

Case No. _____

In the Supreme Court of Nevada

ELAINE P. WYNN, an individual,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT of
the State of Nevada, in and for the
County of Clark; and THE HONORABLE
ELIZABETH GONZALEZ, District Judge,

Respondents,

and

STEPHEN A. WYNN, WYNN RESORTS,
LIMITED, a Nevada Corporation, LINDA
CHEN, RUSSELL GOLDSMITH, RAY R. IRANI,
ROBERT J. MILLER, JOHN A. MORAN, MARC
D. SCHORR, ALVIN V. SHOEMAKER, KIM-
MARIE SINATRA, D. BOONE WAYSON, and
ALLAN ZEMAN,

Real Parties in Interest

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District Court No.
A-12-656710-B

**PETITIONER'S APPENDIX
VOLUME 1
PAGES 1-123**

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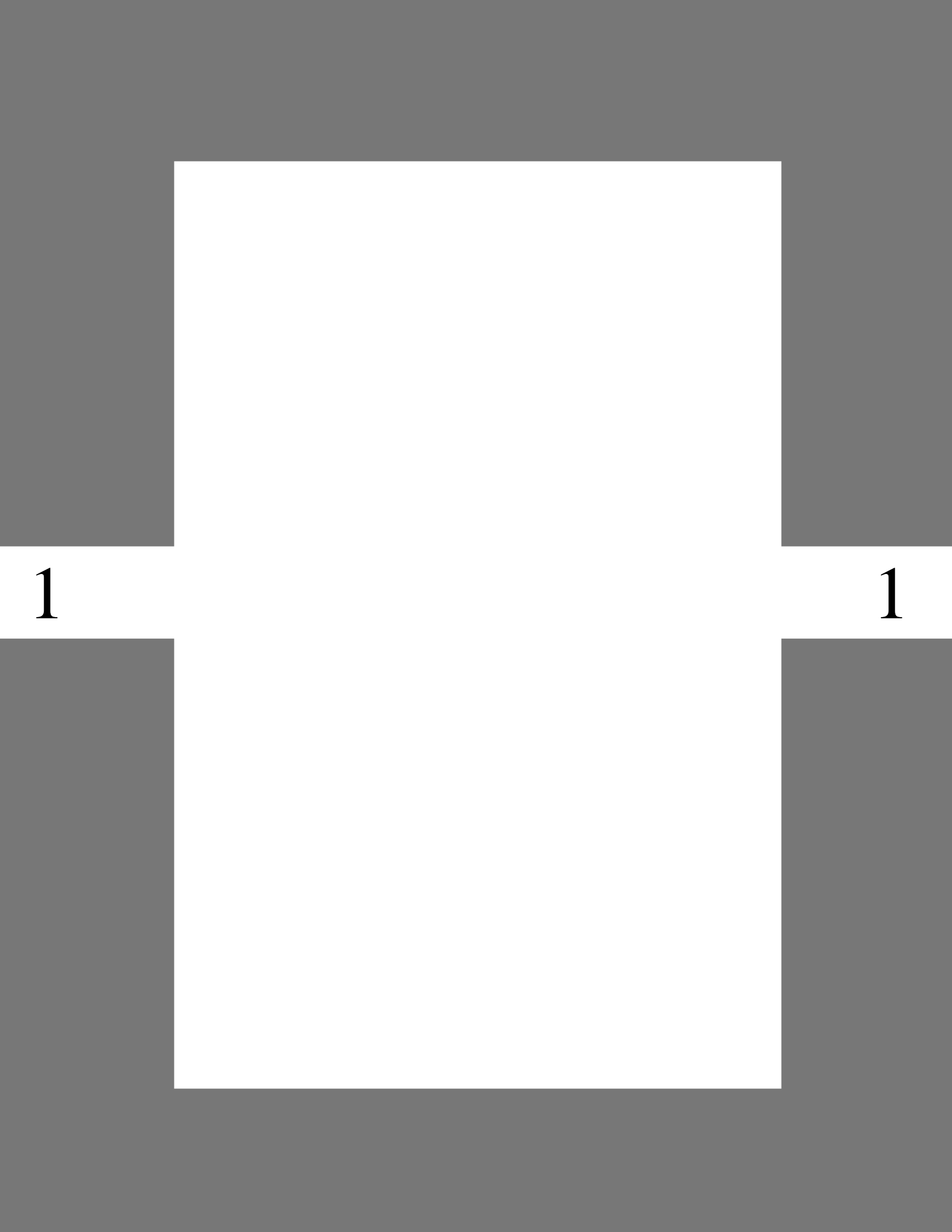
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2	Transcript of Proceedings – Hearing on Motions	09/25/17	1	79–123

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3	Wynn Parties' Motion to Overrule Work Product Claims as to Elaine Wynn's Personal Notes and to Compel Immediate Production on Order Shortening Time <i>(Filed Under Seal)</i>	09/17/17	2	124–353
4	Elaine P. Wynn's Opposition to the Wynn Parties' Motion to Overrule Work Product Claims as to Elaine Wynn's Personal Notes and to Compel Immediate Production <i>(Filed Under Seal)</i>	09/22/17	2	354–383

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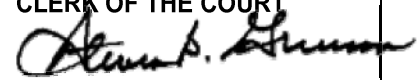
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

22 WYNN RESORTS, LIMITED, a Nevada
Corporation,

23 Plaintiffs,

24 vs.

25 KAZUO OKADA, an individual, ARUZE
26 USA, Inc., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
27 CORPORATION, a Japanese corporation,

28 Defendants.

CASE NO. A-12-656710-B

DEPT. NO: XI

ELECTRONIC FILING CASE

**FIRST AMENDED ANSWER OF ELAINE
P. WYNN TO ARUZE AND
UNIVERSAL'S FOURTH AMENDED
COUNTERCLAIM; SIXTH AMENDED
COUNTERCLAIM AND CROSSCLAIM
OF ELAINE P. WYNN**

ARUZE USA, INC., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation,

Counterclaimants.

vs.

WYNN RESORTS, LIMITED, a Nevada
Corporation, STEPHEN A. WYNN, an
individual, KIMMARIE SINATRA, an
individual, LINDA CHEN, an individual, RAY
R. IRANI, an individual, RUSSELL
GOLDSMITH, an individual, ROBERT J.
MILLER, an individual, JOHN A. MORAN, an
individual, MARC D. SCHORR, an individual,
ALVIN V. SHOEMAKER, an individual, D.
BOONE WAYSON, an individual, ELAINE P.
WYNN, an individual, ALLAN ZEMAN, an
individual,

Counterdefendants.

Complaint Filed:
Trial Date: None Set

ELAINE P. WYNN, an individual,

Counterclaimant and
Crossclaimant,

vs.

STEPHEN A. WYNN, an individual, WYNN
RESORTS, LIMITED, a Nevada Corporation,
KIMMARIE SINATRA, an individual,

Crossdefendants,

ARUZE USA, INC., a Nevada Corporation,

Counterdefendant.

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1 **ANSWER**

2 Elaine P. Wynn hereby answers the Fourth Amended Counterclaim of Defendants and
3 Counterclaimants Aruze USA, Inc. ("Aruze" or "Aruze USA") and Universal Entertainment
4 Corporation ("Universal") (collectively, "Counterclaimants") in the above-captioned action.

5 Ms. Wynn denies all allegations in the headings (which are quoted here verbatim though
6 they are denied), tables, and photographs of the Fourth Amended Counterclaim, in part because she
7 lacks information sufficient to form a belief as to their truth.

8 Ms. Wynn is not required to respond, and does not respond, to the allegations that were not
9 asserted against her, including: Count V by Aruze USA against Wynn Resorts (paragraphs
10 210-219); Count VII by Aruze USA against Wynn Resorts (paragraphs 233-237); Count VIII by
11 Aruze USA against Wynn Resorts (paragraphs 238-245); Count IX by Aruze USA against Wynn
12 Resorts, Steve Wynn, and Kimmarie Sinatra (paragraphs 246-256); Count X by Aruze USA against
13 Wynn Resorts, Steve Wynn, and Kimmarie Sinatra (paragraphs 257-268); Count XI by Aruze USA
14 against Steve Wynn and Kimmarie Sinatra (paragraphs 269-282); Count XII by Aruze USA against
15 Wynn Resorts, Steve Wynn, and Kimmarie Sinatra (paragraphs 283-292); Count XIII by Aruze
16 USA against Steve Wynn (paragraphs 293-308); Count XIV by Aruze USA against Steve Wynn
17 (paragraphs 309-324); Count XV by Aruze USA against Steve Wynn (paragraphs 325-334); Count
18 XVI by Aruze USA against Steve Wynn (paragraphs 335-345); Count XVII by Aruze USA against
19 Steve Wynn (paragraphs 346-355); Count XVIII by Aruze USA against Wynn Resorts, Linda Chen,
20 Russel Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V.
21 Shoemaker, Boone Wayson, and Allan Zeman (paragraphs 356-364); Count XIX by Aruze USA
22 against Wynn Resorts (paragraphs 365-372).

23 As to the allegations against Ms. Wynn set forth in enumerated paragraphs in the Fourth
24 Amended Counterclaim, Ms. Wynn responds in correspondingly numbered paragraphs as follows:

25 **JURISDICTION AND VENUE**

26 1. Ms. Wynn admits that the Court has jurisdiction and that venue is proper in this
27 Court. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 1, in part
28 because she lacks information sufficient to form a belief as to their truth.

1 2. Ms. Wynn admits that this matter is properly designated as a business matter and
2 assigned to the Business Docket under EDCR 1.61(a). Ms. Wynn denies that any business tort was
3 committed.

4 **NATURE OF THE ACTION**

5 3. On information and belief, Ms. Wynn admits that Wynn Resorts filed a complaint
6 against Aruze USA shortly after the Board voted to redeem Aruze's stock at a meeting that took
7 place on February 18, 2012. Ms. Wynn lacks information sufficient to form a belief as to the truth of
8 the allegation that Wynn Resorts understood Aruze USA would sue upon being sued and denies that
9 allegation on that basis. Ms. Wynn admits the allegations of footnote 1. Except as expressly
10 admitted or otherwise denied, Ms. Wynn denies the allegations of paragraph 3.

11 4. Ms. Wynn admits that Wynn Resorts redeemed Aruze USA's shares at an
12 approximately 30% discount to the market price in exchange for a promissory note of around \$1.9
13 billion to be paid in 10 years. On information and belief, Ms. Wynn admits that Wynn Resorts'
14 complaint was filed on February 19, 2012. Except as expressly admitted, Ms. Wynn denies the
15 allegations of paragraph 4, in part because she lacks information sufficient to form a belief as to their
16 truth.

17 5. The allegations contained in paragraph 5 are legal conclusions which require no
18 response. In the event these conclusions can be deemed allegations of fact, Ms. Wynn denies the
19 allegations of paragraph 5.

20 6. Ms. Wynn avers that she entered into the Amended and Restated Stockholders
21 Agreement dated January 6, 2010 ("January 2010 Stockholders Agreement") with Mr. Wynn and
22 Aruze USA. Ms. Wynn avers that the Stockholders Agreement dated April 11, 2002 ("April 2002
23 Stockholders Agreement") and the January 2010 Stockholders Agreement speak for themselves and
24 that the quoted excerpts of those agreements have been taken out of context, and denies any
25 allegations inconsistent with the April 2002 Stockholders Agreement and January 2010
26 Stockholders Agreement. Ms. Wynn avers that the Articles of Incorporation speak for themselves,
27 and denies any allegations inconsistent with the Articles of Incorporation. On information and
28 belief, Ms. Wynn denies that Mr. Wynn unilaterally amended the Articles of Incorporation without

1 Aruze's consent. Ms. Wynn denies that the right of redemption does not apply to Aruze USA's
2 shares of Wynn Resorts stock, and further denies that the Stockholders Agreement precludes
3 redemption of Aruze USA's stock. The remainder of the allegations contained in paragraph 6 are
4 legal conclusions which require no response. In the event these conclusions can be deemed
5 allegations of fact, Ms. Wynn denies the remaining allegations of paragraph 6.

6 7. Ms. Wynn denies the allegations of paragraph 7.

7 8. Ms. Wynn denies the allegation that there was no legitimate factual or legal basis to
8 invoke the redemption provision. Ms. Wynn further denies the allegations of paragraph 8, in part
9 because she lacks information sufficient to form a belief as to their truth.

10 9. Ms. Wynn denies the allegations of paragraph 9.

11 10. Ms. Wynn denies the allegations of paragraph 10.

12 11. Ms. Wynn denies the allegations of paragraph 11.

13 12. The allegations contained in paragraph 12 are legal conclusions which require no
14 response. In the event these conclusions can be deemed allegations of fact, Ms. Wynn denies the
15 allegations of paragraph 12.

16 PARTIES

17 13. Ms. Wynn denies that Aruze is currently a stockholder of Wynn Resorts. Except as
18 expressly denied, on information and belief, Ms. Wynn admits the allegations of paragraph 13.

19 14. On information and belief, Ms. Wynn admits the allegations of paragraph 14.

20 15. Ms. Wynn admits the allegations of paragraph 15.

21 16. Ms. Wynn admits that Stephen A. Wynn is the Chairman of the Board and Chief
22 Executive Officer of Wynn Resorts. Ms. Wynn admits that Stephen A. Wynn is a resident of
23 Nevada. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to
24 the truth of the allegations of paragraph 16, and denies the allegations on that basis.

25 17. Ms. Wynn admits that Kimmarie Sinatra is the General Counsel, Secretary, and a
26 Senior Vice President of Wynn Resorts. Except as expressly admitted, Ms. Wynn lacks information
27 sufficient to form a belief as to the truth of the allegations of paragraph 17, and denies the allegations
28 on that basis.

1 18. Ms. Wynn admits that she is a director of Wynn Resorts and is Stephen Wynn's
2 ex-spouse. Ms. Wynn admits that she is a resident of Nevada. On information and belief, Ms.
3 Wynn admits that she owns 9,742,150 shares of Wynn Resorts stock as of March 1, 2012.

4 19. Ms. Wynn admits that Linda Chen was a director of Wynn Resorts. Except as
5 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
6 allegations of paragraph 19, and denies the allegations on that basis.

7 20. Ms. Wynn admits that Ray R. Irani is a director of Wynn Resorts. Except as
8 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
9 allegations of paragraph 20, and denies the allegations on that basis.

10 21. Ms. Wynn admits that Russell Goldsmith was a director of Wynn Resorts. Except as
11 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 21, and denies the allegations on that basis.

13 22. Ms. Wynn admits that Robert J. Miller is a director and Chair of the Gaming
14 Compliance Committee of Wynn Resorts. Except as expressly admitted, Ms. Wynn lacks
15 information sufficient to form a belief as to the truth of the allegations of paragraph 22, and denies
16 the allegations on that basis.

17 23. Ms. Wynn admits that John A. Moran is a director of Wynn Resorts. Except as
18 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
19 allegations of paragraph 23, and denies the allegations on that basis.

20 24. Ms. Wynn admits that Marc D. Schorr was a director and Chief Operating Officer of
21 Wynn Resorts, and that Mr. Schorr had stepped down from the Board. Except as expressly
22 admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of
23 paragraph 24, and denies the allegations on that basis.

24 25. Ms. Wynn admits that Alvin V. Shoemaker is a director of Wynn Resorts. Except as
25 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
26 allegations of paragraph 25, and denies the allegations on that basis.

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1 26. Ms. Wynn admits that D. Boone Wayson is a director of Wynn Resorts. Except as
2 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
3 allegations of paragraph 26, and denies the allegations on that basis.

4 27. Ms. Wynn admits that Allan Zeman was a director of Wynn Resorts. Except as
5 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
6 allegations of paragraph 27, and denies the allegations on that basis.

7 **GENERAL ALLEGATIONS**

8 **I. **Kazuo Okada and Steve Wynn Launch Wynn Resorts****

9 **A. **Turned Out By Mirage Resorts, Steve Wynn Turns to Kazuo Okada to Finance****
10 **the New Wynn Project**

11 28. Ms. Wynn admits that Mr. Wynn developed Mirage Resorts, Inc., which owned and
12 operated the Mirage, Treasure Island, and the Bellagio, and that Mr. Wynn ceased being Chief
13 Executive Officer after Mirage Resorts, Inc. merged with MGM Grand, Inc. Except as expressly
14 admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of
15 paragraph 28, and on that basis denies the allegations.

16 29. Ms. Wynn admits that Mr. Wynn purchased the Desert Inn casino and planned to
17 build a new casino on that site, and that he contacted Mr. Okada about funding. Except as expressly
18 admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of
19 paragraph 29, and on that basis denies the allegations.

20 30. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
21 allegations of paragraph 30, and on that basis denies the allegations.

22 31. Ms. Wynn admits that Valvino Lamore, LLC (“Valvino”) was a Nevada limited
23 liability company used to develop the Desert Inn project. Ms. Wynn admits that Aruze USA
24 contributed \$260 million to Valvino in October 2000. Except as expressly admitted, Ms. Wynn
25 denies the allegations of paragraph 31, in part because Ms. Wynn lacks information sufficient to
26 form a belief as to the truth of those allegations.

27
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1 32. Ms. Wynn admits that Aruze USA contributed \$120 million to Valvino in April
2 2002. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the
3 truth of the allegations of paragraph 32, and on that basis denies those allegations.

4 **B. The Stockholders Agreement**

5 33. Ms. Wynn admits on information and belief that in 2002 steps were taken in
6 anticipation of Wynn Resorts going public. Except as expressly admitted, Ms. Wynn lacks
7 information sufficient to form a belief as to the truth of the allegations of paragraph 33, and on that
8 basis denies those allegations.

9 34. Ms. Wynn admits that Mr. Wynn, Aruze USA, and Baron Asset Fund entered into
10 the April 2002 Stockholders Agreement dated April 11, 2002. Ms. Wynn admits that the April 2002
11 Stockholders Agreement purported to establish certain restrictions on the sale of stock the
12 signatories were to receive in "NewCo." Ms. Wynn admits that NewCo was a predecessor to Wynn
13 Resorts. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to
14 the truth of the allegations of paragraph 34, and on that basis denies those allegations.

15 35. Ms. Wynn avers that the April 2002 Stockholders Agreement speaks for itself, and
16 denies any allegation inconsistent with that agreement.

17 36. Ms. Wynn avers that the April 2002 Stockholders Agreement speaks for itself and
18 that the quoted excerpts of that agreement have been taken out of context, and denies any allegation
19 inconsistent with that agreement. Ms. Wynn avers that the January 2010 Stockholders Agreement
20 speaks for itself, and denies any allegation inconsistent with that agreement.

21 37. Ms. Wynn admits that the April 2002 Stockholders Agreement purported to establish
22 certain restrictions on the transfer of shares of Wynn Resorts common stock held by the parties to
23 that agreement. Ms. Wynn avers that Wynn Resorts share certificates speak for themselves, and
24 denies any allegation inconsistent with the share certificates. Except as expressly admitted, Ms.
25 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 37,
26 and on that basis denies those allegations.

27 38. Ms. Wynn denies that the Stockholders Agreement removed Aruze USA from the
28 purview of later-adopted redemption provisions in Wynn Resorts' Articles of Incorporation. Ms.

1 Wynn avers that the April 2002 Stockholders Agreement speaks for itself, and denies any allegation
2 inconsistent with that agreement. Ms. Wynn further lacks information sufficient to form a belief as
3 to the truth of the remaining allegations of paragraph 38, and on that basis denies those allegations.

4 39. Ms. Wynn avers that the April 2002 Stockholders Agreement speaks for itself, and
5 denies any allegation inconsistent with that agreement. Ms. Wynn further lacks information
6 sufficient to form a belief as to the truth of the remaining allegations of paragraph 39, and on that
7 basis denies those allegations. In addition, the allegations contained in the last sentence of
8 paragraph 39 are legal conclusions which require no response. In the event those conclusions can be
9 deemed allegations of fact, Ms. Wynn denies the allegations of the last sentence of paragraph 39.

10 **C. Wynn Resorts' Original Articles of Incorporation**

11 40. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 40, and on that basis denies those allegations.

13 41. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
14 allegations of paragraph 41, and on that basis denies those allegations.

15 **D. The Contribution Agreement**

16 42. On information and belief, Ms. Wynn admits that the Valvino interests were
17 converted to interests in the new Wynn Resorts entity, and that Aruze USA had contributed
18 approximately \$380 million for its Valvino interests. Except as expressly admitted, Ms. Wynn lacks
19 information sufficient to form a belief as to the truth of the allegations of paragraph 42, and on that
20 basis denies those allegations.

21 43. On information and belief, Ms. Wynn avers that Wynn Resorts' public filings
22 include a document that purports to be a Contribution Agreement among Mr. Wynn, Aruze, Baron
23 Asset Fund, Kenneth R. Wynn Family Trust, and Wynn Resorts, the contents of which speak for
24 itself. Except as expressly averred, Ms. Wynn lacks information sufficient to form a belief as to the
25 truth of the allegations of paragraph 43, and on that basis denies those allegations.

26 44. Ms. Wynn avers that the Contribution Agreement speaks for itself and denies any
27 allegation inconsistent with the Contribution Agreement. Except as expressly averred, Ms. Wynn
28

1 lacks information sufficient to form a belief as to the truth of the allegations in paragraph 44, and on
2 that basis denies those allegations.

3 **E. After Securing Aruze USA's Contribution, Steve Wynn Unilaterally Amends**
4 **the Articles of Incorporation**

5 45. Ms. Wynn admits that the Articles of Incorporation contain a provision that allows
6 Wynn Resorts to redeem stock under certain circumstances, and that Wynn Resorts and Mr. Wynn
7 applied that provision to Aruze's stock in 2012. On information and belief, Ms. Wynn denies that
8 Mr. Wynn added the redemption provision unilaterally without Aruze's consent. Except as
9 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
10 allegations of paragraph 45, and on that basis denies those allegations.

11 46. Ms. Wynn avers that the April 2002 Stockholders Agreement and the Contribution
12 Agreement speak for themselves, and denies any allegation inconsistent with those agreements. Ms.
13 Wynn lacks information sufficient to form a belief as to the truth of the additional allegations of
14 paragraph 46, and on that basis denies those allegations.

15 47. Ms. Wynn admits that the Articles of Incorporation of Wynn Resorts includes a
16 provision that provides for redemption of stock held by unsuitable persons. Ms. Wynn avers that the
17 Articles of Incorporation speaks for itself and denies any allegation inconsistent with the Articles.
18 On information and belief, Ms. Wynn denies that Mr. Wynn added the redemption provision
19 unilaterally without Aruze's consent. Except as expressly admitted, denied, or averred, Ms. Wynn
20 lacks information sufficient to form a belief as to the truth of the allegations of paragraph 47, and on
21 that basis denies those allegations.

22 48. Ms. Wynn avers that the April 2002 Stockholders Agreement and the Contribution
23 Agreement speak for themselves, and denies any allegation inconsistent with those agreements. The
24 remaining allegations of paragraph 48 are legal conclusions which require no response. To the
25 extent the remaining allegations can be deemed allegations of fact, Ms. Wynn denies them in part
26 because she lacks information sufficient to form a belief as to their truth.

27 49. Ms. Wynn avers that the Stockholders Agreement speaks for itself, and denies any
28 allegation inconsistent with that agreement. Ms. Wynn denies that she, Mr. Wynn, Wynn Resorts,

1 and Wynn Resorts' individual directors "improperly applied" the redemption provision to Aruze's
2 shares of Wynn Resorts stock in February 2012. Ms. Wynn also denies that by voting to redeem
3 Aruze's shares of Wynn Resorts stock, she and Mr. Wynn breached, and that Wynn Resorts and the
4 individual directors interfered with, the Stockholders Agreement. On information and belief, Ms.
5 Wynn denies that Aruze was not and could not have been aware that the redemption provision could
6 potentially be applied to Aruze. Ms. Wynn further denies the other allegations of paragraph 49, in
7 part because she lacks information sufficient to form a belief as to their truth.

8 50. Ms. Wynn admits that in February 2012, Wynn Resorts redeemed Aruze's stock for a
9 note of approximately \$1.936 billion, which reflected a discount of around 30% to the trading price.
10 The remainder of the allegations contained in paragraph 50 are legal conclusions which require no
11 response, and in the event they can be deemed allegations of fact, Ms. Wynn denies them.

12 **F. Wynn Resorts Goes Public**

13 51. Ms. Wynn admits that Mr. Okada became a board member of Wynn Resorts in
14 October 2002. Ms. Wynn admits that the LLC interests of Valvino were contributed to Wynn
15 Resorts in September 2002. Except as expressly admitted, Ms. Wynn lacks information sufficient to
16 form a belief as to the truth of the allegations of paragraph 51, and on that basis denies those
17 allegations.

