

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 85804

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Elizabeth A. Brown
Clerk of Supreme Court

STEVE WYNN,

Appellant,

v.

THE ASSOCIATED PRESS; REGINA GARCIA CANO

Respondent.

**JOINT APPENDIX IN SUPPORT OF
STEVE WYNN'S OPENING BRIEF**

VOLUME 1 OF 4

On appeal from the Eighth Judicial District Court, Clark County
The Honorable Ronald J. Israel, Department XXVIII
District Court Case No. A-18-772715-C

Todd L. Bice, Esq., Bar No. 4534
Jordan T. Smith, Esq., Bar No. 12097
Emily A. Buchwald, Esq., Bar No. 13442
Daniel R. Brady, Esq., Bar No. 15508
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

Attorneys for Appellant Steve Wynn

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13.	Errata to the Associated Press Defendants' Renewed Special Motion to Dismiss Pursuant to N.R.S. § 41.660 (Anti-SLAPP Statute)	7/15/2022	2	JA00396-400
14.	Plaintiff Steve Wynn's Opposition to the Associated Press Defendants' Renewed Special Motion to Dismiss Pursuant to N.R.S. § 41.660 (Anti-SLAPP Statute)	8/9/2022	3	JA00401-492
15.	Reply in Support of the Associated Press Defendants' Renewed Special Motion to Dismiss Pursuant to N.R.S. § 41.660 (Anti-SLAPP Statute)	8/23/2022	3	JA00493-537
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DATED this 1st day of May 2023.

PISANELLI BICE PLLC

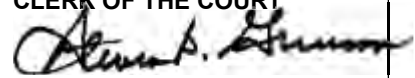
By: /s/ Todd L. Bice
Todd L. Bice, Esq., Bar No. 4534
Jordan T. Smith, Esq., Bar No. 12097
Emily A. Buchwald, Esq., Bar No. 13442
Daniel R. Brady, Esq., Bar No. 15508
400 South 7th Street. Suite 300
Las Vegas, Nevada 89101

Attorneys for Appellant Steve Wynn

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 1st day of May 2023, I electronically filed and served by electronic mail a true and correct copy of the above and foregoing **JOINT APPENDIX IN SUPPORT OF STEVE WYNN'S OPENING BRIEF** properly addressed to the following:

/s/ Shannon Dinkel
An employee of PISANELLI BICE PLLC



COMP

TAMARA BEATTY PETERSON, ESQ., Bar No. 5218

tpeterson@petersonbaker.com

NIKKI L. BAKER, ESQ., Bar No. 6562

nbaker@petersonbaker.com

PETERSON BAKER, PLLC

10001 Park Run Drive

Las Vegas, NV 89145

Telephone: 702.786.1001

Facsimile: 702.786.1002

L. LIN WOOD, ESQ. (*will seek admission pro hac vice*)

lwood@linwoodlaw.com

NICOLE JENNINGS WADE, ESQ. (*will seek admission pro hac vice*)

nwade@linwoodlaw.com

G. TAYLOR WILSON, ESQ. (*will seek admission pro hac vice*)

twilson@linwoodlaw.com

L. LIN WOOD, P.C.

1180 West Peachtree Street, Suite 2400

Atlanta, Georgia 30309

Telephone: 404.891.1402

Facsimile: 404.506.9111

Attorneys for Plaintiff Steve Wynn

DISTRICT COURT

CLARK COUNTY, NEVADA

A-18-772715-C

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,

Defendants.

Case No.:

Dept. No.:

Department 14

COMPLAINT FOR DEFAMATION

(Jury Trial Demanded)

COMES NOW Plaintiff, Steve Wynn, and respectfully states his Complaint for Defamation against Defendants The Associated Press, Regina Garcia Cano, and Halina Kuta (collectively, "Defendants"), as follows:

INTRODUCTION AND FACTUAL BACKGROUND

1. Plaintiff Steve Wynn ("Mr. Wynn") brings this action to obtain legal redress for false accusations of rape published by Defendants with actual malice.

JA00001

2. The facts that form the basis for this Complaint for Defamation underscore the tragic reality that false accusations of rape and sexual assault can be too often used to further personal agendas.

3. The facts that form the basis for this Complaint further demonstrate the devastating impact that occurs to the falsely accused individual when false accusations of rape and sexual assault are embraced and conveyed to the world by a prominent member of the mainstream media.

4. The agenda to smear Mr. Wynn commenced on August 28, 2017, when Defendant Halina Kuta ("Defendant Kuta"), *pro se*, filed a lawsuit seeking in excess of \$4 million against Mr. Wynn in the United States District Court for the District of Nevada, Case No. 2:17-cv-02285-RFB-CWH (the "Kuta Lawsuit"), a true and correct copy of which is attached hereto as *Exhibit 1* and by reference made a part hereof.

5. No member of the media, including Defendant The Associated Press, reported on the filing of the Kuta Lawsuit – almost certainly because it was so outrageous, false and inherently improbable on its face that no reasonable person would believe any of the accusations set forth by Defendant Kuta.

6. In the Kuta Lawsuit, Defendant Kuta made the outrageous, false and inherently improbable accusation that Mr. Wynn orchestrated the July 26, 1993, kidnapping of his daughter, Kevyn, and that Mr. Wynn's ultimate objective was to have Defendant Kuta and Kevyn murdered.

7. Unconstrained by truth, Defendant Kuta falsely stated in the Kuta Lawsuit that Kevyn is her daughter and that Mr. Wynn had his daughter kidnapped in Las Vegas and driven in the trunk of a car to Defendant Kuta's hotel in Texas.

8. It is an undisputed and well-known fact that Kevyn is the daughter of Mr. Wynn and his ex-wife, Elaine Wynn.

9. It is an undisputed and well-known fact that Mr. Wynn paid a \$1.45 Million ransom for his daughter's safe return.

10. It is an undisputed and well-known fact that Kevyn's kidnappers were arrested, convicted, and sent to prison for their crimes.

11. Defendant Kuta made no accusation of rape against Mr. Wynn in the Kuta Lawsuit.

12. On March 28, 2018, United States Magistrate Judge C.W. Hoffman, Jr. issued a Report & Recommendation in the Kuta Lawsuit finding, among other things, that the Kuta Lawsuit was "incoherent" and described "a clearly fanciful or delusional scenario."

13. On or about January 26, 2018, *The Wall Street Journal* published online an article accusing Mr. Wynn of a decades-long pattern of sexual misconduct ("the January 26 *Journal* article").

14. Mr. Wynn responded to the January 26 *Journal* article, stating, "[t]he idea that I ever assaulted any woman is preposterous" and "[w]e find ourselves in a world where people can make allegations, regardless of the truth, and a person is left with the choice of weathering insulting publicity or engaging in multi-year lawsuits. It is deplorable for anyone to find themselves in this situation."

15. After the publication of the January 26 *Journal* article, Mr. Wynn became a multi-billionaire target of a media and legal frenzy of false accusations, including false accusations of rape.

16. On February 7, 2018 – approximately 10 days after the January 26 *Journal* article – Defendant Kuta filed a false police report against Mr. Wynn, a true and correct copy of which is attached hereto as *Exhibit 2* and by reference made a part hereof (the "Police Report").

17. If reported fairly, completely, accurately, and impartially, the Police Report, like the Kuta Lawsuit, is outrageous, false and inherently improbable on its face, and the timing of its filing by Defendant Kuta is extremely suspect.

18. In the Police Report, Defendant Kuta, again claiming to be the mother of Mr. Wynn's child, also stated that she was Mr. Wynn's wife.

19. In the Police Report, Defendant Kuta made the false accusation that she had been raped by Mr. Wynn repeatedly in her Chicago apartment in 1973-1974.

20. The Kuta Lawsuit makes no accusation of rape against Mr. Wynn.

21. In the Police Report, Defendant Kuta also stated that she gave birth to Mr. Wynn's daughter as a result of the purported rape(s).

22. It is an undisputed fact that Kevyn was born in 1967 at the George Washington University Hospital in Washington, D.C., at least seven (7) years prior to the year in which Defendant Kuta claims to have been raped and conceived Kevyn.

23. Kevyn was kidnapped from her Spanish Trail condominium in Las Vegas. The ransom paid for her release was paid in Las Vegas. And, she was recovered at 1:00 a.m. the next day at McCarran International Airport and then she was immediately debriefed by the FBI at The Mirage.

24. Defendant Kuta's accusations in the Police Report are as outrageous, false and inherently improbable on the face of the report as the accusations made against Mr. Wynn in the Kuta Lawsuit.

25. Despite the fact that the accusations in the Police Report are outrageous, false and inherently improbable on the face of the report, on February 27, 2018, Defendants The Associated Press and Regina Garcia Cano (collectively, the "AP Defendants") published an article titled "APNewsBreak: Woman tells police Steve Wynn raped her in '70s," a copy of which is attached hereto as *Exhibit 3* and incorporated by reference herein (the "AP Article").

26. The AP Article is based on the Police Report entered on February 7, 2018, alleging conduct that occurred nearly forty-five (45) years ago.

27. While it is unknown to Mr. Wynn at this time how the AP Defendants obtained a copy of the Police Report, it is known that the AP Defendants did not request the Police Report through an open records request.

28. The Police Report contained a nineteen-line narrative, yet the AP Defendants intentionally chose to incompletely and unfairly report only the fact that a police report had been filed which accused Mr. Wynn of rape.

29. The AP Defendants intentionally chose to incompletely and unfairly describe the Police Report by omitting from the AP Article the additional outrageous, false and inherently improbable accusations found on the face of the Police Report.

30. Specifically, the AP Defendants intentionally omitted from the AP Article the outrageous, false and inherently improbable accusations of the Police Report as follows:

1 She ended up pregnant. It was a hot steamy afternoon and she needed to go to the
2 restroom. She saw a gas station and went into the restroom. She was in pain
3 standing by the wall and gave birth. The baby was laying on her feet inside the
4 water bag. She slid down and said a doll is inside the water bag, the blood falling
5 down, and she wanted to open, but the water bag was thick. She used her teeth to
6 make a small opening then with her finger, opened the water bag and saw that the
7 doll was purple. She started to blow on her and in a short time her cheeks were
8 turning pink and she opened her eyes. She looked so much like her.

9 31. Despite the outrageous, false and inherently improbable accusations in the Police
10 Report, the AP Defendants knowingly omitted the statements set forth in Paragraph 30 above and
11 only published the criminal accusation that Mr. Wynn had raped a woman – a crime punishable by
12 up to a life sentence in prison.

13 32. The AP Article falsely stated that it was unclear how Mr. Wynn and the claimant
14 knew each other, intentionally omitting the undisputed fact that Defendant Kuta stated in the Police
15 Report that she was Mr. Wynn's spouse.

16 33. As a newswire service, Defendant The Associated Press knew and intended that the
17 AP Article would be republished in other media outlets on a widespread basis.

18 34. Defendant The Associated Press recognizes that members of the media are granted
19 significant protections from defamation actions for false statements republished from a newswire
20 report.

21 35. Indeed, the AP Defendants created a media frenzy of accusations against Mr. Wynn
22 when, as was a foreseeable and intentional consequence to the AP Defendants, a multitude of the
23 national and international news media republished the salacious and sensational accusations of rape
24 against Mr. Wynn.

25 36. The false AP Article was republished by, among others, the following media outlets:
26 The Wall Street Journal, CBS, CNBC, Chicago Tribune, Boston Herald, Newsweek, Oxygen,
27 Time, Huffington Post, LA Times, Fox News, The New York Times, Yahoo, Hollywood Reporter,
28 The Wrap, and NY Daily News.

37. Media outlets republished the AP Article and its accusations under the mistaken
belief that the AP Defendants had fairly, completely, accurately, and impartially reported on the
Police Report.

1 38. The accusations by Defendant Kuta in the Police Report were published with actual
2 malice.

3 39. At the time that she filed the Police Report, Defendant Kuta knew that her
4 accusations of rape, marriage and paternity of her alleged child were false.

5 40. A false rape accusation is a profoundly evil act with devastating effects on the life
6 and reputation of the individual falsely accused.

7 41. Defendants' false accusations of rape paint a target on Mr. Wynn's back and amount
8 to a public declaration that it is open season for other individuals and entities to falsely accuse Mr.
9 Wynn and profit by creating salacious headlines and/or engaging in actions designed to extort
10 money from him.

11 42. With the filing of this Complaint for Defamation, Mr. Wynn exercises the only
12 option available to him in our legal system to fight these false accusations – haling Defendants into
13 a court of law to hold them legally accountable for their wrongdoing.

14 43. The country's system of justice is founded on the principle that all individuals are
15 innocent until proven guilty.

16 44. Under the circumstances surrounding the Defendants' false accusations of rape, the
17 bedrock principle of "innocent until proven guilty" has been dangerously converted into "guilty by
18 accusation," which imposes the burden on Mr. Wynn to prove his innocence.

19 45. With the filing of this Complaint for Defamation, Mr. Wynn takes on this perversion
20 of our justice system in order to establish his innocence and make abundantly clear his intention
21 and willingness to fight Defendants' false accusations of rape and hold Defendants accountable for
22 their wrongdoing.

23 **PARTIES, JURISDICTION, AND VENUE**

24 46. Mr. Wynn is an individual who resides in Las Vegas, Clark County, Nevada.

25 47. Mr. Wynn is a visionary, a successful businessman, and a philanthropist.

26 48. Mr. Wynn has been active in the casino and resort development in Las Vegas and
27 beyond for more than forty-five (45) years.
28

1 49. Mr. Wynn is well-known and recognized for his role in the revitalization of the Las
2 Vegas Strip in the 1990s.

3 50. Mr. Wynn is the entrepreneurial figure behind many of Las Vegas's most distinctive
4 resorts, including The Mirage, Treasure Island, Bellagio, Encore and Wynn Las Vegas.

5 51. In its March 2011 issue, Barron's Magazine recognized Mr. Wynn as one of the top
6 30 World's Best CEOs.

7 52. In November of 2014, Mr. Wynn was ranked 17th out of the world's 100 best-
8 performing CEOs by Harvard Business Review.

9 53. In its December 2017 100th Anniversary Issue, Forbes Magazine featured an essay
10 by Mr. Wynn, recognizing him as one of the 100 Greatest Business Minds.

11 54. Defendant The Associated Press (hereinafter the "AP") is a foreign corporation with
12 its principal place of business located at 200 Liberty Street, New York, New York 10281. Service
13 of process can be perfected upon the AP by service of the Complaint and Summons upon its
14 registered agent, CSC Services of Nevada, Inc., at its registered office, 2215-B Renaissance Dr.,
15 Las Vegas, Nevada 89119.

16 55. Defendant Regina Garcia Cano ("Defendant Cano") is an individual who resides in
17 Las Vegas, Clark County, Nevada. Service of process can be perfected upon Defendant Cano by
18 service of the Complaint and Summons at her residence.

19 56. Defendant Cano is a reporter employed by the AP and wrote the AP Article.

20 57. At all times relevant to this action, Defendant Cano acted as an agent and employee
21 of the AP and was acting within the scope of her agency relationship with the AP.

22 58. Defendant Kuta is an individual who resides in Las Vegas, Clark County, Nevada.
23 Service of process can be perfected upon Defendant Kuta by service of the Complaint and
24 Summons at her residence.

25 59. DOES I-X are fictitious names for individuals, who may or may not be employees,
26 agents, and/or representatives of the AP. Mr. Wynn is ignorant of the true names and capacities of
27 defendants sued herein as DOES, and therefore sues these defendants by such fictitious names. Mr.
28 Wynn is informed, believes, and thereon alleges that each of the fictitiously named defendants is

1 legally responsible, either intentionally, negligently, or in some other actionable manner, for the
2 events and happenings hereinafter referred to and thereby legally caused the injuries, damages, and
3 violations hereinafter alleged. Mr. Wynn will request leave of court to amend this Complaint and
4 insert the true names and capacities of said fictitiously named defendants when the same have been
5 ascertained.

6 60. The AP Defendants transact business in the State of Nevada and have committed
7 tortious acts in the State of Nevada.

8 61. Defendants' activities within the State of Nevada are substantial, continuous, and
9 systematic.

10 62. The AP Defendants published the AP Article in the State of Nevada.

11 63. Defendant Kuta published the Police Report in the State of Nevada.

12 64. Defendants directed their tortious conduct at Mr. Wynn, a citizen of Nevada.

13 65. The AP Defendants have wide and regular circulation and readership in Nevada.

14 66. The AP Defendants have sought and obtained benefits from their tortious acts in
15 Nevada.

16 67. Mr. Wynn suffered injury in Nevada, as well as on a national and international basis.

17 68. Defendants reasonably anticipated being haled into court in Nevada to answer for
18 the falsity of their accusations against Mr. Wynn.

19 69. Sufficient contacts exist with respect to this action and the State of Nevada to satisfy
20 the requirements of due process as to each of the Defendants.

21 70. This Court has both specific and general jurisdiction of each of the Defendants.

22 71. Venue of this action is proper in this County pursuant to NRS 13.040.

23 **CAUSE OF ACTION FOR DEFAMATION**

24 72. Mr. Wynn reasserts and incorporates by reference paragraphs 1 through 71 of this
25 Complaint for Defamation as if fully restated herein.

26 73. As set forth above, Defendant Kuta falsely, maliciously, and otherwise published in
27 bad faith the accusation that Mr. Wynn broke into her apartment and raped her and that Defendant
28 Kuta gave birth to Mr. Wynn's daughter, Kevyn.

1 74. Upon information and belief, Defendant Kuta also published to third-parties outside
2 of and in addition to her publications in the Police Report and the Kuta Lawsuit that Mr. Wynn
3 orchestrated Kevyn's kidnapping for the ultimate purpose of having Kevyn and Defendant Kuta
4 murdered.

5 75. As set forth above, the AP Defendants published without privilege the AP Article
6 conveying the false and defamatory gist that Mr. Wynn is a criminal who broke into Defendant
7 Kuta's home and raped her on multiple occasions.

8 76. In particular, the headline of the AP Article is false and defamatory *per se* in the
9 context of the article in its entirety.

10 77. Further, the AP Defendants published the following false and defamatory statements
11 in the AP Article:

12 A woman told police she had a child with casino mogul Steve Wynn after he raped
13 her . . . One police report obtained by Defendants shows a woman told officers that
14 Mr. Wynn raped her at least three times around 1973 and 1974 at her Chicago
15 apartment. She reported she got pregnant and gave birth to a girl in a gas station.
16 The woman, the child of the accuser and Wynn, now lives in Las Vegas . . . In one
17 instance, the woman claimed that Wynn pinned her against the refrigerator and
18 raped her. She said he then made a phone call, kissed her on the cheek and left.
19 The report does not explain how Wynn is alleged to have entered the apartment or
20 if they knew each other. The woman claimed she did not give him a key.

21 78. Defendants' accusations against Mr. Wynn are false and convey the provably false
22 fact that Mr. Wynn raped Defendant Kuta and fathered her child.

23 79. Defendants' accusations are false and defamatory *per se*, and damages to Mr. Wynn
24 are presumed as a matter of law.

25 80. As set forth above, the AP Defendants published the false and defamatory
26 accusations described herein with actual malice in that they published the AP Article and their
27 accusations with knowledge of falsity and with a reckless disregard for the truth.

28 81. Defendant Kuta published and/or uttered the false and defamatory statements
described herein with actual malice in that she knew she was lying.

 82. The AP Defendants are not entitled under the law to defend their actions under a
claim of fair report.

1 83. The AP Defendants did not publish a fair, accurate, complete or impartial report of
2 the relevant contents of the Police Report.

3 84. The AP Defendants omitted from the AP Article the following portion of the bizarre
4 narrative from the Police Report ("the omitted portions"):

5 She ended up pregnant. It was a hot steamy afternoon and she needed to go to the
6 restroom. She saw a gas station and went into the restroom. She was in pain
7 standing by the wall and gave birth. The baby was laying on her feet inside the
8 water bag. She slid down and said a doll is inside the water bag, the blood falling
9 down, and she wanted to open, but the water bag was thick. She used her teeth to
10 make a small opening then with her finger, opened the water bag and saw that the
11 doll was purple. She started to blow on her and in a short time her cheeks were
12 turning pink and she opened her eyes. She looked so much like her.

13 85. Upon information and belief, the AP Defendants knew or should have known about
14 the existence of the Kuta Lawsuit but failed to consider or disclose its outrageous, false and
15 inherently improbable accusations, evidencing the AP Defendants' publication with actual malice.

16 86. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
17 truth, the AP Defendants failed to publish a fair, complete, accurate, and/or unbiased account of the
18 Police Report, rendering the AP Article non-privileged.

19 87. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
20 truth, the AP Defendants failed to include the omitted portions of the Police Report.

21 88. The omitted portions of the Police Report would have conveyed to the average
22 reader that the accusations of rape were false and described a clearly fanciful or delusional scenario.

23 89. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
24 truth, the AP Defendants failed to include Defendant Kuta's accusation that she was Mr. Wynn's
25 spouse when, as a matter of public fact, she was not – and indeed, she did not even spell his name
26 correctly, the same error being found in the Kuta Lawsuit.

27 90. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
28 truth, the AP Defendants published the AP Article despite the accusations contained therein being
so inherently improbable on their face as to raise serious doubts about their truth.

1 91. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
2 truth, the AP Defendants relied upon a report that was unreliable and incredible on its face.

3 92. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
4 truth, the AP Defendants knew that the Police Report had been filed over forty (40) years after the
5 alleged incidents giving rise to the accusations of rape had allegedly occurred.

6 93. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
7 truth, the AP Defendants knowingly and purposefully avoided discovery of the truth and ignored
8 evidence establishing the falsity of the AP Article.

9 94. Evidencing the AP Defendants' knowledge of falsity and reckless disregard for the
10 truth, the AP Defendants conducted no investigation into their accusations prior to publication
11 despite the serious criminal accusations they were publishing against Mr. Wynn.

12 95. On March 26, 2018, Mr. Wynn demanded in writing a retraction from the AP.

13 96. On April 11, 2018, the AP Defendants notified Mr. Wynn's counsel in writing that
14 they were refusing to correct the false, defamatory, unfair, inaccurate, incomplete and biased AP
15 Article.

16 97. As a direct and proximate result of Defendants' false and defamatory publications,
17 Mr. Wynn has suffered public hatred, contempt, scorn, and ridicule, and has suffered damages in
18 amount to be proven at trial, but in any event, in excess of \$15,000.

19 98. Because the Defendants accusations are defamatory *per se*, damages to Mr. Wynn
20 are presumed.

21 99. Defendants are liable for each republication of their publications.

22 100. Defendants' conduct was willful and demonstrates that entire want of care that raises
23 a conscious indifference to consequences. Mr. Wynn is entitled to an award of punitive damages
24 to punish Defendants for their unlawful conduct and to deter them from repeating such misconduct
25 in the future.

26 101. Defendants published their false and defamatory accusations and the AP Article
27 with Constitutional malice, thereby entitling Mr. Wynn to an award of punitive damages.
28

102. Defendants are joint tortfeasors and are jointly and severally liable for the false and defamatory accusations set forth herein.

WHEREFORE, Plaintiff, Steve Wynn, prays for Judgment as follows:

(a) That judgment be entered against Defendants, jointly and severally, for compensatory damages in an amount in excess of Fifteen Thousand Dollars (\$15,000);

(b) That judgment be entered against Defendants, jointly and severally, for punitive damages to punish and deter Defendants in an amount to be determined by the enlightened conscience of the jury;

(c) That Defendants be ordered to retract and correct their false and defamatory accusations in as conspicuous a manner as they were originally published;

(d) That Mr. Wynn recover his reasonable attorneys' fees and expenses from Defendants;

(e) That all costs of this action be taxed to Defendants; and

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(f) That the Court grant all such other and further relief as the Court deems just and proper.

Respectfully submitted this 11th day of April, 2018.

PETERSON BAKER, PLLC

By: /s/ Tamara Beatty Peterson

TAMARA BEATTY PETERSON, ESQ., Bar No. 5218

tpeterson@petersonbaker.com

NIKKI L. BAKER, ESQ., Bar No. 6562

nbaker@petersonbaker.com

10001 Park Run Drive

Las Vegas, NV 89145

Telephone: 702.786.1001

Facsimile: 702.786.1002

L. LIN WOOD, ESQ.

(will seek admission pro hac vice)

lwood@linwoodlaw.com

NICOLE JENNINGS WADE, ESQ.

(will seek admission pro hac vice)

nwade@linwoodlaw.com

G. TAYLOR WILSON, ESQ.

(will seek admission pro hac vice)

twilson@linwoodlaw.com

L. LIN WOOD, P.C.

1180 West Peachtree Street, Suite 2400

Atlanta, Georgia 30309

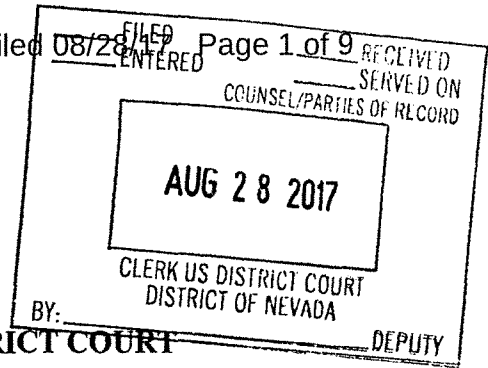
Telephone: 404.891.1402

Facsimile: 404.506.9111

Attorneys for Plaintiff Steve Wynn

EXHIBIT 1

EXHIBIT 1



Halina Kuta
6921 Kim Avenue
Las Vegas, Nevada 89145
In Proper Person

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Halina Kuta,

2:17-cv-02285-RFB-CWH

Plaintiff,

vs.

Depl NO..

Stephan Allen Wynn, ROES I – X, DOES
XI-XXX, Inclusive,

Defendant.

COMPLAINT
(DEMAND FOR JURY TRIAL)

COMES NOW, Plaintiff, HALINA KUTA, in proper person, complains and alleges as follows:

PRELIMINARY ALLEGATIONS

- 1) Plaintiff brings this action seeking to put an immediate stop to, and to obtain redress for, Defendants' blatant and purposeful dishonesty in a federal investigation, as to the kidnapping of Kevyn Wynn;
- 2) Defendants' conduct is causing, and unless immediately enjoined will continue to cause, enormous and irreparable harm to Plaintiff. Defendants may not continue to exploit Defendant without authorization in order to retain funds improperly held in his possession;
- 3) Defendants' conduct must immediately be stopped and Plaintiff must be compensated for Defendant's willful acts of perjury;

- 1 4) At all times mentioned herein, the Plaintiff was and is a resident of Las Vegas, Nevada;
- 2 5) Upon information and belief, at all times mentioned herein, Defendant, Stephan Allen Wynn,
- 3 is and was an individual residing in the State of Nevada;
- 4 6) Upon information and belief, at all times mentioned herein, Defendant, Stephan Allen Wynn,
- 5 is and was an entity operating in the State of Nevada;
- 6 7) That the true names and capacities, whether individual, corporate, associate or otherwise, of
- 7 Defendants DOES I through X, inclusive, are unknown to Plaintiffs, who therefore sue said
- 8 Defendants by such fictitious names; and; therefore, sues these Defendants by such fictitious
- 9 names. Plaintiff prays leave to amend this Complaint to allege their true names and
- 50 capacities when the same have been ascertained, as such:
- 11
- 12
- 13 i) Parties responsible in some manner for the events and happenings herein referred to
- 14 that caused injuries and damages thereby to the Plaintiff as herein alleged;
- 15 ii) Parties that are the agents, servants, employees and/or contractors of the Defendants,
- 16 each of them acting within the course and scope of their agency, employment or
- 17 contract;
- 18 iii) Parties that have assumed or retained the liabilities of any of the Defendants by virtue
- 19 of an agreement, sale, transfer or otherwise;
- 20 iv) The Plaintiffs will ask leave of the Court to amend this Complaint to insert the true
- 21 names and capacities of said Defendants, ROES 1-XX, inclusive, when the same have
- 22 been ascertained by the Plaintiff, together with appropriate charging allegations, and
- 23 to join said Defendants in the action;
- 24
- 25
- 26 8) The acts and omissions alleged hereafter occurred within Clark County, State of Nevada;
- 27
- 28

1 9) That to date Defendant has failed to properly compensate Plaintiff for the used material, as a
2 business venture;

3 10) That Plaintiff has fulfilled his obligations under the agreement; however, Defendant has failed
4 to fulfill their obligation.
5

6 **JURISDICTION AND VENUE**

7 11) This is a civil action seeking damages and injunctive relief for damages as a result of
8 Defendant perjury under oath, and blatant dishonesty, in accordance with the investigation as
9 to the kidnapping of Kevyn Wynn;
10

11 12) That Plaintiff is the biological mother of Kevyn Wynn, and has standing to proceed in this
12 action;
13

14 13) This Court has subject matter jurisdiction over the perjury actions of Defendant under oath 18
15 U.S.C. §1621;

16 14) This Court has personal jurisdiction over Defendants because, among other things,
17 Defendants are doing business in the State of Nevada and in this judicial district, the acts of
18 perjury under oath complained of herein occurred in the State of Nevada and in this judicial
19 district, and Defendants have caused injury to Plaintiff and intentional infliction of emotional
20 distress within the State of Nevada and in this judicial district;
21

22 15) Venue is proper in this district, and categories as a federal question;
23

24 **FIRST CAUSE OF ACTION**
25 **(Perjury Under Oath)**

26 16) Plaintiff re-alleges and incorporates by reference all preceding allegations of law and facts as
27 it fully set forth herein;
28

- 1 17) That the alleged kidnapping that of Kevyn Wynn occurred on July 23, 1993, was not an actual
2 kidnapping;
- 3 18) That Kevyn Wynn was placed into a trunk of a vehicle and driven for 18 hours to Defendant's
4 hotel, Holiday Vista Motel, in Harlingen, Texas;
- 5 19) Stephan did you ever wanders about all those young girls who got pregnant by you? You called
6 them "Young Polish Pigs";
- 7 20) The kidnapping of Kevyn Wynn took place, two kidnappers brought Kevin to Plaintiff's motel
8 Holiday Vista Motel in Harlingen Texas in an old car;
- 9 21) That Kevyn Wynn was seen in the trunk of the vehicle;
- 10 22) That one of the men came to the motel office, and paid for the suite they were staying in;
- 11 23) That the men were from Las Vegas, and he told Plaintiff that there was no room in the car that's
12 why their friend stayed in the trunk;
- 13 24) That three (3) days later one of the man with that young girl came to my office and the other
14 young black man stayed close by the office;
- 15 25) That the man who came to the office, his right eye was different from the other eye, and he was
16 shorter than Kevyn;
- 17 26) That Plaintiff saw the man holding the girl's arm behind her back, which can cause pain, and
18 the other hand he pulled a shining silver knife, and started moving left and right;
- 19 27) That Kevyn indicated that the man was hypnotizing Plaintiff, that woke Plaintiff up,
- 20 28) That Plaintiff could see that sharp silver slim knife is cutting Kevin's neck vertical and then that
21 knife blood was pointing at Plaintiff, and saying "you are next" then he held that knife
22 horizontal going forward to Kevyn's neck;
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- 1 29) That Plaintiff had two dogs German Shepherd and Doberman called Alex and Bluto when he
2 saw both dogs he dropped the knife and run out;
- 3 30) That Plaintiff was in shock Kevyn called 911, and the police came to make a report;
- 4 31) That Kevyn then called her father, Stephan Allen Wynn, and he told her that Plaintiff was her
5 mother;
- 6 32) That Defendant took the child from Plaintiff, without her permission;
- 7 33) That when Plaintiff's dogs, Alex and Bruto, were seen by the man, he immediately ran;
- 8 34) That Kevyn Wynn called the police for assistance;
- 9 35) That Defendant was fully aware that Kevyn Wynn was not kidnapped, and was in Harlingen,
10 Texas, with her mother, Defendant;
- 11 36) That Defendant purchased the ticket back to Las Vegas, Nevada, for Kevyn Wynn;
- 12 37) That although Plaintiff is not directing placing blame on the Harlingen Police Department, but
13 shortly after the alleged kidnapping the police department received a multimillion dollar
14 donation;
- 15 38) That in 2009, 2012 and 2015, Plaintiff went to the Harlingen Police Department for a copy of
16 the police report, and it was gone;
- 17 39) That Plaintiff firmly believes the entire kidnapping was arranged;
- 18 40) That Defendant was fully aware of what was going, and mislead investigators into believing
19 the child was kidnapped, when in fact she was not;
- 20 41) That the kidnapping was a plot to have Plaintiff and the child killed, but tremendously failed;
- 21 42) That in accordance with 18 U.S.C. (1) it reads, having taken an oath before a competent
22 tribunal, officer, or person, in any case in which a law of the United States authorizes an oath
23 to be administered, that he will testify, declare, depose, or certify truly, or that any written
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1 testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and
2 contrary to such oath states or subscribes any material matter which he does not believe to be
3 true;

4 43) Or (2) in any declaration, certificate, verification, or statement under penalty of perjury as
5 permitted under section 1746 of title 28, United States Code, willfully subscribes as true any
6 material matter which he does not believe to be true; is guilty of perjury and shall, except as
7 otherwise expressly provided by law, be fined under this title or imprisoned not more than
8 five years, or both. This section is applicable whether the statement or subscription is made
9 within or without the United States;
10

11 44) That Defendant is guilty of perjury to the federal officers conducting the investigation
12 regarding the kidnapping of Kevyn Wynn, and the improper ransom paid by Defendant,
13 Stephan Allen Wynn;
14

15 45) That Defendant did wander around with little girls, and called them "young polish pigs";

16 46) Defendant intended to induce Plaintiff based on these misrepresentations and improper
17 disclosures;
18

19 47) Plaintiff's reasonable reliance upon the misrepresentations was detrimental. But for failure to
20 disclose the true and material terms of the transaction, Plaintiff could have been alerted to
21 issues of concern. Plaintiff would have known of Defendants true intentions and profits from
22 the proposed kidnapping scheme. Plaintiff would have known that the actions of Defendant
23 would have an adverse effect on Plaintiff;
24

25 48) Defendants' failure to disclose the material terms of the kidnapping scheme inducing Plaintiff
26 to believe her daughter, Kevyn Wynn, was simply coming to visit her in Texas;

27 49) Defendants were aware of the misrepresentations and profited from them;
28

1 50) As a direct and proximate result of the misrepresentations and concealment Plaintiff was
2 damaged in an amount to be proven at trial, including but not limited to damage to Plaintiff's
3 financial security, emotional distress, and Plaintiff has incurred costs and attorney's fees;

4 51) Defendants are guilty of malice, fraud and/or oppression. Defendants' actions were malicious
5 and done willfully in conscious disregard of the rights and safety of Plaintiff in that the actions
6 were calculated to injure Plaintiff. As such Plaintiff is entitled to recover, in addition to actual
7 damages, punitive damages to punish Defendants and to deter them from engaging in future
8 misconduct.
9

10
11 **SECOND CAUSE OF ACTION**
(Intentional Infliction of Emotional Distress)

12 52) Plaintiff re-alleges and incorporated by reference all preceding allegations of law and facts as
13 it fully set forth herein;

14 53) Through their conduct averred herein, Defendants have caused Plaintiff emotional distress, to
15 the point that she is unable to enjoy life, liberty and pursuit of happiness;

16 54) That as a result of Defendants' improper actions, Plaintiff has suffered extreme personal,
17 mental, emotional anguish;

18 55) That as a result of Defendants' unlawful and illegal actions, Plaintiff has lost a substantial
19 amount of his financial and emotional well-being;
20

21 56) That Plaintiff firmly believes she is being followed by Defendant and his entourage;

22 57) That Plaintiff has dodged bullets flying past her just to silence her;

23 58) Defendants conduct was intentional and designed to cause severe emotional distress;

24 59) Plaintiff has lost sleep, appetite and suffered emotionally because of the actions of Defendant;
25
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1 60) Defendant has acted arbitrarily, capriciously and with reckless disregard for Plaintiff, and
2 accordingly, Plaintiff is entitled to exemplary damages, in excess of \$4,000,000.00 is entitled
3 to money damages, punitive damages, and other relief as the Court finds to be just and proper.

4 61) As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to
5 damages in an amount to be proven at trial;
6

7 62) As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and
8 will continue to sustain substantial, immediate, and irreparable injury, for which there is no
9 adequate remedy at law;

10 63) Plaintiff is informed and believe and on that basis aver that unless enjoined and restrained by
11 this Court, Defendants will continue to infringe Plaintiffs right to enjoyment of life;
12

13 64) Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin
14 Defendants' continuing conduct.

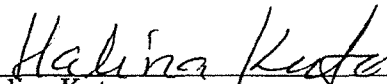
15 **WHEREFORE**, Plaintiff prays for Judgment against the Defendants as follows:

- 16 1. For punitive damages against Defendant;
17
18 2. For general damages in excess of \$4,000,000 against Defendants;
19
20 3. For attorney fees, if any are incurred as a result of filing suit;
21
22 4. For legal fees and costs of suit, as incurred herein;
23
24 5. For such other relief as the Court finds to be just and proper.

25 **DEMAND FOR JURY TRIAL**

26 Plaintiff demands a trial by jury.

27 DATED this 24 day of August 2017.

28 
Halina Kuta
6921 Kim Avenue
Las Vegas, Nevada 89145
In Proper Person

Maggie Strickland

NVDP20143424
720 E Charleston Blvd Ste 140
Las Vegas, NV 89104

EXHIBIT 2

EXHIBIT 2



Administrative

Location UNKNOWN ADDRESS CHICAGO Chicago, IL

Sector/Beat OJ - Other
Jurisdiction n

Occurred On (Date / Time) Friday 6/1/1973 12:00:00 AM
Reporting Officer 07027 - Chavez, Irma M
Entered By 07027 - Chavez, Irma M
Related Cases

Or Between (Date / Time) Saturday 8/31/1974 12:00:00 AM
Reported On 2/7/2018
Entered On 2/7/2018 11:26:37 AM
Jurisdiction Other Jurisdiction

Traffic Report No Place Type Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B

Completed Yes Domestic Violence No
Entry Premises Entered

Weapons None

Criminal Activities None/Unknown

Hate/Bias Unknown (Offenders Motivation Not Known)
Type Security Tools

Location Type Residence/Home

Victims:

Name: [REDACTED]

Victim Type Individual Written Statement Yes
Victim of 50095 - Sex Assault(F)-NRS 200.366.2B

Can ID Suspect Yes

DOB [REDACTED] Age 27 Sex Female Race White Ethnicity Unknown
Height 5' 0" Weight 115 Hair Color Blond Eye Color Green
Employer/School Retired
Occupation/Grade
Injury Not Provided Work Schedule Injury Weapons None

Addresses

Residence [REDACTED]

Phones

Cellular [REDACTED]

Offender Relationships

S - Wynn, Stephan

Notes:

Victim Was Spouse

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

Erin Paredes
Sgt. [REDACTED] Date: 3-14-2018
Las Vegas Metro Police Dept.

