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DISTRICT COURT

CLARK COUNTY, NEVADA

22 **THOMAS P. DiNAPOLI, COMPTROLLER**
23 **OF THE STATE OF NEW YORK, AS**
24 **ADMINISTRATIVE HEAD OF THE NEW**
25 **YORK STATE AND LOCAL RETIREMENT**
26 **SYSTEM AND TRUSTEE OF THE NEW**
27 **YORK STATE COMMON RETIREMENT**
28 **FUND, and NEW YORK CITY**
EMPLOYEES' RETIREMENT SYSTEM,
NEW YORK CITY POLICE PENSION
FUND, POLICE OFFICER'S VARIABLE
SUPPLEMENTS FUND, POLICE

Case No.: A-18-770013-B
Dept. No.: XIII

**VERIFIED AMENDED
STOCKHOLDER DERIVATIVE
COMPLAINT**

(Exemption From Arbitration Requested.
Damages Exceed \$50,000)
Request for Business Court
Assignment Pursuant to
EDCR 1.61 (a)

1 SUPERVISOR OFFICERS' VARIABLE
2 SUPPLEMENTS FUND, NEW YORK CITY
3 FIRE PENSION FUND, FIRE FIGHTERS'
4 VARIABLE SUPPLEMENTS FUND, FIRE
5 OFFICERS' VARIABLE SUPPLEMENTS
6 FUND, BOARD OF EDUCATION
7 RETIREMENT SYSTEM OF THE CITY OF
8 NEW YORK, TEACHERS' RETIREMENT
9 SYSTEM OF THE CITY OF NEW YORK,
10 and NEW YORK CITY TEACHERS'
11 VARIABLE ANNUITY PROGRAM,
12 derivatively on behalf of WYNN RESORTS,
13 LTD.,

14 Plaintiffs,

15 vs.

16 STEPHEN A. WYNN, JOHN J.
17 HAGENBUCH, RAY R. IRANI, JAY L.
18 JOHNSON, ROBERT J. MILLER,
19 PATRICIA MULROY, CLARK T.
20 RANDT, JR., ALVIN V. SHOEMAKER, J.
21 EDWARD VIRTUE, D. BOONE WAYSON,
22 MATTHEW MADDOX, and KIMMARIE
23 SINATRA,

24 Defendants,

25 and

26 WYNN RESORTS, LTD.,

27 Nominal Defendant.
28

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1 Plaintiffs Thomas P. DiNapoli, Comptroller of the State of New York, as Administrative
2 Head of the New York State and Local Retirement System and Trustee of the New York State
3 Common Retirement Fund (“NYSCRF”); and New York City Employees’ Retirement System,
4 New York City Police Pension Fund, Police Officer’s Variable Supplements Fund, Police
5 Supervisor Officers’ Variable Supplements Fund, New York City Fire Pension Fund, Fire
6 Fighters’ Variable Supplements Fund, Fire Officers’ Variable Supplements Fund, Board of
7 Education Retirement System of The City of New York, Teachers’ Retirement System of The City
8 of New York, and New York City Teachers’ Variable Annuity Program (collectively the “NYC
9 Funds”), bring this stockholder derivative action on behalf of Nominal Defendant Wynn Resorts,
10 Ltd. (“Wynn Resorts” or the “Company”) against certain current and former officers and directors
11 of the Company for breaches of fiduciary duty and the Board of Directors’ (“Board”) abject failure
12 to act even when informed of a longstanding pattern of sexual abuse and harassment by Wynn
13 Resorts founder, former Chief Executive Officer (“CEO”), and former Chairman of the Board,
14 Stephen A. Wynn (“Steve Wynn”). Plaintiffs make these allegations upon personal knowledge as
15 to their own actions and, as to all other matters, upon the investigation of their undersigned
16 counsel which included, among other things, (1) review and analysis of Wynn Resorts public
17 filings with the United States Securities and Exchange Commission (“SEC”); (2) a review of press
18 releases, news articles, and other public statements issued by or concerning Wynn Resorts and
19 Steve Wynn; and (3) a review of court records, including, but not limited to pleadings filed in
20 *Wynn Resorts, Ltd. v. Okada et al.*, No. A-12-656710-B (Clark County, Nevada) and *Louisiana*
21 *Mun. Police Emps.’ Ret. Sys. v. Wynn et al.*, No. 2:12-cv-00509-JCM-GWF (D. Nev.). On behalf
22 of themselves and the stockholders they seek to represent, Plaintiffs allege as follows:

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1 **I. INTRODUCTION**

2 1. This is a stockholder derivative action brought on behalf of Nominal Defendant
3 Wynn Resorts, alleging breaches of fiduciary duty by Steve Wynn, the Company’s Board¹, its
4 General Counsel and Secretary, Kimmarie Sinatra (“Sinatra”) and its current CEO and President
5 Matthew Maddox (“Maddox”) occurring from at least 2009 through the present (the “Relevant
6 Period”), based on a decades-long pattern of sexual abuse and harassment by Steve Wynn that
7 remained unchecked, tacitly permitted, and eventually covered up by Defendants, resulting in a
8 breach of their duty of loyalty and other fiduciary duties to stockholders. The Director Defendants
9 and Defendants Sinatra and Maddox (Sinatra and Maddox together are the “Officer Defendants”)
10 did nothing to prevent Steve Wynn’s ongoing pattern of sexual abuse and harassment, and
11 ultimately permitted Steve Wynn to resign from the Company without being held accountable for
12 the serious allegations lodged against him. Meanwhile Wynn Resorts’ stockholders have been
13 severely damaged and the Company faces mounting lawsuits, possible loss of gaming licenses,
14 enormous reputational damage, and other regulatory sanctions.

15 2. Founded in 2000, Wynn Resorts is a leading developer, owner, and operator of
16 destination casino resorts that integrate hotel accommodations and a wide range of amenities,
17 including fine dining outlets, premium retail offerings, distinctive entertainment theaters, and large
18 meeting complexes.

19 3. An explosive article published January 26, 2018 in *The Wall Street Journal* (“WSJ”
20 or “WSJ Article”), detailed Steve Wynn’s alleged history of sexual predation at Wynn Resorts.
21 The article recounts serious allegations of Steve Wynn’s sexual misconduct, including an alleged
22 sexual assault of a Wynn Resorts employee on Company property in 2005 (“the 2005 assault”).
23 Later reports revealed that Steve Wynn created a clandestine limited liability company, Entity Y,
24 _____

25 ¹ The current Board consists of Defendants John J. Hagenbuch (“Hagenbuch”), Jay L. Johnson (“Johnson”), Robert J.
26 Miller (“Miller”), Patricia Mulroy (“Mulroy”), Clark T. Randt, Jr. (“Randt”), Alvin V. Shoemaker (“Shoemaker”), J.
27 Edward Virtue (“Virtue”), and D. Boone Wayson (“Wayson”) (together, the “Director Defendants,” and, together with
28 Steve Wynn, Defendant Sinatra, and Defendant Massox “Defendants”)

1 to conceal a \$7.5 million settlement paid to the alleged assault victim in 2005. For approximately
2 thirteen years, Steve Wynn’s misconduct was concealed from shareholders while he continued to
3 harass employees.

4 4. After interviewing over 150 people, the *WSJ Article* also revealed that Steve Wynn
5 is notorious for a decades-long pattern of sexual abuse and harassment, including subjecting
6 dozens of former Wynn Resorts employees to, among other things, unwanted sexual advances and
7 pressure to perform sex acts on him. Indeed, a March 19, 2018, *WSJ* article revealed that another
8 Wynn Resorts employee received a payment from Steve Wynn in 2006 to settle sexual misconduct
9 allegations. The litany of complaints that have surfaced about Mr. Wynn corroborate what former
10 Wynn Resorts employees describe as an atmosphere of terror at the Company made all the worse
11 by the fact that several detailed how their repeated efforts to notify senior management fell on deaf
12 ears.

13 5. Wynn Resorts’ officers and directors were complicit in Steve Wynn’s pervasive
14 pattern of sexual abuse and harassment, setting a tone at the top that permitted Steve Wynn to
15 wield his power unchecked. Defendant Sinatra knew of the 2005 assault and settlement payment
16 no later than 2009. The then-current Board knew of the 2005 assault as early as 2009 when Elaine
17 Wynn, Steve Wynn’s ex-wife and a former Board member, reportedly informed a Board
18 representative of the incident, but in any event, the Board, and Defendant Maddox, knew of the
19 2005 assault no later than March 28, 2016, when Ms. Wynn filed court documents in litigation
20 about which the Board was apprised detailing the alleged assault and settlement and the “pattern
21 of reckless risk-taking” behavior by Steve Wynn that “left the directors and the Company
22 vulnerable to potential liability and regulatory exposure.”

23 6. Yet, even when armed with actual knowledge of Steve Wynn’s sexual abuse and
24 harassment, the Director and Officer Defendants did *nothing* to stop Steve Wynn’s misconduct.
25 The Defendants did not investigate allegations of sexual abuse and harassment; they did not act to
26 prevent Steve Wynn from abusing and harassing employees; they did not act to make employees
27 feel safer in the workplace; they did not implement internal controls that would cause the Board to
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1 be immediately notified of further allegations of abuse and harassment. The Defendants did not
2 even require Mr. Wynn to attend mandatory sexual harassment training, rather, Mr. Wynn's
3 deposition testimony reflects that when other Wynn Resorts employees attended mandatory sexual
4 harassment training, he violated company policy and chose not to attend, explaining "I don't need
5 it." In short, Defendants did nothing despite their obligation to the Company and shareholders to
6 hold Steve Wynn accountable for his misconduct. To the contrary, allegations that the Director
7 and Officer Defendants acted to conceal Steve Wynn's misconduct have surfaced in ancillary
8 litigation involving Steve Wynn and his ex-wife Elaine Wynn.

9 7. It was only *after* the publication of the *WSJ Article* that the Director Defendants
10 took minimal steps to rectify the damage they and Steve Wynn caused the Company. On February
11 2, 2018, the Board announced it had created a special investigative committee (the "Special
12 Committee"), headed by the Board's sole female director, Defendant Mulroy, to investigate the
13 allegations against Steve Wynn. But, even that belated investigation falls short of the thorough
14 and independent investigation called for given the severity of the allegations against Steve Wynn.

15 8. With public pressure mounting, on February 6, 2018, Steve Wynn stepped down as
16 CEO and Chairman of Wynn Resorts, although, at that time, he still retained an 11.8% stake in the
17 Company through his ownership of common stock. Even in the aftermath of the allegations
18 against Steve Wynn, the Board remains loyal to him, publicly stating that they accepted his
19 resignation "with a collective heavy heart," calling Steve Wynn a "friend" and a "beloved leader
20 and visionary." Indeed, the Board made no findings concerning whether Steve Wynn should have
21 been terminated for cause, or whether he was "suitable" to retain his Wynn Resorts stock under
22 the Company's Articles of Incorporation or stringent regulatory requirements.

23 9. In the wake of Steve Wynn's resignation, on February 9, 2018, just a week after the
24 Board investigation was commenced, the Board announced, without explanation, that it was
25 severing ties with outside counsel, O'Melveny & Myers ("O'Melveny"), which the Board had
26 retained to assist with its internal investigation. Incredibly, the Special Committee claimed it
27 could implement necessary reforms without investigating Steve Wynn because he had resigned.

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1 Columbia Law School professor and director of its Center on Corporate Governance, John C.
2 Coffee Jr., swiftly criticized the board’s decision as “a strong signal that not much has changed in
3 the culture of the board.”

4 10. Forced into an about-face because of the outrage levied at the Director Defendants
5 for firing O’Melveny, on February 12, 2018, the Board announced that it would instead conduct
6 the investigation with Gibson Dunn & Crutcher LLP (“Gibson Dunn”). Yet, rather than treat
7 Gibson Dunn’s work as an independent investigation, the Board only stated that Gibson Dunn’s
8 role would be to “conduct an expanded and comprehensive review of Wynn Resorts’ internal
9 policies and procedures with the goal of ensuring the Company employs best practices to maintain
10 a safe and respectful workplace for all employees.” It is unlikely that an investigation by Gibson
11 Dunn would ensure the independence of the Board investigation, as the law firm has deep ties to
12 the Company, with Sinatra previously working as a partner at the firm and the firm representing
13 Wynn Resorts in just ended litigation with ousted board members Kazuo Okada and Elaine Wynn.
14 The firm has also represented Wynn Resorts in SEC and Department of Justice (“DOJ”) matters,
15 as well as in business deals.

16 11. Steve Wynn’s misconduct has thrust the Company into chaos and has severely
17 damaged the Company’s reputation. The *WSJ Article* caused Wynn Resorts’ share price to
18 plummet 10% the day the article was published and wiping out \$2 billion in market capitalization.
19 In the aftermath of the *WSJ Article*, the stock fell to as low as \$156.54 with losses exceeding 20%,
20 amid continuing controversy with the Board’s inadequate investigation and years of inaction.
21 Further, Steve Wynn’s sexual abuse and harassment has led to investigations by gaming regulators
22 in Massachusetts, Nevada and Macau, and has imperiled the Company’s gaming licenses and
23 Wynn Resorts’ \$2.4 billion hotel casino project in the Greater Boston area.

24 12. Demand is excused in this Action because the entire Board faces a substantial
25 likelihood of liability. The Director Defendants face liability for their breaches of fiduciary duty
26 for their failure to act when presented with compelling and credible evidence of Steve Wynn’s
27 sexual abuse and harassment, and the Board therefore cannot impartially consider a demand. In
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1 recent weeks, the Director Defendants *all* have been named as defendants in several sexual
2 harassment lawsuits brought by former employees, and the Company has been sued in a securities
3 fraud class action by purchasers of Wynn Resorts' common stock. Additionally, five directors, or
4 more than half the Board, traded while in possession of material inside information regarding
5 Steve Wynn's misconduct, who the Company described as critical to its brand. Thus, the Director
6 Defendants, who face substantial personal liability for their actions are not disinterested for
7 purposes of demand. Further, the Board, which has been described as the "most compliant board
8 of any public company," has been publicly criticized for its members' close financial and personal
9 ties to Steve Wynn. The Board, all of whom owe their lucrative positions to Steve Wynn's power
10 to nominate directors, has allowed itself to be manipulated by Steve Wynn. They adhere to his
11 preferences and cover his misdeeds. Put simply, the Board's egregious misconduct demonstrates
12 that it placed its own interests and the interests of Steve Wynn above those of Wynn Resorts'
13 stockholders, and it cannot be trusted to independently consider a demand on the Company.

14 **II. JURISDICTION**

15 13. This Court has jurisdiction over all causes of action asserted herein pursuant to the
16 Constitution of the State of Nevada. This Court has jurisdiction over each Defendant named
17 herein because each Defendant is a Corporation or an individual who has sufficient minimum
18 contacts with Nevada to render the exercise of jurisdiction by Nevada courts permissible under
19 traditional notions of fair play and substantial justice. Wynn Resorts is a public corporation
20 incorporated under the laws of Nevada, and Defendants are members or former members of the
21 Wynn Resorts Board or senior officers of the Company that have harmed Wynn Resorts.

22 14. The Eighth Judicial District's Business Court is the proper forum because this
23 Action involves significant issues of Nevada corporate law.

24 **III. PARTIES**

25 15. **Plaintiff** Thomas P. DiNapoli, Comptroller of the State of New York, is
26 Administrative Head of the New York State and Local Retirement System and Trustee of the New
27 York State Common Retirement Fund ("NYSCRF"), a current owner of Wynn Resorts common
28

1 stock. NYSCRF has been a stockholder of Wynn Resorts continuously since the occurrence of
 2 fiduciary wrongdoing and breaches underlying the claims alleged herein, and will continue to hold
 3 Wynn Resorts shares at all times relevant to this Action. NYSCRF holds and has held shares of
 4 Wynn Resorts common stock continuously since before January 1, 2009. As of February 15,
 5 2018, NYSCRF held 183,800 shares of Wynn Resorts stock, valued at approximately \$34 million.
 6 NYSCRF's stock holdings from year-end 2008 to present are set forth in the following chart:

NYSCRF's Stock Holdings	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Wynn Resorts, Ltd.	280,430	242,600	266,570	266,700	266,700	231,900	293,094	186,400	172,000	206,000	183,800

8 16. **Plaintiffs**, New York City Employees' Retirement System, New York City Police
 9 Pension Fund, Police Officer's Variable Supplements Fund, Police Supervisor Officers' Variable
 10 Supplements Fund, New York City Fire Pension Fund, Fire Fighters' Variable Supplements Fund,
 11 Fire Officers' Variable Supplements Fund, Board of Education Retirement System of The City of
 12 New York, Teachers' Retirement System of The City of New York, and New York City Teachers'
 13 Variable Annuity Program ("NYC Funds"), are current owners of Wynn Resorts common stock.
 14 The New York City Funds have been stockholders of Wynn Resorts continuously since
 15 occurrence of fiduciary wrongdoing and breaches underlying the claims alleged herein, and will
 16 continue to hold Wynn Resorts shares at all times relevant to this Action. The New York City
 17 Funds hold and have held shares of Wynn Resorts common stock continuously since before
 18 January 1, 2009. As of February 15, 2018, the New York City Funds held 190,259 shares of
 19 Wynn Resorts stock, valued at approximately \$35 million. The New York City Funds' stock
 20 holdings from year-end 2008 to present are set forth in the following chart:

NYC Funds' Stock Holdings	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Wynn Resorts, Ltd.	196,601	249,980	261,745	215,544	198,352	221,297	195,769	218,436	242,517	208,062	190,259

23 17. **Nominal Defendant Wynn Resorts, Ltd.**, is a Nevada corporation, with its
 24 principal offices located in Las Vegas, Nevada. Wynn Resorts owns and operates Wynn Las
 25 Vegas and Encore in Las Vegas, Nevada, as well as Wynn Macau and the Wynn Palace located in
 26 the Special Administrative Region of Macau in the People's Republic of China. A luxury retail
 27 Strip-front expansion, Wynn Plaza, is currently under construction in Las Vegas and is scheduled
 28

1 to debut in the third quarter of 2018. Wynn Resorts is currently constructing Wynn Boston Harbor
2 located in Everett, Massachusetts. As alleged herein, Massachusetts, Nevada, and Macau gaming
3 authorities are investigating the Company's and Steve Wynn's suitability as gaming operators in
4 each respective jurisdiction. The Company is publicly traded on the NASDAQ exchange under
5 the ticker symbol WYNN.

