it has to be filed in the state of Nevada. But we
18 do, I mean, we do all sorts of that and I also get notarized anything that we send out.
19 And we always send it out like certified or by FedEx, things like that. But, yeah. So
20 we do all kinds of cases.

21 MR. SEMENZA: Both civil and criminal.

22 PROSPECTIVE JUROR NUMBER 039: Yeah, both.

23 MR. SEMENZA: Okay. Thank you. And then, could you pass the mic down
24 to Mr. – one more time.

25 PROSPECTIVE JUROR NUMBER 041: Deandrade.

1 MR. SEMENZA: Deandrade. Thank you. And what kind of work do you
2 specifically do at Sam's Town?

3 PROSPECTIVE JUROR NUMBER 041: Mostly what I do is I work in, like I
4 said, I work in the marketing department on the technology side. I make sure that
5 our promotions are promoted on our website, in emails. I send out, you know,
6 things like that.

7 MR. SEMENZA: And how long have you been doing that for?

8 PROSPECTIVE JUROR NUMBER 041: I've been with them for about a year
9 and a half.

10 MR. SEMENZA: And before that, where were you employed?

11 PROSPECTIVE JUROR NUMBER 041: Before that, I worked in retail, but
12 I've also worked in the gaming industry. I worked for the Mirage in retail and then
13 also I worked at Stations.

14 MR. SEMENZA: Do you enjoy your job at Sam's Town?

15 PROSPECTIVE JUROR NUMBER 041: I do.

16 MR. SEMENZA: Any issues with your job? No?

17 PROSPECTIVE JUROR NUMBER 041: My boss is a little crazy, but it's all
18 good.

19 MR. SEMENZA: Okay. And you said your significant other is currently in
20 school?

21 PROSPECTIVE JUROR NUMBER 041: Correct.

22 MR. SEMENZA: Is she in college?

23 PROSPECTIVE JUROR NUMBER 041: Yes.

24 MR. SEMENZA: Okay. What's she studying?

25 PROSPECTIVE JUROR NUMBER 041: She's becoming a certified

1 interpreter for the deaf.

2 MR. SEMENZA: For what?

3 PROSPECTIVE JUROR NUMBER 041: The deaf.

4 MR. SEMENZA: Oh, okay. And when she – when is she going to be able to
5 complete her degree?

6 PROSPECTIVE JUROR NUMBER 041: I think it's spring of 2018.

7 MR. SEMENZA: And she is a full-time student, no work right now?

8 PROSPECTIVE JUROR NUMBER 041: She works like four hours a week at
9 the body shop in the mall.

10 MR. SEMENZA: Got it. Okay. Have you or any of your family members ever
11 worked for a bank?

12 PROSPECTIVE JUROR NUMBER 041: No.

13 MR. SEMENZA: Do you have any negative opinions of the Wynn or Encore
14 at all?

15 PROSPECTIVE JUROR NUMBER 041: No.

16 MR. SEMENZA: Do you have negative opinions relating to gambling in
17 general?

18 PROSPECTIVE JUROR NUMBER 041: No.

19 MR. SEMENZA: Do you gamble from time to time?

20 PROSPECTIVE JUROR NUMBER 041: I don't, actually. But it does help pay
21 my check. So.

22 MR. SEMENZA: Do you believe that you can be impartial and unbiased in
23 evaluating the evidence in this case and rendering a verdict?

24 PROSPECTIVE JUROR NUMBER 041: Yes.

25 MR. SEMENZA: Generally speaking, do you have any negative attitudes

1 about gaming companies in general?

2 PROSPECTIVE JUROR NUMBER 041: No.

3 MR. SEMENZA: Have you ever been a party to a lawsuit?

4 PROSPECTIVE JUROR NUMBER 041: No.

5 MR. SEMENZA: Any family members that have been?

6 PROSPECTIVE JUROR NUMBER 041: Not that I'm aware of.

7 MR. SEMENZA: Do you have any negative attitudes or opinions about
8 lawyers?

9 PROSPECTIVE JUROR NUMBER 041: No.

10 MR. SEMENZA: Every now we have to ask. Have you had any family
11 members that have taken out credit at any casinos?

12 PROSPECTIVE JUROR NUMBER 041: Not that I'm aware of.

13 MR. SEMENZA: Have you ever declared bankruptcy?

14 PROSPECTIVE JUROR NUMBER 041: No.

15 MR. SEMENZA: Okay. Thank you. If you could pass the mic over one.

16 I wanted to come back to you for just a couple questions. I wanted to
17 make sure I understand what you previously identified as far as whether you think
18 you can be impartial and unbiased in evaluating the evidence in this case. Think
19 you can do that?

20 PROSPECTIVE JUROR NUMBER 027: After thinking it through, it's not
21 really the – the, you know, the people in this kind of situation, it's basically just my, I
22 think, I don't know, moral ethics kind of deal, me personally. I mean, I don't want to
23 judge anyone else on their whatever they want to do. I just, for me, I've seen, like I
24 said, I've seen the dangers of gambling in general with, you know, my family
25 members. So.

1 MR. SEMENZA: And would that bias or prejudice that you may have be
2 directed against the Wynn or directed against Mr. La Barbera or do you know?

3 PROSPECTIVE JUROR NUMBER 027: I can see it maybe spill on both
4 ends.

5 MR. SEMENZA: Okay.

6 PROSPECTIVE JUROR NUMBER 027: Potentially depending on how the,
7 you know, the trial goes, whatnot.

8 MR. SEMENZA: Would you find it difficult to separate your personal opinions
9 from the evidence that is presented in this case?

10 PROSPECTIVE JUROR NUMBER 027: If I think about it, potentially, yes.
11 Because I could easily just probably get frustrated on both ends for, you know, both
12 parties kind of being a little negligence on each side in a sense. Like, if you are a
13 person that you know you have an issue, you might want to stop with it, you know.
14 Or on the other end, if you see that someone's having an issue, you might want to
15 tell them, hey, kind of, you know, take it easy or something out of there.

16 MR. SEMENZA: And I just want to be clear that it would be, am I correct, that
17 it would be your personal feelings that would cause you problems to evaluate the
18 evidence unbiasedly or impartially in this case.

19 PROSPECTIVE JUROR NUMBER 027: Potentially, yes.

20 MR. SEMENZA: Okay.

21 PROSPECTIVE JUROR NUMBER 027: I mean, I can't say a hundred
22 percent it won't. So.

23 MR. SEMENZA: You do understand that this is a case involving a gambling
24 debt, correct?

25 PROSPECTIVE JUROR NUMBER 027: Correct.

1 MR. SEMENZA: All right. Thank you. If you could pass it one down to
2 Ms. Daly.

3 I wanted to just ask you a quick follow up question. When you were a
4 floorperson and a dealer at the Venetian, did you enjoy your time there?

5 PROSPECTIVE JUROR NUMBER 029: No.

6 MR. SEMENZA: Okay. Did you – do you have any issues as far as personal
7 biases or prejudices against the Venetian itself?

8 PROSPECTIVE JUROR NUMBER 029: Well, I was laid off from the Venetian
9 so I wasn't – I didn't think very highly of them at that time. By that was a long time
10 ago and, you know.

11 MR. SEMENZA: Do you have any negative opinions about the gaming
12 industry in general?

13 PROSPECTIVE JUROR NUMBER 029: I didn't like working in the gaming
14 industry but as an industry I don't have a problem with it.

15 MR. SEMENZA: Do you have any issues with or concerns that Wynn is a
16 party to this particular lawsuit.

17 PROSPECTIVE JUROR NUMBER 029: I have several people I know that
18 work at Wynn.

19 MR. SEMENZA: Do you like those people?

20 PROSPECTIVE JUROR NUMBER 029: Yes.

21 MR. SEMENZA: Okay. Once your employment at the Venetian ended, you
22 got out of the gaming industry all together?

23 PROSPECTIVE JUROR NUMBER 029: I did.

24 MR. SEMENZA: What was it that you didn't like about the gaming industry
25 generally?

1 PROSPECTIVE JUROR NUMBER 029: Just the way we were treated as
2 employees. You know, if a player was rude to you, you had to take it. It was, you
3 know, and I just didn't feel like it was the right job for me. It was kind of boring after
4 a while.

5 MR. SEMENZA: Thank you. If you could pass the mic down.

6 Ms. Lowe? Did I get –

7 PROSPECTIVE JUROR NUMBER 038: Yes.

8 MR. SEMENZA: Okay. Consult my notes. Am I correct you're a dental
9 hygienist?

10 PROSPECTIVE JUROR NUMBER 038: Yes, I am.

11 MR. SEMENZA: And how long have you been doing that?

12 PROSPECTIVE JUROR NUMBER 038: Twenty five years.

13 MR. SEMENZA: And with the same employer? Different employers?

14 PROSPECTIVE JUROR NUMBER 038: Two different employers.

15 MR. SEMENZA: And how long have you been in Las Vegas?

16 PROSPECTIVE JUROR NUMBER 038: Native.

17 MR. SEMENZA: Native? Okay, great. And is it your husband that's a
18 commercial helicopter pilot?

19 PROSPECTIVE JUROR NUMBER 038: Yes.

20 MR. SEMENZA: And he's on the rigs, oil rigs?

21 PROSPECTIVE JUROR NUMBER 038: He flies the crews off the shores, the
22 rigs, yes.

23 MR. SEMENZA: Okay. And where does it do that at?

24 PROSPECTIVE JUROR NUMBER 038: Out of Louisiana.

25 MR. SEMENZA: Okay. Does he get home from time to time, I hope.

1 PROSPECTIVE JUROR NUMBER 038: Yeah, I do see him every once in a
2 while. Yeah, he passes through.

3 MR. SEMENZA: And how long has he been doing that?

4 PROSPECTIVE JUROR NUMBER 038: Probably about, been a helicopter
5 pilot, about 15 years.

6 MR. SEMENZA: Great. Okay. Is he a native Nevadan as well?

7 PROSPECTIVE JUROR NUMBER 038: Yes, he is.

8 MR. SEMENZA: And you have had jury service before, correct?

9 PROSPECTIVE JUROR NUMBER 038: I have.

10 MR. SEMENZA: And that was in a federal case?

11 PROSPECTIVE JUROR NUMBER 038: It was.

12 MR. SEMENZA: How long ago was that?

13 PROSPECTIVE JUROR NUMBER 038: That was about 9 years ago, 9 or 10
14 years ago.

15 MR. SEMENZA: And am I correct that it was a criminal matter?

16 PROSPECTIVE JUROR NUMBER 038: Yes, it was.

17 MR. SEMENZA: And I think this has been asked and I apologize. Did you
18 reach a verdict?

19 PROSPECTIVE JUROR NUMBER 038: Yes, we did.

20 MR. SEMENZA: Do you recall which judge you were before?

21 PROSPECTIVE JUROR NUMBER 038: No, I sure can't. I'm sorry.

22 MR. SEMENZA: Are there any reasons you don't think you can be impartial
23 and fair in evaluating the evidence in this particular case?

24 PROSPECTIVE JUROR NUMBER 038: No, I'm good.

25 MR. SEMENZA: Thank you.

1 PROSPECTIVE JUROR NUMBER 038: Thank you.
2 MR. SEMENZA: If you could pass it one more.
3 Mr. Epling?
4 PROSPECTIVE JUROR NUMBER 031: Yes, sir.
5 MR. SEMENZA: How are you?
6 PROSPECTIVE JUROR NUMBER 031: Nice afternoon.
7 MR. SEMENZA: It's flying by, isn't it? You're a school teacher?
8 PROSPECTIVE JUROR NUMBER 031: Yes, sir.
9 MR. SEMENZA: Okay. And eighth grade.
10 PROSPECTIVE JUROR NUMBER 031: Yes, sir.
11 MR. SEMENZA: What – what school are you currently at?
12 PROSPECTIVE JUROR NUMBER 031: At Lied Middle School.
13 MR. SEMENZA: How long have you been a teacher?
14 PROSPECTIVE JUROR NUMBER 031: Forever. Thirty five years probably.
15 MR. SEMENZA: And have you ever been a party to a lawsuit?
16 PROSPECTIVE JUROR NUMBER 031: No.
17 MR. SEMENZA: Okay. Do you have any family matters that were parties to
18 lawsuits?
19 PROSPECTIVE JUROR NUMBER 031: No.
20 MR. SEMENZA: I think you had indicated that you had had – been referred to
21 a collection agency at some point, is that correct?
22 PROSPECTIVE JUROR NUMBER 038: Yes.
23 MR. SEMENZA: Was that a long time ago?
24 PROSPECTIVE JUROR NUMBER 038: Yes.
25 MR. SEMENZA: Okay.