Suspects:

Name: Wynn, Stephan

Alias:

Scope ID DOB Age 76 Race White Ethnicity Not Hispanic or
Sex Male Height 5' 6" Weight 145 Hair Color Brown Eye Color Brown
Employer/School Occupation/Grade

Addresses

Phones

Business/Work [REDACTED]

Notes:

Narrative

[REDACTED] came to NWAC to report that in 1973-1974, in Chicago, IL, she was exercising in her old apartment and when she stood up, Stephan Wynn was standing in front of her and said a word that she didn't understand, and then he pinned her up against the refrigerator and raped her as she was standing holding onto the refrigerator. Stephan then called someone for a few minutes then came and kiss her on her cheek and said he had to go and then added I call you later.

When he left she was still standing holding onto the refrigerator and looked at the window and saw her reflection, crying, and asking herself what just happened, what did he say?

A few days later, after her shower, she wrapped herself in the towel and was going to the bedroom and there was Stephan, sitting at the kitchen table. He got up and says some words, pinned her to the wall forcing himself on her then just like before, he called someone, kissed her on the cheek and said he would call her later and left. She was standing holding onto the wall and the towel was on the floor, and she was crying, saying to herself, why her, what did she do to be treated so badly, and why is he coming to her apartment. She didn't give him a key to her apartment. She remembers that Stephan said "you make me horny" then raped her twice.

She ended up pregnant. It was a hot steamy afternoon and she needed to go to the restroom. She saw a gas station and went in to the restroom. She was in pain standing by the wall and gave birth. The baby was laying on her feet inside the water bag. She slid down and said a doll is inside the water bag, the blood falling down, and she wanted to open, but the water bag was thick. She used her teeth to make a small opening then with her finger, opened the water bag and saw that the doll was purple. She started to blow on her and in a short time her cheeks were turning pink and she opened her eyes. She looked so much like her.

The gas station attendant opened the door to the restroom and when he saw her with a baby, he ran to the office and called an ambulance.

Her name is [REDACTED] and she lives in Las Vegas - Stephan and my child. [REDACTED] knows me as her mother and has her own family now.

Report taken per Det K. McCaffery, P#8731.

EXHIBIT 3

EXHIBIT 3



AP Top News Sports Entertainment Explore ▼

APNewsBreak: Woman tells police Steve Wynn raped her in '70s

BY REGINA GARCIA
CANO

Feb. 28, 2018



<https://apn>

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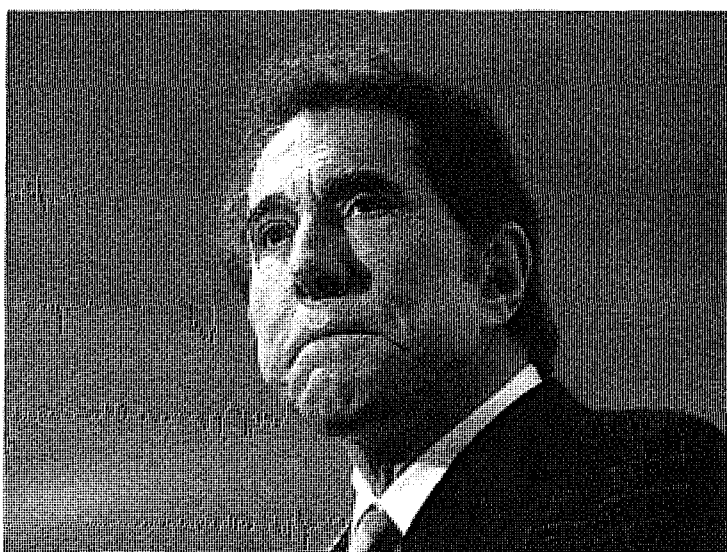
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LAS VEGAS (AP) — A woman told police she had a child with casino mogul Steve Wynn after he raped her, while another reported she was forced to resign from a Las Vegas job after she refused to have sex with him.

The Associated Press on Tuesday obtained copies of police reports recently filed by the two women about allegations dating to the 1970s. Police in Las Vegas revealed earlier this month that they had taken the statements after a news report in January revealed sexual misconduct allegations against the billionaire.



The allegations are the latest leveled against Wynn by women. He resigned as chairman and CEO of Wynn Resorts on Feb. 6, less than two weeks after the Wall Street Journal reported that a number of women said he harassed or assaulted them and that one case led to a \$7.5 million settlement.

Wynn has vehemently denied the misconduct accusations the newspaper reported and he attributed them to a campaign led by his ex-wife, whose attorney has denied that she instigated the Jan. 26 news story.

One police report obtained by the AP shows a woman told officers that Wynn raped her at least three times around 1973 and 1974 at her Chicago apartment. She reported she got pregnant and gave birth to a girl in a gas station restroom. The woman, the child of the accuser and Wynn, now lives in Las Vegas, according to the report.

In one instance, the woman claimed that Wynn pinned her against the refrigerator and raped her. She said he then made a phone call, kissed her on the cheek and left. The report does not explain how Wynn is alleged to have entered the apartment or if they knew each other. The woman claimed she did not give him a key.

The second police report shows a woman told police she had consensual sex with Wynn "several times" while she

worked as a dealer at the downtown Las Vegas casino-hotel Golden Nugget, but “felt coerced to perform the acts.” She reported she was forced to resign when she turned him down.

“In the Summer of 1976, Wynn approached her in the back hall and wanted her to go with him,” according to the report filed Jan. 29. “(S)he told him, “no”, she was done and had someone she was seeing. She was soon after accused of stealing \$40.00 and forced to resign.”

The women’s names are redacted on the reports, and police said they do not identify people who say they are victims of sex crimes.

The Las Vegas case will not be investigated because the statute of limitations in Nevada is 20 years.



Ralph Frammolino, spokesman for Wynn, on Tuesday declined comment on the latest allegations.

Wynn Resorts is facing scrutiny by gambling regulators in Nevada and Massachusetts, where the company is building a roughly \$2.4 billion casino just outside Boston. Regulators in Macau, the Chinese enclave where the company operates two casinos, are also inquiring about the allegations.

In addition, groups of shareholders have filed lawsuits in state court in Las Vegas accusing Wynn and the board of directors of Wynn Resorts of breaching their fiduciary duties by ignoring what the lawsuits described as a longstanding pattern of sexual abuse and harassment by the company's founder.

Follow Regina Garcia Cano on Twitter at
<https://twitter.com/reginagarciakNO>

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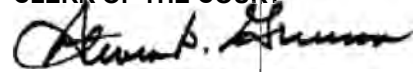
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GundryMD



Halina Kuta
6921 Kim Avenue
Las Vegas, Nevada 89145
In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVE WYNN, an individual,

Plaintiff,

vs.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual, DOES I-X,

Defendant.

Case No.: A-18-772715-C

Dept No.: 14

ANSWER TO PLAINTIFFS COMPLAINT

COMES NOW, Defendant, Halina Kuta, In Proper Person, and answers the Complaint as follows:

1. Answering Paragraph 1 of Plaintiff's Complaint, the Answering Defendant DENIES the allegation contained therein.
2. Answering Paragraphs 2-8 of Plaintiff's Complaint, the Answering Defendant DENIES the allegation contained therein.
3. Answering Paragraph 9 of Plaintiff's Complaint, the Answering Defendant ADMITS the allegation contained therein.
4. Answering Paragraphs 10-11 of Plaintiff's Complaint, the Answering Defendant DENIES the allegation contained therein.
5. Answering Paragraphs 12-14 of Plaintiff's Complaint, the Answering Defendant ADMITS the allegation contained therein.
6. Answering Paragraphs 15-30 of Plaintiff's Complaint, the Answering Defendant DENIES the allegation contained therein.

1 7. Answering Paragraphs 31-37 of Plaintiff's Complaint, the Answering Defendant
2 NEITHER ADMITS OR DENIES, as it is unknown, therefore DENIES the allegation
3 contained therein.

4 8. Answering Paragraphs 38-45 of Plaintiff's Complaint, the Answering Defendant DENIES
5 the allegation contained therein.

6 9. Answering Paragraphs 46-57 of Plaintiff's Complaint, the Answering Defendant
7 NEITHER ADMITS OR DENIES, as it is unknown, therefore DENIES the allegation
8 contained therein.

9 10. Answering Paragraph 58 of Plaintiff's Complaint, the Answering Defendant ADMITS the
10 allegation contained therein.

11 11. Answering Paragraph 59 of Plaintiff's Complaint, the Answering Defendant DENIES the
12 allegation contained therein.

13 12. Answering Paragraphs 60-71 of Plaintiff's Complaint, the Answering Defendant DENIES
14 the allegation contained therein.

15 13. Answering Paragraphs 72-74 of Plaintiff's Complaint, the Answering Defendant DENIES
16 the allegation contained therein.

17 14. Answering Paragraphs 75-82 of Plaintiff's Complaint, the Answering Defendant DENIES
18 the allegation contained therein.

19 15. Answering Paragraphs 83-98 of Plaintiff's Complaint, the Answering Defendant
20 NEITHER ADMITS OR DENIES, as it is unknown, therefore DENIES the allegation
21 contained therein.

22 16. Answering Paragraphs 99-102 of Plaintiff's Complaint, the Answering Defendant DENIES
23 the allegation contained therein.

24 DEFENDANT ASSERTS THE FOLLOWING AFFIRMATIVE DEFENSES:

25 FIRST AFFIRMATIVE DEFENSE

26 Plaintiff's Complaint is barred, in whole or in part, in that it fails to state a claim upon
27 which relief may be granted.
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THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint is barred, in whole or in part, by the equitable doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

FIFTH AFFIRMATIVE DEFENSE

As to the first and third causes of action, the recovery of Plaintiff, if any, should be barred or diminished by reason of Plaintiff's failure to mitigate its alleged damages.

As to the first and third causes of action, the recovery of Plaintiff, if any, should be barred or diminished by reason of Plaintiff's failure to mitigate its alleged damages.

Defendant hereby adopts and incorporates by this reference any and all other affirmative defenses it may eventually assert in this proceeding.

WHEREFORE, Defendants pray for judgment as follows:

- Halina Kuta
6921 Kim Avenue
Las Vegas, Nevada 89145
In Proper Person

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), and under penalty of perjury I certify that on this 14th day of April 2018 I served a copy of Defendant's Answer, by e-filing through the Court system, as follows:

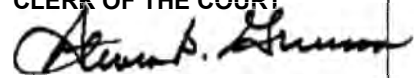
Peterson Baker, PLLC
10001 Park Run Drive
Las Vegas, Nevada 89145

L. Lin Wood, Esq.
Lwood@linwoodlaw.com

Nicole Jennings Wade, Esq.
nwade@linwoodlaw.com

G. Taylor Wilson, Esq.
twilson@linwoodlaw.com


Maggie Strickland



1 **ACSR**
2 TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
3 tpeterson@petersonbaker.com
4 NIKKI L. BAKER, ESQ., Bar No. 6562
5 nbaker@petersonbaker.com
6 PETERSON BAKER, PLLC
7 10001 Park Run Drive
8 Las Vegas, NV 89145
9 Telephone: 702.786.1001
10 Facsimile: 702.786.1002

11 *Attorneys for Plaintiff Steve Wynn*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 STEVE WYNN, an individual,
15
16 Plaintiff,
17 v.

Case No.: A-18-772715-C
Dept. No.: X

ACCEPTANCE OF SERVICE

18 THE ASSOCIATED PRESS, a foreign
19 corporation; REGINA GARCIA CANO, an
20 individual; and HALINA KUTA, an
21 individual; DOES I-X,
22
23 Defendants.

24 I, Justin A. Shiroff, Esq., of the law firm of Ballard Spahr, LLP, hereby accept service of
25 the Summons and Complaint in the above-entitled matter on behalf of Defendant Regina Garcia
26 Cano.

27 Executed this 25 day of April, 2018.

28 BALLARD SPAHR, LLP

By: 

Joel E. Tasca, Esq.
Justin A. Shiroff, Esq.
1980 Festival Plaza Drive
Suite 900
Las Vegas, NV 89135
Telephone: 702.471.7000

*Attorneys for Defendants, The Associated
Press and Regina Garcia Cano*

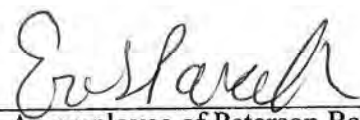
PETERSON BAKER, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

JA00036

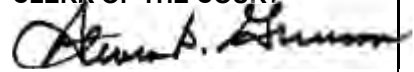
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, caused a true and correct copy of the foregoing **ACCEPTANCE OF SERVICE** to be served via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the 30th day of April, 2018, to the following address:

Halina Kuta
6921 Kim Avenue
Las Vegas, NV 89145
In Proper Person


An employee of Peterson Baker, PLLC

PETERSON BAKER, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001



Joel E. Tasca
Nevada Bar No. 14124
Justin A. Shiroff
Nevada Bar No. 12869
BALLARD SPAHR LLP
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135
Phone: (702) 471-7000
Fax: (702) 471-7070
Email: tasca@ballardspahr.com
Email: shiroffj@ballardspahr.com

*Attorneys for Defendants
The Associated Press and Regina Garcia Cano*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STEVE WYNN, an individual)	Case No. A-18-772715-C
Plaintiff,)	
v.)	Dept. No. XIV
THE ASSOCIATED PRESS, a foreign)	
corporation; REGINA GARCIA CANO, an)	
individual; and HALINA KUTA, an)	
individual; DOES I-X,)	
Defendants.)	

**THE ASSOCIATED PRESS DEFENDANTS'
SPECIAL MOTION TO DISMISS PURSUANT TO N.R.S. § 41.660
(ANTI-SLAPP STATUTE)**

Defendants The Associated Press and Regina Garcia Cano, by and through undersigned counsel, move to dismiss Plaintiff Steve Wynn's Complaint pursuant Nev. Rev. Stat. §41.660. This Motion is made and based on the following Memorandum of Points and Authorities, the pleadings and papers on file herein, and any oral argument the Court may consider on this Motion.

JA00038

1 Dated: May 31, 2018.

2 BALLARD SPAHR LLP

3 By: /s/ Justin A. Shiroff

4 Joel E. Tasca
5 Nevada Bar No. 14124
6 Justin A. Shiroff
7 Nevada Bar No. 12869
8 1980 Festival Plaza Drive, Suite 900
9 Las Vegas, Nevada 89135

10 Jay Ward Brown
11 (*Pro hac vice* motion pending)
12 Chad R. Bowman
13 (*Pro hac vice* motion pending)
14 1909 K Street, NW, 12th Floor
15 Washington, DC 20006
16 Telephone: (202) 661-2200
17 brownjay@ballardspahr.com
18 bowmanchad@ballardspahr.com

19 *Attorneys for Defendants*
20 *The Associated Press and*
21 *Regina Garcia Cano*
22
23
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PLEASE TAKE NOTICE that defendants The Associated Press and Regina Garcia Cano will bring their Special Motion to Dismiss on for hearing on the 7 day of June, 2018, at the hour of 9:00am o'clock a.m./p.m. in Dept. of the above Court, or as soon thereafter as counsel may be heard.

BALLARD SPAHR LLP

Jay Ward Brown
(*Pro hac vice* motion pending)
Chad R. Bowman
(*Pro hac vice* motion pending)
1909 K Street, NW, 12th Floor
Washington, DC 20006
Telephone: (202) 661-2200
brownjay@ballardspahr.com
bowmanchad@ballardspahr.com

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JA00040

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Steve Wynn, a billionaire and “well-known public figure in Nevada,” *Wynn v. Smith*, 117 Nev. 6, 9 (2001) (en banc), found himself at the center of controversy this year following a report published in January by *The Wall Street Journal* describing an alleged “decades-long pattern of sexual misconduct” at his Wynn Resorts, including “pressuring employees to perform sex acts.”¹ He has since brought a series of defamation actions, including this one asserting claims against The Associated Press and its reporter, simply for accurately describing the allegations in complaints made to the Las Vegas Metropolitan Police Department (“LVMPD”) that were publicly released by LVMPD. However, such summaries of official records are *absolutely privileged* under the law of this state. *See, e.g., Adelson v. Harris*, 402 P.3d 665, 667-68 (Nev. 2017) (“In Nevada, if the privilege applies, it is ‘absolute,’ meaning it ‘precludes liability even where the defamatory statements are published with knowledge of their falsity and personal ill will toward the plaintiff.’”) (citation omitted); *Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212, 218-19 (1999) (same).

Beyond this absolute privilege for the reporting of official records, The Associated Press and its reporter, Regina Garcia Cano (the “AP Defendants”) also had no reason to doubt the allegations of the two police complaints, one of which Mr. Wynn now challenges. While Plaintiff alleges that news reporters should have known that Halina Kuta is an unreliable accuser, the AP Defendants did not know her identity: The LVMPD *redacted* the names, and identifying details, of the alleged victims from the official reports released to the media. In short, this is a wholly meritless claim against the AP Defendants.

¹ Alexandra Berzon, Chris Kirkham, Elizabeth Bernstein & Kate O’Keeffe, *Dozens of People Recount Pattern of Sexual Misconduct by Las Vegas Mogul Steve Wynn*, Wall St. J., Jan. 27, 2018 (attached as Exhibit 1 to Affidavit of Regina Garcia Cano (“Garcia Cano Aff.”)).

1 The AP Defendants thus bring this special motion under this state’s “anti-
2 SLAPP” statute, Nev. Rev. Stat. § 41.635 *et seq.* Like some thirty other states,
3 Nevada has enacted and repeatedly strengthened a law expressly designed to curtail
4 actions like this one—“strategic lawsuits against public participation,” defined by the
5 Nevada Supreme Court as “meritless suit[s] filed primarily to chill the defendant’s
6 exercise of First Amendment rights,” the “hallmark” of which is “to obtain a financial
7 advantage over one’s adversary by increasing litigation costs.” *John v. Douglas Cty.*
8 *Sch. Dist.*, 125 Nev. 746, 749, 752 (2009) (internal marks and citations omitted). By
9 establishing an immunity and a mechanism for asserting it, “Nevada’s anti-SLAPP
10 statute filters unmeritorious claims in an effort to protect citizens from costly
11 retaliatory lawsuits arising from their right to free speech under both the Nevada
12 and Federal Constitutions.” *Id.* at 755 (affirming dismissal under statute); *see also*
13 *Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 802 (9th Cir. 2012) (Nevada statute
14 “allows a citizen to obtain prompt review of potential SLAPP lawsuits and have them
15 dismissed before she is forced to endure the burdens and expense of the normal
16 litigation process”).

17 Specifically, the Nevada statute provides an “immun[ity] from any civil action”
18 for “good faith communication[s]” relating to speech that address issues of public
19 interest, Nev. Rev. Stat. § 41.650, as defined under the statute, and the statute
20 requires courts to dismiss suits directed at such expression prior to the
21 commencement of expensive and burdensome discovery unless a plaintiff can
22 demonstrate a likelihood of success, *John*, 125 Nev. at 758. This action was
23 instituted by a litigious billionaire and directed at a news media publication that
24 expressly, and accurately, reported on official police records—as permitted by the
25 “fair report privilege.” These claims are properly dismissed under Nevada’s anti-
26 SLAPP statute and Mr. Wynn should be ordered to pay the attorneys’ fees incurred
27 by the AP Defendants.
28

II. FACTUAL BACKGROUND

A. The Plaintiff

According to the Complaint, Mr. Wynn is a “visionary, a successful businessman, and a philanthropist,” who during a 45-year career came to be “well-known and recognized for his role in the revitalization of the Las Vegas Strip in the 1990s” and viewed nationally as a leader in casino and resort development. Compl. ¶¶ 47-53. *Forbes* magazine estimates his current net worth at \$3 billion.² Mr. Wynn’s public profile extends beyond business; he has been described by President Trump as a “great friend,” is a prolific political donor, and until recently served as the Republican National Committee’s finance chairman—raising some \$130 million for GOP candidates during the first year of the Trump Administration.³

Mr. Wynn is also someone who employs defamation lawsuits against his critics. *See, e.g., Wynn*, 117 Nev. at 10 (noting defamation action over book profiling him). Just last year a federal appellate court in California affirmed a judgment against Mr. Wynn for more than \$420,000 in attorneys’ fees and costs for bringing a meritless defamation case based on non-actionable opinions expressed at an academic symposium. *Wynn v. Chanos*, 2015 WL 3832561, at *1, 6 (N.D. Cal. June 19, 2015), *aff’d*, 685 F. App’x 578 (9th Cir. 2017). Those sanctions were awarded under California’s anti-SLAPP statute. Currently, Mr. Wynn is pursuing at least three separate defamation claims in Nevada, including this one, related to sexual abuse allegations made against him.⁴

² *See* “Forbes Profile: Steve Wynn,” *Forbes* (May 21, 2018), *available at* <https://www.forbes.com/profile/steve-wynn/>.

³ *See* Ken Thomas and Steve Peoples, *Casino mogul Steve Wynn resigns as top GOP finance chairman*, AP, Jan. 28, 2018, *available at* <https://www.apnews.com/29aa609a49dd4cfca333ef052a10d397/Casino-mogul-Steve-Wynn-resigns-as-top-GOP-finance-chairman>.

⁴ *See, e.g.,* Ken Ritter, *Wynn sues ex-salon chief quoted in sexual conduct stories*, AP, April 30, 2018 *available at* <https://www.apnews.com/0f24152a66da42828d5cf4c3351cf714/Wynn-sues-ex-salon-chief-quoted-in-sexual-conduct-stories> (quoting statement by Mr. Wynn’s attorney that defamation action against salon director quoted in stories by ABC

1 **B. The Public Controversy Over Mr. Wynn's Conduct**

2 *The Wall Street Journal* on January 27, 2018 reported that, according to
3 dozens of former employees, Mr. Wynn had engaged in a “decades-long pattern of
4 sexual misconduct,” including “pressuring employees to perform sex acts”—to one of
5 whom, a manicurist, he later paid a \$7.5 million settlement.⁵ Terrified female
6 employees allegedly hid in bathrooms or back rooms when he visited the salons and
7 massage parlors on his properties. *Id.* Mr. Wynn has denied these allegations. *Id.*;
8 *see also* Compl. ¶¶ 13-14. The *Las Vegas Review-Journal* soon afterward reported
9 that Mr. Wynn had allegedly pressured a waitress at one of his casinos to have sex
10 “to keep her job.”⁶ Court records also revealed that he had settled with a former
11 employee who had worked as a “Playboy Bunny” at a casino.⁷

12 The day after *The Wall Street Journal* published its report, Mr. Wynn resigned
13 as finance chairman of the Republican National Committee.⁸ Nevada regulators
14 launched an investigation.⁹ Wynn Resorts also launched an investigation into the
15 allegations and, within days, Mr. Wynn resigned his roles as CEO and board
16

17 News and the *The Wall Street Journal* was “the third defamation lawsuit by Wynn in recent
18 weeks”).

19 ⁵ *See* note 1.

20 ⁶ Arthur Kane & Rachel Crosby, *Las Vegas court filing: Wynn wanted sex with waitress*
21 *‘to see how it feels’ to be with a grandmother*, *Las Vegas Review-Journal*, Feb. 5, 2018,
22 *available at* <https://www.reviewjournal.com/news/las-vegas-court-filing-wynn-wanted-sex-with-waitress-to-see-how-it-feels-to-be-with-a-grandmother/>.

23 ⁷ *See, e.g.*, Regina Garcia Cano, *Steve Wynn settled with second woman over sex*
24 *allegations*, AP, Mar. 19, 2018, *available at*
25 <https://www.apnews.com/ba96b0e47ccb4dbdb6f42528a878b37f/Steve-Wynn-settled-with-second-woman-over-sex-allegations>.

26 ⁸ *See generally* Ken Thomas and Steve Peoples, *Casino mogul Steve Wynn resigns as top*
27 *GOP finance chairman*, AP, Jan. 28, 2018, *available at*
28 <https://www.apnews.com/29aa609a49dd4cfca333ef052a10d397/Casino-mogul-Steve-Wynn-resigns-as-top-GOP-finance-chairman>.

⁹ David Montero, *Nevada Gaming Control Board's first female chief opens investigation into Steve Wynn sexual misconduct allegations*, L.A. Times, Jan. 30, 2018, *available at* <http://www.latimes.com/nation/la-na-nevada-gaming-steve-wynn-20180130-story.html>.

1 chairman, citing “an avalanche of negative publicity.”¹⁰ Amidst these investigations,
2 Mr. Wynn soon sold all of his stock in Wynn Resorts—for an estimated \$1.4 billion—
3 and his name was taken off the company’s gaming license in Massachusetts.¹¹
4 Several women have now filed civil lawsuits against Mr. Wynn alleging sexual
5 misconduct or assault.¹²

6 **C. The Police Department Statement and AP Report**

7 On February 12, 2018, less than three weeks after the first national news
8 reports regarding the allegations of a long-time pattern of sexual misconduct by
9 Mr. Wynn, and the week after he resigned from Wynn Resorts amidst the public
10 controversy, *The Las Vegas Review-Journal* published a news report noting that,
11 according to an LVMPD spokesman, two women had filed police reports regarding
12 Mr. Wynn.¹³ The first three paragraphs of that story, including a police spokesman’s
13 plea to the public to encourage victims to speak up, read as follows:
14
15

16 ¹⁰ See Maggie Astor & Julie Creswell, *Steve Wynn Resigns From Company Amid Sexual*
17 *Misconduct Allegations*, N.Y. Times, Feb. 6, 2018, available at [https://www.nytimes.com/](https://www.nytimes.com/2018/02/06/business/steve-wynn-resigns.html)
18 [2018/02/06/business/steve-wynn-resigns.html](https://www.nytimes.com/2018/02/06/business/steve-wynn-resigns.html); see also *Law firm helps with sex misconduct*
19 *inquiry into Steve Wynn*, AP, Feb. 3, 2018, available at [https://apnews.com/](https://apnews.com/72aae861b4cb4be38173879437cbe755/Law-firm-helps-with-sex-misconduct-inquiry-into-Steve-Wynn)
20 [72aae861b4cb4be38173879437cbe755/Law-firm-helps-with-sex-misconduct-inquiry-into-](https://apnews.com/72aae861b4cb4be38173879437cbe755/Law-firm-helps-with-sex-misconduct-inquiry-into-Steve-Wynn)
21 [Steve-Wynn](https://apnews.com/72aae861b4cb4be38173879437cbe755/Law-firm-helps-with-sex-misconduct-inquiry-into-Steve-Wynn);

22 ¹¹ See Regina Garcia Cano, *Steve Wynn no longer has stock in Wynn Resorts*, AP, Mar.
23 23, 2018, available at [https://apnews.com/3a559d430b4a4a7e8860d2988d10ed9b/Steve-](https://apnews.com/3a559d430b4a4a7e8860d2988d10ed9b/Steve-Wynn-no-longer-has-stock-in-Wynn-Resorts)
24 [Wynn-no-longer-has-stock-in-Wynn-Resorts](https://apnews.com/3a559d430b4a4a7e8860d2988d10ed9b/Steve-Wynn-no-longer-has-stock-in-Wynn-Resorts); Bob Salsberg, *Regulators agree to remove Steve*
25 *Wynn from casino license*, AP, May 7, 2018, available at [https://apnews.com/](https://apnews.com/1eb32a37a23e48469514c5f0c62d4b18/Regulators-agree-to-remove-Steve-Wynn-from-casino-license)
26 [1eb32a37a23e48469514c5f0c62d4b18/Regulators-agree-to-remove-Steve-Wynn-from-casino-](https://apnews.com/1eb32a37a23e48469514c5f0c62d4b18/Regulators-agree-to-remove-Steve-Wynn-from-casino-license)
27 [license](https://apnews.com/1eb32a37a23e48469514c5f0c62d4b18/Regulators-agree-to-remove-Steve-Wynn-from-casino-license).

28 ¹² See, e.g., Regina Garcia Cano, *Manicurist accuses Steve Wynn of sexual misconduct[:]*
29 *suit*, AP, Mar. 7, 2018, available at [https://apnews.com/aa41aea1813a48e5b2296880dcd1f533/](https://apnews.com/aa41aea1813a48e5b2296880dcd1f533/Manicurist-accuses-Steve-Wynn-of-sexual-misconduct-suit)
30 [Manicurist-accuses-Steve-Wynn-of-sexual-misconduct-suit](https://apnews.com/aa41aea1813a48e5b2296880dcd1f533/Manicurist-accuses-Steve-Wynn-of-sexual-misconduct-suit); Brady McCombs, *2 massage*
31 *therapists accuse Steve Wynn of Sexual misconduct*, AP, Mar. 1, 2018, available at
32 [https://apnews.com/3b1857e21b914609a759081e0b1e8b64/2-massage-therapists-accuse-](https://apnews.com/3b1857e21b914609a759081e0b1e8b64/2-massage-therapists-accuse-Steve-Wynn-of-sexual-misconduct)
33 [Steve-Wynn-of-sexual-misconduct](https://apnews.com/3b1857e21b914609a759081e0b1e8b64/2-massage-therapists-accuse-Steve-Wynn-of-sexual-misconduct).

34 ¹³ See Rio Lacanlale, *2 women tell Las Vegas police Steve Wynn assaulted them in the*
35 *‘70s*, Las Vegas Review-Journal, Feb. 12, 2018, available at [https://www.reviewjournal.com/](https://www.reviewjournal.com/business/casinos-gaming/2-women-tell-las-vegas-police-steve-wynn-assaulted-them-in-the-70s/)
36 [business/casinos-gaming/2-women-tell-las-vegas-police-steve-wynn-assaulted-them-in-the-](https://www.reviewjournal.com/business/casinos-gaming/2-women-tell-las-vegas-police-steve-wynn-assaulted-them-in-the-70s/)
37 [70s/](https://www.reviewjournal.com/business/casinos-gaming/2-women-tell-las-vegas-police-steve-wynn-assaulted-them-in-the-70s/) (attached as Ex. 2 to Garcia Cano Aff.).

Two women have reported to Las Vegas police that they were sexually assaulted by casino developer Steve Wynn in the 1970s, a spokesman said Monday.

Metropolitan Police Department spokesman Larry Hadfield said the statute of limitations for sexual assault in Nevada is 20 years, but that should not discourage victims from speaking up.

“We would encourage all victims to come forward,” he said.

Garcia Cano Aff. Ex. 2.

AP reporter Regina Garcia Cano inquired with LVMPD regarding the information, and was told that the Public Information Office had publicly released an email statement, which was resent to her. *Id.* ¶ 7. The statement read as follows:

The LVMPD has received two complaints against Steve Wynn alleging sexual assault. On January 29, 2018, a woman made a report from St. Louis stating the incident occurred in Las Vegas in the 1970’s. A second woman filed a report February 5, 2018 at an LVMPD Substation in the Northwest part of the city. She stated the crime occurred in the 1970’s in Chicago, IL. A courtesy report was taken and will be forwarded to Chicago authorities.

Below is the Nevada Revised Statute (NRS) pertaining to the statute of limitations for Sexual Assault. Due to the fact that the report was not filed within the time frame allowed by NRS, an investigation cannot go forward.

Id. Ex. 3. This statement was followed by sections of the Nevada Revised Statutes, with highlighting showing the 20-year statute of limitations for sexual assault. *Id.*

Ms. Garcia Cano then submitted a request under the Nevada Open Records Act to the LVMPD Public Information Office for the two police reports referenced in the statement and the report in *The Las Vegas Review-Journal*. *See id.* ¶ 8; *id.* Ex. 4 (records request). The public records request sought expedited processing because “this information concerns a matter of intense public interest.” *Id.* The LVMPD Public Information Office acknowledged the request two days later. *Id.* Ex. 5.

On February 27, 2018, LVMPD provided two redacted documents to Ms. Garcia Cano, Case Report Nos. LLV180129002695 and LLV180207001836. *See* Garcia Cano Aff. ¶ 10; *see also id.* Ex. 6 (police reports provided pursuant to Nevada Open Records Act). Both official police reports were for alleged “sex assault,” and

1 both identified Steve Wynn as the “suspect.” *Id.* at 1, 2. However, the Public
2 Information Office redacted the “Victims” section of each report to remove personally
3 identifiable information about the alleged victim—including the name, date of birth,
4 address, and phone number. *See id.* For Case Report No. LLV180129002695, an
5 “Offender Relationships” entry reads: “S – Wynn, Steve . . . Victim Was Employee.”
6 *Id.* at 1. For Case Report No. LLV180207001836, however, the same entry was
7 partially redacted, reading simply “S – Wynn, Stephan . . . [REDACTED].” *Id.* at 2.
8 Both of the police reports included a narrative section, which similarly redacted
9 identifying information about the alleged victims. *Id.* at 2-3.

10 The narrative section of Case Report No. LLV180129002695 explained that,
11 while the victim had been employed as a dealer for the Golden Nugget in 1974, she
12 claimed that “Steve Wynn and she had sex.” *Id.* at 1. Although “consensual,” the
13 victim “felt coerced to perform the acts” and, after she ultimately refused following a
14 third encounter “[s]he was soon after accused of stealing \$40.00 and forced to resign.”
15 *Id.* As relevant to this action, the narrative section of the second police report, Case
16 Report No. LLV180207001836, describes another victim’s account of three rapes by
17 Mr. Wynn in 1973-74 in her Chicago apartment, which allegedly resulted in a
18 pregnancy and her delivery of a baby in a gas station restroom. *Id.* at 2-3. Because
19 personally identifying information about the alleged victims was redacted, Ms.
20 Garcia Cano’s knowledge about these particular allegations—as apart from the many
21 allegations already publicly made about Mr. Wynn—came solely from the police
22 reports. *See Garcia Cano Aff.* ¶¶ 11-12. She then prepared a news report about the
23 official records, including the response of a person she understood to represent
24 Mr. Wynn. *Id.* ¶ 14; *see also* AP Article.

25 The Associated Press then published a news report about the allegations in the
26 two police complaints, under Garcia Cano’s byline and bearing the headline
27 “APNewsBreak: Woman tells police Steve Wynn raped her in ’70s”:
28

1 LAS VEGAS (AP) — A woman told police she had a child with casino
2 mogul Steve Wynn after he raped her, while another reported she was
3 forced to resign from a Las Vegas job after she refused to have sex with
4 him.

5 The Associated Press on Tuesday obtained copies of police reports
6 recently filed by the two women about allegations dating to the 1970s.
7 Police in Las Vegas revealed earlier this month that they had taken
8 the statements after a news report in January revealed sexual
9 misconduct allegations against the billionaire.

10 The allegations are the latest leveled against Wynn by women. He
11 resigned as chairman and CEO of Wynn Resorts on Feb. 6, less than
12 two weeks after the Wall Street Journal reported that a number of
13 women said he harassed or assaulted them and that one case led to a
14 \$7.5 million settlement.

15 Wynn has vehemently denied the misconduct accusations the
16 newspaper reported and he attributed them to a campaign led by his
17 ex-wife, whose attorney has denied that she instigated the Jan. 26
18 news story.

19 One police report obtained by the AP shows a woman told officers that
20 Wynn raped her at least three times around 1973 and 1974 at her
21 Chicago apartment. She reported she got pregnant and gave birth to a
22 girl in a gas station restroom. The woman, the child of the accuser and
23 Wynn, now lives in Las Vegas, according to the report.

24 In one instance, the woman claimed that Wynn pinned her against the
25 refrigerator and raped her. She said he then made a phone call, kissed
26 her on the cheek and left. The report does not explain how Wynn is
27 alleged to have entered the apartment or if they knew each other. The
28 woman claimed she did not give him a key.

The second police report shows a woman told police she had consensual
sex with Wynn “several times” while she worked as a dealer at the
downtown Las Vegas casino-hotel Golden Nugget, but “felt coerced to
perform the acts.” She reported she was forced to resign when she
turned him down.

“In the Summer of 1976, Wynn approached her in the back hall and
wanted her to go with him,” according to the report filed Jan. 29. “(S)he
told him, ‘no’, she was done and had someone she was seeing. She was
soon after accused of stealing \$40.00 and forced to resign.”

The women’s names are redacted on the reports, and police said they
do not identify people who say they are victims of sex crimes.

The Las Vegas case will not be investigated because the statute of
limitations in Nevada is 20 years.

Ralph Frammolino, spokesman for Wynn, on Tuesday declined
comment on the latest allegations.

Wynn Resorts is facing scrutiny by gambling regulators in Nevada and Massachusetts, where the company is building a roughly \$2.4 billion casino just outside Boston. Regulators in Macau, the Chinese enclave where the company operates two casinos, are also inquiring about the allegations.

In addition, groups of shareholders have filed lawsuits in state court in Las Vegas accusing Wynn and the board of directors of Wynn Resorts of breaching their fiduciary duties by ignoring what the lawsuits described as a longstanding pattern of sexual abuse and harassment by the company's founder.

Garcia Cano Aff. Ex. 7 ("the AP Article"); *see also* Compl. Ex. 3 (same).

D. The Complaint in This Action

Plaintiff filed the Complaint on April 11, 2018 against the AP Defendants as well as Ms. Kuta and "Doe" defendants. While not specifically taking issue with the reporting about Case Report No. LLV180129002695, involving the former casino dealer, Mr. Wynn in his Complaint alleges that Ms. Kuta filed Case Report No. LLV180207001836, and that the police report is false. Compl. ¶¶ 16-17.