6 18. **Defendant Stephen A. Wynn** is a citizen of Nevada and the former Chairman and
7 Chief Executive Officer of Wynn Resorts. Steve Wynn co-founded Wynn Resorts in April 2000
8 with his then wife Elaine Wynn, and took it public in 2002. He served as Chairman and CEO of
9 the Company from June 2002 until his resignation on February 6, 2018. Steve Wynn previously
10 served as an Executive Director, the Chairman of the Board of Directors, and CEO of Wynn
11 Macau, Limited, a majority owned subsidiary of the Company, from September 2009 until his
12 resignation on February 6, 2018. In 2016, Steve Wynn received more than \$28 million in
13 compensation from Wynn Resorts. During fiscal years 2009 through 2016 Wynn Resorts paid
14 Steve Wynn more than \$150.98 million in total compensation. Pursuant to two stock purchase
15 agreements entered into on March 22, 2018, Steve Wynn is expected to sell the balance of his
16 shares on or after the closing of the transactions on March 26, 2018, for *\$2.1 billion*. Upon
17 information and belief, and at all times relevant herein, Steve Wynn is and has been a resident of
18 Clark County, Nevada.

19 19. Between 2009 and 2018, Steve Wynn sold 3,000,000 shares of Wynn Resorts
20 common stock while in possession of material non-public information concerning his longstanding
21 pattern of sexual abuse and harassment, for proceeds of \$217,319,003.80

Executive Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Wynn, Stephen A.	12/1/2010	1,000,000	\$103.30	\$103,300,000.00
Wynn, Stephen A.	8/14/2009	1,401,805	\$56.21	\$78,795,459.05
Wynn, Stephen A.	8/14/2009	259,980	\$58.29	\$15,154,234.20
Wynn, Stephen A.	8/14/2009	243,234	\$59.03	\$14,358,103.02
Wynn, Stephen A.	8/14/2009	94,981	\$60.13	\$5,711,207.53
TOTAL:		3,000,000		\$217,319,003.80

1 20. **Defendant John J. Hagenbuch** is a citizen of Idaho and has served as a director of
2 the Company since December 2012. Defendant Hagenbuch serves as the Chairman of the Audit
3 Committee and as a member of the Compensation Committee. During fiscal years 2012 through
4 2016 Wynn Resorts paid Defendant Hagenbuch \$1,904,619 in total compensation. As of March
5 2017, Defendant Hagenbuch held 27,535 shares of Wynn Resorts stock and options.

6 21. In 2017, Defendant Hagenbuch sold 1,150 shares of Wynn Resorts common stock
7 while in possession of material non-public information concerning Steve Wynn’s longstanding
8 pattern of sexual abuse and harassment, for proceeds of \$147,661.50:

Director Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Hagenbuch, John J.	5/17/2017	50	\$126.23	\$6,311.50
Hagenbuch, John J.	5/16/2017	1,100	\$128.50	\$141,350.00
TOTAL:		1,150		\$147,661.50

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13 22. **Defendant Dr. Ray R. Irani** is a citizen of California and served as a director of
14 the Company from October 2007 through March 5, 2018, when he abruptly resigned as a Director.
15 Defendant Irani served as a member of the Corporate Governance Committee. During fiscal years
16 2012 through 2016 Wynn Resorts paid Defendant Irani \$1,864,963 in total compensation.
17 According to the Company’s Proxy Statement filed on March 24, 2008, Defendant Irani was
18 nominated as a potential director by Steve Wynn himself. As of March 2017, Defendant Irani held
19 91,137 shares of Wynn Resorts stock and options.
20

21 23. **Defendant Jay L. Johnson** is a citizen of Idaho and has served as a director of the
22 Company since August 2016. Defendant Johnson serves as a member of the Compensation
23 Committee. In 2016, Wynn Resorts paid Defendant Johnson \$380,935 in total compensation. As
24 of March 2017, Defendant Johnson held 10,000 shares of Wynn Resorts stock and options. When
25 Johnson was CEO of General Dynamics, the parent company of Gulfstream Aerospace Corp.,
26 Steve Wynn was one of Gulfstream’s loyal customers because of his private jet purchases. For
27 example, in December 2012, Wynn Resorts purchased the first-delivered Gulfstream G650 for \$65
28 million. In 2014, Steve Wynn replaced his Gulfstream G650 with a Gulfstream G650ER.

1 24. Johnson has a history of being complacent and complicit in the face of sexual
2 harassment. During Congressional hearings in 1996 regarding the massive sexual misconduct
3 scandal involving the annual “Tailhook” conventions, Defendant Johnson admitted his
4 participation as a Naval officer in the 1990 and 1991 conventions in Las Vegas and that he was
5 aware of an atmosphere in which 83 women and 7 men were sexually assaulted but took no action.
6 A statement from a member of the Senate Armed Services Committee to Johnson noted:

7 The Tailhook incident, the manner in which it was handled, and the
8 perceptions it created regarding the attitudes on Naval officers
9 toward women have attracted significant attention for almost five
10 years. Of particular concern is the fact, while many senior officers
11 were aware of the type of behavior for which Tailhook conventions
12 had become famous over the years, no one took action to preclude
13 that type of behavior at Tailhook '91. Additionally, while senior
14 officers either witnessed inappropriate behavior at the Convention or
15 specifically avoided certain locations to avoid witnessing this
16 behavior, few took action until the behavior of certain attendees
17 attracted national attention.

18 25. In his statements, Johnson acknowledged his complicity in these events and his
19 complacency in permitting it to happen:

20 As you know, I attended Tailhook 91. Bad things happened there
21 and we, the leadership of Naval Aviation, permitted an atmosphere
22 to exist wherein such things could happen. I deeply regret that. We
23 should have been more proactive in raising the behavior standard for
24 the symposium. We did not--and I can't change the past. However, I
25 can learn from our collective--and my personal--inaction and I have
26 learned. Because I was there and have seen and felt first hand how
27 much Tailhook hurt our great Navy, I am even more committed to
28 ensuring that such an atmosphere will never again be

29 26. Notwithstanding his oath to Congress that he would behave differently, as a
30 Director of Wynn Resorts, Johnson remained complacent to and complicit in Steve Wynn’s
31 misconduct.

32 27. **Defendant Robert J. Miller** is a citizen of Nevada and has served as a director of
33 the Company since October 2002. Defendant Miller serves as the Company’s Lead Independent
34 Director, Chairman of the Corporate Governance Committee, and as a member of the Audit
35 Committee. Defendant Miller is also the Chairman of the Company’s Compliance Committee and

1 serves as the Company's Compliance Director. On February 27, 2014, the Board acted to
2 combine these roles under the Chairman of the Company's Compliance Committee. Previously,
3 Defendant Miller served as President and then Counselor to the International Association of
4 Gaming Advisors from 1999-2012. Upon information and belief, and at all times relevant herein,
5 Defendant Miller is a resident of Clark County, Nevada. During fiscal years 2012 through 2016
6 Wynn Resorts paid Defendant Miller \$2,448,794 in total compensation. As of March 2017,
7 Defendant Miller held 38,637 shares of Wynn Resorts stock and options.

8 28. Miller has a history of being complacent and complicit in the face of sexual
9 harassment. In published reports in 1993 and 1999, Miller was criticized during his term as
10 governor of Nevada for allowing numerous sexual harassment claims against officials in the
11 Division of Wildlife and the Department of Motor Vehicles ("DMV") to go unpunished. In
12 particular, in 1999 Miller purportedly refused to do anything when the Division of Wildlife
13 administrator had two sexual discrimination lawsuits against him and had joked about sexual
14 harassment in an official state department bulletin. Similarly, as reported in 1993, numerous
15 complaints of sexual harassment by administrators and executives at the DMV had been reported,
16 including a meeting where fortune cookies with inappropriate racial and sexual messages were
17 distributed to attendees, including one which stated: "Fu Ling Yu Says: It is hard to keep a good
18 girl down – but lots of fun trying." After the fact, Miller referred to this DMV Director as having
19 "impeccable quality and character."

20 29. **Defendant Patricia Mulroy** is a citizen of Nevada and has served as a director of
21 the Company since October 2015. Defendant Mulroy serves as a member of the Corporate
22 Governance Committee and a member of the Company's Compliance Committee. From July
23 2014 through October 2015, Defendant Mulroy served on the Nevada Gaming Commission.
24 Upon information and belief, and at all times relevant herein, Defendant Mulroy is a resident of
25 Clark County, Nevada. During fiscal years 2015 and 2016 Wynn Resorts paid Defendant Mulroy
26 \$617,577 in total compensation. As of March 2017, Defendant Mulroy held 12,559 shares of
27 Wynn Resorts stock and options.

1 30. In 2017 Defendant Mulroy sold 2,226 shares of Wynn Resorts common stock while
2 in possession of material non-public information concerning Steve Wynn’s longstanding pattern of
3 sexual abuse and harassment, for proceeds of \$285,106.08:

Director Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Mulroy, Patricia	5/16/2017	2,226	\$128.08	\$285,106.08
TOTAL:		2,226		\$285,106.08

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7 31. **Defendant Clark T. Randt, Jr.** is a citizen of Utah and has served as a director of
8 the Company since October 2015. Randt received a \$600,000 consulting agreement in 2015
9 before his appointment to the Board. The Company admits that Defendant Randt is not
10 independent under NASDAQ independence criteria. During fiscal years 2015 and 2016 Wynn
11 Resorts paid Randt \$564,545 in total compensation. As of March 2017, Defendant Randt held
12 12,559 shares of Wynn Resorts stock and options.

13 32. In 2017, Defendant Randt sold 3,000 shares of Wynn Resorts common stock while
14 in possession of material non-public information concerning Steve Wynn’s longstanding pattern of
15 sexual abuse and harassment, for proceeds of \$387,000:

Director Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Randt, Clark T.	7/31/2017	3,000	\$129.00	\$387,000.00
TOTAL:		3,000		\$387,000.00

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19 33. **Defendant Alvin V. Shoemaker** is a citizen of Idaho and has served as a director
20 of the Company since December 2002. Defendant Shoemaker serves as a member of the
21 Compensation Committee and as a member of the Audit Committee. During fiscal years 2012
22 through 2016 Wynn Resorts paid Defendant Shoemaker \$1,911,836 in total compensation. As of
23 March 2017, Defendant Shoemaker held 38,637 shares of Wynn Resorts stock and options. On
24 March 7, 2018, Wynn Resorts announced that Defendant Shoemaker would not stand for re-
25 election in 2019, when his term is due to expire, but that he would serve out the remainder of his
26 term.

1 34. In 2017, Defendant Shoemaker sold 15,000 shares of Wynn Resorts common stock
2 while in possession of material non-public information concerning Steve Wynn's longstanding
3 pattern of sexual abuse and harassment, for proceeds of \$2,276,100:

Executive Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Shoemaker, Alvin	11/8/2017	15,000	\$151.74	\$2,276,100.00
TOTAL:		15,000		\$2,276,100.00

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7 35. **Defendant J. Edward Virtue** is a citizen of Florida and has served as a director of
8 the Company since November 2012. Virtue serves as Chairman of the Compensation Committee
9 and as a member of the Corporate Governance Committee. Virtue managed the Wynn family's
10 money prior to his appointment to the Board in 2012. During fiscal years 2012 through 2016
11 Wynn Resorts paid Defendant Virtue \$1,921,313 in total compensation. As of March 2017,
12 Defendant Virtue held 21,385 shares of Wynn Resorts stock and options.

13 36. **Defendant D. Boone Wayson** is a citizen of Maryland and has served as a director
14 of the Company since August 2003. Wayson serves as a member of the Audit Committee and as a
15 member of the Corporate Governance Committee. On February 6, 2018, Defendant Wayson was
16 named the Non-Executive Chairman of the Board. During fiscal years 2012 through 2016 Wynn
17 Resorts paid Defendant Wayson \$1,969,086 in total compensation. As of March 2017, Defendant
18 Wayson held 123,637 shares of Wynn Resorts stock and options.

19 37. In 2016, Defendant Wayson sold 37,500 shares of Wynn Resorts common stock
20 while in possession of material non-public information concerning Steve Wynn's longstanding
21 pattern of sexual abuse and harassment, for proceeds of \$3,267,000:

Director Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Wayson, D. Boone	11/9/2016	37,500	\$87.12	\$3,267,000.00
TOTAL:		37,500		\$3,267,000.00

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26 38. Wayson has known of Steve Wynn's history of sexual misconduct since at least
27 1997, when eleven waitresses at the Wynn-owned Mirage, where Wayson was then a current
28 director, filed suit in Nevada federal district court, alleging a culture of harassment, coerced sexual

1 relations, and misconduct by Steve Wynn. The case, captioned *Arrowsmith, et al. v. Mirage*
 2 *Casino-Hotel*, 2:97-cv-00638-RLH-LRL (D. Nev. 1997), settled in 2003. The *Arrowsmith*
 3 complaint alleged that Steve Wynn told certain waitresses that they were too fat to serve drinks. A
 4 few days later, they were required to sign a uniform and appearance standards form that required
 5 them to gain no more than six pounds from their weight at the time they were hired or be placed
 6 on probation. Wayson's position as a director of Mirage when the lawsuit was filed, and his
 7 current position on the Wynn Resorts Governance Committee, should have put Wayson on notice
 8 that Steve Wynn's mistreatment of women could create liability for Wynn Resorts and should
 9 have compelled Wayson to create risk controls for the Board to be notified of similar allegations.

10 39. **Defendant Kimmarie Sinatra** is a citizen of Nevada and has served as the
 11 Company's General Counsel and Secretary since March 2006, and as the Company's Senior Vice
 12 President since January 2004. Sinatra also serves as a director for Wynn Macau, Limited, has
 13 been Senior Vice President and General Counsel of Worldwide Wynn, LLC since January 2004,
 14 and serves as an officer of several other of the Company's subsidiaries. Defendant Sinatra's
 15 compensation from 2009 through 2016 was approximately \$28.81 million, including
 16 compensation of over \$2.64 million in 2016 alone.

17 40. Between 2009 and 2018, Defendant Sinatra sold 231,735 shares of Wynn Resorts
 18 common stock while in possession of material non-public information concerning Steve Wynn's
 19 longstanding pattern of sexual abuse and harassment, for proceeds of \$27,874,815.26:

Executive Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Sinatra, Kimmarie	11/9/2017	15	\$152.07	\$2,281.05
Sinatra, Kimmarie	11/8/2017	20,795	\$152.03	\$3,161,463.85
Sinatra, Kimmarie	9/15/2017	21,451	\$143.62	\$3,080,792.62
Sinatra, Kimmarie	6/9/2017	22,624	\$129.12	\$2,921,210.88
Sinatra, Kimmarie	11/29/2016	41,743	\$99.76	\$4,164,281.68
Sinatra, Kimmarie	11/29/2016	600	\$100.22	\$60,132.00
Sinatra, Kimmarie	5/9/2014	13,807	\$198.74	\$2,744,003.18
Sinatra, Kimmarie	5/9/2014	100	\$199.20	\$19,920.00
Sinatra, Kimmarie	11/14/2013	10,000	\$168.38	\$1,683,800.00
Sinatra, Kimmarie	5/7/2013	15,600	\$138.80	\$2,165,280.00

Sinatra, Kimmarie	5/25/2011	25,000	\$141.13	\$3,528,250.00
Sinatra, Kimmarie	8/26/2010	25,000	\$83.94	\$2,098,500.00
Sinatra, Kimmarie	11/20/2009	35,000	\$64.14	\$2,244,900.00
TOTAL:		231,735		\$27,874,815.26

41. **Defendant Matthew Maddox** has been President of Wynn Resorts since November 2013. Since joining Wynn Resorts in 2002, he has also served as Chief Financial Officer, Senior Vice President of Business Development and Treasurer of the Company. On February 6, 2018, Maddox became CEO of Wynn Resorts, replacing Steve Wynn. Maddox also serves as the CEO and Executive Director of Wynn Macau, Limited, a majority owned subsidiary of the Company. Mr. Maddox is also a non-executive Director of Wynn Macau, Limited and has been since March 28, 2013. Defendant Maddox’s total compensation from 2012 through 2016 was approximately \$20.07 million. On information and belief, Maddox is a resident of Clark County, Nevada.

42. In 2017, Defendant Maddox sold 206,469 shares of Wynn Resorts common stock while in possession of material non-public information concerning Steve Wynn’s longstanding pattern of sexual abuse and harassment, for proceeds of \$28,753,934.55. Defendant Maddox has admitted he knew of the 2005 sexual misconduct allegations involving Steve Wynn no later than March 28, 2016 when Elaine Wynn filed court documents revealing the alleged assault and the “pattern of reckless risk-taking” behavior by Steve Wynn that “left the directors and the Company vulnerable to potential liability and regulatory exposure.”² Maddox’s subsequent denial of any knowledge of Steve Wynn’s pervasive pattern of sexual misconduct cannot be reconciled with his awareness of Elaine Wynn’s March 28, 2016, court filing.