1 PROSPECTIVE JUROR NUMBER 038: Back home, Texas.
2 MR. SEMENZA: When did you come out to Nevada?
3 PROSPECTIVE JUROR NUMBER 038: The first time, my dad brought us out
4 here in '66. And then I came back in '95.
5 MR. SEMENZA: Did you teach middle school back in Texas?
6 PROSPECTIVE JUROR NUMBER 038: Yes, I've taught high school,
7 elementary, middle school.
8 MR. SEMENZA: Okay. Thank you, Mr. Epling. I appreciate it.
9 Ms. Smith-Taylor?
10 PROSPECTIVE JUROR NUMBER 032: Yes.
11 MR. SEMENZA: And you're a flight attendant.
12 PROSPECTIVE JUROR NUMBER 032: Yes.
13 MR. SEMENZA: What airline are you --
14 PROSPECTIVE JUROR NUMBER 032: American Airlines.
15 MR. SEMENZA: Are you based here in Las Vegas?
16 PROSPECTIVE JUROR NUMBER 032: No, we don't have a base here. I'm
17 L.A. based.
18 MR. SEMENZA: And how long have you been a flight attendant?
19 PROSPECTIVE JUROR NUMBER 032: 33 years.
20 MR. SEMENZA: What routes do you get to fly?
21 PROSPECTIVE JUROR NUMBER 032: Currently I'm flying LAX to Sao
22 Paulo. Prior to that, I did LAX to Kennedy.
23 MR. SEMENZA: Great. And do you have a spouse?
24 PROSPECTIVE JUROR NUMBER 032: Yes.
25 MR. SEMENZA: Is he a security guard?

1 PROSPECTIVE JUROR NUMBER 032: Security Officer for the Venetian.
2 MR. SEMENZA: Okay. How long has he done that?
3 PROSPECTIVE JUROR NUMBER 032: Ten, twelve years.
4 MR. SEMENZA: Does he enjoy his job as best you know?
5 PROSPECTIVE JUROR NUMBER 032: Overall, yes.
6 MR. SEMENZA: Have you been – you or your husband been a party to a
7 lawsuit?
8 PROSPECTIVE JUROR NUMBER 032: No.
9 MR. SEMENZA: Any reason why you can't be unbiased and impartial in this
10 particular matter in evaluating the evidence between – involving the Wynn and
11 Mr. La Barbera?
12 PROSPECTIVE JUROR NUMBER 032: No.
13 MR. SEMENZA: Did you have an affiliation with a bank at all?
14 PROSPECTIVE JUROR NUMBER 032: My sister worked for a bank.
15 MR. SEMENZA: Here in Las Vegas or somewhere else?
16 PROSPECTIVE JUROR NUMBER 032: Somewhere else.
17 MR. SEMENZA: Okay. Thank you very much.
18 PROSPECTIVE JUROR NUMBER 032: Uh-huh.
19 MR. SEMENZA: Mr. Saucedo?
20 PROSPECTIVE JUROR NUMBER 033: Yes.
21 MR. SEMENZA: Have I got that right?
22 PROSPECTIVE JUROR NUMBER 033: Close enough.
23 MR. SEMENZA: Correct me, please.
24 PROSPECTIVE JUROR NUMBER 033: It's Saucedo, but –
25 MR. SEMENZA: As I said –

1 PROSPECTIVE JUROR NUMBER 033: -- it's been butchered so many times,
2 I don't even mind anymore.

3 MR. SEMENZA: And you work for Solar City?

4 PROSPECTIVE JUROR NUMBER 033: Correct.

5 MR. SEMENZA: And what kind of work specifically do you do?

6 PROSPECTIVE JUROR NUMBER 033: I'm currently a Project Manager.

7 MR. SEMENZA: What does that mean?

8 PROSPECTIVE JUROR NUMBER 033: I oversee construction projects prior
9 to installation.

10 MR. SEMENZA: And is Solar City still actively installing here in Las Vegas?

11 PROSPECTIVE JUROR NUMBER 033: Not in Nevada. Due to
12 circumstances with the Public Utilities Commission, we're no longer doing sales or
13 operations, but we do other business here in the state.

14 MR. SEMENZA: How long have you been with Solar City?

15 PROSPECTIVE JUROR NUMBER 033: About a year.

16 MR. SEMENZA: Do you enjoy it?

17 PROSPECTIVE JUROR NUMBER 033: Love it.

18 MR. SEMENZA: And before that where did you work?

19 PROSPECTIVE JUROR NUMBER 033: Did private and -- private security
20 and hotel security for about 10 years.

21 MR. SEMENZA: Which hotels, if you don't mind me asking?

22 PROSPECTIVE JUROR NUMBER 033: Cosmopolitan, Ex -- no, not the
23 Excalibur. Just the Cosmopolitan and the Hard Rock Hotel.

24 MR. SEMENZA: Were you employed directly by them or through a third
25 party?

1 PROSPECTIVE JUROR NUMBER 033: Directly by them. And then through
2 private security, we've had contracts with The D. Who else? Cosmopolitan and I
3 want to say somebody else downtown, but that's --

4 MR. SEMENZA: And how long were you working in security?

5 PROSPECTIVE JUROR NUMBER 033: Ten years.

6 MR. SEMENZA: Is there anything in particular that made you want to switch
7 over to Solar City?

8 PROSPECTIVE JUROR NUMBER 033: Just got tired of seeing the lowest
9 common denominator of people.

10 MR. SEMENZA: And do you have a spouse?

11 PROSPECTIVE JUROR NUMBER 033: I do.

12 MR. SEMENZA: Children?

13 PROSPECTIVE JUROR NUMBER 033: Yep.

14 MR. SEMENZA: Does your spouse work?

15 PROSPECTIVE JUROR NUMBER 033: She does. She -- she's the assistant
16 accounting manager for UNLV.

17 MR. SEMENZA: That's right. How long has she been there?

18 PROSPECTIVE JUROR NUMBER 033: Eight years.

19 MR. SEMENZA: And does she enjoy her position there?

20 PROSPECTIVE JUROR NUMBER 033: For the most part.

21 MR. SEMENZA: Have you or any of your family members ever had a
22 gambling issue?

23 PROSPECTIVE JUROR NUMBER 033: Not a gambling issue, like, you
24 know, compulsive gambling, things like that, no.

25 MR. SEMENZA: Okay. And I can't recall and I apologize, have you taken out

1 a marker before?

2 PROSPECTIVE JUROR NUMBER 033: Yes.

3 MR. SEMENZA: How long ago was that?

4 PROSPECTIVE JUROR NUMBER 033: I want to say like 15 years ago.

5 MR. SEMENZA: Do you recall – was there more than one? One?

6 PROSPECTIVE JUROR NUMBER 033: Just one.

7 MR. SEMENZA: What was your line on that, your credit?

8 PROSPECTIVE JUROR NUMBER 033: It was like a thousand I think,
9 something small.

10 MR. SEMENZA: Do you recall what property it related to?

11 PROSPECTIVE JUROR NUMBER 033: I know it was with Stations, I can't
12 remember which one. I want to say it was Boulder but I could be wrong.

13 MR. SEMENZA: And did you repay the marker?

14 PROSPECTIVE JUROR NUMBER 033: Yes.

15 MR. SEMENZA: You didn't have any issues with the casino at all?

16 PROSPECTIVE JUROR NUMBER 033: No, they were pretty – pretty easy to
17 work with.

18 MR. SEMENZA: Is there any particular reason that you didn't continue to take
19 out markers?

20 PROSPECTIVE JUROR NUMBER 033: Well, how can I – just when you,
21 change of life, you know, family, you know, comes along and kind of got out of that
22 party mode, so to speak.

23 MR. SEMENZA: And how many times have you been on a jury?

24 PROSPECTIVE JUROR NUMBER 033: Once.

25 MR. SEMENZA: Just once?

1 PROSPECTIVE JUROR NUMBER 033: Yeah.
2 MR. SEMENZA: And you were the foreperson in that one?
3 PROSPECTIVE JUROR NUMBER 033: Correct. Yeah, it was a criminal
4 case.
5 MR. SEMENZA: Here in Las Vegas?
6 PROSPECTIVE JUROR NUMBER 033: Yes.
7 MR. SEMENZA: State court or federal court?
8 PROSPECTIVE JUROR NUMBER 033: It was state.
9 MR. SEMENZA: And have you ever been a party to a lawsuit?
10 PROSPECTIVE JUROR NUMBER 033: Yes.
11 MR. SEMENZA: Can you tell us a little bit about that?
12 PROSPECTIVE JUROR NUMBER 033: It was a debt that I hadn't paid. It
13 was a credit card. Like a long time ago.
14 MR. SEMENZA: Was it something that you were suing the credit card
15 company or they were suing you?
16 PROSPECTIVE JUROR NUMBER 033: They were suing me.
17 MR. SEMENZA: It was a collection?
18 PROSPECTIVE JUROR NUMBER 033: Yeah, it was a collection matter.
19 MR. SEMENZA: Did it get resolved?
20 PROSPECTIVE JUROR NUMBER 033: Yes, it did.
21 MR. SEMENZA: Through settlement?
22 PROSPECTIVE JUROR NUMBER 033: Yeah, we paid it off.
23 MR. SEMENZA: Do you have any ill feelings, strong opinions about debt
24 collectors or collections in general?
25 PROSPECTIVE JUROR NUMBER 033: I mean, they're a pain in the butt,

1 but, you know, it's a job. They've got to do theirs and, you know, you have your
2 responsibilities. So.

3 MR. SEMENZA: And do you think you could impartially and unbiasedly serve
4 as a juror in this particular matter?

5 PROSPECTIVE JUROR NUMBER 033: I think it would be a little bit harder
6 because of my knowledge of gaming procedures, cage procedures, things like that.
7 Just from what I know, there would have to be some really extenuating
8 circumstances to excuse the responsibility and things like that, in my opinion.

9 MR. SEMENZA: Okay. Is that something that you could put aside and listen
10 to the evidence and base the decision solely on the evidence relating to this case
11 that is presented to you?

12 PROSPECTIVE JUROR NUMBER 033: Oh, yeah, I mean, I can listen to it,
13 but like I said, it's just with my – my understanding of gaming laws and cage
14 procedures and stuff, you know, I'd have to see something really, you know, really
15 convincing to kind of lead me to one way or the other, you know what I mean.

16 MR. SEMENZA: If you're asked to put aside those personal feelings and
17 whatever personal knowledge you may have, is that something that you're going to
18 be capable of doing and just taking in that evidence and rendering a decision based
19 upon the evidence that is put before you?

20 PROSPECTIVE JUROR NUMBER 033: Yeah.

21 MR. SEMENZA: Okay. Thank you very much.

22 Ms. Naylor?

23 PROSPECTIVE JUROR NUMBER 034: Yes.

24 MR. SEMENZA: Okay. My notes are quite limited with regard to you and I
25 apologize. Are you currently employed?

1 MR. SEMENZA: Your Honor, and I understand that, that's fine. The
2 deposition is a completely different issue that what I'm arguing with you at this point
3 in time. The issue that we're discussing here is the bench warrant and the Register
4 of Actions and whether the Court will allow reference to the criminal proceeding or
5 not. The deposition is a completely different issue as far as what information the
6 Court is going to allow from that deposition to be read into the record. Until – I'm not
7 even talking about that issue at this point in time. The deposition, we do have
8 issues with the deposition, but again that's a separate issue which I can explain –

9 THE COURT: You're asking, Mr. Albregts, that the bench warrant be
10 admitted as an exhibit?

11 MR. ALBREGTS: What I'm asking is that you take judicial notice of the fact
12 that there's a bench warrant issued for his arrest. As of March 24th, 2009, it's still
13 outstanding, by Judge Saragosa, Melissa Saragosa. And the – I wanted to offer the
14 bench warrant but you just indicated a moment ago you weren't going to admit that
15 and I respect that ruling but I certainly want to be able to explain to the jury that
16 Mr. La Barbera is not here because of that bench warrant.

17 MR. SEMENZA: Well, but then Mr. Albregts becomes a witness in the case.

18 MR. ALBREGTS: Not a witness in the case. You can take judicial notice.
19 Here I have the printout if you want it.

20 THE COURT: He's arguing, all he's doing is, I assume, it's in the depo that
21 he says he's not here because of a bench warrant.

22 MR. SEMENZA: I don't believe that's correct, Your Honor.

23 MR. ALBREGTS: May I – may I approach?

24 THE COURT: Yes.

25 MR. ALBREGTS: That's it. Sorry about the poor quality of copy there.

1 THE COURT: And as far as if Mr. Albregts chooses to use this as his
2 argument, he's basically waiving – he is waiving any argument he'd have to keep it
3 out. Normally it would be –

4 MR. ALBREGTS: Correct.

5 THE COURT: -- kept out as being prejudicial. He doesn't feel – he feels just
6 the opposite that it's not prejudicial. I would caution the defense that generally that
7 is exactly why it's kept out because it is prejudicial and the Supreme Court has
8 deemed it such. However, this is a civil case and if you have some unusual theory
9 that this is somehow going to help him, other than saying he lives in Italy and he
10 can't travel here. But –

11 MR. SEMENZA: One suggestion I have, Your Honor, is that the issue as far
12 as – and I will concede that the jury is not entitled to make a determination that
13 Mr. La Barbera has done something wrong by his nonappearance at trial. I'll
14 concede that. I think that issue can be addressed with a jury instruction that
15 specifically says the fact that Mr. La Barbera is not present for purposes of this trial
16 cannot be used against him as a basis to determine that he is or is not liable to the
17 Wynn for amounts at issue. I don't know if that gets us anywhere further as far as
18 Mr. Albregts is concerned, but again, it's up to him.