18 52. On information and belief, Ms. Wynn admits that on October 25, 2002, Wynn
19 Resorts conducted an initial public offering on NASDAQ at \$13 per share, and that shortly
20 thereafter, Mr. Okada became Vice Chairman of Wynn Resorts' Board of Directors. On
21 information and belief, Ms. Wynn further admits that Aruze made an additional investment in or
22 provided further funding to Wynn Resorts. Except as expressly admitted, Ms. Wynn lacks
23 information sufficient to form a belief as to the truth of the allegations of paragraph 52, and on that
24 basis denies those allegations.

25 53. Ms. Wynn admits that Wynn Las Vegas, Wynn Macau, Encore Las Vegas, and
26 Encore Macau have been successful. On information and belief, Ms. Wynn admits that Mr. Okada
27 has contributed financially to the casinos' success. Except as expressly admitted, Ms. Wynn lacks
28

1 information sufficient to form a belief as to the truth of the allegations of paragraph 53, and on that
2 basis denies those allegations.

3 54. Ms. Wynn admits the allegations of paragraph 54.

4 **G. The Close and Trusting Relationship of Steve Wynn and Kazuo Okada**

5 55. On information and belief, Ms. Wynn admits that Mr. Wynn considered Mr. Okada a
6 close friend and a partner. Except as expressly admitted, Ms. Wynn lacks information sufficient to
7 form a belief as to the truth of the allegations of paragraph 55, and on that basis denies those
8 allegations.

9 56. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
10 allegations of paragraph 56, and on that basis denies those allegations.

11 57. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 57, and on that basis denies those allegations.

13 58. On information and belief, Ms. Wynn avers that, in 2006, Mr. Wynn asked Mr.
14 Okada and Aruze to enter into an Amendment to the April 2002 Stockholders Agreement. Ms.
15 Wynn avers that the Amendment dated November 8, 2006 ("2006 Amendment") speaks for itself,
16 and denies any allegation inconsistent with that amendment. Except as expressly averred, Ms.
17 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 58,
18 and on that basis denies those allegations.

19 59. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
20 allegations of paragraph 59, and on that basis denies those allegations.

21 **II. Universal Discloses and Ultimately Pursues Foreign Development Projects**

22 **A. In 2007, Universal Fully Discloses to Wynn Resorts Its Interest In Pursuing a**
23 **Casino Project in the Philippines**

24 60. On information and belief, Ms. Wynn avers that Mr. Okada has been involved with
25 business efforts in the Philippines since around 2008. Except as expressly averred, Ms. Wynn lacks
26 information sufficient to form a belief as to the truth of the allegations of paragraph 60, and on that
27 basis denies those allegations.

1 61. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
2 allegations of paragraph 61, and on that basis denies those allegations.

3 62. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
4 allegations of paragraph 62, and on that basis denies those allegations.

5 63. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
6 allegations of paragraph 63, and on that basis denies those allegations.

7 64. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
8 allegations of paragraph 64, and on that basis denies those allegations.

9 65. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
10 allegations of paragraph 65, and on that basis denies those allegations.

11 66. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 66, and on that basis denies those allegations.

13 67. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
14 allegations of paragraph 67, and on that basis denies those allegations.

15 **B. With the Blessing of Wynn Resorts, Universal Commits Significant Funds and**
16 **Energy to the Philippine Project**

17 68. On information and belief, Ms. Wynn admits that Universal and/or its affiliates went
18 about acquiring land in the Philippines for a planned casino. Except as expressly admitted, Ms.
19 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 68,
20 and on that basis denies those allegations.

21 69. On information and belief, Ms. Wynn admits that an entity or entities affiliated with
22 Universal or Mr. Okada purchased land near Manila Bay. On information and belief, Ms. Wynn
23 denies that Universal complied with the laws of the Philippines regarding citizenship for
24 landholding. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief
25 as to the truth of the allegations of paragraph 69, and on that basis denies those allegations.

26 70. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
27 allegations of paragraph 70, and on that basis denies those allegations.

28

1 **C. Steve Wynn and Elaine Wynn Divorce**

2 71. Ms. Wynn admits that she and Mr. Wynn began divorce proceedings in March 2009.
3 Ms. Wynn admits that by early 2010, Ms. Wynn and Mr. Wynn had reached an agreement regarding
4 division of their community assets, including the Wynn Resorts stock then held in Mr. Wynn's
5 name. On information and belief, Ms. Wynn admits that Aruze was Wynn Resorts' largest
6 shareholder after the division of assets between Mr. Wynn and Ms. Wynn. Except as expressly
7 admitted, Ms. Wynn denies the allegations of paragraph 71, in part because she lacks information
8 sufficient to form a belief as to the truth of the allegations.

9 72. Ms. Wynn admits that she, Mr. Wynn, and Aruze entered into the January 2010
10 Stockholders Agreement. Ms. Wynn avers that the January 2010 Stockholders Agreement speaks
11 for itself, and denies any allegation inconsistent with that agreement. Except as expressly admitted
12 or averred, Ms. Wynn denies the allegations in paragraph 72, because she lacks information
13 sufficient to form a belief as to the truth of the allegations.

14 73. Ms. Wynn avers that the January 2010 Stockholders Agreement speaks for itself, and
15 denies any allegation inconsistent with that agreement. Except as expressly averred, Ms. Wynn
16 denies the allegations of paragraph 73, because she lacks information sufficient to form a belief as to
17 the truth of the allegations.

18 74. Ms. Wynn avers that the January 2010 Stockholders Agreement speaks for itself, and
19 denies any allegation inconsistent with that agreement. Except as expressly averred, Ms. Wynn
20 denies the allegations of paragraph 74, because she lacks information sufficient to form a belief as to
21 the truth of the allegations.

22 75. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
23 allegations of paragraph 75, and on that basis denies those allegations.

24 **D. Steve Wynn and Kazuo Okada Visit the Philippines in 2010, as Wynn Resorts**
25 **Considers Involvement with the Philippine Project**

26 76. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
27 allegations of paragraph 76, and on that basis denies those allegations.

28

1 77. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
2 allegations of paragraph 77, and on that basis denies those allegations.

3 78. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
4 allegations of paragraph 78, and on that basis denies those allegations.

5 **E. Over Kazuo Okada's Objection, Wynn Resorts Makes an Unprecedented \$135**
6 **Million Donation for Wynn Macau**

7 79. Ms. Wynn denies that the duration of Wynn Resorts' donation to Macau is
8 "suspiciou[s]." On information and belief, Ms. Wynn admits the other allegations of paragraph 79.

9 80. Ms. Wynn admits that Mr. Okada, in his capacity as a Wynn Resorts director, voted
10 against the donation to the University of Macau Development Foundation. Ms. Wynn admits that
11 Mr. Okada raised objections to the size and the term of the donation. Except as expressly admitted,
12 Ms. Wynn denies the allegations of paragraph 80.

13 81. Ms. Wynn lacks information sufficient to form a belief as to the truth of and therefore
14 denies the allegation that the alleged fact is "[n]otabl[e]," and avers that she believes she was
15 unaware of the alleged fact at the time. Ms. Wynn admits that the head of Macau's government is
16 also the chancellor of the University of Macau. Ms. Wynn lacks sufficient information to form a
17 belief as to whether that individual has "ultimate oversight of gaming matters," and therefore denies
18 that allegation. Ms. Wynn avers that Wynn Resorts' SEC filings speak for themselves and deny any
19 allegation regarding the contents of those filings that is inconsistent with the filings themselves.
20 Except as expressly admitted and averred, Ms. Wynn lacks information sufficient to form a belief as
21 to the truth of the allegations of paragraph 81, and on that basis denies those allegations.

22 82. Ms. Wynn admits that Wynn Resorts received a legal opinion that sanctioned the
23 donation to the University of Macau Development Foundation. Except as expressly admitted, Ms.
24 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 82,
25 and on that basis denies those allegations.

26 83. On information and belief, Ms. Wynn admits that Wynn Resorts has received a letter
27 from the Securities Exchange Commission regarding its Macau donation and that the SEC has made
28 inquiries. On information and belief, Ms. Wynn avers that a regional office of the SEC has notified

1 Wynn Resorts that the investigation had been completed with the office not intending to recommend
2 any enforcement action against Wynn Resorts. Except as expressly admitted, Ms. Wynn lacks
3 information sufficient to form a belief as to the truth of the allegations of paragraph 83, and on that
4 basis denies those allegations.

5 **F. Steve Wynn and Kimmarie Sinatra Fraudulently Promise Kazuo Okada**
6 **Financing for the Philippine Project**

7 84. Ms. Wynn admits that Mr. Wynn married his current wife in or around April 2011.
8 On information and belief, Ms. Wynn avers that Mr. Wynn contacted Mr. Okada regarding a
9 potential sale of Ms. Wynn's stock. Except as expressly admitted or averred, Ms. Wynn lacks
10 information sufficient to form a belief as to the truth of the allegations of paragraph 84, and on that
11 basis denies those allegations.

12 85. On information and belief, Ms. Wynn admits that, sometime in 2011, Mr. Wynn
13 asked Mr. Okada to consent to a transfer of Ms. Wynn's shares. Except as expressly admitted, Ms.
14 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 85,
15 and on that basis denies those allegations.

16 86. On information and belief, Ms. Wynn admits that Mr. Okada was amenable to
17 allowing Ms. Wynn to transfer her stock. Except as expressly admitted, Ms. Wynn lacks
18 information sufficient to form a belief as to the truth of the allegations of paragraph 86, and on that
19 basis denies those allegations.

20 87. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
21 allegations of paragraph 87, and on that basis denies those allegations.

22 88. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
23 allegations of paragraph 88, and on that basis denies those allegations.

24 89. Ms. Wynn denies the allegations of paragraph 89, in part because she lacks
25 information sufficient to form a belief as to their truth.

26 90. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
27 allegations of paragraph 90, and on that basis denies those allegations.

28

1 91. On information and belief, Ms. Wynn admits that Mr. Okada signed a waiver and
2 consent granting her the option to transfer her stock. Except as expressly admitted, Ms. Wynn lacks
3 information sufficient to form a belief as to the truth of the allegations of paragraph 91, and on that
4 basis denies those allegations.

5 92. On information and belief, Ms. Wynn admits that Mr. Okada signed a waiver and
6 consent granting her the option to transfer her stock. Except as expressly admitted, Ms. Wynn lacks
7 information sufficient to form a belief as to the truth of the allegations of paragraph 92, and on that
8 basis denies those allegations.

9 93. Ms. Wynn admits that Wynn Resorts has SOX compliance policies. Except as
10 expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the
11 allegations of paragraph 93, and on that basis denies those allegations.

12 94. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
13 allegations of paragraph 94, and on that basis denies those allegations.

14 95. On information and belief, Ms. Wynn admits that Aruze stated that it would allow
15 her to transfer her shares. Except as expressly admitted, Ms. Wynn lacks information sufficient to
16 form a belief as to the truth of the allegations of paragraph 95, and on that basis denies those
17 allegations.

18 96. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
19 allegations of paragraph 96, and on that basis denies those allegations.

20 97. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
21 allegations of paragraph 97, and on that basis denies those allegations.

22 98. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
23 allegations of paragraph 98, and on that basis denies those allegations.

24 99. Ms. Wynn admits that Bob Miller is a member of Wynn Resorts' Compliance
25 Committee. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 99, in part
26 because she lacks information sufficient to form a belief as to the truth of the allegations of
27 paragraph 99.

28

G. The Chair of Universal's and Aruze Gaming America's Compliance Committee Resigns

100. Ms. Wynn admits that Mr. Schreck has a long-standing relationship with Mr. Wynn and acted as a lawyer for Mr. Wynn or Wynn Resorts, that Mr. Schreck worked for Mr. Okada and/or entities affiliated with Mr. Okada, and that Mr. Schreck eventually left his position with Mr. Okada. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 100, and on that basis denies those allegations.

101. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 101, and on that basis denies those allegations.

102. Ms. Wynn admits that Mr. Schreck's law firm acted as counsel for Wynn Resorts in the Nevada state court action regarding Mr. Okada's document inspection demand. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 102, in part because she lacks information sufficient to form a belief as to the truth of those allegations.

III. Steve Wynn Directs Wynn Resorts to Conduct a Pretextual Investigation for the Purpose of Redeeming Aruze USA's Shares

A. Wynn Resorts Seeks Kazuo Okada's Resignation and Threatens Redemption in an Attempt to Secure a Personal Benefit for Steve Wynn

103. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 103, and on that basis denies those allegations.

104. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 104, and on that basis denies those allegations.

105. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 105, and on that basis denies those allegations.

106. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 106, and on that basis denies those allegations.

107. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 107, and on that basis denies those allegations.

1 108. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
2 allegations of paragraph 108, and on that basis denies those allegations.

3 109. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
4 allegations of paragraph 109, and on that basis denies those allegations.

5 110. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
6 allegations of paragraph 110, and on that basis denies those allegations.

7 **B. Steve Wynn and Kim Sinatra Try to Intimidate and Threaten Kazuo Okada,**
8 **While Hiding Supposed Evidence of Wrongdoing**

9 111. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
10 allegations of paragraph 111, and on that basis denies those allegations.

11 112. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 112, and on that basis denies those allegations.

13 113. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
14 allegations of paragraph 113, and on that basis denies those allegations.

15 114. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
16 allegations of paragraph 114, and on that basis denies those allegations.

17 115. Ms. Wynn lacks information sufficient to form a belief as to what “characterizations”
18 Mr. Wynn made, and on that basis denies that allegation. On information and belief, Ms. Wynn
19 denies the additional allegations of paragraph 115.

20 116. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
21 allegations of paragraph 116, and on that basis denies those allegations.

22 117. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
23 allegations of paragraph 117, and on that basis denies those allegations.

24 **C. A Letter From Steve Wynn’s Outside Lawyer Confirms that, While Wynn**
25 **Resorts Had Already Determined the Outcome, a Pretextual “Investigation”**
26 **Was Only Just Starting**

27 118. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
28 allegations of paragraph 118, and on that basis denies those allegations.

1 119. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
2 allegations of paragraph 119, and on that basis denies those allegations.

3 **D. Wynn Resorts Refuses to Allow Kazuo Okada and Aruze USA to Review Any**
4 **Supposed "Evidence"**

5 120. Ms. Wynn denies the allegations of paragraph 120, in part because Ms. Wynn lacks
6 information sufficient to form a belief as to the truth of the allegations.

7 **E. The Board Summarily Removes Kazuo Okada As Vice-Chairman**

8 121. Ms. Wynn admits that Mr. Miller and/or others made an oral presentation regarding
9 Mr. Okada's activities at a meeting on or around November 1, 2011. Ms. Wynn avers that Mr.
10 Okada participated in the meeting. Except as expressly admitted or averred, Ms. Wynn lacks
11 information sufficient to form a belief as to the truth of the allegations of paragraph 121, and on that
12 basis denies those allegations.

13 122. Ms. Wynn admits that the Compliance Committee retained Freeh Sporkin &
14 Sullivan LLP ("Free Sporkin") to conduct an investigation with respect to Mr. Okada's activities
15 overseas. Ms. Wynn admits that the Board voted to eliminate the position of Vice Chairman and
16 accepted the Compliance Committee's retention of Freeh Sporkin. Except as expressly admitted,
17 Ms. Wynn denies the allegations of paragraph 122.

18 **F. Kazuo Okada Seeks More Information Regarding Wynn Macau**

19 123. On information and belief, Ms. Wynn admits that Mr. Okada has filed an action in
20 Nevada state court to seek access to Wynn Resort's records. Ms. Wynn denies that any actions by
21 the Board were "highly suspicious." Except as expressly admitted or denied, Ms. Wynn lacks
22 information sufficient to form a belief as to the truth of the allegations of paragraph 123, and on that
23 basis denies those allegations.

24 **G. Aruze USA Nominates Directors, But Steve Wynn Refuses to Endorse Them**
25 **Despite His Obligation to Do So**

26 124. Ms. Wynn denies the allegation that Mr. Wynn "refused" Aruze's request to endorse
27 its slate of directors, but avers on information and belief that written communications in response to
28 Aruze declined to take a position on the slate and said the subject would be addressed later; she

1 further avers that Mr. Wynn indicated at the time behind the scenes that he had no intention of
2 supporting the Aruze slate and did not endorse it. Except as expressly denied or averred, Ms. Wynn
3 admits the allegations of paragraph 124.

4 **H. The Freeh Investigation Proceeds Without Seeking Any Input From Kazuo**
5 **Okada**

6 125. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
7 allegations of paragraph 125, and on that basis denies those allegations.

8 126. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
9 allegations of paragraph 126, and on that basis denies those allegations.

10 127. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
11 allegations of paragraph 127, and on that basis denies those allegations.

12 128. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
13 allegations of paragraph 128, and on that basis denies those allegations.

14 **I. Freeh Sporkin Refuses to Provide Meaningful Information Regarding the**
15 **Investigation to Kazuo Okada**

16 129. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
17 allegations of paragraph 129, and on that basis denies those allegations.

18 130. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
19 allegations of paragraph 130, and on that basis denies those allegations.

20 131. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
21 allegations of paragraph 131, and on that basis denies those allegations.

22 **J. Kazuo Okada Voluntarily Sits For A Full-Day Interview With Freeh Sporkin**

23 132. On information and belief, Ms. Wynn admits that Mr. Okada sat for an interview
24 with Mr. Freeh on February 15, 2012. Except as expressly admitted, Ms. Wynn lacks information
25 sufficient to form a belief as to the truth of the allegations of paragraph 132, and on that basis denies
26 those allegations.

27 133. On information and belief, Ms. Wynn admits that Mr. Freeh asked Mr. Okada about
28 expenses paid by Universal and/or its agents or affiliates for lodging and meals at Wynn Resorts

1 properties, and about compliance with Philippine landownership requirements. Except as expressly
2 admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of
3 paragraph 133, and on that basis denies those allegations.

4 134. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
5 allegations of paragraph 134, and on that basis denies those allegations.

6 **K. Wynn Resorts Allows No Opportunity for A Reasonable Response**

7 135. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
8 allegations of paragraph 135, and on that basis denies those allegations.

9 136. Ms. Wynn avers that the Second Amended Complaint filed by Wynn Resorts speaks
10 for itself and denies any allegation inconsistent with the Second Amended Complaint.

11 137. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
12 allegations of paragraph 137, and on that basis denies those allegations.

13 138. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
14 allegations of paragraph 138, and on that basis denies those allegations.

15 139. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
16 allegations of paragraph 139, and on that basis denies those allegations.

17 140. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
18 allegations of paragraph 140, and on that basis denies those allegations.

19 141. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
20 allegations of paragraph 141, and on that basis denies those allegations.

21 142. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
22 allegations of paragraph 142, and on that basis denies those allegations.

23 143. Ms. Wynn admits that the Board voted to redeem Aruze's shares, at a valuation that
24 reflected a discount to the trading price, on the day the directors received the Freeh Sporkin report.
25 Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 143, in part because
26 she lacks information sufficient to form a belief as to their truth.

27 144. Ms. Wynn denies the allegations of paragraph 144, in part because she lacks
28 information sufficient to form a belief as to their truth.

L. Steve Wynn Hurriedly Schedules Board of Directors Meeting

145. Ms. Wynn admits that a board meeting of Wynn Resorts took place on Saturday, February 18, 2012, and that the Freeh Sporkin report was on the agenda. On information and belief, Ms. Wynn admits that Freeh Sporkin interviewed Mr. Okada on February 15, 2012. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 145, in part because she lacks information sufficient to form a belief as to their truth.

M. Steve Wynn Tries to Use the Threat of Redemption to Buy Aruze USA's Stock at a Substantial Discount

146. Ms. Wynn admits that Wynn Resorts redeemed Aruze's shares of Wynn Resorts stock at a valuation that reflected a discount to the trading price. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 146, and on that basis denies those allegations.

147. On information and belief, Ms. Wynn avers that Mr. Doumani had invested in one of Mr. Wynn's properties, and that Mr. Wynn had expressed concern about Mr. Doumani's association with certain individuals. Except as expressly averred, Ms. Wynn denies the allegations of paragraph 147, in part because she lacks information sufficient to form a belief as to their truth.

IV. Wynn Resorts' Unfounded and Unprecedented Redemption of More Than \$2.9 Billion of Aruze USA's Shares

A. Wynn Resorts Publicly Asserts That the Value of Aruze USA's Stock Is \$2.9 Billion

148. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 148, and on that basis denies those allegations.

149. Ms. Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 149, and on that basis denies those allegations.

B. The Board Hurriedly Meets and Rushes to Redeem Aruze USA's Stock

150. Ms. Wynn avers that Mr. Okada's counsel purportedly sent a letter dated February 17, 2012 to a representative of Wynn Resorts. Ms. Wynn avers that the letter speaks for itself and denies any allegation inconsistent with the letter.

1 151. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
2 allegations of paragraph 151, and on that basis denies those allegations.

3 152. Ms. Wynn admits that Mr. Wynn yelled at Mr. Okada's counsel when he introduced
4 himself. Ms. Wynn admits that Mr. Wynn said that Mr. Okada's counsel should not be present. Ms.
5 Wynn admits that Mr. Okada was told that he needed to enter into a nondisclosure agreement in
6 order to receive a copy of the Freeh Sporkin report. Ms. Wynn admits that Mr. Okada did not agree
7 to enter into a nondisclosure agreement. Except as expressly admitted, Ms. Wynn denies the
8 allegations of paragraph 152, in part because she lacks information sufficient to form a belief as to
9 their truth.

10 153. On information and belief, Ms. Wynn admits that a copy of the Freeh Sporkin report
11 is attached to Wynn Resorts' Complaint. Except as expressly admitted, Ms. Wynn lacks
12 information sufficient to form a belief as to the truth of the allegations of paragraph 153, and on that
13 basis denies those allegations.

14 154. Ms. Wynn admits that there were translation problems during the Board meeting.
15 Ms. Wynn admits that Mr. Okada requested that the translation be provided sequentially rather than
16 simultaneously, and that the request was denied. Except as expressly admitted, Ms. Wynn lacks
17 information sufficient to form a belief as to the truth of the allegations of paragraph 154, and on that
18 basis denies those allegations.

19 155. Ms. Wynn admits that Mr. Freeh made a presentation in English. Ms. Wynn admits
20 that after Mr. Freeh completed his presentation, the Board asked if Mr. Okada had any questions.
21 Ms. Wynn admits that Mr. Okada asked the Board to delay making any resolutions. Except as
22 expressly admitted, Ms. Wynn denies the allegations of paragraph 155, in part because she lacks
23 information sufficient to form a belief as to their truth.

24 156. Ms. Wynn avers that there were technical difficulties during the Board meeting. Ms.
25 Wynn admits that the connection with Mr. Okada was lost at some point during the meeting, and
26 that no other contact was made with Mr. Okada. Except as expressly admitted or averred, Ms.
27 Wynn denies the allegations of paragraph 156, in part because she lacks information sufficient to
28 form a belief as to their truth.

1 157. Ms. Wynn admits that Wynn Resorts gave Aruze notice that Aruze's stock was
2 redeemed for a note of approximately \$1.936 billion, which reflected a discount of around 30% to
3 the trading price. Except as expressly admitted, Ms. Wynn lacks information sufficient to form a
4 belief as to the truth of the allegations of paragraph 157, and on that basis denies those allegations.

5 158. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
6 allegations of paragraph 158, and on that basis denies those allegations.

7 159. Ms. Wynn admits that Wynn Resorts filed a complaint that attached a copy of the
8 report without exhibits but is without information sufficient to form a belief about the timing and
9 form of the filing and on that basis denies those allegations of paragraph 159.

10 160. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
11 allegations of paragraph 160, and on that basis denies those allegations.

12 **C. Aruze USA Disputes That Redemption Has Occurred**

13 161. Ms. Wynn admits that the redemption has taken place, and that Wynn Resorts has so
14 stated. Ms. Wynn admits that Aruze disputes the validity of the redemption. Except as expressly
15 admitted, Ms. Wynn denies the allegations of paragraph 161.

16 **D. The Board Redeems on False Premises**

17 162. Ms. Wynn avers that Aruze is bound by the redemption provision, and admits that
18 Aruze disputes that it is bound by the redemption provision. Ms. Wynn avers that the Articles of
19 Incorporation speak for themselves, and denies any allegation inconsistent with the Articles of
20 Incorporation.