Mr. Wynn further alleges that the AP Defendants published the AP Article with "actual malice"—*i.e.*, with a "knowledge of falsity," Compl. ¶ 80—for three principal reasons. *First*, he alleges that Ms. Kuta was an obviously unreliable source in light of a prior *pro se* lawsuit that was dismissed. *Id.* ¶ 85 ("alleging that "the AP Defendants knew or should have known about the existence of the Kuta lawsuit"); *see also id.* ¶¶ 4-12, 17-24. Yet the Complaint offers no rationale for *how* the AP Defendants would have known of the prior lawsuit, or linked that lawsuit to the alleged victim whose identity was redacted in the second police report. *See generally* AP Article (noting that "[t]he women's names are redacted on the reports").

Second, Mr. Wynn alleges that "[t]he AP Article falsely stated that it was unclear how Mr. Wynn and the claimant knew each other, intentionally omitting the undisputed fact that Defendant Kuta stated in the police report that she was Mr. Wynn's spouse." Compl. ¶ 32; *see also id.* ¶ 89 ("the AP Defendants failed to include Defendant Kuta's accusation that she was Mr. Wynn's spouse"). This

1 misguided factual allegation appears to be premised not on the public record actually
2 produced by the Public Information Office to the AP Defendants, but, rather, on a
3 later version released by police. When counsel for Plaintiff sought a copy of the police
4 report, it appears that LVMPD omitted one redaction: In the version of Case Report
5 No. LLV180207001836 attached to the Complaint, the “Offender Relationships” entry
6 reads: “S – Wynn, Stephan . . . Victim Was Spouse.” Compl. Ex. 2 (copy of police
7 report released March 14, 2018). In the version released by police to the AP
8 Defendants in February, however, that key text, upon which a significant portion of
9 the Complaint’s allegations are based, was redacted: “S – Wynn, Stephan . . .
10 [REDACTED].” *See* Garcia Cano Aff. Ex. 6.

11 *Finally*, Mr. Wynn alleges that the allegations contained within Case Report
12 No. LLV180207001836 were “inherently improbable,” such that the AP Defendants
13 should have known they were false. Compl. ¶¶ 30-31, 84-85. Significantly, however,
14 the Complaint makes no allegation that the allegedly defamatory charge of *rape* by
15 Mr. Wynn is inherently improbable—and it is clearly not, given the prior published
16 allegations in *The Wall Street Journal* and elsewhere regarding the alleged decades-
17 long pattern of sexual misconduct by Mr. Wynn. Nor does the Complaint address the
18 LVMPD’s prior statement to “encourage all victims to come forward.” Garcia Cano
19 Aff. Ex. 2. Instead, Mr. Wynn alleges a *non sequitur*, that the victim’s description of
20 giving birth to her child in a gas station was “clearly fanciful or delusional,” and
21 therefore that, in light of the “bizarre narrative” of a traumatic birth experience
22 included in the narrative section of the police complaint, the separate rape allegation
23 was “unreliable and incredible on its face.” *Id.* ¶¶ 84, 88, 90-91.

24 **III. LEGAL STANDARD**

25 Under the Nevada anti-SLAPP statute, a “person who engages in a good faith
26 communication in furtherance of the right to petition or the right to free speech in
27 direct connection with an issue of public concern is immune from any civil action for
28 claims based upon the communication.” Nev. Rev. Stat. § 41.650. To assert this

1 statutory immunity, the “person against whom the action is brought may file a
2 special motion to dismiss” within “60 days after service of the complaint, which
3 period may be extended by the court for good cause shown.” *Id.* § 41.660. This is a
4 timely motion under Section 41.660.

5 To prevail on a special motion to strike under the statute, a defendant must
6 make a two-part preliminary showing: (1) that the challenged speech was made “in
7 furtherance of the right to petition or the right to free speech,” which the statute
8 defines to include several broad categories of speech, and (2) that it constituted a
9 “good faith communication,” which means that the statement at issue is either
10 “truthful or is made without knowledge of its falsehood.” Nev. Rev. Stat. §§ 41.637,
11 41.660; see also *John*, 125 Nev. at 754. Once a moving party meets this initial
12 burden, the court must “determine whether the plaintiff has demonstrated with
13 prima facie evidence a probability of prevailing on the claim.” Nev. Rev. Stat.
14 § 41.660(3)(b); see also *Delucchi v. Songer*, 396 P.3d 826, 831 (Nev. 2017). Put
15 differently, once a defendant makes this “initial showing” of the statute’s
16 applicability, it becomes the *plaintiff’s burden* to establish that the claim is likely to
17 succeed. *Id.* at 833. Notably, the statute is modeled on California law, and Nevada
18 courts look to California law for guidance on its construction and application. Nev.
19 Rev. Stat. § 41.665(2) (adopting California standard for burden of proof); see also
20 *Delucchi*, 396 P.3d at 832 (noting that California’s statute is “similar in purpose and
21 language’ to our anti-SLAPP statute” and adopting California reasoning) (citation
22 omitted); see also *Shapiro v. Welt*, 389 P.3d 262, 268 (Nev. 2017) (adopting California
23 test for an “issue of public interest” under Nevada statute).

24 If the court grants the special motion to strike and dismisses the action, it is
25 an “adjudication upon the merits,” Nev. Rev. Stat. § 41.660(5), and the court “shall
26 award reasonable costs and attorney’s fees to the person against whom the action
27 was brought,” *id.* § 41.670(1)(a). In addition, the court may award an additional
28 sanction of \$10,000 to the defendant. *Id.* § 41.670(1)(b).

1 **IV. LEGAL ARGUMENT**

2 **A. The AP Article is a “Good Faith Communication”**

3 A defendant invoking the anti-SLAPP statute has the initial burden of
4 establishing that the speech at issue falls within the ambit of the law, by showing
5 that the speech is “a good faith communication in furtherance of the right to petition
6 or the right of free speech in direct connection with an issue of public concern.” Nev.
7 Rev. Stat. § 41.660(3)(a). This is a term of art, defined to include two elements: first,
8 that the speech is of the sort protected by the statute; and, second, that the speech “is
9 truthful or is made without knowledge of its falsehood.” *Id.* § 41.637. The AP Article
10 easily satisfies both requirements.

11 **1. The AP Article Is Protected Speech**

12 The anti-SLAPP statute protects four categories of speech. *Id.* As relevant
13 here, the fourth prong of the statute’s definition includes “any ... [c]ommunication
14 made in direct connection with an issue of public interest in a place open to the
15 public or in a public forum.” *Id.* § 41.637(4). A news report about police complaints
16 of alleged rape involving a public figure embroiled in a public controversy over his
17 behavior clearly qualifies as related to a matter of public concern—as illustrated by
18 the LVMPD’s public statements about the complaints. *See* Garcia Cano Aff. Exs. 2,
19 3.

20 The Nevada Supreme Court has adopted California’s test for “an issue of
21 public interest” under the statute. *Shapiro*, 389 P.3d at 268. California’s statute
22 does not define “public interest,” but its statutory preamble states that its provisions
23 “shall be construed broadly” to safeguard “the valid exercise of the constitutional
24 rights of freedom of speech and petition for the redress of grievances.” Cal. Civ.
25 Proc. Code § 425.16(a). As such, California courts have interpreted the statute
26 broadly to apply to “any issue in which the public is interested.” *Nygard, Inc. v.*
27 *Uusi-Kerttula*, 159 Cal. App. 4th 1027, 1042 (2008). The Nevada Supreme Court has
28 adopted one federal court’s test under California law:

- (1) “public interest” does not equate with mere curiosity;
- (2) a matter of public interest should be something of concern to a substantial number of people; a matter of concern to a speaker and a relatively small specific audience is not a matter of public interest;
- (3) there should be some degree of closeness between the challenged statements and the asserted public interest—the assertion of a broad and amorphous public interest is not sufficient;
- (4) the focus of the speaker’s conduct should be the public interest rather than a mere effort to gather ammunition for another round of private controversy; and
- (5) a person cannot turn otherwise private information into a matter of public interest simply by communicating it to a large number of people.

Shapiro, 389 P.3d at 268 (quoting *Piping Rock Partners, Inc. v. David Lerner Assocs., Inc.*, 946 F. Supp. 2d 957, 968 (N.D. Cal. 2013), *aff’d*, 609 F. App’x 497 (9th Cir. 2015)).

Here, allegations of a “decades-long pattern of sexual misconduct” by Mr. Wynn had—prior to the AP Article—been documented by *The Wall Street Journal*, *Las Vegas Review-Journal*, and media around the country; had prompted Mr. Wynn to resign from his prominent roles at Wynn Resorts and at the Republican National Committee; and had spurred private litigation and investigation by state regulators. *See supra*, at 4-5. This was no “mere curiosity” over a “private controversy.” Rather, the AP Article was on its face directly connected to the public issue over a powerful man’s alleged serial abuse of that power by preying on women. *See, e.g., Sipple v. Found. For Nat’l Progress*, 71 Cal. App. 4th 226, 236-39 (1999) (public figure’s alleged prior domestic abuse an issue of public concern). Indeed, the challenged publication itself identifies the public controversy:

The allegations are the latest leveled against Wynn by women. He resigned as chairman and CEO of Wynn Resorts on Feb. 6, less than two weeks after the Wall Street Journal reported that a number of women said he harassed or assaulted them and that one case led to a \$7.5 million settlement.

...

Wynn Resorts is facing scrutiny by gambling regulators in Nevada and Massachusetts, where the company is building a roughly \$2.4 billion casino just outside Boston. Regulators in Macau, the Chinese enclave where the company operates two casinos, are also inquiring about the allegations.

In addition, groups of shareholders have filed lawsuits in state court in Las Vegas accusing Wynn and the board of directors of Wynn Resorts of breaching their fiduciary duties by ignoring what the lawsuits described as a longstanding pattern of sexual abuse and harassment by the company's founder.

AP Article.¹⁴ As a matter of law, therefore, the AP Defendants have met their burden on this aspect of the test.

2. The AP Article is Truthful or Made Without Knowledge of Falsity

The second threshold showing required by a party bringing a special motion to strike is that a challenged publication was either "truthful" or "made without knowledge of its falsehood." Nev. Rev. Stat. § 41.637. The AP Article is both.

Because the AP Article accurately reported the allegations of a police report, the AP Article was "truthful" pursuant to the statute. Indeed, while Mr. Wynn denies the underlying allegations in LVMPD Case Report No. LLV180207001836, he does not—and cannot—dispute that the AP Article correctly reported its allegation that he committed sexual assault by raping an alleged victim three times in the 1970s. *Compare* AP Article *with* Garcia Cano Aff. Ex. 6 at 2-3. While the Nevada Supreme Court has not yet squarely held that accurate descriptions of government records are "truthful" under the anti-SLAPP statute, California courts regularly grant anti-SLAPP motions where the communications at issue are accurate summaries of government documents, and therefore privileged. *See, e.g., Healthsmart Pac., Inc. v. Kabateck*, 7 Cal. App. 5th 416, 434 (2016) (in granting anti-

¹⁴ This prong of the statute also requires that the speech be made "in a place open to the public or in a public forum." Nev. Rev. Stat. § 41.637(4); *Shapiro*, 389 P.3d at 268. Plaintiff appears to concede that the AP Article was a public statement. *See* Compl. ¶ 33, 36 (alleging that challenged report was "republished in other media outlets on a widespread basis" and identifying media outlets). Nor could Plaintiff reasonably deny that the AP Defendants' publication implicates a public forum. *E.g., Cole v. Patricia A. Meyer & Assocs., APC*, 206 Cal. App. 4th 1095, 1121 (2012) ("An Internet Web site that is accessible to the general public is a public forum.").

1 SLAPP motion based on statements in media reports, noting that “we are not
2 concerned with either the merits of [the] allegations or the truth of [the attorneys’]
3 statements to the media about the plaintiffs, but rather the extent to which the
4 attorneys’ statements accurately conveyed the substance of the allegations made in
5 the . . . complaint”); *Sparks v. Associated Press*, 2014 WL 1624477, at *4-5 (Cal. Ct.
6 App. Apr. 23, 2014) (granting anti-SLAPP motion where challenged report accurately
7 reported on court record of alleged misconduct by plaintiff and therefore was subject
8 to fair report privilege). The same result should apply here.

9 At the very least, however, the AP Defendants have met their initial burden of
10 demonstrating that they did not publish the AP Report with “knowledge of its
11 falsehood.” Nev. Rev. Stat. § 41.637. The LVMPD released the incident reports at a
12 time when *The Wall Street Journal* and other media outlets had reported on
13 widespread allegations of sexual misconduct and alleged rape by Mr. Wynn. *Supra*
14 at 4-7. Police released *two* complaints, and redacted victim-identifying information
15 from both. Garcia Cano Aff. ¶ 10, Ex. 6. Ms. Garcia Cano had no reason to have
16 “knowledge of . . . falsehood” of these allegations by *unidentified* additional claimed
17 victims—and, in fact, she did not. *Id.* ¶¶ 11-13. For this reason, too, the AP
18 Defendants have made the “initial showing” necessary to shift the burden to Mr.
19 Wynn to demonstrate that he is likely to prevail on his claims. *Delucchi*, 396 P.3d at
20 833.

21 **B. Plaintiff Cannot Establish a Probability of Prevailing on His Claim**

22 Mr. Wynn cannot meet his burden of establishing a “probability of prevailing
23 on the claim” for at least two simple reasons: The “fair report” privilege absolutely
24 bars the claims here and, moreover, Mr. Wynn is required to but cannot prove “actual
25 malice” by clear and convincing evidence.

26 **1. The “Fair Report Privilege” Bars Plaintiff’s Claims**

27 Nevada, like nearly every state, recognizes the fair report privilege. This
28 privilege allows the public and news media to accurately report—and discuss—

1 otherwise defamatory allegations contained within public proceedings and records.
2 *See Sahara Gaming Corp.*, 984 P.2d at 168 (“It is the news media and public’s right
3 to know what transpires in the legal proceedings of this state and that is paramount
4 to the fact someone may occasionally make false and malicious statements.”). As the
5 Nevada Supreme Court explained in *Wynn v. Smith*:

6 The fair report privilege is premised on the theory that members of the
7 public have a manifest interest in observing and being made aware of
8 public proceedings and actions. . . . If accurate reports of official
9 actions were subject to defamation actions, reporters would be wrongly
10 discouraged from publishing accounts of public proceedings.

11 117 Nev. at 14; *see also Circus Circus Hotels v. Witherspoon*, 99 Nev. 56, 61 (1983)
12 (“The policy underlying the privilege is that in certain situations the public interest
13 in having people speak freely outweighs the risk that individuals will occasionally
14 abuse the privilege by making false and malicious statements.”) (citations omitted).

15 There is no question that the privilege applies here. First, the redacted
16 reports released by the LVMPD plainly are “public records.” As the Nevada Supreme
17 Court has emphasized, the privilege is not limited to judicial records, but rather is
18 applicable to “*all* public, official actions or proceedings.” *Wynn*, 117 Nev. at 14
19 (emphasis added); *see also Adelson*, 402 P.3d at 668 (citing as the “primary test to
20 resolve whether a report qualifies for the fair report privilege” authority finding the
21 privilege broadly applicable to “an official document or proceeding,” such as a report
22 prepared by a safety board) (citing and quoting *Dameron v. Wash. Magazine, Inc.*,
23 779 F.2d 736, 739 (D.C. Cir. 1985)). While the privilege in Nevada does not extend to
24 materials remaining under seal, the privilege applies once government records
25 concerning official actions are made public. *Wynn*, 117 Nev. at 15-16 (“The purpose
26 of this [privilege] is to obviate any chilling effect on the reporting of statements
27 already accessible to the public.”). Courts routinely apply the privilege to police
28 incident reports. *See, e.g., Porter v. Guam Publ’ns, Inc.*, 643 F.2d 615, 616, 617-18
(9th Cir.1981) (collecting cases under law of California and other jurisdictions); *Imig*
v. Ferrar, 70 Cal. App. 3d 48, 54-57 (1977) (formal charge or complaint to police

1 department qualified for California privilege); RESTATEMENT (SECOND) OF TORTS
2 § 611. The police complaints provided to the AP and summarized in the AP Article
3 are public records to which the privilege applies.

4 Second, the privilege in Nevada is absolute. In other words, even alleged
5 knowledge of falsity does not abrogate the privilege, for the simple reason that the
6 purpose is to permit discussion of public records and proceedings *regardless of*
7 whether the underlying allegations are true. Simply put, the privilege is intended to
8 permit public discussion of allegations made to police even when they are obviously
9 false because the fact that such allegations were made is of legitimate public concern.
10 *Adelson*, 402 P.3d at 667-68; *Sahara Gaming*, 115 Nev. at 213; *Circus Circus Hotels*,
11 99 Nev. at 60. The only requirements for invocation of the privilege are that the
12 challenged statement attribute the allegations to the public record or proceeding,
13 *Adelson*, 402 P.3d at 668, and the challenged statement be a “fair and accurate
14 report” of that record or proceeding, *Sahara Gaming*, 115 Nev. at 219. Both are
15 satisfied here. The article clearly references the police reports. *See* AP Article (“The
16 Associated Press on Tuesday obtained copies of police reports recently filed by the
17 two women about allegations dating to the 1970s.”). Thus, the attribution
18 requirement is satisfied.

19 The AP Article is also a fair summary of the police report at issue. Verbatim
20 copying is not required: Once the privilege applies, as it does here, it embraces
21 paraphrasing and summaries. Indeed, the publication of defamatory matter based
22 on information from an official proceeding is privileged “if the report is accurate and
23 complete or *a fair abridgement* of the occurrence reported.” *Wynn*, 117 Nev. at 14
24 (emphasis added) (quoting RESTATEMENT (SECOND) OF TORTS § 611). Put another
25 way, a “fair” report need not be literally precise; it simply needs to be a substantially
26 correct summary of the proceeding or record. *See* RESTATEMENT (SECOND) OF TORTS §
27 611 cmt. f. The AP Article unquestionably meets this standard.

28

1 The AP Article faithfully and accurately described the allegations of Case
2 Report No. LLV180207001836, that “[a] woman told police she had a child with
3 casino mogul Steve Wynn after he raped her,” that “a woman told officers that Wynn
4 raped her at least three times around 1973 and 1974 at her Chicago apartment. She
5 reported she got pregnant and gave birth to a girl in a gas station restroom,” and that
6 “[i]n one instance, the woman claimed that Wynn pinned her against the refrigerator
7 and raped her. She said he then made a phone call, kissed her on the cheek and left.”
8 *See* AP Article. These statements are all drawn directly from the police report, and
9 described as allegations. *Id.*; *see also* Garcia Cano Aff. Ex. 6 at 4-5 (police report).

10 The apparent claim by Mr. Wynn that the allegations were “inherently
11 improbable” in light of the birth anecdote, Compl. ¶ 30, misses the mark. The fair
12 report privilege does not require commenters to make credibility determinations.
13 Indeed, the privilege exists precisely to protect “fair, accurate, and impartial” reports
14 of allegations even where, unlike here, the reporter actually *knows them to be false*.
15 *Adelson*, 402 P.3d at 667-68; *Sahara Gaming*, 115 Nev. at 213; *Circus Circus Hotels*,
16 99 Nev. at 60. Nor is the accurate reporting of a rape allegation somehow
17 “incomplet[e],” Compl. ¶28, simply because the AP Article provided a summary of the
18 alleged victim’s description of child-birth rather than a *verbatim* quotation. AP
19 Article (“She reported she got pregnant and gave birth to a girl in a gas station
20 restroom.”). All that is required is a “fair abridgment” of the allegedly defamatory
21 allegations, *Wynn*, 117 Nev. at 14. The AP Article is, without a doubt, at the very
22 least a substantially accurate summary of the police case report. It is thus
23 privileged, and Mr. Wynn cannot show a likelihood of success on his claim.

24 For this reason alone, the special motion to strike should be granted.

25 2. Plaintiff Also Cannot Meet His Burden of Establishing Fault

26 All apart from his attempt to premise a defamation claim on an accurate
27 report of public documents subject to the fair report privilege, Mr. Wynn’s claim fails
28 for a second reason as well. As a public figure, *see, e.g., Wynn*, 117 Nev. at 9, to

1 prevail on a claim for defamation Plaintiff must bear the heavy burden of
2 establishing, by clear and convincing evidence, that the AP Defendants published the
3 AP Article with “actual malice”—that is, with “a *high degree of awareness* of . . .
4 probable falsity,” *id.* at 16 (quoting *Posadas v. City of Reno*, 109 Nev. 448, 454
5 (1993). Under the anti-SLAPP statute, Plaintiff must show a likelihood of ultimately
6 meeting this standard to survive the special motion to dismiss. Nev. Rev. Stat.
7 § 41.660(3)(b); *Delucchi*, 396 P.3d at 831. For all the same reasons that the AP
8 Defendants met their initial burden of demonstrating that they did not publish the
9 AP Article with “knowledge of its falsehood,” the Plaintiff cannot meet his burden to
10 establish fault. For this independent reason, too, the special motion should be
11 granted and this case dismissed with prejudice.

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1 V. CONCLUSION

2 For the foregoing reasons, the AP Defendants respectfully request that the
3 Court dismiss Plaintiff's Complaint with prejudice and award to the AP Defendants
4 their attorneys' fees and costs pursuant to Nev. Rev. Stat. §§41.660 and 41.670, as
5 well as an additional award of \$10,000 given Plaintiff's status as a serial SLAPP
6 litigant, *see, e.g., Chanos*, 2015 WL 3832561, at *6.

7 DATED this 31st of May, 2018.

BALLARD SPAHR LLP

8
9 By: /s/ Justin A. Shiroff
10 Joel E. Tasca
11 Nevada Bar No. 14124
12 Justin A. Shiroff
13 Nevada Bar No. 12869
14 1980 Festival Plaza Drive, Suite 900
15 Las Vegas, Nevada 89135

16 Jay Ward Brown
17 (Pro hac vice motion pending)
18 Chad R. Bowman
19 (Pro hac vice motion pending)
20 1909 K Street, NW, 12th Floor
21 Washington, DC 20006
22 Telephone: (202) 661-2200
23 brownjay@ballardspahr.com
24 bowmanchad@ballardspahr.com

25 *Attorneys for Defendants*
26 *The Associated Press and*
27 *Regina Garcia Cano*
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of May, 2018, and pursuant to N.R.C.P. 5(b), I served a true and correct copy of the foregoing DEFENDANTS' SPECIAL MOTION TO DISMISS was filed and served on the following parties via the Court's electronic service system:

Tamara Beatty Peterson, Esq.
Nikki L. Baker, Esq.
PETERSON BAKER, PLLC
1001 Park Run Drive
Las Vegas, NV 89145

L. Lin Wood, Esq.
Nicole J. Wade, Esq.
G. Taylor Wilson, Esq.
L. LIN WOOD, P.C.
1180 West Peachtree Street, Suite 2400
Atlanta, GA 30309

Attorneys for Plaintiffs

/s/ Sarah H. Walton
An Employee of Ballard Spahr LLP

*Attorneys for Defendants
The Associated Press and Regina Garcia Cano*

STEVE WYNN, an individual) Case No. A-18-772715-C
)
Plaintiffs,) Dept. No. XIV
v.)
)
THE ASSOCIATED PRESS, a foreign)
corporation; REGINA GARCIA CANO, an)
individual; and HALINA KUTA, an)
individual; DOES I-X,)
)
Defendants.)

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

1. I, Regina Garcia Cano, declare as follows:
2. I am a reporter with The Associated Press ("AP"), based in Las Vegas.
3. I make this affidavit in support of the AP Defendants' Special Motion to Dismiss. The following facts are within my personal knowledge except where stated. If I am called as a witness, I am competent to testify as to these facts and matters.
4. I have followed the story of public allegations that Steve Wynn has engaged in a long-running pattern of sexual misconduct.

Case Number: A-18-772715-C

1 5. Attached hereto as **Exhibit 1** is a true and correct copy of an article
2 published by *The Wall Street Journal* online on January 26, 2018 and revised
3 January 27, 2018, under the headline, "Dozens of People Recount Pattern of Sexual
4 Misconduct by Las Vegas Mogul Steve Wynn."

5 6. Attached hereto as **Exhibit 2** is a true and correct copy of an article
6 published by *The Las Vegas Review-Journal* on February 12, 2018, under the
7 headline "2 women tell Las Vegas police Steve Wynn assaulted them in the '70s."

8 7. After reading the February 12, 2018 article in *The Las Vegas Review-*
9 *Journal*, I contacted the Public Information Office of the Las Vegas Metropolitan
10 Police Office ("LVMPD") to inquire about the complaints. I was told that the Public
11 Information Office had publicly released an email statement regarding the
12 complaints, a copy of which was then sent to me. Attached hereto as **Exhibit 3** is a
13 true and correct copy of that email from LVMPD.

14 8. On February 14, 2018, I submitted a public records request to the
15 LVMPD seeking the two police reports referenced by the Public Information Office's
16 email statement. Attached hereto as **Exhibit 4** is a true and correct copy of my
17 Nevada Open Records Act request to LVMPD. The request specifically sought
18 expedited processing because "this information concerns a matter of intense public
19 interest."

20 9. The LVMPD Public Information Office acknowledged the Request two
21 days later. Attached hereto as **Exhibit 5** is a true and correct copy the LVMPD
22 acknowledgement.

23 10. On February 27, 2018, LVMPD provided two documents to me pursuant
24 to my public records request. A true and correct copy of the envelope and the two
25 police reports that were enclosed in the envelope are attached hereto as **Exhibit 6**.

26 11. Both official police reports were for alleged "sex assault," and both
27 identified Steve Wynn as the "offender." However, the Public Information Office
28 redacted the "Victims" section of each report to remove personally identifiable

1 information about of the alleged victim—including the name, date of birth, address,
2 and phone number. Victim information was similarly redacted from the narrative
3 sections of the police reports. For Case Report No. LLV180207001836, the “Offender
4 Relationships” entry was also redacted.

5 12. I have no personal knowledge about these allegations. Because
6 personally identifying information about the alleged victims was redacted from the
7 public records released to me, I did not at the time know the identity of either alleged
8 victim. (The allegations in the complaint notwithstanding, I still do not know the
9 identity of either alleged victim.)

10 13. In the context of the LVMPD’s statement, *The Wall Street Journal’s*
11 reporting about Mr. Wynn’s alleged sexual misconduct over a period of decades, and
12 the ongoing public attention to those allegations by multiple women, I had no reason
13 to disbelieve the allegations contained in the police reports. At the time I prepared
14 my report for The Associated Press, I did not know that any of the allegations in the
15 two police reports were false. Indeed, to this day I do not know that any of the
16 allegations in the two police reports are false.

17 14. I prepared a news report about the allegations in the police complaints
18 that appeared under my byline initially on February 27, 2018, bearing the headline
19 “APNewsBreak: Woman tells police Steve Wynn raped her in ’70s”. A true and
20 correct copy of that news story is attached hereto as **Exhibit 7** (the “AP Article”).
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BALLARD SPAHR LLP
1980 FESTIVAL PLAZA DRIVE, SUITE 900
LAS VEGAS, NEVADA 89135
(702) 471-7000 FAX (702) 471-7070

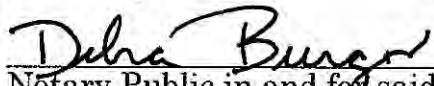
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I state under penalty of perjury that the foregoing is true and correct.

DATED: May 30, 2018


Regina Garcia Cano

Subscribed and sworn before me this 30
day of May 2018.


Notary Public in and for said County
of Clark and State of Nevada

My Commission Expires: _____

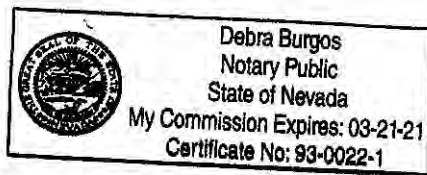


Exhibit 1

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BUSINESS

Dozens of People Recount Pattern of Sexual Misconduct by Las Vegas Mogul Steve Wynn

Wynn Resorts employees and others described a CEO who sexualized his workplace and pressured workers to perform sex acts. Mr. Wynn responded: 'The idea that I ever assaulted any woman is preposterous.'



Steve Wynn, CEO of Wynn Resorts, during a press conference in Macau, China, in August 2016. PHOTO: VINCENT YU/ASSOCIATED PRESS

By Alexandra Berzon, Chris Kirkham, Elizabeth Bernstein and Kate O'Keeffe

Updated Jan. 27, 2018 1:02 a.m. ET

LAS VEGAS—Not long after the billionaire casino mogul Steve Wynn opened his flagship Wynn Las Vegas in 2005, a manicurist who worked there arrived at the on-site salon visibly distressed following an appointment in Mr. Wynn's office.

Sobbing, she told a colleague Mr. Wynn had forced her to have sex, and she repeated that to others later.

JA00070

After she gave Mr. Wynn a manicure, she said, he pressured her to take her clothes off and told her to lie on the massage table he kept in his office suite, according to people she gave the account to. The manicurist said she told Mr. Wynn she didn't want to have sex and was married, but he persisted in his demands that she do so, and ultimately she did disrobe and they had sex, the people remember her saying.

After being told of the allegations, the woman's supervisor said she filed a detailed report to the casino's human-resources department recounting the episode.

Mr. Wynn later paid the manicurist a \$7.5 million settlement, according to people familiar with the matter.

The incident was referenced, in broad terms, in a lawsuit in which Mr. Wynn's ex-wife, Elaine Wynn, seeks to lift restrictions on the sale of her stock in Wynn Resorts Ltd.

WYNN +2.29% ▲ Attorneys for Mr. Wynn in a court filing admitted he made the personal payment; in a later hearing, his corporate attorney said there had been "allegations of assault." Court records in the suit are heavily redacted. Specifics of the allegation and the size of the settlement haven't been previously reported.

Beyond this incident, dozens of people The Wall Street Journal interviewed who have worked at Mr. Wynn's casinos told of behavior that cumulatively would amount to a decades-long pattern of sexual misconduct by Mr. Wynn. Some described him pressuring employees to perform sex acts.



Steve Wynn discussing a planned casino during a press conference in Medford, Mass., March 2016. PHOTO: JESSICA RINALDI/THE BOSTON GLOBE/GETTY IMAGES

In response to written questions about the manicurist's and others' allegations, Mr. Wynn said, "The idea that I ever assaulted any woman is preposterous."

He continued, in a written statement, "We find ourselves in a world where people can make allegations, regardless of the truth, and a person is left with the choice of weathering insulting publicity or engaging in multi-year lawsuits. It is deplorable for anyone to find themselves in this situation."

JA00071

Mr. Wynn said that “the instigation of these accusations is the continued work of my ex-wife Elaine Wynn, with whom I am involved in a terrible and nasty lawsuit in which she is seeking a revised divorce settlement.” He said he remained focused on the company, its employees and its shareholders.

Ms. Wynn declined to speak to the Journal. An attorney for Ms. Wynn said the notion she instigated the Journal’s article “is just not true.”

Mr. Wynn didn’t provide further response to other allegations of sexual misconduct the Journal inquired about.

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Wynn Resorts said it is committed to maintaining a safe and respectful culture, requires annual anti-harassment training for all, and offers an anonymous hotline. “Since the inception of the company, not one complaint was made to that hotline regarding Mr. Wynn,” the company said.

The Wynn Resorts board late Friday said its independent directors would form a special committee to investigate the allegations against Mr. Wynn.

Mr. Wynn, turning 76 on Saturday, is a towering figure in Las Vegas and the wider gambling industry. As builder of the Mirage, Treasure Island, Bellagio, Wynn and Encore casinos in Las Vegas—lavish, multiuse resorts with features such as artificial volcanoes, dancing fountains and French chefs—he brought a new level of sophistication and scale to the Strip.

Mr. Wynn no longer owns the Mirage, Treasure Island or Bellagio, but his empire now includes two casinos bearing his name in the Chinese gambling enclave of Macau, and he is building a \$2.4 billion Wynn casino in the Boston area. He is the chairman and chief executive of Wynn Resorts.

Dozens of powerful men have faced consequences in recent months after publicly aired accusations of sexual improprieties. Those against Mr. Wynn are the first in this wave to center on the CEO and founder of a major publicly held company, in this case one operating in a tightly regulated industry.

Mr. Wynn owns nearly 12% of Wynn Resorts, a stake worth \$2.4 billion, and is considered integral to its success. His signature is the company logo. In a recent securities filing citing possible risks to the business, the company said, “If we lose the services of Mr. Wynn, or if he is unable to devote sufficient attention to our operations for any other reason, our business may be significantly impaired.”

Mr. Wynn’s political profile also has grown. He is a former casino-business rival of



Steve Wynn, third from right, breaks ground in 2002 for Le Reve, a 2,700-room luxury hotel casino that would eventually become the Wynn Las Vegas resort. PHOTO: CHRIS FARINA/CORBIS/GETTY IMAGES

President Donald Trump, who said in 2016 that Mr. Wynn was a “great friend” whose advice he valued. After Mr. Trump’s election, Mr. Wynn became the Republican National Committee’s finance chairman.

Mr. Wynn is a regular on his casino floors, known for a keen attention to details and what employees say is a temper that can flare when they fall short. He has frequently had services such as manicures, massages and makeup application performed in his on-site office at the Wynn Las Vegas.

The contrast between Mr. Wynn’s position and that of the salon and spa employees is stark. Former employees said their awareness of Mr. Wynn’s power in Las Vegas, combined with the knowledge that the jobs they held were among the best-paying available there, added up to a feeling of dependence and intimidation when Mr. Wynn made requests of them.

Some said that feeling was heightened at times by the presence in a confined office space of one or more of his German shepherds, trained to respond to commands in German.

The Journal contacted more than 150 people who work or had worked for Mr. Wynn; none reached out to the Journal on their own. Most of those who spoke to the Journal about Mr. Wynn said they worried that doing so could hurt their ability to work elsewhere because of his influence in the casino industry and the state.

Former employees said they sometimes entered fake appointments in the books to help other female workers get around a request for services in Mr. Wynn’s office or arranged for others to pose as assistants so they wouldn’t be alone with him. They told of female employees hiding in the bathroom or back rooms when they learned he was on the way to the salon.

“Everybody was petrified,” said Jorgen Nielsen, a former artistic director at the salon. Mr. Nielsen said he and others repeatedly told high-level company executives Mr.

JA00073

Wynn's sexual advances were causing a problem, but "nobody was there to help us."

One former massage therapist at the Wynn Las Vegas spa said that several years ago, when Mr. Wynn was booking multiple appointments a week with her in the private massage room in his office suite, he would continually adjust a towel to expose himself. Then at one session, she said, he threw it off and said, "Just get this thing off of me."

She said he wouldn't let her use a towel to cover his genitals after that, contrary to state licensing regulations, and he also began rubbing her leg while she massaged him.

After a few weeks, the former employee said, Mr. Wynn instructed her to massage his penis to climax. The woman said that because he was her boss, she felt she had no choice but to agree to some of Mr. Wynn's requests, including that one. She said masturbating him became a frequent part of the massage sessions for several months.

At the end of each hour-long massage session, she said, he handed her \$1,000 in cash, which was the same amount as before the sexual activity began.

In subsequent sessions, the woman said, Mr. Wynn asked her to perform oral sex on him and described in detail how he wanted it done. This request she refused, she said.

The woman said she told Mr. Wynn at a later session she was uncomfortable with his requests, and he then stopped asking for massages from her.

She said she didn't tell anyone what happened at the time because she was embarrassed, adding she is still trying to deal with the incident emotionally. She did tell a colleague in a general way that Mr. Wynn had been inappropriate with her, that colleague recalled in an interview.

The colleague said she offered advice to the massage therapist—but didn't mention that Mr. Wynn had also made advances toward her while she massaged him in his office's private massage room. The colleague said in an interview Mr. Wynn would remove his towel and, while she massaged the front of his thighs, would tell her to "go higher," which she understood to mean touch his genitals. She said she told him this made her uncomfortable, and then his requests for massages became less frequent.

Dennis Gomes, who was an executive at the Golden Nugget in Las Vegas when Mr. Wynn was running that casino decades ago, said in a deposition in an early-1990s lawsuit that Mr. Gomes "routinely received complaints from various department heads regarding Wynn's chronic sexual harassment of female employees," according to a court filing that summarized his testimony.

In the suit over Mr. Gomes's departure to work for a Trump casino, Mr. Gomes described what he called a "disgraceful pattern of personal and professional conduct" that he said included Mr. Wynn's directing him to get the home phone numbers of casino cocktail waitresses.

JA00074

Mr. Wynn denied the allegations in the suit in Nevada state court. The parties agreed to drop the suit in 1994.

Mr. Gomes died in 2012. His widow, Barbara Gomes, in an interview for this article, said, “I remember him saying, ‘I’m not his pimp,’ ” referring to Mr. Wynn.



The lobby of the Wynn Las Vegas, shown here in 2011. PHOTO: MARK RIGHTMIRE/THE ORANGE COUNTY REGISTER/ZUMA PRESS

Shawn Cardinal, who was a personal assistant to Elaine Wynn while she was married to Mr. Wynn, said that around 1987, Mr. Wynn repeatedly asked her to spend time with him outside of work. She said he continued asking, often approaching her at her desk outside his wife’s office, despite her telling him she had plans with her husband and child.

On the phone, he would ask, “What are you wearing? Why don’t you hang out with me after work?” said Ms. Cardinal. “I was not brave enough to say, ‘How dare you?’ I just joked my way out of it and I made sure I was never alone with him.”

Several former employees said Mr. Wynn often walked around some areas of the complex in extremely short shorts without underwear, and he would sit in the salon to get pedicures in such a way that his genitals were exposed.

One former employee said after she had performed services in Mr. Wynn’s office for years, one day he asked if he could kiss her. She said she laughed off the request, hoping to leave without upsetting him.

Another time, this employee said, she was performing services in her own workplace at the casino when Mr. Wynn said, “So when are you going to come into my office and f— me?”

She said that she again laughed off the proposition. “I would say, ‘Oh Mr. Wynn.’ ” she recalled. “I was just trying to get on with my job.”