19 MR. ALBREGTS: Two things, very briefly, Your Honor.

20 THE COURT: Yeah.

21 MR. ALBREGTS: Well, I heard some grumbling over there about the
22 deposition. I mean portion of the deposition. For example, a question from
23 Mr. Semenza, did he, meaning Mr. Pariente, ever explain anything specifically that
24 you believe was false as opposed to just not explaining how credit work. And he
25 gave about payment timescales, for example, I don't recall precisely. Then I sent

1 him to hell on the phone and sent him to the devil so we never spoke again.

2 MR. SEMENZA: Where are you looking, Jeff? I'm sorry.

3 MR. ALBREGTS: I'm sorry. I apol – page 90, 10 through 19. And then
4 apparently Mr. Semenza was going to ask something and interrupt but he didn't, he
5 said, what did, go ahead and Mr. La Barbera said, and then everything happened as
6 you know because in the markers which reached my bank in Italy. I never heard
7 anything about this, I never knew anything about this. I received the District
8 Attorney's notification. And basically a mandate from IRS. That's all I knew.

9 And it carries on from there. But let me get to the more fundamental
10 issue, Your Honor. I mean, look it, as you said, it's a marker case. It's so secret
11 what we do in this community. It's no secret how other communities view us. It's
12 real simple. The Wynn and the rest of the resorts say that these are checks,
13 negotiable instruments. And they file a complaint with the District Attorney's office
14 when those checks cannot be cashed. And then we come to trial here and the
15 entire case is about the authenticity and the genuineness of these markers that
16 Mr. La Barbera denies his signature is on. That puts directly into issue why
17 Mr. La Barbera is not here and quite frankly the leverage that the Wynn is engaging
18 and which the jury should be able to consider as to not only why Mr. La Barbera is
19 not here, but with respect to all other matters affecting the authenticity and
20 genuineness of those markers. It's absolutely essential. I discussed it at length,
21 you're absolutely correct, Your Honor, about – with Italian counsel, since
22 Mr. La Barbera doesn't speak English, about the prejudice of a jury finding out
23 there's a criminal proceeding against him. But I, you know, weighing everything,
24 considering the case, living with it for two years, I'm going to have to take that risk.
25 I've got to be able to explain to this jury that Mr. La Barbera is not here for a reason

1 and that reason is there's a bench warrant out for his arrest for the very instrument
2 you're deciding whether they're enforceable against him here or not. That is just
3 essential to this jury's perception of his defense in this case.

4 Thank you for your patience.

5 THE COURT: All right. I'm not allowing as an exhibit the -- I'm taking judicial
6 notice of the Register of Actions. First of all, it's -- it's almost three months old so I
7 suppose we --

8 MR. ALBREGTS: I can get another one.

9 THE COURT: -- could verify, but, I -- this is a civil action and I don't see the
10 relevance of the potential criminal case. As you know, he is innocent until proven
11 guilty so the mere fact that an arrest warrant was issued is not evidence of anything.
12 The -- if he, in his depo, said I can't go to -- you can have this back -- if he said I can't
13 go to the United States because there's a bench warrant, I'm going to allow that.
14 Once again, that should have been the subject of a motion in limine eight months
15 ago. In any event, I think that covers that issue.

16 MR. SEMENZA: Thank you, Your Honor. I appreciate that.

17 THE COURT: Anything else?

18 MR. ALBREGTS: Just so I'm clear, you're taking judicial notice of the bench
19 warrant and with respect to the depo testimony being read in?

20 MR. SEMENZA: No.

21 THE COURT: I'm not taking judicial notice --

22 MR. ALBREGTS: Okay. I thought you --

23 THE COURT: -- of the bench warrant.

24 MR. ALBREGTS: -- were taking --

25 THE COURT: I will allow and we haven't even gotten to the specific

1 designations –

2 MR. SEMENZA: Correct.

3 THE COURT: -- but if he says I can't, I didn't, I won't go to the United States
4 because there's a bench warrant and you want to bring that in, I will allow that.

5 MR. ALBREGTS: Well, I guess I'll reserve my opening and whatnot but I
6 would – I do definitely want to be able to close, closing argument based on his
7 testimony that that's why he wasn't here. It wasn't because of his disregard for or
8 disrespect for our judicial system or this process.

9 THE COURT: I'm going to allow that.

10 MR. ALBREGTS: Thank you.

11 MR. SEMENZA: Just so I'm clear, Your Honor, Mr. Albregts would be allowed
12 to identify, based upon the depo transcript, if there's a reference in the depo
13 transcript, that he's not here today because of the warrant.

14 THE COURT: I don't know what the wording is. I suppose I'll have to –

15 MR. SEMENZA: Because I don't know that there's a reference in the depo
16 transcript.

17 THE COURT: Well, we'll wait and see.

18 MR. ALBREGTS: There's a couple of references.

19 THE COURT: We'll wait and see.

20 MR. SEMENZA: Okay. I appreciate it.

21 THE COURT: I assume that'll be the subject when we go to –

22 MR. ALBREGTS: The other issue, Your Honor, on cross-examination, if he's
23 going to have these witnesses, I mean, I'm entitled to ask them, if he's going to put
24 all these late-disclosed witnesses on, did you turn the matter over to the District
25 Attorney's office. You know, this is a big issue.

1 MR. SEMENZA: I don't understand how that's all relevant for purposes of the
2 case.

3 MR. ALBREGTS: Well, it was also an issue in Telfani's [phonetic] case, not
4 that you want to hear about any other case, but apparently based on some
5 experience there, they feel that that's something they don't want to happen here.
6 But I've asked every one of their witnesses, did you turn it over to the District
7 Attorney's why, and it goes right to the heart of the matter here that they claim that
8 these are negotiable instruments and checks. And I have other questions and
9 strategy that I really don't want to prefer to give away. I've not taken depositions,
10 but it goes to the heart of that case and if they feel strongly enough that they refer to
11 the District Attorney's office, then I should be able to explore that here with respect
12 it's on the basis that they believe it's a negotiable instrument, a check.

13 MR. SEMENZA: Well you can, I mean, I don't know that any of the witnesses
14 are going to be testifying necessarily to whether, I mean, to me that's a matter of law
15 as to whether it's a check or negotiable instrument or something else, so how the
16 Wynn submits a claim to the District Attorney or paperwork to a District Attorney for
17 criminal prosecution based on the bad checks statute has any bearing at all.

18 THE COURT: Doesn't it go to bias or anything like that. They – this isn't a
19 normal type action –

20 MR. SEMENZA: Right.

21 THE COURT: -- where in a theft or whatever, they submit it to the D.A. This
22 is -- we are one of the only states that allows the Wynn to submit this to the D.A. for
23 prosecution. And that would bring up prejudice, bias, et cetera. You're saying,
24 you -- somehow he should be precluded from even inquiring in that.

25 MR. SEMENZA: I don't understand how that would raise an issue of bias or

1 prejudice and maybe I'm dense in that regard.

2 THE COURT: Well, I think it does. So I'm going to allow it.

3 MR. SEMENZA: Okay.

4 MR. ALBREGTS: Thank you, Your Honor.

5 THE COURT: All right. Let's, we'll wait. Anything else?

6 MR. SEMENZA: I hazard to bring up additional issues, obviously, but.

7 THE COURT: If they're -- if you need to bring them up before the jury, then
8 go --

9 MR. SEMENZA: All right. Well, I appreciate it.

10 THE COURT: -- better do it now.

11 MR. SEMENZA: Your Honor, I think that I do want to, and this is a bit esoteric
12 in a generalized, I guess, inquiry of the Court as far as this issue of authentication
13 and genuineness of the signatures. We have a situation where --

14 THE COURT: Well, authen -- authentication, unless it was objected to in the
15 16.1, it is authentic.

16 MR. ALBREGTS: I reserved that objection in my Joint Case Conference
17 Report, Your Honor.

18 THE COURT: All right.

19 MR. SEMENZA: We need to look at that, Your Honor. I'm not --

20 THE COURT: Then we --

21 MR. SEMENZA: -- sure about that.

22 THE COURT: -- yes. It's very rare that that, unfortunately people don't realize
23 that, lawyers don't realize it and most of the time, they waive it. But --

24 MR. SEMENZA: And, Your Honor, the --

25 THE COURT: -- assuming -- go on.

1 MR. SEMENZA: Oh, I appreciate that. The issue is essentially this that the
2 Court has determined based upon Motion in Limine Number 3. And as you recall,
3 the Court denied our motion in limine based upon the representations that this case
4 would not be a forgery case. A defense of forgery would not be put forward. So
5 Mr. La Barbera, in this case, is not asserting that the signatures are forged because
6 if he was, it would be his burden to establish that by clear and convincing evidence.
7 In the order –

8 THE COURT: How?

9 MR. SEMENZA: Pardon me?

10 THE COURT: How?

11 MR. SEMENZA: Because that's the burden as I understand it. That's – that's
12 the –

13 THE COURT: No, you have the burden to show that he signed these.

14 MR. SEMENZA: No, no, no. And that's a different issue, Your Honor. If he's
15 asserting the affirmative defense of forgery, then he has the affirmative burden to
16 establish that there was a forgery by clear and convincing evidence. That's my
17 understanding. The issue as far as it –

18 THE COURT: Based on what law?

19 MR. SEMENZA: I don't have it front of me, Your Honor. But that's a separate
20 issue from authenticity and genuineness which I acknowledge is our burden. So the
21 Court has already determined that the forgery defense is out. So the issues in this
22 case –

23 THE COURT: When – when, I don't – that was a motion in limine that –

24 MR. SEMENZA: Yes, Your Honor, I've got a copy if you'd like one.

25 MR. ALBREGTS: No, no, no. This is the whole issue, Your Honor, very –

1 MR. SEMENZA: Hold on, hold on. Let me finish.

2 MR. ALBREGTS: You interrupt me all the time.

3 MR. SEMENZA: Well I was making an argument.

4 MR. ALBREGTS: If I – this will make it very –

5 THE COURT: Let him make – let him finish. Where's Motion in Limine

6 Number 3, because –

7 MR. SEMENZA: Your Honor, may I approach?

8 THE COURT: Yes.

9 MR. SEMENZA: Thank you.

10 MR. ALBREGTS: But the whole thing is based upon this one statement in his
11 deposition, Your Honor, that I argue at the motion in limine. And his answer was I
12 don't whether this has been forged, but one thing is certain is that this is not my
13 signature. So we're not arguing an affirmative defense of forgery, we're just reading
14 his deposition testimony to the jury where he denies his signature on each one of
15 the markers. That's –

16 MR. SEMENZA: Well –

17 MR. ALBREGTS: -- all that issue's about.

18 MR. SEMENZA: And, Your Honor, if I can go on. So the order says: it is
19 hereby ordered to judge and decree the plaintiff's Motion in Limine Number 3 to
20 exclude any evidence or argument regarding any alleged forgery is denied as moot.
21 Because Defendant is not going to argue that the signatures on the casino markers
22 are forged and additionally Defendant will not use the word forgery at trial. It is
23 plaintiff's burden at trial to show that the casino markers at issue in this case are
24 authentic and genuine.

25 Understand. And that's what the Court basically said. So the confusion

1 or the uncertainty is my mind – in my mind is what are the parameters, what is the
2 scope of the issues concerning authentic – authentication and establishing the
3 genuineness of the documents. Because what Mr. La Barbera has done with regard
4 to the markers, obviously our position is these are the markers and Mr. La Barbera
5 signed them. In Mr. La Barbera's responses to the request for admission, he
6 essentially says these signatures appear to be mine. I'm paraphrasing.

7 So we have an acknowledgment from him that they appear to be his
8 signature. During his deposition, in part, he says, well, I don't really remember and
9 there is some testimony that is contradictory to his responses in the request for
10 admission. Well as the Court is aware, and I've got that case law here – pardon me,
11 one, just one moment. There it is. There's case law that basically says you can't
12 contradict your own prior testimony essentially to create an issue of fact in the case.
13 And let me cite to that. It's the *Burrell versus Star Nursery, Inc.* case, 170 Fed 3d
14 951 9th Circuit, 1999. It's in our trial brief which we have provided a copy of which to
15 Mr. Albregts. It says: portions of a nonmoving party's affidavit filed in opposition to
16 summary judgment should be disregarded because they directly contradicted the
17 nonmoving party's earlier deposition testimony and thereby sought to create a sham
18 issue of fact.