² Richard N Velotta *Call from Steve Wynn led Maddox to career in casino work* LAS VEGAS REVIEW JOURNAL, Feb 20 2018 available at <https://www.reviewjournal.com/business/casinos-gaming/call-from-steve-wynn-led-maddox-to-career-in-casino-work/>

Executive Name	Sell Date	Number of Shares Sold	Price	Selling Proceeds
Maddox, Matt	11/13/2017	58,258	\$155.11	\$9,036,398.38
Maddox, Matt	11/13/2017	1,002	\$155.74	\$156,051.48
Maddox, Matt	9/15/2017	40,833	\$143.41	\$5,855,860.53
Maddox, Matt	9/15/2017	2,067	\$144.03	\$297,710.01
Maddox, Matt	6/16/2017	44,309	\$134.35	\$5,952,914.15
Maddox, Matt	4/27/2017	60,000	\$124.25	\$7,455,000.00
TOTAL:		206,469		\$28,753,934.55

43. Defendants Wynn, Hagenbuch, Mulroy, Randt, Shoemaker, Wayson, Sinatra, and Maddox are referred to as the “Selling Defendants.”

IV. DEFENDANTS’ DUTIES

A. Fiduciary Duties

44. The Defendants, because of their positions of control and authority as directors and/or officers of the Company, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein. By reasons of their positions as officers and/or directors and fiduciaries and because of their ability to control the business and corporate affairs of Wynn Resorts, the Defendants owe the Company and its stockholders the fiduciary obligations of trust, loyalty, good faith, candor, and due care, and were required to do their utmost to control and manage the affairs of Wynn Resorts in a fair, just, honest and equitable manner. The Defendants were required to act in furtherance of the best interests of Wynn Resorts and its stockholders so as to benefit all stockholders equally, and not in furtherance of their own personal interest or benefit.

45. Each officer and director of Wynn Resorts owes to the Company and its stockholders the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing.

B. Control, Access, and Authority

46. The Defendants, because of their positions of control and authority as officers and/or directors of Wynn Resorts, were able to, and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein, as well as the contents of the various misleading

1 public statements disseminated by the Company. Further, due to the knowing, reckless,
2 fraudulent, intentional, and disloyal nature of the Defendants' wrongdoing, they are not entitled to
3 the potential protection afforded by the exculpatory provisions of Nevada law, the Company's
4 Articles of Incorporation and/or by-laws.

5 47. Because of their advisory, executive, managerial, and directorial positions, as well
6 as their knowledge of Steve Wynn's sexual harassment and the abusive workplace environment at
7 Wynn Resorts that was tolerated and concealed for years by Defendants and others, each of the
8 Defendants had access to adverse, non-public information about Steve Wynn's sexual misconduct
9 and had a duty to refrain from selling Wynn Resorts stock while in possession of such undisclosed
10 material adverse information having not made full disclosure of such misconduct to regulators and
11 shareholders.

12 **C. Reasonable and Prudent Supervision**

13 48. To discharge their duties and to comply with good corporate governance,
14 Defendants were required to exercise reasonable and prudent supervision over the management,
15 policies, practices and controls of the business and financial affairs of the Company. By virtue of
16 such duties, the Defendants were required to, among other things:

- 17 (a) ensure that the Company complied with applicable legal obligations, requirements
18 and regulations, including acting only within the scope of its legal authority and
disseminating truthful and accurate statements to the investing public;
- 19 (b) conduct the affairs of the Company in an efficient, business-like manner so as to
20 make it possible to provide the highest quality performance of its business, to avoid
wasting the Company's assets, and to maximize the value of the Company's stock;
- 21 (c) remain informed as to how Wynn Resorts conducted its operations and, upon
22 receipt of notice or information of imprudent or unsound conditions or practices,
23 make reasonable inquiry in connection therewith and take steps to correct such
conditions or practices and make such disclosures as necessary to comply with the
law;
- 24 (d) ensure that Wynn Resorts was operated in a diligent, honest and prudent manner in
25 compliance with applicable laws, rules and regulations;
- 26 (e) properly and accurately guide investors and analysts as to the true financial
27 condition of the Company, including making accurate statements about the
Company's operations and financial results;

- 1 (f) refrain from trading on proprietary and material non-public information concerning
2 Wynn Resorts and its business;
- 3 (g) implement adequate internal controls to ensure that the Company was promptly
4 informed of any sexual harassment, sexual misconduct, or sexual abuse, committed
5 by a Company employee, including an officer or director; and
- 6 (h) establish and implement internal controls and appropriate risk assessment and risk
7 management procedures.

8 49. The Board also had a fiduciary duty to oversee Company's areas of risk. The
9 Company's 2017 Proxy represents that:

10 The Board and its Committees regularly review information regarding the Company's risk
11 profile and have, in consultation with management and the Company's independent
12 auditors, identified specific areas of risk including: regulatory compliance, legislative and
13 political conditions; capital availability, liquidity and general financial conditions, gaming
14 credit extension and collection, construction, catastrophic events and succession planning.
15 The Board (as a whole and through its Committees) has reviewed and approved
16 management's process for management to identify, manage and mitigate these risks. While
17 the full Board has overall responsibility for risk oversight, the Board has assigned certain
18 areas of risk oversight to its Committees as well as to the Company's Compliance
19 Committee. Throughout the year, the Board, its Committees and the Company's
20 Compliance Committee receive reports from management that include information
21 regarding major risks and exposures facing the Company and the steps management has
22 taken to monitor and control such risks and exposures. In addition, throughout the year, the
23 Board, its Committees and the Company's Compliance Committee dedicate a portion of
24 their meetings to review and discuss specific risk topics in greater detail. The Audit
25 Committee is primarily responsible for the oversight of credit, related party, construction
26 and general financial risks. The Company's Compliance Committee primarily oversees
27 risks relating to regulatory, security and political compliance.

28 **D. Wynn Resorts' Corporate Governance Guidelines**

50. Wynn Resorts' Board has adopted a set of Corporate Governance Guidelines
("Guidelines") which are reviewed annually by the Nominating and Corporate Governance
Committees. "The Guidelines reflect the Board's commitment to monitor the effectiveness of
policy and decision-making both at the Board and management level, with a view to enhancing
stockholder value."

51. The Board's stated goals "are to build value for the Company's stockholders and to
promote the vitality and sustainability of the Company for its customers, employees and the other
individuals and organizations that depend on the Company." To that end, "the Board monitors the

1 performance of the Company (in relation to its goals, strategy, risks and competitors) and, through
2 the Compensation Committee, evaluates and addresses the performance of management, including
3 the Chief Executive Officer.”

4 52. Moreover, the Company’s Nominating and Corporate Governance Committee
5 (consisting of Defendants Hagenbuch, Miller, Shoemaker, and Wayson) is primarily responsible
6 for “recommending to the Board a set of corporate governance guidelines applicable to the
7 Company and overseeing corporate governance matters generally.” Accordingly, each of them
8 was responsible for Wynn Resorts’ compliance with federal and state laws regarding sexual
9 harassment and workplace misconduct.

10 53. The Director Defendants’ misconduct permitted sexual harassment and abuse to
11 exist in the workplace at Wynn Resorts in violation of various laws and regulations as well as
12 Wynn Resorts’ Guidelines. Their complicity has diminished the Company’s value, as described
13 further herein.

14 **E. Additional Duties of Defendants under Wynn Resorts’ Code of Business**
15 **Conduct and Ethics**

16 54. Under the Company’s Code of Business Conduct and Ethics³ (the “Code”), as
17 approved by the Board, Defendants owed additional specific duties to Wynn Resorts and its
18 stockholders. The purpose of the Code, which applies to all officers, directors, employees, agents
19 and representatives, is not just to comply with laws and regulations but “to reinforce and enhance
20 the Company’s commitment to an ethical way of doing business.” Compliance with the Code is
21 mandatory and requires each employee, officer and director to sign an annual acknowledgement of
22 having “read, understood, and complied with its contents.” As Steve Wynn emphasized in his
23 cover letter to employees, “Our goal is not just to comply with the laws, rules and regulations that
24 apply to our business; we also continuously strive to abide by high standards of ethical business

25
26 ³ Wynn Resorts’ Code of Business Conduct and Ethics is posted on the Company’s website along with all other
27 corporate governance documents.

1 conduct.” The Code imposes mandatory reporting requirements for suspected violations of
2 “applicable laws, rules or regulations, the Code, or the Company’s related policies”

3 55. Section 2.2 of the Code emphasizes the Company’s commitment to compliance
4 with all state and federal employment laws and specifically states that “Harassment or
5 discrimination of any sort will not be tolerated.” Moreover, as reflected in Section 3 of the Code,
6 Defendants “are expected to dedicate their best efforts to advancing the Company’s interests and
7 to make decisions that affect the Company based on the Company’s best interests, independent of
8 outside influences.”

9 56. Section 5.5 of the Code states that the Company’s Insider Trading Policy prohibits
10 the “buying or selling [of] securities of any company at a time when you are in possession of
11 ‘material non-public information’ about that company.” The Code provides that “[i]nformation is
12 ‘material’ if (a) there is a substantial likelihood that a reasonable investor would find the
13 information ‘important’ in determining whether to trade in a security; or (b) the information, if
14 made public, likely would affect the market price of a company’s securities.” The Code further
15 provides that “[i]nformation is considered to be non-public unless it has been disclosed and
16 broadly disseminated to the public by the Company, which means that the information must be
17 publicly disclosed by the Company through appropriate channels (such as by means of a filing
18 with the SEC, a press release or a widely disseminated statement from a senior officer) and
19 adequate time (generally at least a full trading day) must have passed for the securities markets to
20 digest the information.”

21 57. The Code further provides that “All reported violations . . . will be taken seriously
22 and promptly investigated.” *See* Code Section 7.2. Violations of the “Code and other Company
23 policies and procedures may [result in] disciplinary action, up to and including discharge.”

24 58. Defendants’ misconduct permitted sexual harassment and abuse to exist in the
25 workplace at Wynn Resorts in violation of various laws and regulations, violated the Company’s
26 Code, and diminished the Company’s value. The Selling Defendants’ misconduct, as described
27 herein, violated the Company’s Code as it pertains to insider trading.

1 **F. Additional Duties of the Audit Committee Defendants**

2 59. In addition to these duties, under the Company’s Audit Committee Charter, the
3 Audit Committee Defendants (Defendants Hagenbuch, Johnson, Miller, Shoemaker and Wayson)
4 owed specific duties to Wynn Resorts and its stockholders to review and update the Company’s
5 compliance program with respect to legal and regulatory matters and the Company’s policies and
6 procedures for monitoring compliance. The Audit Committee also was charged with oversight
7 responsibility relating to “management’s evaluation of certain risk exposures” and any “steps
8 management has taken or proposes to take to monitor and control such exposure.”

9 60. Specifically, Section D of the Audit Committee Charter imposes a duty on
10 committee members with respect to compliance and risk oversight, and requires the Audit
11 Committee to review and make recommendations to the Board on changes to and enforcement of
12 the Code “and other policies relating to management conduct.” The Audit Committee is also
13 charged with overseeing “procedures and practices to promote compliance” with the Code and
14 other policies. The responsibilities include, at a minimum, an annual review of the
15 “implementation and effectiveness of the Corporation’s compliance program with the General
16 Counsel and Compliance Officer . . . about actual and alleged violations of the Corporation’s Code
17 . . . , including any matters involving criminal or potential criminal conduct.”

18 61. Further, the Audit Committee Charter provided that it: “Discuss[es] periodically
19 with management, receive[s] relevant reports regarding, and oversee[s] management’s evaluation
20 of the Corporation’s major risk exposures and, without limiting the foregoing, the Corporation’s
21 credit, related party, information security, construction and financial risk exposures, and the steps
22 management has taken or proposes to take to monitor and control such exposures.”

23 62. The Audit Committee also met at least quarterly in executive session with the
24 Company’s independent auditors, General Counsel, Chief Audit Executive, Chief Financial
25 Officer and Compliance Officer to discuss various accounting issues, annual audits, financial and
26 internal controls, regulatory compliance and other matters. The Audit Committee is also charged
27 with the duty of reviewing with Company’s “legal advisers legal matters that may have a material
28

1 effect on the financial statements, the Corporation’s compliance policies and any material reports
2 or inquiries received from regulators or governmental agencies relating to any matter that may
3 have a material effect on the Corporation’s financial statements.”

4 63. The Audit Committee Defendants’ misconduct permitted sexual harassment and
5 abuse to exist in the workplace at Wynn Resorts in violation of various laws and regulations and
6 the Company’s Audit Committee Charter. Based in part on the information provided by Elaine
7 Wynn concerning Steve Wynn’s misconduct, the Audit Committee failed to meet its
8 responsibilities and obligations under the Audit Committee Charter thereby diminishing the
9 Company’s value, as described further herein. Ms. Wynn has also accused the Audit Committee
10 of destroying documents also in violation of their fiduciary duties and applicable law.

11 **G. Wynn Resorts’ Regulatory Obligations**

12 64. Because Wynn Resorts and its subsidiaries operate in the gaming industry, they are
13 governed by various laws and strict regulations in the states and countries in which they do
14 business. A violation of such regulations could result in the loss of gaming licenses critical to the
15 Company’s success. Wynn Resorts is incorporated and headquartered in Nevada and must
16 comply with the gaming laws of the state. Wynn Resorts’ two most profitable casino properties
17 are located in Macau, China and the Company is developing a casino property in Massachusetts,
18 scheduled to open in 2019. All of these jurisdictions require the casino operator (including its
19 officers directors, employees, agents and stockholders), to be “suitable” in order to obtain and
20 keep its respective licenses.

21 65. Nevada law imposes comprehensive regulatory requirements upon gaming
22 licensees, including obligations that those associated with the licensee possess the necessary
23 character, qualifications, and integrity to be suitable to hold that privilege so as not to pose a threat
24 to the public interest or the integrity of the regulation and control of gaming. In particular, the
25 Nevada gaming regulations provide, in pertinent part, as follows:

26 **5.011 Grounds for disciplinary action.** The board and the commission deem any
27 activity on the part of any licensee, his agents or employees, that is inimical to the
28 public health, safety, morals, good order and general welfare of the people of the
State of Nevada, or that would reflect or tend to reflect discredit upon the State of

1 Nevada or the gaming industry, to be an unsuitable method of operation and shall
2 be grounds for disciplinary action by the board and the commission in accordance
3 with the Nevada Gaming Control Act and the regulations of the board and the
4 commission. Without limiting the generality of the foregoing, the following acts or
5 omissions may be determined to be unsuitable methods of operation:

6 ...
7 1. Failure to exercise discretion and sound judgment to prevent incidents which
8 might reflect on the repute of the State of Nevada and act as a detriment to the
9 development of the industry.

10 ...
11 5. Catering to, assisting, employing or associating with, either socially or in
12 business affairs, persons of notorious or unsavory reputation . . . or the employing
13 either directly or through a contract, or any other means, of any . . . individual in
14 any capacity where the repute of the State of Nevada or the gaming industry is
15 liable to be damaged because of the unsuitability of the . . . individual

16 ...
17 10. Failure to conduct gaming operations in accordance with proper standards of
18 custom, decorum and decency, or permit any type of conduct in the gaming
19 establishment which reflects or tends to reflect on the repute of the State of Nevada
20 and act as a detriment to the gaming industry.

21 66. Massachusetts law also imposes comprehensive regulatory requirements upon
22 gaming licensees, including obligations that those associated with the licensee possess the
23 necessary character, qualifications, and integrity to be suitable to hold that privilege so as to not
24 pose a threat to the public interest or the integrity of the regulation and control of gaming. In
25 particular, the Massachusetts gaming regulations require the Massachusetts Gaming Commission
26 to “consider the overall reputation of the applicant including, without limitation . . . (1) the
27 integrity, honesty, good character and reputation of the applicant.” M.G.L. c. 23K § 12. The
28 regulations further require the Massachusetts Gaming Commission to “deny an application for a
gaming license . . . if the applicant . . . (ii) submitted an application for a license under this chapter
that contains false or misleading information; [or] (iii) committed prior acts which have not been
prosecuted or in which the applicant was not convicted but form a pattern of misconduct that
makes the applicant unsuitable for a license” *Id.* § 16.

67. Macau law also imposes comprehensive regulatory requirements upon gaming
licensees. Macau Administrative Regulation no. 6/2002 (Gaming Promoters Act) requires
prospective licensees to duly evidence their reputation and suitability. Articles 14 and 15 of the

1 Macau Gaming Law require licensees to demonstrate, among other things, repute and probity,
2 which must be maintained and verified throughout the twenty-year duration of the gaming license.
3 Further, all directors and stockholders holding at least 5% of the gaming operator's corporate
4 capital, as well as key employees, are subject to monitoring for suitability by the Macau Gaming
5 Inspection and Coordination Bureau.

6 68. Defendants' misconduct, as detailed herein, violated or aided in the violation of
7 Nevada, Massachusetts, and Macau gaming laws and regulations, and Defendants' unsuitability
8 under those laws and regulations, among other things, exposes the Company to the potential loss
9 of its gaming licenses in one or more jurisdictions, a result that would financially devastate the
10 Company.

11 **V. SUBSTANTIVE ALLEGATIONS**

12 **A. Steve Wynn's Growth into a Casino Magnate**

13 69. Steve Wynn is a longtime player in the gaming industry, getting his start at
14 Wayson's Bingo in Maryland in the late 1960s and eventually building a gaming empire.
15 Although Wynn moved to Las Vegas in 1967, Wynn held the bingo operation and leased the hall
16 from the Waysons until 1983, when the Wayson family bought it back.

17 70. In 1971, Steve Wynn acquired a controlling interest in the Golden Nugget Las
18 Vegas, and, in 1973, formed Golden Nugget Companies, Inc., of which he was a majority owner.

19 71. In 1989, Steve Wynn opened The Mirage, a major casino on the Las Vegas Strip.
20 Following the completion of The Mirage, Steve Wynn changed the name of his company to
21 Mirage Resorts, Inc. On October 15, 1998, Steve Wynn opened the Bellagio, a \$1.6 billion resort.
22 In 2000, Mirage Resorts, Inc. was acquired by MGM Grand Inc. after Steve Wynn lost control of
23 the company amidst stockholder criticism of his spending on art and hotel construction.