21 163. Ms. Wynn avers that the Articles of Incorporation speak for themselves, and denies
22 any allegation inconsistent with the Articles of Incorporation. On information and belief, Ms. Wynn
23 admits that Aruze had been found previously to be "suitable" by the Nevada Gaming Commission
24 as a shareholder of Wynn Resorts and that she did not understand the redemption to be based on a
25 finding of unsuitability by a gaming authority. Except as expressly admitted, Ms. Wynn lacks
26 information sufficient to form a belief as to the truth of the allegations of paragraph 163, and denies
27 the allegations on that basis.

1 164. Ms. Wynn avers that the Articles of Incorporation speak for themselves, and denies
 2 any allegation inconsistent with the Articles of Incorporation. On information and belief, Ms. Wynn
 3 admits that Wynn Resorts and its affiliates have not lost, and have not been threatened by a gaming
 4 authority with the loss of, a gaming license, and that she did not understand the redemption to be
 5 based on such a loss or threatened loss. Except as expressly admitted, Ms. Wynn lacks information
 6 sufficient to form a belief as to the truth of the allegations of paragraph 164, and denies the
 7 allegations on that basis.

8 165. Ms. Wynn avers that the Articles of Incorporation speak for themselves, and denies
 9 any allegation inconsistent with the Articles of Incorporation. Except as expressly averred, Ms.
 10 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 165,
 11 and denies those allegations on that basis.

12 166. Ms. Wynn denies the allegations of paragraph 166, in part because she lacks
 13 information sufficient to form a belief as to their truth.

14 **E. Even if Aruze USA Were Subject to the Redemption Provision (Which it is not),**
 15 **the Wynn Parties are Still Liable for Breaching and/or Tortiously Interfering**
 16 **with the Stockholders Agreement and Amended Stockholders Agreement**

17 167. Ms. Wynn avers that the April 2002 Stockholders Agreement and the January 2010
 18 Stockholders Agreement speak for themselves, and denies any allegation inconsistent with those
 19 agreements. Ms. Wynn avers that the Articles of Incorporation speak for themselves, and denies
 20 any allegation inconsistent with the Articles of Incorporation. On information and belief, Ms. Wynn
 21 denies that Mr. Wynn unilaterally amended the Articles of Incorporation without Aruze's consent.
 22 Except as expressly averred or otherwise denied, Ms. Wynn denies the remaining allegations of
 paragraph 167.

23 **F. Even if Aruze USA Was Subject to the Redemption Provision (Which it is Not),**
 24 **the Unilateral Blanket 30% Discount that Wynn Resorts Applied to the Stock**
 25 **Is Erroneous and the Promissory Note is Unconscionably Vague, Ambiguous,**
 26 **and Oppressive**

27 168. Ms. Wynn admits that Wynn Resorts issued a promissory note in the amount of
 28 approximately \$1.9 billion. On information and belief, Ms. Wynn admits that the price reflected an
 approximately 30% discount to the trading price of Wynn Resorts stock on NASDAQ at or around

1 the time of the redemption. On information and belief, Ms. Wynn admits that Wynn Resorts issued
2 a press release on February 19, 2011 regarding the redemption. Ms. Wynn avers that the press
3 release speaks for itself, and denies any allegation inconsistent with the press release. Ms. Wynn
4 denies that the Stockholders Agreement precludes the redemption of Aruze's stock. Ms. Wynn
5 denies that she and Mr. Wynn breached the Stockholders Agreement by voting to redeem Aruze's
6 shares of Wynn Resorts stock. Ms. Wynn admits that some of the purported contractual transfer
7 restrictions could be found to constitute unreasonable restraints on alienability. Ms. Wynn denies
8 that contractual transfer restrictions could not "legitimately impact" the value of Aruze's shares at
9 the time the redemption occurred. Except as expressly admitted, averred, or otherwise denied, Ms.
10 Wynn lacks information sufficient to form a belief as to the truth of the allegations of paragraph 168,
11 and denies those allegations on that basis.

12 169. Ms. Wynn avers that the press release speaks for itself, and denies any allegation
13 inconsistent with the press release. On information and belief, Ms. Wynn denies that Mr. Wynn
14 unilaterally added the redemption provision to the Articles of Incorporation without Aruze's
15 consent. Except as expressly averred or denied, Ms. Wynn lacks information sufficient to form a
16 belief as to the truth of the allegations of paragraph 169, and on that basis denies those allegations.

17 170. Ms. Wynn admits that the Board of Wynn Resorts considered a valuation opinion
18 from Moelis & Company. Ms. Wynn admits that Moelis & Company had done business with Wynn
19 Resorts in the past. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph
20 170.

21 171. Ms. Wynn admits that Mr. Wynn has a long-standing professional relationship with
22 Mr. Moelis. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 171, in
23 part because she lacks information sufficient to form a belief as to their truth.

24 172. On information and belief, Ms. Wynn admits that Moelis & Company opined that a
25 30% discount was appropriate. Ms. Wynn avers that the Stockholders Agreement speaks for itself,
26 and denies any allegation inconsistent with the Stockholders Agreement. Except as expressly
27 admitted or averred, Ms. Wynn denies the allegations of paragraph 172, in part because she lacks
28 information sufficient to form a belief as to their truth.

1 173. Ms. Wynn admits that the \$1.936 billion promissory note issued to Aruze bears 2%
2 interest per annum and is subordinate to other Wynn Resorts debt obligations as set forth in the
3 promissory note. Ms. Wynn avers that the promissory note speaks for itself and denies any
4 allegation inconsistent with the promissory note. Ms. Wynn avers that the Articles of Incorporation
5 speak for themselves, and denies any allegation inconsistent with the Articles of Incorporation. Ms.
6 Wynn admits that Wynn Resorts issued notes in March 2012 with principal amount of
7 approximately \$900 million and bearing interest at 5.375%. Ms. Wynn avers that Mr. Okada did not
8 participate in the Board's discussion of the terms of the promissory note during the Board meeting
9 of February 18, 2012. Except as expressly admitted or averred, Ms. Wynn denies the allegations of
10 paragraph 173, in part because she lacks information sufficient to form a belief as to their truth.

11 **G. The Timing of the Redemption Demonstrates that Wynn Resorts Redeemed**
12 **Aruze USA's Shares Based on Material, Non-Public Information that Was Not**
Incorporated Into the Redemption Price

13 174. On information and belief, Ms. Wynn admits the allegations of paragraph 174.

14 175. Ms. Wynn avers that the Form 8-K speaks for itself and denies any allegation
15 inconsistent with that document.

16 176. Ms. Wynn lacks information sufficient to form a belief as to the truth of the
17 allegations of paragraph 176, and denies those allegations on that basis.

18 177. Ms. Wynn avers that the Form 8-K speaks for itself and denies any allegation
19 inconsistent with that document.

20 178. Ms. Wynn denies the allegations of paragraph 177, in part because she lacks
21 information sufficient to form a belief as to their truth.

22 **CLAIMS FOR RELIEF**

23 **COUNT I**

24 **Declaratory Relief**

25 **(By Aruze USA and Universal Against Wynn Resorts and the Wynn Directors)**

26 179. Ms. Wynn reasserts her responses to paragraphs 4 through 178 above, as if fully set
27 forth below.

1 180. Ms. Wynn admits that Aruze and Universal are purportedly seeking a judicial
2 declaration. Ms. Wynn denies that the declaration Aruze and Universal seek is appropriate. Except
3 as expressly admitted, Ms. Wynn denies the allegations of paragraph 180.

4 181. Ms. Wynn admits that Aruze and Universal are purportedly seeking a judicial
5 declaration. Ms. Wynn denies that the declaration Aruze and Universal seek is appropriate. Except
6 as expressly admitted, Ms. Wynn denies the allegations of paragraph 181.

7 182. Ms. Wynn admits that Aruze and Universal are purportedly seeking a judicial
8 declaration. Ms. Wynn denies that the declaration Aruze and Universal seek is appropriate. Except
9 as expressly admitted, Ms. Wynn denies the allegations of paragraph 182.

10 183. Ms. Wynn admits that Aruze and Universal are purportedly seeking a judicial
11 declaration. Ms. Wynn denies that the declaration Aruze and Universal seek is appropriate. Except
12 as expressly admitted, Ms. Wynn denies the allegations of paragraph 183.

13 184. Ms. Wynn admits that Aruze and Universal are purportedly seeking a judicial
14 declaration. Ms. Wynn admits that the valuation opinion Mr. Moelis presented to the Board did not
15 consider whether the transfer restrictions were valid as to Aruze. Ms. Wynn denies that the
16 declaration Aruze and Universal seek is appropriate. Ms. Wynn denies that she and Mr. Wynn
17 breached the Stockholders Agreement by voting for the redemption of Aruze's shares of Wynn
18 Resorts stock. Except as expressly admitted and otherwise denied, Ms. Wynn denies the allegations
19 of paragraph 184, in part because she lacks information sufficient to form a belief as to their truth.

20 185. The allegations of paragraph 185 are legal conclusions that do not require a response.
21 In any event, Ms. Wynn denies those allegations to the extent they constitute allegations of fact, on
22 the ground that she lacks information sufficient to form a belief as to their truth.

23 186. Ms. Wynn admits that an actual controversy exists between the parties, and that the
24 dispute is ripe for adjudication. Ms. Wynn denies that Wynn Resorts acted unlawfully when it
25 redeemed Aruze's stock.

26 187. Ms. Wynn denies the allegations of paragraph 187.
27
28

COUNT II**Permanent Prohibitory Injunction****(By Aruze USA Against Wynn Resorts and the Wynn Directors)**

188. Ms. Wynn reasserts her responses to paragraphs 4 through 178 above, as if fully set forth below.

189. Ms. Wynn admits that Aruze is purportedly seeking a permanent injunction. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 189.

190. Ms. Wynn denies the allegations of paragraph 190.

191. Ms. Wynn denies the allegations of paragraph 191.

192. Ms. Wynn denies the allegations of paragraph 192.

193. The allegations of paragraph 193 are legal conclusions that do not require a response. In any event, Ms. Wynn denies those allegations to the extent they constitute allegations of fact, on the ground that she lacks information sufficient to form a belief as to their truth.

194. Ms. Wynn denies the allegations of paragraph 194.

COUNT III**Permanent Mandatory Injunction****(By Aruze USA Against Wynn Resorts and the Wynn Directors)**

195. Ms. Wynn reasserts her responses to paragraphs 4 through 178 above, as if fully set forth below.

196. Ms. Wynn admits that Aruze is purportedly seeking a permanent injunction. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 196.

197. Ms. Wynn denies the allegations of paragraph 197.

198. Ms. Wynn denies the allegations of paragraph 198.

199. Ms. Wynn denies the allegations of paragraph 199.

200. Ms. Wynn admits that Aruze is purportedly seeking damages. Except as expressly admitted, Ms. Wynn denies the allegations of paragraph 200.

COUNT VI

Breach of Fiduciary Duty

(By Aruze USA Against the Wynn Directors)

220. Ms. Wynn reasserts her responses to paragraphs 4 through 178 above, as if fully set forth below.

221. The allegations of paragraph 221 are legal conclusions that do not require a response.

222. The allegations of paragraph 222 are legal conclusions that do not require a response.

223. Ms. Wynn avers that the Articles of Incorporation speak for themselves, and denies any allegations inconsistent with the Articles of Incorporation.

224. Ms. Wynn denies the allegations of paragraph 224.

225. Ms. Wynn denies the allegations of paragraph 225.

226. Ms. Wynn denies the allegations of paragraph 226.

227. Ms. Wynn denies the allegations of paragraph 227.

228. Ms. Wynn denies the allegations of paragraph 228.

229. Ms. Wynn denies the allegations of paragraph 229.

230. Ms. Wynn denies the allegations of paragraph 230.

231. The allegations of paragraph 231 are legal conclusions that do not require a response.

In any event, Ms. Wynn denies those allegations to the extent they constitute allegations of fact, on the ground that she lacks information sufficient to form a belief as to their truth.

232. Ms. Wynn denies the allegations of paragraph 232.

AFFIRMATIVE DEFENSES

Ms. Wynn asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Each of Counterclaimants' claims against Ms. Wynn fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE**(Unclean Hands)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part due to their unclean hands, including but not limited to their conduct and the conduct of their affiliates in the Philippines and Korea.

THIRD AFFIRMATIVE DEFENSE**(Estoppel)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE**(Laches)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE**(Waiver)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE**(Election of Remedies)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of election of remedies, because *inter alia* Counterclaimants seek inconsistent remedies with respect to the Stockholders' Agreement.

SEVENTH AFFIRMATIVE DEFENSE**(Limitation on Liability)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because Ms. Wynn's liability, if any, is limited by Wynn Resorts' Articles of Incorporation, Bylaws, and Nevada law, including N.R.S. § 78.138.

EIGHTH AFFIRMATIVE DEFENSE**(Authorization by Articles of Incorporation)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because Ms. Wynn's actions are authorized by and comport with Wynn Resorts' Articles of Incorporation, Bylaws, and Nevada law.

NINTH AFFIRMATIVE DEFENSE**(Ratification)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because Counterclaimants and Mr. Okada ratified the Counterdefendants' actions, including amendments to the Articles of the Incorporation.

TENTH AFFIRMATIVE DEFENSE**(Statute of Limitations)**

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the applicable statute(s) of limitations.

ELEVENTH AFFIRMATIVE DEFENSE**(Adequate Remedy at Law)**

Counterclaimants' claims for injunctive relief against Ms. Wynn are barred in whole or in part by the availability of adequate remedies at law.

TWELFTH AFFIRMATIVE DEFENSE**(Consent)**

Counterclaimants' claims are barred in whole or in part because Mr. Okada consented to the Counterdefendant's actions, including amendments to the Articles of Incorporation.

THIRTEENTH AFFIRMATIVE DEFENSE**(Privilege)**

The alleged acts or omissions of Ms. Wynn that allegedly give rise to liability herein, if any such acts or omissions occurred, were legally privileged and cannot give rise to any liability on the part of Ms. Wynn.

FOURTEENTH AFFIRMATIVE DEFENSE

(Justification)

The alleged acts and omissions of Ms. Wynn that allegedly give rise to liability herein, if any such acts or omissions occurred, were legally justified and cannot give rise to any liability on the part of Ms. Wynn.

FIFTEENTH AFFIRMATIVE DEFENSE

(Lack of Standing)

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because they lack standing to assert some or all of their claims.

SIXTEENTH AFFIRMATIVE DEFENSE

(Release and Indemnification)

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because Counterclaimants are required under the Articles of Incorporation to indemnify and hold harmless Wynn Resorts for any losses, including attorney's fees, resulting from their conduct.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Contributory Negligence)

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by their and Mr. Okada's own actions, omissions, negligence, and/or malfeasance.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Comparative Negligence)

Counterclaimants' claims against Ms. Wynn are barred in whole or in part because Counterclaimants' damages, if any, were caused by Counterclaimants' and Mr. Okada's own negligence, and such negligence was greater than any negligence, which is expressly denied, on the part of Ms. Wynn.

NINETEENTH AFFIRMATIVE DEFENSE

(Res Judicata)

Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of res judicata.

1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 **(Collateral Estoppel)**

3 Counterclaimants' claims against Ms. Wynn are barred in whole or in part by the doctrine of
4 collateral estoppel.

5 **RESERVATION**

6 Ms. Wynn reserves the right to amend her answer to plead additional affirmative defenses as
7 they become known and appropriate during the course of this litigation.

8 **JURY DEMAND**

9 Ms. Wynn demands trial by jury on all issues so triable.

10 WHEREFORE, Ms. Wynn prays that judgment be entered as follows:

- 11 1. that Counterclaimants take nothing from Ms. Wynn by virtue of their Fourth
12 Amended Counterclaim;
- 13 2. that the Fourth Amended Counterclaim and each purported cause of action set forth
14 therein against Ms. Wynn be dismissed with prejudice;
- 15 3. that Ms. Wynn be awarded her costs and reasonable attorney's fees incurred herein
16 as allowed by law; and
- 17 4. for such further relief is deemed just and equitable.
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1 **SIXTH AMENDED COUNTERCLAIM AND CROSSCLAIM**

2 **I. Introduction**

3 1. With these crossclaims, Elaine P. Wynn seeks a declaration that the January 2010
4 Stockholders Agreement, which purports to prohibit her from selling shares that she owns absent the
5 permission of her ex-husband Stephen Wynn, is invalid and unenforceable as a matter of law. She
6 also seeks damages for Mr. Wynn's breach of his obligations under the January 2010 Stockholders
7 Agreement, including for his failure to support her renomination and reelection to the Board of
8 Directors, and for Wynn Resorts' tortious interference with that contract. Furthermore, and in the
9 alternative, to the extent that the January 2010 Stockholders Agreement is deemed valid and
10 enforceable, Ms. Wynn seeks specific performance ordering Mr. Wynn to comply with his
11 contractual obligations, as explicitly required by the January 2010 Stockholders Agreement.

12 2. Ms. Wynn raises these issues reluctantly: she had hoped, for the sake of her family
13 and of the Company she helped to build, that the issues plaguing the operation of Wynn Resorts and
14 the reckless risk-taking of its Chairman and CEO Mr. Wynn could be addressed through proper
15 corporate processes and channels. They cannot be. Mr. Wynn has intentionally kept the Wynn
16 Resorts Board in the dark with the deliberate help of his co-conspirator, Kimmarie Sinatra, the
17 General Counsel of the Company. He has engaged in reckless, risk-taking behavior, leaving himself
18 vulnerable to allegations of serious wrongdoing – including allegations that he made a multi-million
19 dollar payment and used Company resources in response to threats that neither he nor Ms. Sinatra
20 properly disclosed to the Board of Directors. This and other such decisions have left the directors
21 and the Company vulnerable to potential liability and regulatory exposure.

22 3. Every time Elaine Wynn sought information, as a director should, she confronted a
23 "tone at the top" that punished inquiry, even by her, a major shareholder, director and co-founder of
24 Wynn Resorts. Mr. Wynn operates the Company without the effective checks and balances that the
25 law requires, beginning with independent and effective Board members. Ms. Wynn and her fellow
26 Board members were intentionally provided either no information or misinformation by Mr. Wynn
27 and Ms. Sinatra, a process that depended on the deficiencies in the internal controls and their
28 intentional circumvention with regard to the decisions of the Chairman and CEO. Although

1 required by provisions in the January 2010 Stockholders Agreement obligating Mr. Wynn to
2 support Elaine Wynn's director candidacy, Mr. Wynn, with the active participation of and in
3 conspiracy with Ms. Sinatra, engineered Ms. Wynn's removal from the Board in retaliation for her
4 challenging their decisions and questioning their judgment. Among other actions, Mr. Wynn and
5 Ms. Sinatra, with the intentional assistance of others at Wynn Resorts, manufactured pretextual
6 reasons for ousting Ms. Wynn and engineered the scheme to reduce the size of the Board in order to
7 make it far easier for investors to vote against Ms. Wynn by simply voting the usual slate.

8 4. The ostensible purpose of the January 2010 Stockholders Agreement was to place
9 restrictions on the stock held by Mr. Okada (through his company, Aruze USA, Inc.) to preserve the
10 Wynn-Okada alliance and avoid the kind of takeover that the Wynns faced at the Mirage. Mr. Wynn
11 induced Ms. Wynn to sign the January 2010 Stockholders Agreement by a series of false
12 representations, both professional and personal, including that the purpose was to restrict Mr.
13 Okada, not her, and that she would serve on the Board for at least as long as the restrictions applied
14 so that she could protect her stock in the Company, which is Ms. Wynn's largest asset.

15 5. Now that the shares held by Mr. Okada's company have been redeemed, the
16 ostensible purpose of the January 2010 Stockholders Agreement has been frustrated. If the purpose
17 was indeed to impose limits on Mr. Okada, as Mr. Wynn and his counsel maintained, then there is
18 no legitimate basis for continuing to enforce the Agreement's restrictions on Ms. Wynn's shares.

19 6. As is now clear, Mr. Wynn is misusing the January 2010 Stockholders Agreement to
20 exert full and perpetual control over his former wife's life and legacy. A contract restricting
21 alienability in perpetuity is unreasonable and unlawful. In this case, Ms. Wynn's agreement was
22 also fraudulently induced. Ms. Wynn entered into the Agreement reasonably believing that Mr.
23 Wynn would of course provide for their family. Mr. Wynn actively promoted that impression and
24 misrepresented his intentions. Only later did Mr. Wynn share with his daughters through
25 conversations that they, and their families, should expect only Ms. Wynn to provide support and any
26 inheritance, and that he did not plan to include them in his will. At the same time as he has been
27 delivering this message to his daughters, Mr. Wynn has refused Ms. Wynn's requests to enter into
28 the kind of responsible joint estate planning that would provide a legacy for their family and also for

1 the community; if he has a will or other instrument that provides for his family, he has refused to
2 acknowledge it or reveal any of its terms so that Ms. Wynn can reasonably plan her own estate. By
3 refusing to allow Ms. Wynn to sell or transfer her stock, Mr. Wynn would force their daughters to
4 liquidate most of or all of Ms. Wynn's other assets to pay estate tax on stock that they cannot sell
5 either. In her own lifetime, Ms. Wynn, who is a committed philanthropist, is further denied the right
6 to spend what is hers in support of the causes she passionately believes in. To the extent that the
7 January 2010 Stockholders Agreement imposes restrictions on the sale of Ms. Wynn's shares, it is
8 unreasonable and constitutes an unenforceable, perpetual and unlawful restraint on alienability.

9 7. If the January 2010 Stockholders Agreement is found to have any continuing validity
10 (and it should not be), Mr. Wynn materially breached that Agreement. Ms. Wynn agreed to
11 restrictions on her stock to help her partner of 41 years and the father of her children maintain the
12 alliance with, and the restrictions on, Mr. Okada. Mr. Wynn in turn agreed that Ms. Wynn would be
13 able to oversee and protect her interests as a major investor and shareholder with a seat on the Board.
14 Among other things, Mr. Wynn was obligated to endorse and support Ms. Wynn's nomination and
15 election for director of Wynn Resorts, which he failed to do.

16 8. Neither Mr. Wynn nor Ms. Sinatra made any effort to hide their antipathy for Ms.
17 Wynn's insistence on carrying out her duties as a director. For her part, Ms. Wynn became
18 increasingly concerned about the pattern of reckless risk-taking by the Chairman and CEO,
19 unconstrained by proper internal controls and concealed by the General Counsel; the "tone at the
20 top" that discouraged any challenge to Mr. Wynn; the fact that Mr. Wynn and Ms. Sinatra decided
21 what would and would not be disclosed to the Board to serve the personal purposes of the CEO; and
22 the fact that they made decisions based not on what was best for the shareholders, but what was best
23 for management, specifically the Chairman and CEO and the General Counsel. No other plausible
24 explanation could justify their decision to keep secret from the Board and other Company counsel
25 besides Ms. Sinatra the fact that the Chairman and CEO had engaged in alleged misconduct on
26 Company property against at least one Company employee serious enough to warrant a
27 multi-million dollar payment and thereby to expose the Company and other directors to liability
28 without their knowledge or consent.

1 9. The Wynn Board may be the most compliant board of any major public company. In
2 only three instances in the history of the Company has a director voted against Mr. Wynn's position
3 on any issue. The only time Mr. Wynn's purported position has ever been "defeated" was when it
4 came to electing Ms. Wynn to the Board of Directors in 2015. She is a near 10 percent shareholder.
5 If her name were not "Wynn," and if she did not know as much as she does and had not raised proper
6 questions about the management of the Company, she would of course have a seat on the Board.
7 Although Mr. Wynn formally voiced that he was voting the shares he controlled in Ms. Wynn's
8 favor, he and Ms. Sinatra intentionally conspired and acted to engineer the Nominating Committee's
9 recommendation to reduce the Board's size and not to renominate Ms. Wynn and the Board's
10 decision to follow that recommendation. Ms. Wynn is the only director in the Company's history
11 who was involuntarily "retired." She is the only director to seek renomination and not to receive it.
12 Dogged by a campaign that "Steve wanted her off" – a campaign Mr. Wynn and his co-conspirators
13 devised and executed – Ms. Wynn no longer sits on the Board; Mr. Wynn maintains complete voting
14 control over her stock; and the vast bulk of her stock is totally restricted from transfer, including to
15 the point that she cannot protect herself or provide for a reasonable estate plan for the benefit of her
16 children. Elaine Wynn is a sophisticated business woman. This is not the agreement she made. She
17 sought to protect the Company and her family and to do no harm to her children's father. It is
18 impossible to draw any conclusion other than that Mr. Wynn intentionally sought to do just the
19 opposite.