19 Well that's the issue in this case. He's acknowledged through his
20 request for admission that they – the markers appear to bare his signature. Then
21 subsequently in his deposition, he says, well, I don't really know, they're not my
22 signature. He can't do that. And so for purposes of the trial, I don't know what
23 exactly we are required to present as far as the authenticity or genuineness because
24 there is no dispute. There is no material dispute as to the facts based upon
25 Mr. La Barbera's request for admission and testimony.

1 MR. ALBREGTS: That's not true, Your Honor.

2 THE COURT: Wait a second. Wait, go on.

3 MR. SEMENZA: And Your Honor, and so the point –

4 THE COURT: Anything else?

5 MR. SEMENZA: Just briefly and I'll wrap it up.

6 THE COURT: You're just repeating yourself. Go on.

7 MR. SEMENZA: Okay. So the issue is, obviously, Your Honor, that that is
8 not an issue of fact, that's an issue of admissibility. Okay, so if the Court allows this
9 information to come in based upon foundation, then there are no issues of fact in
10 this particular case. And the Court is required, then, to render judgment in favor of
11 the Wynn.

12 MR. ALBREGTS: Meaning why have a trial, Your Honor.

13 THE COURT: I get it. Go.

14 MR. ALBREGTS: Your Honor, if you'll recall, we submitted competing orders
15 for that. I wouldn't sign off from the order they submitted because it's not true or
16 accurate that I said I wouldn't use the word forgery and the reason that's not true or
17 accurate, Your Honor, is because it would have prevented me from reading the
18 following testimony into evidence, page 43, lines 2 through 23. Mr. Semenza's
19 question: again, so I'm clear, and Jeff can object, is the issue with regard to the
20 signature that it does not look like your signature? Or is it your position that this is a
21 forgery?

22 ANSWER: I don't know whether this has been forged. But one thing is
23 certain that this is not my signature.

24 Meaning that you did not sign this document?

25 ANSWER: It's not my signature.

1 And, again, I think the problem we're having as far as a distinction
2 between whether it looks like your signature or whether you actually signed it.

3 ANSWER: Once again, this is not my signature.

4 And it goes on and on. He was emphatic, Your Honor. This is our
5 whole case. And that's, what you just heard was another summary judgment
6 argument and he's known about this for quite a long time. And to do this while the
7 jury is waiting in the hallway seems somewhat inappropriate, disingenuous to me
8 because I also provided these objections, excuse me, deposition transcripts in
9 addition to my objections filed way back in May. So that – that, you know, basically
10 we wouldn't – I wouldn't be able to read any of his deposition testimony into
11 evidence that would be relevant to our defense in this case, Your Honor. That's all.

12 THE COURT: All right, anything else, Mr. Semenza?

13 MR. ALBREGTS: No. No, sir. No, sir, Your Honor.

14 MR. SEMENZA: And just briefly, Your Honor, I mean Rule 36 is mandatory.
15 If the requests are admitted, then they're admitted conclusively for purposes of the
16 case.

17 MR. ALBREGTS: That's an issue of credibility.

18 THE COURT: And there's also a case that if they're substantiative, they can
19 be thrown out.

20 MR. SEMENZA: Okay.

21 THE COURT: All right.

22 Judy, I need you to pull the video of the Motion in Limine Number 3.

23 MR. SEMENZA: Your Honor, we do have a copy of the transcript.

24 THE COURT: You have a copy of the transcript?

25 MR. SEMENZA: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. ALBREGTS: I've not seen that. I haven't had a chance to read his trial
3 brief either, Your Honor.

4 THE COURT: All right. I will take --

5 MR. SEMENZA: Your Honor, may --

6 THE COURT: -- that and --

7 MR. SEMENZA: Your Honor, I'm just going to give you my copy of the
8 transcript which is part of -- I did underline it, if Jeff would like to look at it before I --

9 THE COURT: The entirety of the hearing?

10 MR. SEMENZA: Yes, Your Honor.

11 Jeff, do you want to see it?

12 THE COURT: Yes, please.

13 MR. SEMENZA: Do you want to look at it?

14 MR. ALBREGTS: It's a little -- looks like we're going to have to get this one
15 later. I don't want to sit here and read 20 page, 25 page transcript, Your Honor,
16 while you're waiting for it.

17 THE COURT: And you need to, you guys need to look at the jury
18 questionnaire. Let me take a look at it and --

19 MR. SEMENZA: Thank you, Your Honor.

20 THE COURT: -- you look at the --

21 THE CLERK: The jury names.

22 THE COURT: -- jury. Yeah.

23 MR. SEMENZA: Yes, Your Honor.

24 THE CLERK: The jury names also on number 14 has a line through it. They
25 are here.

1 MR. SEMENZA: Okay.

2 THE CLERK: It's just a copier problem --

3 MR. ALBREGTS: Okay.

4 THE CLERK: -- or something.

5 MR. ALBREGTS: When you say questionnaire, Your Honor, you want us to
6 look at the info -- bio information and stuff.

7 THE COURT: Yeah.

8 MR. ALBREGTS: Thank you very much.

9 THE COURT: Assuming you want to. And you remember what I said about
10 I'll go through all of them and talk about their --

11 [Proceeding recessed at 10:00 a.m.]

12 [Proceeding resumed at 10:20 am.]

13 THE COURT: For you guys, we're going to start tomorrow at noon.

14 THE CLERK: Noon?

15 THE COURT: We'll ask them to have lunch early and we'll start at noon.

16 All right. Regarding the Motion in Limine 3, I've read the transcript and I
17 think I was pretty clear. Although Mr. Albregts did say he's not going to mention
18 forgery, I was very clear that it is the plaintiff's burden to show who signed the
19 instrument. That he was, the Defendants are not, if you will, waiving that they do not
20 agree or know who signed the instrument. And when you're presenting, you have a
21 contract, whatever, you need to show that he signed it. He makes the argument,
22 and I can quote from that, if I can find it again, but I clearly stated that although he's
23 not going to use the words forgery --

24 MR. ALBREGTS: Other than --

25 THE COURT: -- that we don't know that's his signature for certain. That's a

1 quote from Mr. Albregts on page 21. And then I went on to say that it's – it doesn't
2 and then there's dot, dot, dot and then I don't know what: they aren't admitted that
3 Mr. Barbera [sic] actually signed them. That's the Wynn's burden of proof to prove
4 that in fact the signatures are Mr. Barbera's [sic]. They're business records that are
5 kept in the ordinary course. Who signed them is Wynn's burden.

6 Okay. So I think that the actual order is adequate that says that it's
7 denied, but he's not going to use the word forgery and I certainly understand that –

8 MR. ALBREGTS: Other than reading it from a deposition, Your Honor, that's
9 my only caveat. I'm sorry for interrupting.

10 THE COURT: Well I don't know if he – he says forgery. Here's –

11 MR. ALBREGTS: Oh, my client says he wouldn't say it was forged. That's
12 what I just read to you a little --

13 THE COURT: Okay. Well.

14 MR. ALBREGTS: -- while ago. So.

15 THE COURT: So. That is clearly –

16 MR. ALBREGTS: But the word was used in his deposition is my point, Your
17 Honor. I apologize.

18 THE COURT: Well I'm not going to preclude him from saying it's not – he
19 can't say it's his signature. Somebody coming in to say, yeah, I was a pit boss, he
20 signed these, is always important, crucial, when they're at issue. And he clearly has
21 made them at issue.

22 Okay, we ready?

23 MR. ALBREGTS: Yes, sir.

24 MR. SEMENZA: Yes, Your Honor.

25 THE COURT: Bring them in.

1 THE MARSHAL: Yes, Your Honor.

2 All rise for the jury.

3 THE COURT: Please be seated.

4 Good morning, ladies and gentlemen.

5 Oh, come on, that's pathetic.

6 Good morning, ladies and gentlemen. All right, have to make sure
7 you're awake. I understand that it's, you know, Monday morning, but. Good
8 morning, my name is Ron Israel. I am the District Court Judge in Department 28
9 which is where you are, the Eighth Judicial District Court. I welcome you this
10 morning. We are selecting a jury for a civil case. It is expected to last three or four
11 days, correct?

12 MR. ALBREGTS: Yes, sir.

13 MR. SEMENZA: I think three days, Your Honor.

14 THE COURT: Three days. All right. Just in case it goes a little longer, three
15 to four that makes it safe.

16 Go ahead and swear the jury in.

17 THE CLERK: Please rise.

18 THE COURT: The venire, sorry.

19 [Court Clerk swears in the prospective jurors]

20 THE COURT: Go ahead and call the roll.

21 [Court Clerk calls the roll]

22 THE COURT: Thank you. Ultimately ten of you will be sworn in as jurors.

23 And a lot of times, you say – may be saying, well, ten, I always thought on a jury, it
24 was a dozen. And that would be true if this was a criminal case. It would probably
25 be a dozen plus some alternates. In this case, we, in Nevada, have eight people on

1 civil jury trials. We will have two alternates, just in case. So that's where the ten
2 comes in. Before we get further along, I need to ask all of you two questions. And
3 so if any of you need to answer, raise your hand.

4 First of all, are all of you United States citizens? If there's anybody who
5 is not a United States citizen, please raise your hand. Okay, thank you.

6 And the second question is if any of you have been convicted of a crime
7 and not had your rights to serve as a juror restored to you, please raise your hand.
8 Is anyone not able to serve on a jury? I don't see any hands.

9 So the case is expected to be done in three days. And we're obviously
10 hopeful. If it goes four, that would, you know, be a stretch. But it's certainly less
11 than a week so we hope to have you out of here by Wednesday. I want to thank all
12 of you for being here and serving as jurors. I know it's difficult. I know it's
13 inconvenient. I know you're taking time out of your normal schedule. And I know
14 you're also thinking of how you can get out of serving. I was in the Jury Service
15 room approx – about six months ago because I was called. There is no party, there
16 is no population that's excluded from jury service. Doctors, lawyers, judges, and
17 even Supreme Court Justices have served on juries. And so I was down there
18 listening while all of you were thinking of ways to get off of jury service. So I
19 understand that and I do sympathize. It's never easy to take time out your normal
20 schedule. We're all creatures of habit. We all want to do the same thing we do
21 every day, whatever that might be. However, if I ask any of you if you supported our
22 troops overseas, or for that matter, our troops who are in uniform here, I'm sure you
23 would all say how important it is and how you appreciate their service. Well,
24 whether you think it about it or not, they are in the third branch of government. They
25 are in the executive branch, part of the powers of the presidency. They serve.

1 The – there is the legislative branch and if you're remembering back from your
2 civics, hopefully you had that in junior high or high school, this is the judicial branch.
3 And you, if you're chosen, and even by being here, you're actually serving the
4 community in the judicial branch of government. And it's very important. If I asked
5 any of you if you thought our system of government was a good one, I'm sure you'd
6 all raise your hands. I don't know of any better system of government in the world.
7 Maybe I'm biased and that's potentially true, but you can, I'm sure you know that,
8 you know, people love to come here and visit and live because we do have a great
9 system.

10 One of the obligations you have as United States citizens, and there's
11 really only two if you think about. One is to vote and you'll have that opportunity
12 tomorrow, and the other is serving on a jury. Whether it's a criminal case or a civil
13 case, they are both important. If you had a civil dispute, you'd want people who are
14 a cross section of the community. You don't just want necessarily retired individuals
15 who have the ability, if you will, to take the time. You don't necessarily just want
16 unemployed individuals. You want an entire cross section. And that means people,
17 doctors, lawyers, Indian chiefs, whatever it might be, serving on the panel. People
18 from all walks of life. And that means making a sacrifice. And I realize I'm asking
19 you to make this sacrifice. You are privileged that it's only going to be three days.
20 And by the way, tomorrow you get the morning off, both to go vote and because of
21 our calendar. So it's really a really short trial.

22 So having said that and having hopefully instilled in you the obligation
23 to serve, I'm going to ask all of you and we'll go down the row starting in the back
24 row back here and you need to get the mic. If you don't have the mic or if you can
25 speak up loud enough, you don't need the mic. We pass it around because all too

1 often people are shy. But I'm going to ask is there any reason you cannot serve for
2 the next three days as a juror. Starting in the back row, raise your hand if you
3 cannot serve. I'll need your name and badge number.

4 PROSPECTIVE JUROR NUMBER 012: My name is Ramon Contreras. My
5 badge number is zero twelve. And I'm self-employed. I'm the only, you know, one
6 working in my household and I have to work every day to bring my income home.
7 Otherwise, you know, I will not make it.

8 THE COURT: What do you do for a living?

9 PROSPECTIVE JUROR NUMBER 012: Landscape maintenance. So I have
10 customers every day that I have to go to. If I don't go, like today I'm not going,
11 they're going to start calling my house and asking where are you and all that stuff.
12 So that's --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 012: -- the only reason.

15 THE COURT: Thank you.

16 Anybody else in the last row?

17 Front row, raise your hand. Front row. Right in front of you. Go ahead.
18 Name and badge number.

19 PROSPECTIVE JUROR NUMBER 030: Susana Barrett, 030. What I do for a
20 living, Your Honor, is I'm a certified lymphatic therapist. And I have a lot of -- I had
21 to cancel nine patients today. And three days of not getting therapy, it's going to be
22 really, really bad for them.