24 72. Steve Wynn then partnered with Japanese billionaire Kazuo Okada for his next
25 venture, Wynn Resorts. Steve Wynn became Chairman and CEO and Okada became Vice-
26 Chairman of the Board. Wynn Resorts made its initial public offering on the NASDAQ on
27 October 25, 2002, trading under the WYNN ticker symbol. On April 28, 2005, the Company's
28

1 first project, Wynn Las Vegas, opened on the Las Vegas Strip. The Company’s second project,
2 Wynn Macau, opened on September 5, 2006, in Macau, China. Steve Wynn also served as the
3 Executive Director, Chairman, and CEO of Wynn Resorts subsidiaries Wynn Macau and Wynn
4 Resorts (Macau) S.A. The Company is currently developing a luxury resort and casino in
5 Massachusetts.

6 73. At the time of his resignation, Steve Wynn owned 11.8% of the stock of the
7 Company. As of January 25, 2018, that stock had a market value of approximately \$2.4 billion.
8 Pursuant to two stock purchase agreements entered into on March 22, 2018, Steve Wynn is
9 expected to sell the balance of his shares on or after the closing of the transactions on March 26,
10 2018 for \$2.1 billion. Steve Wynn, whose signature is the Company’s logo, was touted by the
11 Company as integral to its success. In a recent filing with the SEC citing possible risks to the
12 Company, the Company said, “If we lose the services of Mr. Wynn, or he is unable to devote
13 sufficient attention to our operation for any reason, our business may be significantly impaired.”
14 Indeed, a JPMorgan Chase analysis of Wynn Resorts noted that the Company has “the single
15 largest individual CEO dependency” of any gambling company JPMorgan Chase has analyzed.

16 **B. Steve Wynn’s History of Sexual Harassment and Abuse**

17 74. Steve Wynn has a long history of sexual harassment and abuse that spans decades
18 and pre-dates the founding of Wynn Resorts.

19 75. According to the *Las Vegas Review-Journal*, in the days following the publication
20 of the *WSJ Article*, two women reported to Las Vegas police that they were sexually assaulted by
21 Steve Wynn in the 1970s. One woman made a report from St. Louis, alleging that Steve Wynn
22 sexually assaulted her in Las Vegas in the 1970s. A second woman filed a report a week later in
23 person at a police substation in Las Vegas, alleging that Steve Wynn had assaulted her in Chicago,
24 also in the 1970s.

25 76. An article in the *Nevada Forward* describes the account of a cocktail waitress at the
26 Golden Nugget in the 1980s who stated that Steve Wynn was forceful and aggressive in his
27 advances, and that he would request that she leave work early and come to his house. She stated
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1 that, though she tried to avoid his advances, she often did not have a choice but to acquiesce to his
2 demands. She described his predatory behavior as follows: “Did I want to have sex with him?
3 No. He signed my checks. I had two little kids, and no child support. He made a habit of going
4 after single moms who were scared and couldn’t afford to lose their jobs.”

5 77. Shawn Cardinal, a personal assistant to Elaine Wynn, Mr. Wynn’s spouse at the
6 time, said that around 1987 Steve Wynn repeatedly asked her to spend time with him outside of
7 work, and continued asking despite her telling him she had plans with her husband and child. Ms.
8 Cardinal said Steve Wynn would ask her on the phone “what are you wearing? Why don’t you
9 hang out with me after work?”

10 78. Another set of allegations that date back to the late 1980s involve Steve Wynn
11 sexually harassing waitresses at The Mirage, which Steve Wynn owned at the time. The *Las*
12 *Vegas Review-Journal* reports that Steve Wynn allegedly had sex with one of the waitresses he
13 harassed – a grandmother – who asked Steve Wynn, “Why don’t you just leave me alone?” Steve
14 Wynn reportedly responded that he had “never had [sex with] a grandmother before” and wanted
15 “to see how it feels.”

16 79. The *WSJ* describes that, in the early 1990s, Dennis Gomes, an executive at Golden
17 Nugget in Las Vegas when Wynn ran the casino, testified at a deposition that Gomes “routinely
18 received complaints from various department heads regarding ***Wynn’s chronic sexual harassment***
19 ***of female employees.***” (emphasis added). In a suit over Gomes’s departure from the Golden
20 Nugget, Gomes described a “*disgraceful pattern of personal and professional conduct*” by Wynn
21 that included him directing Gomes to get home phone numbers of cocktail waitresses. (emphasis
22 added). The parties agreed to dismiss the suit in 1994. In connection with the *WSJ* article,
23 Gomes’s widow said, “I remember him saying, ‘I’m not his [Wynn’s] pimp.’”

24 80. In 1997, eleven waitresses at the Wynn-owned Mirage filed suit in Nevada federal
25 district court, alleging a culture of harassment, coerced sexual relations, and misconduct by Wynn.
26 The case was styled *Arrowsmith, et al. v. Mirage Casino-Hotel*, 2:97-cv-00638-RLH-LRL (D.
27 Nev. 1997). According to the *Las Vegas Review-Journal*, the lawsuit contained allegations that

1 supervisors did not protect women from gamblers who harassed them, and that waitresses were
2 sent to sexually “accommodate” high rollers at the resort through the 1990s. The suit also alleged
3 that Steve Wynn told the waitresses they had “fat asses” and did not look good in their uniforms,
4 and that the waitresses were required to maintain their weight at the time they were hired
5 throughout their employment. Specifically, in 1995, Steve Wynn required the cocktail waitresses
6 to meet with him in the Mirage’s executive offices to tell them they had “fat asses” and unless they
7 lost weight, he would transfer them to different departments. A few days later, the cocktail
8 waitresses had to be weighed and measured and were forced to sign a document stating that if they
9 gained 6 pounds or more they would be put on probation.

10 81. In 1998, two of the plaintiffs in *Arrowsmith* spoke with *Las Vegas Review-Journal*
11 reporter Carri Geer. As she was preparing the story, Geer was called into a meeting with Wynn’s
12 attorneys. After subjecting the plaintiffs to polygraph examinations, the newspaper killed the
13 publication of the story, and ordered Geer to delete it from the newspaper’s computer system,
14 demonstrating Steve Wynn’s extraordinary power and influence.

15 82. *Arrowsmith* settled in 2003. Because the case is public record and involved Wynn
16 Resorts’ CEO and Chairman, all of Wynn Resorts’ Board members, particularly Defendants
17 Shoemaker, Wayson, and Miller, who were directors in 2003, should have been aware of the
18 litigation and the need to ensure that appropriate controls were in place to prevent Steve Wynn
19 from engaging in similar misconduct at his flagship resort. In addition, Defendant Wayson was a
20 director of Mirage Resorts, Inc. from 1997-2000 while *Arrowsmith* was being litigated, and thus
21 can be presumed to have knowledge of the plaintiffs’ allegations regarding Steve Wynn. As
22 detailed below, however, the Board failed to heed the warnings from *Arrowsmith*, and instead
23 allowed Steve Wynn to continue his pattern of sexual harassment and abuse at Wynn Resorts.

24 **C. Steve Wynn Continues his Pattern of Sexual Harassment and Abuse at Wynn**
25 **Las Vegas**

26 83. In 2005, Steve Wynn opened his flagship resort, Wynn Las Vegas. Shortly
27 thereafter, according to the *WSJ Article*, a manicurist who worked at the Wynn Las Vegas told a
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1 colleague Steve Wynn forced her to have sex with him. The manicurist filed a written and
2 detailed report to the HR department. She then received a call from Doreen Whennen, a Wynn
3 Las Vegas executive, who castigated the manicurist for filing a report with HR and said she should
4 have taken the matter directly to Whennen. No one followed up with the manicurist regarding her
5 complaint. Wynn ultimately paid the manicurist a \$7.5 million settlement in 2005.

6 84. Ms. Whennen worked as the Vice President of Hotel Operations at Wynn Las
7 Vegas until 2007 when she was transferred to Wynn Macau where she acted as Executive Vice
8 President until she retired in 2014. In Las Vegas, Ms. Whennen participated in interviews and
9 investigations with employees who worked in non-gaming divisions at Wynn-affiliated properties.
10 Upon retiring, she entered into a Resignation and Release Agreement with Wynn Resorts. As set
11 forth above, Ms. Whennen contacted the manicurist with whom Mr. Wynn paid a \$7.5 million
12 settlement. During the course of the *Okada* litigation described herein, Ms. Whennen was
13 deposed on July 14, 2017, at which deposition, Ms. Whennen revealed that she retained certain
14 notes from the 2005 investigation into the manicurist's allegations of sexual assault. On
15 December 8, 2017, in a further effort by Defendants to keep Steve Wynn's sexual misconduct
16 under wraps, Worldwide Wynn LLC, a subsidiary of Wynn Resorts, sued Ms. Whennen for
17 misappropriating and wrongfully retaining the notes from the investigation into the manicurist's
18 allegations. According to the lawsuit, Ms. Whennen has repeatedly refused to turnover her notes
19 to Wynn Resorts, claiming that they are her personal property.

20 85. Meanwhile, in an effort to conceal the 2005 assault, Steve Wynn created a secret
21 limited liability company, Entity Y, in 2005 to make the \$7.5 million settlement payment,
22 according to the *WSJ*. Entity Y's manager is James Pisanelli, a lawyer who was at the time with
23 Brownstein Hyatt Farber Schreck LLP and has served as Wynn Resorts' outside counsel for years.

24 86. According to a lawsuit filed on February 28, 2018, Steve Wynn began assaulting
25 another Wynn Resorts employee, a masseuse, in or around 2006. The complaint details that in or
26 around 2006, after his first or second massage, Steve Wynn made unwanted sexual advances that
27 included forcing the masseuse to perform sexual acts manually, demanding oral sex, and
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1 demanding vaginal sex. The victim alleges that Mr. Wynn pressured her to perform sex acts with
2 her hands and demanded oral sex more than *fifty times* over the course of two to three years.
3 According to her lawsuit, the woman described Wynn as “mentally and emotionally” manipulating
4 her into performing sexual acts on him by exploiting her financial dependency on her job. The
5 woman recounted in her lawsuit that she “consistently objected” to the advances to no avail and
6 that, following the sessions, Steve Wynn would leave her a “tip” of \$400. The harassment and
7 pressure to not disclose his demands caused the Wynn Resorts employee extreme distress. She
8 alleges that she was afraid to go to work because she was so fearful of Steve Wynn and that she
9 has been treated differently by coworkers because of Steve Wynn’s misconduct. Significantly, in
10 the lawsuit, the woman alleges that the Wynn Resorts’ board of directors was aware of Steve
11 Wynn’s “predatory behaviors” and that the Board failed to prevent harm to her.

12 87. Steve Wynn’s sexual harassment and assault of masseuses was a pattern. Indeed,
13 another massage therapist filed suit against Steve Wynn and the Wynn Resorts’ Board on March
14 1, 2018. She alleges that in or around 2011, Steve Wynn began making appointments for
15 massages with her. The massages took place in Steve Wynn’s office at Wynn Resorts, while the
16 door to his office was locked and security personnel, and dogs, which Mr. Wynn said would attack
17 on command, were outside the door. According to her complaint, after the first two massages,
18 Steve Wynn discovered that she was going through a divorce and relied on her salary at Wynn
19 Resorts to support her children. Steve Wynn soon instructed the massage therapist not to place a
20 towel over his genitals during the massages. He would shower and expose himself to her. During
21 the massages he would place his hands on her, including near her crotch, repeatedly propositioning
22 her for sex. Steve Wynn instructed the woman to massage his penis, which she did approximately
23 a dozen times over the year because she feared for her physical and financial security. The woman
24 repeatedly told him she did not want to have sex with him, to perform sexual acts on him, or to see
25 him naked. After these sessions, Mr. Wynn routinely “tipped” the woman \$1,000.

26 88. In addition to these assaults, Steve Wynn created a hostile working environment,
27 where female employees were constantly uncomfortable. For example, several former Wynn Las
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1 Vegas employees recalled that Wynn often walked around areas of the Wynn Las Vegas in short
2 shorts without underwear, and that he would get pedicures at the salon and sit in a way so as to
3 expose his genitals.

4 89. The *WSJ Article* reports that one former employee said Wynn asked if he could kiss
5 her. Another time he said, “So when are you going to come into my office and f--- me?” Once he
6 repeatedly rubbed his genitals, which were falling out of his shorts, and made comments about
7 things he would like to do with her sexually. On another occasion, as she was leaving his office,
8 he grabbed her waist as she stood against a wall and told her to kiss him. She slipped out of his
9 hold and left. After two weeks of pursuit, he stopped. The employee’s supervisor and another
10 colleague confirmed being told of these advances at the time, but sought to “manage” the situation
11 rather than report it for fear of repercussions.

12 90. The *WSJ Article* further reported that one former massage therapist said that several
13 years ago Wynn booked multiple appointments a week with her in the private massage room in his
14 office suite. He continually adjusted a towel to expose himself, and ultimately instructed her to
15 masturbate him to climax. She felt she had no choice but to agree to his requests because he was
16 her boss. She said masturbating him became a frequent part of the massage sessions for several
17 months. In subsequent sessions, Wynn asked her to perform oral sex on him and described in
18 detail how he wanted it done. She refused this request. She told a colleague that Wynn had
19 generally been inappropriate with her.

20 91. That colleague told the *WSJ* that Wynn also made advances toward her while she
21 massaged him in his office’s private massage room. Wynn would remove his towel and, while she
22 massaged the front of his thighs, would tell her to “go higher,” which she understood to mean
23 touch his genitals. After she told him this made her uncomfortable, his requests for her massages
24 became less frequent.

25 92. Former employees told the *WSJ* that they sometimes entered fake appointments in
26 the books to help other women workers get around a request for services in Steve Wynn’s office
27 or arranged for others to pose as assistants so they would not be alone with him.

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1 93. Former employees also told of female employees hiding in the bathroom or back
2 rooms when they heard Steve Wynn was on the way to the salon. “Everybody was petrified,” said
3 Jorgen Nielsen, a former artistic director at the salon. Nielsen said he and others *repeatedly told*
4 *high-level company executives* Steve Wynn’s sexual advances were causing a problem, but
5 “nobody was there to help us.”

6 94. On March 6, 2018, a Wynn Resorts manicurist filed yet another lawsuit against
7 Steve Wynn and the Director Defendants alleging sexual assault by Steve Wynn, this time
8 beginning in or around 2015. The manicurist alleged that Mr. Wynn would demand that the
9 manicurist sit so close to Mr. Wynn that her knee was touching his crotch. Further, he would
10 place his hand being manicured over his genitals necessitating her to touch them in order to
11 perform her work. If she objected to this physical contact, Mr. Wynn became angry and agitated.
12 The employee complained to her supervisor and management at Wynn Resorts and, despite being
13 taken to the highest level at Wynn Resorts, was told that nothing would be done to change Mr.
14 Wynn’s misbehavior. Moreover, in complaining to her co-workers, she learned that they had
15 many similar stories of sexual advances during the manicures and pedicures that they provided.
16 The employee and her colleagues tried to avoid taking appointments with Steve Wynn. The
17 employee alleges that Wynn Resorts’ management never contacted her to investigate her claim.

18 95. Even after the *WSJ Article*, the Board continued to allow Steve Wynn free reign to
19 intimidate salon employees by permitting him to demand that they publicly disavow his
20 misconduct. As detailed in the manicurist’s complaint, described in the prior paragraph, the
21 manicurist alleged that on January 31, 2018, Steve Wynn accompanied by Wynn Resorts’
22 executives, came into the Claude Baruk Salon at Wynn Las Vegas (the “Salon”) and, in a group
23 setting, instructed anyone who had ever felt assaulted or abused by Steve Wynn to raise their
24 hands. The next day, on or about February 1, 2018, Steve Wynn returned to the Salon with audio-

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1 video personnel and demanded that all employees record a video in which they stated that Steve
2 Wynn had never assaulted them.⁴

3 96. According to deposition testimony revealed in court on March 9, 2018, Steve
4 Wynn testified that he skipped a mandatory sexual harassment training for all Wynn Resorts
5 employees, including company executives. When asked if he had attended the training, Steve
6 Wynn responded, “No. I don’t need it.”

7 97. In the wake of the *WSJ* article, the Nevada Gaming Control Board received
8 numerous reports about Steve Wynn, and the volume of calls it received prompted it to introduce a
9 new online system for the public to send in confidential complaints and tips.

10 98. According to CNN, National Labor Relations Board (“NLRB”) records also
11 document Steve Wynn’s flagrant misogyny and abusive treatment of his female employees. In
12 late 2006, Steve Wynn was involved in proceedings before Judge Burton Litvack of the NLRB
13 stemming from a labor dispute with his employees in which Steve Wynn called some employees,
14 among other things, “muggers and thieves.” In ruling against Steve Wynn, Judge Litvack wrote
15 that Steve Wynn’s “statements and actions during the meeting [with employees] must be viewed
16 in the context of his desire to frighten and intimidate” them. The Judge told CNN that he “came
17 out of his chair” listening to Steve Wynn make “very disparaging comments about the women
18 who were at the [employee] meeting, particularly some of them that . . . were crying.” Judge
19 Litvack called Steve Wynn a chauvinist, and a haughty, disingenuous, and insolent person, and
20 recalled that the descriptions of Steve Wynn’s misconduct toward his female employees “upset”
21 him.