20 **II. Case Designation**

21 10. This matter is properly designated as a business court matter and assigned to the
22 Business Docket under EDCR 1.61(a) as the claims alleged herein are based on or will require
23 decision under Chapter 78 of the Nevada Revised Statutes or other similar statutes, and arise from a
24 stockholder's right to engage in the purchase or sale of the stock of a business.

25 **III. The Parties**

26 11. Counterdefendant, counterclaimant, and crossclaimant Elaine P. Wynn is and was, at
27 all relevant times, a citizen of Nevada.
28

1 12. Counterdefendant and crossdefendant Stephen A. Wynn is and was, at all relevant
2 times, a citizen of Nevada.

3 13. Counterdefendant and crossdefendant Kimmarie Sinatra is and was, at all relevant
4 times, a citizen of Nevada.

5 14. Plaintiff, counterdefendant, and crossdefendant Wynn Resorts Limited (“Wynn
6 Resorts”) is a company organized and existing under the laws of Nevada.

7 15. Defendant, counterclaimant, and counterdefendant Aruze USA, Inc. (“Aruze”) is a
8 company organized and existing under the laws of Nevada. On information and belief, Aruze is and
9 was controlled by Kazuo Okada at all relevant times, and is the entity Mr. Okada used to hold shares
10 in Wynn Resorts.

11 **IV. General Allegations**

12 16. Elaine Wynn married Stephen Wynn in 1963, when they were both 21. They
13 divorced in 1986, and remarried in 1991. They divorced again eighteen years later, in 2010.

14 17. Ms. Wynn made major contributions to the success of Wynn Resorts. She worked
15 tirelessly to turn visions into reality, to help create the unique ambiance and experience that have
16 made Wynn Resorts so successful. Mr. Wynn never contested, at the time of divorce, that Ms.
17 Wynn was entitled to 50 percent of the stock in Wynn Resorts.

18 18. Between 1977 and 2000, Ms. Wynn served as a director of Mirage Resorts.

19 19. Ms. Wynn served as a director of Wynn Resorts from October 2002 until April 2015.

20 **A. Creation of Wynn Resorts**

21 20. In 2000, Mr. Wynn purchased the Desert Inn in Las Vegas. The Desert Inn site
22 eventually was rebuilt as Wynn Resorts. The entity Mr. Wynn used to hold the Desert Inn property
23 was the Nevada limited liability company Valvino Lamore, LLC (“Valvino”), which Mr. Wynn
24 formed in April 2000.

25 21. Mr. Wynn turned to Mr. Okada to help finance this new project. In October 2000,
26 Aruze contributed \$260 million to Valvino and became a member of Valvino.

27 22. In April 2002, Aruze contributed a further \$120 million to Valvino.

28

23. As of April 2002, Mr. Wynn and Aruze each held a 47.5 percent interest in Valvino. Baron Asset Fund (“Baron”), a Massachusetts business trust, held a 5 percent interest in Valvino.

24. Mr. Wynn, Aruze and Baron agreed to contribute their interests in Valvino to a new entity, to be named Wynn Resorts. On April 11, 2002, Mr. Wynn, Aruze, and Baron executed a Stockholders Agreement (the “April 2002 Stockholders Agreement”) with respect to their shares in the new entity.

25. Mr. Wynn became Wynn Resorts’ Chairman and Chief Executive Officer in June 2002.

26. In October 2002, Ms. Wynn became a director, Mr. Okada became Vice Chairman, and Wynn Resorts conducted an initial public offering of Wynn Resorts stock (ticker symbol WYNN) on the NASDAQ exchange.

B. The 2002 and 2006 Stockholders Agreements

27. In 2002 and 2006, the stockholders executed two agreements intended to ensure that their unified voting strength would be used to keep control in the hands of the Wynn-Okada alliance. A third agreement was signed in 2010 after the Wynns divorced.

28. Section 2(a) of the April 2002 Stockholders Agreement sets forth a voting agreement between Mr. Wynn and Aruze. Section 2(a) provides that Mr. Wynn would designate a majority of all nominees to the Board of Wynn Resorts; Aruze would designate a minority slate of directors; and Mr. Wynn and Aruze would vote the shares held by them to elect the designated nominees.

29. Section 9 of the April 2002 Stockholders Agreement set forth a right-of-first-refusal restriction on the transfer of stock by Mr. Wynn, Aruze and Baron. Generally, Section 9 provided that each contracting party who wished to sell stock must, with certain exceptions, provide notice of the proposed terms of sale to the other parties to the agreement, and that each other party would have the right to purchase the offered shares according to certain procedures.

30. Section 4 of the April 2002 Stockholders Agreement stated that “Shares may not be transferred or sold by any Stockholder unless the transferee (including a Permitted Transferee) both executes and agrees to be bound by this Agreement.”

1 31. On March 15, 2005, Wynn Resorts stated in its Form 10-K filing that “Mr. Wynn
2 and Aruze USA, Inc. each own approximately 25% of our outstanding common stock. As a result,
3 Mr. Wynn and Aruze USA, Inc., to the extent they vote their shares in a similar manner, effectively
4 are able to control all matters requiring our stockholders’ approval, including the approval of
5 significant corporate transactions.”

6 32. In the same Form 10-K, Wynn Resorts further stated: “Mr. Wynn and Aruze USA,
7 Inc., together with Baron Asset Fund, have entered into a stockholders’ agreement. Under the
8 stockholders’ agreement, Mr. Wynn and Aruze USA, Inc., have agreed to vote their shares of our
9 common stock for a slate of directors, a majority of which will be designated by Mr. Wynn, of which
10 at least two will be independent directors, and the remaining members of which will be designated
11 by Aruze USA, Inc. As a result of this voting agreement, Mr. Wynn, as a practical matter, controls
12 the slate of directors to be elected to our board of directors.”

13 33. In or about 2006, Mr. Wynn asked Mr. Okada to agree to further restrictions on
14 Aruze’s ability to sell Wynn Resorts stock. On November 8, 2006, Mr. Wynn and Aruze executed
15 an Amendment to Stockholders Agreement (“2006 Amendment”).

16 34. The 2006 Amendment added the following: “Mutual Restriction on Sale of Shares.
17 Neither [Mr.] Wynn nor Aruze (nor any of their respective Permitted Transferees) shall Transfer, or
18 permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person
19 without the prior written consent of both [Mr.] Wynn and Aruze.” This type of restriction on stock
20 transfers is known as a consent restriction and purported to apply to all shares subject to the
21 agreement.

22 **C. Division of the Wynn Shares**

23 35. Elaine and Stephen Wynn finalized their divorce in 2010 after having been married
24 for a total of 41 years. Under Nevada law, Ms. Wynn was entitled to an equal division of
25 community assets, including their Wynn Resorts stock.

26 36. Mr. Wynn insisted that he could not transfer shares to Ms. Wynn unless she signed
27 the January 2010 Stockholders Agreement. Mr. Wynn and his lawyers represented to Ms. Wynn
28 that because the shares to be divided between Mr. Wynn and Ms. Wynn were subject to the 2002 and

1 2006 Agreements, Ms. Wynn had no choice but to be added as a party to the pre-existing
2 Stockholders Agreement and to execute the Irrevocable Proxy in order to maintain the restrictions
3 on Mr. Okada; that the purpose of the restrictions was to restrict *Mr. Okada*'s transfer of his shares,
4 not Ms. Wynn's; that if she did not agree to the same restrictions that applied to Mr. Okada, Mr.
5 Okada would seize that as an opportunity to reopen negotiations; and that Mr. Okada's doing so
6 could undermine their joint control of Wynn Resorts and potentially diminish the value of their
7 holdings.

8 37. Mr. Wynn also led Ms. Wynn to believe that he would engage in responsible joint
9 estate planning with Ms. Wynn to provide a legacy for their family and also for the community.
10 These representations were false.

11 38. Mr. Wynn also made certain business commitments to Ms. Wynn, who now
12 separately held nearly 10 percent of the stock in the Company: that is, like any such large
13 stakeholder, and particularly one restricted from freely selling the vast majority of her stake, she was
14 entitled to serve, and he committed to her serving, on the Board of Directors.

15 39. In reliance on the representations made to her by Mr. Wynn and his counsel, Ms.
16 Wynn signed the January 2010 Stockholders Agreement, as described further below.

17 **D. The January 2010 Stockholders Agreement**

18 40. On January 6, 2010, Mr. Wynn and Ms. Wynn, on the one hand, and Mr. Okada's
19 company Aruze, on the other hand, signed the Amended and Restated Stockholders Agreement
20 ("January 2010 Stockholders Agreement"). As represented to Ms. Wynn, the purpose of the
21 January 2010 Stockholders Agreement was to ensure that Mr. Okada did not transfer his shares
22 without the permission of Mr. Wynn and Ms. Wynn.

23 41. Section 2(a) of the January 2010 Stockholders Agreement provides as follows:

24 Voting Agreement. On any and all matters relating to the election of directors of
25 Wynn (including the filling of any vacancies), the Designated Stockholders each
26 agree to vote all Shares held by them and subject to the terms of this Agreement (or
27 the holders thereof shall consent pursuant to an action by written consent of the
28 holders of capital stock of Wynn) in a manner so as to elect to Wynn's Board of
Directors each of the nominees contained on each and every slate of directors
endorsed by [Mr. Wynn].

1 [Mr. Wynn] agrees to include [Ms. Wynn] as one of his endorsed nominees so long
2 as she is not "unable to serve" or "unfit to serve." As used herein, "unable to serve"
3 shall mean medically incapacitated so as to be unable to serve as a director, and
4 "unfit to serve" shall mean a violation of rules and laws so as to prohibit one from
5 serving as a director of a public company engaged in the gaming business. In the
6 event of a disagreement between [Mr. Wynn] and [Ms. Wynn] regarding these
7 matters, determination of either of the preceding conditions shall be made and
8 confirmed by an independent third party to be jointly selected by [Mr. Wynn] and
9 [Ms. Wynn].

10 [Mr. Wynn] also agrees to endorse a slate of directors that includes nominees
11 approved by Aruze and to vote [Mr. Wynn's] and [Ms. Wynn's] Shares in favor of
12 such directors so long as such slate results in a majority of all directors at all time
13 being director candidates endorsed by [Mr. Wynn].

14 42. The Irrevocable Proxy, attached as Exhibit A to the January 2010 Stockholders
15 Agreement and executed by both Ms. Wynn and Aruze, grants Mr. Wynn voting rights to all shares
16 subject to the Agreement and provides that such proxy is to be exercised "for the election of
17 directors as more specifically provided and in a manner consistent with this Agreement."

18 43. Section 2(b) of the January 2010 Stockholders Agreement provides that, with
19 certain exceptions, "none of [Ms. Wynn], [Mr. Wynn,] or Aruze (nor any of their respective
20 Permitted Transferees) shall Transfer, or permit any of their respective Affiliates to Transfer, any
21 Shares Beneficially Owned by such Person without the prior written consent of each of the others."
22 The restrictions of Section 2(b) contain no time limitation.

23 44. Section 4 of the January 2010 Stockholders Agreement states that "[s]hares may
24 not be transferred or sold by the Designated Stockholder unless the transferee (including a Permitted
25 Transferee) both executes and agrees to be bound by both this Agreement and the Proxy." The
26 restrictions of Section 4 contain no time limitation and provide that any transferee must be bound by
27 the restrictions in the agreement.

28 45. Section 9 of the January 2010 Stockholders Agreement provides for a
right-of-first-refusal restriction on stock transfers. Generally, Section 9 provides that each party
who wishes to sell stock must, with certain exceptions, provide notice of the proposed terms of sale
to the other parties to the Agreement, and that each other party will then have the right to purchase
the offered shares according to a specified procedure. The restrictions of Section 9 contain no time
limitation and provide that the transferee must be bound by the restrictions in the agreement.

1 46. Section 14(b) of the January 2010 Stockholders Agreement requires that the stock
2 certificates bear the “following restrictive legend” that includes: “ANY PERSON ACCEPTING
3 ANY INTEREST IN SUCH SHARES SHALL BE DEEMED TO HAVE AGREED TO AND
4 SHALL BECOME BOUND BY ALL THE PROVISIONS OF THE STOCKHOLDERS
5 AGREEMENT.”

6 47. Section 14(c) of the January 2010 Stockholders Agreement provides that “[a]ny
7 transfer or sale of any Shares in violation of this Agreement shall be null and void *ab initio*.”

8 **E. Wynn Resorts’ Redemption of Aruze’s Stock**

9 48. On or about October 29, 2011, Wynn Resorts’ Compliance Committee retained
10 Louis Freeh, former Director of the Federal Bureau of Investigation, to investigate Mr. Okada’s
11 activities overseas, including his activities in the Philippines.

12 49. On February 18, 2012, Mr. Freeh made a presentation to the Board of Wynn Resorts
13 regarding Mr. Okada’s overseas activities. Based on Mr. Freeh’s presentation, the Board of Wynn
14 Resorts adopted a resolution finding Aruze, Mr. Okada, and Universal Entertainment Corporation to
15 be Unsuitable Persons under Wynn Resorts’ Second Amended and Restated Articles of
16 Incorporation (“Articles”). The Board caused Wynn Resorts to redeem Aruze’s shares in Wynn
17 Resorts.

18 50. With the redemption of Mr. Okada’s interest, the purpose and intent of the January
19 2010 Stockholders Agreement fails. Mr. Wynn does not need Ms. Wynn’s shares to protect him
20 from Mr. Okada. The risk posed by Mr. Okada and his shareholdings simply does not exist in light
21 of the redemption. The January 2010 Stockholders Agreement was never intended to give Mr.
22 Wynn a perpetual unlimited “get out of jail free” card, guaranteeing Ms. Wynn’s support against
23 any and all comers. This was an agreement with its roots – and its execution – in the Wynn-Okada
24 alliance. With Mr. Okada out of the picture, the January 2010 Stockholders Agreement no longer
25 serves its purpose and is invalid and unenforceable.

1 **F. Mr. Wynn's Abandonment of His Promises to Ms. Wynn and Pattern of**
2 **Reckless Behavior**

3 51. Working very long days, and trusting that (whatever Mr. Wynn might do in his
4 personal life) Mr. Wynn would not put the Company they had co-founded and so painstakingly
5 worked to build at risk, Ms. Wynn cannot say with any certainty when Mr. Wynn's reckless
6 risk-taking began or accelerated. But beginning at the time of her divorce, and for obvious reasons,
7 Ms. Wynn began examining the extent to which Mr. Wynn was withholding information from the
8 Board on critical issues and using a public company to fund his lavish lifestyle and personal politics.
9 Mr. Wynn, along with Ms. Sinatra, effectively undermined the role and proper decision-making
10 authority of the Board by withholding information from or affirmatively misleading the Board,
11 including on matters that indisputably should have been reported by the Board, and by retaliating
12 against Ms. Wynn for raising proper inquiries into the conduct of the Company, including by Mr.
13 Wynn.

14 52. Among other things, Ms. Wynn learned that Mr. Wynn, using the services of a
15 private criminal defense attorney and a private gaming attorney, had years earlier made a
16 multimillion dollar payment after apparently being threatened with allegations of serious
17 misconduct occurring on Company property against a Wynn Resorts employee. When Ms. Wynn
18 inquired of this, Ms. Sinatra falsely led her to believe that it had been properly handled by the
19 Company – even though Mr. Wynn, the Chairman and CEO of a public company, had exposed
20 himself to sufficiently serious allegations of wrongdoing that he had been forced to pay millions of
21 dollars and had used Company personnel and resources to conceal the allegations. Ms. Sinatra
22 intentionally put Mr. Wynn's personal interests above those of the Company when they were clearly
23 in conflict. This is only one example of the many instances where Ms. Sinatra acted to protect or
24 advance Mr. Wynn's personal interests that were contrary to the Company's best interests.

25 53. Ms. Wynn also learned, from Mr. Wynn himself, that his prior representations to her
26 about providing for their family – misrepresentations made to secure her signature on the January
27 2010 Stockholders Agreement – and all the assumptions upon which they were based were a sham.
28 Mr. Wynn has rebuffed her efforts even to discuss what would be an appropriate approach to

1 balancing the legacy they leave for their family with the responsibility Ms. Wynn has long felt to
2 give back to the community. Mr. Wynn has now repeatedly confirmed to both Ms. Wynn and their
3 two children that the children should look to Ms. Wynn, and only Ms. Wynn, for support and that he
4 has no intention of including them in any significant way in his will or otherwise. He has refused
5 Ms. Wynn's requests that they meet together to discuss estate planning for the benefit of their family
6 and their foundation, leaving no doubt that he knew at the time he secured her signature on the
7 January 2010 Stockholders Agreement that he would never do so. Even if Mr. Wynn has created a
8 will or other mechanism to provide for his family, he has refused to acknowledge it or reveal any of
9 its terms so that Ms. Wynn can reasonably plan her own estate.

10 54. Ms. Wynn also learned that Mr. Wynn's judgment as to the promotion and retention
11 of senior officials of the Company was dangerously flawed, with potentially serious implications for
12 the Company, its directors and its gaming licenses. Mr. Wynn surrounded himself with senior
13 management many of whom, it has emerged, were elevated more for their loyalty than their integrity
14 and ability. For example, for many years, Marc D. Schorr, Mr. Wynn's hand-picked selection for
15 Chief Operating Officer ("COO") of Wynn Resorts in 2001, was one of Mr. Wynn's closest
16 associates. When Ms. Wynn objected to Mr. Schorr's election to the Board because of questions
17 about his ethics, Mr. Wynn and Ms. Sinatra rebuffed her and retaliated against her. As it turned out,
18 Ms. Wynn's concerns were well-founded, but Mr. Wynn and Ms. Sinatra misled the Board about the
19 reason for Mr. Schorr's sudden decision to retire. The Board relied on Mr. Wynn and Ms. Sinatra to
20 bring wrongdoing by company executives and other employees to their attention, and they relied on
21 their representations to them. Nonetheless, Ms. Sinatra, conspiring with Mr. Wynn, purposefully
22 did precisely the opposite – they hid misconduct from the Board and falsely represented information
23 to the Board.

24 55. Mr. Schorr's misconduct came to light as a result of the actions of a former Wynn
25 executive named Tim Poster, who was as close to Mr. Schorr as Mr. Schorr was to Mr. Wynn. Mr.
26 Poster initially was hired to explore potential business opportunities for Wynn Resorts in internet
27 gambling; when Mr. Wynn decided not to pursue that direction, he assigned Mr. Poster to a
28 prominent position in casino marketing. Shortly thereafter, Mr. Wynn personally chose and

1 announced Mr. Poster's promotion to COO of Wynn Las Vegas. But before Mr. Poster could even
2 begin to assume his full duties, Mr. Wynn was forced to accept his resignation when it was revealed
3 that Mr. Poster was under investigation for participating in illegal gambling. The Nevada Gaming
4 Control Board subsequently rejected Mr. Poster's application based upon preliminary findings of
5 unsuitability for this reason and other misconduct.

6 56. Mr. Schorr's and Mr. Poster's well-known pattern of joint betting activity then raised
7 concerns about whether Mr. Schorr might have participated in similar illegal activities. Within
8 weeks, Mr. Wynn announced to the Board that Mr. Schorr, despite having recently received on
9 February 27, 2013 a multi-year contract extension through December 31, 2016 and additional
10 compensation at Mr. Wynn's direction, had decided on March 11, 2013 to "resign" voluntarily
11 because he was ready to retire. This same claim was made in SEC filings. In its subsequent SEC
12 Form 8-K filed March 28, 2013, and echoing Mr. Wynn's misrepresentation to the Board, Wynn
13 Resorts falsely and deceptively reported that Mr. Schorr's departure from Wynn Resorts was the
14 result of Mr. Schorr's notice to the Company of his "his intention to retire." In fact, Mr. Schorr was
15 terminated by Mr. Wynn because of his participation in illegal gambling, something every gaming
16 executive knows will not be tolerated by authorities. Even after these events, Mr. Wynn again hired
17 Mr. Schorr as a paid consultant for Wynn Resorts. When Ms. Wynn voiced her concerns about Mr.
18 Schorr's retention as a consultant, she again was made to feel her concerns were baseless. When she
19 brought her concerns to the attention of other senior management, Mr. Schorr's consultancy was
20 suspended – but since then Mr. Schorr has again been engaged by Wynn Resorts to consult
21 periodically.

22 57. Furthermore, in order to advance Mr. Wynn's own personal interests ahead of the
23 Company's and without proper disclosures to the Board, Mr. Wynn and Ms. Sinatra chose to vest
24 200,000 of Mr. Schorr's unvested shares and to pay him associated accrued cash dividends, even
25 though, as an executive who was terminated for cause, Mr. Schorr was not entitled to either. Mr.
26 Wynn and Ms. Sinatra did so not only because Mr. Schorr was a close personal friend of Mr. Wynn,
27 but also because Ms. Sinatra owed him for the above-any-average compensation she received while
28 working for Mr. Schorr as well as access to the perks Mr. Wynn treated himself to, such as personal

1 use of Company aircraft and unchecked reimbursement for personal expenses. In her third year as
2 General Counsel and Secretary of the Company, Ms. Sinatra made approximately \$10.4 million,
3 making her among the highest paid corporate counsel in the United States. That was 2009, the
4 middle of the recession, the year when Ms. Wynn asked Ms. Sinatra about the multi-million dollar
5 payment and was lied to (she was told it was properly handled when in fact company counsel at the
6 time was excluded) and generally rebuffed because Mr. Wynn, with Ms. Sinatra's complicity,
7 decided what the Board needed to know.

8 58. Ms. Sinatra intentionally and purposefully conspired with Mr. Wynn to control the
9 Board. This included deciding what information the Board should never be told (as with the
10 multi-million dollar payment) and what misinformation should be provided. In March 2014, the
11 Company issued a proxy statement announcing the Board's approval of a change to Mr. Wynn's
12 compensation package, altering the mix of cash and equity by decreasing the cash and increasing the
13 equity. Mr. Wynn wanted the additional shares he was receiving to be free from the contractual
14 restrictions that applied to them under the 2010 Stockholders Agreement and sought Ms. Wynn's
15 agreement to waive the contractual restriction as to these shares. After negotiations, however, they
16 could not reach an agreement. Ms. Sinatra falsely told the Board that because of Ms. Wynn's refusal
17 to agree, the Company would need to amend the proxy statement that had been issued to state that
18 the additional shares Mr. Wynn was receiving were subject to the contractual restrictions of the
19 2010 Stockholders Agreement. Ms. Sinatra made these deliberately false statements knowing that
20 the prospect of preparing and releasing an amended proxy statement would not be well received by
21 the Board and was ultimately used as a pretextual reason to oust Ms. Wynn.

22 59. Both Wynn Resorts and Mr. Wynn entertain lavishly, which is common in the
23 gaming industry. The dollar volume of such entertaining, not to mention the costs of a fleet of jets,
24 and the overlap between what is personal and what should be a business expense, demand effective
25 internal controls including careful review by the Audit Committee. Mr. Wynn misused Company
26 resources to support his legendary lifestyle. There was no effective protocol, or at least none
27 approved by the Board, to oversee entertainment and travel expenditures, and Ms. Wynn's inquiries
28 were rebuffed. On information and belief, on no occasion did the Audit Committee of the Board

1 ever investigate or even conduct an in-depth review of the Company's internal controls governing
2 such large expenditures; certainly, no such reports have been produced, and there is evidence of
3 regular shredding of audit committee materials and notes. The tone at the top of senior
4 management, in particular Mr. Wynn and Ms. Sinatra, was to discourage even Board members from
5 questioning the unilateral apportionment decisions of Mr. Wynn. Again, Ms. Wynn's efforts to act
6 as a truly independent director were stonewalled: she was, for example, specifically barred from
7 sitting in on a meeting of the Audit Committee.

8 60. The knowledge that dissent was not tolerated at the Board level means that it was not
9 tolerated anywhere. Mr. Wynn, with Ms. Sinatra's aid and participation, intentionally created a tone
10 at the top that was not and is not conducive to proper functioning of internal controls. This is true as
11 well with respect to Mr. Wynn's increasing profile in partisan politics, conveyed in media
12 interviews that were often conducted on Company property. As an individual, Mr. Wynn is free to
13 support whatever party or candidate he chooses, whether or not that serves the Company's interest.
14 But acting as Chairman and CEO, and using Company resources, he is responsible to the Board and
15 ultimately to the shareholders; the issue is not whether Stephen Wynn supports the Republican
16 Party, but whether it is in the best interests of the Company to take sides in partisan politics. Ms.
17 Wynn expressed her concerns to Company counsel, which likewise were rebuffed. At least one
18 other director, on information and belief, expressed similar concerns. Nevertheless, the issue was
19 never addressed at the Board level, and Mr. Wynn has only increased the Company's partisan
20 profile to the detriment of the Company.