23 THE COURT: Where do you work?

24 PROSPECTIVE JUROR NUMBER 030: I have my own private practice. And
25 whatever overflow -- there's only one lymphatic clinic here in town. And if -- they're

1 booked like four weeks out and these patients have huge, you know, chronic
2 swelling on their heads and their breasts –

3 THE COURT: There's only one clinic regarding –

4 PROSPECTIVE JUROR NUMBER 030: Yes. And then they're overflow –

5 THE COURT: Regarding what?

6 PROSPECTIVE JUROR NUMBER 030: Lymphedema treatment. It's
7 postoperative after they get surgery done or even just maintenance yearly.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 030: And sixty percent of my clients, Your
10 Honor, is our breast cancer patients.

11 THE COURT: Okay. Anybody else in the front row.

12 Front row back here, raise your hand.

13 Back row.

14 PROSPECTIVE JUROR NUMBER 055: Elizabeth Templeton. Badge 055. I
15 got my first summons on – to appear for April 12th. My husband and I have an
16 accounting firm so I had to reschedule so today's my reschedule. But I have – my
17 mom's having eye surgery on Wednesday. She lives in Dallas. So I had made
18 plans to be there for her for that. So that's my conflict.

19 THE COURT: You have tickets?

20 PROSPECTIVE JUROR NUMBER 055: Yes.

21 THE COURT: Bring them? Did you bring your tickets to show us?

22 PROSPECTIVE JUROR NUMBER 055: I don't have my actual tickets. I
23 have the reservation, the printout with the confirmation number and that type of thing
24 so I do have that.

25 THE COURT: Okay.

1 Who else in the back row.

2 PROSPECTIVE JUROR NUMBER 049: Dianne Brelo, badge 049. On
3 Wednesday, my husband's a disabled veteran, and on Wednesday he has a
4 visitation for Agent Orange that we planned months ago because of his health. And
5 then on Thursday, I have a mediation with NERC pertaining to my employer.

6 THE COURT: We won't be going – we'll be done before Thursday. But when
7 is this appointment for –

8 PROSPECTIVE JUROR NUMBER 049: Ten o'clock Wednesday morning.

9 THE COURT: Okay. Thank you.

10 Anybody else? There was another hand, I think.

11 PROSPECTIVE JUROR NUMBER 048: Good morning, Your Honor. My
12 name is Robert Sanders, badge 048. I'm a territory manager for Danaher
13 Corporation, the sole representative for the southern Nevada region. By not – by
14 serving here today, my wife works evenings, she would be no longer going to work
15 during that period. I don't have anyone to watch the children and it would cause
16 financial distress. Thank you.

17 THE COURT: Okay. Thank you.

18 Anybody else in the back row? Okay, Counsel, approach.

19 [Bench Conference begins at 10:40 a.m.]

20 THE COURT: Okay, the first one I had was Ramon Contreras.

21 MR. SEMENZA: Uh-huh.

22 THE COURT: What do you want to do?

23 MR. ALBREGTS: Defer to you guys.

24 MR. SEMENZA: I don't have a strong opinion for him. I mean, just because
25 he's self-employed.

1 THE COURT: Well, I agree, but he has a small business and he seems to
2 be --

3 MR. ALBREGTS: He seems to be very credible.

4 THE COURT: -- legitimate. Yeah.

5 MR. ALBREGTS: Yeah.

6 MR. SEMENZA: I'll defer to you, Your Honor.

7 THE COURT: All right. I'm inclined to let him off since we had so few people
8 actually.

9 MR. SEMENZA: Yeah.

10 THE COURT: I don't know. My speech must have worked.

11 MR. ALBREGTS: I think it did.

12 THE COURT: Plus your two days of trial. Okay, so I'll let him off.

13 The next one I have was Susan [sic] Barrett.

14 MR. ALBREGTS: So he's off?

15 MR. SEMENZA: Yes.

16 THE COURT: Well, yeah. What was his name again? Susan [sic] Barrett.
17 Physical therapist. I -- it's weird, but I don't know what she does that there's only
18 one clinic, but she says it had to do with breast cancer people.

19 MR. SEMENZA: I think, if I understood her, it's a lymph issue. So wouldn't --

20 THE COURT: Don't know what physical therapy has --

21 MR. SEMENZA: -- therapy, you know -- yeah.

22 THE COURT: -- but. What do you want to do? I'm going to let her off.

23 MR. ALBREGTS: It doesn't matter to me.

24 THE COURT: I don't know normally let doctors, because there's plenty, you
25 know, they're always -- but I don't know --

1 MR. SEMENZA: So I actually think –

2 THE COURT: -- and especially physical therapists, there's –

3 MR. ALBREGTS: No objection.

4 THE COURT: -- thousands of them, but she says this is a specialty.

5 MR. SEMENZA: If we have so few –

6 THE COURT: You –

7 MR. SEMENZA: -- basically, if they're saying they can't serve, then I'm okay
8 with letting her go.

9 THE COURT: All right. I'll let her off.

10 Next one, Robert Sanders. Is there – he's on his own.

11 MR. ALBREGTS: This is the one with the wife who works as a bartender, it
12 looks like, or cocktail waitress. He's in sales and doesn't have anyone to care for
13 his kids, is what he just told us.

14 MR. SEMENZA: Well, yeah but I don't understand. If he works during the
15 day, he should have coverage anyway. But maybe it's a summer –

16 MR. ALBREGTS: I defer to you guys. That was the only sketchy one.

17 THE COURT: All right. I'll let – you're going to be going first. You can inquire
18 further but at this point, you know, just financial hardship, I'm not going to let him off.

19 MR. SEMENZA: And how do you want to do that while we're up here. Is it
20 just in the box or do you want the entire panel?

21 THE COURT: No, in the box.

22 MR. SEMENZA: Okay, that's what I thought. Okay.

23 THE COURT: Yeah.

24 MR. ALBREGTS: Okay.

25 THE COURT: And then Dianna Brelo. She had a good excuse.

1 MR. SEMENZA: I'm okay with letting her off.

2 THE COURT: I can't remember, was it the -- oh, her --

3 MR. ALBREGTS: It's the plane tickets, the eye surgery.

4 THE COURT: Yeah, her --

5 MR. SEMENZA: No, no. That was Elizabeth Templeton --

6 MR. ALBREGTS: Oh, that's right. You're right. I apologize. All right.

7 MR. SEMENZA: -- was the plane ticket. So I'm fine with letting her off. I'm

8 also fine with Dianne Brelo.

9 MR. ALBREGTS: Which was Brelo?

10 MR. SEMENZA: Brelo was the agent orange one.

11 MR. ALBREGTS: Oh yeah. Yeah, yeah, yeah, yeah. Yeah, that's -- I agree.

12 THE COURT: Okay. So.

13 MR. ALBREGTS: I agree.

14 THE COURT: Okay. So. Brelo is off. And then Elizabeth Templeton, she's

15 the very last one, is off. I think that's it, correct?

16 MR. SEMENZA: Yes, Your Honor.

17 MR. ALBREGTS: [Microphone interference from paper]. Sorry about that.

18 THE COURT: Since we have so --

19 MR. ALBREGTS: So -- so Templeton and Brelo are off, right?

20 THE COURT: -- and -- since Sanders is so far back, do you want to just let

21 him off?

22 MR. SEMENZA: I'm fine with doing that, Your Honor. I defer to you.

23 THE COURT: Yeah --

24 MR. ALBREGTS: Likewise.

25 THE COURT: -- I realize he's -- well, second to the last page. All right. Let's

1 let him. What is it? Robert Sanders. Yeah, let him off.

2 MR. SEMENZA: Okay.

3 THE COURT: Okay, thank you.

4 MR. SEMENZA: Thank you.

5 MR. ALBREGTS: Thank you.

6 [Bench conference ends at 10:44 a.m.]

7 THE COURT: All right. I'm going to read the names of some of the
8 individuals that will be excused. If you have access to a computer, you no longer
9 have to go down to third floor jury services to report in. If you don't have quick
10 access, then you need to go down to third floor jury services and report to them.
11 Certainly want to thank all of you who – for being here today. As I said, it is
12 extremely important. So those of you whose names I read, you're excused.
13 Ramon Contreras, 1322. Susana Barrett, well, these are the jury ID numbers, 965.
14 Robert Sanders, 559.

15 THE CLERK: Just a second. I'm used to you reading the – okay.

16 THE COURT: Dianne Brelo, 5601. Elizabeth Templeton, 8973.

17 You want the badge numbers?

18 THE CLERK: Yeah. I need the badge numbers.

19 THE COURT: Okay, badge number 012 –

20 THE CLERK: 012.

21 THE COURT: -- 030 –

22 THE CLERK: Uh-huh.

23 THE COURT: -- 048, 049, 055. Thank you, you may leave.

24 Go ahead and put two new in the box.

25 THE CLERK: Okay. Julie Couture, badge number 037, you'll be in seat

1 number 4.

2 And Wendee Lowe, badge number 038, you'll be in seat number 14. Four is against
3 the wall and 14 is in the front row.

4 I think – are you Julie?

5 PROSPECTIVE JUROR NUMBER 037: Yes.

6 THE CLERK: You'll need to go back behind you.

7 THE COURT: In back.

8 MR. ALBREGTS: I'm sorry, who's the second one, Kathy?

9 THE CLERK: Wendee Lowe.

10 MR. ALBREGTS: Thank you. Thank you very much.

11 THE CLERK: Badge number 038.

12 MR. ALBREGTS: Thank you.

13 THE COURT: Where you sit is important because it helps us keep track.

14 So, ladies and gentlemen, the attorneys are going to introduce
15 themselves and their clients. By the way, the case is entitled Wynn Las Vegas
16 versus Mario Barbera [sic]. And so the attorneys are going to introduce themselves
17 and the members of their firm. They're going to introduce the names of the
18 witnesses and [coughs], excuse me, I'm getting over a cold. So the more I talk, the
19 more I'll be hacking, but I have to be here just like you do. In any event, so I need
20 you to listen to the names of the potential witnesses because afterwards I'm going to
21 ask you whether you know any of the attorneys, whether you know any of the
22 parties, or whether you know any of the witnesses. And I'll ask you as a group so if
23 you do, sometimes it, you know, sometimes depending on the type of the case, you
24 may know somebody. So I will do that. Along with that, the parties will briefly
25 explain what this case is about.

1 Plaintiff.

2 MR. SEMENZA: Thank you, Your Honor.

3 Good morning, everyone. My name is L.J. Semenza. I represent the
4 Wynn Las Vegas in this particular matter. At counsel table with me is
5 Jarrod Rickard, who's a partner in my firm, as well as our client representative. Her
6 name is Jennifer Squatrito. And behind her is my other partner, Chris Kircher. The
7 witnesses in this particular case will likely be an individual by the name of
8 Sandy Mele. An individual by the name of Barbara Conway. An individual by the
9 name of Wail Nafei. An individual by the name of Zuleima Shute. A person by the
10 name of Scott Chang. And an individual by the name of Michael Gros. All of those
11 individuals are currently employed by the Wynn, with the exception of Ms. Mele.

12 And just to give you a brief sense of what this case is about, it is the
13 Wynn's allegations that Mr. La Barbera, the Defendant in this particular case,
14 obtained credit at the Wynn in 2008 and failed to repay a gambling debt. And that
15 gambling debt is in the amount of one million dollars. So with that, that's what this
16 case is about. Those are the witnesses and thank you.

17 THE COURT: Thank you. Before you do – just so they remember, does
18 anybody, raise your hand if you recognize any of the attorneys involved in this case
19 so far. I don't see any hands.

20 Does anybody recognize the witnesses that will be called, potentially
21 called, potential witnesses' names? I don't see any.

22 Does anybody work for the Wynn or any – or what's the other property?

23 PROSPECTIVE JUROR NUMBER 036: Encore.

24 THE COURT: Anybody have any family members that work for the Wynn.

25 Okay, you'll –

1 PROSPECTIVE JUROR NUMBER 036: Encore. I don't know if that works.
2 Encore.

3 THE COURT: We'll get to that. They'll make a note of that.

4 Okay, Defendant.

5 MR. ALBREGTS: I'm sorry, which one was Encore?

6 THE COURT: It was --

7 PROSPECTIVE JUROR NUMBER 036: Well, he worked at Wynn, then
8 transferred to Encore.

9 MR. ALBREGTS: Okay.

10 PROSPECTIVE JUROR NUMBER 036: He's been there a long time.

11 MR. ALBREGTS: Okay.

12 THE CLERK: We're going to need badge numbers and names.

13 THE COURT: Yeah, sorry, name and badge number.

14 PROSPECTIVE JUROR NUMBER 036: Oh, 36, Sheila Lucatelli.

15 THE COURT: Thank you.

16 MR. SEMENZA: I think there was also one in the gallery, Your Honor.

17 THE COURT: Oh, --

18 MR. ALBREGTS: Was there?

19 THE COURT: -- okay, name and badge number.

20 PROSPECTIVE JUROR NUMBER 043: Shane Barnett, 043. My sister
21 worked at the Wynn for several years until about last year. She quit.