22 99. On March 19, 2018, it was further reported by the *WSJ* that Steve Wynn had paid a
23 settlement to a second Wynn Resorts employee in 2006 relating to sexual misconduct allegations.
24 When she informed Steve Wynn that she wanted to publicly disclose the details of the event

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26 ⁴ [https://www.reviewjournal.com/local/local-las-vegas/lawsuit-wynn-told-employees-to-say-he-never-](https://www.reviewjournal.com/local/local-las-vegas/lawsuit-wynn-told-employees-to-say-he-never-assaulted-them/)
27 [assaulted-them/](https://www.reviewjournal.com/local/local-las-vegas/lawsuit-wynn-told-employees-to-say-he-never-assaulted-them/)

1 following the January 26, 2018 *WSJ* article, his attorneys contacted the FBI asking the agency to
2 investigate her for extortion. The former employee only sought the ability to reveal information
3 underlying her settlement; no money was ever demanded. The FBI closed the investigation two
4 weeks later.

5 **D. The Defendants Breached Their Fiduciary Duties by Refusing to Investigate**
6 **Credible and Compelling Evidence of Steve Wynn’s Sexual Harassment and**
7 **Abuse and by Failing to Protect Employees from Him**

8 100. The Director Defendants knowingly and intentionally breached their fiduciary
9 duties by failing to act in the face of Steve Wynn’s rampant sexual misconduct, detailed above.
10 Other than Defendant Johnson, all Director Defendants knew of the 2005 assault allegation and
11 Steve Wynn’s pattern of misconduct by at least March 28, 2016, when court documents filed by
12 Elaine Wynn described a “multi-million-dollar payment” made by Steve Wynn following
13 allegations that he engaged in “serious misconduct” “on company property against an employee”
14 and detailed the “pattern of reckless risk-taking” behavior by Steve Wynn that “left the directors
15 and the Company vulnerable to potential liability and regulatory exposure.”⁵ Other reports
16 pinpoint Board members’ knowledge at an even earlier date. Reports explain that Elaine Wynn
17 learned of the 2005 assault and \$7.5 million settlement payment in 2009, *while she was a current*
18 *board member*, and that she reported the information to Defendant Sinatra – Wynn Resorts’
19 General Counsel. According to a CNBC article, Elaine Wynn also reported the 2005 assault and
20 settlement payment to a board representative “right away” after learning of it in 2009. The
21 Company has admitted that Elaine Wynn informed the Board of the 2005 assault after she lost her
22 Board seat in 2015. Regardless of whether the entire Board knew of Steve Wynn’s misconduct in

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24 ⁵ Defendant Johnson joined the Board in August 2016 after a counterclaim filed by Elaine Wynn alerted the other
25 Board members to the 2005 assault and Wynn’s “pattern” of reckless, risk-taking behavior, and while the litigation in
26 which those court documents were filed was ongoing. Given that the Company was a party to that ongoing litigation,
27 and given the seriousness of the allegations against Mr. Wynn in Elaine Wynn’s counterclaim, it can be inferred that
28 Defendant Johnson knew or intentionally disregarded Mr. Wynn’s longstanding pattern of sexual harassment and
abuse and therefore intentionally and knowingly breached his fiduciary duties to the Company when he failed to take
action.

1 2009, 2015, or 2016, one thing is clear: the Director Defendants did absolutely nothing in response
2 at any time. They undertook no investigation into Steve Wynn and created no protocols to ensure
3 workers were safe from sexual harassment and abuse.

4 101. Not only did the Director Defendants intentionally and knowingly fail to act in the
5 face of known and credible allegations concerning the 2005 assault by Steve Wynn of a Company
6 employee on Company property and his “pattern” of reckless and risk-taking behavior, they also
7 intentionally and knowingly breached their fiduciary duties by failing to implement internal
8 controls that would alert them to the hostile work environment created by Steve Wynn’s
9 widespread sexual harassment and abuse, which was repeatedly reported to senior Company
10 officials. Their failure to act imperiled the Company and put its gaming licenses, revenues, and
11 goodwill at risk.

12 102. The Director Defendants also breached their fiduciary duties by knowingly and
13 intentionally concealing Steve Wynn’s sexual misconduct from stockholders and gaming
14 authorities and affirmatively misrepresenting the Company’s corporate governance framework.
15 For example, the Company’s in-house counsel candidly admitted that it intentionally chose not to
16 disclose the \$7.5 million settlement for the 2005 assault to Massachusetts gaming regulators in the
17 licensing process for Wynn Resorts new casino in the greater Boston area. Nor did the Director
18 Defendants ever disclose the 2005 assault to stockholders. Yet the Nominating Committee and the
19 Board repeatedly allowed Steve Wynn to stand for re-election without advising stockholders of the
20 terrifying workplace environment created by Steve Wynn, because the Company viewed his
21 leadership as critical to its success.

22 103. Further, although the Director Defendants, aside from Defendant Johnson, knew of
23 Steve Wynn’s sexual harassment and abuse no later than March 2016, they falsely represented in
24 the Company’s 2017 Proxy statement that the Board and management were “committed to sound
25 and effective corporate governance” and that the “Company has established a comprehensive
26 corporate governance framework, with policies and programs designed not only to satisfy the
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1 extensive regulatory requirements applicable” to the Company’s business but also to build value
2 for stockholders and promote the vitality of the Company for employees.

3 104. Court filings by Elaine Wynn explain that despite the fact that Defendant Sinatra
4 knew of the allegations since 2009, Sinatra set a “tone at the top” that “discouraged any challenge
5 to Steve Wynn.” Indeed, Sinatra herself took no steps to investigate Steve Wynn or protect the
6 Company from Steve Wynn’s sexual abuse and harassment, and breached her fiduciary duties to
7 the Company and shareholders by knowingly and intentionally concealing the 2005 assault and
8 failing to act, as the Company’s chief legal officer, to address the known and credible allegations
9 of the 2005 assault.

10 105. Information concerning the Director Defendants’ inaction in response to Steve
11 Wynn’s known pattern of sexual abuse and harassment continues to evolve, with lawyers for
12 Elaine Wynn telling a Clark County, Nevada judge on February 13, 2018, that there was a “greater
13 concern” at Wynn Resorts “to cover up certain things and to make sure my client [Elaine Wynn]
14 didn’t pull the curtain back too far.” Reportedly, the *WSJ* is investigating possible complicity of
15 Wynn Resorts executives covering up for Steve Wynn. Defendant Maddox, Wynn Resorts’
16 President who replaced Steve Wynn as CEO and Defendant Sinatra knew of Steve Wynn’s
17 misconduct and the \$7.5 million settlement when Wynn Resorts applied for its Massachusetts
18 gaming license but did not disclose it to regulators. Each of them is subject to “suitability”
19 requirements under MGC regulations and according to reports the MGC is investigating their
20 suitability. The overall coverup by the Defendants has seriously endangered Wynn Resorts’
21 Massachusetts gaming license and therefore their significant investment there.

22 106. Further, by permitting Steve Wynn to retain his ownership stake in the Company
23 following his resignation, the Director Defendants continued to breach their fiduciary duties by
24 ignoring the Company’s Articles of Incorporation (“Articles”), which allowed the Board to
25 redeem the shares of any officer who threatens the “suitability” of the Company under state
26 gaming laws. Specifically, the Articles define an “Unsuitable Person” as one who, “in the sole
27 discretion of the board of directors of the Corporation, is deemed likely to jeopardize the
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1 Corporation's or any Affiliated Company's application for, receipt of approval for, right to the use
2 of, or entitlement to, any Gaming License." Article VII, Section 1(l). The Articles provide that an
3 Unsuitable Person's shares of the Company are "subject to redemption by the Corporation . . . to
4 the extent deemed necessary or advisable by the board of directors." Article VII, Section 2(a).
5 Despite multiple gaming authorities' investigations into Steve Wynn's misconduct and his
6 suitability, the Director Defendants permitted Steve Wynn to retain his ownership share in the
7 Company, until he voluntarily entered into stock purchase agreements to completely sell out his
8 position in the Company by March 26, 2018, for \$2.1 billion. Because Steve Wynn's sexual
9 harassment and abuse seriously "jeopardize[d]" the Company's gaming licenses, he was an
10 "Unsuitable Person" under the Articles and the Director Defendants should have immediately
11 acted to redeem his shares instead of allowing him to sell his shares for massive proceeds. Their
12 failure to do so was a breach of their duties to the Company and to shareholders.

13 107. The Wynn Board and its various committees are responsible for promoting,
14 protecting and preserving the Company's assets and business interests. Instead, during the period
15 when Steve Wynn's misconduct was concealed from stockholders, the Board, acting through its
16 Compensation Committee and its Audit Committee, gave Steve Wynn full run of the Company's
17 assets to use as his personal fiefdom, providing him with a luxurious onsite all-expenses paid
18 private abode overlooking the golf course at Wynn Las Vegas, unlimited private air travel,
19 unlimited services of a private driver, unlimited access to medical services, "the personal use of
20 [Wynn Resorts] employees, construction work and other personal services," and other free Wynn
21 Resorts "merchandise" of an undisclosed nature. Thus, Steve Wynn's annual salary and massive
22 bonuses had no limits. As detailed above, during fiscal years 2009-2016 alone, Wynn Resorts paid
23 Steve Wynn more than \$150.98 million in total compensation, on top of his more than \$217.3
24 million in stock sales proceeds. Despite repeated criticism from the financial media and corporate
25 governance experts about excessive compensation paid to Steve Wynn, the Board refused to scale
26 it back.

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1 **E. The Selling Defendants Breached Their Fiduciary Duties by Engaging in**
 2 **Improper Insider Trading While in Possession of Material Non-Public**
 3 **Information Concerning Steve Wynn's Pattern of Sexual Harassment and**
 4 **Abuse**

5 108. The Selling Defendants breached their fiduciary duty of loyalty by selling
 6 Company stock while in possession of material non-public information concerning Steve Wynn's
 7 sexual misconduct and "unsuitability" for gaming licenses. No later than March 28, 2016, and for
 8 certain Defendants, including Steve Wynn and Kimmarie Sinatra, as early as 2009, the Selling
 9 Defendants knew of credible allegations that Steve Wynn had engaged in the 2005 assault with a
 10 Company employee on Company property and had engaged in a "pattern" of reckless and risk-
 11 taking behavior, yet failed to undertake any investigation into Steve Wynn, and instead continued
 12 to certify Steve Wynn's suitability for gaming licenses and to publicly (and falsely) disclaim the
 13 truth of any allegations against Steve Wynn. Between 2009 and March 28, 2016, Steve Wynn and
 14 Kimmarie Sinatra collectively sold 3,231,735 shares of Wynn Resorts common stock at artificially
 15 inflated prices for total proceeds of \$245,193,819. Following March 28, 2016, the other Selling
 16 Defendants collectively sold an additional 58,876 shares of Wynn Resorts common stock at
 17 artificially inflated prices for total proceeds of \$6.36 million. Notably, none of these sales was

18 109. On November 9, 2016, Defendant Wayson sold 37,500 shares, or **40%** of his
 19 holdings in Wynn Resorts, for proceeds of \$3.3 million. At the time Defendant Wayson made this
 20 sale he knew of the Steve Wynn's settlement of the *Arrowsmith* litigation as well as the 2005
 21 assault and that Steve Wynn's pattern of misconduct put at risk the Company's gaming licenses,
 22 yet publicly (and falsely) disclaimed the truth of any allegations against Steve Wynn and
 23 continued to represent Steve Wynn's suitability to gaming regulators. Defendant Wayson's
 24 November 9, 2016, sale was dramatically out of line with his prior trading practices – indeed,
 25 Defendant Wayson had not traded a single share of Wynn Resorts common stock in the previous
 26 five years.
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1 110. On May 16 and 17, 2017, Defendant Hagenbuch disclaimed his beneficial
2 ownership of 1,150 shares of Wynn Resorts common stock worth approximately \$147,661.50,
3 constituting **100%** of his total holdings. At the time Defendant Hagenbuch disclaimed his shares,
4 he knew of the 2005 assault and that Steve Wynn’s pattern of misconduct put at risk the
5 Company’s gaming licenses, yet publicly (and falsely) disclaimed the truth of any allegations
6 against Steve Wynn and continued to represent Steve Wynn’s suitability to gaming regulators.
7 Defendant Hagenbuch’s dispositions were out of line with his prior trading practices – indeed,
8 prior to May 16 and May 17, 2017, Defendant Hagenbuch had never sold a single share of Wynn
9 Resorts common stock.

10 111. On May 16, 2017, Defendant Mulroy sold 2,226 shares, or **28%** of her holdings of
11 Wynn Resorts, reaping proceeds of approximately \$285,106.08. At the time Defendant Mulroy
12 made this sale, she knew of the 2005 assault and that Steve Wynn’s pattern of misconduct put at
13 risk the Company’s gaming licenses, yet publicly (and falsely) disclaimed the truth of any
14 allegations against Steve Wynn and continued to represent Steve Wynn’s suitability to gaming
15 regulators. Defendant Mulroy’s sales were dramatically out of line with her prior trading –
16 indeed, the May 16, 2017, sale was the *first* time Defendant Mulroy ever sold any shares of Wynn
17 Resorts common stock.

18 112. On July 31, 2017, Defendant Randt sold 3,000 shares of Wynn Resorts common
19 stock, or nearly **40%** of his total holdings, for \$387,000 in proceeds. At the time Defendant Randt
20 made this sale, he knew of the 2005 assault and that Steve Wynn’s pattern of misconduct put at
21 risk the Company’s gaming licenses, yet publicly (and falsely) disclaimed the truth of any
22 allegations against Steve Wynn and continued to represent Steve Wynn’s suitability to gaming
23 regulators. Defendant Randt’s sales were dramatically out of line with his prior trading – indeed,
24 the July 31, 2017 sale was the first time Defendant Randt ever sold any shares of Wynn Resorts
25 common stock.

26 113. From November 29, 2016, through November 9, 2017, Defendant Sinatra sold
27 107,228 shares of Wynn Resorts common stock, nearly, for **\$13,390,162** in proceeds. Significant
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1 portions of these sales—20,810 shares—occurred in November 2017, well after the #MeToo
2 movement began and likely after the *WSJ* began its investigation into allegations against Steve
3 Wynn. At the time Defendant Sinatra made her sales, she knew of the 2005 assault and that Steve
4 Wynn’s pattern of misconduct put at risk the Company’s gaming licenses, yet sat by idly while the
5 Board publicly and falsely disclaimed the truth of any allegations against Steve Wynn and
6 continued to represent Steve Wynn’s suitability to gaming regulators.

7 114. Defendant Shoemaker also sold significant shares in November 2017. On
8 November 8, 2017, Defendant Shoemaker sold 15,000,000 shares of Wynn Resorts common
9 stock, or **62.08%** of his total holdings, for \$2,276,100 in proceeds. At the time Defendant
10 Shoemaker made this sale, he knew of the 2005 assault and that Steve Wynn’s pattern of
11 misconduct put at risk the Company’s gaming licenses, yet publicly (and falsely) disclaimed the
12 truth of any allegations against Steve Wynn and continued to represent Steve Wynn’s suitability to
13 gaming regulators. Defendant Shoemaker’s sales were dramatically out of line with his prior
14 trading practices. Prior to November 8, 2017, Shoemaker had not sold a single share of Wynn
15 Resorts common stock for over two years.

16 115. Defendant Maddox also sold significant shares of Wynn Resorts common stock.
17 At the time Maddox made these sales, but in any event no later than March 28, 2016, Maddox
18 knew of the 2005 assault and that Steve Wynn’s pattern misconduct put at risk the Company’s
19 gaming licenses, yet publicly (and falsely) disclaimed the truth of any allegations against Steve
20 Wynn and continued to represent Steve Wynn’s suitability to gaming regulators

21 **F. The Board Undertakes an Inadequate Investigation into Steve Wynn**

22 116. Following the bombshell *WSJ* article, the Board announced an internal
23 investigation by a Special Committee on February 2, 2018, headed by the Company’s sole female
24 director, Defendant Mulroy. Yet, the Special Committee’s investigation falls far short of the
25 independent and thorough investigation called for given the severity of the allegations against
26 Steve Wynn and the concomitant risk to the Company. To begin with, the Special Committee
27 formed by the Company includes three Director Defendants, Mulroy, Hagenbuch, and Johnson, all
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1 of whom are beholden to Steve Wynn, as described in further detail below, and are thus unable to
2 exercise independent and impartial judgment.

3 117. Significantly, (and reflecting the Director Defendants’ ongoing loyalty to Steve
4 Wynn,) although the Board initially retained the independent law firm O’Melveny to assist with
5 the investigation, following Steve Wynn’s resignation, the Board announced suddenly, and
6 without explanation, that it was severing ties with the firm on February 9, 2018 – just one week
7 after O’Melveny had been retained. Professor John C. Coffee Jr., an expert on corporate
8 governance, considered the Board’s decision to cut ties with O’Melveny “a strong signal that not
9 much has changed in the culture of the [B]oard.”

10 118. Following a weekend of heavy criticism, the Board announced that Gibson Dunn, a
11 firm with deep ties to Wynn Resorts, would “assist” the Special Committee with its investigation.
12 The Board’s press release announcing its retention of Gibson Dunn dropped any pretense that the
13 firm would assist with an independent investigation, stating only that it would “assist . . . [with] an
14 expanded and comprehensive review of Wynn Resorts’ internal policies and procedures”
15 Nor could Gibson Dunn assist the Board with a truly independent investigation. Sinatra
16 previously worked as a partner at Gibson Dunn and the firm represents Wynn Resorts in current
17 litigation against ousted Board members Kazuo Okada and Elaine Wynn. The firm has also
18 represented Wynn Resorts in SEC and DOJ matters, as well as in business deals. The conflict
19 presented by Gibson’s Dunn’s retention is palpable – the firm is tasked with investigating the
20 Company and the Board while defending the Company in other Wynn Resorts litigation where
21 many of the same directors are accused of breaching their fiduciary duties in connection with their
22 ousting of Okada.