One time as she did her work in Mr. Wynn’s office, this woman said, he repeatedly

JA00075

rubbed his genitals, which were falling out of his shorts, and made comments about things he would like to do with her sexually. On one occasion as she was leaving his office, the former employee said, Mr. Wynn grabbed her waist as she stood against a wall and told her to kiss him. She said she slipped out of his hold and left.

After around two weeks of pursuit, this woman said, Mr. Wynn stopped.

The former employee's supervisor and another colleague confirmed being told of these advances in detail at the time. The employee and the supervisor said they sought to manage the situation rather than report it because they believed there would be repercussions if they did.

The 2005 allegations of the manicurist that led to the settlement were the most striking described by former employees. In this instance, a woman who was a salon manager at the time said she filed a written report to human resources. She said she got a call from an executive, Doreen Whennen, castigating her for filing to HR and saying she should have taken the matter directly to Ms. Whennen.

The former manager said no one followed up with her about the matter. The manicurist soon left.

Ms. Whennen, who is no longer at the company, declined to comment.

In the lawsuit between the Wynns, Ms. Wynn cited a "multimillion dollar payment" made by Mr. Wynn following allegations he had engaged in "serious misconduct" on company property against an employee not named in the suit. A filing said Ms. Wynn had learned of the settlement in 2009.

In the suit, Ms. Wynn, who is a co-founder and former board member of Wynn Resorts, is seeking to free herself from restrictions on the control of her estimated \$1.9 billion of stock that were imposed by a 2010 agreement with Mr. Wynn.

Her attorneys have argued that in making a settlement with a former employee without telling the board, Mr. Wynn recklessly exposed the company and other directors to liability.

Wynn Resorts, in its statement to the Journal, alleged that Ms. Wynn was trying to "tarnish the reputation of Mr. Wynn in an attempt to pressure a revised divorce settlement." The company called it noteworthy that despite knowing of the allegations since 2009, Ms. Wynn didn't make them known to the board, of which she was a member, or raise them until after she lost her board seat.

An attorney for Ms. Wynn said she raised the issue internally when she learned of it.

Mr. Wynn's attorneys have argued the settlement wasn't relevant to the Wynns' dispute, which is headed for a trial this spring.

—Jim Oberman, Lisa Schwartz and Zusha Elinson contributed to this article.

Corrections & Amplifications

Shawn Cardinal, who was a personal assistant to Elaine Wynn while she was married to Mr. Wynn, said that around 1987, Mr. Wynn repeatedly asked her to spend time with him outside of work. An earlier version of this article incorrectly stated the date was around 1997. Also, a chart of Wynn Resorts' revenue is in billions of dollars. A chart with an earlier version of this article incorrectly labeled it in trillions. (Jan. 26, 2018)

Write to Alexandra Berzon at alexandra.berzon@wsj.com, Chris Kirkham at chris.kirkham@wsj.com, Elizabeth Bernstein at Bonds@wsj.com and Kate O'Keeffe at kathryn.okeeffe@wsj.com

Appeared in the January 27, 2018, print edition as 'Wynn Accused of Sexual Misconduct.'

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EXHIBIT 2

Exhibit 2

Home >> Business >> Casinos & Gaming

2 women tell Las Vegas police Steve Wynn assaulted them in the '70s

By Rio Lacanlale Las Vegas Review-Journal
February 12, 2018 - 5:38 pm



Updated February 12, 2018 - 9:44 pm

Two women have reported to Las Vegas police that they were sexually assaulted by casino developer Steve Wynn in the 1970s, a spokesman said Monday.

Metropolitan Police Department spokesman Larry Hadfield said the statute of limitations for sexual assault in Nevada is 20 years, but that should not discourage victims from speaking up.

"We would encourage all victims to come forward," he said.

Wynn stepped down last week as chief executive officer and chairman of Wynn Resorts Ltd. following several reports that he repeatedly harassed female employees.

"Because the incidents are alleged to have taken place before the establishment of Wynn Resorts, Wynn Resorts does not have a comment," spokesman Michael Weaver said Monday.

Got a tip on Wynn?

To submit a news tip regarding the Steve Wynn investigation to the Review-Journal, go to www.reviewjournal.com/news-tips

Hadfield said the first complaint was called in to the department from St. Louis on Jan. 29, three days after the Wall Street Journal published detailed allegations of sexual misconduct involving Wynn. The woman alleged that Wynn had assaulted her in Las Vegas, the spokesman said.

"The incident will be investigated, however it is past the statute of limitations," Hadfield said.

On Feb. 5, another woman told Metro about a sexual assault that occurred in Chicago. No other details surrounding the incident were immediately available.

Hadfield said Metro will forward the Feb. 5 courtesy report regarding the incident to the Chicago Police Department.

When contacted Monday afternoon, a Chicago police spokesman said he had not heard about the report.

Under Illinois law, the government typically has three years to charge individuals with felony offenses. But Chicago criminal defense attorney Steve Roach said if the crime is reported to police within three years of the alleged incident, "it could allow an individual to be prosecuted within 10 years of the alleged act based upon certain factors."

JA00080

"Based on my experience as a former Chicago prosecutor and experienced criminal defense attorney for many years," Roach told the Las Vegas Review-Journal Monday evening, "it's my opinion, based upon what we know at this point, that it's highly unlikely (Wynn) would ever face charges in Illinois."

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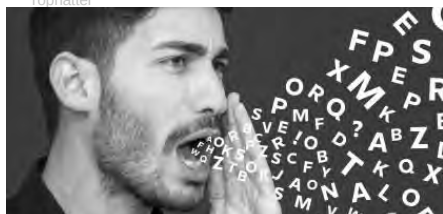
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'O La gr ac

JA00084

Exhibit 3

From: PIO <PIO@LVMPD.COM>
Sent: Tuesday, February 13, 2018 3:32 PM
To: Garcia Cano, Regina
Subject: LVMPD re: Steve Wynn

The LVMPD has received two complaints against Steve Wynn alleging sexual assault. On January 29, 2018, a woman made a report from St. Louis stating the incident occurred in Las Vegas in the 1970's. A second woman filed a report February 5, 2018 at an LVMPD Substation in the Northwest part of the city. She stated the crime occurred in the 1970's in Chicago, IL. A courtesy report was taken and will be forwarded to Chicago authorities.

Below is the Nevada Revised Statute (NRS) pertaining to the statute of limitations for Sexual Assault. Due to the fact the report was not filed within the time frame allowed by NRS, an investigation cannot go forward.

NRS 171.083 No limitation for sexual assault or sex trafficking if written report filed with law enforcement officer during period of limitation; effect of disability on period of limitation.

1. If, at any time during the period of limitation prescribed in NRS 171.085 and 171.095, a victim of a sexual assault, a person authorized to act on behalf of a victim of a sexual assault, or a victim of sex trafficking or a person authorized to act on behalf of a victim of sex trafficking, files with a law enforcement officer a written report concerning the sexual assault or sex trafficking, the period of limitation prescribed in NRS 171.085 and 171.095 is removed and there is no limitation of the time within which a prosecution for the sexual assault or sex trafficking must be commenced.
2. If a written report is filed with a law enforcement officer pursuant to subsection 1, the law enforcement officer shall provide a copy of the written report to the victim or the person authorized to act on behalf of the victim.
3. If a victim of a sexual assault or sex trafficking is under a disability during any part of the period of limitation prescribed in NRS 171.085 and 171.095 and a written report concerning the sexual assault or sex trafficking is not otherwise filed pursuant to subsection 1, the period during which the victim is under the disability must be excluded from any calculation of the period of limitation prescribed in NRS 171.085 and 171.095.
4. For the purposes of this section, a victim of a sexual assault or sex trafficking is under a disability if the victim is insane, intellectually disabled, mentally incompetent or in a medically comatose or vegetative state.
5. As used in this section, "law enforcement officer" means:
 - (a) A prosecuting attorney;
 - (b) A sheriff of a county or the sheriff's deputy;
 - (c) An officer of a metropolitan police department or a police department of an incorporated city; or
 - (d) Any other person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

NRS 171.085 Limitations for felonies. Except as otherwise provided in NRS 171.080, 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sex trafficking, a violation of NRS 90.570, a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 or a violation of NRS 205.377 must be found, or an information or complaint filed, within 4 years after the commission of the offense.
2. Sexual assault must be found, or an information or complaint filed, within 20 years after the commission of the offense.
3. Any felony other than the felonies listed in subsections 1 and 2 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

[1911 Cr. Prac. § 72; RL § 6922; NCL § 10720] — (NRS A 1963, 371; 1977, 1630; 1985, 2167; 1997, 890; 2001, 3031; 2003, 20th Special Session, 273; 2005, 1426; 2009, 146; 2013, 2418; 2015, 583)

Exhibit 4

**ASSOCIATED PRESS**

300 S. Fourth St., Suite 810
Las Vegas, NV 89101
T 702.384.7440

ap.org

Feb. 14, 2018

Office of Public Information
Las Vegas Metropolitan Police Department
400 S. Martin Luther King Blvd.
Las Vegas, NV 89106

SENT VIA EMAIL (PIO@lvmpd.gov)

Dear Records Officer:

On Tuesday, Feb. 13, 2018, the Las Vegas Metropolitan Police Department revealed that it had received two complaints against Steve Wynn alleging sexual assault.

According to the email sent by the department's office of public information: "On January 29, 2018, a woman made a report from St. Louis stating the incident occurred in Las Vegas in the 1970's. A second woman filed a report February 5, 2018 at an LVMPD Substation in the Northwest part of the city. She stated the crime occurred in the 1970's in Chicago, IL. A courtesy report was taken and will be forwarded to Chicago authorities."

Under the Nevada Open Records Act § 239 et seq., I, Regina Garcia Cano, a reporter with The Associated Press, request an opportunity to inspect or obtain copies of the following records:

1. Report filed on Jan. 29, 2018, by a woman from St. Louis alleging Steve Wynn sexually assaulted her in the 1970s in Las Vegas.
2. Report filed Feb. 5, 2018, at a department substation in the northwest part of the city by a woman alleging Steve Wynn sexually assaulted her in the 1970s in Chicago.

As you know, the Nevada Open Records Act provides for the release of copies of agency records, and I would prefer to receive the documents electronically as a PDF file. If electronic copies are not available, please contact me first before processing this request. I can be reached at (702) 382-7440 or by electronic mail at RGarciaCano@ap.org.

As this information concerns a matter of intense public interest, I request expedited processing. If you believe my request is too broad or does not reasonable describe the records, please contact me via email so that I may clarify my request, and when appropriate, inform me of the manner in which records are filed, retrieved or generated.

Because I am a journalist primarily engaged in disseminating information, and this is a request by the news media for records in the public interest and is not being sought for commercial purposes, I ask that you waive any fees associated with the disclosure of the

JA00088

requested information. If there are any fees for searching or copying these records, please provide a written estimate from production of the records indicated above if the estimated cost is expected to be more than \$25.

As you're aware, agencies must redact only what is necessary to protect exempt information and must explain the basis for any redactions. I ask that responsive records be released on a rolling basis _ that is, as they are available, rather than waiting for my entire request to be processed before releasing documents.

If for any reason any portion of this request is denied, please provide a written explanation for the denial, citing each specific statutory exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Also, please provide all segregable portions of otherwise exempt material.

I am directing this request to you as the agency's communications office. Please direct it to the agency's public records officer, if there is one.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

As the Open Records Act requires that an agency respond to a request within five business days of receipt of a request, I would appreciate a response as soon as possible. If access to the records I am requesting will take longer than a reasonable amount of time, please contact me with information about when I might expect them.

Thank you for your assistance. I look forward to your prompt reply.

Sincerely,

Regina Garcia Cano
The Associated Press, Las Vegas
Office: 702-382-7440

JA00089

Exhibit 5

Garcia Cano, Regina

From: PIO <PIO@LVMPD.COM>
Sent: Friday, February 16, 2018 10:15 AM
To: Garcia Cano, Regina
Subject: RE: Records request from The AP

Good morning Regina,

Quick email to acknowledge receipt of your request.

Office of Public Information
Las Vegas Metropolitan Police Department
400-B South Martin L. King Boulevard, Las Vegas, Nevada 89106
☎ 702.828.4082 office | ☎ 702.828.1550 fax | ✉ PIO@LVMPD.com
Follow us on [Facebook](#), [Twitter](#) and [Instagram](#)

dm

From: Garcia Cano, Regina [mailto:RGarciaCano@ap.org]
Sent: Wednesday, February 14, 2018 3:32 PM
To: PIO <PIO@LVMPD.COM>
Subject: Records request from The AP

Metro PIO Team—

Good afternoon. I hope you are well.

I have attached a request for public records under the custody of the Las Vegas Metropolitan Police Department. The AP is looking for two reports.

Please let me know if I can provide additional information. I would appreciate if you could confirm that you have received this message.

Many thanks,

Regina

Regina Garcia Cano
The Associated Press
Las Vegas
Office: 702-382-7440

The Associated Press is the essential global news network, delivering fast, unbiased news from every corner of the world to all media platforms and formats. Founded in 1846, AP today is the largest and most trusted source of independent news and information. On any given day, more than half the world's population sees news from AP.

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have

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Exhibit 6



Administrative

Location **129 FREMONT ST Lv, NV 89101**
Occurred On (Date / Time) **Monday 1/29/2018 3:11:59 PM**
Reporting Officer **07426 - Brewer, Michael J**
Entered By **15176 - Ellison, Julie**
Related Cases

Or Between (Date / Time)
Reported On **1/29/2018**
Entered On **1/30/2018 7:30:19 AM**
Jurisdiction

Sector /Beat **A1**

Las Vegas, City of

Traffic Report

Place Type

Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B

Completed **Yes** Domestic Violence
Entry Premises Entered
Weapons **None**
Criminal Activities

Hate/Bias **None (No Bias)**
Type Security
Location Type **Gambling Facility/Casino/Race Track**
Tools

Victims:

Name: [REDACTED]

Victim Type **Individual** Written Statement
Victim of **50095 - Sex Assault(F)-NRS 200.366.2B**

Can ID Suspect

DOB [REDACTED] Age **67** Sex **Female** Race **White** Ethnicity **Unknown**
Height [REDACTED] Weight [REDACTED] Hair Color [REDACTED] Eye Color [REDACTED]
Employer/School [REDACTED]
Occupation/Grade [REDACTED]
Injury **None Observed** Work Schedule [REDACTED]
Injury Weapons **None**

Addresses

Residence [REDACTED]

Phones

Home/Residence [REDACTED]

Offender Relationships

S - Wynn, Steve

Victim Was Employee

Notes:

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

Associated Press / Las Vegas Sun
By: **MANZ** Date: **2/27/18**
Las Vegas Metro Police Dept.

Suspects:

Name: **Wynn, Steve**

Alias:

Scope ID [REDACTED] Age **76** Race **White** Ethnicity **Unknown**
Sex **Male** Height [REDACTED] Weight [REDACTED] Hair Color [REDACTED] Eye Color [REDACTED]
Employer/School [REDACTED] Occupation/Grade [REDACTED]

Narrative

[REDACTED] stated she was employed as a dealer for the golden Nugget in 1974. Her maiden name when employed was [REDACTED]. Several times during her employment, Steve Wynn and she had sex. [REDACTED] stated the sex was consensual but she felt coerced to perform the acts. The following times are what she remembers?

1st- April or May of 1975. She was approached by Wynn at her table and he escorted her back to his office and they had sex.

2nd-Summer of 1975. Steve Wynn asked her to go to his house on Rancho Dr. between Charleston and Sahara. She told him she had no way to get there and he sent a cab/driver. They had sex in his bedroom.

3rd- Spring of 1976. Wynn flew her to a concert in Oklahoma in his private jet. On the way back she performed oral on him.

In the Summer of 1976, Wynn approached her in the back hall and wanted her to go with him. she told him, "no", she was done and had someone she was seeing. She was soon after accused of stealing \$40.00 and forced to resign.



Administrative

Location UNKNOWN ADDRESS CHICAGO Chicago, IL

Sector /Beat OJ - Other
Jurisdiction n

Occurred On (Date / Time) Friday 6/1/1973 12:00:00 AM
Reporting Officer 07027 - Chavez, Irma M
Entered By 07027 - Chavez, Irma M
Related Cases

Or Between (Date / Time) Saturday 8/31/1974 12:00:00 AM
Reported On 2/7/2018
Entered On 2/7/2018 11:26:37 AM
Jurisdiction Other Jurisdiction

Traffic Report No Place Type Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B

Completed Yes Domestic Violence No
Entry Premises Entered Hate/Bias Unknown (Offenders Motivation Not Known)
Weapons None Type Security Tools
Criminal Activities None/Unknown Location Type Residence/Home

Victims:

Name: [REDACTED]

Victim Type Individual Written Statement Yes Can ID Suspect Yes
Victim of 50095 - Sex Assault(F)-NRS 200.366.2B

DOB [REDACTED] Age 27 Sex Female Race White Ethnicity Unknown
Height 5' 0" Weight 115 Hair Color Blond Eye Color Green
Employer/School
Occupation/Grade
Injury Not Provided Work Schedule Injury Weapons None

Addresses

Residence [REDACTED]

Phones

Cellular [REDACTED]

Offender Relationships

S - Wynn, Stephan

Notes:

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

Assigned Person / LARICA CANTO

By: [REDACTED] Date: 2/27/18
Las Vegas Metro Police Dept.

Suspects:

Name: Wynn, Stephan

Alias:

Scope ID DOB Age 76 Race White Ethnicity Not Hispanic or
Sex Male Height 5' 6" Weight 145 Hair Color Brown Eye Color Brown
Employer/School Occupation/Grade

Addresses

Phones

Business/Work [REDACTED]

Notes:

Narrative

[REDACTED] came to NWAC to report that in 1973-1974, in Chicago, IL, she was exercising in her old apartment and when she stood up, Stephan Wynn was standing in front of her and said a word that she didn't understand, and then he pinned her up against the refrigerator and raped her as she was standing holding onto the refrigerator. Stephan then called someone for a few minutes then came and kiss her on her cheek and said he had to go and then added I call you later.

When he left she was still standing holding onto the refrigerator and looked at the window and saw her reflection, crying, and asking herself what just happened, what did he say?

A few days later, after her shower, she wrapped herself in the towel and was going to the bedroom and there was Stephan, sitting at the kitchen table. He got up and says some words, pinned her to the wall forcing himself on her then just like before, he called someone, kissed her on the cheek and said he would call her later and left. She was standing holding onto the wall and the towel was on the floor, and she was crying, saying to herself, why her, what did she do to be treated so badly, and why is he coming to her apartment. She didn't give him a key to her apartment. She remembers that Stephan said "you make me horny" then raped her twice.

She ended up pregnant. It was a hot steamy afternoon and she needed to go to the restroom. She saw a gas station and went in to the restroom. She was in pain standing by the wall and gave birth. The baby was laying on her feet inside the water bag. She slid down and said a doll is inside the water bag, the blood falling down, and she wanted to open, but the water bag was thick. She used her teeth to make a small opening then with her finger, opened the water bag and saw that the doll was purple. She started to blow on her and in a short time her cheeks were turning pink and she opened her eyes. She looked so much like her.

The gas station attendant opened the door to the restroom and when he saw her with a baby, he ran to the office and called an ambulance.

Her name is [REDACTED] and she lives in Las Vegas - Stephan and my child. [REDACTED] knows me as her mother and has her own family now.

Report taken per Det K. McCaffery, P#8731.

1/25/2018
11:55 AM

180129-2695
180207-1836

**LAS VEGAS METROPOLITAN
POLICE DEPARTMENT**

JOSEPH LOMBARDO, Sheriff

400 S. Martin L. King Blvd.
Las Vegas, NV 89106-4372



ASSOCIATED PRESS

REDAVA LACENA CARD

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www.protectthecity.com

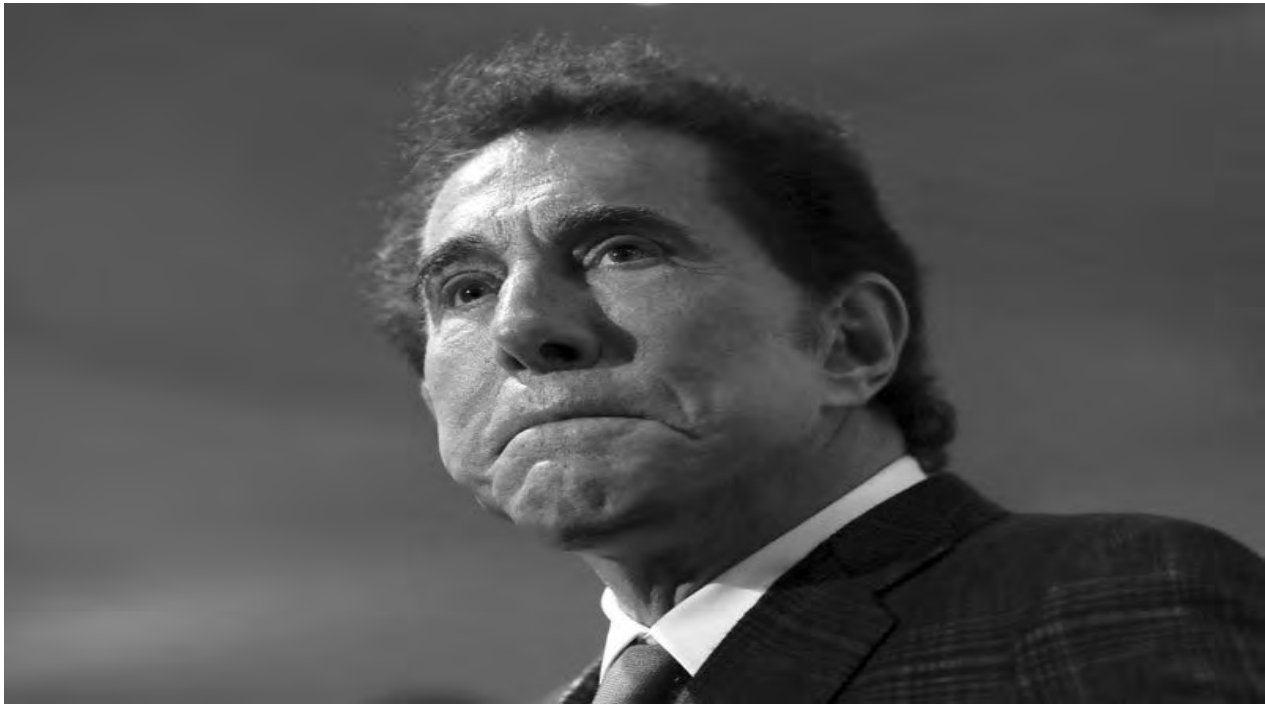


facebook.com/lasvegasmetro



twitter.com/lvmpd

Exhibit 7



Steve Wynn Sexual misconduct Police Entertainment North America Business Las Vegas U.S. News AP Top News

APNewsBreak: Woman tells police Steve Wynn raped her in '70s

BY REGINA GARCIA CANO

Feb. 28, 2018



[https://apn](https://apnews.com/d74af8c7df2c4f70ae156b82207109ef/APNewsBreak:-Woman-tells-police-Steve-Wynn-raped-her-in-'70s)

LAS VEGAS (AP) — A woman told police she had a child with casino mogul Steve Wynn after he raped her, while another reported she was forced to resign from a Las Vegas job after she refused to have sex with him.

The Associated Press on Tuesday obtained copies of police reports recently filed by the two women about allegations dating to the 1970s. Police in Las Vegas revealed earlier this month that they had taken the statements after a news report in January revealed sexual misconduct allegations against the billionaire.

The allegations are the latest leveled against Wynn by women. He resigned as chairman and CEO of Wynn Resorts on Feb. 6, less than two weeks after the Wall Street Journal reported that a number of women said he harassed or assaulted them and that one case led to a \$7.5 million settlement.

Wynn has vehemently denied the misconduct accusations the newspaper reported and he attributed them to a campaign led by his ex-wife, whose attorney has denied that she instigated the Jan. 26 news story.

One police report obtained by the AP shows a woman told officers that Wynn raped her at least three times around 1973 and 1974 at her Chicago apartment. She reported she got pregnant and gave birth to a girl in a gas station restroom. The woman, the child of the accuser and Wynn, now lives in Las Vegas, according to the report.

In one instance, the woman claimed that Wynn pinned her against the refrigerator and raped her. She said he then made a phone call, kissed her on the cheek and left. The report does not explain how Wynn is alleged to have entered the apartment or if they knew each other. The woman claimed she did not give him a key.

The second police report shows a woman told police she had consensual sex with Wynn “several times” while she worked as a dealer at the downtown Las Vegas casino-hotel Golden Nugget, but “felt coerced to perform the acts.” She reported she was forced to resign when she turned him down.

“In the Summer of 1976, Wynn approached her in the back hall and wanted her to go with him,” according to the report. “(S)he told him, “no”, she was done and had someone she was seeing. She was soon after accused of stealing \$40.00 and forced to

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resign.”

The women’s names are redacted on the reports, and police said they do not identify people who say they are victims of sex crimes.

The Las Vegas case will not be investigated because the statute of limitations in Nevada is 20 years.

Ralph Frammolino, spokesman for Wynn, on Tuesday declined comment on the latest allegations.

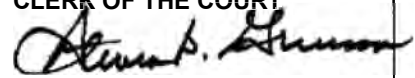
Wynn Resorts is facing scrutiny by gambling regulators in Nevada and Massachusetts, where the company is building a roughly \$2.4 billion casino just outside Boston. Regulators in Macau, the Chinese enclave where the company operates two casinos, are also inquiring about the allegations.

In addition, groups of shareholders have filed lawsuits in state court in Las Vegas accusing Wynn and the board of directors of Wynn Resorts of breaching their fiduciary duties by ignoring what the lawsuits described as a longstanding pattern of sexual abuse and harassment by the company’s founder.

Follow Regina Garcia Cano on Twitter at <https://twitter.com/reginagarcia>NO

JA00101

EXHIBIT 7



Joel E. Tasca
Nevada Bar No. 14124
Justin A. Shiroff
Nevada Bar No. 12869
BALLARD SPAHR LLP
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135
Phone: (702) 471-7000
Fax: (702) 471-7070
Email: tasca@ballardspahr.com
Email: shiroffj@ballardspahr.com

Jay Ward Brown
(Pro hac vice motion pending)
Chad R. Bowman
(Pro hac vice motion pending)
1909 K Street, NW, 12th Floor
Washington, DC 20006
Telephone: (202) 661-2200
brownjay@ballardspahr.com
bowmanchad@ballardspahr.com

*Attorneys for Defendants
The Associated Press and Regina Garcia Cano*

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVE WYNN, an individual

Plaintiffs,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,

Defendants.

Case No. A-18-772715-C

Dept. No. XXVIII

**STIPULATION AND ORDER REGARDING DEFENDANTS'
SPECIAL MOTION TO DISMISS PURSUANT TO N.R.S. 41.660**

Plaintiff Steve Wynn ("Wynn") and Defendants The Associated Press and
Regina Garcia Cano (collectively the "Defendants" and together with Wynn, the

JA00103

1 “Parties”), by and through their respective counsel of record, hereby stipulate and
2 agree as follows:

3 On May 31, 2018, Defendants filed their Special Motion to Dismiss Pursuant
4 to the Nevada Anti-SLAPP Statute, N.R.S. § 41.660 (“the “Motion”).

5 In the Motion and incorporated Memorandum of Points and Authorities
6 (“Mem.”), Defendants contend that N.R.S. § 41.660 applies and that Wynn cannot
7 demonstrate a likelihood of success, as required under the statute, for two separate
8 reasons: first, that the reporting by Defendants is privileged (Mem. at 15-18); and
9 second, that Wynn cannot demonstrate fault (*id.* at 18-19). Each of the bases argued
10 for granting dismissal is separate and distinct.

11 The Parties have conferred regarding the need for limited discovery, which
12 can be sought under the statute. N.R.S. § 41.660(4). The Parties agree that
13 discovery is *not* necessary to resolve the first basis for the Motion, *i.e.*, whether the
14 challenged news report is subject to the fair report privilege as a matter of law.

15 Additionally, the Parties agree that additional time for the Opposition and
16 Reply briefs is warranted in this case.

17 Therefore, the Parties hereby stipulate and agree to request, subject to the
18 Court's approval, the following modifications to the “Stipulation and Order to
19 Continue Hearing on Defendants' Special Motion to Dismiss Pursuant to N.R.S.
20 41.660 and Set Briefing Schedule (First Request)” entered on June 13, 2018 (“the
21 June 13 Order”) and ultimate consideration of the Motion, to bifurcate the argument
22 and avoid potentially unnecessary discovery of a news organization:

23 Pursuant to the June 13 Order, the hearing on the Motion is currently
24 scheduled on July 17, 2018. The Parties agree to a brief continuance of the hearing
25 to July 31, 2018. Under that extended hearing schedule, Wynn’s Opposition to the
26 Motion shall be due July 17, 2018, and any Reply to the Motion shall be due July 24,
27 2018.

28

1 At the hearing on July 31, 2018, the Court shall consider the fair report
2 privilege under the Nevada Anti-SLAPP Statute, a question of law. If the Court
3 finds the reporting in this case not to be covered by the fair report privilege, the
4 Court shall continue to a second hearing to consider the issue of fault under the
5 Nevada Anti-SLAPP Statute on a subsequent date to be determined by the Court.

6 If such a continuance is necessary, the Parties agree to continue to meet and
7 confer about appropriate limited discovery, in an attempt to resolve any differences
8 without the need for motion practice under N.R.S. § 41.660(4). If the Parties agree
9 on limited discovery, they further stipulate and agree that each side shall have an
10 opportunity to supplement their briefing to address any evidence uncovered in the
11 limited discovery period.

12 This Stipulation is not for the purpose of delay and does not prejudice any
13 party.

14 The Parties respectfully request that the Court approve and enter as an
15 Order the terms of this Stipulation.
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1 IT IS SO STIPULATED

2 Dated: _____, 2018.

3 PETERSON BAKER, PLLC

4 By: Nikki L. Baker

5 Tamara Beatty Peterson, Esq.
6 Nikki L. Baker, Esq.
7 10001 Park Run Drive
8 Las Vegas, NV 89145
Telephone: 702.786.1001

9 L. Lin Wood, Esq. (pro hac pending)
10 Nicole J. Wade, Esq. (pro hac pending)
11 G. Taylor Wilson, Esq. (pro hac pending)
12 L. LIN WOOD, P.C.
13 1180 West Peachtree Street, Suite 2400
Atlanta, GA 30309
Telephone: 404.891.1402

14 *Attorneys for Plaintiff Steve Wynn*

BALLARD SPAHR LLP

By: Joel E. Tasca

Joel E. Tasca, Esq.
Justin A. Shiroff, Esq.
1980 Festival Plaza Drive
Suite 900
Las Vegas, NV 89135
Telephone: 702.471.7000

Jay Ward Brown
(Pro hac vice motion pending)
Chad R. Bowman
(Pro hac vice motion pending)
1909 K Street, NW, 12th Floor
Washington, DC 20006
Telephone: (202) 661-2200

*Attorneys for Defendants,
The Associated Press and
Regina Garcia Cano*

17 ORDER

18 IT IS SO ORDERED that the hearing on the Motion to Dismiss shall be
19 continued to July 31, 2018 at 9:00 a.m.;

20 IT IS FURTHER ORDERED that Wynn's Opposition to the Motion to Dismiss
21 shall be filed no later than July 17, 2018;

22 IT IS FURTHER ORDERED that any Reply to the Motion to Dismiss shall be
23 filed no later than July 24, 2018;

24 IT IS FURTHER ORDERED that the Court shall bifurcate its decision on the
25 Motion to Dismiss;

26 IT IS FURTHER ORDERED the Court shall consider the issue of the fair
27 report privilege at the July 31, 2018 hearing;
28

1 IT IS FURTHER ORDERED that that if the Court finds that the fair report
2 privilege does not apply, further ruling on the Motion shall be deferred to allow the
3 Parties to further agree to a limited discovery timeframe on the issue of actual
4 malice;

5 IT IS FURTHER ORDERED that the Parties shall each have the opportunity
6 to file a supplemental brief addressing any evidence obtained during the limited
7 discovery timeframe; and

8 IT IS FURTHER ORDERED that, under these contingencies, the Court shall
9 set a continuation date for the hearing on the balance of the Motion to Dismiss no
10 fewer than forty-five (45) days after the end of the limited discovery timeframe.


11 DATED this 29 day of June, 2018.


DISTRICT COURT JUDGE

RONALD J. ISRAEL

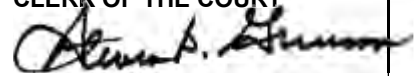
12 Submitted By:

13 BALLARD SPAHR LLP

14 By: 
15 Joel E. Tasca, Esq.
16 Nevada Bar No. 14124
17 Justin A. Shiroff, Esq.
18 Nevada Bar No. 12869
19 1980 Festival Plaza Drive, Suite 900
20 Las Vegas, NV 89135

21 Jay Ward Brown
22 (Pro hac vice motion pending)
23 Chad R. Bowman
24 (Pro hac vice motion pending)
25 1909 K Street, NW, 12th Floor
26 Washington, DC 20006
27 Telephone: (202) 661-2200

28 *Attorney for Defendants, The Associated Press and
Regina Garcia Cano*



OMD

TAMARA BEATTY PETERSON, ESQ., Bar No. 5218

tpeterson@petersonbaker.com

NIKKI L. BAKER, ESQ., Bar No. 6562

nbaker@petersonbaker.com

PETERSON BAKER, PLLC

10001 Park Run Drive

Las Vegas, NV 89145

Telephone: 702.786.1001

Facsimile: 702.786.1002

L. LIN WOOD, ESQ. (*Admitted Pro Hac Vice*)

lwood@linwoodlaw.com

NICOLE JENNINGS WADE, ESQ. (*Admitted Pro Hac Vice*)

nwade@linwoodlaw.com

JONATHAN D. GRUNBERG, ESQ. (*will seek admission Pro Hac Vice*)

jgrunberg@linwoodlaw.com

G. TAYLOR WILSON, ESQ. (*Admitted Pro Hac Vice*)

twilson@linwoodlaw.com

L. LIN WOOD, P.C.

1180 West Peachtree Street, Suite 2400

Atlanta, Georgia 30309

Telephone: 404.891.1402

Facsimile: 404.506.9111

Attorneys for Plaintiff Steve Wynn

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**OPPOSITION TO THE ASSOCIATED
PRESS DEFENDANTS' SPECIAL
MOTION TO DISMISS ON ISSUE OF
FAIR REPORT PRIVILEGE**

Date of Hearing: July 31, 2018

Time of Hearing: 9:00 a.m.

Plaintiff Steve Wynn, by and through his attorneys, hereby files this Opposition to Defendants The Associated Press's ("AP") and Regina Garcia Cano's (collectively, "AP Defendants") Special Motion to Dismiss Pursuant to N.R.S. § 41.660 (Anti-SLAPP Statute) (the "anti-SLAPP Motion"). Pursuant to the "Stipulation and Order Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660" entered on July 5, 2018 (the "July Order"), the parties

1 agreed to bifurcate the arguments contained in the AP Defendants' anti-SLAPP Motion such that at
2 the upcoming July 31 hearing, the Court will consider "the fair report privilege under the Nevada
3 Anti-SLAPP Statute, a question of law." (*See* July Order at 3:1-2.) Therefore, this Opposition will
4 address only the issue of the fair report privilege.

5 As set forth below, Nevada Supreme Court precedent dictates that the fair report privilege
6 cannot be used to transform the false police report—which may be covered by a qualified
7 privilege—into a false news story protected by an absolute privilege. And, even if it could be used
8 in that manner, the AP Defendants' article at issue in this action was not a fair, accurate, and
9 impartial report of the false police report. Therefore, the Court should find, as a matter of law, that
10 the fair report privilege does not extend to the AP Defendants' article.

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1 This Opposition is made and based on the following Memorandum of Points and
2 Authorities, the attached exhibits, the pleadings and papers on file herein, and any oral argument
3 of counsel.

4 Respectfully submitted this 17th day of July, 2018.

5 PETERSON BAKER, PLLC

6
7 By: /s/ Nikki L. Baker
TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
tpeterson@petersonbaker.com
8 NIKKI L. BAKER, ESQ., Bar No. 6562
nbaker@petersonbaker.com
9 10001 Park Run Drive
Las Vegas, NV 89145
10 Telephone: 702.786.1001
Facsimile: 702.786.1002

11
12 L. LIN WOOD, ESQ.
(*pro hac vice pending*)
lwood@linwoodlaw.com
13 NICOLE JENNINGS WADE, ESQ.
(*pro hac vice pending*)
nwade@linwoodlaw.com
14 JONATHAN D. GRUNBERG, ESQ.
(*will seek admission Pro Hac Vice*)
jgrunberg@linwoodlaw.com
15 G. TAYLOR WILSON, ESQ.
(*pro hac vice pending*)
twilson@linwoodlaw.com
16 L. LIN WOOD, P.C.
1180 West Peachtree Street, Suite 2400
Atlanta, Georgia 30309
17 Telephone: 404.891.1402
Facsimile: 404.506.9111

18
19
20
21 *Attorneys for Plaintiff Steve Wynn*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Faced with a meritorious defamation claim for unfairly reporting on a fanciful and delusional police report accusing Mr. Wynn of rape ("False Police Report"), the AP Defendants have seemingly adopted the "that which is ignored does not exist" approach. There can be no serious debate that the accusations in Defendant Kuta's False Police Report were inherently improbable on the face of the report. In the report, she falsely alleged that Mr. Wynn raped and impregnated her more than 45 years ago, resulting in the birth of "a doll" "inside [a thick] water bag," that she opened with "her teeth" and "her finger," revealing a "purple" "doll" that she breathed life into, turning it into a pink baby. (*See* Compl. at Ex. 2.) Yet, the Court will not find the words "purple," "doll," "teeth," "water," or "bag" anywhere in the AP Defendants' article reporting of the rape accusation ("AP Article") or in the AP Defendants' anti-SLAPP Motion. The AP Defendants' omissions are fatal to their attempt to hide behind the fair report privilege.