22 THE COURT: Okay. Thank you.

23 THE MARSHAL: One more, Your Honor.

24 THE COURT: Name and badge number.

25 PROSPECTIVE JUROR NUMBER 027: John Empaces, 027. I actually have

1 a friend that works for Encore, and --

2 THE MARSHAL: Can you start all over, please.

3 PROSPECTIVE JUROR NUMBER 027: Okay.

4 THE MARSHAL: The Court Recorder can't hear you.

5 PROSPECTIVE JUROR NUMBER 027: I actually have a friend that works at
6 the -- or had --

7 THE MARSHAL: Name and badge number first.

8 PROSPECTIVE JUROR NUMBER 027: Oh, sorry. John Empaces, 027.

9 THE COURT: Go ahead.

10 PROSPECTIVE JUROR NUMBER 027: Okay, I actually have a friend that
11 either works or used to work and just recently I think quit the Encore as well. Just
12 wanted to point that out. Thank you.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR NUMBER 026: Tom Leary, 026. I have a business
15 associate with -- associated with both of those hotels.

16 THE COURT: I'm sorry. You have a business associate or an association?

17 PROSPECTIVE JUROR NUMBER 026: No, associate. Business associates.

18 THE COURT: Okay, explain please.

19 PROSPECTIVE JUROR NUMBER 026: I know several of the chefs at both
20 the properties. My business partner and associate does business with both those
21 properties in gambling.

22 THE COURT: Do you think that would prevent you from being fair and
23 impartial to both sides?

24 PROSPECTIVE JUROR NUMBER 026: Potentially.

25 THE COURT: And that's Mr. Leary, badge 026?

1 PROSPECTIVE JUROR NUMBER 026: Correct.

2 THE COURT: You don't think you could be fair and impartial?

3 PROSPECTIVE JUROR NUMBER 026: I don't know what the case is about.

4 THE COURT: Okay. And the same goes for Mr. Empaces. Am I saying that
5 correctly?

6 PROSPECTIVE JUROR NUMBER 027: Empaces. Close enough.

7 THE COURT: 027. Could you be a fair and impartial juror?

8 PROSPECTIVE JUROR NUMBER 027: Again, I don't -- I don't know what the
9 jury is, I mean, the case --

10 THE COURT: You don't even know --

11 PROSPECTIVE JUROR NUMBER 027: -- is really about.

12 THE COURT: -- what the case is about. I understand.

13 PROSPECTIVE JUROR NUMBER 027: Yeah.

14 THE COURT: All right.

15 You making --

16 PROSPECTIVE JUROR NUMBER 027: I know there's money involved.

17 THE COURT: -- note of these so you can inquire further, certainly.

18 Okay, go ahead and introduce yourself.

19 MR. ALBREGTS: Yes, sir.

20 Good morning, ladies and gentlemen. My name is Jeff Albregts. I'm
21 solo, not with a firm right now. And I'm representing Defendant Mario La Barbera.
22 Mr. La Barbera is a citizen of Italy, specifically Palermo, Sicily, Italy and he will not
23 be present during the trial for reasons you may learn later, I hope. Thank you for
24 your time coming down for jury duty. I appreciate it.

25 THE COURT: Thank you. Any of you recognize the Defendant's attorney in

1 this case? I don't see any hands.

2 Any of you recognize the name of the Defendant in this case? I don't
3 see any hands.

4 Okay, so as I told you already we're going to be starting late tomorrow
5 for two reasons. The most important of which, it'll allow you to go vote. But for
6 scheduling, it works out. So what we're going to do is we're going to have you come
7 in at noon and that means you get to – or you should go and have an early lunch.

8 I'm going to now ask the individuals in the box, and as you can see, it
9 doesn't mean that you're any less important. We will be pulling you and putting you
10 into the box as the case progresses. However, at this point, in order to speed things
11 along, the parties are, along with myself, are going to concentrate on asking
12 questions of the individuals in the box. The parties get, and you may be asking,
13 well, why are there 20. There's eight jurors, two alternates and the parties get five
14 peremptory challenges. So that comes to 20. So we're going to concentrate on
15 asking you questions. And you should have all seen the video which is very good
16 and explains to you about the voir dire process and the questioning. It's not meant
17 to offend you but we do need to inquire as to biases or prejudice and we've already
18 started that process and we'll get into it further during the questioning.

19 Right now, I'm going to go down the line and ask you some simple
20 questions, background questions. By the time we get to the last person, I guarantee
21 you will have all those questions memorized. First of all, you need your name, your
22 badge number, what you do for a living, where you're employed, if you have a
23 significant other, where they work, what they do for a living. And have you ever
24 served on a juror [sic]? If you served on a juror [sic], I'm going to have some follow
25 up questions and that is whether it was civil or criminal, did you reach a verdict and

1 were you the foreperson.

2 So I'm sure by the end, you'll have all those, but let's start off with you
3 and your badge number – or you're number one in the spot. So name and badge
4 number.

5 PROSPECTIVE JUROR NUMBER 003: Richter, 003.

6 THE COURT: Where do you work?

7 PROSPECTIVE JUROR NUMBER 003: I work at a store called Popcorn Girl.
8 And I work there and Green Valley Christian church – Christian Center.

9 THE COURT: And what do you do?

10 PROSPECTIVE JUROR NUMBER 003: At Popcorn Girl, I make the popcorn
11 and at Green Valley Christian Center, we have a program where for the parents and
12 I do the childcare for it where we teach the kids lessons.

13 THE COURT: Do you have a significant other?

14 PROSPECTIVE JUROR NUMBER 003: No.

15 THE COURT: Have you ever served on a jury?

16 PROSPECTIVE JUROR NUMBER 003: No.

17 THE COURT: Next. That's how easy it is.

18 PROSPECTIVE JUROR NUMBER 005: Hardy, 005. I'm a homemaker. My
19 husband, Joe Hardy, is a State Senator and also a physician at Touro University.

20 THE COURT: Ever served on a jury?

21 PROSPECTIVE JUROR NUMBER 005: No.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR NUMBER 006: Last name, Ruiz, badge number
24 006.

25 THE COURT: What do you do for a living?

1 PROSPECTIVE JUROR NUMBER 006: I don't have a job. Not yet, I'm
2 hoping to get one.

3 THE COURT: Did you go to school here?

4 PROSPECTIVE JUROR NUMBER 006: Yes, I formally graduated the 10th of
5 this month.

6 THE COURT: Okay. What school?

7 PROSPECTIVE JUROR NUMBER 006: Mojave High School.

8 THE COURT: Okay. And I assume, by I shouldn't, --

9 PROSPECTIVE JUROR NUMBER 006: No.

10 THE COURT: -- do you have a significant other?

11 PROSPECTIVE JUROR NUMBER 006: No, I don't.

12 THE COURT: Okay. And have you ever served on a jury?

13 PROSPECTIVE JUROR NUMBER 006: No I don't -- I have not.

14 THE COURT: Thank you. Next.

15 PROSPECTIVE JUROR NUMBER 037: Couture, number 037. I'm in sales.

16 THE COURT: Where do you work?

17 PROSPECTIVE JUROR NUMBER 037: I'm self-employed.

18 THE COURT: And a significant other?

19 PROSPECTIVE JUROR NUMBER 037: No.

20 THE COURT: Ever served on a jury?

21 PROSPECTIVE JUROR NUMBER 037: No.

22 THE COURT: Thank you. Next.

23 PROSPECTIVE JUROR NUMBER 017: Jenkins, 0017. I'm employed at the
24 Excalibur. I'm a buffet runner and I'm divorced.

25 THE COURT: Did your significant other live in or does live in Clark County?

1 PROSPECTIVE JUROR NUMBER 017: Yes.
2 THE COURT: What do they do?
3 PROSPECTIVE JUROR NUMBER 017: Works at 7-11.
4 THE COURT: Okay. Ever served as a juror?
5 PROSPECTIVE JUROR NUMBER 017: No.
6 THE COURT: Thank you.
7 PROSPECTIVE JUROR NUMBER 019: Okay. Cherry-Clark, badge number
8 0019. I'm a teacher at Rainbow Dreams Academy. I do have a significant other, a
9 spouse, he's retired. And I've never served on a jury.
10 THE COURT: Did he work in Clark County?
11 PROSPECTIVE JUROR NUMBER 019: Yes, at the test site.
12 THE COURT: Doing something secret, huh? In any event, have you ever
13 been a juror?
14 PROSPECTIVE JUROR NUMBER 019: No, I haven't.
15 THE COURT: Thank you. Next.
16 PROSPECTIVE JUROR NUMBER 020: Harner, 020. Teacher at Rogers
17 Elementary, divorced, never served on a jury.
18 THE COURT: Did your spouse work in Clark County?
19 PROSPECTIVE JUROR NUMBER 020: No.
20 THE COURT: Thank you.
21 PROSPECTIVE JUROR NUMBER 023: Badge number 023,
22 Reizian-Terwilleger. I'm employed with Clark County School District at M.J.
23 Christensen Elementary School. And my husband Rand Terwilleger is a vineyard
24 consultant in Kingman, Arizona.
25 THE COURT: Ever served on a jury?

1 PROSPECTIVE JUROR NUMBER 023: Oh, no. Sorry.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR NUMBER 024: Jessica, badge number 024. Wait,
4 what was the next question after that?

5 THE COURT: Where do you work?

6 PROSPECTIVE JUROR NUMBER 024: Oh, I start my first job, it's my
7 second day, Wednesday, 9 to 6 at Wal-Mart as an associate. I'm sorry it just came
8 up today. It just came up.

9 THE COURT: What time do you work? Or what shift?

10 PROSPECTIVE JUROR NUMBER 024: Oh, I'm a cashier, 9 to 6, 9 a.m. to 6.

11 THE COURT: This is your second day?

12 PROSPECTIVE JUROR NUMBER 024: Yeah, I started yesterday actually
13 and then Wednesday would be my second day.

14 THE COURT: Okay. Significant other?

15 PROSPECTIVE JUROR NUMBER 024: Single.

16 THE COURT: Ever served on a jury?

17 PROSPECTIVE JUROR NUMBER 024: No.

18 THE COURT: Next.

19 PROSPECTIVE JUROR NUMBER 025: Heather Rogers-Pokorny. My badge
20 number 025. I'm a dental hygienist and a continuing education provider. My
21 husband works at the Venetian as a Senior Product Manager in their IT Department
22 and I've never served on a jury before.

23 THE COURT: Thank you. Pass it to the person in front of you.

24 PROSPECTIVE JUROR NUMBER 036: Badge number 036, Sheila Lucatelli.
25 I'm a food and beverage cashier at the Monte Carlo Hotel. Been there 20 years. No

1 significant other and never served on a jury trial before.

2 THE COURT: Very good.

3 PROSPECTIVE JUROR NUMBER 035: Badge number 035, Catherine
4 Brown. I work at Bellagio. I'm a table game supervisor. My husband works at the
5 Flamingo. He's a casino shift manager. And I've never served on a jury.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR NUMBER 034: Hi, my number is 034, Sandra
8 Naylor. I'm a customer service manager at Scientific Games. My husband is a
9 government employee for the Air Force. I've never served on a jury.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, badge number 033.
12 I'm a project manager at Solar City. My wife's an accountant for UNLV. I have
13 served on a jury. It was a criminal case and I was the foreperson.

14 THE COURT: And did you reach a verdict?

15 PROSPECTIVE JUROR NUMBER 033: Yes, sir.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NUMBER 032: Hi, badge number 032. I'm a flight
18 attendant. I am married. My husband is a security officer for the Venetian Hotel. I
19 have served on a jury case twice.

20 THE COURT: Did they reach a verdict?

21 PROSPECTIVE JUROR NUMBER 032: Yes, on both.

22 THE COURT: And were you the foreperson on either?

23 PROSPECTIVE JUROR NUMBER 032: No.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR NUMBER 031: Good morning, 031, Epling, John. I

1 work for the school district as a middle school teacher, eighth grade. My wife is now
2 retired. She's become an American citizen about six years ago. And --
3 THE COURT: Did she ever work in Clark County?
4 PROSPECTIVE JUROR NUMBER 031: Yes, various managerial jobs.
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NUMBER 031: Have I served on a jury? Yes, civil.
7 THE COURT: Did you reach a verdict?
8 PROSPECTIVE JUROR NUMBER 031: Yes.
9 THE COURT: And were you the foreperson?
10 PROSPECTIVE JUROR NUMBER 031: No.
11 THE COURT: Thank you.
12 PROSPECTIVE JUROR NUMBER 038: Badge 308 [sic], Wendee Lowe,
13 dental hygienist.
14 THE COURT: How about -- is it 038?
15 PROSPECTIVE JUROR NUMBER 038: 038, yes.
16 THE COURT: Okay. Ms. Lowe.
17 PROSPECTIVE JUROR NUMBER 038: Yes, dental hygienist. My husband --
18 THE COURT: Significant other?
19 PROSPECTIVE JUROR NUMBER 038: Yes, my husband's a commercial
20 helicopter pilot. He flies off the coast of -- the Gulf Coast, he does the oil rigs.
21 THE COURT: Ever served on a jury?
22 PROSPECTIVE JUROR NUMBER 038: I have. Federal.
23 THE COURT: Civil or criminal?
24 PROSPECTIVE JUROR NUMBER 038: It was criminal.
25 THE COURT: Did you reach a verdict?