21 61. Mr. Wynn has exerted, and continues to exert, control over his Board, including by
22 exercising control over their access to information and by retaliating against Ms. Wynn for her
23 proper inquiries into Company matters, as described previously. All Wynn Resorts directors who
24 have ever served on the Board have been, without exception, selected by Mr. Wynn. In only three
25 instances in the history of the Company – with one of them being Ms. Wynn's renomination (where
26 the board was following Mr. Wynn's signals but not his vote) and the other two being lone
27 dissenting votes from Ms. Wynn on one occasion and Mr. Okada on the other – has a director voted
28 against Mr. Wynn's intentions at any time or on any subject.

1 **G. Mr. Wynn's Disregard of His Agreement and of His Repeated Assurances to**
 2 **Engineer Elaine Wynn's Removal from the Board of the Company She Built**

3 62. On information and belief, Mr. Wynn and Ms. Sinatra, including by using the
 4 Nominating and Governance Committee, engineered the 2015 removal of Elaine Wynn from the
 5 Board of the Company she co-founded, worked tirelessly to create, and in which she owns a
 6 significant shareholder stake. They did so intentionally, in retaliation for her efforts to expose their
 7 operation of the Company as if it were Mr. Wynn's private dominion. Removing Ms. Wynn from
 8 the Board violated both the written and oral agreements between the Wynns, of which Ms. Sinatra
 9 was fully aware. Ms. Sinatra purposefully and intentionally conspired and acted with Mr. Wynn to
 10 disrupt the provision of the agreements which obligated Mr. Wynn to support and ensure Ms.
 11 Wynn's Board position. Mr. Wynn no longer wanted Ms. Wynn on the Board, even though the
 12 January 2010 Stockholders Agreement obligated him to support her Board membership and even as
 13 he insisted on his absolute right to control her property under that same Agreement. Neither did Ms.
 14 Sinatra – she had been culpable in covering up, at the very least, two separate instances of employee
 15 misconduct at the highest levels of management that put the Company and its shareholders in
 16 jeopardy. Her protection of these employees, as well as her attempts to pressure Ms. Wynn to waive
 17 her rights under the January 2010 Stockholders Agreement, resulted in Ms. Sinatra's
 18 misrepresentations to the Board and in SEC filings. Ms. Wynn's refusal to go along with the
 19 decisions that were questionable or detrimental to the Company put both Mr. Wynn and Ms. Sinatra
 20 at personal risk.

21 63. Renomination was routine at Wynn Resorts until February 24, 2015, when the
 22 Nominating and Corporate Governance Committee of Wynn Resorts voted to recommend that Ms.
 23 Wynn not be renominated to the Board, recommending instead that the size of the Board be
 24 decreased by one and that only directors J. Edward Virtue and John J. Hagenbuch be renominated.

25 64. On February 26, 2015, the Board of Wynn Resorts voted in favor of reducing the size
 26 of the Board by one, the one being Ms. Wynn. On information and belief, Ms. Sinatra, conspiring
 27 with Mr. Wynn, concocted the scheme to reduce the size of the Board by one seat, a further attempt
 28 to ensure Ms. Wynn would not be renominated. Although Mr. Wynn professed to vote formally

1 against this act of expulsion, he made it clear that the only reason he did not vote with the directors
2 he had hand-selected and guided was because he was contractually obligated to vote otherwise. The
3 message was lost on no one. Mr. Wynn carried the day. Invoking the false and pretextual
4 justifications created and advanced by Mr. Wynn and Ms. Sinatra, the Nominating Committee
5 recommended against the renomination of Ms. Wynn as director, and the Board controlled by Mr.
6 Wynn ratified that recommendation. The pretextual and false reasons include without limitation:
7 falsely telling that Board that Ms. Wynn knew about her nephew's purchase of a tract of land which
8 she knew she was supposed to disclose to the Board but deliberately withheld it from them; falsely
9 telling the Board that that Ms. Wynn's sale of stock during a "blackout" period violated the
10 Company's Trading Policy; falsely telling the Board that Ms. Wynn breached her fiduciary duties
11 by conditioning her agreement to grant Mr. Wynn's request to waive the restriction provision in the
12 January 2010 Stockholders Agreement as to certain stock he was receiving on receiving a reciprocal
13 agreement from him; and claiming that Ms. Wynn's facial expressions and demeanor were
14 inappropriate and should not be tolerated.

15 65. Although Ms. Wynn then attempted to solicit proxies in order to obtain reelection to
16 the Board, the effort was doomed. Board members and members of management actively solicited
17 investors to vote against Ms. Wynn, including based on the false, pretextual reasons concocted and
18 advanced by Ms. Sinatra. Mr. Wynn failed to take reasonable steps during the ensuing proxy
19 contest to communicate to shareholders any endorsement of Ms. Wynn's candidacy. To the
20 contrary, he undermined support for Ms. Wynn. For example, after Mr. Wynn stated in a televised
21 interview on April 15, 2015 that he did not agree with the Board's decision not to renominate Ms.
22 Wynn, Ms. Wynn issued a press release thanking him for his endorsement. Rather than leave it at
23 that, Wynn Resorts quickly issued a press release stating that Mr. Wynn's comments should not be
24 misconstrued and that he had great respect for the care the Board took in making its decisions. Or,
25 as the AP reported on April 17, 2015, Mr. Wynn was not in fact endorsing Ms. Wynn.

26 66. Mr. Wynn, with active participation by and in conspiracy with Ms. Sinatra, wanted
27 Ms. Wynn expelled from the Board in retaliation for her proper inquiries into Company activities,
28 including without limitation those described above. Indeed, in the entire history of the Company,

1 Ms. Wynn was the only director who wanted to stay on the Board who was not renominated and
2 reelected.

3 **V. Claims for Relief**

4 **FIRST CAUSE OF ACTION**

5 **DECLARATORY RELIEF**

6 **(Discharge and/or Rescission for Frustration of Purpose)**

7 67. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

8 68. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
9 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
10 ripe for adjudication.

11 69. The redemption of Aruze's stock has frustrated the purpose of the January 2010
12 Stockholders Agreement and its predecessor agreements (*i.e.*, the April 2002 Stockholders
13 Agreement and the 2006 Amendment).

14 70. The stated purpose of the January 2010 Stockholders Agreement was for Aruze to
15 support and avoid undermining Mr. Wynn's position as controlling shareholder and to support the
16 existing alliance and agreement between Mr. Wynn and Mr. Okada—an alliance and agreement
17 predicated on the substantial holding of Wynn Resorts stock by Mr. Okada's company Aruze. On
18 information and belief, all parties to the agreement understood this was the purpose of the January
19 2010 Stockholders Agreement and its predecessor agreements.

20 71. Following the redemption of Aruze's shares, Mr. Okada (through Aruze) no longer
21 holds Wynn Resorts stock, and there is no longer a need for an alliance between Mr. Okada's and
22 Mr. Wynn's stockholdings. Therefore, the purpose of the January 2010 Stockholders Agreement
23 and its predecessor agreements has been eliminated.

24 72. In light of the above, performance by other parties of the January 2010 Stockholders
25 Agreement has become valueless for Ms. Wynn and the purpose of all parties has been defeated.

26 73. Ms. Wynn bore no fault for the events that gave rise to the unforeseeable Aruze
27 redemption. She did nothing in her capacity as a director or otherwise that was a but for cause of the
28 redemption. Nor did she take any action with respect to the redemption as a result of any purpose or

1 desire to affect the obligations of any parties under any stockholders agreement; any actions she
2 took in that regard resulted from the discharge of her fiduciary duties in the best interests of the
3 corporation.

4 74. Accordingly, Ms. Wynn seeks a declaration that all of Ms. Wynn's contractual duties
5 under the January 2010 Stockholders Agreement are discharged or, alternatively, that the January
6 2010 Stockholders Agreement is subject to rescission and is rescinded.

7 **SECOND CAUSE OF ACTION**

8 **DECLARATORY RELIEF**

9 **(Unreasonable Restraint on Alienability in Violation of Public Policy)**

10 75. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

11 76. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
12 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
13 ripe for adjudication.

14 77. The January 2010 Stockholders Agreement contains unreasonable and onerous
15 restrictions on the alienability of Ms. Wynn's stock, including without limitation:

16 (i) Section (2)(b), which provides that, with certain exceptions, "none of [Ms.
17 Wynn], [Mr. Wynn,] or Aruze (nor any of their respective Permitted Transferees) shall Transfer, or
18 permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person
19 without the prior written consent of each of the others." This provision continued the consent
20 restriction agreed to by Mr. Wynn and Mr. Okada's company Aruze in the 2006 Amendment.

21 (ii) Section 4, which states that: "Shares may not be transferred or sold by the
22 Designated Stockholder unless the transferee . . . both executes and agrees to be bound by" the
23 January 2010 Stockholders Agreement.

24 78. The restrictions are an unlawful and unenforceable restraint on alienation. There are
25 no temporal limits to the material restrictions. They purport to burden the shares in perpetuity by
26 tying up the shares and preventing Ms. Wynn or her estate from disposing of the shares during her
27 lifetime and beyond. The restrictions are unenforceable as they unduly interfere with the
28 alienability of Ms. Wynn's shares.

79. The restrictions are independently unlawful and unenforceable pursuant to statute, including without limitation pursuant to NRS 78.355, which provides that proxies are not effective for a term of more than 7 years, and pursuant to NRS 78.365, which provides that voting agreements are not effective for a term of more than 15 years.

80. For these reasons, Ms. Wynn seeks a declaration that the restrictions are unenforceable as an unreasonable restraint on alienation in violation of public policy and statute.

THIRD CAUSE OF ACTION

DECLARATORY RELIEF

(Forfeiture)

81. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

82. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is ripe for adjudication.

83. The restrictions set forth in the January 2010 Stockholders agreement are invalid as effecting an unlawful forfeiture. They purport unduly to restrict, and indeed to prevent altogether absent the inevitably withheld consent of an ex-husband, Ms. Wynn's ability to dispose of her shares of Wynn Resorts common stock during her lifetime and beyond.

84. Mr. Wynn continues to contend that the restrictions are valid and that Ms. Wynn's ability to sell the vast majority of her shares does not exist absent his consent.

85. The practical effect of the restrictions is that Ms. Wynn is unable to sell her shares of common stock in Wynn Resorts. Accordingly, Ms. Wynn seeks a declaration that the restrictions are unenforceable as an unlawful forfeiture in violation of public policy.

FOURTH CAUSE OF ACTION

DECLARATORY RELIEF

(Unilateral Mistake)

86. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

1 87. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
2 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
3 ripe for adjudication.

4 88. At the time the parties entered into the January 2010 Stockholders Agreement, Ms.
5 Wynn made a mistake as to fundamental assumptions on which she agreed to the restrictions set
6 forth therein. Specifically, the fundamental assumptions about which Ms. Wynn was mistaken were
7 that: (1) Mr. Wynn would provide for their children as part of his estate planning and otherwise; and
8 (2) the purpose of the January 2010 Stockholders Agreement was to restrict the transfer of Mr.
9 Okada's shares, thereby ensuring Mr. Wynn's continued control of the Company, and not to
10 independently to restrict Ms. Wynn's ability to transfer the vast majority of her shares if Mr. Okada
11 was no longer a party to the January 2010 Stockholders Agreement.

12 89. These mistaken fundamental assumptions made by Ms. Wynn had a material effect
13 on the agreed exchange of performances that is adverse to Ms. Wynn. Ms. Wynn did not knowingly
14 bear the risk of this mistake.

15 90. Mr. Wynn knew of Ms. Wynn's mistake – namely because he had assured her
16 repeatedly that he had the intention of providing for their children's interests, whereas in reality he
17 had no such intent, and because Mr. Wynn represented to Ms. Wynn that the purpose of the January
18 2010 Stockholders Agreement was to restrict Mr. Okada's shares, not hers. Mr. Wynn's fault
19 caused Ms. Wynn's mistake.

20 91. Accordingly, Ms. Wynn seeks a declaration that the restrictions in the January 2010
21 Stockholders Agreement are voidable by Ms. Wynn so that she can transfer her shares, including
22 without limitation to provide for her children.

23 **FIFTH CAUSE OF ACTION**

24 **DECLARATORY RELIEF**

25 **(Discharge and/or Rescission for Failures of Consideration or Performance)**

26 92. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.
27
28

1 93. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
2 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
3 ripe for adjudication.

4 94. At the time the parties entered into the January 2010 Stockholders Agreement, Ms.
5 Wynn was in the process of divorcing Mr. Wynn and was entitled to ownership of the shares of
6 Wynn Resorts common stock that were transferred to her under the agreement pursuant to the
7 community property laws of the State of Nevada.

8 95. In exchange for Ms. Wynn's performance of the continuing covenants of the January
9 2010 Stockholders Agreement, Ms. Wynn was supposed to receive as valuable consideration the
10 performance agreed to by the other Designated Stockholders – including Aruze's continuing
11 performance and Mr. Wynn acting to ensure the renomination and reelection of Ms. Wynn to the
12 Wynn Resorts Board. Ms. Wynn would never have agreed to enter the voting agreement, execute
13 the Irrevocable Proxy in favor of Mr. Wynn, and agree to restrictions on the sale or transfer of the
14 vast majority of her shares of Wynn Resorts common stock without Aruze's participation and
15 without Mr. Wynn's contractual agreement that he would endorse and support Ms. Wynn's
16 nomination and election as director, which he failed to do.

17 96. The failures of other Designated Stockholders to perform their continuing
18 obligations under the January 2010 Stockholders Agreement had a material effect on the agreed
19 exchange of performances that is adverse to Ms. Wynn and resulted in the unilateral imposition of
20 burdensome covenants on Ms. Wynn without any corresponding, bargained-for, and beneficial
21 covenants being performed by the other Designated Stockholders. The failures of consideration or
22 performance include, without limitation, Mr. Wynn's, Aruze's, and Wynn Resorts' (as Aruze's
23 successor) failures to comply with their continuing contractual obligations under the January 2010
24 Stockholders Agreement.

25 97. Ms. Wynn is under no continuing obligation to perform her covenants under the
26 January 2010 Stockholders Agreement because failures of consideration excuse her performance.
27 The failures of other Designated Stockholders to perform concerned matters of prime importance.
28

1 Ms. Wynn would not have entered into the January 2010 Stockholders Agreement if she had
2 expected or contemplated such failures.

3 98. Accordingly, Ms. Wynn seeks a declaration that her contractual duties under the
4 January 2010 Stockholders Agreement are discharged or, alternatively, that the January 2010
5 Stockholders Agreement is subject to rescission and is rescinded.

6 **SIXTH CAUSE OF ACTION**

7 **FRAUDULENT INDUCEMENT**

8 **(Against Stephen Wynn)**

9 99. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

10 100. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
11 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
12 ripe for adjudication.

13 101. Prior to and during the course of negotiation and execution of the January 2010
14 Stockholders Agreement, Mr. Wynn led Ms. Wynn to believe that he would jointly provide for their
15 children and concealed from Ms. Wynn the fact that he had no intention of leaving anything of value
16 to their children upon his passing, and that their children would actually be required to obtain all
17 future financial support from Ms. Wynn. Mr. Wynn also led Ms. Wynn to believe that the purpose
18 of the January 2010 Stockholders Agreement was to restrict Mr. Okada's (Aruze's) shares, but
19 concealed from Ms. Wynn that the actual purpose of the January 2010 Stockholders Agreement
20 was, in fact, to ensure Mr. Wynn's control of Ms. Wynn's shares.

21 102. Mr. Wynn's materially misleading statements and material omissions, combined
22 with the restrictions prohibiting alienability of Ms. Wynn's shares of Wynn Resorts common stock
23 as set forth in the January 2010 Stockholders Agreement, mean that upon Ms. Wynn's death, their
24 children will have no testamentary support because the restrictions make it impossible for Ms.
25 Wynn to leave their children any material sum. More specifically, Ms. Wynn's estate will owe
26 substantial inheritance tax on Ms. Wynn's shares of Wynn Resorts common stock—stock that even
27 her children cannot sell because of the purported continuing effect of the restrictions. Such tax will
28

1 need to be funded from the other assets of Ms. Wynn's estate, thereby depleting virtually the entirety
2 of her estate.

3 103. In forming the January 2010 Stockholders Agreement, Mr. Wynn had a duty to be
4 candid with Ms. Wynn and to disclose to Ms. Wynn material facts known or accessible only to him
5 because such facts were uniquely known to him. Mr. Wynn knew that the facts regarding his true
6 intentions relating to the children were not known to or reasonably discoverable by Ms. Wynn. Mr.
7 Wynn also knew the facts relating to his actual intent in inducing Ms. Wynn to enter into the January
8 2010 Stockholders Agreement – to control Ms. Wynn's shares – were not known to or reasonably
9 discoverable by Ms. Wynn.

10 104. Ms. Wynn would not have entered into the January 2010 Stockholders Agreement
11 containing restrictions that, in effect, limited her ability properly to plan her testamentary estate if
12 she had known that Mr. Wynn had no intention of providing for their children upon his death, and
13 that Ms. Wynn would be the sole source of future financial support for their children. Ms. Wynn
14 also would not have entered into the January 2010 Stockholders Agreement if she had known that
15 Mr. Wynn's true purpose of inducing her to enter into the agreement was to ensure Mr. Wynn's full
16 and perpetual control over Ms. Wynn's shares.

17 105. Mr. Wynn misled Ms. Wynn and concealed these material facts from Ms. Wynn with
18 the intent to induce her to enter into the January 2010 Stockholders Agreement.

19 106. In addition, Mr. Wynn made a further affirmative misrepresentation of material fact
20 to Ms. Wynn with the intention of inducing her to enter into the January 2010 Stockholders
21 Agreement. Specifically, during negotiation of the January 2010 Stockholders Agreement, Mr.
22 Wynn made an oral representation to Ms. Wynn that he would use his control of Wynn Resorts to
23 assure that she would continue to be a director of the Company. This representation was false.

24 107. At the time Mr. Wynn made this representation to Ms. Wynn, he had knowledge of
25 and believed that the representation was false because Mr. Wynn intended all along to remove Ms.
26 Wynn from the Board in retaliation for, among other things, her having raised questions about Mr.
27 Wynn's risk-taking and Mr. Wynn's misconduct.

28

1 108. Mr. Wynn's false representations to Ms. Wynn were made with the intention to
2 induce her to enter into and to consent to the January 2010 Stockholders Agreement.

3 109. Ms. Wynn justifiably relied upon Mr. Wynn's misrepresentations and material
4 omissions in entering into the January 2010 Stockholders Agreement.

5 110. Mr. Wynn willfully and knowingly acted to damage Ms. Wynn's interests. He did so
6 with malice, oppression, and fraud, and in conscious disregard of Ms. Wynn's rights.

7 111. As a result of Mr. Wynn's intentional misrepresentations and material omissions,
8 Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an award of
9 said damages, as well as an award of punitive damages.

10 112. In addition to compensatory and punitive damages, Ms. Wynn seeks a declaration
11 that the January 2010 Stockholders Agreement was procured by fraud and therefore is voidable.

12 **SEVENTH CAUSE OF ACTION**

13 **DECLARATORY RELIEF**

14 **(Discharge by Aruze)**

15 113. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

16 114. An actual controversy exists among Ms. Wynn, Mr. Wynn, and Aruze with respect to
17 the validity and/or enforceability of the January 2010 Stockholders Agreement. The controversy is
18 ripe for adjudication.

19 115. In this action, Aruze has filed claims against Mr. Wynn (Counts XV and XVI of
20 Aruze's Fourth Amended Counterclaim) alleging breach of contract and seeking to be excused and
21 discharged from any further performance of its obligations with respect to the January 2010
22 Stockholders Agreement. In those claims, Aruze asserts that the purpose of the January 2010
23 Stockholders Agreement has been frustrated.

24 116. The stated purpose of the January 2010 Stockholders Agreement was to support the
25 existing alliance and agreement between Mr. Wynn and Mr. Okada—an alliance and agreement
26 predicated on the substantial holding of Wynn Resorts stock by Mr. Okada's company, Aruze. On
27 information and belief, all parties to the agreement understood this was the purpose of the January
28 2010 Stockholders Agreement and its predecessor agreements.

1 117. If Aruze successfully obtains a discharge of its obligations under the January 2010
 2 Stockholders Agreement and is no longer bound thereby, then Ms. Wynn seeks a corresponding
 3 declaration that her duties under the January 2010 Stockholders Agreement are likewise discharged
 4 or, alternatively, that the January 2010 Stockholders Agreement is subject to rescission and is
 5 rescinded.

6 **EIGHTH CAUSE OF ACTION**

7 **BREACH OF CONTRACT**

8 **(Against Stephen Wynn)**

9 118. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

10 119. Ms. Wynn alleges that Mr. Wynn breached the January 2010 Stockholders
 11 Agreement in two respects: by violating his obligations under the voting agreement contained in
 12 section 2(a) and under the consent restriction contained in section 2(b).

13 120. Mr. Wynn's obligation to "include [Ms. Wynn] as one of his endorsed nominees"
 14 required him to "endors[e]" Ms. Wynn's candidacy, before the Board of Directors and its relevant
 15 committees in their deliberations concerning her renomination and before the shareholders in the
 16 contested proxy contest. This endorsement obligation required that he take reasonable affirmative
 17 steps to persuade the Board, the relevant Board committees, and the shareholders that she be
 18 renominated and reelected and to secure her renomination and reelection. It further prohibited him
 19 from taking steps to undermine her candidacy.

20 121. Because Mr. Wynn controlled the Board of Wynn Resorts, Mr. Wynn's promises to
 21 support and endorse Ms. Wynn amounted to assurances that she would, at a minimum, continue to
 22 be nominated as a director of the Company. The reason Ms. Wynn agreed to permit Mr. Wynn to
 23 vote her stock to elect Mr. Wynn's nominees pursuant to Section 2(a) of the January 2010
 24 Stockholders Agreement was because of these assurances that Ms. Wynn would be included in the
 25 endorsed nominees and would remain a director.

26 122. Mr. Wynn failed to endorse Ms. Wynn and failed to take reasonable steps to
 27 persuade the Nominating Committee and the members of the Board to renominate Ms. Wynn. To
 28 the contrary, on information and belief, Mr. Wynn communicated to the Nominating Committee and

1 the members of the Board directly or indirectly that he did not want her to continue on the Board.
2 Once Mr. Wynn conveyed his desire to have Ms. Wynn ousted from the Board, the other Board
3 members supported his decision as they have nearly every other decision in the history of the
4 Company. The other Board members never would have acted not to renominate and not to reelect
5 Ms. Wynn without Mr. Wynn's approval.

6 123. At the Board meeting in which Ms. Wynn's renomination was considered, Mr. Wynn
7 failed to make a motion to include Ms. Wynn as a nominee. Further, when he voted against the
8 motion to shrink the size of the Board, he expressly stated that he was doing so only because he was
9 contractually obligated to support Ms. Wynn's candidacy. This conveyed that Mr. Wynn was not
10 genuinely endorsing her candidacy. Mr. Wynn's lack of support for Ms. Wynn, which on
11 information and belief Mr. Wynn had also previously conveyed to other Board members, caused
12 those other members to exclude Ms. Wynn from the Board.

13 124. Mr. Wynn, Ms. Sinatra, and Wynn Resorts generated transparently false and
14 pretextual reasons for not nominating Ms. Wynn to the Board. These reasons included things like
15 Ms. Wynn's demeanor and body language at Board meetings – reasons that were not communicated
16 to Ms. Wynn but were asserted for the first time only after Ms. Wynn filed claims based on her
17 improper ouster from the Board. The Directors' reliance on these demonstrably false – and
18 after-the-fact – justifications shows that they were not exercising any independent judgment, or any
19 judgment at all, but were merely doing Mr. Wynn's bidding.

20 125. In addition, Mr. Wynn's decision to vote for Mr. Hagenbuch and against Mr. Virtue
21 was not made on the merits of the two candidates but was part of a calculated effort to maximize the
22 success of the effort not to reelect Ms. Wynn at the shareholders' meeting. As Mr. Wynn and his
23 advisors correctly predicted, Mr. Virtue secured more votes than Mr. Hagenbuch, so Mr. Wynn's
24 support for the weaker candidate was deliberately calculated to increase Mr. Hagenbuch's chances
25 of defeating Ms. Wynn.

26 126. Mr. Wynn breached the January 2010 Stockholders Agreement by undertaking the
27 foregoing measures to oust Ms. Wynn from the Board.
28

1 127. These actions in breach of Mr. Wynn's contractual obligations were material
 2 breaches of the January 2010 Stockholders Agreement and are sufficient to excuse Ms. Wynn from
 3 any future performance of obligations purportedly imposed on her under the January 2010
 4 Stockholders Agreement.