Indeed, had the AP Article included those words and the other accusations, Defendant Kuta's False Police Report and rape accusation would have been stripped of all credibility. The Court need not take Mr. Wynn's word for it. The Court can read the AP Article for itself, attached as **Exhibit 1** to this Opposition, and then read the article published by ABC News titled "Woman tells cops she had casino mogul Steve Wynn's baby after he sexually assaulted her", attached as **Exhibit 2** to this Opposition.

The AP Article mined into extraneous details in the False Police Report—from keys, to kisses, to phone calls—to add a veneer of reality to the tale. But the AP Defendants knowingly omitted the key exculpatory details, such as details about birthing a purple doll in a water bag that she opened with her teeth and fingers, and then breathed life into. The AP Article unquestionably increases the sting and defamatory impression that was created by the False Police Report. By omitting the exculpatory details that cast doubt upon the credibility of Defendant Kuta's rape allegations, the AP Defendants clothed her fanciful and delusional rape accusations with an aura of credibility. This is patently unfair and establishes that the AP Article is the antithesis of impartial.

1 The ABC News article, however, published the defamatory portions of the False Police
2 Report—accusations of the alleged rapes and the resulting birth in a gas station restroom—but also
3 published details that destroy the accuser's credibility: Defendants Kuta's fanciful statements about
4 birthing a purple doll in a thick water bag, which then transformed into a pink baby after she ripped
5 the bag open with her teeth and her finger. If the result of the alleged rape could not have happened
6 (giving birth to a doll in a water bag), then a reasonable reader may believe the alleged rape did not
7 happen. Simply put, a reasonable reader comes away from the ABC News article feeling much
8 differently about the rape accusations than one feels after reading the AP Article.

9 The AP Defendants' primary defense is that the AP Article accurately reported that the False
10 Police Report contained an allegation that a woman was raped by Mr. Wynn and bore a child as a
11 result, and that they are not required to make credibility determinations. The AP Defendants would
12 have the Court believe, for example, that if Defendant Kuta's False Police Report claimed that after
13 giving birth in the gas station she boarded a space ship and flew to the planet Asgard to be with her
14 husband, Thor, the AP Defendants would be justified in reporting her story, omitting the part about
15 space travel to Asgard to be with Thor. This hypothetical exposes that the AP Defendants' assertion
16 of the fair report privilege is errant nonsense. The issue at this stage is not a matter of the AP
17 Defendants failing to make a credibility determination but rather is the simple issue of whether the
18 AP Article is a fair, accurate, and impartial report. In the absence of any description of the fanciful
19 and delusional story about the birth, it is not.

20 To be clear, Mr. Wynn does not, through this case or this Opposition, seek to vilify
21 Defendant Kuta for her delusional thoughts. Since the filing of this action, it has become clear that
22 Defendant Kuta may suffer from delusions about people in the news, including Mr. Wynn and
23 Michael Jackson. She may not have known the damaging ripple effect her accusations would have.
24 To this day, Defendant Kuta acknowledges that her words were utilized in the False Police Report
25 and that every word of the Narrative section of the False Police Report is important to accurately
26 convey what happened to her. (*See* Section II(A), *infra*.) Yet, the Court need only read the entirety
27 of her Affidavit to know that Defendant Kuta deserves compassion, not condemnation.

1 The AP Defendants, on the other hand, knew better than to publish Defendant Kuta's
2 fanciful and delusional accusations, but did so anyway. The AP Defendants must be held
3 accountable for their vicious, false attack on Mr. Wynn. This was not just any old attack. The AP
4 has a unique platform as the premiere wire service in the United States. The AP's publications
5 reverberate like few others, as the AP feeds content purporting to be hard news to the media at-
6 large, who then distribute it to more than half the world's population every day.¹ And those media
7 outlets can republish a false AP story and escape liability by claiming they relied on a wire service.
8 A false attack by the AP is nothing short of a contagion for which the AP is patient zero, spreading
9 lies like a reputational plague. The AP now wishes to carve out a more expansive privilege to
10 spread its false contagions. The Court should reject their efforts.

11 What's more, the False Police Report was not investigated by the Las Vegas Metropolitan
12 Police Department ("LVMPD") and will not be. Nor was Mr. Wynn ever arrested or subjected to
13 formal charges as a result of the False Police Report. And, Defendant Cano concedes that she was
14 informed that the LVMPD was not going to investigate the False Police Report because any sexual
15 misconduct charges would be time barred. Nevertheless, the AP Defendants published the AP
16 Article and now want to treat the hearsay statements in the False Police Report as part of a judicial
17 or quasi-judicial proceeding. In this regard, the AP Defendants ask the Court to do what the Nevada
18 Supreme Court has not done, what the Restatement (Second) of Torts has not done, and what no
19 other court cited by the AP Defendants has done thus far; *i.e.*, apply the fair report privilege to
20 hearsay statements contained in a police report, when the police report does not result in, or arise
21 out of, an investigation, arrest, and/or criminal proceeding. The Court should decline the AP
22 Defendants' invitation and hold, as a matter of law, that their conduct falls squarely outside the
23 limits of the fair report privilege.

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28 ¹ See <https://www.ap.org/about/annual-report/2017/ap-by-the-numbers.html> (last visited July 15, 2018).

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Defendant Kuta Files the False Police Report About Mr. Wynn.

While the name of the alleged victim was redacted in the False Police Report, Defendant Kuta has confirmed that she filed the False Police Report. (*See* Affidavit of Halina Kuta ("Kuta Aff.") at ¶ 22, **Exhibit 3**.) Defendant Kuta also claims that she was, and may still be, married to Mr. Wynn. (*Id.* at ¶ 6.) Consistent with this belief, she falsely informed the LVMPD officer that her relationship to Mr. Wynn was "Spouse". (*Id.* at Ex. E.)²

Defendant Kuta states that the Narrative portion of the False Police Report utilizes her "words to describe" what happened to her. (*Id.* at ¶ 24.) According to Ms. Kuta, "every word of the Narrative section of the police report is important to accurately convey what happened to me." (*Id.*)

The Court should take a few minutes to read "every word" of the short nineteen (19) line Narrative section of the False Police Report. (*See* Kuta Aff. at Ex. E.) When it does so, the Court should ask the following question: does the False Police Report describe a fanciful and delusional scenario that raises serious doubts as to the truth of Defendant Kuta's accusations? The inescapable answer is "yes."

In the False Police Report, Defendant Kuta started her story by making many disjointed and irrational statements about what she claims happened in her apartment, what Mr. Wynn supposedly said to her, and her own internal thoughts, which led up to and followed Mr. Wynn raping and impregnating her in 1973 or 1974.³ (*Id.*) Defendant Kuta goes on to describe a fanciful tale of

² According to Ms. Cano's Affidavit, the Offender Relationships portion was redacted and, therefore, she did not know Defendant Kuta claimed to be Mr. Wynn's spouse. (*See* Aff. of Regina Garcia Cano ("Cano Aff.") at ¶ 11.) However, LVMPD Officer Larry Hadfield sent to Mr. Wynn's counsel a copy of the False Police Report, which did not redact the phrase "Victim was Spouse", and stated that "[a]ll documents that were provided *were exactly the same* and no additional information was provided." (*See* Email dated May 31, 2018, **Exhibit 4**.) (emphasis added).

³ For yet another example of an obvious red flag, the False Police Report states that the alleged victim, Defendant Kuta, is 27 years old; however, she is complaining about an event that took place in 1973-1974, approximately 17-18 years before she would have been born. (*See* Kuta Aff. at Ex. E.) Given that Defendant Kuta is currently 71 years old (*id.* at ¶ 5), a possible explanation is that she used her age at the time of the alleged incidents, but used Mr. Wynn's current age in the False Police Report.

1 giving birth to a purple doll in a water bag, which she opened with her teeth and her finger, and
2 breathed life into in a gas station restroom:

3 She ended up pregnant. It was a hot steamy afternoon and she needed to go to the
4 restroom. She saw a gas station and went in to [sic] the restroom. She was in pain
5 standing by the wall and gave birth. The baby was laying on her feet inside the water
6 bag. She slid down and said a doll is inside the water bag, the blood falling, and she
7 wanted to open [sic], but the water bag was thick. She used her teeth to make a small
opening then with her finger, opened the water bag and saw that the doll was purple.
She started to blow on her and in a short time her cheeks were turning pink and she
opened her eyes. She looked so much like her.

8 (*See* Kuta Aff. at Ex. E, p. 2.) Taken in its totality, this story is absurd on its face.

9 Unsurprisingly, the LVMPD did not undertake any investigation or arrest Mr. Wynn as a
10 result of the False Police Report. (*See* Cano Aff. at Ex. 3.) The explanation offered by the LVMPD
11 was that the "report was not filed within the time frame allowed by NRS." (*Id.*) Notably, Defendant
12 Cano was informed on February 13, 2018, two (2) weeks before she wrote and published the AP
13 Article, that "an investigation cannot go forward." (*Id.*)

14 The False Police Report was not the first time that Defendant Kuta made false, fanciful, and
15 delusional accusations about having a sexual relationship with Mr. Wynn that resulted in her giving
16 birth to a daughter. In August of 2017, Defendant Kuta sued Mr. Wynn for \$4,000,000, alleging,
17 *inter alia*, that: she is the mother of his daughter, Kevyn Wynn (*see* Compl., Ex. 1 at ¶ 12); he
18 impregnates girls he calls "Young Polish Pigs," (*id.* at ¶ 19); she was being hypnotized by a man
19 who pretended to kidnap Kevyn (*id.* at ¶ 26); Mr. Wynn plotted to have her and Kevyn killed (*id.*
20 at ¶ 41); Mr. Wynn was having her followed (*id.* at ¶ 56); and she has "dodged bullets flying past
21 her just to silence her" (*id.* at ¶ 57).⁴

22 The Honorable United States Magistrate Judge C.W. Hoffman, Jr. screened Defendant
23 Kuta's Complaint. (*See* Report and Recommendation, **Exhibit 5**.) After doing so, Magistrate Judge
24 Hoffman *sua sponte* recommended that Defendant Kuta's Complaint be dismissed with prejudice
25 because it was "incoherent, describing a clearly fanciful or delusional scenario." (*Id.*) Ms. Kuta
26 then voluntarily dismissed her false and frivolous lawsuit against Mr. Wynn.

27 _____
28 ⁴ As hinted to the Introduction, it appears from her Twitter feed (@halina_ya) that
Defendant Kuta also claims to be the mother of one or more of Michael Jackson's children.

1 **B. The AP Defendants Publish an Unfair Article About the False Police Report.**

2 A compelling argument exists that no fair-minded professional journalist could read the
3 entirety of the transparently fanciful and delusional False Police Report and then would publish any
4 article about it. At a bare minimum, if a professional journalist decided to write about the False
5 Police Report, he or she must report all of the pertinent statements in the False Police Report so
6 that an average reader could decide for themselves whether the False Police Report had any merit
7 and whether the victim was credible. (*See e.g.*, Ex. 2.) The AP Defendants chose neither path.

8 On or about February 28, 2018, the AP Defendants published the false and defamatory AP
9 Article entitled, "APNewsBreak: Woman tells police Steve Wynn raped her in '70s." (*See* Ex. 1;
10 *see also* Cano Aff. at Ex. 7.) The AP Article republished the false rape accusations from Defendant
11 Kuta's delusional and fanciful False Police Report. (*Id.*)

12 The AP Article unfairly reported that a woman accused Mr. Wynn of rape but omitted the
13 many rambling and incoherent statements about what happened before, during, and after the alleged
14 rape. (*Compare* Ex. 1, with Kuta Aff. at Ex. E.) While the AP Article stated that Defendant Kuta
15 "reported she got pregnant and gave birth to a girl in a gas station restroom," there was no mention
16 of the fanciful and delusional scenario about giving birth to a purple doll in a water bag, using her
17 teeth and finger to open a hole in the bag to free the doll, and then breathing life into it. (*Id.*) The
18 AP Article, however, described various inconsequential details from the False Police Report—from
19 a refrigerator, to a phone call, to a key, to a kiss on the cheek. The AP Defendants unfairly painted
20 a picture of Mr. Wynn as an unfeeling rapist and of Defendant Kuta as a credible victim.

21 The AP Article spread like wildfire through the AP's wire service. The media outlets that
22 republished the AP Article verbatim included The New York Times, The Los Angeles Times, The
23 Chicago Tribune, The Washington Times, CNBC, Time, and countless local news providers.⁵

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25 ⁵ *See e.g.*, [https://www.nytimes.com/2018/02/27/business/steve-wynn-rape-](https://www.nytimes.com/2018/02/27/business/steve-wynn-rape-accusation.html)
26 [accusation.html](http://www.latimes.com/business/la-fi-steve-wynn-rape-allegation-20180227-story.html); [http://www.latimes.com/business/la-fi-steve-wynn-rape-allegation-20180227-](http://www.latimes.com/business/la-fi-steve-wynn-rape-allegation-20180227-story.html)
27 [story.html](http://www.chicagotribune.com/business/ct-biz-steve-wynn-rape-allegation-20180228-story.html); [http://www.chicagotribune.com/business/ct-biz-steve-wynn-rape-allegation-](http://www.chicagotribune.com/business/ct-biz-steve-wynn-rape-allegation-20180228-story.html)
28 [20180228-story.html](https://www.washingtontimes.com/news/2018/feb/27/apnewsbreak-woman-tells-police-steve-wynn-raped-he/); [https://www.washingtontimes.com/news/2018/feb/27/apnewsbreak-](https://www.washingtontimes.com/news/2018/feb/27/apnewsbreak-woman-tells-police-steve-wynn-raped-he/)
 [woman-tells-police-steve-wynn-raped-he/](https://www.washingtontimes.com/news/2018/feb/27/apnewsbreak-woman-tells-police-steve-wynn-raped-he/); [https://www.cnb.com/2018/02/27/a-woman-says-she-](https://www.cnb.com/2018/02/27/a-woman-says-she-had-steve-wynns-child-after-he-raped-her-ap-citing-police-reports.html)
 [had-steve-wynns-child-after-he-raped-her-ap-citing-police-reports.html](https://www.cnb.com/2018/02/27/a-woman-says-she-had-steve-wynns-child-after-he-raped-her-ap-citing-police-reports.html)

1 C. **Mr. Wynn Files the Current Action for Defamation Against Defendants, and**
2 **the AP Defendants File Their Anti-SLAPP Motion.**

3 Contrary to the AP Defendants' insinuation that Mr. Wynn is litigious because he filed a
4 "series of defamation actions" (*see* anti-SLAPP Motion at 1:8), Mr. Wynn sought to resolve his
5 dispute with the AP Defendants before seeking the Court's intervention. That is, Mr. Wynn
6 demanded in writing a retraction from the AP. (*See* Compl. at ¶ 95.) The AP declined. (*Id.* at
7 ¶ 96.)

8 In the absence of a retraction, Mr. Wynn was forced to file his Complaint for Defamation
9 against the AP Defendants and Defendant Kuta on April 11, 2018, to defend his reputation.
10 Defendant Kuta neither moved to dismiss the complaint nor filed an anti-SLAPP motion. The AP
11 Defendants filed their anti-SLAPP Motion on May 31, 2018, arguing that the AP Article is
12 protected under the fair report privilege and that Mr. Wynn cannot prove they published with actual
13 malice. (*See generally* anti-SLAPP Motion.)

14 On July 5, 2018, the Court entered the July Order. Pursuant to the July Order, the Court
15 will first decide if the absolute fair report privilege does not protect the AP Article. (*See* July Order
16 at 4:27-28.) If the Court concludes the AP Article is not a fair, accurate, and impartial report, it
17 will defer ruling on the rest of the anti-SLAPP Motion, allowing the parties to agree to a limited
18 discovery timeframe on the issue of actual malice.⁶ (*Id.* at 5:1-4.) After this discovery, the parties
19 will then be allowed to file supplemental briefs, and the Court will set a continuance date for the
20 hearing on the remainder of the anti-SLAPP Motion that is at least forty-five days after the end of
21 the discovery period. (*Id.* at 5:5-7.)

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27 ⁶ Mr. Wynn expressly reserves, and does not waive, any and all facts and arguments
28 regarding the issue of actual malice.

1 **III. ARGUMENT**

2 **A. Applicable Legal Standard.**

3 To defeat the AP Defendants' Anti-SLAPP Motion,⁷ Mr. Wynn need only show that his
4 claims have a "minimum level of legal sufficiency and triability." *Mindys Cosmetics, Inc. v. Dakar*,
5 611 F.3d 590, 598 (9th Cir. 2010) (discussing the analogous California anti-SLAPP statute's burden
6 of proof).⁸ Nevada's anti-SLAPP statute seemingly sets a high burden by requiring the nonmovant
7 to adduce "prima facie evidence" that demonstrates "a probability of prevailing on the claim." NRS
8 41.660(3)(b). But this requirement "is often called the 'minimal merit' prong." *Mindys Cosmetics*,
9 611 F.3d at 598 (quoting *Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*,
10 133 Cal.App.4th 658, 675 (2005); see also *Navellier v. Sletten*, 29 Cal. 4th 82, 93 (2002) ("[T]he
11 statute poses no obstacle to suits that possess minimal merit.")). "To establish minimal merit, the
12 plaintiff need only state and substantiate a legally sufficient claim." *Mindys Cosmetics*, 611 F.3d
13 at 598–99 (internal quotation marks omitted).

14 Per the Court's July Order, the only issue currently before the Court is whether the fair report
15 privilege does not cover the AP Article. (See July Order at 4:27-28.) In terms of the legal standard,
16 Mr. Wynn need only show, by a minimum level of legal sufficiency, that the fair report privilege
17 does not apply. Mr. Wynn easily satisfies this burden.

18 **B. The False Police Report Is Outside the Fair Report Privilege Because It Is Not**
19 **a Report of a Judicial Proceeding.**

20 The absolute fair report privilege only applies to official proceedings. The Nevada Supreme
21 Court's definition of a judicial proceeding *expressly* excludes statements that occur before the
22 initiation of a criminal proceeding. It is undisputed that the LVMPD did not conduct any
23 investigation on the False Police Report and no criminal proceedings resulted from the False Police
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25 ⁷ Mr. Wynn does not concede that Nevada's anti-SLAPP statute applies to his lawsuit. He
26 reserves the right to challenge its applicability after the Court resolves the threshold issue on the
fair report privilege.

27 ⁸ As the AP Defendants acknowledged in their motion, "the statute is modeled on California
28 law, and Nevada courts look to California law for guidance on its construction and application.
Nev. Rev. Stat. § 41.665(2) (adopting California standard for burden of proof)." (See anti-SLAPP
Motion at 11:17-19.)

1 Report. (*See* Section II(A), *supra.*) Thus, before the Court examines the substance of the False
2 Police Report and the AP Article, it should first find the fair report privilege cannot even apply
3 because there was no official proceeding.

4 ***1. Because the False Police Report predates the initiation of criminal***
5 ***proceedings, it is not covered by the fair report privilege.***

6 To avoid liability for defamation, the AP Defendants assert that the fair report privilege bars
7 Mr. Wynn's defamation claim. (*See* anti-SLAPP Motion at 15-18.) The AP Defendants' theory is
8 misplaced.

9 Under Nevada common law, there are two absolute privileges related to statements in a
10 judicial proceeding: (1) the privilege *to make statements* in a judicial proceeding; and (2) the
11 privilege *to fairly report on statements* made in a judicial proceeding. The definition of a judicial
12 proceeding is identical for both privileges. The Nevada Supreme Court has held that the absolute
13 privilege to make statements in a judicial proceeding does not cover making criminal accusations
14 to the police; thus, the fair report privilege cannot apply to the AP Article's statements about the
15 False Police Report.

16 In *Sahara Gaming*, the Nevada Supreme Court inextricably linked the privilege to make
17 statements in a judicial proceeding with the privilege to fairly report on such statements. *See Sahara*
18 *Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212, 215–19, 984 P.2d 164, 166–
19 68 (1999) (discussing both privileges). Although the ultimate question in *Sahara Gaming* was what
20 kind of proceedings were covered under the fair report privilege, the Court spilled most of its ink
21 discussing what kinds of proceeding were covered under the absolute privilege to make statements
22 in a judicial proceeding. *See id.* at 215–19. The Court analyzed one fair report case and then
23 discussed six cases about the privilege to make statements in official proceeding—using the latter
24 to define the scope of the privilege for a fair report. *Id.* The *Sahara Gaming* Court's point was
25 clear: *both of these absolute privileges cover the same type of proceedings*, "administrative
26 hearings, quasi-judicial proceedings as well as judicial actions." *Id.* at 219.

27 The Nevada Supreme Court has also held that the absolute privilege for statements made in
28 judicial or quasi-judicial proceedings cannot be extended to a citizen's preliminary report of a crime.

1 *See Pope v. Motel 6*, 121 Nev. 307, 317, 114 P.3d 277, 284 (2005). In *Pope*, an employer reported
2 to the police that his employee committed theft. *Pope*, 121 Nev. at 310. The *Pope* Court held that
3 because this communication happened "before the initiation of criminal proceedings," it was not
4 covered by the absolute immunity for "communications preliminary to a judicial proceeding." *Id.*
5 at 317 (internal quotation marks omitted) ("To the extent that we suggested in *K-Mart* that
6 statements made to police before the initiation of criminal proceedings could be deemed
7 'communications preliminary to a judicial proceeding' under the Restatement (Second) of Torts,
8 section 587, we recede from that premise."). In other words, the absolute privilege cannot apply
9 until there is some initiation of a criminal proceeding, such as an arrest or an indictment. The *Pope*
10 Court reasoned instead that "[t]he competing policies of safeguarding reputations and full
11 disclosure are best served by a qualified privilege." *Id.*

12 Under *Sahara Gaming* and *Pope*, a judicial or quasi-judicial proceeding subject to the fair
13 report privilege cannot include police reports made "before the initiation of criminal proceedings,"
14 much less when no investigation will occur at all. Indeed, the Nevada Supreme Court has been
15 cautious in extending the fair report privilege, lest it "allow the spread of common innuendo that is
16 not afforded the protection accorded to official or judicial proceedings." *Wynn v. Smith*, 117 Nev.
17 6, 16, 16 P.3d 424, 430 (2001). Not surprisingly, it is undisputed that no criminal proceedings have
18 been initiated against Mr. Wynn based on the false accusations in the False Police Report; thus, the
19 Court should find as a matter of law that the AP Article is not covered by the fair report privilege.

20 **2. Under the Restatement, which Nevada follows, the fair report privilege**
21 **cannot apply.**

22 The Restatement (Second) of Torts ("Restatement") likewise mandates a finding that the
23 AP Article is not covered by the fair report privilege. The Nevada Supreme Court has adopted the
24 Restatement approach to the fair report privilege. *See, e.g., Wynn*, 117 Nev. at 14 (quoting and
25 relying upon Restatement (Second) of Torts § 611). The Restatement refuses to extend the fair
26 report privilege to mere "statements made by the police or by the complainant or other witnesses .
27 . . as to the facts of the case" because such statements "are not yet part of the judicial proceeding or
28 of the arrest itself." Restatement (Second) of Torts § 611cmt. e.

1 The Restatement draws the logical line between protected reports of an "official action,"
2 such as an arrest, versus unprotected reports of statements by witnesses reporting a crime. This
3 stands to reason. An arrest essentially initiates a judicial proceeding (*e.g.*, the arrestee will be
4 processed through the judicial system), whereas a citizen reporting a crime does not. Moreover, an
5 arrest has the hallmarks of an official action because it requires an officer to exercise judgment in
6 finding probable cause and depriving a person of liberty. There is some value to the public in
7 reporting that a government official decided that the facts warranted a deprivation of liberty. This
8 exercise of official judgement also lends some indicia of reliability to the notion that a crime may
9 have been committed.

10 Here, the False Police Report is merely a hearsay statement recorded by the police about a
11 purported witness's unsubstantiated accusation of a 45-year-old crime—before the initiation of a
12 criminal proceeding, no less. Under the Restatement approach, which Nevada follows, the False
13 Police Report cannot be the subject of the fair report privilege.

14 **3. *Other jurisdictions rightly refuse to extend the fair report privilege to***
15 ***police reports of a citizen's accusation.***

16 Nevada is not alone in holding that the fair report privilege is not extended to statements in
17 a police report of accusations that do not result in an arrest or other criminal proceedings. The AP
18 knows this to be true, given that it was a defendant in a case wherein a court rejected the very
19 arguments the AP Defendants now make.

20 In *Reilly v. Associated Press*, 59 Mass. App. Ct. 764 (2003), a news article relied on a police
21 report as its source for defamatory statements about the plaintiff. *Id.* at 776–77. The police report
22 at issue in *Associated Press* memorialized a private citizen's accusations of criminal conduct by the
23 plaintiff. *Id.* at 776. However, the police report did not result in any police investigation. *Id.*

24 Under those circumstances, the *Associated Press* Court refused to expand the fair report
25 privilege to cover the police report:

26 The privilege applies to reports by news media outlets of official government action,
27 including police action, such as the fact of an arrest, a search warrant issued, or a
28 crime charged; but it does not apply to witness statements to police, whether
appearing in an official police report or not, where no official police action is taken.
Such reports to police are unverified hearsay.

1 *Id.* (citations omitted). Further explaining the rationale for its holding, the *Associated Press* Court
2 emphasized the minimal public interest in extending the fair report privilege to statements about
3 preliminary police reports:

4 Such unconfirmed hearsay, upon which no police action was taken, has neither the
5 authority nor the importance to the public that other documents or statements
6 shielded by the fair reporting privilege possess. . . . An analogy may be drawn
7 between such reports and a preliminary written statement of a charge: Knowledge
8 of them throws no light upon the administration of justice. Both form and contents
depend wholly on the will of a private individual, who may not be even an officer
of the court. . . . Extending the privilege in this case would not further the public's
interest in learning of official conduct.

9 *Id.* at 776–77 (internal citations omitted).

10 Vermont likewise does not extend the fair report privilege to police reports made before the
11 initiation of criminal proceedings. *Stone v. Banner Pub. Corp.*, 677 F. Supp. 242, 246 (D. Vt. 1988)
12 (no fair report privilege for police investigatory report where criminal proceedings were never
13 initiated).

14 A national survey of the law shows a steadfast adherence to the Restatement's line between
15 official conduct, such as arrests or missing person bulletins, versus hearsay reports about alleged
16 crimes. *See, e.g., Kenney v. Scripps Howard Broad. Co.*, 259 F.3d 922, 924 (8th Cir. 2001)
17 (applying fair report to missing person report seeking information about kidnapped child); *Porter*
18 *v. Guam Publications, Inc.*, 643 F.2d 615, 618, *certiorari denied*, 454 U.S. 940 (1981) (applying
19 privilege to blotter about arrests).

20 **4. *The cases the AP Defendants rely upon provide insufficient legal support***
21 ***for extending the fair report privilege to the AP Article's statements about***
22 ***the False Police Report.***

23 The AP Defendants do not cite to any binding or persuasive legal authority that would
24 extend the fair report privilege to the AP Article. Instead, the AP Defendants ask this Court to do
25 what no other court in Nevada has done: apply the fair report privilege to a police report of a
citizen's criminal accusation. The Court should not do so.

26 The AP Defendants scoured the country for legal support, but they could not muster a single
27 case that applied the privilege to a report like the False Police Report. Despite their failure, the AP
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1 Defendants declare that "[c]ourts routinely apply the privilege to police incident reports" and that
2 "the privilege [applies to] . . . allegations made to police." (See anti-SLAPP Motion at 16–17 (citing
3 *Porter*, 643 F.2d at 616, 617–18; *Imig v. Ferrar*, 70 Cal. App. 3d 48, 54–57 (1977); *Adelson v.*
4 *Harris*, 402 P.3d 665, 667–68 (Nev. 2017); *Sahara Gaming*, 115 Nev. at 213; *Circus Circus Hotels,*
5 *Inc. v. Witherspoon*, 99 Nev. 56, 60, 657 P.2d 101, 104 (1983)). The AP Defendants' cases can be
6 disposed of in short order.

7 In *Porter*, the court applied Guam's statutory fair report privilege to an article about an
8 arrest and booking. See *Porter*, 643 F.2d at 616–17 (addressing a story based on a daily police
9 bulletin, reporting that the plaintiff had been "arrested and booked for stealing a car and some
10 cash"). As discussed above, the Restatement and many jurisdictions apply the fair report privilege
11 to arrest reports, because arrests are official acts that initiate criminal proceedings. This sheds no
12 light on whether a citizen's preliminary accusations of a crime are within the fair report privilege.

13 The *Imig* case is the closest the AP Defendants could get. But at issue in the *Imig* case was
14 a statutory fair report privilege being applied to a *non-criminal* complaint about a police officer,
15 which was part of an administrative internal affairs investigation (i.e., a quasi-judicial proceeding).
16 *Imig*, 70 Cal. App. 3d at 54–56. The False Police Report did not contain a complaint about a police
17 officer. Nor was it part of an internal affairs investigation. Therefore, the *Imig* case does not help
18 the AP Defendants' position.

19 The AP Defendants' Nevada cases are more inapposite than the rest. The Court in *Adelson*
20 applied the privilege to a statement about a sworn declaration in a civil lawsuit. 402 P.3d at 669.
21 *Sahara Gaming* applied the privilege to a letter that quoted portions of a filed civil complaint. 115
22 Nev. at 164. *Circus Circus*—which is not a fair report case—applied Nevada's statutory "absolute
23 privilege for all oral or written communications from an employer to the Employment Security
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1 Department." 99 Nev. at 60. And, *Wynn v. Smith* did not even apply the fair report privilege because
2 the underlying report was confidential. 117 Nev. at 15–16.⁹

3 The AP Defendants cannot point to a single jurisdiction (a) that refuses to extend an absolute
4 privilege for reporting criminal accusations to the police, and (b) nonetheless applies an absolute
5 privilege to write an article about the police report. Nor do the AP Defendants negate *Pope's*
6 holding that a "judicial proceeding" does not include criminal reports made prior to the initiation
7 of criminal proceedings.

8 In sum, neither Nevada Supreme Court precedent, the Restatement, nor the AP Defendants'
9 own case law support extending the fair report privilege to the AP Article's statements about the
10 False Police Report. The Court's analysis need not go any further. The Court should find, as a
11 matter of law, that the fair report privilege does not apply to the AP Article, and it should deny the
12 AP Defendants' anti-SLAPP Motion as to the fair report privilege.

13 **C. The AP Article Was Neither Fair nor Impartial.**

14 If, for some reason, the Court is disinclined to find that the fair report privilege does not
15 apply, there is another reason that requires a denial of the AP Defendants' motion on the fair report
16 issue. That is, the Court should find that the AP Defendants cannot seek shelter under the fair report
17 privilege because the AP Article is not fair, accurate, and impartial. The omission of the description
18 of birthing the purple doll in a bag, which was lying at Defendant Kuta's feet, with no apparent
19 umbilical cord, and which had to have life breathed into it, precludes a finding, as a matter of law,
20 that the AP Article was fair, accurate, and impartial.

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24 ⁹ The confidential nature of the False Police Report provides a stark example of why the
25 fair report privilege should not apply: it is impossible for the AP's readers to consider the source of
26 the accusation (especially where the AP Defendants' consciously manipulated the tone and sting of
27 the False Police Report). Had that source been revealed, the readers could have reviewed Defendant
28 Kuta's public twitter posts and seen that she is noncredible: for example, she believes she gave birth
to children by both Michael Jackson and Mr. Wynn. The AP Defendants used the confidential
nature of the report to accuse Mr. Wynn of rape, while hiding the obviously unreliable source.
There is little value to this kind of reporting, which does not warrant the protection of an absolute
privilege that allows the media to knowingly publish lies.

1 **1. *The AP Article was not a fair report because it increased the sting of the***
2 ***rape accusation.***

3 In exchange for the news media's absolute privilege to report newsworthy events in judicial
4 proceedings, "comes the requirement and responsibility that the report be fair, accurate, and
5 impartial." *Sahara Gaming*, 115 Nev. at 166. To this end, the fair report privilege only applies to
6 reports that are "fair, accurate, and impartial." *Lubin v. Kunin*, 117 Nev. 107, 114, 17 P.3d 422,
7 427 (2001); *see also Wynn*, 117 Nev. at 14 (quoting Restatement standard that the report "must
8 either be accurate and complete or a fair abridgment").

9 "Even a report that is accurate so far as it goes may be so edited and deleted as to
10 misrepresent the proceeding and thus be misleading." Restatement (Second) of Torts § 611 cmt. f.
11 The report need not be complete, but "it is necessary that nothing be omitted or misplaced in such
12 a manner as to convey an erroneous impression to those who hear or read it, as for example a report
13 of the discreditable testimony in a judicial proceeding and a failure to publish the exculpatory
14 evidence." *Id.* A report is "fair" when "the overall impression created by the summary [is] no more
15 defamatory than that created by the original." *Brown & Williamson Tobacco Corp. v.*
16 *Jacobson*, 713 F.2d 262, 270 (7th Cir.1983) (citing Restatement (Second) of Torts § 611 cmt. f).
17 Ultimately, the privilege does not apply when a "summary unfairly portray[s] the gist of the
18 [underlying] report in a way that a jury could 'conclude that the summary carried a greater sting
19 and was therefore unfair.'" *Lubin*, 117 Nev. at 115 (quoting *Brown & Williamson*, 713 F.2d at 271–
20 72).

21 In *Schiavone Construction*, a report was unfair as a matter of law because the article omitted
22 exculpatory material. *Schiavone Const. Co. v. Time, Inc.*, 847 F.2d 1069, 1087 (3d Cir. 1988). Time
23 magazine reported that the plaintiff's name "appeared several times in the [FBI's] reports on the
24 1975 disappearance of former Teamster Boss Jimmy Hoffa," and that this "detail would surely have
25 intrigued both [a] Senate committee . . . and the special prosecutor." *Id.* at 1072. Time's article
26 omitted the FBI memo's statement that the appearances of the plaintiff's name did not "suggest[]
27 any criminality, or organized crime associations." *Id.* (internal quotation marks omitted). The court
28 held that a "report that intentionally excludes information that is as obviously exculpatory as the

1 information [Time] elected to delete simply cannot, under any definition, be deemed either fair or
2 accurate." *Id.* at 89.

3 Here, a reasonable jury could find that the AP Article was not a fair report of the False
4 Police Report. The AP's conduct is like the example in comment f of the Restatement § 611. The
5 AP published "the discreditable portion" of the False Police Report—detailed accusations of the
6 alleged rape and a brief, cursory description of the resulting birth in a gas station restroom—but
7 failed to publish exculpatory details: Defendant Kuta's fanciful statements about birthing a purple
8 doll in a thick water bag, which she bit into and pried open, freeing the purple doll that she then
9 breathed life into. The gist of the False Police Report is that a troubled individual with a loose grasp
10 on reality accused Mr. Wynn of raping her, resulting in her giving birth through a fantastical
11 scenario. By omitting the totality of the story about birthing the purple doll., the AP Defendants
12 created a far more damaging defamatory gist: *i.e.*, that a woman had *credibly* accused Mr. Wynn
13 of rape. A rational jury could certainly conclude that the AP Defendants' omissions provided a
14 greater sting to the story. Put differently, the AP Defendants' omission of certain details in the
15 False Police Report, such as the doll and the bag, is the difference between an accusation that is
16 credible versus one that is non-credible.

17 Like *Schiavone*, the AP Defendants' intentional omission of obviously exculpatory material
18 is unfair as a matter of law. Ultimately, the AP Defendants reported on seemingly inconsequential
19 facets of the False Police Report—from a refrigerator, to a phone call, to a key, to a kiss on the
20 cheek. But the AP Defendants omitted the crucial details that the alleged rape resulted in the
21 fantastical birth of a purple doll in a water bag.

22 The AP Defendants might suggest that tales of birthing an inanimate object in a water bag
23 by a woman who bit into and tore open the bag with her finger have nothing to with the false rape
24 allegations. This defies reason. The purple doll in the water bag, which then became a pink baby,
25 was allegedly the direct result of the rape. If the result of the alleged rape could not have happened,
26 then a reasonable reader may believe the alleged rape did not happen.

1 In closing, the false and defamatory sting of the False Police Report was transformed by the
2 AP Defendants' decision to omit the exculpatory details about Defendant Kuta's tall tales. The
3 Court should find that the fair report privilege does not apply and deny the anti-SLAPP Motion on
4 this issue.

5 **2. The AP Article was not impartial.**

6 Similarly, the AP Article was not impartial because it piled on negative stories about Mr.
7 Wynn to enhance the sting of their flawed reporting on the False Police Report. *See Lubin*, 117
8 Nev. at 114 (explicitly requiring impartiality). The AP Article went beyond the False Police Report
9 accusing Mr. Wynn of rape, buttressing the false rape accusation with reports of Mr. Wynn's
10 resignation from the company, scrutiny from regulators, shareholder lawsuits, and alleged sexual
11 misconduct. The article had nary a good word for Mr. Wynn—not to mention its omission of the
12 key exculpatory details about the purple doll, the water bag, the biting and tearing of the bag, and
13 the breathing of life into the doll. The AP Article's omission of the exculpatory details is particularly
14 suspect because of its inclusion of minor details, like the refrigerator, a kiss, keys, and the phone
15 calls. Given the absence of balance and neutrality in the AP Article, it cannot be deemed impartial.
16 *See Lubin*, 117 Nev. at 115 (discussing withholding privilege where the "[e]lement of balance and
17 neutrality is missing") (quoting *St. v. Nat'l Broad. Co.*, 645 F.2d 1227, 1233 (6th Cir.1981)).

18 Implicitly acknowledging the partiality of the AP Article, the AP Defendants made no
19 attempt to address *Lubin's* impartiality requirement. As with the fairness requirement, the AP
20 Defendants' silence is fatal. There is no excuse for failing to report the crucial details that undercut
21 the credibility of the rape accusation.

22 **3. The AP Defendants fail to explain why the AP Article was fair.**

23 Tellingly, the AP Defendants do not address the "purple" "doll," or Defendant Kuta biting
24 into the "water bag": these words appear nowhere in their brief. The AP Defendants failed to explain
25 how the AP Article's omission of these words did not magnify the defamatory sting of the False
26 Police Report. In fact, the AP Defendants never apply the fairness requirement to the AP Article.
27 They just throw out rote statements of law about fairness, hoping they will land. For this reason
28 alone, the AP Defendants' anti-SLAPP Motion should be denied on the fair report issue.