1 PROSPECTIVE JUROR NUMBER 038: Yes.

2 THE COURT: And were you the foreperson?

3 PROSPECTIVE JUROR NUMBER 038: No.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR NUMBER 029: Hi, badge number 29, Maureen

6 Daly. I'm currently employed with the Department of Veterans Affairs as a CT

7 Technologist. My husband's retired. He was a police officer with the New York City

8 Police Department. I've never served on a jury.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR NUMBER 027: John Empaces, badge number 027.

11 I work as a mobile senior IT consultant for Serco Inc. located in Reston, Virginia. I

12 have a wife and I have never served on a jury.

13 THE COURT: What does – does she work in Clark County?

14 PROSPECTIVE JUROR NUMBER 027: No, she's actually a homemaker at

15 this point.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NUMBER 026: Tom Leary, 026. I work for

18 Compass Group Food and Beverage. My wife works for the U.S. Chamber. I have

19 not served on a jury.

20 THE COURT: Thank you.

21 Counsel, approach.

22 [Bench Conference begins at 11:06 a.m.]

23 THE COURT: I, you know, Jessica Esp – whatever, 024, is there a second

24 day on the job.

25 MR. ALBREGTS: Jessica Espitia.

1 THE COURT: Yeah.

2 MR. ALBREGTS: Yes.

3 THE COURT: I'm somewhat sympathetic to somebody who has, I guess just
4 graduated and gotten her first – I think she said first job.

5 MR. ALBREGTS: As dad of daughters, I agree with him.

6 MR. SEMENZA: Could we inquire as to whether if she – what the Wal-Mart's
7 policy is as far as –

8 THE COURT: Absolutely.

9 MR. SEMENZA: Okay.

10 THE COURT: That's what I was going to request.

11 MR. SEMENZA: Okay.

12 THE COURT: Oh, unless you want me to do it.

13 MR. SEMENZA: I would prefer you to do it, --

14 MR. ALBREGTS: Yes, I –

15 MR. SEMENZA: -- quite frankly.

16 THE COURT: Okay. Then what about – all right.

17 MR. ALBREGTS: I think that's fair. I think that's fair.

18 THE COURT: Then what about Mr. Leary, 026. He's already indicated he
19 may be bias.

20 MR. ALBREGTS: Thomas Leary?

21 THE COURT: Yeah. Do you want to –

22 MR. SEMENZA: I want to keep him and inquire further.

23 MR. ALBREGTS: He wants me to use a preempt on it.

24 THE COURT: Well, it's –

25 MR. SEMENZA: Did I say that?

1 MR. ALBREGTS: No so many words.

2 He seems biased to me.

3 THE COURT: He – all right, we'll – we'll let you inquire further but certainly
4 he's indicated some preliminary problems. Okay, thank you.

5 MR. ALBREGTS: Thank you, sir.

6 [Bench conference ends at 11:07 a.m.]

7 THE COURT: Ms. – maybe, Ms. Espitia?

8 THE CLERK: Badge 024.

9 PROSPECTIVE JUROR NUMBER 024: Yes.

10 THE COURT: Badge 024, am I saying that correct?

11 PROSPECTIVE JUROR NUMBER 024: Yeah.

12 THE COURT: Does she have the – give her the –

13 PROSPECTIVE JUROR NUMBER 024: Yeah.

14 THE COURT: This is your second day on the job?

15 PROSPECTIVE JUROR NUMBER 024: Yes.

16 THE COURT: And I'm somewhat obviously sympathetic that you – this is
17 your first job, did you say?

18 PROSPECTIVE JUROR NUMBER 024: Yeah.

19 THE COURT: Yeah. How does your employer feel about this? Have they
20 indicated whether, I mean, would you like to return to your job?

21 PROSPECTIVE JUROR NUMBER 024: Yes.

22 THE COURT: Wal-Mart, my understanding, has a very liberal policy. They
23 might even pay you while you're here. Some of the major companies do that, but
24 given that this is your – both your first job and your second day on the job, I am
25 concerned, if you will. Do you know what – what did they tell you when you said or,

1 you know, I have jury duty?

2 PROSPECTIVE JUROR NUMBER 024: I didn't tell them anything. I totally
3 forgot about jury duty until they – yeah. And I can call them, though, and let them
4 know and let them know that I have jury duty.

5 THE COURT: All right. Both parties are sensitive to the circumstances so
6 given the – given the nature of it, I'm going to thank you for being here and I'm going
7 to excuse you. So either go down to the third floor or you need to – there's a way, I
8 think it's on your to send them an email that you've been excused.

9 Call the next person.

10 THE CLERK: Okay. Dawn Bourgon, badge number 039, you'll be in seat
11 number 9.

12 THE COURT: Does she have the – yeah. Name and badge number.

13 PROSPECTIVE JUROR NUMBER 039: Dawn Bourgon, 0039.

14 THE COURT: Okay. So the test is whether or not the people back here were
15 actually paying attention. So same questions to you.

16 PROSPECTIVE JUROR NUMBER 039: I work at Silver State Schools Credit
17 Union as a Operations Manager. My husband works at the airport at the
18 Department of Aviation as a IT Manager. And I have served jury duty, but when we
19 came back the second day, they said it was all finalized though.

20 THE COURT: It was settled. Very good. You get an A.

21 Okay, plaintiff, you may inquire.

22 MR. SEMENZA: Thank you, Your Honor. Your Honor, do you have any
23 preference as to whether I start with generic questions for the entire panel or
24 individual questions.

25 THE COURT: Well, questions for the entire panel and if you need to follow

1 up, then you can ask individual for –

2 MR. SEMENZA: Thank you, Your Honor.

3 THE COURT: -- people who have --

4 MR. SEMENZA: Good morn –

5 THE COURT: -- answered.

6 MR. SEMENZA: Good morning, again, everyone. What I'd like to do is just
7 ask the generic – some generic questions of the panel and by show of hands if you
8 answer any of the questions yes, I would appreciate that and then we can identify
9 who those individuals are.

10 Have any of you either worked for a bank or have family members that
11 work for a bank?

12 Your Honor, do you want the specific individuals identified?

13 THE COURT: That's up to you, if you want to follow up with them. Other than
14 that, no.

15 MR. SEMENZA: Could you go ahead and re-raise your hands? Could I start
16 with you and identify your name and badge number once again.

17 PROSPECTIVE JUROR NUMBER 026: Tom Leary, 026.

18 PROSPECTIVE JUROR NUMBER 029: Maureen Daly, 029.

19 PROSPECTIVE JUROR NUMBER 039: Dawn Bourgon, 039.

20 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 0017.

21 MR. SEMENZA: Thank you.

22 PROSPECTIVE JUROR NUMBER 032: Anita Smith-Taylor, 032.

23 PROSPECTIVE JUROR NUMBER 037: Julie Couture, 037.

24 MR. SEMENZA: Thank you very much.

25 THE COURT: Thank you.

1 Did you get – can you hear that?

2 THE COURT RECORDER: Clear.

3 THE COURT: Okay, as long as you can hear it.

4 So if you don't have the mic, then you do need to speak up because
5 this is a recording, not a reporting department. Everything is audio visually recorded
6 and so if the mic doesn't pick it up, unfortunately you can see that, well three mics
7 are in the front row and they're kind of generic so you need to speak up if you do not
8 have the mic. When we're asking you questions, we'll hand you the mic.

9 Go ahead.

10 MR. SEMENZA: And my next question is, I – I would imagine a great deal will
11 raise their hands as to this question. How many of you have been to the Wynn or
12 Encore before? Basically everyone in the box.

13 Have any of you had a negative experience at the Wynn or Encore at
14 any point in time? Okay.

15 And that was Mr. Leary, correct?

16 PROSPECTIVE JUROR NUMBER 026: Yes.

17 MR. SEMENZA: Do any of you have any feelings, positive or negative,
18 towards the Wynn or Encore that would affect your ability to impartially sit on this
19 particular jury? Thank you.

20 I believe Mr. Leary raised his hand and your name, sir?

21 PROSPECTIVE JUROR NUMBER 027: John Empaces, 027.

22 MR. SEMENZA: Did you get that? Okay.

23 PROSPECTIVE JUROR NUMBER 027: John Empaces, 027.

24 MR. SEMENZA: I believe there was one other hand.

25 PROSPECTIVE JUROR NUMBER 037: Julie Couture, 037.

1 MR. SEMENZA: Okay, thank you.

2 Under the law, a company or an LLC, like Wynn, is entitled to be
3 treated as the same as a private individual. Would any of you have any problem or
4 difficulty accepting this principle in being a juror in this particular case? And for the
5 record, no show of hands.

6 A more generic question is, do any of you have any negative attitudes,
7 prejudices or ill feelings regarding gaming companies in general? Again, no one
8 has raised their hands.

9 How many of you have ever been a party to a lawsuit? Either you
10 brought the lawsuit or have been sued at some point? Okay. And could I have
11 them identify themselves, Mr. Marshal.

12 PROSPECTIVE JUROR NUMBER 037: Start with me. Julie Couture, 037.

13 MR. SEMENZA: Okay.

14 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

15 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, 033.

16 PROSPECTIVE JUROR NUMBER 023: Lori Reizian-Terwilleger, 023.

17 MR. SEMENZA: Thank you. Anyone else?

18 THE COURT: One more.

19 PROSPECTIVE JUROR NUMBER 036: 036, Sheila Lucatelli.

20 MR. SEMENZA: Okay. And expanding that question out a little bit. Have
21 any of you had family members that were parties to lawsuits? Either plaintiffs or
22 defendants. Again, if we could have everyone identify themselves.

23 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, 033.

24 MR. SEMENZA: Thank you.

25 PROSPECTIVE JUROR NUMBER 023: Lori Reizian-Terwilleger, 023.

1 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

2 PROSPECTIVE JUROR NUMBER 037: Julie Couture, 037.

3 PROSPECTIVE JUROR NUMBER 006: Janet Ruiz, 006.

4 PROSPECTIVE JUROR NUMBER 003: 003, Tyler Richter.

5 PROSPECTIVE JUROR NUMBER 026: Tom Leary, 026.

6 PROSPECTIVE JUROR NUMBER 029: Maureen Daly, 029.

7 MR. SEMENZA: Thank you.

8 Do any of you have any negative attitudes, biases or prejudices against
9 Italians, generally speaking? And for the record, no one raised their hands.

10 Do any of you have any negative viewpoints, opinions, prejudices or
11 biases against attorneys? Luckily, no one raised their hands.

12 Have any of you had, either individually or a family member, borrowed
13 any money on credit from a casino at any point in time? Okay.

14 PROSPECTIVE JUROR NUMBER 033: 033, Tyler Richter.

15 MR. SEMENZA: Do any of you not believe that individuals who borrow
16 money – well, let me rephrase that. Do any of you believe that individuals who
17 borrow money don't need to repay that money? Okay. For the record, no one
18 raised their hands.

19 Have you or a family member or close friend ever taken out a marker at
20 a casino at any point in time? Okay.

21 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, 033.

22 MR. SEMENZA: Thank you.

23 Have any of you – have you, have any of you ever gambled over \$500
24 at one particular session or period of time? Okay. Quite a few of you. I don't need
25 to know specifics on who those individuals were that raised their hands unless,

1 Mr. Albregts you want --

2 MR. ALBREGTS: It's okay, --

3 MR. SEMENZA: -- to know who raised --

4 MR. ALBREGTS: -- I saw.

5 MR. SEMENZA: Thank you.

6 MR. ALBREGTS: Thank you, Mr. Semenza.

7 MR. SEMENZA: Have any of you ever won over \$500 at a casino in a single
8 session or period of time?

9 Have any of your or a current or former spouse ever been past due on
10 a credit card payment or car loan? Okay. Could we have everyone identify
11 themselves, please.

12 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, 033.

13 PROSPECTIVE JUROR NUMBER 032: Smith-Taylor, 032.

14 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

15 PROSPECTIVE JUROR NUMBER 037: Julie Couture, 037.

16 PROSPECTIVE JUROR NUMBER 020: Carolyn Harner, 020.

17 PROSPECTIVE JUROR NUMBER 023: Lori Reizian-Terwilleger, 023.

18 PROSPECTIVE JUROR NUMBER 025: Heather Rogers-Pokorny, 025.

19 MR. SEMENZA: Thank you.

20 PROSPECTIVE JUROR NUMBER 036: 036, Sheila Lucatelli.

21 MR. SEMENZA: Have you or any spouse or former spouse ever been
22 referred to a collection agency for the collection of a debt? Could I have you guys
23 identify, please.