5 128. As a result of Mr. Wynn's material breaches of the January 2010 Stockholders
 6 Agreement, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to
 7 an award of said damages.

8 129. In addition to compensatory damages, Ms. Wynn seeks a declaration that her
 9 contractual duties under the January 2010 Stockholders Agreement are discharged or, alternatively,
 10 that the January 2010 Stockholders Agreement is subject to rescission and is rescinded.

11 **NINTH CAUSE OF ACTION**

12 **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

13 **(Against Stephen Wynn)**

14 130. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 and paragraphs
 15 118 to 129 above.

16 131. The January 2010 Stockholders Agreement contained an implied covenant of good
 17 faith and fair dealing that required Mr. Wynn not to do anything to undermine or injure Ms. Wynn's
 18 right to receive the benefits of the contract, namely, her renomination and reelection to the Board of
 19 Directors.

20 132. Mr. Wynn's conduct alleged above was unfaithful to the purpose of the January 2010
 21 Stockholders Agreement and Ms. Wynn's justified expectations and, as a result, breached the
 22 implied covenant of good faith and fair dealing.

23 133. Mr. Wynn's actions in breach of the implied covenant of good faith and fair dealing
 24 were material and sufficient to excuse Ms. Wynn from any future performance of obligations
 25 purported to be imposed on her under the January 2010 Stockholders Agreement.

26 134. As a result of Mr. Wynn's breaches of the implied covenant of good faith and fair
 27 dealing, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an
 28 award of said damages.

135. In addition to compensatory damages, Ms. Wynn seeks a declaration that her contractual duties under the January 2010 Stockholders Agreement are discharged or, alternatively, that the January 2010 Stockholders Agreement is subject to rescission and is rescinded.

TENTH CAUSE OF ACTION

SPECIFIC PERFORMANCE

(Against Stephen Wynn)

136. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

137. Ms. Wynn has fully performed and has complied with all material obligations of the January 2010 Stockholders Agreement.

138. Section (g) of the January 2010 Stockholders Agreement entitled "Specific Performance" provides that "a breach by any party hereto of any covenants or agreements contained in this Agreement will cause the other parties hereto to sustain damages for which they would not have an adequate remedy at law for money damages, and therefore . . . the parties shall be entitled to the remedy of specific performance." This remedy is consistent with the unique character and nature of a director position on the Wynn Resorts Board of Directors. The wrongful loss of Ms. Wynn's director position cannot be duplicated or replaced in any fashion except by ordering Mr. Wynn to comply with his obligations to Ms. Wynn in a new director election.

139. Ms. Wynn requests an order compelling Mr. Wynn to comply with the January 2010 Stockholders Agreement, including without limitation his obligations to assure the nomination and election of Ms. Wynn to the Board of Directors.

ELEVENTH CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

(Against Wynn Resorts)

140. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

141. Wynn Resorts knew of the January 2010 Stockholders Agreement, including without limitation Ms. Wynn's contractual rights to nomination and election to the Wynn Resorts Board of Directors. In particular, Wynn Resorts' senior executives and members of its Board of Directors had knowledge of the January 2010 Stockholders Agreement and its provisions regarding Ms.

1 Wynn's reelection to the Board. With full knowledge of these contractual rights and obligations,
 2 Wynn Resorts took intentional actions intended or designed to disrupt and frustrate performance of
 3 the January 2010 Stockholders Agreement.

4 142. Wynn Resorts intentionally conspired and acted with Mr. Wynn to interfere with and
 5 disrupt Mr. Wynn's contractual obligation to renominate and reelect Ms. Wynn to the Board of
 6 Directors as set forth in the 2010 Stockholders Agreement, including without limitation by:

- 7 (i) expelling Ms. Wynn from the Board, contrary to her entitlement under the
 8 2010 Stockholders Agreement, in retaliation for her proper inquiries into
 Company activities;
- 9 (ii) interfering with Mr. Wynn's obligation to renominate and reelect Ms. Wynn
 10 to the Board of Directors, including without limitation by devising and
 executing a campaign to ensure Ms. Wynn's ouster from the Board;
- 11 (iii) voting to recommend that Ms. Wynn not be renominated to the Board,
 12 recommending instead that the size of the Board be decreased by one and that
 only directors J. Edward Virtue and John J. Hagenbuch be renominated;
- 13 (iv) reducing the size of the Board by one, with the one being Ms. Wynn;
- 14 (v) issuing a press release written by the Company's public relations department
 15 stating that Mr. Wynn's comments that 'he did not agree with the Board's
 16 decision not to renominate Ms. Wynn' should not be misconstrued and that
 he had great respect for the care the Board took in making its decision not to
 renominate her;
- 17 (vi) convincing investors to vote against Ms. Wynn based on false, pretextual
 18 reasons; and
- 19 (vii) cancelling the redeemed shares held by Mr. Okada. Had the shares not been
 cancelled, they would have been voted in Ms. Wynn's favor.

20 These acts substantially contributed to the disruption of Ms. Wynn's contractual relationship, with
 21 resulting damage to Ms. Wynn.

22 143. Wynn Resorts conspired to and did engage in the foregoing intentional acts with the
 23 intent and design to disrupt Ms. Wynn's rights under the January 2010 Stockholders Agreement.
 24 Furthermore, there was actual disruption of Ms. Wynn's contractual rights, with resulting damage to
 25 Ms. Wynn. Wynn Resorts did so without any proper purpose or legitimate interest, including
 26 because Wynn Resorts is not an intended beneficiary of and does not otherwise have an interest in
 27 the January 2010 Stockholders Agreement.

144. Wynn Resorts willfully and knowingly acted to damage Ms. Wynn's interests. It did so with malice, oppression, and fraud, and in conscious disregard of Ms. Wynn's rights.

145. As a result of Wynn Resorts' intentional interference with the January 2010 Stockholders Agreement, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an award of said damages, as well as an award of punitive damages.

TWELFTH CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

(Against Kimmarie Sinatra)

146. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

147. Ms. Sinatra knew of the January 2010 Stockholders Agreement, including without limitation Ms. Wynn's rights to nomination and election to the Wynn Resorts Board of Directors by Mr. Wynn. With full knowledge of these contractual rights and obligations, Ms. Sinatra took intentional actions intended and designed to disrupt the contractual relationship under the January 2010 Stockholders Agreement.

148. Ms. Sinatra intentionally conspired and acted with Mr. Wynn and Wynn Resorts to disrupt Mr. Wynn's obligation to assure Ms. Wynn's renomination and reelection to the Board of Directors as set forth in the 2010 Stockholders Agreement, including without limitation by:

- (i) engineering and orchestrating Board actions to expel Ms. Wynn from the Board, contrary to her entitlement under the 2010 Stockholders Agreement, in retaliation for her proper inquiries into Company activities;
- (ii) inventing false, pretextual reasons to justify Ms. Wynn's ouster as a director and providing such reasons as if they were legitimate to senior executives and members of the Wynn Resorts Board of Directors;
- (iii) developing the scheme to reduce of the size of the Board by one seat to further ensure Ms. Wynn's expulsion and engineered its execution;
- (iv) sanctioning and encouraging Board members' attempts to convince investors to vote against Ms. Wynn; and
- (v) conspiring to propose the redeemed shares held by Mr. Okada be cancelled to ensure they were not voted in Ms. Wynn's favor and to convince the Board to vote to do so.

These acts substantially contributed to the disruption of Ms. Wynn's contractual relationship, with resulting damage to Ms. Wynn.

1 149. Ms. Sinatra conspired to and did engage in the foregoing intentional acts with the
2 intent and design to disrupt Ms. Wynn's rights under the January 2010 Stockholders Agreement.
3 Furthermore, there was actual disruption of Ms. Wynn's contractual rights as a result, with resulting
4 damage to Ms. Wynn. Ms. Sinatra did so without any proper purpose or legitimate interest,
5 including because she is not an intended beneficiary of and does not otherwise have an interest in the
6 January 2010 Stockholders Agreement.

7 150. Ms. Sinatra willfully and knowingly acted to damage Ms. Wynn's interests. She did
8 so with malice, oppression, and fraud, and in conscious disregard of Ms. Wynn's rights.

9 151. As a result of Ms. Sinatra's intentional interference with the January 2010
10 Stockholders Agreement, Ms. Wynn has been damaged in an amount to be proved at trial. Ms.
11 Wynn is entitled to an award of said damages, as well as an award of punitive damages.

12 **THIRTEENTH CAUSE OF ACTION**

13 **BREACH OF FIDUCIARY DUTY**

14 **(Against Stephen Wynn)**

15 152. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

16 153. At all relevant times, Mr. Wynn was a controlling shareholder of Wynn Resorts, as
17 he exercised actual control over Wynn Resorts by dominating its affairs, including but not limited to
18 the corporate decision-making process of Wynn Resorts and the process of nominating and electing
19 directors. Mr. Wynn had, and continues to have, such voting and managerial power that, as a
20 practical matter, he is no differently situated than if he had actual majority shareholder voting
21 control.

22 154. Mr. Wynn's position is that the purported corporate purpose underlying the January
23 2010 Stockholders Agreement is to ensure that Mr. Wynn retains control over Wynn Resorts.

24 155. Mr. Wynn, as a director and controlling shareholder of Wynn Resorts, owed
25 fiduciary duties to Ms. Wynn, a fellow director and minority shareholder of Wynn Resorts. Mr.
26 Wynn's fiduciary obligations to Ms. Wynn were independent of any obligations under the January
27 2010 Stockholders Agreement.

28

158. As a result of Mr. Wynn's breaches of fiduciary duty, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an award of said damages, as well as an award of punitive damages.

FOURTEENTH CAUSE OF ACTION

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

(Against Wynn Resorts)

159. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 and paragraphs 152 to 158 above.

160. Mr. Wynn, as a director and controlling shareholder of Wynn Resorts, owed fiduciary duties to Ms. Wynn, a fellow director and minority shareholder of Wynn Resorts. Mr. Wynn's fiduciary obligations to Ms. Wynn were independent of any obligations under the January 2010 Stockholders Agreement.

161. Mr. Wynn breached his fiduciary duties, as set forth in paragraphs 152 to 158 above.

162. Wynn Resorts knowingly participated in and substantially assisted Mr. Wynn's breaches of fiduciary duties owed to Ms. Wynn as explained above in paragraphs 62-66, including without limitation by:

- (i) conceiving and implementing a scheme to have Ms. Wynn removed from the Board, contrary to Mr. Wynn's fiduciary duty to Ms. Wynn;

- (ii) intentionally acting and conspiring with Mr. Wynn to oust Ms. Wynn from the Board of Directors, including by recommending against her renomination at the Committee and then at the Board level;
- (iii) actively soliciting investors and encouraging them to vote against Ms. Wynn;
- (iv) knowingly and intentionally reducing the size of Board by one seat with the intent to ensure Ms. Wynn was not renominated to the Board;
- (v) conceiving and approving a press release written by the Company's public relations department stating that Mr. Wynn's comments that "he did not agree with the Board's decision not to renominate Ms. Wynn" should not be misconstrued and that he had great respect for the care the Board took in making its decision not to renominate her; and
- (vi) knowingly and intentionally voting to cancel Mr. Okada's shares with the intent to prevent those shares from being voted in favor of Ms. Wynn.

163. Wynn Resorts willfully and knowingly acted to damage Ms. Wynn's interests. They did so with malice, oppression, and fraud, and in conscious disregard of Ms. Wynn's rights.

164. As a result of Wynn Resorts' aiding and abetting of Mr. Wynn's breaches of fiduciary duty, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an award of said damages, as well as an award of punitive damages.

FIFTEENTH CAUSE OF ACTION

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

(Against Kimmarie Sinatra)

165. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66.

166. Mr. Wynn, as a director and controlling shareholder of Wynn Resorts, owed fiduciary duties to Ms. Wynn, a fellow director and minority shareholder of Wynn Resorts. Mr. Wynn's fiduciary obligations to Ms. Wynn were independent of any obligations under the January 2010 Stockholders Agreement.

167. Mr. Wynn breached his fiduciary duties, as set forth in paragraphs 152 to 158 above.

168. Ms. Sinatra knowingly participated in and substantially assisted Mr. Wynn's breaches of fiduciary duties owed to Ms. Wynn as explained above in paragraphs 62 to 66, including without limitation by:

- (i) conceiving and implementing a scheme to have Ms. Wynn removed from the Board, contrary to Mr. Wynn's fiduciary duty to Ms. Wynn;

- (ii) intentionally concealing misconduct by Mr. Wynn that should have been disclosed the Board, and could have exposed the Company to liability, or other losses, putting the interests of Mr. Wynn ahead of those of shareholders;
- (iii) promoting and enforcing a tone at the top that punished proper inquiry into corporate governance decisions and Company activities;
- (iv) putting the interests of Mr. Wynn ahead of all others, including by manipulating the Board and its members, including without limitation by:
 - (a) failing to truthfully tell Ms. Wynn about the circumstances surrounding the 2005 payment when asked about it by Ms. Wynn and instead misrepresenting that it had been appropriately handled, when in fact company counsel at the time had been not been properly informed, among other reasons;
 - (b) falsely telling the Board that a proxy statement that had been issued would have to be amended and reissued because of conduct by Ms. Wynn; and
 - (c) misrepresenting to the Board and others the reason for the Company's COO's departure, as if it were nothing more than a decision to retire, and claiming he was retiring when he in fact was terminated for his connections to illegal gambling;
- (v) engineering and assisting in the execution of a scheme to ensure Mr. Okada's redeemed shares were cancelled in an intentional effort to ensure they were not voted in favor of Ms. Wynn; and
- (vi) acting knowingly and intentionally to advance Mr. Wynn's scheme to oust Ms. Wynn from the Board in violation of his fiduciary duties.

169. Ms. Sinatra willfully and knowingly acted to damage Ms. Wynn's interests. She did so with malice, oppression, and fraud, and in conscious disregard of Ms. Wynn's rights.

170. As a result of Ms. Sinatra's aiding and abetting of Mr. Wynn's breaches of fiduciary duty, Ms. Wynn has been damaged in an amount to be proved at trial. Ms. Wynn is entitled to an award of said damages, as well as an award of punitive damages.

SIXTEENTH CAUSE OF ACTION

PERMANENT INJUNCTIVE RELIEF

171. Ms. Wynn re-alleges the allegations set forth in paragraphs 1 to 66 above.

172. To enforce the judicial declarations Ms. Wynn seeks in paragraphs 67 to 135 and to secure her rights declared thereunder, Ms. Wynn further seeks an injunction that enjoins Mr. Wynn from instructing Wynn Resorts not to register shares sold or transferred by or otherwise prevent the

1 Transfer, as defined in the January 2010 Stockholders Agreement, of shares by Ms. Wynn, and that
2 provides such other injunctive relief against Mr. Wynn and/or Aruze that the Court deems necessary
3 and appropriate to enforce the declaratory relief granted.

4 **DEMAND FOR JURY TRIAL**

5 Ms. Wynn hereby demands trial by jury pursuant to Nevada Rule of Civil Procedure 38(b).

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Ms. Wynn demands judgment against Mr. Wynn, Wynn Resorts, Aruze,
8 and Ms. Sinatra as follows:

- 9 1. A declaration that Ms. Wynn's contractual duties under the January 2010
10 Stockholders Agreement are discharged or, alternatively, that the January 2010 Stockholders
11 Agreement is subject to rescission and is rescinded because the redemption of Aruze's stock
12 frustrated the principal purpose of the January 2010 Stockholders Agreement and its predecessor
13 agreements (*i.e.*, the April 2002 Stockholders Agreement and the 2006 Amendment);
- 14 2. A declaration that the restrictions on alienability as set forth in paragraph 75 above
15 are unenforceable as an unreasonable restraint on alienation in violation of public policy and
16 statutes;
- 17 3. A declaration that that the restrictions are unenforceable as an unlawful forfeiture in
18 violation of public policy;
- 19 4. A declaration that the restrictions are voidable by Ms. Wynn because she made a
20 unilateral mistake (known to Mr. Wynn) as to a fundamental assumption, or assumptions based on
21 which she agreed to the restrictions;
- 22 5. A declaration that that Ms. Wynn's contractual duties under the January 2010
23 Stockholders Agreement are discharged or, alternatively, that the January 2010 Stockholders
24 Agreement is subject to rescission and is rescinded because of failures of consideration and/or
25 performance;
- 26 6. Judgment in favor of Ms. Wynn and against Mr. Wynn based on Mr. Wynn's
27 fraudulent inducement and a declaration that the restrictions are voidable by Ms. Wynn because Mr.
28

1 Wynn made false representations to Ms. Wynn with the intention to induce her to enter into and to
2 consent to the formation of the January 2010 Stockholders Agreement;

3 7. If Aruze successfully obtains a discharge of its obligations under the January 2010
4 Stockholders Agreement, a declaration that Ms. Wynn's contractual duties under the January 2010
5 Stockholders Agreement are discharged or, alternatively, that the January 2010 Stockholders
6 Agreement is subject to rescission and is rescinded;

7 8. Judgment in favor of Ms. Wynn and against Mr. Wynn based upon Mr. Wynn's
8 breaches of contract, and a declaration that Ms. Wynn's contractual duties under the January 2010
9 Stockholders Agreement are discharged or, alternatively, that the January 2010 Stockholders
10 Agreement is subject to rescission and is rescinded because Mr. Wynn materially breached the
11 agreement;

12 9. Judgment in favor of Ms. Wynn and against Mr. Wynn based upon Mr. Wynn's
13 breach of the implied covenant of good faith and fair dealing, and a declaration that Ms. Wynn's
14 contractual duties under the January 2010 Stockholders Agreement are discharged or, alternatively,
15 that the January 2010 Stockholders Agreement is subject to rescission and is rescinded because Mr.
16 Wynn materially breached the implied covenant of good faith and fair dealing;

17 10. An order compelling Mr. Wynn to comply with the January 2010 Stockholders
18 Agreement, including without limitation his obligations to assure the nomination and election of
19 Ms. Wynn to the Board of Directors;

20 11. Judgment in favor of Ms. Wynn and against Wynn Resorts based on Wynn Resorts'
21 intentional interference with the January 2010 Stockholders Agreement;

22 12. Judgment in favor of Ms. Wynn and against Ms. Sinatra based on Ms. Sinatra's
23 intentional interference with the January 2010 Stockholders Agreement;

24 13. Judgment in favor of Ms. Wynn and against Mr. Wynn based on Mr. Wynn's
25 breaches of fiduciary duty;

26 14. Judgment in favor of Ms. Wynn and against Wynn Resorts based on Wynn Resorts'
27 aiding and abetting of Mr. Wynn's breaches of fiduciary duty;

28

1 15. Judgment in favor of Ms. Wynn and against Ms. Sinatra based on Ms. Sinatra's
2 aiding and abetting of Mr. Wynn's breaches of fiduciary duty.

3 16. Preliminary and/or permanent injunctions as the Court deems necessary and
4 appropriate to enforce the declarations prayed for, including an injunction that prohibits Mr. Wynn
5 from instructing Wynn Resorts not to register shares sold or transferred by or otherwise to prevent
6 the Transfer, as defined in the January 2010 Stockholders Agreement, of shares by Ms. Wynn, as
7 well as such other injunctive relief against Mr. Wynn and/or Aruze that the Court deems necessary
8 and appropriate;

9 17. For compensatory damages in an amount to be proved at trial;

10 18. For punitive and exemplary damages in a sum sufficient to punish Mr. Wynn, Wynn
11 Resorts, and Ms. Sinatra, and to deter similar wrongdoing by others; and

12 19. Costs of suit and such other relief as the Court deems just and proper.

13
14 Dated: May 17, 2017

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15 By /s/ Mark E. Ferrario

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 17th day of May, 2017, I caused a true and correct copy of the forgoing ***First Amended Answer of Elaine P. Wynn to Aruze and Universal's Fourth Amended Counterclaim, Sixth Amended Counterclaim and Crossclaim of Elaine P. Wynn*** to be filed and served via the Court's e-filing system upon the parties listed below. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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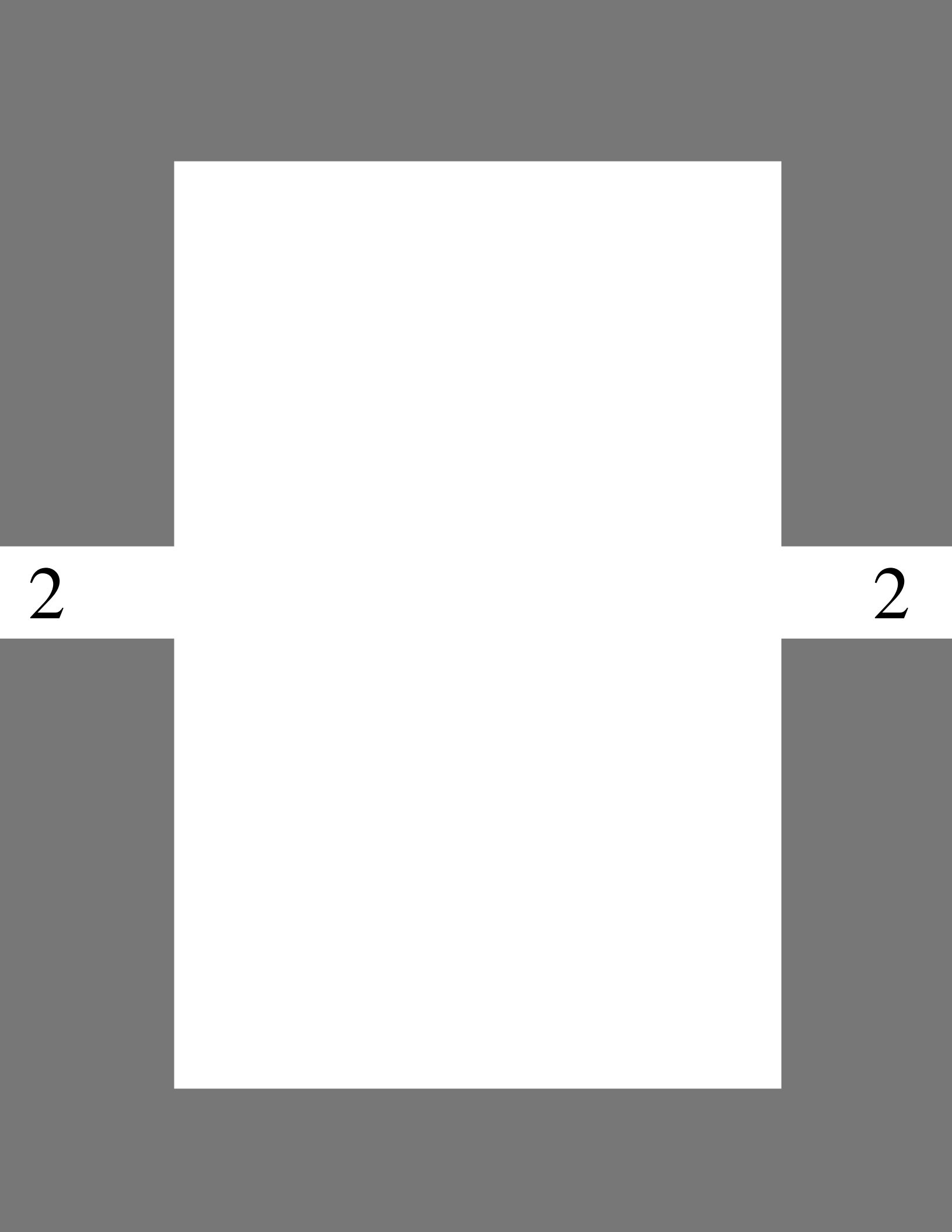
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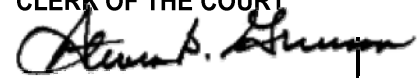
/s/ Andrea Lee Rosehill
An Employee of Greenberg Traurig, LLP



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CLERK OF THE COURT



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

WYNN RESORTS LIMITED .

Plaintiff .

vs. .

KAZUO OKADA, et al. .

Defendants .

.

CASE NO. A-12-656710-B

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTIONS

MONDAY, SEPTEMBER 25, 2017

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

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APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
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FOR THE DEFENDANTS:

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ADAM MILLER, ESQ.
JON RANDALL JONES, ESQ.
WILLIAM R. URGAS, ESQ.
MARK E. FERRARIO, ESQ.
JAMES COLE, ESQ.
DONALD JUDE CAMPBELL, ESQ.
COLBY WILLIAMS, ESQ.
JAMES KRAMER, ESQ.