1 The AP Defendants' sole attempt to apply the privilege to the actual statements in the AP
2 Article focuses entirely on the accuracy requirement. First, the AP Defendants argue the AP Article
3 "faithfully¹⁰ and *accurately*" described the False Police Report because the "statements [were] all
4 drawn directly from the police report, and described as allegations." (*See* anti-SLAPP Motion at
5 18 (emphasis added).) Second, the AP Defendants argue, "[n]or is the *accurate* reporting of a rape
6 allegation somehow 'incomplet[e]' . . . simply because the AP Article provided a summary of the
7 alleged victim's description of child-birth rather than a verbatim quotation." (*Id.* (emphasis added).)
8 Finally, they argue that "[t]he AP Article is, without a doubt, at the very least a substantially
9 *accurate* summary of the police case report." (*Id.* (emphasis added).) The AP Defendants are
10 wrong on all counts.

11 Accuracy and fairness are two distinct requirements under the law. As the Restatement
12 explains, a report may be accurate in that it correctly describes particular underlying statements.
13 Restatement (Second) of Torts § 611 cmt. f. But, "[e]ven a report that is accurate . . . may be . . .
14 misleading. Thus, although . . . [completeness is not required], it is necessary that nothing be
15 omitted or misplaced in such a manner as to convey an erroneous impression to those who hear or
16 read it" *Id.*

17 Not that the AP Article was even accurate. Defendant Kuta, herself, recognizes that "every
18 word of the Narrative section of the police report is important to accurately convey what happened
19 to [her]." (*See* Kuta Aff. at ¶ 24.)

20 The AP Defendants gesture to a legal argument about the fairness requirement—arguing
21 that the "fair report privilege does not require commenters to make credibility determinations." (*See*
22 anti-SLAPP Motion at 18:12.) The AP Defendants did not reproduce the False Police Report in its
23 entirety, therefore their article was required to be fair, accurate, and impartial. This is the burden
24 they face in exchange for a privilege that allows the media to knowingly republish lies. *See Sahara*
25 *Gaming*, 115 Nev. 166 ("In exchange for this absolute privilege, comes the requirement and
26 responsibility that the report be fair, accurate, and impartial."). The AP Defendants were required

27 ¹⁰ "Faithful" is just a synonym for "accurate." *See, e.g.,* Merriam-Webster (defining
28 "faithful," *inter alia*, as "accurate."), available at <https://www.merriam-webster.com/thesaurus/faithful>.

1 to ensure their omissions did not enhance the defamatory sting of the False Police Report, and in
2 that the AP Defendants failed by omitting the details of the inherently improbable birthing story.
3 This failure warrants a holding by the Court that the fair report privilege does not apply.

4 **IV. CONCLUSION**

5 For the reasons set forth above, the Court should find, as a matter of law, that the fair report
6 privilege does not extend to the AP Article's statements about the False Police Report.
7 Alternatively, the Court should find, as a matter of law, that the AP Article is not fair, accurate, and
8 impartial and, therefore, the fair report privilege does not apply. Under either scenario, the Court
9 should deny the AP Defendants' anti-SLAPP Motion as to the fair report issue.

10 Respectfully submitted this 17th day of July, 2018.

11 PETERSON BAKER, PLLC

12 By: /s/ Nikki L. Baker

13 TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
14 tpeterston@peterstonbaker.com
15 NIKKI L. BAKER, ESQ., Bar No. 6562
16 nbaker@peterstonbaker.com
17 10001 Park Run Drive
18 Las Vegas, NV 89145
19 Telephone: 702.786.1001
20 Facsimile: 702.786.1002

21 L. LIN WOOD, ESQ.
22 (*pro hac vice pending*)
23 lwood@linwoodlaw.com
24 NICOLE JENNINGS WADE, ESQ.
25 (*pro hac vice pending*)
26 nwade@linwoodlaw.com
27 JONATHAN D. GRUNBERG, ESQ.
28 (*will seek admission Pro Hac Vice*)
jgrunberg@linwoodlaw.com
G. TAYLOR WILSON, ESQ.
(*pro hac vice pending*)
twilson@linwoodlaw.com
L. LIN WOOD, P.C.
1180 West Peachtree Street, Suite 2400
Atlanta, Georgia 30309
Telephone: 404.891.1402
Facsimile: 404.506.9111

Attorneys for Plaintiff Steve Wynn

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Peterson Baker, PLLC, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **OPPOSITION TO THE ASSOCIATED PRESS DEFENDANTS' SPECIAL MOTION TO DISMISS ON ISSUE OF FAIR REPORT PRIVILEGE** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 17th day of July, 2018, to the following:

JOEL E. TASCA, ESQ.
tasca@ballardspahr.com
JUSTIN A. SHIROFF, ESQ.
shiroffj@ballardspahr.com
BALLARD SPAHR LLP
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135
*Attorneys for Defendants The Associated
Press and Regina Garcia Cano*

I FURTHER CERTIFY that I caused a true and correct copy of the foregoing **OPPOSITION TO THE ASSOCIATED PRESS DEFENDANTS' SPECIAL MOTION TO DISMISS ON ISSUE OF FAIR REPORT PRIVILEGE** to be served via U.S. Mail, postage prepaid, to those parties not registered with the Eighth Judicial District Court via the Court's Electronic Filing System on the 17th day of July, 2018, to the following address:

Halina Kuta
17 W. Pinehurst Drive
Laguna Vista, TX 78578
In Proper Person

/s/ Erin L. Parcels
An employee of Peterson Baker, PLLC

EXHIBIT 1

EXHIBIT 1

AP

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APNewsBreak: Woman tells police Steve Wynn raped her in '70s

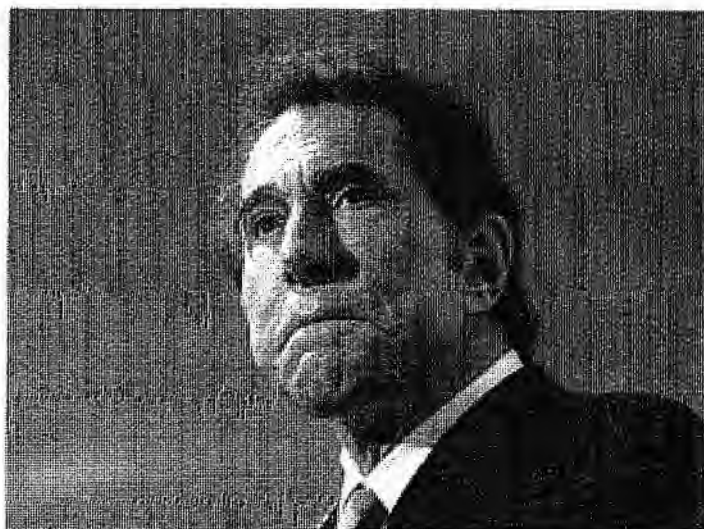
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CANO

Feb. 28, 2018

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LAS VEGAS (AP) — A woman told police she had a child with casino mogul Steve Wynn after he raped her, while another reported she was forced to resign from a Las Vegas job after she refused to have sex with him.

The Associated Press on Tuesday obtained copies of police reports recently filed by the two women about allegations dating to the 1970s. Police in Las Vegas revealed earlier this month that they had taken the statements after a news report in January revealed sexual misconduct allegations against the billionaire.



The allegations are the latest leveled against Wynn by women. He resigned as chairman and CEO of Wynn Resorts on Feb. 6, less than two weeks after the Wall Street Journal reported that a number of women said he harassed or assaulted them and that one case led to a \$7.5 million settlement.

Wynn has vehemently denied the misconduct accusations the newspaper reported and he attributed them to a campaign led by his ex-wife, whose attorney has denied that she instigated the Jan. 26 news story.

One police report obtained by the AP shows a woman told officers that Wynn raped her at least three times around 1973 and 1974 at her Chicago apartment. She reported she got pregnant and gave birth to a girl in a gas station restroom. The woman, the child of the accuser and Wynn, now lives in Las Vegas, according to the report.

In one instance, the woman claimed that Wynn pinned her against the refrigerator and raped her. She said he then made a phone call, kissed her on the cheek and left. The report does not explain how Wynn is alleged to have entered the apartment or if they knew each other. The woman claimed she did not give him a key.

The second police report shows a woman told police she had consensual sex with Wynn "several times" while she

worked as a dealer at the downtown Las Vegas casino-hotel Golden Nugget, but “felt coerced to perform the acts.” She reported she was forced to resign when she turned him down.

“In the Summer of 1976, Wynn approached her in the back hall and wanted her to go with him,” according to the report filed Jan. 29. “(S)he told him, “no”, she was done and had someone she was seeing. She was soon after accused of stealing \$40.00 and forced to resign.”

The women’s names are redacted on the reports, and police said they do not identify people who say they are victims of sex crimes.

The Las Vegas case will not be investigated because the statute of limitations in Nevada is 20 years.



Ralph Frammolino, spokesman for Wynn, on Tuesday declined comment on the latest allegations.

Wynn Resorts is facing scrutiny by gambling regulators in Nevada and Massachusetts, where the company is building a roughly \$2.4 billion casino just outside Boston. Regulators in Macau, the Chinese enclave where the company operates two casinos, are also inquiring about the allegations.

In addition, groups of shareholders have filed lawsuits in state court in Las Vegas accusing Wynn and the board of directors of Wynn Resorts of breaching their fiduciary duties by ignoring what the lawsuits described as a longstanding pattern of sexual abuse and harassment by the company's founder.

Follow Regina Garcia Cano on Twitter at
<https://twitter.com/reginagarciakNO>

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EXHIBIT 2

EXHIBIT 2

Woman tells cops she had casino mogul Steve Wynn's baby after he sexually assaulted her

By SABINA GHEBREMEDHIN and BILL HUTCHINSON

Feb. 26, 2018, 2:10 PM ET

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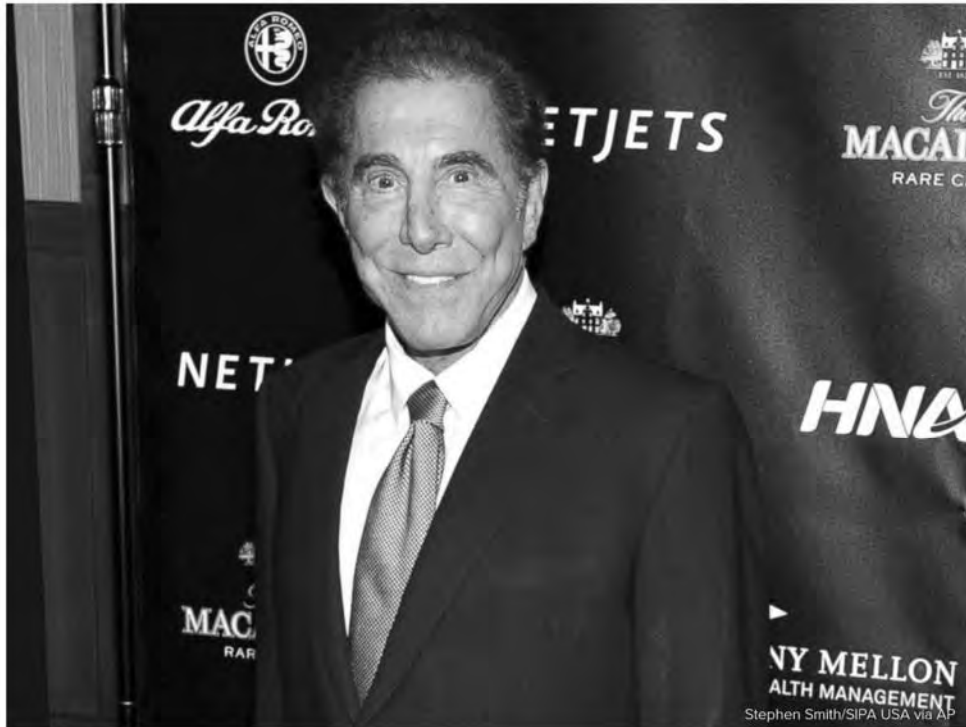


WATCH | RNC finance chair resigns after sexual misconduct allegations



Two women have told Las Vegas Police they were victims of sexual misconduct by casino mogul Steve Wynn, including one who alleges she had the billionaire's baby in a gas station restroom in the 1970s after he repeatedly sexually assaulted her, according to reports obtained by ABC News.

The new allegations against the 76-year-old Wynn -- the former finance chairman of the Republican National Committee, who President Donald Trump has called a "great friend" -- surfaced in the past month, according to Las Vegas Police reports.



Steve Wynn attends the Forbes Centennial Celebration in New York on Sept. 19, 2017.

Wynn was forced to step down from his gambling and resort empire on Feb. 6 after *The Wall Street Journal* reported that a number of women claimed he had assaulted or harassed them, including one who received a \$7.5 million settlement from Wynn.

In a statement to ABC News today, Wynn's spokesman slammed the new accusations, saying Wynn "has never been supplied with these unsubstantiated accounts or the names of these accusers by the Las Vegas Metropolitan Police Department."

"It's revolting that the media repeated such inflammatory claims from events that supposedly occurred four decades ago without the slightest bit of fact-checking or skepticism," the spokesman said. "This is not journalism, it is the peddling of smut and it is atrociously unfair to Mr. Wynn, his family and friends. Mr. Wynn is left to ask this simple question: When did we abandon such fundamental fairness, due process and decency?"

Wynn previously released a statement, saying, "The idea that I ever assaulted any woman is preposterous."

"We find ourselves in a world where people can make allegations, regardless of the truth, and a person is left with the choice of weathering insulting publicity or engaging in multi-year lawsuits,"

Wynn said in the statement.

Steve Wynn steps down as CEO following sexual misconduct allegations

New Wynn Resorts CEO denies knowing of claims against mogul

Republican silence on Steve Wynn is 'deafening': Sen. Kirsten Gillibrand



Steve Wynn at a news conference in Medford, Mass., on March 15, 2016.

A day after Wynn announced he was stepping down as chief executive of Wynn Resorts, a woman contacted the Las Vegas Police Department and claimed Wynn repeatedly sexually assaulted her between 1973 and 1974 when she lived in Chicago, according to the report.

In one encounter, she told police she was in her apartment when Wynn came in unannounced, according to the report.

"She was exercising in her old apartment and when she stood up, Stephan Wynn was standing in front of her and said a word that she didn't understand, and then pinned her up against the refrigerator and raped her as she was standing holding onto the refrigerator," the report said. "Stephan then called someone for a few minutes then came and kissed her on the cheek and said he had to go and then added ['I'll] call you later."

"When he left, she was still standing holding onto the refrigerator and looked at the window and saw her reflection, crying, and asking herself what just happened, what did he say?" according to the report.

She said a few days after the attack, Wynn struck again, according to the report.

She said a few days after the attack, Wynn struck again, according to the report.

She told police that "after her shower, she wrapped herself in the towel and was going to the bedroom and there was Stephan, sitting at the kitchen table," the report said. "He got up and says some words, pinned her to the wall forcing himself on her then just like before, he called someone, kissed her on the cheek and said he would call her later and left."

"She was standing holding onto the wall and the towel was on the floor, and she was crying, saying to herself, why her, what did she do to be treated so badly, and why is he coming to her apartment," the report continued. "She didn't give him a key to her apartment."

The woman told police she became pregnant from the assaults and gave birth in a gas station restroom.

"It was a hot, steamy afternoon and she needed to go to the restroom. She saw a gas station and went in to the restroom," according to the report. "She was in pain standing by the wall and gave birth."

"The baby was laying on her feet inside the water bag," she told police, according to the report.

<https://abcnews.go.com/>

She described the baby as a "doll inside a water bag," the report said.

"She used her teeth to make a small opening, then with her fingers opened the water bag and saw that the doll was purple. She started to blow on her and in a short time, her cheeks were turning pink and she opened her eyes. She look so much like her," the report said.



An exterior view of Encore and Wynn properties is captured in Las Vegas, Nev., on Feb. 7, 2018.

She told police a gas station attendant came into the restroom, saw her and called an ambulance. She said her daughter now lives in Las Vegas and has her own family, the report said.

In another case reported to Las Vegas Police on Jan. 29 -- two days after The Wall Street Journal's report on Wynn was published -- a 67-year-old woman claimed that while she was a card dealer at the Golden Nugget in Las Vegas between 1974 and 1976, she and Wynn, who owned the casino, had sexual relationship.

According to that report, she told police "the sex was consensual but she felt coerced to perform the acts."

In the summer of 1976, she said she tried to end the relationship.

"She told him 'no.' She was done and had someone she was seeing," according to the report. "She was soon after accused of stealing \$40.00 and forced to resign."

Las Vegas Police would only say they are investigating the allegations made by both women. It was unclear if detectives will ask to question Wynn about the accusations.

EXHIBIT 3

EXHIBIT 3

1 **AFFIDAVIT OF HALINA KUTA**

2 STATE OF NEVADA)
3 COUNTY OF CLARK) ss.

4 Halina Kuta, being first duly sworn, deposes and says:

5 1. I am over the age of eighteen (18) years of age, and based on my personal knowledge,
6 am competent to and voluntarily testify as to the matters set forth herein.

7 2. I am a defendant in the case styled *Steve Wynn v. The Associated Press, et al.*, Case
8 No. A-18-772715-C (the "Action"). Currently, I do not have legal counsel and am, therefore,
9 proceeding in proper person.

10 3. I understand that this Affidavit may be submitted in opposition to "The Associated
11 Press Defendants' Special Motion to Dismiss Pursuant to NRS 41.660 (Anti-SLAPP Statute)".

12 4. I reside at 17 W. Pinehurst Drive, Laguna Vista, Texas 78578. A true and correct
13 copy of my credentials is attached to this Affidavit as Exhibit "A".

14 5. I am 71 years old. It is my contention and belief that I was switched at birth with
15 another baby and grew up with another family. I discovered this approximately 4-5 years ago.

16 6. It is my contention and belief that I married Stephen Alan Wynn ("Steve"), the
17 former Chief Executive Officer and Chairman of the Board of Wynn Resorts, Limited, in 1963.
18 We had three ceremonies: one at City Hall in Poland, one at a Catholic church, and a Jewish
19 wedding in Lodz. It is my contention and belief that Steve and I may still be married. However, I
20 married Ed Kuta in 1983 because I did not know I was still married to Steve.

21 7. It is my contention and belief that after I married Steve, he would visit me in Poland
22 on holidays.

23 8. It is my contention and belief that on one occasion, he took Picasso and Rembrandt
24 paintings from me. To this day, Steve has never returned the paintings to me, although I want them
25 back.

26 9. It is my contention and belief that Steve took a painting Picasso made of me in the
27 late 1960s, which is commonly known as "Le Rêve". Steve later sold that painting of me for about
28 \$150 million. A true and correct image of the painting of me is attached to this Affidavit as Exhibit

1 "B". Picasso also painted a picture of my step-mother.

2 10. It is my contention and belief that I have three children with Steve; two boys and
3 one girl. The girl's name is Kevyn Wynn ("Kevyn"). I do not recall the name of the boys.

4 11. It is my contention and belief that I have other children with men, besides Steve.

5 12. It is my contention and belief that I had both consensual and non-consensual sexual
6 relations with Steve.

7 13. It is my contention and belief that our second son was kidnapped from me after he
8 was born and while we were still at the hospital. Steve did not kidnap our son because he did not
9 know I had given birth.

10 14. It is my contention and belief that, before I knew I was pregnant, Steve showed up
11 at my apartment, informed me he was my husband, told me that I was pregnant with our daughter,
12 that she would be named "Kevyn", and that Steve would take her away from me. It is my contention
13 and belief that Steve was angry at me because he said "you're going to pay for what you've done
14 forever". It is my contention and belief that Steve was upset with me because someone told him
15 that I had wished that his and Elaine's son would be born retarded, but it was not Steve's son but
16 the server's son from the Golden Nugget Hotel and Casino.

17 15. It is my contention and belief that Elaine Wynn was never actually married to
18 Steve; rather, I overheard her say that she was married to Steve's father. It is my contention and
19 belief that Elaine Wynn is actually Steve's step-mother.

20 16. It is my contention and belief that Gillian Wynn's father is a photographer from
21 Chile, and Elaine Wynn is her mother.

22 17. It is my contention and belief that, through the years, Steve has followed me
23 wherever I go.

24 18. On August 28, 2017, I filed a Complaint against Steve in the case styled *Halina*
25 *Kuta v. Stephan Allan Wynn, et al.*, Case No. 2:17-cv-02285-RFB-CWH (the "Federal Action")
26 because I contend and believe he arranged the July 26, 1993, kidnapping of our daughter, Kevyn,
27 and that his ultimate objective was to have me and Kevyn murdered. A true and correct copy of
28

1 the Complaint I filed against Steve is attached to this Affidavit as Exhibit "C". The Complaint is
2 also attached as Exhibit 1 to the Complaint filed in the Action.

3 19. Before filing the Federal Action, I wrote to many people, including news reporters,
4 about what I contend and believe Steve did. However, no one responded.

5 20. I even sent three messages on December 5, 2016, to now President Donald J. Trump
6 over Twitter about what I contend and believe Steve did. A true and correct copy of these tweets
7 are attached to this Affidavit as Exhibit "D". He ignored my messages.

8 21. In late January 2018-early February 2018, I was listening people on the television
9 talk about allegations that Steve engaged in non-consensual sexual relations with anonymous
10 women. My friend, Elizabeth, supported me to report what Steve had done to me.

11 22. On February 7, 2018, I filed a police report with the Las Vegas Metropolitan Police
12 Department ("LVMPD"). A true and correct copy of the two-page police report, which details what
13 I informed the LVMPD officer on February 7, is attached to this Affidavit as Exhibit "E". This
14 police report is also attached as Exhibit 2 to the Complaint filed in the Action.

15 23. It is my contention and belief that, as detailed on page two (2) of the police report,
16 I gave birth in a gas station restroom to Kevyn as a result of one of the three times Steve raped me.

17 24. The Narrative portion of the police report utilizes my words to describe what
18 happened to me. It is my contention and belief that every word of the Narrative section of the
19 police report is important to accurately convey what happened to me.

20 25. It is my contention and belief that I met Elaine Wynn several times. During one
21 occasion, she came to visit me when I was in the hospital. She was wearing all white clothes and
22 asked me to forgive her for what she has done.

23 FURTHER YOUR AFFIANT SAYETH NAUGHT.

24 DATED this 27th day of June, 2018.

25 Halina Kuta
Halina Kuta

26 Subscribed and sworn before me
27 on this 27th day of June, 2018.

28 Erin L. Parcels
NOTARY PUBLIC

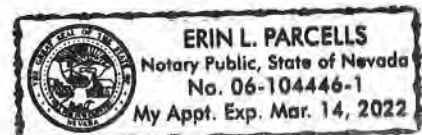


EXHIBIT A

EXHIBIT A

My Credentials

I was born in Poland as Halina Anna Jasinska to mother homemaker and father a dentist.

Growing up I spend 6 years in boarding school controlled by nuns.

From age of 11 to 18 years old I attended and study ballet and a music

After high school I study millinery.

At age of 23 I came to America to visit my family in Pittsburgh, and decided to stay in America influence by my family.

Learning English and new life in America took some time.

I like learning; I study correspondent course in Interior Decorating and successfully completed.

My marriage did not work out. I come to Las Vegas where in time I went to Collage of Southern Nevada and earned a degree in Graphics Design and Commercial Photography.

I am Cancer Survivor

Halina kuta




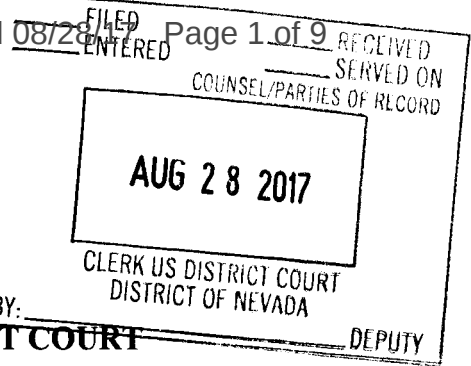
EXHIBIT B

EXHIBIT B



EXHIBIT C

EXHIBIT C



1 Halina Kuta
2 6921 Kim Avenue
3 Las Vegas, Nevada 89145
4 In Proper Person

5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 Halina Kuta,

2:17-cv-02285-RFB-CWH

9 Plaintiff,

10 vs.

Dept No.:

11 Stephan Allen Wynn, ROES I – X, DOES
12 XI-XXX, Inclusive,

13 Defendant.

14
15 **COMPLAINT**
16 **(DEMAND FOR JURY TRIAL)**

17 COMES NOW, Plaintiff, HALINA KUTA, in proper person, complains and alleges as
18 follows:

19 **PRELIMINARY ALLEGATIONS**

- 20 1) Plaintiff brings this action seeking to put an immediate stop to, and to obtain redress for,
21 Defendants' blatant and purposeful dishonesty in a federal investigation, as to the kidnapping
22 of Kevyn Wynn;
23 2) Defendants' conduct is causing, and unless immediately enjoined will continue to cause,
24 enormous and irreparable harm to Plaintiff. Defendants may not continue to exploit
25 Defendant without authorization in order to retain funds improperly held in his possession;
26 3) Defendants' conduct must immediately be stopped and Plaintiff must be compensated for
27 Defendant's willful acts of perjury;
28

- 1 4) At all times mentioned herein, the Plaintiff was and is a resident of Las Vegas, Nevada;
- 2 5) Upon information and belief, at all times mentioned herein, Defendant, Stephan Allen Wynn,
- 3 is and was an individual residing in the State of Nevada;
- 4 6) Upon information and belief, at all times mentioned herein, Defendant, Stephan Allen Wynn,
- 5 is and was an entity operating in the State of Nevada;
- 6 7) That the true names and capacities, whether individual, corporate, associate or otherwise, of
- 7 Defendants DOES I through X, inclusive, are unknown to Plaintiffs, who therefore sue said
- 8 Defendants by such fictitious names; and; therefore, sues these Defendants by such fictitious
- 9 names. Plaintiff prays leave to amend this Complaint to allege their true names and
- 50 names. Plaintiff prays leave to amend this Complaint to allege their true names and
- 11 capacities when the same have been ascertained, as such:
- 12
- 13 i) Parties responsible in some manner for the events and happenings herein referred to
- 14 that caused injuries and damages thereby to the Plaintiff as herein alleged;
- 15 ii) Parties that are the agents, servants, employees and/or contractors of the Defendants,
- 16 each of them acting within the course and scope of their agency, employment or
- 17 contract;
- 18 iii) Parties that have assumed or retained the liabilities of any of the Defendants by virtue
- 19 of an agreement, sale, transfer or otherwise;
- 20 iv) The Plaintiffs will ask leave of the Court to amend this Complaint to insert the true
- 21 names and capacities of said Defendants, ROES 1-XX, inclusive, when the same have
- 22 been ascertained by the Plaintiff, together with appropriate charging allegations, and
- 23 to join said Defendants in the action;
- 24
- 25
- 26 8) The acts and omissions alleged hereafter occurred within Clark County, State of Nevada;
- 27
- 28

1 9) That to date Defendant has failed to properly compensate Plaintiff for the used material, as a
2 business venture;

3 10) That Plaintiff has fulfilled his obligations under the agreement; however, Defendant has failed
4 to fulfill their obligation.
5

6 **JURISDICTION AND VENUE**

7 11) This is a civil action seeking damages and injunctive relief for damages as a result of
8 Defendant perjury under oath, and blatant dishonesty, in accordance with the investigation as
9 to the kidnapping of Kevyn Wynn;
10

11 12) That Plaintiff is the biological mother of Kevyn Wynn, and has standing to proceed in this
12 action;
13

14 13) This Court has subject matter jurisdiction over the perjury actions of Defendant under oath 18
15 U.S.C. §1621;

16 14) This Court has personal jurisdiction over Defendants because, among other things,
17 Defendants are doing business in the State of Nevada and in this judicial district, the acts of
18 perjury under oath complained of herein occurred in the State of Nevada and in this judicial
19 district, and Defendants have caused injury to Plaintiff and intentional infliction of emotional
20 distress within the State of Nevada and in this judicial district;
21

22 15) Venue is proper in this district, and categories as a federal question;
23

24 **FIRST CAUSE OF ACTION**
25 **(Perjury Under Oath)**

26 16) Plaintiff re-alleges and incorporates by reference all preceding allegations of law and facts as
27 it fully set forth herein;
28

- 1 17) That the alleged kidnapping that of Kevyn Wynn occurred on July 23, 1993, was not an actual
2 kidnapping;
- 3 18) That Kevyn Wynn was placed into a trunk of a vehicle and driven for 18 hours to Defendant's
4 hotel, Holiday Vista Motel, in Harlingen, Texas;
- 5 19) Stephan did you ever wanders about all those young girls who got pregnant by you? You called
6 them "Young Polish Pigs";
- 7 20) The kidnapping of Kevyn Wynn took place, two kidnappers brought Kevin to Plaintiff's motel
8 Holiday Vista Motel in Harlingen Texas in an old car;
- 9 21) That Kevyn Wynn was seen in the trunk of the vehicle;
- 10 22) That one of the men came to the motel office, and paid for the suite they were staying in;
- 11 23) That the men were from Las Vegas, and he told Plaintiff that there was no room in the car that's
12 why their friend stayed in the trunk;
- 13 24) That three (3) days later one of the man with that young girl came to my office and the other
14 young black man stayed close by the office;
- 15 25) That the man who came to the office, his right eye was different from the other eye, and he was
16 shorter than Kevyn;
- 17 26) That Plaintiff saw the man holding the girl's arm behind her back, which can cause pain, and
18 the other hand he pulled a shining silver knife, and started moving left and right;
- 19 27) That Kevyn indicated that the man was hypnotizing Plaintiff, that woke Plaintiff up,
- 20 28) That Plaintiff could see that sharp silver slim knife is cutting Kevin's neck vertical and then that
21 knife blood was pointing at Plaintiff, and saying "you are next" then he held that knife
22 horizontal going forward to Kevyn's neck;
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1 29) That Plaintiff had two dogs German Shepherd and Doberman called Alex and Bluto when he
2 saw both dogs he dropped the knife and run out;

3 30) That Plaintiff was in shock Kevyn called 911, and the police came to make a report;

4 31) That Kevyn then called her father, Stephan Allen Wynn, and he told her that Plaintiff was her
5 mother;

6 32) That Defendant took the child from Plaintiff, without her permission;

7 33) That when Plaintiff's dogs, Alex and Bruto, were seen by the man, he immediately ran;

8 34) That Kevyn Wynn called the police for assistance;

9 35) That Defendant was fully aware that Kevyn Wynn was not kidnapped, and was in Harlingen,
10 Texas, with her mother, Defendant;

11 36) That Defendant purchased the ticket back to Las Vegas, Nevada, for Kevyn Wynn;

12 37) That although Plaintiff is not directing placing blame on the Harlingen Police Department, but
13 shortly after the alleged kidnapping the police department received a multimillion dollar
14 donation;

15 38) That in 2009, 2012 and 2015, Plaintiff went to the Harlingen Police Department for a copy of
16 the police report, and it was gone;

17 39) That Plaintiff firmly believes the entire kidnapping was arranged;

18 40) That Defendant was fully aware of what was going, and mislead investigators into believing
19 the child was kidnapped, when in fact she was not;

20 41) That the kidnapping was a plot to have Plaintiff and the child killed, but tremendously failed;

21 42) That in accordance with 18 U.S.C. (1) it reads, having taken an oath before a competent
22 tribunal, officer, or person, in any case in which a law of the United States authorizes an oath
23 to be administered, that he will testify, declare, depose, or certify truly, or that any written
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1 testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and
2 contrary to such oath states or subscribes any material matter which he does not believe to be
3 true;

4 43) Or (2) in any declaration, certificate, verification, or statement under penalty of perjury as
5 permitted under section 1746 of title 28, United States Code, willfully subscribes as true any
6 material matter which he does not believe to be true; is guilty of perjury and shall, except as
7 otherwise expressly provided by law, be fined under this title or imprisoned not more than
8 five years, or both. This section is applicable whether the statement or subscription is made
9 within or without the United States;
10

11 44) That Defendant is guilty of perjury to the federal officers conducting the investigation
12 regarding the kidnapping of Kevyn Wynn, and the improper ransom paid by Defendant,
13 Stephan Allen Wynn;
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15 45) That Defendant did wander around with little girls, and called them "young polish pigs";

16 46) Defendant intended to induce Plaintiff based on these misrepresentations and improper
17 disclosures;
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19 47) Plaintiff's reasonable reliance upon the misrepresentations was detrimental. But for failure to
20 disclose the true and material terms of the transaction, Plaintiff could have been alerted to
21 issues of concern. Plaintiff would have known of Defendants true intentions and profits from
22 the proposed kidnapping scheme. Plaintiff would have known that the actions of Defendant
23 would have an adverse effect on Plaintiff;
24

25 48) Defendants' failure to disclose the material terms of the kidnapping scheme inducing Plaintiff
26 to believe her daughter, Kevyn Wynn, was simply coming to visit her in Texas;

27 49) Defendants were aware of the misrepresentations and profited from them;
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1 50) As a direct and proximate result of the misrepresentations and concealment Plaintiff was
2 damaged in an amount to be proven at trial, including but not limited to damage to Plaintiff's
3 financial security, emotional distress, and Plaintiff has incurred costs and attorney's fees;

4 51) Defendants are guilty of malice, fraud and/or oppression. Defendants' actions were malicious
5 and done willfully in conscious disregard of the rights and safety of Plaintiff in that the actions
6 were calculated to injure Plaintiff. As such Plaintiff is entitled to recover, in addition to actual
7 damages, punitive damages to punish Defendants and to deter them from engaging in future
8 misconduct.
9

10
11 **SECOND CAUSE OF ACTION**
(Intentional Infliction of Emotional Distress)

12 52) Plaintiff re-alleges and incorporated by reference all preceding allegations of law and facts as
13 it fully set forth herein;

14 53) Through their conduct averred herein, Defendants have caused Plaintiff emotional distress, to
15 the point that she is unable to enjoy life, liberty and pursuit of happiness;

16 54) That as a result of Defendants' improper actions, Plaintiff has suffered extreme personal,
17 mental, emotional anguish;

18 55) That as a result of Defendants' unlawful and illegal actions, Plaintiff has lost a substantial
19 amount of his financial and emotional well-being;
20

21 56) That Plaintiff firmly believes she is being followed by Defendant and his entourage;

22 57) That Plaintiff has dodged bullets flying past her just to silence her;

23 58) Defendants conduct was intentional and designed to cause severe emotional distress;

24 59) Plaintiff has lost sleep, appetite and suffered emotionally because of the actions of Defendant;
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60) Defendant has acted arbitrarily, capriciously and with reckless disregard for Plaintiff, and accordingly, Plaintiff is entitled to exemplary damages, in excess of \$4,000,000.00 is entitled to money damages, punitive damages, and other relief as the Court finds to be just and proper.

61) As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial;

62) As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law;

63) Plaintiff is informed and believe and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs right to enjoyment of life;

64) Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing conduct.

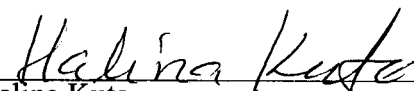
WHEREFORE, Plaintiff prays for Judgment against the Defendants as follows:

1. For punitive damages against Defendant;
2. For general damages in excess of \$4,000,000 against Defendants;
3. For attorney fees, if any are incurred as a result of filing suit;
4. For legal fees and costs of suit, as incurred herein;
5. For such other relief as the Court finds to be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED this 24 day of August 2017.



Halina Kuta
6921 Kim Avenue
Las Vegas, Nevada 89145
In Proper Person

Maggie Strickland

NVDP20143424
720 E Charleston Blvd Ste 140
Las Vegas, NV 89104

Low Cost Financial Services
720 E. Charleston Blvd., #140
Las Vegas, Nevada 89104

U.S. District Court
333 S. Las Vegas Blvd
Las Vegas, NV 89101



EXHIBIT D

EXHIBIT D



Halina Kuta @halina_ya · 5 Dec 2016



@realDonaldTrumpSteve Wynn Lied to Federal Court that he give \$ to the kidnappers President Elect what can you do to that elevator operator



Halina Kuta @halina_ya · 5 Dec 2016



@realDonaldTrumpKevenand I would be dead but my doberman and german shepherd safed as.Steve Wynn lied to Federal Court that he paid millions



Halina Kuta @halina_ya · 5 Dec 2016



@realDonaldTrumpPresident elect what can you do.Steve wynn 3110 S LVBlvd 702 770-7000Lied to Federal Court Kevin Wynn and my



EXHIBIT E

EXHIBIT E



Administrative

Location UNKNOWN ADDRESS CHICAGO Chicago, IL

Sector/Beat OJ - Other
Jurisdiction n

Occurred On (Date / Time) Friday 6/1/1973 12:00:00 AM
Reporting Officer 07027 - Chavez, Irma M
Entered By 07027 - Chavez, Irma M
Related Cases

Or Between (Date / Time) Saturday 8/31/1974 12:00:00 AM
Reported On 2/7/2018
Entered On 2/7/2018 11:26:37 AM
Jurisdiction Other Jurisdiction

Traffic Report No Place Type Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B
Completed Yes Domestic Violence No
Entry Premises Entered Hate/Bias Unknown (Offenders Motivation Not Known)
Weapons None Type Security Tools
Criminal Activities None/Unknown Location Type Residence/Home

Victims:

Name: [REDACTED]

Victim Type Individual Written Statement Yes Can ID Suspect Yes
Victim of 50095 - Sex Assault(F)-NRS 200.366.2B
DOB [REDACTED] Age 27 Sex Female Race White Ethnicity Unknown
Height 5' 0" Weight 115 Hair Color Blond Eye Color Green
Employer/School Retired
Occupation/Grade
Injury Not Provided Work Schedule Injury Weapons None

Addresses

Residence [REDACTED]

Phones

Cellular [REDACTED]

Offender Relationships

S - Wynn, Stephan Victim Was Spouse
Notes:

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

Erin Parcells
S#: 127056 Date: 3-14-2018
Las Vegas Metro Police Dept.