23 119. Notably, although the Board belatedly initiated an investigation into Steve Wynn’s
24 sexual abuse and misconduct, it allowed him to remain as CEO and Chairman of the Board until
25 Steve Wynn voluntarily resigned. The Board chose not to redeem Steve Wynn’s common stock,
26 thereby allowing him to enter into agreements to sell all of shares by March 26, 2018, for \$2.1
27 billion– in breach of their duties under the Company’s Articles – despite the significant risks to the
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1 Company's gaming licenses due to Steve Wynn's unsuitability under applicable gaming
2 regulations.

3 **G. Steve Wynn Resigns Under Mounting Public Pressure**

4 120. Immediately following the *WSJ* article, Steve Wynn resigned from his position as
5 Finance Chairman to the Republican National Committee, but remained the Company's Board
6 Chairman and CEO. On January 31, 2018, the University of Pennsylvania announced that it was
7 revoking the honorary degree it had bestowed on Steve Wynn, something the University has not
8 done in over a century. The University explained: "*The nature, severity, and extent of these*
9 *allegations [against Steve Wynn], and the patterns of abusive behavior they describe, involve acts*
10 *and conduct that are inimical to the core values of our University.*" (emphasis added). The
11 University also announced it will remove "Wynn Commons" from a centrally located outdoor
12 plaza on the campus and will remove Wynn's name from a scholarship fund he created.

13 121. Then, on February 6, 2018, facing extreme public pressure and citing an "avalanche
14 of negative publicity" Wynn finally resigned as Chairman and CEO of Wynn Resorts.

15 122. The Board issued a tepid statement announcing Steve Wynn's resignation. The
16 Board explained that it accepted Steve Wynn's resignation with a "collective heavy heart" calling
17 Steve Wynn "our founder, CEO, and friend" as well as "industry giant, philanthropist and beloved
18 leader and visionary." After initially agreeing that Steve Wynn could remain in his villa on Wynn
19 Resorts' property indefinitely, it took until March 1, 2018, for the Board to ask him to leave his
20 property by June. The Board's treatment, in light of credible accusations of a longstanding pattern
21 of sexual abuse and harassment, stands in stark contrast with the Board's treatment of Mr. Okada,
22 described further herein, whom the Board removed for purported misconduct and whose shares the
23 Company redeemed at a significant discount pursuant to the Company's Articles of Incorporation.

24 **H. Steve Wynn's Misconduct and Defendants' Breaches Have Severely Damaged**
25 **the Company**

26 123. Steve Wynn's misconduct and Defendants' breaches of their fiduciary duties have
27 severely damaged the Company's reputation and goodwill, negatively impacted the Company's
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1 competitive position, negatively impacted the Company’s financial position, exposed the
2 Company to potentially massive liability arising from lawsuits and investigations, endangered its
3 gaming licenses, and has imperiled the Company’s future projects.

4 124. The Company and Director Defendants have long admitted that the “loss of
5 Stephen Wynn could significantly harm our business” and that the Company’s “ability to maintain
6 our competitive position is dependent to a large degree on the efforts, skills and reputation of
7 Stephen A. Wynn.” Analysts and investors have noted a “Wynn premium” that the Company
8 enjoyed due to its association with Steve Wynn. Now that Steve Wynn has resigned, the
9 Company is scrambling to retain its competitive position and repair its reputation and has faced an
10 onslaught of negative publicity following the *WSJ Article*. Indeed, one marketing firm noted that
11 the “Wynn brand is going to take a hit, there’s no question about it,” while another observer
12 remarked that “Steven Wynn is arguably the father of modern-day Las Vegas. . . . The fact that his
13 name is, in and of itself, the brand makes it far more complicated, in a similar way that Harvey
14 Weinstein’s personal brand was also the name of his company.” Other analysts have noted that
15 “Steve Wynn’s value to the company is unarguably profound as its chief visionary and diplomat.
16 As such, we do not believe the company can grow at the same trajectory nor can it maintain its
17 cutting-edge position.”

18 125. The public revelation of Steve Wynn’s misconduct has had significant financial
19 ramifications for Wynn Resorts. The *WSJ Article* caused Wynn Resorts’ share price to plummet,
20 closing down 10% the day the article was published and wiping out \$2 billion in market
21 capitalization. On January 29, 2018 UBS warned investors that the “risk to the outlook has
22 increased as well, with recent allegations about the CEO prompting an investigation by the
23 company’s board as well as reviews by the gaming regulatory bodies in Nevada and
24 Massachusetts.” On January 30, 2018 S&P Global Ratings swiftly revised its outlook on Wynn
25 Resorts from stable to negative, recognizing the threat Steve Wynn’s misconduct poses to the
26 Company’s gambling licenses. The Company’s stock is continuing to trade substantially lower,
27 amid continuing controversy with the Board’s inadequate investigation. Moreover, as a result of
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1 Steve Wynn’s misconduct, the Company is now subject to massive potential liability arising from
2 stockholder lawsuits, securities fraud class actions, and employment lawsuits recently filed.

3 126. Moreover, the Nevada Gaming Control Board and the Massachusetts Gaming
4 Commission (“MGC”) have both opened investigations into Wynn Resorts. Fallout from these
5 investigations could be severe. The Nevada Gaming Control Board could levy six- or seven-
6 figure fines and/or revoke Wynn Resorts’ license. Further, as described in detail above,
7 Massachusetts law requires casino regulators to conduct themselves ethically and gives the MGC
8 broad authority to determine which companies, and which company directors or officers, are
9 suitable to hold a casino license. The MGC is now conducting a suitability review of individuals
10 in Wynn Resorts including Steve Wynn and Defendants Maddox and Sinatra, as well as all of the
11 Director Defendants. The MGC has stated that it “is now aware of and is taking very seriously the
12 troubling allegations detailed in the *WSJ Article*. The suitability and integrity of our gaming
13 licensees is of the utmost importance, and ensuring that suitability is an active and ongoing
14 process. Consequently, the MGC’s Investigations and Enforcement Bureau (“IEB”) will conduct
15 a regulatory review of this matter to determine the appropriate next steps.” An adverse finding by
16 the MGC could put an end to Wynn Resorts’ planned \$2.4 billion casino currently under
17 construction just outside of Boston. Central to the MGC’s investigation is the \$7.5 million
18 settlement paid by Steve Wynn to the victim of an alleged sexual assault. The head of the MGC’s
19 IEB explained: “The circumstances around this \$7.5 million settlement and the decision not to
20 disclose it to investigators remain a critical element of this review.” Gaming Commissioner Lloyd
21 Macdonald stated: “But we must hold [Steve Wynn] accountable . . . Fortunately, at this time the
22 most important thing is the facts, and our commitment to get to the bottom of them must be
23 unambiguous.” The commission has even asked for information regarding Steve Wynn’s
24 misconduct dating back to the 1990s. Additionally, the China arm of Steve Wynn’s casinos,
25 Wynn Macau Ltd., also faces an investigation by Macau regulators because of Steve Wynn’s
26 misconduct.

1 127. The Company also faces additional allegations of sexual harassment and abuse by
2 Steve Wynn. As noted above, the Nevada Gaming Control Board has been inundated with
3 complaints and tips regarding Steve Wynn’s sexual abuse and harassment. The deluge of
4 information was so intense that the Nevada Gaming Control Board implemented a new online
5 system to handle such reports. These additional allegations of misconduct could subject the Board
6 and Steve Wynn to further liability and further damage the Company’s already tarnished
7 reputation.

8 **VI. DERIVATIVE ALLEGATIONS**

9 128. Plaintiffs bring this action derivatively in the right and for the benefit of Wynn
10 Resorts to redress injuries suffered, and to be suffered, by Wynn Resorts as a direct result of
11 breach of fiduciary duties by Defendants. Wynn Resorts is named as a Nominal Defendant solely
12 in a derivative capacity.

13 129. Plaintiffs will adequately and fairly represent the interests of Wynn Resorts in
14 enforcing and prosecuting its rights.

15 130. Plaintiffs were each stockholders of Wynn Resorts at the time of the wrongdoing
16 complained of, have continuously been stockholders since that time, and are current stockholders
17 of Wynn Resorts.

18 131. The Board of Wynn Resorts currently consists of Wayson, Hagenbuch, Johnson,
19 Miller, Mulroy, Randt, Shoemaker, and Virtue. Plaintiffs have not made a demand on the Board
20 to pursue this Action because such demand would be futile. Each of the Director Defendants is
21 liable for violating his or her fiduciary duties by failing to act in the face of Steve Wynn’s known
22 sexual abuse and harassment, acting to conceal Steve Wynn’s pattern of sexual harassment and
23 abuse, and failing to implement internal controls to ensure that the Board would be informed
24 promptly of any sexual misconduct by Steve Wynn or others. Five of the eight Director
25 Defendants, a majority of the Board, have illegally sold Wynn Resorts common stock while in
26 possession of material non-public information. Thus, Director Defendants face a substantial
27 likelihood of liability in a manner not shared by the Company and its stockholders. The Director

1 Defendants are also beholden to Steve Wynn for their highly lucrative directorships, and have
2 significant personal and financial ties to him, thereby preventing them from independently and
3 objectively considering a demand in this Action. In addition, the Wynn Resorts Board is one of
4 the least scrutinizing boards of a major public company and is routinely criticized for its poor
5 governance.

6 **A. Steve Wynn has Wielded Extraordinary Power over the Most Compliant**
7 **Board of Any Major Public Company**

8 132. According to former Board member, Elaine Wynn, the Wynn Resorts Board is “the
9 most compliant board of any major public company” and has only voted against Steve Wynn’s
10 position on three occasions since the Company went public in 2002. The Economist has noted
11 that, “[a]s with Harvey Weinstein and The Weinstein Company, Steve Wynn’s control over Wynn
12 Resorts is viewed as near-absolute.”

13 133. The Board remains compliant for good reason. First, the Amended and Restated
14 Stockholders Agreement, dated January 6, 2010 (“Stockholders Agreement”), provided Steve
15 Wynn with substantial rights to nominate a majority of the Board and virtually guarantee their
16 election. Due to the previous takeover of Mirage Resorts, Steve Wynn structured the Stockholders
17 Agreement to create a Board with staggered terms, preventing the possibility that a single proxy
18 vote could replace the entire Board. Pursuant to the Stockholders Agreement, Steve Wynn packed
19 the Wynn Resorts Board with directors who were personally loyal to him. Steve Wynn’s
20 unilateral ability to nominate and re-nominate Board members and substantially influence the vote
21 gives him significant power over each nominee. Further, Directors nominated by Steve Wynn
22 receive substantial monetary incentives – amounting to millions of dollars, not just from high
23 annual fees, but from enormous stock options, sales of common stock, and other compensation.
24 Underscoring Steve Wynn’s control over the Board, every director who has run for election or re-
25 election has been unopposed, with the notable exception of Elaine Wynn in 2015.

26 134. Second, Steve Wynn retaliates against any board member who crosses him or
27 threatens his dominance of the Company. In January 2010, Steve Wynn and his wife of 46 years,
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1 Elaine Wynn, divorced. Pursuant to the divorce agreement, Elaine Wynn, who was a co-founder
2 of the Company and was, at the time, a Board member, received approximately 9% of the
3 Company's stock from Steve Wynn. The divorce agreement placed certain restrictions on both
4 Wynns from selling any shares of the Company without the other's consent and required them to
5 vote in concert. As a result of Elaine Wynn's receipt of approximately 9% of Company stock
6 from Steve Wynn, Steve Wynn's partner, Kazuo Okada, became the largest stockholder, owning
7 approximately 20% of Company stock.

8 135. In litigation commenced in 2012, Mr. Okada claims that Steve Wynn crafted a plan
9 to oust Okada from the Board and to force the Company to redeem Okada's shares pursuant to the
10 unsuitability provisions of the Company's Articles. The Company, purportedly at Steve Wynn's
11 behest, commenced a sham investigation into Okada's alleged bribing of Philippine government
12 authorities as a pretext to oust Okada. Allegedly, Steve Wynn commandeered his compliant board
13 into getting rid of Okada to protect Wynn's dominance over the Company regardless of the
14 outcome of the sham investigation. All of Wynn Resorts' Board members in place at the time
15 voted in favor of removing Okada from the Board and redeeming his shares. The resulting
16 lawsuit, styled *Wynn Resorts, Ltd. v. Okada et al.*, No. A-12-656710-B (Clark County, Nevada)
17 has recently settled with Wynn Resorts paying over \$2.6 billion to Okada's company as
18 compensation for the redemption of Okada's stock in 2012. To help pay for the settlement, Wynn
19 Resorts had to obtain a loan of \$800 million. Notably, on February 5, 2018, relying on a sealed
20 document allegedly showing that several Board members intended to oust Okada well before the
21 conclusion of the Board's investigation, the Court ruled that Okada could bring claims against
22 several Board members who voted to oust him.

23 136. Ironically, on September 20, 2012, in an affidavit filed by Steve Wynn in the
24 Okada litigation supporting the Board's decision to redeem Mr. Okada's Wynn Resorts' stock,
25 Steve Wynn claimed: "My concern has been to uphold Wynn Resorts' high standards, protect its
26 existing licenses and future opportunities, and do what is best for the company and its
27 stockholders." Stephen A. Wynn Affidavit at ¶ 5. Mr. Wynn's Affidavit further explains that,
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1 “Nevada’s gaming regulations as well as Wynn Resorts’ own compliance program prohibit any
2 licensee from continuing to associate with someone who is unsuitable to be a licensee.” *Id.* at ¶
3 10.

4 137. As Ken Brown argued in the *WSJ*, regarding the March 8, 2018 settlement of the
5 Okada litigation, “shareholders should be furious.” The article concluded: “The real losers are
6 Wynn’s shareholders. This is another reason the Wynn Resorts board, which let Mr. Wynn start
7 the fight in the first place, should take the blame and put in place real corporate governance. Or
8 they should quit and let someone else do it.”

9 138. As part of the power struggle stemming from the Wynns’ divorce, in 2012, Elaine
10 Wynn filed a counterclaim against Steve Wynn in the *Okada* action, seeking to free herself from
11 restrictions on the control of her estimated \$1.9 billion of Wynn Resorts stock. She also
12 challenged Steve Wynn by asking governance-related questions, including the appropriateness of
13 the \$7.5 million settlement payment to the alleged sexual assault victim that Steve Wynn allegedly
14 assaulted on Company property. In response, in 2015, Steve Wynn persuaded the Board in place
15 at the time not to re-nominate Elaine Wynn to the Board, instead decreasing the size of the Board
16 by one and removing her position. The entire Board acquiesced, despite the fact that Elaine Wynn
17 had co-founded Wynn Resorts and was its third-largest shareholder. Elaine Wynn launched a
18 proxy fight in an effort to have Company stockholders vote her into an open Board seat, but lost
19 that fight on April 24, 2015.

20 139. On March 28, 2016, Elaine Wynn amended her counterclaim in the *Okada* action to
21 allege, among other things, that Steve Wynn “engaged in alleged misconduct on Company
22 property against at least one Company employee serious enough to warrant a multimillion dollar
23 payment[,]” that he “had used Company resources to conceal the allegations[,]” that he had
24 engaged in a “pattern of reckless risk-taking” behavior that “left the directors and the Company
25 vulnerable to potential liability and regulatory exposure,” and that he exercises complete control
26 over the Board and retaliates against anyone who crosses him. Remarkably, confirming their
27 unwavering loyalty to Steve Wynn, the Board almost immediately issued a press release on March
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1 28, 2016, *the same day Elaine Wynn filed her counterclaim*, dismissing the allegations out of
2 hand and stating, in relevant part, that “Elaine Wynn’s latest claims are consistent with the
3 falsehoods and distortions she previously made against the Company and its CEO Steve Wynn[.]”
4 and that “Ms. Wynn’s latest allegations regarding our Board, its composition and its independence
5 are simply not true and are rehashed from her previous, unfounded statements made during her
6 proxy campaign.” The Board further stated “[a]s a leader in a highly regulated industry, Wynn
7 Resorts prides itself on transparency and full disclosure to regulators and shareholders.
8 *Allegations made by Ms. Wynn that the company would hide any relevant activities from our
9 regulators are patently false.*” (Emphasis added.)

10 140. An attorney representing a party to the *Okada* suit stated that “[t]he Wynn board
11 will pull out all the stops to go after, to attack anyone opposed to Steve Wynn, like Mr. Okada and
12 Ms. Wynn. But when it comes to Steve Wynn and his friends, the board does nothing.”

13 141. Due to Steve Wynn’s power, the Board consistently chooses not to investigate or
14 even inquire into any subjects that could limit Steve Wynn’s lavish lifestyle or spending of
15 corporate assets, despite their fiduciary obligation to do so. For example, the Board has never
16 seriously assessed Steve Wynn’s spending of corporate assets on himself. As Elaine Wynn
17 alleged in court documents, “on no occasion did the Audit Committee of the Board ever
18 investigate or even conduct an in-depth review of the Company’s internal controls governing such
19 large expenditures” – jets for Steve Wynn, his incredibly lavish lifestyle – *and “there is evidence
20 of regular shredding of audit committee materials and notes.”* (emphasis added). In 2013, the
21 Company allowed Steve Wynn to purchase any of the Company’s aircraft in exchange for giving
22 up an option to buy 2 acres of land on Wynn Resorts’ golf course. The Company leases Steve
23 Wynn’s personal art for *\$1 a year*, paid to Steve and Elaine Wynn, while picking up the cost of
24 insurance, security, and taxes. In 2016, Steve Wynn received over \$28 million in compensation
25 from Wynn Resorts and, over the past five years, his compensation totaled over \$111 million.
26 None of this has ever been questioned by the Board.