ALSO PRESENT:

DAVID CHESNOFF, ESQ.
For Mr. Timothy Poster

1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 25, 2017, 8:04 A.M.

2 (Court was called to order)

3 THE COURT: Good morning. Sorry. My law clerk is
4 out sick, so Dan and I are managing without her.

5 What are you doing here, Mr. Chesnoff?

6 MR. CHESNOFF: May I explain?

7 THE COURT: Yes.

8 MR. CHESNOFF: Thank you.

9 Last week the lawyers -- Mr. Campbell let me know
10 that there had been a Rule 34 request regarding materials that
11 affect Mr. Poster, who you may remember I represent. I need
12 to once again seek some relief from the Court with respect to
13 this, almost like an intervenor.

14 I spoke to Mr. Ferrario and counsel for Ms. Wynn and
15 asked if could have just a week from today to get a motion for
16 protective order on file before Your Honor. They asked me to
17 address you and ask you for permission.

18 THE COURT: Are they okay with that?

19 MR. FERRARIO: Your Honor, we'd just like an
20 opportunity to respond.

21 So, David, if you could get that on by Wednesday, we
22 could respond by Friday, we can show up next week on Monday.

23 MR. CHESNOFF: Okay. I can do that, Your Honor.

24 THE COURT: File a motion on an OST for Wednesday,
25 they file a response on Friday, we argue on Monday.

1 MR. CHESNOFF: Very good.

2 THE COURT: Okay.

3 MR. CHESNOFF: I appreciate their courtesy, Your
4 Honor. Thank you.

5 THE COURT: Everybody is very courteous. Isn't that
6 nice?

7 MR. CHESNOFF: How about I'm the one who engendered
8 the courtesy.

9 THE COURT: Okay. We'll shoot for that. Pleasure
10 seeing you.

11 All right. What do you guys want to start with
12 today? Does anybody have a preference? Because, as you can
13 see, I have a very well-organized pile of stuff, and the only
14 issue that seems to overlap has to do with work product issues
15 with Ms. Wynn and some other kind of issues.

16 MR. PISANELLI: Your Honor, what's your plan on the
17 allocation of time?

18 THE COURT: You have eight motions in ten minutes.

19 MR. PISANELLI: I mean per side.

20 THE COURT: Ten.

21 MR. PISANELLI: Is it 15/15?

22 THE COURT: No, 10/10/10.

23 MR. PISANELLI: That leaves us five for each of
24 these parties' motions against 10 -- okay.

25 MR. PEEK: Your Honor, I think from our perspective

1 the status report along with the Steve Wynn and Elaine Wynn
2 motions for more time would be a way to start, Your Honor.

3 MR. PISANELLI: Your Honor, from our perspective the
4 status report is a waste of time. It's an attempt to jump
5 ahead of our motion that's going to be heard next --

6 THE COURT: Yes. So I'm not going to do the status
7 report as a separate issue, because it doesn't count against
8 your time.

9 MR. PISANELLI: Thank you.

10 MR. PEEK: That's fine, Your Honor.

11 THE COURT: Okay. I might do it on the end, given
12 how you're doing.

13 So I would like to start, then, with the request to
14 clarify by Ms. Sinatra on Ms. Wynn's deposition time.

15 Good morning.

16 MR. KRAMER: Good morning, Your Honor. James Kramer
17 on behalf of Kimmarie Sinatra.

18 Your Honor, the motion simply seeks parity. It
19 simply seeks the same amount of time for Ms. Sinatra as Ms.
20 Wynn wants with Ms. Sinatra, one day. That's all we want.
21 The reason we framed it as a motion for clarification is the
22 Court granted the motion for five days and then indicated to
23 Mr. Peek that he could have two hours, and Mr. Peek indicated
24 he'd be filing a motion.

25 THE COURT: And he did. He asked for 11 hours.

1 MR. KRAMER: Which is why we responded the way we
2 did today. Rather than do it as piecemeal, Your Honor, and
3 then respond and have this heard next week, we could get this
4 done in 33 hours, five days times seven hours minus the two.

5 THE COURT: They're seven-and-a-half-hour days.

6 MR. KRAMER: Okay. Well, then we could get it done
7 in 35 hours, Your Honor. But the point is Elaine Wynn has
8 said she needs one day with Ms. Sinatra. Ms. Sinatra should
9 get the same. And that's the basis of our request. She's a
10 litigant both as a defendant and as a plaintiff, and if they
11 want to say that Ms. Wynn can take less time with Ms. Sinatra,
12 we'll meet and confer with them in good faith. But otherwise,
13 Your Honor, as a litigant she should be entitled to the same
14 presumptive amount of time as Ms. Wynn.

15 THE COURT: Interesting.

16 Mr. Peek.

17 MR. PEEK: Your Honor, I don't know if you want me
18 to just go right to the motion for the 11 hours.

19 THE COURT: You want 11 hours.

20 MR. PEEK: Pardon?

21 THE COURT: You want 11 hours.

22 MR. PEEK: Yes.

23 THE COURT: You're not getting 11 hours. So do you
24 want to have a fallback position?

25 MR. PEEK: Well, I guess, Your Honor, as a fallback

1 position would be I'd like at least seven and a half hours. I
2 do think I need more time than that, but a lot of it depends
3 upon how much of the cross-claim and the issues extant in the
4 cross-claim are addressed in those first four days. If
5 they're addressed in the first four days, then I would hope to
6 be able to get it done in seven and a half. But I can't do it
7 in the three and a half or less that the Court had offered me
8 the last time. But, as I said, a lot of this depends upon how
9 this process is going to go forward after next Monday.

10 THE COURT: Okay. Anything else from anybody else?

11 MR. FERRARIO: Your Honor, in the interest of
12 conserving time, it's the same thing we argued last week.

13 THE COURT: Okay. 'Bye.

14 MR. FERRARIO: Thank you.

15 THE COURT: Mr. Peek, you can have up to six hours.
16 Ms. Sinatra will share time with the other Wynn parties.

17 Anything else?

18 MR. PEEK: No, Your Honor. I'll address the other
19 issues in the status report when we come to that, because this
20 is not enough time if the case gets severed.

21 THE COURT: Okay. So let's go to the motion for
22 more time for Mr. Wynn and the issue related to the gaming
23 privilege on the Schreck letter.

24 I said six hours for the Okada parties.

25 MR. FERRARIO: Within the five days that you already

1 allocated. Right.

2 THE COURT: In the five days I already allocated.

3 MR. CAMPBELL: I thought you wanted to talk to me,
4 Your Honor. That's why --

5 THE COURT: I do. I want to talk to you about Mr.
6 Wynn's deposition and how much time you want -- or how much
7 time --

8 MR. CAMPBELL: Talk to that man, Your Honor.

9 MR. PEEK: There were two --

10 THE COURT: You want not more than three and a half
11 hours, and he wants lots of time.

12 MR. PEEK: Your Honor --

13 THE COURT: I feel like a discovery referee.

14 MR. PEEK: Well, you had really put two topics
15 together. One was the Schreck letter --

16 THE COURT: And the Schreck letter.

17 MR. PEEK: -- which I had not addressed. So I think
18 that's why Mr. Campbell stood up. And I don't know whether
19 you want me to just go ahead and address the time --

20 THE COURT: They're together in my mind.

21 MR. PEEK: Okay. Well, Your Honor, you know, since
22 the time Mr. Wynn was deposed there have been thousands of
23 pages of documents produced. We have at least identified 1700
24 of those documents, and in addition the Court has ordered the
25 product of the Freeh pre-redemption documents. However, we've

1 not yet received the pre-redemption documents even though the
2 stay of the order expired on September 15th.

3 As you know, you recently ordered, of course, some
4 of my clients to come back together or some of Mr. Krakoff's
5 clients to come back together for multiple days because of the
6 fact that some documents had been produced after their
7 depositions. The Wynn offer of one half day, which we
8 considered in good faith, is not enough time given the volume
9 of documents, the new issues that have emerged, and the fact
10 that Mr. Okada and Universal will now need to question Mr.
11 Wynn separately.

12 Your Honor, I know that --

13 THE COURT: Probably not going to share time.

14 MR. PEEK: Well, I'm trying to share time. I
15 understand the sharing of time, Your Honor. But that doesn't
16 mean that I don't get to ask questions that go unique to --

17 THE COURT: I didn't say you don't get to ask
18 questions.

19 MR. PEEK: -- breach of fiduciary duty and the
20 removal as a director, as opposed to the redemption. But I
21 understand, Your Honor. But we need at least one full day of
22 Mr. Wynn in order to address the new documents and the topics
23 that are extant from the Elaine Wynn cross-claim.

24 THE COURT: Okay. Do you want to address the Gaming
25 Control issue for me?

1 MR. PEEK: Your Honor, that's actually not my issue.

2 That was --

3 THE COURT: Okay. Then I guess you won't.

4 MR. PEEK: -- a separate motion with Mr. --

5 THE COURT: So now I'm -- who am I going to only on
6 time for Mr. Wynn?

7 MR. PEEK: David, do you want to address the --

8 MR. KRAKOFF: Yeah, I can -- I can --

9 THE COURT: No. I'm going to Colby now. I had a
10 plan. You guys are -- that's why I don't really try and
11 implement my plans.

12 MR. PEEK: Well, we divided up our time, too, Your
13 Honor.

14 MR. WILLIAMS: Your Honor, it's simple. I don't
15 want to waste a lot of time. We offered a half day, they want
16 a full day. We did so based on what you've awarded for the
17 other directors. Unlike the other directors, Mr. Wynn has
18 already sat for four days of deposition by the Okada parties.
19 We're not even talking about the deposition days for Ms. Wynn,
20 which will be addressed at a later point in time. Four and a
21 half days is more than sufficient for what they need to ask
22 him. It's consistent with what you've already ordered. We
23 submit a half day.

24 THE COURT: Thank you.

25 Not to exceed 3.5 hours to be shared between the

1 Okada and Universal parties.

2 So that takes me maybe to the Gaming Control issue.

3 MR. KRAKOFF: Your Honor, actually there are two.
4 There's ours and Ms. Wynn's.

5 THE COURT: One deals with Governor Miller, one
6 deals with Mr. Wynn.

7 MR. KRAKOFF: Yes. So we'll deal with Governor
8 Miller first.

9 Your Honor, in the interest of time I'll be brief.
10 This issue is all about the redemption of -- the lawsuit is
11 all about the validity of the redemption of 20 percent --
12 Aruze's 20 percent stake in Wynn Resorts. And we submitted
13 our brief, you've got the pleadings. I'm not going to belabor
14 them. I do want to emphasize this point, Your Honor. And
15 that is the new amendment that was passed in June 2017
16 expanding the privilege, if you will, does not apply to this
17 situation, because we requested the information that we want
18 from Mr. -- Governor Miller at his deposition some 16 months
19 before. The effective date for the amendment is June 12th,
20 2017. The Wynn -- or Mr. Wynn in his opposition to Ms. Wynn's
21 motion acknowledges --

22 THE COURT: Mr. Jones.

23 MR. KRAKOFF: Saved by the bell, Your Honor. Do I
24 get 10 more seconds?

25 THE COURT: No. You wasted time telling me what the

1 case was about.

2 MR. KRAKOFF: But, Your Honor, so 120(6) does not
3 apply here. The other provisions in the gaming rules or
4 gaming statutes do not apply, as well. Mr. Miller -- Governor
5 Miller voluntarily of his own initiation contacted the NGCB a
6 couple of times in communications both personally and then
7 three other times in emails before the redemption on February
8 18th, 2012. He did that voluntarily. There was no pending
9 investigation, no audit, no hearing regarding the Okada
10 parties at that time. And so that does -- the 120(4) does not
11 apply, as well.

12 The rest of the motion, Your Honor, I'll submit on
13 the papers.

14 THE COURT: Thank you.

15 Mr. Urga.

16 MR. URGA: Your Honor, I'm going to argue on behalf
17 of Elaine Wynn, and I'm going to take a few minutes, and I
18 apologize and I don't want to run over our 10 minutes, because
19 we've got other motions. So how much time do I --

20 THE COURT: Dan says you don't have much.

21 MR. URGA: Give me 10 minutes.

22 THE COURT: Dan says be very brief.

23 MR. URGA: Well, it's very difficult, Your Honor.

24 MR. FERRARIO: I feel like I'm watching Terry Fader
25 here.

1 MR. URGAS: You know, we're seeking documents both
2 from Steve Wynn and from the company, and the company's got
3 this gaming privilege, and I'll talk about that in a little
4 bit. But Mr. Wynn has raised three reasons why we can't get
5 this letter that was issued on April 16th under 49.025, under
6 463.120, and under 463.3407. We start with the proposition
7 that privileges are narrowly construed. You start with that.
8 So let's just take a look at the three statutes. First of
9 all, 49.025, that is limited to returns and reports, and there
10 is no caselaw that supports somehow a letter that's being
11 submitted that would fall under a report. They're trying to
12 argue it's a report. They cite to a Supreme Court case, that
13 Schindler Elevator case, but that was a False Claim Act case,
14 and then in the false claim area the government wants to have
15 a huge definition of "reports," because it stops all those
16 qui tam actions. And that's what they want. Nevada has
17 looked at that in the Tidvall case, which is 91 Nev. 520, and
18 that's 1975. And the court exercised its right there by
19 saying this was a bank report that had to be prepared, by law
20 it had to be prepared. Judge Markell in the Smith case looked
21 at it, and he cites in Footnote 6 in his first opinion several
22 cases, and they all talk about the same thing, reports.

23 So I don't think 49.025 has any bearing on this.
24 And it's beyond the stretch of the imagination that the letter
25 would somehow be a report.

1 The next argument is .3407, 463.3407. Similarly, it
2 doesn't apply. This was intended to protect somebody who
3 submits something to the Gaming Control Board from being sued
4 for doing that, defamation, false imprisonment, and those
5 types of things. The one case that's been decided in that
6 case was Hamp versus Foot. Goes back to 2002, 118 Nev. And
7 that's where the government was called in from the casino
8 saying, we think the dealer and some patron are doing
9 something improper. So he was detained, and he files a
10 lawsuit for false imprisonment, malicious prosecution, and
11 defamation. The court held that, no, that was protected under
12 .3407 because it was something that was under the statute to
13 protect that. But it's an immunity statute, not a disclosure
14 statute.

15 Coincidentally, under the Zermano case, which Mr.
16 Pisanelli and Debbie Spinelli were involved, the casino
17 suspected some cheating again. And so they reported it, he
18 was detained, and Judge Dawson in the 2010 case likewise found
19 that it was statutory immunity. So I don't think either one
20 of those statutes has any bearing on this letter.

21 That brings us to the -- I guess the 800-pound
22 gorilla in today's argument, 463.120. And I don't believe
23 that supports either position. And I'm going to tell the
24 Court why. Clearly the Court has the ability to order
25 something produced, and that's under 463.120(4). And if you

1 look at (4), it goes (a) through (e). And the one that's
2 probably the most important one is under (e), which provides
3 "prepared or obtained by an agent or employee of the Board
4 pursuant to an audit, investigation, determination, or
5 hearing." They are confidential, and they can be disclosed in
6 some proceedings, administrative proceedings or upon an order
7 of the court.

8 And I think that is the key to this whole thing.
9 We're not asking the Gaming Control Board to produce anything
10 that just has not already been produced. And I think it's
11 interesting and I have to take a minute or two to tell you
12 about why I think this is important. If you go back to 2008,
13 when the Smith case came down, which Mr. Campbell was involved
14 in, by the way, coincidentally, the judge ordered both Mr.
15 Adelson's application to look at and the Board's work product,
16 the report. And so Dennis Nylander, who was the chairman of
17 the Gaming Control Board and had been there -- you know, he's
18 a 10-year chairman of the Board, every two years they come up
19 -- the Gaming Control Board comes up with an omnibus gaming
20 bill that covers all the things that took place in the last
21 two years.

22 I'm done already? It hasn't been 10 minutes.

23 THE COURT: Come on. Wrap it up.

24 MR. URGA: Well, the point is that if you go and
25 look at what the -- if you look at what Dennis Nylander said,

1 in very clear response said, we do not care if the court
2 orders something, all we want to do when you add section (5)
3 is to protect our work product. And that's what happened.
4 And so for the last eight or nine years that's been the case.
5 Now all of a sudden this last-minute thing comes up in this
6 new section under there, which, by the way, was not part -- in
7 my opinion part of the omnibus bill. It came up on the last
8 day of the legislature after it was -- after there was a bill
9 for air finders' fees. It was never heard. There's been no
10 committee reports on it at all. But if you look at that
11 statute, you will see that you have to read it together with
12 section (4). It does not wipe out Section 4, because if it
13 did, you've got a serious problem, because now you can't be
14 harmonious with the statute. And, furthermore, it doesn't
15 apply retroactively. And all of the stuff that we've looked
16 at takes place way before the statute was effective. So I
17 don't think it has any application. To read them together I
18 think you still have the authority as a court to order
19 something produced. All that new section said was, we're
20 protecting a waiver argument, if the government in Nevada
21 decides to give it to another agency or give it to another
22 regulator, it's still protected, there's no waiver. That's
23 what it says. And that was the intent of it. You can't
24 overrule something without the legislature doing it. And I
25 don't think they ever did it in this case. And, like I said,

1 if you look at what Dennis Nylander said in front of Terry
2 Care and in front of Tick Segerblom, they specifically asked
3 him, is the court order still allowed to have documents
4 produced. And Chairman Nylander said, absolutely, all we want
5 to do is protect our work product.

6 THE COURT: No one here is asking me to order the
7 regulators to produce anything, only the parties.

8 MR. URGAS: Exactly. This is only the letter, Your
9 Honor.

10 And similarly with the Wynn Resorts. They've got
11 this privilege, this gaming privilege. And if you look at
12 their log, you can't tell anything. And I think the very
13 minimum before you look at anything if you can't order it, we
14 need a better privilege log. I can't tell from some sort of
15 thing that says it's question of suitability. You need more
16 information. We don't have it, Your Honor.

17 If you have any questions, please let me know.

18 THE COURT: Thank you.

19 Mr. Campbell.

20 MR. CAMPBELL: Good morning, Your Honor.

21 Your Honor, in our response you'll see that we
22 advanced multiple reasons why there's a privilege here. We
23 saved the best for last, and that is the new statutory
24 addition of subsection (6), which I note, not parenthetically
25 so, that they didn't even bother to cite in the moving papers.

1 But while we saved it for --

2 THE COURT: It's hard to keep track of the new
3 statutes when LCD doesn't actually update the statute. So
4 unless you were involved in the legislative process, it's
5 really hard sometimes to keep track.

6 MR. CAMPBELL: I wasn't involved in the legislative
7 process at all. Moreover, Your Honor, with respect to that
8 last argument that we advanced, I'm just going to focus on
9 that, because I think that that's the most important one. And
10 simply stated, it declares all of these materials absolutely
11 privileged. In pertinent subsection (6) in pertinent part it
12 says, and it's very clear, if a licensee provides or
13 communicates any, any information, Your Honor, or data to an
14 agent in conjunction with the agent's regulatory,
15 investigative, or enforcement authority, then "(a) all such
16 information and data is confidential and privileged," there's
17 no exception, and "(b) the applicant or here the licensee has
18 a privilege to refuse to disclose and to prevent any other
19 person from disclosing the privileged information." That
20 could not be more absolute, Your Honor. And that is somewhat
21 different than subsection (4).

22 And he's right, I did in fact advance the position
23 that I did with respect to Mr. Smith, John L. Smith, the
24 reporter, in the Adelson case. But to suggest that Adelson
25 wasn't also claiming that privilege is nonsense. He

1 absolutely was. He didn't have the documents, but he was
2 certainly objecting to the Gaming Control Board turning it
3 over, and was very vociferously objecting through his counsel
4 in the in-chambers hearing that I had -- or that I attended
5 with Judge Markel, where I went over his entire gaming file
6 and its entire history. He didn't like that very much, and
7 that's why he settled immediately thereafter and in fact
8 dismissed his complaint. He didn't settle, because we
9 wouldn't allow him to dismiss without paying us.

10 So, Your Honor, that's what we're really looking at
11 here. It's also clear, Your Honor, that the --

12 THE COURT: Mr. Campbell, let me see if I understand
13 what your position is, because after being involved in the
14 legislative process this year I was aware of the change, but
15 my understanding of it is slightly different than yours. And,
16 admittedly, I was not present at any of the hearings or
17 anything where it was apparently discussed or added.

18 My understanding was that it was proposed simply to
19 protect any document that already had a privilege that was
20 being provided to Gaming so that there was not a waiver of a
21 privilege for any material being shared with Gaming.

22 MR. CAMPBELL: I think it's more expansive just by
23 the mere language of it, Your Honor. I mean, the very
24 language of it is very expansive and includes everything,
25 literally, that could be subject to any sort of disclosure

1 that has any connection or nexus with a previous turnover or
2 submission by a licensee. It's just as simple as that. It
3 doesn't get any more expansive and inclusive than that, Your
4 Honor. I don't think it's in any way limited in any way,
5 shape or form. And it says, Your Honor, in the addition of
6 (11), Your Honor, it says -- now provides "all information,
7 all information and data in any form without limitation." I
8 don't know what could be more expansive than that.

9 With respect to their argument saying, well, you
10 know what, the request was made long ago. No. The request is
11 made now. We've declared privilege. The request is now being
12 advanced to you, Your Honor. It is absolutely timely for us
13 to raise it at this time, and the statute applies at this
14 time. We cited three different cases for that. The most
15 important one is the Madison versus Pullion [phonetic] case,
16 the Vermont case. Directly on point. Directly on point.

17 With respect to the argument concerning Governor
18 Miller, Governor is a former District Attorney. He appointed
19 Gaming Control Board members. He's probably more
20 knowledgeable about the Gaming Control system than any of us.
21 More importantly, Your Honor, as this Court I'm sure knows and
22 was certainly aware of as a result of the formation of the
23 gaming laws and the compulsion that really exists for a
24 licensee initiation of disclosure to the gaming authorities,
25 that may be anathema or somewhat unusual in the experience of

1 Mr. Krakoff, but it is very, very important. It's very usual
2 and customary in our jurisdiction that compels us to go
3 forward and disclose something that we think is important to
4 gaming authorities whether it's good, bad, or indifferent from
5 our perspective. Thank you, Your Honor.

6 THE COURT: Thank you.

7 Anybody else want to say anything?

8 MR. BICE: Yes, Your Honor, just on behalf of Wynn
9 Resorts just briefly on [inaudible].

10 THE COURT: So, Mr. Bice, are you of the position
11 that my prior rulings in cases you and I have had, and I can't
12 remember how many of them have been, where I've taken the
13 position that it's a privilege similar to what Judge Markel
14 took in the Smith case that section (6) should modify my
15 thinking on those?

16 MR. BICE: Your Honor, section (6) -- let me just
17 cut to the chase on section (6).

18 THE COURT: Yep.

19 MR. BICE: Section (6) grows directly out of the
20 Jacobs case.

21 THE COURT: I knew that.

22 MR. BICE: And anyone who pretends that it isn't --

23 THE COURT: That was the gossip that I heard.

24 MR. BICE: There's no debate about it. It is the
25 Jacobs case. Las Vegas Sands had sought this amendment. I

1 think everybody in the state, quite frankly, knows that. And
2 here's ultimately what it does. Section (6) was designed --
3 the law had always been that if you provided privileged
4 information to the Board, it remained privileged. That's
5 always been the law. Section (6) isn't about that. Section
6 (6) is about if you provide information to the Board, that
7 information -- as part of some sort of an investigation
8 process, that information not only remains privileged, it
9 remains privileged even if you share it with federal
10 regulators. Because, remember, that was what was getting Las
11 Vegas Sands into some issue in the Jacobs case, because all of
12 the federal circuits had taken the position that when you --
13 the federal government is your adversary and if you give
14 documents to the federal government it is free game. That's
15 the law. So the legislature --

16 THE COURT: And you argued that very effectively.

17 MR. BICE: Well, I hope I did. I never got the
18 documents, but, nonetheless -- but that is the basis for the
19 statute, and thus I have to concur with Mr. Campbell that the
20 statute is quite broad and it applies to this particular
21 situation.

22 Your Honor, all I want to say on the issue about the
23 communications between Mr. Miller -- or Governor Miller and
24 the Board, in addition to subsection (6) the statute protects
25 anyone basically informing the Board of wrongdoing by another

1 person.