Suspects:

Name: Wynn, Stephan
Alias:

Scope ID DOB Age 76 Race White Ethnicity Not Hispanic or
Sex Male Height 5' 6" Weight 145 Hair Color Brown Eye Color Brown
Employer/School Occupation/Grade

Addresses

Phones

Business/Work [REDACTED]

Notes:

Narrative

[REDACTED] came to NWAC to report that in 1973-1974, in Chicago, IL, she was exercising in her old apartment and when she stood up, Stephan Wynn was standing in front of her and said a word that she didn't understand, and then he pinned her up against the refrigerator and raped her as she was standing holding onto the refrigerator. Stephan then called someone for a few minutes then came and kiss her on her cheek and said he had to go and then added I call you later.

When he left she was still standing holding onto the refrigerator and looked at the window and saw her reflection, crying, and asking herself what just happened, what did he say?

A few days later, after her shower, she wrapped herself in the towel and was going to the bedroom and there was Stephan, sitting at the kitchen table. He got up and says some words, pinned her to the wall forcing himself on her then just like before, he called someone, kissed her on the cheek and said he would call her later and left. She was standing holding onto the wall and the towel was on the floor, and she was crying, saying to herself, why her, what did she do to be treated so badly, and why is he coming to her apartment. She didn't give him a key to her apartment. She remembers that Stephan said "you make me horny" then raped her twice.

She ended up pregnant. It was a hot steamy afternoon and she needed to go to the restroom. She saw a gas station and went in to the restroom. She was in pain standing by the wall and gave birth. The baby was laying on her feet inside the water bag. She slid down and said a doll is inside the water bag, the blood falling down, and she wanted to open, but the water bag was thick. She used her teeth to make a small opening then with her finger, opened the water bag and saw that the doll was purple. She started to blow on her and in a short time her cheeks were turning pink and she opened her eyes. She looked so much like her.

The gas station attendant opened the door to the restroom and when he saw her with a baby, he ran to the office and called an ambulance.

Her name is [REDACTED] and she lives in Las Vegas - Stephan and my child. [REDACTED] knows me as her mother and has her own family now.

Report taken per Det K. McCaffery, P#8731.

EXHIBIT 4

EXHIBIT 4

From: Lawrence Hadfield <L7171H@LVMPD.COM>
Sent: Thursday, May 31, 2018 5:02 PM
To: Erin Parcells; Nikki Baker
Subject: LVMPD Documents Released
Attachments: doc00751820180531164912.pdf

Good afternoon,

I phoned your office this afternoon to speak with one of you. We have received a couple phone calls from former LVMPD officers stating they are working for your law firm and were inquiring about the documents that were sent in response to open records requests involving Steve Wynn. I have attached one of the copies that was sent to the requesting media outlets. All documents that were provided were exactly the same and no additional information was provided.

I hope this answers your questions on what was provided.

Respectfully,
Larry

Officer Larry Hadfield
Office of Public Information
Las Vegas Metropolitan Police Department
400-B South Martin L. King Boulevard, Las Vegas, Nevada 89106
4 702.828.4082 office | 702.828.1550 fax | L7171H@lvmpd.com



Administrative

Location UNKNOWN ADDRESS CHICAGO Chicago, IL

Sector /Beat
OJ - Other
Jurisdiction
n

Occurred On (Date / Time) Friday 6/1/1973 12:00:00 AM
Reporting Officer 07027 - Chavez, Irma M
Entered By 07027 - Chavez, Irma M
Related Cases

Or Between (Date / Time) Saturday 8/31/1974 12:00:00 AM
Reported On 2/7/2018
Entered On 2/7/2018 11:26:37 AM
Jurisdiction Other Jurisdiction

Traffic Report No Place Type Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B
Completed Yes Domestic Violence No
Entry Premises Entered
Weapons None
Criminal Activities None/Unknown
Hate/Bias Unknown (Offenders Motivation Not Known)
Type Security Tools
Location Type Residence/Home

Victims:

Name: [REDACTED]

Victim Type Individual Written Statement Yes Can ID Suspect Yes
Victim of 50095 - Sex Assault(F)-NRS 200.366.2B
DOB [REDACTED] Age 27 Sex Female Race White Ethnicity Unknown
Height 5' 0" Weight 115 Hair Color Blond Eye Color Green
Employer/School Retired
Occupation/Grade
Injury Not Provided Work Schedule Injury Weapons None

Addresses

Residence [REDACTED]

Phones

Cellular [REDACTED]

Offender Relationships

S - Wynn, Stephan Victim Was Spouse
Notes:

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.
This Information Released To:
Andrew Craft - CNBC
By: [REDACTED] Date: 3-6-2018
Las Vegas Metro Police Dept.

Suspects:

Name: Wynn, Stephan

Alias:

Scope ID DOB Age 76 Race White Ethnicity Not Hispanic or Latino
Sex Male Height 5' 6" Weight 145 Hair Color Brown Eye Color Brown
Employer/School Occupation/Grade

Addresses

Phones

Business/Work [REDACTED]

Notes:

Narrative

[REDACTED] came to NWAC to report that in 1973-1974, in Chicago, IL, she was exercising in her old apartment and when she stood up, Stephan Wynn was standing in front of her and said a word that she didn't understand, and then he pinned her up against the refrigerator and raped her as she was standing holding onto the refrigerator. Stephan then called someone for a few minutes then came and kiss her on her cheek and said he had to go and then added I call you later.

When he left she was still standing holding onto the refrigerator and looked at the window and saw her reflection, crying, and asking herself what just happened, what did he say?

A few days later, after her shower, she wrapped herself in the towel and was going to the bedroom and there was Stephan, sitting at the kitchen table. He got up and says some words, pinned her to the wall forcing himself on her then just like before, he called someone, kissed her on the cheek and said he would call her later and left. She was standing holding onto the wall and the towel was on the floor, and she was crying, saying to herself, why her, what did she do to be treated so badly, and why is he coming to her apartment. She didn't give him a key to her apartment. She remembers that Stephan said "you make me horny" then raped her twice.

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She ended up pregnant. It was a hot steamy afternoon and she needed to go to the restroom. She saw a gas station and went in to the restroom. She was in pain standing by the wall and gave birth. The baby was laying on her feet inside the water bag. She slid down and said a doll is inside the water bag, the blood falling down, and she wanted to open, but the water bag was thick. She used her teeth to make a small opening then with her finger, opened the water bag and saw that the doll was purple. She started to blow on her and in a short time her cheeks were turning pink and she opened her eyes. She looked so much like her.

The gas station attendant opened the door to the restroom and when he saw her with a baby, he ran to the office and called an ambulance.

Her name is [REDACTED] and she lives in Las Vegas - Stephan and my child. [REDACTED] knows me as her mother and has her own family now.

Report taken per Det K. McCaffery, P#8731.



Administrative

Location 129 FREMONT ST Lv, NV 89101
Occurred On (Date / Time) Monday 1/29/2018 3:11:59 PM
Reporting Officer 07426 - Brewer, Michael J
Entered By 15176 - Ellison, Julie
Related Cases

Or Between (Date / Time)
Reported On 1/29/2018
Entered On 1/30/2018 7:30:19 AM
Jurisdiction Las Vegas, City of

Sector/Beat A1

Traffic Report

Place Type

Accident Involved

Offenses:

Sex Assault(F)-NRS 200.366.2B

Completed Yes

Domestic Violence

Entry

Premises Entered

Weapons None

Criminal Activities

Hate/Bias None (No Bias)

Type Security

Tools

Location Type Gambling Facility/Casino/Race Track

Victims:

Name: [REDACTED]

Victim Type Individual Written Statement
Victim of 50095 - Sex Assault(F)-NRS 200.366.2B

Can ID Suspect

DOB [REDACTED] Age 67 Sex Female Race White Ethnicity Unknown
Height [REDACTED] Weight [REDACTED] Hair Color [REDACTED] Eye Color [REDACTED]
Employer/School [REDACTED]
Occupation/Grade [REDACTED]
Injury None Observed Work Schedule [REDACTED]
Injury Weapons None

Addresses

Residence [REDACTED]

Phones

Home/Residence [REDACTED]

Offender Relationships

S - Wynn, Steve

Victim Was Employee

Notes:

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

Andrew Craft - Fox News

By: [REDACTED] Date: 3-6-2018

Las Vegas Metro Police Dept.

Suspects:

Name: Wynn, Steve

Alias:

Scope ID [REDACTED] DOB [REDACTED] Age 76 Race White Ethnicity Unknown
Sex Male Height [REDACTED] Weight [REDACTED] Hair Color [REDACTED] Eye Color [REDACTED]
Employer/School [REDACTED] Occupation/Grade [REDACTED]

Addresses

Phones

Notes:

Narrative

[REDACTED] stated she was employed as a dealer for the golden Nugget in 1974. Her maiden name when employed was [REDACTED]. Several times during her employment, Steve Wynn and she had sex. [REDACTED] stated the sex was consensual but she felt coerced to perform the acts. The following times are what she remembers?

- 1st- April or May of 1975. She was approached by Wynn at her table and he escorted her back to his office and they had sex.
- 2nd-Summer of 1975. Steve Wynn asked her to go to his house on Rancho Dr. between Charleston and Sahara. She told him she had no way to get there and he sent a cab/driver. They had sex in his bedroom.
- 3rd- Spring of 1976. Wynn flew her to a concert in Oklahoma in his private jet. On the way back she performed oral on him.

In the Summer of 1976, Wynn approached her in the back hall and wanted her to go with him. she told him, "no", she was done and had someone she was seeing. She was soon after accused of stealing \$40.00 and forced to resign.

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EXHIBIT 5

EXHIBIT 5

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 HALINA KUTA,

5 Plaintiff,

6 v.

7 STEPHAN ALLEN WYNN,

8 Defendant.
9

Case No. 2:17-cv-02285-RFB-CWH

REPORT & RECOMMENDATION

10 Presently before the court is pro se Plaintiff Halina Kuta's application to proceed *in forma*
11 *pauperis* (ECF No. 1), filed on August 28, 2017.

12 **I. IN FORMA PAUPERIS APPLICATION**

13 Plaintiff has submitted the declaration required by 28 U.S.C. § 1915(a) showing an
14 inability to prepay fees and costs or give security for them. Accordingly, Plaintiff's request to
15 proceed *in forma pauperis* will be granted.

16 **II. SCREENING COMPLAINT**

17 Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint
18 under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable
19 claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may
20 be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
21 § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard
22 for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*,
23 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain
24 sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face."
25 *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints
26 and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts
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1 in support of his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908
2 (9th Cir. 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of
4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylar*
5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
9 Further, a Court may dismiss a claim as factually frivolous if its allegations are “clearly baseless,
10 a category encompassing allegations that are fanciful, fantastic, and delusional.” *Denton v.*
11 *Hernandez*, 504 U.S. 25, 32–33 (1992) (internal citations and punctuation omitted). Unless it is
12 clear the complaint’s deficiencies could not be cured through amendment, a pro se plaintiff
13 should be given leave to amend the complaint with notice regarding the complaint’s deficiencies.
14 *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

15 Here, Plaintiff’s complaint (ECF No. 1-1) alleges two causes of actions against Defendant
16 Stephan Allen Wynn. Plaintiff’s first cause of action is for “perjury under oath” and another for
17 intentional infliction of emotional distress. Plaintiff’s claims appear to center upon the alleged
18 kidnapping of Kevyn Wynn, on July 23, 1993. Plaintiff’s complaint contains a number of
19 disjointed allegations and non sequiturs involving the actions of herself, Defendant Stephen
20 Wynn, the purported kidnapping victim Kevyn Wynn, and an unidentified man with a knife.
21 Plaintiff appears to allege that Defendant staged the alleged kidnapping in an attempt to murder
22 Plaintiff and Kevyn Wynn. Plaintiff further alleges that Kevyn Wynn is actually her daughter,
23 and had intended to visit Plaintiff’s home in Texas, and that Defendant knew this, but told police
24 that she had been kidnapped. Plaintiff further alleges that she was threatened with a knife and
25 later hypnotized by a man who was with Kevyn Wynn, but the man ran away when confronted by
26 Plaintiff’s two dogs. Plaintiff also alleges that Defendant has failed to fulfill his obligations under
27
28

1 an unspecified agreement, and also failed to properly compensate Plaintiff “for the used material,
2 as a business venture.” Pl.’s Compl., at ¶ 9.

3 Plaintiff’s complaint is incoherent, describing a clearly fanciful or delusional scenario.

4 The Court will therefore recommend dismissal of Plaintiff’s complaint with prejudice.

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1 IT IS THEREFORE ORDERED that Plaintiff's Application for Leave to Proceed *In*
2 *Forma Pauperis* (ECF No. 1) is GRANTED. Plaintiff will not be required to pay the filing fee in
3 this action. Plaintiff is permitted to maintain this action to conclusion without the necessity of
4 prepayment of any additional fees or costs or the giving of a security for fees or costs. This order
5 granting leave to proceed *in forma pauperis* does not extend to the issuance of subpoenas at
6 government expense.

7 IT IS FURTHER ORDERED that the Clerk of the Court must file Plaintiff's complaint
8 (ECF No. 1-1).

9 **RECOMMENDATION**

10 IT IS HEREBY RECOMMENDED that Plaintiff's complaint be DISMISSED, with
11 prejudice, for failure to state a claim upon which relief can be granted.

12 **NOTICE**

13 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
14 writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
15 held that the courts of appeal may determine that an appeal has been waived due to the failure to
16 file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit
17 has also held that (1) failure to file objections within the specified time and (2) failure to properly
18 address and brief the objectionable issues waives the right to appeal the District Court's order
19 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
20 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

21
22 DATED: March 28, 2018

23
24 
25 C.W. HOFFMAN, JR.
26 UNITED STATES MAGISTRATE JUDGE
27
28

EXHIBIT 6

EXHIBIT 6

**AFFIDAVIT OF NIKKI L. BAKER, ESQ., IN SUPPORT OF
OPPOSITION TO THE ASSOCIATED PRESS DEFENDANTS' SPECIAL MOTION TO
DISMISS ON ISSUE OF FAIR REPORT PRIVILEGE**

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

Nikki L. Baker, Esq., being first duly sworn, deposes and says:

1. I am over the age of eighteen (18) years of age, and based on my personal knowledge, am competent to testify as to the matters set forth herein.

2. I am a partner in the law firm of Peterson Baker, PLLC, 10001 Park Run Drive, Las Vegas, Nevada 89145, counsel of record for Plaintiff Steve Wynn ("Mr. Wynn") in case number A-18-772715-C.

3. I make this affidavit in support of Mr. Wynn's Opposition to The Associated Press Defendants' Special Motion to Dismiss on Issue of Fair Report Privilege (the "Opposition"). If called upon to testify in this matter, I could and would competently testify as to the matters herein set forth as they are personally known to me to be true.

4. Attached as Exhibit 1 to the Opposition is a true and correct copy of The Associated Press article titled, "APNewsBreak: Woman tells police Steve Wynn raped her in '70s" published on or about February 28, 2018. This article can also be found at <https://apnews.com/d74af8c7df2c4f70ae156b82207109ef> (last visited July 17, 2018).

5. Attached as Exhibit 2 to the Opposition is a true and correct copy of an ABCNews article titled "Woman tells cops she had casino mogul Steve Wynn's baby after he sexually assaulted her" published on or about February 28, 2017. This article can also be found at <https://abcnews.go.com/US/woman-tells-cops-casino-mogul-steve-wynns-baby/story?id=53414021> (last visited on July 17, 2018).

6. Attached as Exhibit 4 to the Opposition is a true and correct copy of an email sent on May 31, 2018, by Officer Larry Hadfield of the Las Vegas Metropolitan Police Department to me and Erin Parcells, with my office, attaching Case Report No. LLV180207001836 dated February 7, 2018, and Case Report No. LLV180129002695 dated January 29, 2018. This email and its attachment have been maintained in my office's files.

7. Attached as Exhibit 5 to the Opposition is a true and correct copy of a Report and Recommendation entered on March 28, 2018, in the lawsuit styled *Halina Kuta v. Stephan Allen Wynn*, Case No. 2:17-cv-02285-RFB-CWH, which was pending in the United States District Court for the District of Nevada. The document was obtained via PACER and has been maintained in my office's files.

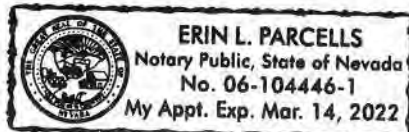
FURTHER YOUR AFFIANT SAYETH NAUGHT.

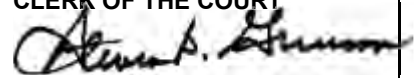
DATED this 17th day of July, 2018


NIKKI L. BAKER

Subscribed and sworn before me
on this 17th day of July, 2018.


NOTARY PUBLIC





1 RPLY
2 Joel E. Tasca
3 Nevada Bar No. 14124
4 Justin A. Shiroff
5 Nevada Bar No. 12869
6 BALLARD SPAHR LLP
7 1980 Festival Plaza Drive, Suite 900
8 Las Vegas, Nevada 89135
9 Phone: (702) 471-7000
10 Fax: (702) 471-7070
11 Email: tasca@ballardspahr.com
12 Email: shiroffj@ballardspahr.com

13 *Attorneys for Defendants*
14 *The Associated Press and Regina Garcia Cano*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 STEVE WYNN, an individual)	Case No. A-18-772715-C
18)	
19 Plaintiff,)	Dept. No. XIV
20 v.)	
21)	
22 THE ASSOCIATED PRESS, a foreign)	
23 corporation; REGINA GARCIA CANO, an)	
24 individual; and HALINA KUTA, an)	
25 individual; DOES I-X,)	
26)	
27 Defendants.)	
28)	

29 **THE ASSOCIATED PRESS DEFENDANTS' REPLY IN SUPPORT OF**
30 **SPECIAL MOTION TO DISMISS PURSUANT TO N.R.S. § 41.660**
31 **(ANTI-SLAPP STATUTE)**

32 Defendants The Associated Press and Regina Garcia Cano (together, "AP"), by
33 and through undersigned counsel, submit this reply in support of their special
34 motion to dismiss Plaintiff Steve Wynn's Complaint pursuant to Nev. Rev. Stat.
35 §41.660 ("Mot."), and in response to the Opposition filed by Mr. Wynn on July 17,
36 2018 ("Opp").

37 ///

38 ///

JA00178

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In this billionaire’s defamation lawsuit against a news service, Mr. Wynn urges repeatedly that one of the two sexual assault complaints made against him and announced to the press by the Las Vegas Metropolitan Police Department (“LVMPD”) in February 2018 was obviously “fanciful and delusional,” Opp. at 4-9, despite the fact that the LVMPD issued a statement about the two complaints, Affidavit of Regina Garcia Cano (“Garcia Cano Aff.”), Ex. 3, forwarded a copy of the official police record at issue to Chicago authorities, *id.*, and publicly urged victims to come forward, *id.*, Ex. 2. Mr. Wynn buttresses his characterization of the police record not only through liberal use of adjectives and repeatedly emphasizing colorful language from the police record, but also by summarizing a separate lawsuit by the complainant, Halina Kuta, that AP could not have connected to the redacted police record released by LVMPD. Opp. at 7-8. Further, Mr. Wynn submits a new affidavit—solicited during the pendency of this litigation—apparently aimed at demonstrating that Ms. Kuta “may suffer from delusions about people in the news.” *Id.* at 5 & Ex. 3.

These disparagements of the alleged victim are legally irrelevant to the fair report privilege for press reports regarding official records. Stripped of its attacks on Ms. Kuta, Mr. Wynn’s argument turns on two fundamental misstatements of law: (1) that LVMPD case reports are not “official documents or proceedings” for purposes of the fair report privilege, and (2) that by failing to quote verbatim from statements in the police report about an alleged victim’s birth experience that are collateral to the criminal accusation, AP failed to provide a substantially accurate account of the rape allegation. The first argument wrongly conflates the fair report privilege with the separate judicial proceedings privilege, ignores controlling case law, and misstates the weight of national authority extending the privilege to official records like these police reports. The second argument by Mr. Wynn finds no support in the

1 law and falls apart on examination. Indeed, a rule requiring news reports to include
2 collateral matters verbatim would render the privilege a functional nullity.

3 As a matter of law, Nevada's fair report privilege applies to the AP Report's
4 accurate summary of criminal allegations reflected in official LVMPD case records.
5 Mr. Wynn therefore cannot meet his burden to demonstrate a likelihood of prevailing
6 in his lawsuit against AP, and the special motion should be granted.

7 **II. LEGAL STANDARD AND PROCEDURAL POSTURE**

8 Mr. Wynn does not dispute that the AP Article represents protected speech
9 under the anti-SLAPP statute, nor that AP has made a threshold showing that the
10 statute applies. Mot. at 12-15. What is left to decide is whether, under the anti-
11 SLAPP statute, Mr. Wynn can meet *his burden* of establishing a "probability of
12 prevailing on the claim." Nev. Rev. Stat. § 41.660(3)(b); *Delucchi v. Songer*, 396 P.3d
13 826, 831 (Nev. 2017). The AP addressed in its opening brief two reasons why Mr.
14 Wynn cannot meet this burden, but, in the interests of judicial economy, the parties
15 have agreed (and the Court has so ordered) that the Court should first resolve the
16 purely legal question of the fair report privilege. Only if the Court deems the
17 privilege inapplicable will it be necessary to consider the AP's second ground,
18 whether Mr. Wynn can meet his separate burden under the First Amendment of
19 showing a likelihood of establishing by clear and convincing evidence that the AP
20 published the news report with "actual malice" fault, an issue on which Mr. Wynn
21 contends he is entitled to some discovery. *See* Stipulation and Order Regarding
22 Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 (entered June 29,
23 2018) ("June 29 Stip.").

24 Mr. Wynn argues that the "minimal merit" language found in some California
25 anti-SLAPP statute cases somehow relieves him of the statutory burden to establish
26 a probability of prevailing on his claim. Opp. at 11. However, that language merely
27 means that, when deciding an anti-SLAPP motion, a court should "not weigh the
28 credibility or comparative probative strength of competing evidence" such that the

1 plaintiff is effectively required to “prove” that he *will* prevail on his claim. *Mann v.*
2 *Quality Old Time Serv., Inc.*, 120 Cal. App. 4th 90, 105 (2004); *see also, e.g., Mindys*
3 *Cosmetics, Inc. v. Dakar*, 611 F.3d 590, 598-600 (9th Cir. 2010) (cited by Opp. at 11)
4 (denying anti-SLAPP motion after crediting plaintiff’s testimony). Such evidentiary
5 concerns are not implicated by this motion, where the question is whether the
6 plaintiff’s claim is barred as a matter of law by an applicable privilege. *See, e.g., J-M*
7 *Mfg. Co. v. Phillips & Cohen LLP*, 247 Cal. App. 4th 87, 96, 98-104 (2016). As
8 demonstrated below, the privilege applies to the news report at issue and therefore
9 Mr. Wynn cannot show a probability of prevailing on his claim.

10 III. LEGAL ARGUMENT

11 A. Police “Case Reports” Are “Official Documents or Proceedings” 12 Subject to the Fair Report Privilege

13 In urging that AP is not entitled to rely on the fair report privilege, Opp. at 12,
14 Mr. Wynn confuses that privilege with the separate “judicial proceedings” privilege,
15 which protects the *participants* in official proceedings from defamation claims arising
16 from their statements relating to that proceeding. *Jacobs v. Adelson*, 325 P.3d 1282,
17 1285 (Nev. 2014) (setting forth privilege test for participants in judicial proceedings).
18 The fair report privilege asserted here by AP, in contrast, applies to third parties,
19 including news organizations, to enable them to report on or discuss official
20 documents or proceedings without fear of defamation liability. *Wynn v. Smith*, 117
21 Nev. 6, 14 (2001) (en banc) (“The fair report privilege is premised on the theory that
22 members of the public have a manifest interest in observing and being made aware of
23 public proceedings and actions.”). Contrary to Mr. Wynn’s assertion, the two
24 privileges are, while both arising from official proceedings, legally distinct.

25 Specifically, Mr. Wynn cites *Sahara Gaming Corp. v. Culinary Workers Union*
26 *Local 226*, 115 Nev. 212 (1999), for the proposition that “*both of these absolute*
27 *privileges cover the same type of proceedings*, ‘administrative hearings, quasi-judicial
28 proceedings as well as judicial actions.’” Opp. at 12 (“The definition of a judicial

1 proceeding is identical for both privileges.”). But that contention is contrary to the
2 clear command of the Nevada Supreme Court in a subsequent defamation case
3 brought by Mr. Wynn himself against another journalist. The Court in that case
4 made clear that the fair report privilege is *not limited* to the judicial proceedings
5 enumerated in the case upon which Mr. Wynn now relies:

6 We agree that the [fair report] privilege should not be limited to
7 judicial proceedings like those at issue in *Sahara Gaming*. It should
8 apply to all public, official actions or proceedings.

9 *Wynn*, 117 Nev. at 14. Nor does Mr. Wynn acknowledge that, in its most recent
10 consideration of the fair report privilege, the Nevada Supreme Court adopted the
11 D.C. Circuit’s broad test as to whether the privilege applies to “an official document
12 or proceedings.” *Adelson v. Harris*, 402 P.3d 665, 668 (Nev. 2017). In the District of
13 Columbia, reports about complaints to police fall within the privilege. *White v.*
14 *Fraternal Order of Police*, 909 F.2d 512, 527 (D.C. Cir. 1990) (applying privilege to
15 reporting about complaint letters submitted to police). Thus, although technically
16 correct that the Nevada Supreme Court has not yet specifically considered the
17 application of the fair report privilege to an official police “case report” document,
18 given (i) the Court’s express refusal to limit the fair report privilege to judicial
19 proceedings and (ii) its adoption of the D.C. Circuit’s test for the privilege’s scope,
20 which has squarely been held to include police reports, there is no question how the
21 Nevada Supreme Court would rule in this instance.

22 That conclusion is reinforced, rather than undercut, by the judicial proceedings
23 privilege ruling that Mr. Wynn relies upon after drawing a false equivalency between
24 the two privileges. In *Pope v. Motel 6*, the Nevada Supreme Court considered a
25 defamation claim against a person who submitted a police complaint. 121 Nev. 307,
26 315-16 (2005). The court found that the statement *did* fall within a judicial
27 proceedings privilege—but that in such a context the privilege was *qualified*, and
28 therefore could be defeated by a showing of “actual malice” fault on the part of the

1 individual actually submitting the police complaint. *Id.* at 317.¹ Under the fair
2 report privilege, in contrast, protection is *absolute*, and cannot be overcome by a
3 showing of actual malice. *Adelson*, 402 P.3d at 667-68; *Sahara Gaming*, 115 Nev. at
4 213; *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 61 (1983). Mr. Wynn has
5 effectively conceded this, by stipulating that he needs no discovery regarding actual
6 malice to respond to this ground for AP's motion. *See* June 29 Stip. The rationale for
7 this greater protection is the importance in a democracy of monitoring government
8 actions: "Obviously unable to monitor all official acts in person, citizens rely on third
9 party accounts of such actions," and "[i]f accurate reports of official actions were
10 subject to defamation actions, reporters would be wrongly discouraged from
11 publishing accounts." *Wynn*, 117 Nev. at 14.

12 Nor is Mr. Wynn correct in asserting that application of the fair report
13 privilege to official police case reports somehow would be "extending" the law, or
14 represent an outlier in national authority. *Opp.* at 14-15. To the contrary, courts
15 throughout the country routinely and unequivocally hold that police case or incident
16 reports fall within the privilege. *Trainor v. Standard Times*, 924 A.2d 766, 772 (R.I.
17 2007) ("Police reports have often been held to constitute the sort of official report to
18 which the fair report privilege may attach."); *see also, e.g., DMC Plumbing &*
19 *Remodeling, LLC v. Fox News Network, LLC*, 2012 WL 5906870, at *4 (E.D. Mich.

21 ¹ As such, Ms. Kuta appears entitled to this qualified privilege as the person
22 submitting a police complaint. *Pope*, 121 Nev. at 317 ("Having concluded that the
23 qualified privilege applies in this instance, we examine whether [the plaintiff]
24 produced any evidence that [the defendant's] statements to the police were made
25 with actual malice."). Based on an affidavit by Ms. Kuta submitted by Mr. Wynn, the
26 undisputed evidence in the record is that Ms. Kuta fully believed her own allegations.
27 *See Opp.*, Ex. 3 ¶¶ 22-24. Mr. Wynn therefore has, somewhat surprisingly,
28 demonstrated that he has no legally viable claim against Ms. Kuta because her
statements are subject to the qualified privilege for those making good-faith
complaints to police. *Pope*, 121 Nev. at 317 ("Actual malice is a stringent standard
that is proven by demonstrating that 'a statement is published with knowledge that
it was false or with reckless disregard for its veracity.'" (citation omitted)).

1 Nov. 26, 2012) (“the privilege encompasses news articles based upon police reports of
2 criminal incidents”); *Erickson v. Pulitzer Publ’g Co.*, 797 S.W.2d 853, 857 (Mo. Ct.
3 App. 1990) (privilege applies to law enforcement “incident reports”).

4 Mr. Wynn seeks to distinguish this body of authority by theorizing that the
5 privilege should not apply to *this* police report because it “[did] not result in an arrest
6 or other criminal proceedings.” Opp. at 14. Mr. Wynn thus attempts to import into
7 the privilege’s coverage of official records a version of the old “judicial action
8 limitation,” which once held that the fair report privilege only applied to a civil
9 complaint after a court had acted on it. *Solaia Tech., LLC v. Specialty Publ’g Co.*,
10 852 N.E.2d 825, 588-89 (Ill. 2006). But that doctrine has been rejected in courts
11 across the country, *id.* at 589, and—most importantly—is manifestly *not* the law in
12 Nevada. *See generally Sahara Gaming*, 115 Nev. at 213 (applying privilege to
13 summary of civil complaint). Indeed, courts regularly apply the privilege to police
14 reports that do not result in an arrest or criminal prosecution. For example, in
15 *Whiteside v. Russellville Newspapers, Inc.*, the Arkansas Supreme Court applied the
16 privilege to a newspaper article that republished witness statements in a police
17 report accusing the plaintiff of sexual assault, even though the plaintiff was never
18 arrested or charged with a crime. 295 S.W.3d 798, 802 (Ark. 2009). Similarly, in
19 *Kenney v. Scripps Howard Broadcasting Co.*, the court applied the fair report
20 privilege to a missing persons report describing a citizen’s allegations that the
21 plaintiff had kidnapped a child. 259 F.3d 922, 924 (8th Cir. 2001). In so holding, the
22 court rejected the plaintiff’s argument that the privilege should not apply because
23 she was never arrested or charged with a crime. *Id.*²

24 ² *See also, e.g., Ormrod v. Hubbard Broad., Inc.*, 2018 WL 1444857, at *16 n.13
25 (D.N.M. Mar. 22, 2018) (privilege applies to police report that did not result in
26 criminal charges if broadcaster was in possession of report and described it fairly and
27 accurately); *Ingenere v. ABC*, 1984 WL 14108, at *2 (D. Mass. Sept. 18, 1984)
28 (privilege applied to report on official government agency documents showing agency
failed to investigate serious allegations of misconduct by government contractor);
Butcher v. Univ. of Mass., 2016 WL 9404859, at *2 (Mass. Super. Nov. 21, 2016)
(privilege applied to police report containing witness statements accusing plaintiff of
crime for which he was never charged or arrested); *Northland Wheels Roller Skating*

The holding of these cases is clear: Once witness statements are memorialized in an official police record, they are imbued with an official governmental character that brings them within the privilege. That remains true regardless of whether the police report results in further criminal proceedings. That principle is expressly described by the Restatement, to which Mr. Wynn cites approvingly, though selectively. Opp. at 13-14. The Restatement applies the privilege not only to “judicial proceedings” (as Mr. Wynn would have the Court believe), *id.*, but *also* to “the filing of a report by an officer or agency of the government”—*i.e.*, the very type of document Ms. Garcia Cano relied upon when authoring the AP Article. Restatement (Second) of Torts § 611 cmt. d (filing of governmental report qualifies as “action bringing a reporting of the governmental report within the scope of the privilege”); *see also Adelson*, 402 P.3d at 668 (privilege applies to “an official document *or* proceeding” (emphasis added) (quoting *Dameron v. Wash. Magazine, Inc.*, 779 F.2d 736, 739 (D.C. Cir. 1985)). Accordingly, once the case report is filed such that it is a record of the agency, *no further government action is required for the privilege to apply.*

Mr. Wynn’s reliance on comment (h) to the Restatement³ is similarly misplaced. Courts uniformly have interpreted that comment to mean that, in cases

Ctr., Inc. v. Detroit Free Press, Inc., 539 N.W.2d 774, 779 (Mich. App. 1995) (privilege applied to police report describing shooting committed by unidentified assailant); *Moreno v. Crookston Times Printing Co.*, 610 N.W.2d 321, 332-33 (Minn. 2000) (privilege applied to portions of news article restating criminal allegations made by citizen at city council meeting despite absence of any investigation or criminal charges).

³ Comment (h) provides:

An arrest by an officer is an official action, and a report of the fact of the arrest or of the charge of crime made by the officer in making or returning the arrest is therefore within the conditional privilege . . . [S]tatements made by the police or by the complainant or other witnesses or by the prosecuting attorney as to the facts of the case or the evidence expected to be given are not yet part of the judicial proceeding or of the arrest itself and are not privileged under this Section.

1 in which a plaintiff *is* arrested, *unofficial* statements by the police or witnesses
2 regarding the arrest do not fall within the privilege. *See, e.g., Whiteside*, 295 S.W.3d
3 at 802 (rejecting application of comment (h) to witness allegations in police report
4 that did not result in arrest); *see also Larson v. Gannett Co.*, --- N.W.2d ---, 2018 WL
5 2090538, at *7 (Minn. Ct. App. 2018) (rejecting application of comment (h) to “official
6 statements by law enforcement”). Comment (h) is therefore irrelevant both because:
7 (1) Mr. Wynn was not arrested, and (2) the police case report qualifies as an *official*
8 police record.

9 Mr. Wynn also overstates the holding in the minority, out-of-state decision
10 upon which he principally relies, *Reilly v. Associated Press*, 797 N.E.2d 1204, 1215
11 (Mass App. Ct. 2003). *See* Opp. at 14-15. Even assuming its constricted view of the
12 privilege were the law in Nevada—and it is not⁴—that court did not, as Mr. Wynn
13 asserts, hold that the privilege does not apply to a police report that “[does] not result
14 in any police investigation.” Opp. 14. Instead, the court in that case declined to
15 extend the privilege to a police report that did not result in *any* police action
16 whatsoever. *See Reilly*, 797 N.E.2d at 1215 (holding privilege would have applied
17 had there been “police investigation *or* action” (emphasis added)). Here, by contrast,
18 the police report regarding Mr. Wynn spurred a flurry of police action. In response to
19 the police report, LVMPD (1) issued a press statement announcing the report,
20 (2) explained publicly that LVMPD could not prosecute Mr. Wynn because of the

21
22 ⁴ *Reilly’s* holding, that the privilege applies only to police reports that result in
23 additional police action, is fundamentally at odds with the Restatement, which, as
24 Mr. Wynn acknowledges, has been adopted by the Nevada Supreme Court. *Compare*
25 Opp. at 13, *with* Restatement (Second) of Torts § 611 cmt. d (“filing of a report” by a
26 government official is “an action bringing a reporting of the governmental report
27 within the scope of the privilege”). Mr. Wynn’s reliance on *Stone v. Banner*
28 *Publishing Corp.* is similarly unavailing because that case applied Vermont’s
idiosyncratic law of privilege, which does not cover official government reports, and
instead extends only to judicial proceedings or the fact of a formal criminal
prosecution. 677 F. Supp. 242, 246 (D. Vt. 1988). That is clearly not the law in
Nevada.

1 statute of limitations in Nevada, (3) encouraged other women to come forward if they
2 had similar experiences with Mr. Wynn, and (4) forwarded the report to authorities
3 in Chicago, where the alleged assault took place. *See* Garcia Cano Aff., Exs. 2-3.
4 *Reilly* therefore is wholly inapposite on the law and its facts.

5 At bottom, Mr. Wynn’s fundamental misunderstanding of the privilege is
6 illustrated by his argument that only police reports resulting in criminal
7 prosecutions bear sufficient “indicia of reliability.” Opp. at 14. “Reliability” is *not* the
8 policy rationale for the fair report privilege. The privilege exists because there is a
9 paramount societal interest in permitting the press to freely report on “what is being
10 done and said in government,” including what is written in an official police report.
11 *See, e.g., Dameron*, 779 F.2d at 739-40. That public interest in the activities of
12 government applies regardless of whether information is true, or—as the Nevada
13 Supreme Court has routinely affirmed—even when it is known to be false. *Adelson*,
14 402 P.3d at 667-68; *Sahara Gaming*, 115 Nev. at 213; *Circus Circus Hotels*, 99 Nev.
15 at 60-61. As such, the privilege applies to official government records, including
16 police case reports, regardless of whether criminal prosecution results. In fact, the
17 public may have a *heightened* interest in official documents bearing on a police
18 department’s decision *not* to prosecute a case, particularly where the target of the
19 complaint is a high-profile and powerful individual.

20 Because the Nevada fair report privilege applies to the official police “case
21 reports” on which the AP reported here, the only question is whether the AP Report
22 fairly summarized the report’s rape allegation. It did.

23 **B. The AP Report Is A Fair Summary of the Police “Case Report”**

24 Mr. Wynn cannot, and does not, argue that the AP Report was in any way
25 inaccurate in summarizing the sexual assault allegations made in the two police case
26 reports. Nor does he argue that AP affirmatively endorsed those accusations as
27 established fact, rather than mere allegations, either of which could potentially
28 pierce the privilege. *Lubin v. Kunin*, 17 P.3d 422, 424, 427-28 (Nev. 2001) (rejecting

1 privilege where defendants expressly endorsed accuracy of underlying allegations
2 made in lawsuit against plaintiff by stating, “[t]his is not a frivolous lawsuit [as]
3 there is an abundance of evidence as well as eye-witnesses” and that events alleged
4 by plaintiffs “DID!” happen” (emphasis in original)). Rather, the AP Report
5 accurately quotes and paraphrases the allegations of the police case report *as*
6 *allegations*, it includes specific mention of certain questions presented by the
7 description in the police case report of the alleged sexual assault, and it paraphrases
8 the description in the police case report of a traumatic birth experience. *Compare* AP
9 Report (Garcia Cano Aff., Ex. 7), *with id.*, Ex. 6 at 2-3.