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1 142. All of this contributes to Wynn Resorts being ranked as one of the worst U.S.
2 public companies in terms of corporate governance. As the *WSJ* has observed, the Wynn Resorts
3 Board is “widely viewed as lacking independence,” which is “one of the many reasons that Wynn
4 Resorts ranks last in corporate governance among 108 companies in the gambling and casino
5 business, according to Sustainalytics.” Last year, Institutional Shareholder Services, Inc., (“ISS”)
6 a proxy advisory firm, gave Wynn Resorts its worst ranking for governance risk. In 2015, ISS
7 recommended that stockholders withhold support from the two directors nominated for re-
8 election, citing an “overall corporate governance profile that ranks among the worst, not the best,
9 of U.S. companies” and stated that the Company suffered from “manifest failures of governance,”
10 criticized Wynn Resorts’ executive compensation structure, questioned Steve Wynn’s excessive
11 aircraft use, and questioned the atypical secrecy of the Board. ISS also highlighted “the
12 inordinately weak succession planning process that has both left Steve Wynn’s grip on the
13 company so precarious, yet put forth no clear notion of how the 73-year-old corporate namesake
14 would someday be replaced.”

15 143. Glass Lewis & Co., the second-biggest proxy advisory firm, has also given the
16 Company poor marks on governance, grading its pay-for-performance practices an “F” the past
17 two years. Similarly, investors Vanguard Group and BlackRock Inc. both voted against the
18 Company’s pay package for top executives in 2017, and in 2017 Vanguard voted against the re-
19 election of Mr. Miller, who is chairman of the Board’s Corporate Governance Committee.

20 144. The Board’s continued compliance and fealty to Steve Wynn is demonstrated by
21 the Board’s failure to remove or even suspend Steve Wynn when the *WSJ Article* broke accusing
22 him of paying \$7.5 million to settle an alleged sexual assault and recounting numerous other
23 instances of sexual abuse and harassment at Wynn Resorts. Instead, the Board allowed Steve
24 Wynn to remain at the helm of the Company and only with a “collective heavy heart” accepted the
25 resignation of their “beloved leader” and “friend.” The Company executed a severance agreement
26 with Steve Wynn on February 15, 2018 where he was allowed to retain his Wynn Resorts stock
27 and all prior compensation.

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1 145. The terms of Steve Wynn’s severance further demonstrate the Board’s continued
2 breaches of fiduciary duties and their acquiescence to Steve Wynn’s interests over the Company’s,
3 as the Director Defendants allowed him to resign and retain his Wynn Resorts’ common stock.
4 Pursuant to two stock purchase agreements entered into on March 22, 2018, Steve Wynn is
5 expected to sell the balance of his shares on or after the closing of the transactions on March 26,
6 2018, for a total of \$2.1 billion. The sales diluted shareholders and left them and the Company on
7 the hook for Steve Wynn’s liability.

8 146. The Board failed to investigate whether termination for cause was appropriate,
9 including a possible redemption of Steve Wynn’s shares (potentially at a discount) and revocation
10 of his outstanding options, both of which were permitted under the Company’s Articles of
11 Incorporation. To add insult to injury, on March 7, 2018 Defendant Maddox accelerated the
12 announcement of a Board approved increase in the annual dividend of 50% or \$1.00 more per
13 share, effectively giving Steve Wynn a multi-million-dollar bonus just days after executing his
14 severance agreement. Had the Board complied with the Articles of Incorporation and sought to
15 redeem Steve Wynn’s shares and revoke his options, the Company could have saved millions of
16 dollars. The terms of the severance agreement approved by the Board has also cost the Company
17 \$25 million in connection with a consent solicitation to certain debtholders for an agreement to
18 modify the “change in control” provision in the event Steve Wynn sells is stock.

19 147. Further, Wynn Resorts has been and will continue to be exposed to significant
20 losses due to Steve Wynn’s misconduct, yet the Board has not filed any lawsuits against
21 Defendants or those responsible for that wrongful conduct to attempt to recover any part of the
22 damages suffered by Wynn Resorts.

23 **VII. DEMAND FUTILITY ALLEGATIONS**

24 **A. The Board Cannot Impartially Consider a Demand Because the Director** 25 **Defendants are Subject to Liability for Failing to Act in the Face of Steve** 26 **Wynn’s Pervasive Pattern of Sexual Harassment and Abuse**

27 148. Demand is futile as to the entire Board because, as detailed herein, all Director
28 Defendants violated their fiduciary duties by knowingly and intentionally failing to act in light of

1 Steve Wynn’s known sexual misconduct, thereby abdicating their duty of oversight and subjecting
2 themselves to liability. The Board’s conduct is so egregious that a substantial likelihood of
3 liability exists. As detailed herein, the entire Board knew of credible allegations of misconduct
4 against Steve Wynn by, at the very latest, March 28, 2016, when Elaine Wynn amended her
5 counterclaim in the *Okada* action to include allegations regarding the 2005 assault and Steve
6 Wynn’s “pattern of reckless risk-taking” behavior. The Director Defendants failed to take any
7 action to investigate the allegations, stop Steve Wynn from continuing to engage in sexual
8 misconduct, or to implement any meaningful changes to the Company’s internal controls
9 regarding the Company’s sexual harassment and abuse reporting practices and policies. Indeed, as
10 detailed herein, there is no indication the Board would have ever taken action in response to Steve
11 Wynn’s pervasive sexual harassment and abuse against Wynn Resorts employees had the *WSJ*
12 *Article* not been published. The Board’s intentional and knowing decision to protect Steve Wynn
13 and therefore enable his pervasive harassment exposes all Director Defendants to liability for
14 breach of fiduciary duties, rendering the Board incapable of impartially considering a demand.
15 Thus, demand is futile and therefore excused as to all Director Defendants.

16 149. Demand is also futile because all the Director Defendants have been named in
17 multiple lawsuits brought by Wynn Resorts’ employees related to Steve Wynn’s sexual
18 misconduct and therefore cannot impartially consider whether to bring this Action. Each of the
19 Director Defendants has been implicated in those cases and is potentially liable for allowing an
20 unsafe and abusive workplace environment at Wynn Resorts and permitting Steve Wynn to
21 engage in sexual misconduct for years. The members of the Board of Directors have already been
22 sued by multiple plaintiffs alleging negligent hiring, breach of contract, tortious breach of implied
23 covenant of good faith and fair dealing, aiding and abetting Steve Wynn’s assault and battery,
24 concert of action, and civil conspiracy. There is a substantial likelihood that the Director
25 Defendants will be liable for at least some of these allegations, especially considering the repeated
26 nature of the allegations and the Director Defendants’ knowing failure to act based on the
27 information provided to them about Steve Wynn’s misconduct. In addition, the Director
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1 Defendants' misconduct has led to multiple securities fraud class actions on behalf of purchasers
2 of Wynn Resorts' common stock which further impairs their ability to be disinterested in
3 rendering a decision on any demand.

4 150. Demand is futile and therefore excused as to the entire Board for the additional
5 reason that the Director Defendants breached their fiduciary duties, and are therefore liable, by
6 knowingly and intentionally violating or aiding in the violation of Nevada, Massachusetts, and
7 Macau gaming laws and regulations, exposing the Company to substantial risks and subjecting the
8 Company to additional liability to regulatory authorities. Moreover, the Director Defendants'
9 failure to act in light of credible accusations of a longstanding pattern of sexual abuse and
10 harassment by Steve Wynn has exposed the Director Defendants themselves to suitability reviews
11 under Nevada, Massachusetts, and Macau law, exposing the Company to substantial risk and thus
12 rendering the Director Defendants further unable to impartially consider a demand. Further, the
13 Board is incapable of impartially considering a demand because a majority of its members failed
14 to disclose the 2005 assault and Steve Wynn's other misconduct to the MGC, potentially rendering
15 them unsuitable under Massachusetts gaming regulations. Demand is futile and therefore excused
16 as to the entire Board for the additional reason that the Director Defendants breached their
17 fiduciary duties and face liability for knowingly and intentionally violating the Company's Code
18 and signing false acknowledgements on an annual basis.

19 151. Demand is futile and therefore excused as to the Audit Committee Defendants for
20 the additional reason that the Audit Committee Defendants breached their fiduciary duties by
21 knowingly and intentionally violating the Company's Audit Committee Charter, subjecting the
22 Audit Committee Defendants to additional liability.

23 **B. Demand is Excused Because a Majority of the Board is Liable for Insider**
24 **Trading while in Possession of Material Non-Public Information about Steve**
25 **Wynn's Pattern of Sexual Harassment and Abuse**

26 152. Demand is excused for the separate reason that a majority of the Board (five of
27 eight members) face a substantial likelihood of liability for breaching their fiduciary duty of
28 loyalty and engaging in significant improper insider selling. Defendants Hagenbuch, Mulroy,

1 Randt, Shoemaker, and Wayson, who together constitute a majority of the eight-member board,
2 collectively sold over 58,876 shares of Wynn Resorts common stock for proceeds of over \$6.36
3 million. These stock sales were made at a time when these Defendants were in possession of
4 material non-public knowledge concerning Steve Wynn's pattern of sexual abuse and harassment
5 and his suitability for gaming licenses. By disclaiming the truth of any allegations about Steve
6 Wynn's misconduct and continuing to represent his suitability to gaming regulators, these
7 directors, in violation of their fiduciary duties, were able to capitalize on Wynn Resorts'
8 artificially inflated stock price by selling massive amounts of Wynn Resorts common stock on the
9 open market. Given Hagenbuch, Mulroy, Randt, Shoemaker, and Wayson's participation in
10 improper insider selling and their exposure to potential individual financial liability for trading on
11 proprietary information of Wynn Resorts, they are not disinterested and cannot exercise
12 independent judgment on the issue of whether Wynn Resorts should prosecute this Action.

13 **C. Demand is Excused Because the Director Defendants Are Not Disinterested**

14 153. In addition to the specific facts pled above (Paras. 132-151), the Director
15 Defendants cannot independently consider a demand for the additional reasons set forth below.

16 **1. Defendant Randt**

17 154. The Company's 2017 Proxy Statement admits that Defendant Randt is not an
18 independent director because he does not meet the independence criteria of the NASDAQ listing
19 standards. Director independence under NASDAQ and under Nevada demand futility law is
20 virtually identical. Therefore, the Company has effectively conceded that demand is futile as to
21 Defendant Randt. In 2016, Wynn Resorts paid Randt \$327,302 in total compensation. As of
22 March 2017, Defendant Randt held 12,559 shares of Wynn Resorts stock and options, valued at
23 over \$2 million based on Wynn Resorts' current market price.

24 155. Defendant Randt is also not disinterested because (as detailed above) he engaged in
25 improper insider trading; he is conflicted due to his potential liability in numerous sexual
26 harassment suits; he ignored years of Steve Wynn's sexual misconduct; failed to properly oversee
27 the Company's internal controls and risks regarding sexual harassment; and helped to conceal
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1 Steve Wynn’s pattern of sexual harassment and abuse until it was ultimately disclosed in the *WSJ*
2 *Article*.

3 **2. Defendant Wayson**

4 156. Defendant Wayson is not disinterested because (as detailed above) he engaged in
5 improper insider trading; he is conflicted due to his potential liability in numerous sexual
6 harassment suits; he ignored years of Steve Wynn’s sexual misconduct; failed to properly oversee
7 the Company’s internal controls and risks regarding sexual harassment; and helped to conceal
8 Steve Wynn’s pattern of sexual harassment and abuse until it was ultimately disclosed in the *WSJ*
9 *Article*.

10 157. Moreover, Steve Wynn’s relationship with Defendant Wayson is so close they are
11 practically family. Defendant Wayson has publicly described Steve Wynn as a “friend” and a
12 “beloved leader and visionary.”

13 158. Defendant Wayson and Steve Wynn have known each other for nearly 60 years,
14 and the Wynns and the Waysons have longstanding family connections dating back to the 1950s,
15 when Steve Wynn and Defendant Wayson’s fathers operated a bingo hall, Wayson’s Bingo,
16 together in Maryland. Indeed, in the 1960s, Steve Wynn got his start as a gambling operator at
17 Wayson’s Bingo. Although Steve Wynn moved to Las Vegas in 1967, he held Wayson’s Bingo
18 and leased the hall from the Waysons until 1983, when the Wayson family bought it back.

19 159. Further, Steve Wynn and Defendant Wayson have worked together at Wynn-
20 controlled entities since 1984, when Wayson served as President and CEO of Steve Wynn’s
21 Golden Nugget in Atlantic City until 1987. From 1987 to 2000, Defendant Wayson served as a
22 director of Steve Wynn’s Mirage Resorts. During his time at Mirage Resorts, Wayson was aware
23 of Steve Wynn’s pattern of sexual misconduct due to the *Arrowsmith* litigation, discussed above,
24 yet took no action to stop Steve Wynn from abusing and harassing employees.

25 160. Steve Wynn also has deep connections to Defendant Wayson’s late brother and
26 sister. Defendant Wayson’s brother, Edward Wayson, was Steve Wynn’s legal advisor for many
27 years and Wynn Resorts was a lobbying client of Edward’s. Reports described Edward and Steve
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1 Wynn as “close friends.” Further, Defendant Wayson’s sister, Sarah Wayson, previously worked
2 as a spokeswoman for Wynn Resorts.

3 161. Since joining the Company’s Board in 2003, Wayson has repeatedly done Steve
4 Wynn’s bidding at substantial personal profit. During the time he served on the Board, Wayson
5 has received millions of dollars in fees and stock awards, and, as of March 2017, not including
6 stock he has sold during his tenure on the Board, he owned 123,637 Company shares and options
7 valued at over \$22.2 million based on Wynn Resorts’ current market price. He has never voted
8 against Steve Wynn on any issue and was repeatedly nominated for re-election by Steve Wynn
9 without any opposition.

10 **3. Defendant Mulroy**

11 162. Defendant Mulroy is not disinterested because (as detailed above) she engaged in
12 improper insider trading; she is conflicted due to her potential liability in numerous sexual
13 harassment suits; she ignored years of Steve Wynn’s sexual misconduct; failed to properly oversee
14 the Company’s internal controls and risks regarding sexual harassment; and helped to conceal
15 Steve Wynn’s pattern of sexual harassment and abuse until it was ultimately disclosed in the *WSJ*
16 *Article*.

17 163. Defendant Mulroy and Steve Wynn have known each other for nearly 30 years.
18 Defendant Mulroy, the former General Manager of Las Vegas Valley Water District and Southern
19 Nevada Water Authority, has been referred to as Las Vegas’ “water czar” and “water empress”
20 and has been credited with transforming Las Vegas’ water usage. In 1991, Defendant Mulroy
21 declared a moratorium on new water permits in Las Vegas. As a result, Steve Wynn “summoned
22 her into his Las Vegas office and asked, in Mulroy’s words, what exactly she was up to.”
23 Defendant Mulroy explained, “he wanted to know what the hell was going on.” Soon after that
24 meeting, Defendant Mulroy lifted the moratorium and never issued another one. Wynn went on to
25 develop The Mirage, Treasure Island, and Bellagio resorts (all of which he later sold), as well as
26 Wynn Las Vegas and Encore. Reports also indicate that Steve Wynn gave Defendant Mulroy
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1 \$100,000 for water conservation projects and told her to “go up and down the strip and have them
2 [other casinos] match me.”

3 164. Prior to joining Wynn Resort’s Board, Defendant Mulroy requested an ethics
4 opinion from the Nevada Commission on Ethics (the “Ethics Commission”) because she was a
5 member of the Nevada Gaming Commission (the “Gaming Commission”) and state law requires a
6 one year “cooling-off” period before a member of the Gaming Commission can accept
7 employment with a licensed gaming company. The 2015 ethics opinion concluded that Defendant
8 Mulroy could serve on the Board without satisfying the one-year cooling-off period because she
9 had not been privy to proprietary, confidential, or sensitive information about Wynn Resorts
10 during her tenure on the Gaming Commission. The ethics opinion drew the ire of one state
11 senator, who said the Ethics Commission “abandoned its duty by voting to allow Mulroy to avoid
12 the one-year-waiting period.” Further, just two months before being elected to the Board,
13 Defendant Mulroy, in her capacity on the Gaming Commission, voted favorably on a matter
14 involving Wynn Resorts. Specifically, Defendant Mulroy voted with four other Gaming
15 Commission members to approve a technical language change in Wynn Resorts’ orders of
16 registration which cover the Company’s Las Vegas properties and the planned hotel in
17 Massachusetts.

18 165. According to the ethics opinion, Steve Wynn contacted Defendant Mulroy directly
19 on August 12, 2015, to determine if she would consider joining the Board. Since joining the
20 Board, Defendant Mulroy has repeatedly done Steve Wynn’s bidding at substantial personal
21 profit. During the relatively short time she has served on the Board, she has received millions of
22 dollars in fees and stock awards, and, as of March 2017, not including stock she has sold during
23 her tenure on the Board, she owned 12,559 Company shares and options valued at over \$2 million
24 based on Wynn Resorts’ current market price. She has never voted against Steve Wynn on any
25 issue.

26 166. A directorship on Wynn Resorts’ Board provides numerous ancillary benefits as
27 well. Mulroy’s daughter began working at IGT, the gaming company, as a Senior Specialist,
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1 Global Communications and Gaming in October 2017 after Mulroy was sitting on the Wynn
2 Board. Wynn Resorts is an IGT customer, Defendant Miller sits on its Board and Steve Wynn
3 supported IGT head Chuck Mathewson during a proxy fight.

4 **4. Defendant Hagenbuch**

5 167. Defendant Hagenbuch is not disinterested because (as detailed above) he engaged
6 in improper insider trading; he is conflicted due to his potential liability in numerous sexual
7 harassment suits; he ignored years of Steve Wynn’s sexual misconduct; failed to properly oversee
8 the Company’s internal controls and risks regarding sexual harassment; and helped to conceal
9 Steve Wynn’s pattern of sexual harassment and abuse until it was ultimately disclosed in the *WSJ*
10 *Article*.