2 THE COURT: But don't they protect them from
3 defamation claims and other types of claims?

4 MR. BICE: No. Not only that -- no. The answer to
5 that is not only does it protect them against that; the
6 statute says that it's -- there's a separate part of the
7 statute that says it is a privilege against claims for
8 defamation. I understand that, an absolute privilege.
9 However, the statute also makes clear under subsection (4)
10 that if you provide -- if you inform on an individual, like
11 Governor Miller was doing, that information, what you told the
12 Board is absolutely privileged. And it's not just a privilege
13 against liability, it's a privilege against disclosure. I
14 thank the Court for its time.

15 THE COURT: Thank you.

16 Anyone else want to speaking on the gaming issues?

17 Given the addition by the legislature of subsection
18 (6), my prior interpretation that the statutory scheme was
19 primarily designed to protect the Gaming Control from having
20 to disclose information that was provided to us, as well as
21 the absolute privilege related to defamation claims by anyone
22 submitting information to the Gaming Control Board has been
23 modified. Regardless of how that statutory amendment came
24 into effect, the adoption of it by the legislature has
25 impacted those cases. I find that the issue of retroactivity

1 does not need to be addressed by this Court because the motion
2 is being heard now, after the new statute has come into
3 existence.

4 For that reason the motions related to Governor
5 Miller and the Schreck letter are both denied.

6 All right. You guys have --

7 MR. PEEK: Your Honor, are you finding that those
8 are privileged?

9 THE COURT: They're protected under section (6) of
10 the new statute.

11 MR. FERRARIO: The new statute.

12 MR. PEEK: Of the new statute, which --

13 MR. URGAS: You're talking about the Senate bill.
14 Section (6) -- you're talking about the Senate bill; is that
15 right, Your Honor?

16 THE COURT: Whatever the new legislative section is
17 with the new -- the one that we all know happened at the last
18 minute and just occurred.

19 MR. PEEK: I just want to make sure whether you're
20 saying that those letters -- the Governor Miller letter was in
21 fact a privileged -- falls under a claim of privilege.

22 THE COURT: Yes. And protected and confidential.

23 MR. PEEK: Okay.

24 THE COURT: All right. Any of other questions about
25 that, or did I get them? Now you can run the writ and you can

1 ask the Supreme Court what they think, because there's not
2 much legislative history on that issue, since it happened the
3 way it did.

4 I have reviewed the Virtue email. Who cares about
5 Virtue email?

6 MR. FERRARIO: We do.

7 MR. PEEK: And so do we, Your Honor.

8 THE COURT: The Virtue email will be produced with
9 one redaction. The one redaction, Ms. Spinelli, do you want
10 to come up here so I can show you where it is.

11 See where it says "that if the --"

12 MS. SPINELLI: Uh-huh.

13 THE COURT: Remainder of that can be redacted.

14 MR. PEEK: So it begins with what, Your Honor, and
15 ends with what?

16 THE COURT: I'm not telling you, because it's
17 redacted.

18 MR. PEEK: I know. I'm not -- all right. Well, the
19 beginning of it --

20 THE COURT: The last word you will see will be the
21 word "conflict" with the period, and then the next thing you
22 will see will be the name "Kim."

23 MR. PEEK: Thank you, Your Honor.

24 THE COURT: All the remaining portions are
25 unredacted. I am going to give this to -- I did read the

1 declaration of Ms. Sinatra. I am giving it to my clerk, who
2 will seal it. Here's the special envelope. But I reviewed it
3 in camera. All right.

4 MR. PEEK: Your Honor, can we get a date for
5 production of that?

6 MS. SPINELLI: I can produce it today, Your Honor.

7 THE COURT: She's says she's going to get it to you
8 today, because it's not very much.

9 MR. PEEK: That's fine.

10 THE COURT: So I still have an issue related to Ms.
11 Wynn's notes. Somebody want to tell me why on earth Ms.
12 Wynn's notes would ever be work product when Ms. Wynn did them
13 all on her own as part of her divorce to refresh her memory.

14 MR. FERRARIO: No. Go ahead.

15 MR. COLE: Your Honor, with that introduction I
16 realize that I have a bit of a hill to climb.

17 THE COURT: Yes.

18 MR. COLE: But I think that the declaration that Ms.
19 Wynn put in does climb that hill, and it does it -- and I'll
20 be very, very brief, because I know you read this all. This
21 was -- this is a situation where this came to her. It came to
22 her attorney in the course of her divorce proceedings with Mr.
23 Wynn, and it concerned issues that were very much involved in
24 that divorce proceeding, and she was doing the inquiry
25 pursuant to the issues in that litigation. These were not

1 just for her own edification.

2 THE COURT: Making notes yourself to refresh your
3 memory for purposes of your litigation is not work product.

4 MR. COLE: But she did, as her declaration points
5 out, share the substance of what she learned with her
6 attorneys for the purposes of that litigation. And so we
7 would submit that these were in fact -- and they can be taken
8 without the direction of an attorney, but we would submit that
9 these were done for the purpose of the litigation, the divorce
10 litigation, and her declaration --

11 THE COURT: And to refresh her memory so her memory
12 would remain fresh.

13 MR. COLE: Well, sometimes that's what work product
14 is done, Your Honor, so that you can have some sort of
15 recording of events so that you can use them in the
16 litigation.

17 THE COURT: Okay. So I'm going to advance your
18 motion to redact her opposition to today and I'm going to
19 grant your request to seal Exhibit A and B and redact.

20 But the motion is granted, and Ms. Wynn's notes will
21 be produced.

22 How was that? Was that your easiest argument today?

23 MR. PISANELLI: Timing on that production, Your
24 Honor?

25 MR. FERRARIO: We may run a writ on that.

1 THE COURT: You can run a writ if you want.

2 MR. FERRARIO: We need a stay.

3 THE COURT: Sure. How long do you need?

4 MR. FERRARIO: Thirty days.

5 THE COURT: No.

6 MR. FERRARIO: Fifteen.

7 THE COURT: Ten.

8 MR. FERRARIO: What? You gave them -- you gave them
9 45 days last time.

10 THE COURT: No, I didn't give them 45 days.

11 MR. FERRARIO: You gave them 30 and 15. That's 45.

12 THE COURT: Okay. You can have 15.

13 Okay. So now I'm on the eighth supplemental
14 disclosure, the Whennen and Glassford information. Anything
15 anybody wants to tell me?

16 MR. PISANELLI: Is this the motion for de-
17 designation of confidentiality?

18 THE COURT: Yes.

19 MR. PISANELLI: A few points, Your Honor. We're in
20 opposition, but I assume I go first because they're out of
21 time. Is that your point?

22 So there's a couple of fundamental flaws in this
23 brief, the first of which is that Ms. Wynn continues to
24 mistakenly believe that she's entitled to see records that
25 were available to her when she was affiliated with the

1 company. She's no longer affiliated with the company. Those
2 rights were left behind when she left the company.

3 Second, she continues to conflate public relations
4 campaigns with litigation. You'll note that all of these
5 topics on confidentiality are untied to any claim in the case.
6 This is all what we have seen time and time again for her
7 campaign to smear her ex-husband and anyone else in her wake.

8 And let's be frank about this, Your Honor. This is
9 the one party in this case who is still subject to an
10 evidentiary hearing for sanctions for violating the
11 confidentiality order. She's dodged her deposition for that
12 hearing for over a year, postponed it, as well. And it's the
13 same party who took the stand in this case and gave sworn
14 testimony that she stole records from this company,
15 confidential records, and improperly distributed them to other
16 people, resulting in a permanent injunction against her and
17 the loss of her counsel. Trust her? No, I don't think so.
18 We will trust this Court and we'll trust our confidentiality
19 order.

20 But that said, Your Honor, even if she was Mother
21 Theresa, the topics we're talking about here are highly
22 confidential. She wants to get into Laurie Glassford's
23 testimony about how she assists Mr. Wynn because of his
24 handicap. That should go to the heart of an issue in this
25 case, I'm sure. Or maybe it just allows her with more

1 ammunition to embarrass her ex-husband.

2 Same thing with the Whennen issue. Has nothing to
3 do with this litigation at all, yet she names the accuser, she
4 talks openly about the accusations. Remember, Quinn Emanuel
5 had more discretion the way they're handling than Ms. Wynn's
6 new counsel does, and that's really a strong statement, that
7 Quinn Emanuel was at a higher level of behavior.

8 So, Your Honor, we have some very important issues
9 today, tomorrow, and the next day that we present to you on a
10 daily basis. Ms. Wynn's request to you to continue to
11 downgrade confidentiality designations so she could use them
12 in the press and as weapons against people should not be
13 taking up your time, should not be taking up our time, and I'd
14 ask Your Honor not to encourage her with any relief at all.
15 This is important confidential information that belongs in
16 this case. She has no additional super uber rights because
17 she used to be in this company. She's like everybody else.
18 She is no longer in this company and has no rights to this
19 information.

20 THE COURT: So let me, as I try to be, be
21 consistent. Let's talk about how I make sure that we treat
22 her the same as we treat Mr. Okada, where I said previously
23 that Mr. Okada was entitled to review information for
24 committees and board meetings that he attended and downgraded
25 it to confidential. Why shouldn't I treat Ms. Wynn the same,

1 other than the conduct we've observed?

2 MR. PISANELLI: The other than becomes --

3 THE COURT: I understand.

4 MR. PISANELLI: -- a big giant hole that swallows
5 everything. So, Your Honor, what we did with Mr. Okada, as I
6 recall, is to make sure that any claim that his counsel were
7 making that they were handcuffed and not able to adequately
8 represent their client was addressed. And we volunteered to
9 downgrade many, if not all, of the things so that their
10 counsel could see things. And that's the same here. Ms. Wynn
11 is arguing that she used to be on the board and therefore gets
12 everything. And that's just simply not the case.

13 So I'm not sure what else to say on that topic but
14 that she doesn't have additional rights now that she's gone.

15 THE COURT: You have help. Help is coming.

16 MR. PISANELLI: Feel free.

17 MS. SPINELLI: We have downgraded, Your Honor,
18 documents from the board where she attended, consistent with
19 your opinion on Mr. Okada. We did not agree to downgrade
20 documents for committees to which she was not a member unless
21 they related to her claims.

22 THE COURT: Okay.

23 MR. PISANELLI: Most of which what she asks for does
24 not.

25 THE COURT: Right.

1 MR. PISANELLI: That's the PR campaign.

2 THE COURT: Thank you.

3 MR. PISANELLI: Thank you.

4 THE COURT: Anything else anybody wants to say on
5 this issue?

6 MR. FERRARIO: Do we get to say anything?

7 THE COURT: I said anything else anybody wants to
8 say.

9 MR. FERRARIO: Well --

10 THE COURT: You can be part of that group of anyone.

11 MR. FERRARIO: Well, he trumped us because we ate up
12 our time.

13 THE COURT: Well, no. Because you were winning.
14 Never mind.

15 MR. FERRARIO: If I'm winning, I'm shutting up.

16 THE COURT: Okay.

17 MR. FERRARIO: Okay.

18 THE COURT: So the motion is granted to the extent
19 that any information of a board meeting which Ms. Wynn
20 attended will be provided to her. It will be downgraded to
21 confidential. However, if there is any disclosure at all, the
22 penalties will be rather significant given the prior history
23 in this case.

24 MR. FERRARIO: Your Honor, there's --

25 THE COURT: Wait.

1 Second, if there a committee of the board, like the
2 executive committee, which Ms. Wynn served on for any period
3 of time, the information that was provided to Ms. Wynn and the
4 other members of the committee when she was participating on
5 that committee will be downgraded to confidential.

6 To the extent she was not participating on a
7 committee or was not a member of the board it will remain as
8 highly confidential.

9 Anything else?

10 MR. FERRARIO: There's other information that we're
11 -- we addressed --

12 THE COURT: You're looking for the board book. And
13 I'm not giving you board book.

14 MR. FERRARIO: Well, no. There were -- the Whennen
15 depo, there's all sorts of things where these -- the Wynn
16 parties are overdesignating under the confidentiality. You've
17 commented on that. That's the only reason we're here.
18 They're trying to tie everybody's hands. We can't even talk
19 to our client about basic information we're generating in a
20 lawsuit.

21 THE COURT: Why on earth do you want to talk to Mr.
22 Wynn's assistant about the ways that his disability is
23 accommodated for him to do his business?

24 MR. FERRARIO: They're speculating as to what we're
25 doing with it. We have a right to talk to our client. We're

1 asking for a designation down from highly -- how would that
2 ever be highly confidential under your rule?

3 THE COURT: Because it has to do with a personal
4 medical condition.

5 MR. CAMPBELL: Exactly, Your Honor. That's exactly
6 right.

7 MR. FERRARIO: We can't talk to Ms. Wynn about that?

8 MR. CAMPBELL: They've got no --

9 Excuse me.

10 THE COURT: Guys.

11 MR. CAMPBELL: And that's what I've advanced before,
12 and that's what I've told him before.

13 THE COURT: Guys.

14 MR. FERRARIO: You know what, Your Honor --

15 MR. PEEK: It's not your turn, Don.

16 THE COURT: Can we just stop.

17 MR. FERRARIO: If that's -- if that's the Court's
18 finding because that --

19 THE COURT: I also gave that benefit to Ms. Wynn
20 during the time where we were having her documents reviewed.
21 I gave her the same treatment.

22 MR. FERRARIO: With that clarification I'm cool with
23 that, Judge, okay. But there's other information in there, as
24 well, that we addressed in our motion.

25 THE COURT: Well, we all know about the other

1 information.

2 MR. CAMPBELL: Your Honor, with respect to the help,
3 that's confidential. She -- they can talk to her about the
4 health information. She just can't go out and start talking
5 to everybody else as she has done.

6 MR. FERRARIO: We don't want a whole lot of talk
7 about it.

8 MR. CAMPBELL: She does it all the time.

9 MR. FERRARIO: No, she doesn't.

10 THE COURT: Guys.

11 MR. FERRARIO: You guys make --

12 THE COURT: Guys. Stop. We've had issues where
13 there have been communications that might have been
14 appropriate. That's why I scheduled an evidentiary hearing on
15 sanctions related to that. Remember? Some day I'm going to
16 get there.

17 MR. FERRARIO: Uh-huh.

18 THE COURT: Okay.

19 MR. FERRARIO: Yeah. We would already have been
20 there had they availed themselves of the deposition that I
21 offered --

22 THE COURT: Guys.

23 MR. FERRARIO: -- a month ago to undercut the
24 argument that we're running from it.

25 THE COURT: Are we done?

1 MR. FERRARIO: Yes.

2 THE COURT: Thank you.

3 So to the extent the information in the depositions
4 relates to a personal medical condition it will remain
5 protected and will not be disclosed in violation of the
6 protective orders to anyone.

7 MR. FERRARIO: With that clarification we're fine,
8 Judge.

9 THE COURT: Okay. With respect to Ms. Whennen I
10 have previously made a ruling about her notes. I think you
11 guys have run a writ, so it's premature for me to rule on some
12 of the information related to Ms. Wynn.

13 MR. PISANELLI: Thank you.

14 THE COURT: Okay. Anything else? Did you have
15 anything else today before I see you next Monday?

16 MR. PISANELLI: No, Your Honor. Thank you very
17 much.

18 MS. SPINELLI: Yes.

19 THE COURT: All of the motions to seal -- wait. All
20 of the motions --

21 Yes?

22 MR. KRAKOFF: There's one other motion on the
23 calendar for today.

24 THE COURT: Which one?

25 MR. KRAKOFF: The post-redemption Freeh documents.

1 MR. FERRARIO: Your Honor --

2 THE COURT: It is on the calendar for today.

3 MR. FERRARIO: -- on that last one, the settlement
4 -- there was a whole litany of things in there. We can't
5 address it in 30 seconds. There was the settlement agreement,
6 there's all sorts of stuff that was addressed.

7 THE COURT: There is. And I am very concerned given
8 the original brief that was filed by your side that wasn't
9 sealed timely that we had some issues, and I want to make sure
10 we don't disclose that information. So I'm concerned about
11 it.

12 MR. FERRARIO: No. Remember we did seal that
13 timely.

14 THE COURT: I know.

15 MR. FERRARIO: We just hadn't provided you with --

16 THE COURT: No. The second one.

17 MR. FERRARIO: I don't remember that one. But the
18 first one when you raised that issue we in fact had done it
19 appropriately and we just hadn't given you a copy. There have
20 been no issues that I'm aware of in that regard. So we need a
21 ruling on that, as well.

22 THE COURT: Okay. Anything else?

23 MR. FERRARIO: Nope.

24 THE COURT: All right. So given the pendency of the
25 writ on those issues I am not going to rule on that yet. I'm

1 going to wait for a resolution on that.

2 You said you have one more, Mr. Krakoff.

3 MR. KRAKOFF: Yeah. It's the post-redemption Freeh
4 documents, Your Honor.

5 The problem we have, Your Honor, is that --

6 THE COURT: And you know you're out of time; right?
7 Because your friend Mr. Peek used it all. But you can say
8 something really quick.

9 MR. KRAKOFF: Okay. Really quick. Here's the
10 problem. Wynn's privilege cause in its privilege logs are
11 totally unreliable. There's no way to trust them. And we've
12 demonstrated that, Your Honor, in our motion and the exhibits
13 that we attached to our motion that show that at least
14 50 documents that we can tell from those privilege logs, that
15 is, the descriptions are not privileged. That's what the
16 Court asked us to do when we were here before. We've done
17 that, and there's just no way to trust their cause. And we
18 know when the Court gave us the opportunity to select
19 25 documents ourselves from their totally vague privilege logs
20 that 11 out of 25, 44 percent were not privileged.

21 Our position, Your Honor, is that that says that
22 Wynn should no longer be the arbiter of what is produced here
23 or not. Unfortunately, it leads to the odious situation where
24 we ask the Court respectfully to conduct a review of a
25 statistically valid --

1 THE COURT: I can't do a statistically valid sample
2 anymore. The Nevada Supreme Court said in Footnote Number I
3 think it was 6 in the last writ issued to me that I can no
4 longer do that.

5 MR. KRAKOFF: Okay. Well --

6 THE COURT: It was a good try, though. Well, when
7 it's even in this case, you know.

8 MR. KRAKOFF: Well, okay. We don't even have to
9 have a statistically valid one. But, Your Honor, we ask and
10 implore the Court to go behind the privilege cause. Because
11 what we see and what they produced is -- there's documents
12 that they haven't produced that are the same as documents they
13 have produced. There are documents that are word-for-word
14 notes of interviews, which aren't protected by work product.
15 So time and time again, even from the little we can see from
16 the privilege logs, they're not reliable.

17 So we had suggested 330, because that's
18 statistically valid. Okay. Don't have to go there. But we
19 would ask the Court to select -- to review at least between 50
20 and a hundred randomly selected documents.

21 THE COURT: I can't do that, Mr. Krakoff.

22 So it's either all or nothing is the way that it has
23 to work now. And the question that has been raised by the
24 Wynn parties is you need to specifically identify those
25 documents that you want me to review. Since I have to review

1 all of the documents, according to the Supreme Court's latest
2 missive in this case, then you will do a better job at
3 identifying the documents.

4 MR. KRAKOFF: Here's the problem, Your Honor,
5 respectfully. The privilege logs of some 2400 documents are
6 vague, they're general. We've done our best based upon what
7 we've seen. And we've provided to the Court -- because we
8 don't want to --

9 THE COURT: I cannot do a representative sample.

10 MR. KRAKOFF: Okay.

11 THE COURT: Can't do it.

12 MR. KRAKOFF: All right.

13 THE COURT: I need you to better identify the
14 specific documents that you are challenging the privilege out
15 of the ones that you claim, rather than telling me to review a
16 statistically relevant sample, which I used to agree with you,
17 I thought I could do. But not anymore.

18 MR. KRAKOFF: Well, we've identified 50. We're
19 trying to be professional and respect our professional
20 obligations and not overload the Court with more than is
21 necessary. But really we have --

22 THE COURT: I don't want you to do that. I want you
23 to identify for me those that you have a challenge to.

24 MR. KRAKOFF: Okay.

25 THE COURT: And if it's all of them but two, that's

1 okay, I will deal with it. It just takes longer when it's
2 2400 or 4,000 or whatever.

3 MR. KRAKOFF: Understood. Understood. We will do
4 that.

5 THE COURT: Okay. When will you do that by?

6 MR. KRAKOFF: We will do that by the end of this
7 week.

8 THE COURT: No, you won't.

9 Mr. Cassity, how long is it going to take?

10 MR. PEEK: Actually, look at Mr. Miller, Your Honor.

11 THE COURT: Okay. Mr. Miller and Mr. Cassity are
12 talking.

13 MR. CASSITY: A week, Your Honor.

14 THE COURT: How much?

15 MR. CASSITY: A week.

16 MR. KRAKOFF: You see? My estimate wasn't that bad.

17 MR. PEEK: And, Your Honor, frankly, what you'll
18 also see is that the descriptions are so vague that the entire
19 privilege is waived.

20 THE COURT: Mr. Peek, you will remember that I've
21 already done an in-camera review on these documents. I just
22 didn't review them all.

23 MR. KRAKOFF: Thank you, Your Honor.

24 MS. SPINELLI: Your Honor, I must for the record
25 speak.

1 THE COURT: And?

2 MS. SPINELLI: And I have to say that the comments
3 about our vague privilege log is wrong. Your Honor directed
4 us -- we gave --

5 THE COURT: Ms. Spinelli, I'm not yelling at you
6 today.

7 MS. SPINELLI: No, I understand that. But for
8 purposes of a record, because it will likely go up from
9 whomever, we reviewed all of the post-redemption documents and
10 gave the seventh supplemental privilege log. I don't
11 understand why it's so confounding that these descriptions
12 actually go into great detail even from their select ones that
13 they never gave me but they gave Your Honor, talking about
14 legal services related to things, legal services and
15 information needed for the provision of legal services
16 regarding scheduling of interviews. The scheduling documents
17 were released, Your Honor. That's why they want you to review
18 everything. Because in good-faith meet and confers we
19 actually acted in good faith.

20 The air travel request, legal services related to
21 them, legal advice about what you can and cannot do for
22 witnesses. It is not so confounding that people seek legal
23 advice before they act, especially when the circumstances are
24 so high stakes. So, yes, the logistical information was
25 produced because Your Honor told us to. We're not releasing

1 -- producing our privileged communications with requests for
2 legal advice. We're just not doing it. And Your Honor
3 already ruled that there was a privileged relationship between
4 Freeh post-redemption and pre-redemption there was, too,
5 except it was waived.

6 THE COURT: I ruled there was an attorney-client
7 relationship.

8 MS. SPINELLI: That's right, Your Honor.

9 THE COURT: Okay. So you're going to give me
10 another list, and you're going to then make sure a copy goes
11 to Ms. Spinelli so that she then has the opportunity to put a
12 second set of eyes on any of those, see if she wants to
13 release any of them before I review them. And then we'll talk
14 about -- at our next hearing we will talk about a timing
15 issue. Okay?

16 MS. SPINELLI: Depending upon how many they give me?

17 THE COURT: Correct.

18 MS. SPINELLI: Thank you, Your Honor.

19 THE COURT: You understand how it works sometimes.

20 So is it okay if I advance all of the motions to
21 redact and seal that were on calendar in addition to the one
22 I've already ruled on and grant them?

23 MR. PEEK: Yes, Your Honor.

24 THE COURT: Okay. Anything else anybody wants to
25 tell me?

1 MR. PISANELLI: No, Your Honor. Thank you.

2 MR. PEEK: Your Honor, the status reports?

3 THE COURT: I'm not going to discuss your status
4 report until we have the hearing on that issue next week,
5 although I am interested to see that your discovery master
6 related to the Wynn production and the Okada production is
7 moving at a slower pace than you'd thought. Okay.

8 MS. SPINELLI: Slower pace?

9 THE COURT: Slower.

10 MR. MILLER: Your Honor, he is continuing to make
11 progress.

12 THE COURT: I understand. It's just it's a lot of
13 work.

14 Mr. Peek, can you give this to somebody on the other
15 team, the other team being Ferrario's people.

16 Is that Wynn's, or is it Elaine Wynn's? It looks
17 like Elaine Wynn's to me, Mr. Ferrario. Is it Elaine Wynn, or
18 Pisanelli, the document Mr. Peek just handed you.

19 I thought it was his. It's Ferrario's.

20 MR. PEEK: Yeah. You told me to give it to
21 Ferrario, so I am.

22 THE COURT: So I'm also advancing the motion to
23 redact filed by Wynn Resorts. I'm advancing it today. I'd
24 really like us not to do that anymore. Okay.

25 THE PROCEEDINGS CONCLUDED AT 8:54 A.M.

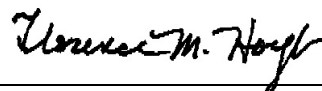
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146



FLORENCE M. HOYT, TRANSCRIBER

9/26/17

DATE