10 This should end the inquiry: The privilege applies as a matter of law. *Wynn*,
11 117 Nev. at 14 (all that is required for application of privilege is “fair abridgment” of
12 allegedly defamatory allegations in official record or proceeding) (quoting
13 Restatement (Second) of Torts § 611); Restatement (Second) of Torts § 611 cmt. f
14 (“fair” report need not be literally precise; it simply needs to be substantially correct
15 summary of proceeding or record); *see also Adelson*, 402 P.3d at 670 n.4 (agreeing
16 that report summarizing allegations in declaration that casino owner Sheldon
17 Adelson permitted prostitution in his Macau casinos satisfied “fairness, accuracy and
18 neutrality” requirement because, in absence of responsive pleading, “it cannot be
19 seriously maintained that the [challenged campaign petition] unfairly presented a
20 one-sided view of the action”).

21 Mr. Wynn’s principal response is to argue that the AP Report’s inclusion of the
22 rape allegation was neither accurate nor fair because it did not provide a *verbatim*
23 *quotation* of the separate description of the gas station birth. But a defendant does
24 not abuse the privilege even when it wholly omits portions of the government
25 document that are *collateral* to the defamatory statement at issue. Sack on
26 Defamation § 7:3.5[B][6] (4th ed. 2013) (for privilege to apply, “only the report of
27 defamatory material must be substantially true”). In *Rosenberg v. Helinski*, for
28 example, the defendant summarized court testimony accusing the plaintiff of

1 sexually abusing his daughter. 616 A.2d 866, 869 (Md. 1992). The plaintiff argued
2 that the defendant abused the privilege because he had failed to describe other
3 aspects of the child custody hearing, including that the plaintiff's ex-wife was held in
4 contempt. *Id.* at 974. Rejecting that argument, the court held that the "omissions"
5 alleged by the plaintiff did not defeat the privilege because they were "collateral" to
6 the defamatory gist of the report—*i.e.*, that the plaintiff had been accused of sexual
7 abuse. *Id.* at 874-75. Similarly, in *Oney v. Allen*, the defendant reported on an
8 indictment that (as it later turned out, mistakenly) named the plaintiff. 529 N.E.2d
9 471, 473-74 (Ohio 1988). The court held that the defendant did not abuse the
10 privilege by failing to mention that the indictment referred to a nickname the
11 plaintiff had never used. *Id.* at 474. In so holding, the court observed that "[t]he
12 pivotal fact is that [the plaintiff] . . . was indicted and that is what the publisher
13 reported." *Id.* Here, the allegedly defamatory fact is that Mr. Wynn was accused of
14 sexual assault, and that is what the AP (accurately) reported.

15 In support of his attempt to graft onto the privilege a requirement that
16 collateral matters be quoted verbatim, Mr. Wynn relies on a single decision,
17 *Schiavone Constr. Co. v. Time, Inc.*, 847 F.2d 1069 (3d Cir. 1988) (cited in Opp. at 18-
18 19). But that authority fails to bear the weight he puts on it. *Schiavone* involved a
19 news article suggesting that the plaintiff had mob connections because, according to
20 a government memo, his name appeared several times in reports concerning the
21 notorious disappearance of union boss Jimmy Hoffa. *Id.* at 1073-74. What the
22 challenged news report neglected to mention, however, was that the government
23 memo *expressly disavowed* that suggestion, stating that "none of these [appearances
24 in the reports] suggested any criminality, or organized crime associations." *Id.* at
25 1074-75. Thus, the defamatory "gist" of the news article—that the plaintiff had mob
26 ties—was the opposite of what was actually stated in the government memo. Put
27 differently, the true gist of the government memo was the conclusion that the
28 plaintiff did *not* have criminal connections, and the defendant abused the privilege by

1 inaccurately reporting that the memo said he did. *Id.* at 1088-89. Unlike the memo
2 at issue in *Schiavone*, the police report in this case contains no language from
3 LVMPD expressing its view that the allegation against Mr. Wynn was false. Instead,
4 the defamatory “gist” of the police report is that Mr. Wynn was accused of a sexual
5 assault in the 1970s and that the statute of limitations prevented the LVMPD from
6 investigating the accusation. That is precisely what the AP reported.

7 Importantly, Mr. Wynn does not point to a *single case* extending *Schiavone* to
8 a situation in which the plaintiff’s sole allegation is that the defendant allegedly
9 omitted information which, in the plaintiff’s view, undermines the credibility of his
10 accuser—much less, as here, a case where the plaintiff’s grievance is simply that the
11 collateral information was not quoted verbatim. Rather, courts have expressly, and
12 repeatedly, rejected such arguments. *Lawton v. Georgia Television Co.*, for example,
13 arose out of a news broadcast concerning an official government report accusing the
14 plaintiff, a lieutenant in the National Guard, of sexual harassment. 456 S.E.2d 274,
15 275-76 (Ga. Ct. App. 1995). Much like Mr. Wynn here, the plaintiff in that case
16 argued that the defendant abused the fair report privilege because it “enhanced the
17 integrity of the victims” by failing to sufficiently detail the “psychiatric problems” of
18 one of the accusers. *Id.* at 276. Rejecting that argument, the court concluded that
19 the defendant “accurately depicted” the defamatory “gist” of the government report,
20 which, unlike the report in *Schiavone*, “condemned, not exculpated” the plaintiff. *Id.*
21 at 278.

22 *Dorsey v. National Enquirer, Inc.*, is similarly instructive. 973 F.2d 1431 (9th
23 Cir. 1992). In that case, the *National Enquirer* reported that a former romantic
24 partner of the plaintiff filed court papers stating that the plaintiff tested positive for
25 AIDS. *Id.* at 1433. The plaintiff argued that the Enquirer abused the privilege by
26 failing to include facts from the proceeding that undermined the wife’s credibility—
27 including that, in a separate court filing, the wife wrote “unknown” next to a box
28 asking for information about the plaintiff’s health. *Id.* at 1435-38. The court rejected

1 that argument as “unpersuasive” because it was possible for the romantic partner to
2 believe that the plaintiff had AIDS while still lacking knowledge about the current
3 state of his health. *Id.* at 1438. Stated differently, while the omitted information
4 perhaps offered some support to the plaintiff’s side of the story, it was not so
5 “obviously exculpatory” that its exclusion from the news article fundamentally
6 altered the “gist” or “sting” of the judicial proceeding. *Id.* The parallels here are
7 obvious. Even if an oddly graphic description of a birth experience implies, as Mr.
8 Wynn apparently contends, that Ms. Kuta currently suffers from some mental
9 illness, that is not “obviously exculpatory” as to her allegation of a rape decades
10 earlier. Mentally ill people are the victims of rape, too—and, indeed, according to
11 most studies suffer the crime with *greater* frequency.⁵ Moreover, the occurrence of
12 erratic behavior after suffering the trauma of a violent crime, including rape, is an
13 acknowledged phenomenon. *E.g., People v. Bledsoe*, 681 P.2d 291, 297-300 (Cal.
14 1984) (discussing rape trauma syndrome).

15 Cases like *Lawton* and *Dorsey* appropriately recognize a difference between
16 “*obviously* exculpatory material” in an official record or proceeding—which, as in
17 *Schiavone*, effectively exonerates the plaintiff—and other collateral details that may
18 have some bearing on credibility but that do not fundamentally change the
19 defamatory gist or sting of the government report at issue. It is well-established that
20 failure to include the latter category of information will *not* result in the privilege
21 being forfeited. *See, e.g., Cobin v. Heart-Argyle Television, Inc.*, 561 F. Supp. 2d 546,
22 558-59 (D.S.C. 2008) (failure to report details undermining credibility of wife who

23 ⁵ *See, e.g.,* H. Khalifeh et al., *Domestic and sexual violence against patients*
24 *with severe mental illness*, 45 *Psychological Medicine* 875, 882 (2015) (reporting that,
25 of women with severe mental illness surveyed for study, 40 percent had been victims
26 of rape or attempted rape, compared to 7 percent of general population), *available at*
27 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4413870/pdf/S0033291714001962a.pdf>
28 *f; see also* K. Hughes et al., *Prevalence and risk of violence against adults with*
disabilities: a systematic review and meta-analysis of observational studies, 379
LANCET 1621 (2012); J. Shapiro, *How Prosecutors Changed The Odds To Start*
Winning Some Of The Toughest Rape Cases, NPR (Jan. 16, 2018), *available at*
<https://www.npr.org/2018/01/16/577063976/its-an-easy-crime-to-get-away-with-but-prosecutors-are-trying-to-change-that>.

1 accused defendant of domestic violence in police report did not result in forfeiture of
2 privilege because privilege does not require defendant to be “arbiters of the truth of
3 the incident”); *Ricci v. Venture Magazine, Inc.*, 574 F. Supp. 1563, 1568 (D. Mass.
4 1983) (no abuse of privilege where article reported that plaintiff threatened witness
5 in court but did not disclose that plaintiff’s attorney denied any threats were made);
6 *Sciandra v. Lynett*, 187 A.2d 586, 605-06 (Pa. 1963) (no abuse of privilege where
7 defendant reported that plaintiff had been stopped and searched by police but failed
8 to indicate that no charges were filed).

9 This result is necessary for the privilege to serve its function of enabling public
10 discussion of government records and activities without incurring defamation
11 liability. Were the news media responsible for reporting verbatim every collateral
12 matter potentially relevant to the credibility of allegations contained within public
13 records or made at public proceedings, it is hard to imagine how a newspaper could
14 ever report on a government report or court filing, or how the television news could
15 report on a witness’s testimony at a trial. Indeed, in *Adelson*, the defendant
16 accurately referenced a single allegation contained within a longer declaration, which
17 the Nevada Supreme Court agreed was fair and thus privileged—without the need to
18 parse through the reliability of all of the other, collateral statements within the
19 declaration. *Adelson*, 402 P.3d at 670 n.4 (adopting analysis in *Adelson v. Harris*,
20 973 F. Supp. 2d 467, 486 (S.D.N.Y. 2013)). This would not be the result under Mr.
21 Wynn’s constricted view of the fair report privilege.

22 Ultimately, it is telling that Mr. Wynn is left to complain that “the AP Article
23 was not impartial because it piled on negative stories about Mr. Wynn to enhance the
24 sting” of the reporting. Opp. at 20. This refers to the AP Report’s accurate summary
25 of the broader news context at the time the LVMPD issued its press release about
26 these two case reports alleging sexual assault—*i.e.*, that multiple published reports
27 of alleged sexual misconduct by Mr. Wynn over multiple decades had prompted him
28 to resign from his prominent roles at Wynn Resorts and at the Republican National

1 Committee and had spurred private litigation and investigation by state regulators.
2 But these statements were all *true*, and Mr. Wynn does not allege otherwise. *Id.* As
3 such, they simply have no place in a defamation action. *Pegasus v. Reno*
4 *Newspapers, Inc.*, 57 P.3d 82, 88 (Nev. 2002) (statement is not defamatory if it is
5 “absolutely true, or substantially true”); *see also id.* at 88 n.17 (citing *Masson v. New*
6 *Yorker Magazine, Inc.*, 501 U.S. 496, 517 (1991), for requirement that “gist” or “sting”
7 of allegedly defamatory statement must be materially false for statement to be
8 actionable).

9 **IV. CONCLUSION**

10 For the foregoing reasons, the AP Defendants respectfully request that the
11 Court dismiss Plaintiff’s Complaint with prejudice and award to the AP Defendants
12 their attorneys’ fees and costs pursuant to Nev. Rev. Stat. §§41.660 and 41.670, as
13 well as an additional award of \$10,000.

14 DATED this 7th of August, 2018.

15
16 BALLARD SPAHR LLP

17 By: /s/ Justin A. Shiroff
18 Joel E. Tasca
19 Nevada Bar No. 14124
20 Justin A. Shiroff
21 Nevada Bar No. 12869
22 1980 Festival Plaza Drive, Suite 900
23 Las Vegas, Nevada 89135

24 Jay Ward Brown (Pro hac vice)
25 Chad R. Bowman (Pro hac vice)
26 1909 K Street, NW, 12th Floor
27 Washington, DC 20006
28 Telephone: (202) 661-2200
brownjay@ballardspahr.com
bowmanchad@ballardspahr.com

Attorneys for Defendants
The Associated Press and
Regina Garcia Cano

CERTIFICATE OF SERVICE

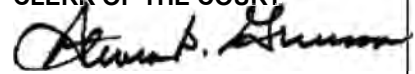
I HEREBY CERTIFY that on the 7th day of August, 2018, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing DEFENDANTS' REPLY IN SUPPORT OF SPECIAL MOTION TO DISMISS was filed and served on the following parties via the Court's electronic service system:

Tamara Beatty Peterson, Esq.
Nikki L. Baker, Esq.
PETERSON BAKER, PLLC
1001 Park Run Drive
Las Vegas, NV 89145

L. Lin Wood, Esq.
Nicole J. Wade, Esq.
G. Taylor Wilson, Esq.
L. LIN WOOD, P.C.
1180 West Peachtree Street, Suite 2400
Atlanta, GA 30309

Attorneys for Plaintiff

/s/ C. Bowman
An Employee of Ballard Spahr LLP



1 NOEJ
Joel E. Tasca
2 Nevada Bar No. 14124
Justin A. Shiroff
3 Nevada Bar No. 12869
BALLARD SPAHR LLP
4 1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135
5 Phone: (702) 471-7000
Fax: (702) 471-7070
6 Email: tasca@ballardspahr.com
Email: shiroffj@ballardspahr.com
7

*Attorneys for Defendants
The Associated Press and Regina Garcia Cano*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 STEVE WYNN, an individual)	Case No. A-18-772715-C
12 Plaintiffs,)	Dept. No. 28
13 v.)	
14 THE ASSOCIATED PRESS, a foreign)	
corporation; REGINA GARCIA CANO, an)	
15 individual; and HALINA KUTA, an)	
individual; DOES I-X,)	
16 Defendants.)	
17)	

**NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED
PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS**

PLEASE TAKE NOTICE that on the 23rd day of August, 2018, the Clerk of
the Court entered an Order Granting Defendants' The Associated Press and Regina
Garcia Cano's Special Motion to Dismiss in the above-referenced matter.

A copy of said Order is attached hereto as Exhibit 1.

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Dated: August 23, 2018.

BALLARD SPAHR LLP

By: /s/ Justin A. Shiroff

Joel E. Tasca
Nevada Bar No. 14124
Justin A. Shiroff
Nevada Bar No. 12869
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135

*Attorneys for Defendants
The Associated Press and Regina Garcia
Cano*

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 23rd day of August, 2018, and pursuant to
3 N.R.C.P. 5(b), I filed and served a true and correct copy of the foregoing NOTICE OF
4 ENTRY OF ORDER GRANTING DEFENDANTS' THE ASSOCIATED PRESS AND
5 REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS on the following
6 parties via the Court's electronic service system:

7
8 Tamara Beatty Peterson, Esq.
9 Nikki L. Baker, Esq.
10 PETERSON BAKER, PLLC
1001 Park Run Drive
Las Vegas, NV 89145

11 L. Lin Wood, Esq. (pro hac pending)
12 Nicole J. Wade, Esq. (pro hac pending)
13 G. Taylor Wilson, Esq. (pro hac pending)
14 L. LIN WOOD, P.C.
1180 West Peachtree Street, Suite 2400
Atlanta, GA 30309

15 *Attorneys for Plaintiffs*
16
17

18 /s/ Sarah H. Walton
19 An Employee of Ballard Spahr LLP
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

JUDGE RONALD J. ISRAEL
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT 28
Regional Justice Center
200 Lewis Avenue, 15th Floor
Las Vegas, Nevada 89155

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVE WYNN, an individual
Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,
Defendants.

Case No.: A-18-772715-C
Dept.: XXVIII

ORDER GRANTING DEFENDANT'S
THE ASSOCIATED PRESS AND
REGINA GARCIA CANO'S SPECIAL
MOTION TO DISMISS

ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND
REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS

This matter came before the Court on Defendants The Associated Press ("AP") and Regina Garcia Cano's ("Garcia Cano", and together with AP, the "Defendants") Special Motion to Dismiss Plaintiff Steve Wynn's ("Wynn") Complaint pursuant to Nev. Rev. Stat. §41.660 (the "Motion"), filed May 31, 2018. On July 18, 2018, Wynn filed his Opposition to the Motion. Defendants filed their Reply in support of their Motion on August 7, 2018.

On August 14, 2018, the Court heard oral argument on the Motion. L. Lin Wood, Esq. of L. Lin Wood, P.C., and Tamara Beatty Peterson, Esq., and Nikki L. Baker, Esq. of Peterson Baker, PLLC appeared on behalf of Wynn; Jay Ward

1 Brown, Esq. and Justin A. Shiroff, Esq. of Ballard Spahr LLP appeared on behalf of
2 Defendants. Having considered the Motion, Opposition, and Reply, as well as the
3 arguments of counsel, the Court hereby finds and orders as follows:

4 FACTS & PROCEDURE

5 This case stems from an article published by the Associated Press and
6 written by Regina Garcia Cano on February 27, 2018. The AP article was based on
7 the police report entered on February 7, 2018, by two (2) individuals alleging prior
8 conduct that occurred in the 1970's by Plaintiff, Steve Wynn. A copy of the article
9 was attached as Exhibit # 3 to the Complaint. Plaintiff filed a Complaint against AP,
10 Regina Cano and Halina Kuta alleging various causes of action including,
11 Defamation by all parties. The Article outlines the allegations made to the police by
12 the two complainants, including one made by Defendant Kuta against Plaintiff Wynn.

13 On July 5, 2018, Wynn and Defendants entered into a Stipulation and Order
14 Regarding Defendants' Special Motion to Dismiss Pursuant to N.R.S. 41.660 (the
15 "Stipulation"). The Stipulation included modifications both to this Court's scheduling
16 for the hearing and to the Court's consideration of the grounds argued by
17 Defendants in their Motion.

18 The Stipulation was entered between the parties prior to the Hearing
19 specifically setting forth that Defendants argued in their Motion "that N.R.S. §41.660
20 [the 'Nevada Anti-SLAPP Statute'] applies and that Wynn cannot demonstrate a
21 likelihood of success, as required under the statute, for two separate reasons: first,
22 that the reporting by the Defendants is privileged; and second, that Wynn cannot
23 demonstrate fault." Stipulation at 2 (citations omitted). Wynn and the Defendants
24 stipulated "that discovery is not necessary to resolve the first basis for the motion,
25 i.e., whether the challenged news report is subject to the fair reporting privilege as a
26 matter of law." Id. Wynn and the Defendants further stipulated and the Court
27 ordered that, at the hearing on the Motion (then set for July 31, 2018, but later
28 moved to August 14, 2018), "the Court shall consider the fair reporting privilege

1 under the Nevada Anti-SLAPP Statute, a question of law.” *Id.* at 3. Wynn and the
2 Defendants further stipulated and the Court ordered that, “[i]f the Court finds the
3 reporting in this case not to be covered by the fair reporting privilege, the Court shall
4 continue to a second hearing to consider the issue of fault[.]” *Id.* (emphasis added).

5 FINDINGS OF FACTS AND CONCLUSIONS OF LAW AND ORDER

6 “Under Nevada’s anti-SLAPP statutes, a defendant may file a special motion
7 to dismiss if the defendant can show ‘by a preponderance of the evidence, that the
8 claim is based upon a good faith communication in furtherance of the right to petition
9 or the right to free speech in direct connection with an issue of public concern.’” NRS
10 § 41.660(3)(a); *Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d 262, 267 (2017).

11 NRS 41.637(4) defines a “[g]ood faith communication in furtherance of the
12 right to petition or the right to free speech in direct connection with an issue of public
13 concern” as any “[c]ommunication made in direct connection with an issue of public
14 interest in a place open to the public or in a public forum, which is *truthful or is made*
15 *without knowledge of its falsehood.*” *Id.* (Emphasis added).

16 The Court finds the News article fairly reported information that was the
17 subject of the News article, i.e., the police reports filed by the two (2) complainants.
18 Additionally, the News article clearly states that the information was obtained from
19 copies of police reports that were recently filed. Plaintiff argued that additional
20 information should have been included in the News article, which in turn, would have
21 led readers of the article to reach their own conclusion as to the truth of the
22 allegations made to the police. However, Plaintiff’s argument is misplaced because
23 the police report did not provide the names of the complainants.

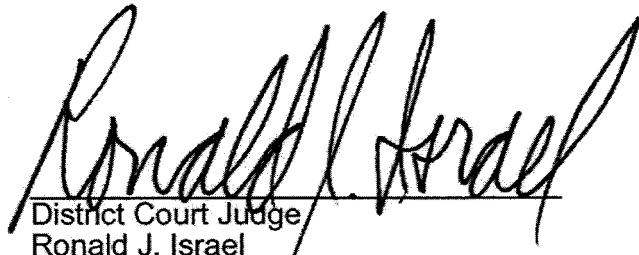
24 The Court finds that the reporter accurately described the Police reports, and
25 therefore, the privilege is absolute. The Court further finds that the Nevada fair
26 reporting privilege applies to the news report at issue and, therefore, pursuant to the
27 parties’ stipulation, no hearing on the issue of fault is required. The Nevada Anti-
28 SLAPP statute applies in this case; therefore,

ORDER

IT IS ORDERED that the Motion is **GRANTED** and the Complaint shall be **DISMISSED WITH PREJUDICE** as against the Associated Press and Garcia Cano pursuant to Nev. Rev. Stat. § 41.660.


IT IS SO ORDERED.

DATED: August 23, 2018


District Court Judge
Ronald J. Israel

Case No. A-18-772715-C

*Order Granting Defendant's The Associated Press
And Regina Garcia Cano's Special Motion To
Dismiss*



JUDGE RONALD J. ISRAEL

EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT 28

CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of August, 2018, a copy of this **ORDER GRANTING DEFENDANT'S THE ASSOCIATED PRESS AND REGINA GARCIA CANO'S SPECIAL MOTION TO DISMISS** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:



JUDICIAL EXECUTIVE ASSISTANT

SANDRA JETER

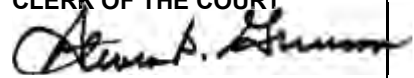
A-18-772715-C

File Into Existing Case

Service Contacts: A-18-772715-C

Case Number	Name	Location	Description	Email	Case Type
A-18-772715-C	Department 20		Steve Wynn, Plaintiff vs...		Other Tort
1	▼ Party: Steve Wynn - Plaintiff				1 - 1 of 1 items
		20	items per page		
	Nikki L. Baker			nbaker@petersonbaker.com	
	Chelsea Haney			chaney@linwoodlaw.com	
	Sam Parcels			eparcells@petersonbaker.com	
	Tamara Beatty Peterson			tpeterson@petersonbaker.com	
	Benjamin K. Reitz			breitz@petersonbaker.com	
	Nicole J. Wade, Esq.			nwade@linwoodlaw.com	
	G. Taylor Wilson, Esq.			twilson@linwoodlaw.com	
	L. Lin Wood, Esq.			lwood@linwoodlaw.com	
	▼ Party: Associated Press - Defendant				
	Las Vegas Docket			LVDocket@ballardspahr.com	
	Las Vegas Intake			LVCTIntake@ballardspahr.com	
	JUSTIN A. SHIROFF, ESQ.			shiroffj@ballardspahr.com	
	JOEL E. TASCA, ESQ.			tasca@ballardspahr.com	
	▼ Party: Regina Garcia Cano - Defendant				
	Las Vegas Docket			LVDocket@ballardspahr.com	
	Las Vegas Intake			LVCTIntake@ballardspahr.com	
	Justin A. Shiroff			shiroffj@ballardspahr.com	
	Joel E. Tasca			tasca@ballardspahr.com	
	► Party: Halina Kuta - Defendant				
	► Other Service Contacts				
	1	10	items per page		1 - 5 of 5 items

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NJUD
TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
tpeterson@petersonbaker.com
NIKKI L. BAKER, ESQ., Bar No. 6562
nbaker@petersonbaker.com
PETERSON BAKER, PLLC
701 S. 7th Street
Las Vegas, NV 89101
Telephone: 702.786.1001
Facsimile: 702.786.1002

Attorneys for Plaintiff Steve Wynn

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
JUDGMENT**

PLEASE TAKE NOTICE that a Findings of Fact, Conclusions of Law, and Judgment
("Judgment") was entered on March 26, 2020. A copy of said Judgment is attached hereto.

Respectfully submitted this 27th day of March, 2020.

PETERSON BAKER, PLLC

By: /s/ Nikki L. Baker

TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
tpeterson@petersonbaker.com
NIKKI L. BAKER, ESQ., Bar No. 6562
nbaker@petersonbaker.com
701 S. 7th Street
Las Vegas, NV 89101
Telephone: 702.786.1001
Facsimile: 702.786.1002

Attorneys for Plaintiff Steve Wynn

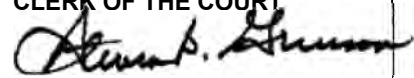
PETERSON BAKER, PLLC
701 S. 7th Street
Las Vegas, NV 89101
702.786.1001

JA00205

PETERSON BAKER, PLLC
701 S. 7th Street
Las Vegas, NV 89101
702.786.1001

Halina Kuta
17 W. Pinehurst Drive
Laguna Vista, TX 78578
In Proper Person

/s/ Erin Parcells



FFCL

TAMARA BEATTY PETERSON, ESQ., Bar No. 5218

tpeterson@petersonbaker.com

NIKKI L. BAKER, ESQ., Bar No. 6562

nbaker@petersonbaker.com

PETERSON BAKER, PLLC

701 S. 7th Street

Las Vegas, NV 89101

Telephone: 702.786.1001

Facsimile: 702.786.1002

Attorneys for Plaintiff Steve Wynn

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE WYNN, an individual,

Plaintiff,

v.

THE ASSOCIATED PRESS, a foreign
corporation; REGINA GARCIA CANO, an
individual; and HALINA KUTA, an
individual; DOES I-X,

Defendants.

Case No.: A-18-772715-C

Dept. No.: XXVIII

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND JUDGMENT**

Trial date: March 9, 2020

This matter having come on for a non-jury trial before the Honorable Ronald J. Israel on March 9, 2020; Plaintiff Steve Wynn ("Mr. Wynn"), being represented by Tamara Beatty Peterson, Esq. and Nikki L. Baker, Esq., of the law firm of Peterson Baker, PLLC; and Defendant Halina Kuta ("Ms. Kuta"), appearing pro se. The Court having read and considered the pleadings and papers filed by the parties, having reviewed the evidence admitted during the trial, having heard and carefully considered the testimony of the witnesses called to testify, and having considered the oral and written arguments of Mr. Wynn's counsel and of Ms. Kuta, and with the intent of deciding all claims against Ms. Kuta in this case, the Court makes the following Findings of Fact and Conclusions of Law:

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury Judgment Reached	<input type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____

FINDINGS OF FACT

1
2 1. On August 28, 2017, Ms. Kuta filed a civil lawsuit against Mr. Wynn in the action
3 styled *Kuta v. Wynn et al.*, Case No. 2:17-02285-RFB-CWH (D. Nev. Aug. 28, 2017) (the
4 "Federal Action").

5 2. The Court takes judicial notice of the allegations in Ms. Kuta's Complaint in the
6 Federal Action. In the Federal Action, Ms. Kuta declared, among other things, that she "is the
7 biological mother of Kevyn Wynn," that "the alleged kidnapping that of [sic] Kevyn Wynn . . .
8 was not an actual kidnapping," that "two kidnappers brought Kevin [sic] to [Ms. Kuta's] motel . . .
9 in Texas in an old car," that "Kevyn indicated that the man was hypnotizing [Ms. Kuta] causing
10 Ms. Kuta to wake up," that "Kevyn called 911" but that the police report went missing after "the
11 police department received a multimillion dollar donation," and that Mr. Wynn "was fully aware
12 that Kevyn Wynn was not kidnapped" but was instead an "arranged" kidnapping by Mr. Wynn,
13 with the ultimate "plot to have [Ms. Kuta] and [Kevyn Wynn] killed, but tremendously failed."

14 3. The Honorable United States Magistrate Judge C.W. Hoffman, Jr. (Ret.) screened
15 Ms. Kuta's Complaint and *sua sponte* recommended dismissal with prejudice because it was
16 "incoherent, describing a clearly fanciful or delusional scenario." Thereafter, Ms. Kuta
17 voluntarily dismissed the Federal Action.

18 4. On February 7, 2018, Ms. Kuta submitted a statement to the Las Vegas
19 Metropolitan Police Department ("LVMPD") concerning Mr. Wynn (the "False Report"), wherein
20 Ms. Kuta accused Mr. Wynn of raping her in the 1973 or 1974—a rape which she claimed
21 resulted in her giving birth to Kevyn Wynn in a gas station restroom in Las Vegas.

22 5. Although she misspelled Mr. Wynn's first name, Ms. Kuta identified the alleged
23 suspect as "Stephan Wynn", who lived in Las Vegas and was seventy-five (75) years old. She
24 also listed his business/work number as 702.770.7000, which is the local contact number listed
25 for the Wynn Las Vegas and Encore Hotels.

26 6. In the False Report, Ms. Kuta claimed that she was Mr. Wynn's spouse and that,
27 in 1973 and/or 1974, "she was exercising in her old apartment and when she stood up, Stephan
28

1 [sic] Wynn was standing in front of her and said a word that she didn't understand, and then he
2 pinned her up against the refrigerator and raped her as she was standing holding onto the
3 refrigerator."

4 7. According to the False Report, Mr. Wynn "then called someone for a few minutes
5 then came and kiss [sic] her on the cheek and said he had to go and then added I [sic] call you
6 later." Ms. Kuta further stated that, a "few days later, after her shower, [Ms. Kuta] wrapped
7 herself in the towel and was going to the bedroom and there was Stephan [sic], sitting at the
8 kitchen table. He got up and says [sic] some words, pinned her to the wall forcing himself on her
9 then just like before, he called someone, kissed her on the cheek and said he would call her later
10 and left." The False Statement then recounted that Ms. Kuta "remembers that Stephan [sic] said
11 'you make me horny' then raped her twice."

12 8. In the False Report, Ms. Kuta also conveyed clearly fanciful or delusional
13 allegations about a surreal birth scenario involving a "purple doll" and "water bag":

14 She ended up pregnant. It was a hot steamy afternoon and she needed to go to the
15 restroom. She saw a gas station and went in to the restroom. She was in pain
16 standing by the wall and gave birth. The baby was laying on her feet inside the
17 water bag. She slid down and said a doll is inside the water bag, the blood falling
18 down, and she wanted to open, but the water bag was thick. She used her teeth to
19 make a small opening then with her finger, opened the water bag and saw that the
20 doll was purple. She started to blow on her and in a short time her cheeks were
turning pink and she opened her eyes. She looked so much like her. The gas
station attendant opened the door to the restroom and when he saw her with a
baby, he ran to the office and called an ambulance. Her name is [Kevyn Wynn]
and she lives in Las Vegas – Stephan [sic] and my child. [Kevyn] knows me as
her mother and has her own family now.

21 9. On February 27, 2018, The Associated Press and Regina Garcia Cano published an
22 article titled "APNewsBreak: Woman tells police Steve Wynn raped her in '70s" (the "AP
23 Article"), about Ms. Kuta's False Report. Ms. Cano understood the False Report to be about Mr.
24 Wynn as evidenced by the very first sentence of, and the photograph of Mr. Wynn included in,
25 the AP Article.

1 10. The Certificate of Live Birth establishes a presumption that Kevyn Wynn was born
2 on September 6, 1966, at 9:29 p.m. at the Columbia Hospital for Women in Washington, D.C. to
3 Mr. Wynn and Elaine Wynn, six to seven years before Ms. Kuta claims the rape occurred.

4 11. Mr. Wynn's trial testimony was credible.

5 12. Ms. Kuta's trial testimony lacked veracity in numerous areas.

6 13. Ms. Kuta claimed that Picasso's painting *Le Réve* was painted of her while Picasso
7 was in the United States and then in France, and that Mr. Wynn stole the painting from her family
8 in Poland. However, the provenance of the painting, as given by Mr. Wynn, is more in line with
9 the history of the painting than Ms. Kuta's story.

10 14. Ms. Kuta's witness, Tia Gibson, totally contradicted Ms. Kuta's testimony. While
11 Ms. Kuta could argue that Ms. Gibson potentially could be biased because she is a current
12 employee of the Wynn Las Vegas Hotel and Casino, the Court finds that there is no reason why
13 Ms. Gibson would deny that Mr. Wynn was at the portrait studio, as claimed by Ms. Kuta,
14 especially since Ms. Gibson's children were present.

15 15. There is no evidence to support Ms. Kuta's accusations against Mr. Wynn, other
16 than Ms. Kuta's testimony, which, as the Court has found, lacks credibility, particularly given that
17 the evidence establishes that Kevyn was born years prior to the alleged rape.

18 16. Ms. Kuta's accusations in the False Report that Mr. Wynn raped her and that she
19 bore a child, Kevyn Wynn, as a result, are clearly false and defamatory statements concerning Mr.
20 Wynn.

21 17. Ms. Kuta has not claimed that her false statements to the LVMPD and to the media
22 were privileged. Even if Ms. Kuta were to make such a claim, her intentionally false statements
23 to the LVMPD and to the media would not be privileged.

24 18. Ms. Kuta's clearly false and defamatory statements concerning Mr. Wynn involved
25 a violent and horrendous crime.

26 19. Ms. Kuta has not asserted mental incapacity as a defense to Mr. Wynn's
27 defamation claim. She also claims she is not delusional.
28

23. If any Findings of Fact are properly Conclusions of Law, they shall be treated as though appropriately identified and designated.

3. Ms. Kuta's knowingly false accusations are not privileged because she does not have any constitutional right of free speech to submit a knowingly false report to the LMVPD. *See e.g.*, Nev. Const. art. 1, § 9 ("Every citizen may freely speak, write and publish his sentiments on all subjects *being responsible for the abuse of that right*; and no law shall be passed to restrain

1 or abridge the liberty of speech or of the press.") (emphasis added); *see also Coburn v. Holper*,
2 131 Nev. 1265, 2015 WL 4512045, *1 (Nev. July 22, 2015) (Unpublished opinion) (holding that
3 "false statements made to police officers are not 'protected activity' within the meaning of the
4 anti-SLAPP statute").

5 4. The evidence clearly and convincingly establishes that Ms. Kuta's fanciful or
6 delusional accusations were intentionally made by her with knowledge that the accusations were
7 false. *See Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 719, 57 P.3d 82, 90 (2002) (stating
8 that actual malice requires a showing that the defendant published the defamation "with
9 knowledge that it was false or with reckless disregard of whether it was false or not.") (quoting
10 *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964)); *see also St. Amant v. Thompson*,
11 390 U.S. 727, 732 (1968) (stating that "malice may be inferred where, for example, 'a story is
12 fabricated by the defendant, [or] is the product of his imagination....'"); *Chastain v. Hodgdon*, 202
13 F. Supp. 3d 1216, 1222 (D. Kan. 2016) ("If defendant knew that the events were false, and
14 nonetheless wrote the detailed narrative describing exactly how plaintiff sexually assaulted or
15 attempted to rape her when it actually never occurred, it is axiomatic that she wrote the narrative
16 with actual malice, or actual knowledge that it was false.").

17 5. Ms. Kuta's rape accusations are defamatory *per se* because her accusations
18 involved "(1) the imputation of a crime; (2) the imputation of having a loathsome disease; (3)
19 imputing the person's lack of fitness for trade, business, or profession; and (4) imputing serious
20 sexual misconduct." *K-Mart Corp. v. Washington*, 109 Nev. 1180, 1192, 866 P.2d 274, 282
21 (1993); *see also Tonnessen v. Denver Pub. Co.*, 5 P.3d 959, 964 (Colo. App. 2000) ("The
22 imputation of rape is defamatory *per se*"). Thus, damage to Mr. Wynn is presumed as a matter of
23 law. *See K-Mart Corp.*, 109 Nev. at 1195, 866 P.2d at 284 ("Proof of the defamation [*per se*]
24 itself establishes the fact of injury and the existence of damage to the plaintiff's reputation.")
25 (citation omitted).

26 6. Mr. Wynn is unequivocally entitled to an award of compensatory damages.
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7. Mr. Wynn has requested, and should therefore be awarded, the nominal amount of \$1.00 in damages.

8. Having proved each of the elements required for a defamation claim, Mr. Wynn is entitled to judgment in his favor.

9. If any Conclusions of Law are properly Findings of Fact, they shall be treated as though appropriately identified and designated.

JUDGMENT

Based on the foregoing, the Court hereby enters Judgment as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Judgment is entered in favor of Mr. Wynn and against Ms. Kuta on Mr. Wynn's claim for defamation; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Mr. Wynn is awarded the nominal amount of \$1.00 in compensatory damages on his defamation claim.

IT IS SO ORDERED.

DATED this 25 day of March, 2020.



DISTRICT COURT JUDGE RONALD J. ISRAEL

Case No. A-18-772715-C

Findings of Fact, Conclusions of Law, and Judgment

Approved as to form and content:

By: _____

Halina Kuta
17 W. Pinehurst Drive
Laguna Vista, TX 78578
Telephone: 702.526.4110

Pro per defendant

Respectfully submitted by:

PETERSON BAKER, PLLC

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By: TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
tpeterson@petersonbaker.com
NIKKI L. BAKER, ESQ., Bar No. 6562
nbaker@petersonbaker.com
PETERSON BAKER, PLLC
701 S. 7th Street
Las Vegas, NV 89101
Telephone: 702.786.1001
Facsimile: 702.786.1002

Attorneys for Plaintiff Steve Wynn