24 PROSPECTIVE JUROR NUMBER 036: 036, Sheila Lucatelli.

25 PROSPECTIVE JUROR NUMBER 033: Carlos Saucedo, 033.

1 PROSPECTIVE JUROR NUMBER 032: Smith-Taylor, 032.

2 PROSPECTIVE JUROR NUMBER 031: Epling, John, 031.

3 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

4 PROSPECTIVE JUROR NUMBER 037: Julie Couture, 037.

5 PROSPECTIVE JUROR NUMBER 026: Tom Leary, 026.

6 MR. SEMENZA: Anyone else? Thank you.

7 PROSPECTIVE JUROR NUMBER 020: Carolyn Harner, 020.

8 MR. SEMENZA: Have you or a spouse or significant other ever bounced a
9 check within the past two years? Anyone else? Thank you.

10 Have you or a family member had any interaction with the District
11 Attorney's back check unit at any point in time?

12 PROSPECTIVE JUROR NUMBER 039: Just because of my job.

13 MR. SEMENZA: Just because of your job?

14 PROSPECTIVE JUROR NUMBER 039: Yeah, Dawn Bourgon, 039.

15 PROSPECTIVE JUROR NUMBER 025: I didn't write the bad checks, I had a
16 purse stolen, but they had to call me. Heather Rogers-Pokorny, 025.

17 MR. SEMENZA: So it didn't apply to you.

18 PROSPECTIVE JUROR NUMBER 025: It wasn't me. It was – well, it had my
19 name on it, but it – they were my checks but I didn't write them.

20 MR. SEMENZA: Thank you.

21 Do any of you currently owe any money to any casino?

22 PROSPECTIVE JUROR NUMBER 017: Hey.

23 MR. SEMENZA: Oh, I'm sorry. Go. My apologies.

24 PROSPECTIVE JUROR NUMBER 017: It's Keisa Jenkins, 017. My sister
25 wrote bad checks on me.

1 MR. SEMENZA: So, again, it wasn't you. It was someone else.

2 PROSPECTIVE JUROR NUMBER 017: Yes.

3 MR. SEMENZA: Okay. Thank you. Anyone else? So I don't miss anyone?

4 Okay.

5 Do any of you currently owe any money to any casino? For the record,
6 no hands were raised.

7 Have you or a family member ever owed money to a casino? Okay.

8 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

9 PROSPECTIVE JUROR NUMBER 003: 003, Tyler Richter.

10 PROSPECTIVE JUROR NUMBER 027: John Empa – John Empaces, 027.

11 MR. SEMENZA: Thank you.

12 Have any of you been accused of a crime involving fraud, financial
13 fraud specifically? For the record, no one raised their hands.

14 Have any of you had any foreclosure proceedings initiated against you
15 within the past five years? No one raised their hands.

16 Have any of you had a home foreclosed upon at any point in time? No
17 one has raised their hands.

18 Have any of you had a vehicle repossessed at any point in time?

19 Thank you.

20 PROSPECTIVE JUROR NUMBER 017: He already knows me.

21 THE COURT: You need to, for the record, –

22 PROSPECTIVE JUROR NUMBER 017: Sorry.

23 THE COURT: -- name and badge number.

24 PROSPECTIVE JUROR NUMBER 017: Keisa Jenkins, 017.

25 MR. SEMENZA: Thank you.

1 THE COURT: Thank you.

2 MR. SEMENZA: Have either you or your spouse ever declared personal
3 bankruptcy? That's okay. I don't need unless Mr. Albregts, you want me to
4 specifically –

5 MR. ALBREGTS: No, thank you.

6 MR. SEMENZA: Thank you.

7 Just a moment, Your Honor. Your Honor, I think those are all the
8 questions I have as far as the panel is concerned. I'm going to go ahead and move
9 on to the individual questions with –

10 THE COURT: Go ahead.

11 MR. SEMENZA: -- Court's indulgence.

12 Let's go ahead and start with Mr. Richter please. So I understand you
13 work at Popcorn Girl.

14 PROSPECTIVE JUROR NUMBER 003: Yes. Yes.

15 MR. SEMENZA: And how long have you been working there?

16 PROSPECTIVE JUROR NUMBER 003: About seven months.

17 MR. SEMENZA: Okay. And do you enjoy your job?

18 PROSPECTIVE JUROR NUMBER 003: Yes.

19 MR. SEMENZA: Okay. And then you also are working for a church as I
20 understood it.

21 PROSPECTIVE JUROR NUMBER 003: Yes.

22 MR. SEMENZA: Can you tell us a little bit about that please.

23 PROSPECTIVE JUROR NUMBER 003: It's a – it's a program that we go do
24 every Friday night. The parent – it's for the parents so the parents go and do
25 something and then, like, they have, like, their lesson and I work with the kids. We

1 teach them lessons and stuff like that.

2 MR. SEMENZA: Okay. Is it lessons on scripture or something else?

3 PROSPECTIVE JUROR NUMBER 003: Yeah, it's scripture based, but it's –
4 it's the parents go through a 12-step program kind of and then we kind of teach the
5 kids those kinds of lessons for, like, future reference.

6 MR. SEMENZA: Okay. And how long have you been doing that?

7 PROSPECTIVE JUROR NUMBER 003: Three years.

8 MR. SEMENZA: Is it a paid position?

9 PROSPECTIVE JUROR NUMBER 003: Yes.

10 MR. SEMENZA: And am I correct that you said you didn't have a significant
11 other, right?

12 PROSPECTIVE JUROR NUMBER 003: Yes.

13 MR. SEMENZA: Okay. You had mentioned as I believe that you had family
14 members that were involved in lawsuits, is that correct?

15 PROSPECTIVE JUROR NUMBER 003: Yes.

16 MR. SEMENZA: And can you tell me just briefly about that?

17 PROSPECTIVE JUROR NUMBER 003: My sister got rear-ended when on,
18 like, the way on to the highway. And she – they, like, really hit her and she hurt her
19 back.

20 MR. SEMENZA: And she filed a lawsuit?

21 PROSPECTIVE JUROR NUMBER 003: Yes.

22 MR. SEMENZA: Do you know who her attorney was?

23 PROSPECTIVE JUROR NUMBER 003: No.

24 MR. SEMENZA: Was that case resolved?

25 PROSPECTIVE JUROR NUMBER 003: Yes.

In The
SUPREME COURT
For The
STATE OF NEVADA

Electronically Filed
Apr 03 2017 04:40 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*

APPELLANT'S APPENDIX
VOLUME III OF VI, Pages 393 to 580 _____

JEFFREY R. ALBREGTS, ESQ. (66)
JEFFREY R. ALBREGTS, LLC
701 Shadow Lane, Suite 150
Las Vegas, Nevada 89106
Telephone: 702/483-5026
Facsimile: 702/485-2343
Attorney for Appellant

LAWRENCE J. SEMENZA III, ESQ. (7174)
CHRISTOPHER D. KIRCHER, ESQ. (11176)
JARROD L. RICKARD, ESQ. (10203)
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
Telephone (702) 835-6803 (702) 920-8669 (Fax)
Attorneys for Respondent

APPELLANT'S APPENDEX

VOLUME I OF VI__ – Pages 1 to 195 __

| <u>Description</u> | <u>Page</u> |
|---|--------------------|
| Civil Cover Sheet | 1 |
| Complaint filed January 24, 2014 | 2 |
| Summons Issued February 24, 2014; filed April 7, 2014 | 7 |
| Answer Filed September 16, 2014 | 9 |
| Summons/proof of service and related documents Filed December 19, 2014, served July 24, 2014 | 17 |
| Defendant's Motion to Dismiss or For Summary Judgment Filed September 11, 2015 | 36 |
| Stipulation and Order (re: Voluntary Dismissal of Claims) Filed October 15, 2015 | 42 |
| Defendant's (sic) Motion in Limine [#1] Filed by Plaintiff January 29, 20156 | 45 |
| Exhibit 1 | 55 |
| Exhibit 2 | 57 |
| Exhibit 3 | 66 |
| Defendant's (sic) Motion in Limine [#2] Filed by Plaintiff January 29, 20156 | 71 |
| Exhibit 1 | 81 |
| Exhibit 2 | 83 |
| Exhibit 3 | 92 |
| Defendant's (sic) Motion in Limine [#2] Filed by Plaintiff January 29, 20156 | 105 |
| Exhibit 1 | 114 |
| Exhibit 2 | 116 |
| Exhibit 3 | 128 |
| Defendant's Objection to Plaintiff's Third Supplemental Disc. Filed February 17, 2016 | 168 |
| Defendant's Objections to (Wynn's) Motions in Limine [#1, #2, #3] Filed February 19, 2016 | 171 |
| Exhibit A | 182 |
| Exhibit B | 184 |
| Exhibit C | 189 |
| Exhibit D | 192 |
| Defendant's Objection to Plaintiff's Third Supplemental Disc. And Pretrial Disclosures Pursuant to NRCP 16.1 (Filed 2/17/16) | 193 |

VOLUME II OF VI__ – Pages 196 to 392

| | |
|---|------------|
| Plaintiff's Reply In Support of Its Motions in Limine [#1, #2, #3] Filed February 26, 2016 Exhibit 1 | 196 207 |
| Transcript of Proceedings (re: Hearing on Motions in Limine) Filed March 17, 2016 | 235 |
| Defendant's Motion to Allow Testimony at Trial From Italy (via video conference/interpreter) Filed March 18, 2016 Exhibit A | 261 268 |
| Plaintiff's Opposition to Motion to Allow Testimony at Trial Filed March 28, 2016 | 270 |
| Defendant's Objection to Plaintiff's Fourth Supp. Disclosures Pursuant to 16.1 And Pretrial Disclosures Filed March 25, 2016 Exhibit A | 279 283 |
| Defendant's Pretrial Memorandum Filed March 25, 2016 | 289 |
| Defendant's Supplemental Pretrial Memorandum Filed April 5, 2016 Exhibit A | 298 301 |
| Order Denying Defendant's Motion to Allow Testimony at Trial By Video Conference/Interpreter, and Notice of Entry thereof Filed April 18, 2016 and April 19, 2016 | 306 |
| Order Granting Plaintiff's Motion in Limine [#1] and Notice of Entry Filed April 28, 2016 and April 29, 2016 | 310 |
| Order Granting Plaintiff's Motion in Limine [#3] and Notice of Entry Filed April 28, 2016 and April 29, 2016 | 314 |
| Order Setting Firm Civil Jury Trial Filed May 10, 2016 | 318 |
| Order (pretrial Order re: Jury Instructions) Filed May 19, 2016 | 321 |
| Order Granting Plaintiff's Motion in Limine [#2] and Notice of Entry Filed May 19, 2016 and May 24, 2016 | 323 |
| Defendant's Objection to Plaintiff's Second Pretrial Memorandum and Designation of his Deposition Transcript Testimony for Trial Filed May 31, 2016 Exhibit A | 327 332 |

| | |
|---|------|
| Defendant's proposed Jury Instructions Filed June 13, 2016 | 367 |
| Trial Transcript, Day 1, June 13, 2016 Filed December 21, 2016 | 373 |
| VOLUME III OF VI__ – Pages 393 to 580 | |
| Trial Transcript, Day 2, June 14, 2016 Filed December 21, 2016 | 581 |
| VOLUME IV OF VI__ – Pages 581 to 773 | |
| Jury Instructions Filed June 15, 2016 | 774 |
| VOLUME V OF VI__ – Pages 774 to 966 | |
| Verdict Form Filed June 15, 2016 | 816 |
| Trial Transcript, Day 3, June 15, 2016 Filed December 21, 2016 | 817 |
| VOLUME VI OF VI__ – Pages 967 to 1077 | |
| Judgment on Jury Verdict and Notice of Entry Filed August 3, 2016 and August 10, 2016 | 1013 |
| Plaintiff's Memorandum of Costs Filed August 10, 2016 | 1017 |
| Plaintiff's Motion for Attorneys' Fees, Costs and Interest Partial exhibits only to avoid duplication Filed August 23, 2016 | 1023 |
| Exhibit 1 (Dec. of LJ Semenza) | 1033 |
| Exhibit A | 1042 |
| Defendant's Objection and Motion to Retax to Plaintiff's Memorandum of Costs (no exhibits to avoid duplication) Filed August 17, 2016 | 1045 |
| Defendant's Opposition to Plaintiff's Motion for Attorney's Fees Filed August 30, 2016 | 1049 |
| Plaintiff's Opposition to Defendant's Objection and Motion to Retax Filed Sept. 6, 2016 | 1055 |
| Notice of Appeal Filed Sept. 9, 2016 | 1062 |

Plaintiff's Reply in Support of Plaintiff's Motion for Fees/Costs/Interest
Filed Sept. 21, 2016 1064
Exhibit 1 1070

Consolidated Order Entering Final Judgment Against Defendant
Filed December 19, 2016 1073