11 168. Defendant Hagenbuch was placed on the Board by Steve Wynn directly after Steve
12 Wynn eliminated Elaine Wynn’s seat. Hagenbuch’s “candidacy did not arise from a search by the
13 Nominating and Corporate Governance Committee but rather was initiated by Steve [Wynn]
14 himself.” As a handpicked director of Steve Wynn, Defendant Hagenbuch cannot impartially
15 consider a decision to sue Steve Wynn. Indeed, Elaine Wynn, co-founder of Wynn Resorts and
16 former long-time director, wrote to investors that Defendant Hagenbuch’s “close ties to Steve do
17 not make him well-suited to act with the kind of independence I have been able to demonstrate.”
18 Hagenbuch and Steve Wynn became friends after meeting one another near Ketchum, Idaho,
19 where they both own homes.

20 169. Indeed, since joining the Company’s Board in 2012, Hagenbuch has repeatedly
21 done Steve Wynn’s bidding at substantial personal profit. During the time he served on the Board,
22 he has received millions of dollars in fees and stock awards, and, as of March 2017, not including
23 stock he has sold during his tenure on the Board, he owned 27,535 Company shares and options
24 valued at over \$4.5 million based on Wynn Resorts’ current market price. He has never voted
25 against Steve Wynn on any issue and was repeatedly nominated for re-election without any
26 opposition.

1 170. Moreover, Hagenbuch’s loyalty to Steve Wynn is such that he is willing to risk his
2 reputation rather than risk crossing Steve Wynn: as a member of the Wynn Resorts Compensation
3 Committee, Defendant Hagenbuch has helped protect Steve Wynn’s outrageous compensation and
4 corporate self-spending by voting in favor of Steve Wynn’s pay packages and other remuneration,
5 even while Defendant Hagenbuch himself was facing incredible scrutiny for those decisions, and
6 he thus “bore ‘direct responsibility’” for compensation issues at the Company – issues that he
7 helped create through his role as a member of the Compensation Committee and loyalty to Steve
8 Wynn.

9 **5. Defendant Virtue**

10 171. Defendant Virtue is not disinterested because (as detailed above) he is conflicted
11 due to his potential liability in numerous sexual harassment suits; he ignored years of Steve
12 Wynn’s sexual misconduct; failed to properly oversee the Company’s internal controls and risks
13 regarding sexual harassment; and helped to conceal Steve Wynn’s pattern of sexual harassment
14 and abuse until it was ultimately disclosed in the *WSJ Article*.

15 172. Defendant Virtue has financial and business ties with Steve Wynn and two former
16 Wynn Resorts Board members. In February 2003, Defendant Virtue formed MidOcean Partners,
17 in which Steve Wynn (as well as then-current directors Elaine Wynn and Marc Schorr) invested.
18 Virtue formed MidOcean Partners as part of a management buyout of 80% of DB Capital,
19 Deutsche Bank’s private equity arm. Deutsche Bank, where Virtue had been head of Corporate
20 Investments until the buy-out, retained a 20% interest in MidOcean Partners’ portfolio, and played
21 a critical role in financing for Wynn Resorts.

22 173. One of the conditions of Defendant Virtue joining the Board was for other Wynn
23 Resorts insiders to close certain accounts at MidOcean that generated fees for Defendant Virtue.
24 After closing the accounts, Virtue was granted options for 10,000 shares of Wynn Resorts, valued
25 at over \$1 million – before he even served for any reasonable time on the Board.

26 174. Additionally, Wynn Resorts received financing from Deutsche Bank and its
27 affiliates while Defendant Virtue was employed with Deutsche Bank and DB Capital Partners
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1 from June 1999 to February 2003. During that timeframe, Deutsche Bank Trust Company
2 Americas, an affiliate of Deutsche Bank Securities Inc., was the administrative agent under a
3 \$1.05 billion credit facility entered into by Wynn Las Vegas, LLC and certain of its subsidiaries
4 on October 20, 2001.

5 175. In an April 2015 proxy fight, Steve Wynn supported Defendant Virtue for re-
6 election over Elaine Wynn. Virtue was ultimately reelected, and Elaine Wynn lost her seat on the
7 Board.

8 176. Since joining the Company's Board in 2012, Virtue has repeatedly done Steve
9 Wynn's bidding at substantial personal profit. During the time he served on the Board, he has
10 received millions of dollars in fees and stock awards, and, as of March 2017, not including stock
11 he has sold during his tenure on the Board, he owned 21,385 Company shares and options valued
12 at over \$3.5 million based on Wynn Resorts' current market price. He has never voted against
13 Steve Wynn on any issue and was repeatedly nominated for re-election without any opposition.

14 177. Further, according to reports, before joining the Board, Defendant Virtue managed
15 money for the Wynn family and other Wynn employees for which he earned substantial fees,
16 further demonstrating his material financial ties to Steve Wynn and his inability to impartially
17 consider a demand.

18 178. In addition, as reported in *New York Magazine*, Virtue was among many Wall
19 Street titans outed as participating in the 2012 annual secret Kappa Beta Phi dinner at the St. Regis
20 Hotel in New York. In a skit performed that evening in which Virtue had rehearsed and was a
21 participant, Paul Queally, a private-equity executive with Welsh, Carson, Anderson, & Stowe, told
22 sexist and homophobic jokes to Virtue. Virtue's complacency to this conduct is indicative of other
23 Wynn Resorts' Board members selected by Steve Wynn.

24 **6. Defendant Shoemaker**

25 179. Defendant Shoemaker is not disinterested because (as detailed above) he engaged
26 in improper insider trading; he is conflicted due to his potential liability in numerous sexual
27 harassment suits; he ignored years of Steve Wynn's sexual misconduct; failed to properly oversee
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1 the Company's internal controls and risks regarding sexual harassment; and helped to conceal
2 Steve Wynn's pattern of harassment and abuse until it was ultimately disclosed in the *WSJ Article*.

3 180. Defendant Shoemaker and Steve Wynn have a longstanding relationship. From
4 1986-1994, Shoemaker served with Steve Wynn on the University of Pennsylvania Board of
5 Trustees. Both Steve Wynn and Defendant Shoemaker are graduates of the University of
6 Pennsylvania.

7 181. Since joining the Company's Board in 2002, Shoemaker has repeatedly done Steve
8 Wynn's bidding at substantial personal profit. During the time he served on the Board, he has
9 received millions of dollars in fees and stock awards, and, as of March 2017, not including stock
10 he has sold during his tenure on the Board, he owned 38,637 Company shares and options valued
11 at over \$6.3 million based on Wynn Resorts' current market price. He has never voted against
12 Steve Wynn on any issue and was repeatedly nominated for re-election without any opposition.
13 On March 7, 2018, Wynn Resorts announced that Defendant Shoemaker would not stand for re-
14 election in 2019, when his term is due to expire, but that he would serve out the remainder of his
15 term.

16 7. Defendant Miller

17 182. Defendant Miller is also not disinterested because (as detailed above) he engaged in
18 improper insider trading; he is conflicted due to his potential liability in numerous sexual
19 harassment suits; he ignored years of Steve Wynn's sexual misconduct; failed to properly oversee
20 the Company's internal controls and risks regarding sexual harassment; and helped to conceal
21 Steve Wynn's until it was ultimately disclosed in the *WSJ* article.

22 183. Steve Wynn's longstanding relationship with Defendant Miller strongly supports
23 the inference that Steve Wynn controlled Defendant Miller. Miller is the former Governor of the
24 State of Nevada, serving from 1989 to 1999. Multiple accounts support the conclusion that Steve
25 Wynn played a significant role in Miller's political success. For example, Miller's 1994 primary
26 challenger, Las Vegas Mayor Jan Laverty Jones, said that in 1993 Steve Wynn "tried to
27 discourage her" from challenging Miller in a primary. When she reminded Steve Wynn that she
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1 and him had been friends for a long time, he replied saying, “yes, and we will continue to be
2 [friends] unless you run against Bob Miller.” Jones eventually lost to Miller by a wide margin in
3 the primary. Thirteen of the fifteen top contributors to Miller’s 1994 re-election campaign were
4 mostly Las Vegas-based casino companies or their top executives. Steve Wynn alone donated
5 \$70,000, exploiting a loophole in the state law limiting any corporation’s gift to \$20,000 by
6 spreading separate donations across four subsidiaries. Ultimately, the gaming industry provided
7 54% and 43% of Miller’s gubernatorial campaign funds in 1990 and 1994 runs, respectively.
8 Miller ultimately won the 1994 gubernatorial election. Miller has publicly supported Steve Wynn
9 in the past. For example, in 1989, Governor Miller publicly supported Steve Wynn’s efforts to put
10 six dolphins on display in the Mirage hotel. Miller wrote a letter to the Department of Commerce
11 saying the display would be good for education and tourism in Las Vegas.

12 184. Miller and Steve Wynn are such close friends that they play golf together. In May
13 1996, then-Governor Miller, Steve Wynn, and President Clinton golfed near Washington.

14 185. In 1997, Defendant Miller testified as a character witness at a trial in a libel case
15 Steve Wynn had brought against the author of an unauthorized biography. In his testimony, Miller
16 described himself as “a 23 year old friend of Wynn’s.” Defendant Miller and Steve Wynn’s close
17 relationship thus dates back nearly 45 years.

18 186. On February 4, 2013, the Nevada Gaming Control Board informed Wynn Resorts it
19 had concluded its investigation of certain allegations made by Okada and found no violations of
20 the Nevada Gaming Control Act or Gaming Commission Regulations. At the time, Joseph A.
21 Brown was a member of the Nevada Gaming Control Board Gaming Commission and the
22 Director of the Jones Vargas law firm and President of Jones Vargas from 1992 to 2012.
23 Defendant Miller was a partner at Jones Vargas from 2000 to 2005.

24 187. On March 12, 2013, Miller’s book, *Son of a Gambling Man: My Journey from a*
25 *Casino Family to the Governor’s Mansion*, was published. The book details how Miller’s son,
26 Ross Miller, “went to see Steve Wynn for his help in his first campaign for secretary of state”
27 Wynn provided the requested help to Ross Miller, including through campaign contributions.

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1 Wynn Las Vegas contributed \$15,000 to Ross Miller’s campaign from 2006 to 2010. Wynn
2 Resorts contributed \$25,799 from 2006 to 2012 and was the single largest contributor to the
3 campaign during that time. In 2014, Steve Wynn made a personal donation of \$20,000 to Ross
4 Miller’s campaign on top of \$80,000 in donations made by Wynn companies. Steve Wynn
5 appeared at a fundraiser for Ross Miller in 2013, further demonstrating Steve Wynn’s deep ties to
6 the Miller family.

7 188. Defendant Miller has also been a director of International Game Technology
8 (“IGT”) since 2000. IGT is a global gaming company specializing in the design, development,
9 manufacture and marketing of casino games, gaming equipment and systems technology. IGT has
10 a long-standing business relationship with Steve Wynn. Wynn Macau reportedly runs an IGT
11 casino system. Steve Wynn has been friends with ex-IGT CEO Charles Mathewson for over 30
12 years.

13 189. In published reports in 1993 and 1999, Miller was criticized during his term as
14 governor of Nevada for allowing numerous sexual harassment claims against officials in the
15 Division of Wildlife and the Department of Motor Vehicles (“DMV”) to go unpunished. In 1999
16 Miller purportedly refused to do anything when the Division of Wildlife administrator had two
17 sexual discrimination lawsuits against him and had joked about sexual harassment in an official
18 state department bulletin. Similarly, as reported in 1993, complaints of sexual harassment by
19 administrators and executives at the DMV were reported, including an incident where derogatory
20 comments were made about women in Miller’s administration and fortune cookies with sexual
21 messages were passed out. Miller, when reached by a reporter, defended DMV Director James
22 Weller for his “impeccable quality and character.” Given Miller’s purported tolerance of these
23 events, it is not surprising that Steve Wynn nominated him to the Wynn Resorts’ Board.

24 190. Since joining the Company’s Board in 2002, Miller has repeatedly done Steve
25 Wynn’s bidding at substantial personal profit. During the time he served on the Board, he has
26 received millions of dollars in fees and stock awards, and, as of March 2017, not including stock
27 he has sold during his tenure on the Board, he owned 38,637 Company shares and options valued
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1 at over \$6.3 million based on Wynn Resorts' current market price. He has never voted against
2 Steve Wynn on any issue and was repeatedly nominated for re-election without any opposition.

3 **8. Defendant Johnson**

4 191. Defendant Johnson is not disinterested because (as detailed above) he is conflicted
5 due to his potential liability in numerous sexual harassment suits; he ignored years of Steve
6 Wynn's sexual misconduct; failed to properly oversee the Company's internal controls and risks
7 regarding sexual harassment; and helped to conceal Steve Wynn's until it was ultimately disclosed
8 in the *WSJ* article.

9 192. Defendant Johnson has been a member of the Wynn Resorts Board since August
10 2016. Since that time, Johnson has repeatedly done Steve Wynn's bidding at substantial personal
11 profit. During the time he served on the Board, he has received substantial compensation, and, as
12 of March 2017, not including stock he has sold during his tenure on the Board, he owned 10,000
13 Company shares and options valued at \$1.66 million based on Wynn Resorts' current market
14 price. He has never voted against Steve Wynn on any issue.

15 193. Defendant Johnson has a history of tolerating sexual harassment. During
16 Congressional hearings in 1996 regarding the massive sexual misconduct scandal involving the
17 annual "Tailhook" conventions, Defendant Johnson admitted his participation as a Naval officer in
18 the 1990 and 1991 conventions in Las Vegas and that he was aware of an atmosphere in which 83
19 women and 7 men were sexually assaulted but took no action. In his opening statement,
20 demonstrating Johnson's longstanding pattern of complicity in sexual misconduct, Johnson
21 acknowledged his role in these events and his passiveness in permitting them to happen:

22 Now, the final subject I'd like to address is my attendance at
23 Tailhook. As you said, I attended Tailhook. I did it in 1990
24 and 1991 in my official capacity as Assistant Chief of Naval
25 Personnel for Distribution. We, the leadership of naval aviation,
26 including myself, permitted an atmosphere to exist wherein bad
27 things could happen and did happen. We should have been, as you
28 said, Mr. Chairman, more proactive in raising the standard of
behavior.

1 194. A statement from a member of the Senate Armed Services Committee to Johnson
2 noted:

3 The Tailhook incident, the manner in which it was handled, and
4 the perceptions it created regarding the attitudes on Naval officers
5 toward women have attracted significant attention for almost five
6 years. Of particular concern is the fact, while many senior officers
7 were aware of the type of behavior for which Tailhook conventions
8 had become famous over the years, no one took action to preclude
9 that type of behavior at Tailhook '91. Additionally, while senior
officers either witnessed inappropriate behavior at the Convention
or specifically avoided certain locations to avoid witnessing this
behavior, few took action until the behavior of certain attendees
attracted national attention.

10 195. Further, when Johnson was CEO of General Dynamics, the parent company of
11 Gulfstream Aerospace Corp., Steve Wynn was one of Gulfstream's loyal customers because of his
12 private jet purchases. For example, in December 2012, Wynn Resorts purchased the first-delivered
13 Gulfstream G650 for \$65 million. In 2014, Steve Wynn replaced his Gulfstream G650 with a
14 Gulfstream G650ER.

15 **FIRST CLAIM FOR RELIEF**
16 **(Breach of Fiduciary Duty Against Director Defendants)**

17 196. Plaintiffs incorporate by reference and reallege each and every allegation contained
18 above, as though fully set forth herein.

19 197. Defendants each owe Wynn Resorts and its stockholders the highest fiduciary
20 duties of loyalty, good faith, fair dealing, due care, candor, and oversight in managing and
21 administering the Company's affairs.

22 198. Defendants knowingly, intentionally, and fraudulently violated and breached their
23 fiduciary duties of good faith, fair dealing, loyalty, due care, candor, and oversight as a result of
24 the misconduct described above.

25 199. Defendants have a duty to the Company and its stockholders to establish and
26 maintain adequate internal controls to ensure the Company was operated in a prudent and lawful
27 manner. Defendants have an affirmative obligation to maintain an internal control system to
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1 uncover wrongdoing and to act when informed of wrongdoing. Moreover, the Defendants have an
2 obligation to ensure that, at all times, the Company, its officers and directors act in compliance
3 with the law as detailed herein. The Defendants engaged in a sustained and systematic failure to
4 properly exercise their fiduciary duties. Among other things:

- 5 (a) Defendants breached their fiduciary duties by failing to ensure that Wynn Resorts
6 had adequate internal controls, risk management procedures and other policies to
7 prevent its officers and directors from engaging in sexual misconduct in the
8 workplace and creating an abusive workplace environment in violation of federal
9 and state laws and regulations, and Wynn Resorts' Code;
- 10 (b) Defendants breached their duties by concealing the abusive workplace environment
11 that allowed Steve Wynn's sexual misconduct to continue unimpeded for years;
12 and
- 13 (c) Defendants breached their fiduciary duties by violating the Company's Corporate
14 Governance Guidelines, Code of Business Ethics and other duties required of
15 Board members as set forth in the Audit Committee Charter, Articles of
16 Incorporation and other corporate governance documents.

17 200. Defendants each knowingly, intentionally, or fraudulently approved the issuance of
18 false statements that misrepresented and failed to disclose material information concerning the
19 Company in violation of their fiduciary duties. These actions could not have been a good faith
20 exercise of prudent business judgment to protect and promote the Company's corporate interests.

21 201. As a direct and proximate result of Defendants' breaches of their fiduciary duties,
22 Wynn Resorts has sustained significant damages in excess of \$15,000, including damages to its
23 stock price and market capitalization, and suffered damage to its corporate image and goodwill.
24 Damages also include, among other things, the cost of defending Wynn Resorts against
25 government investigations and the penalties, fines and other liabilities and expenses associated
26 with those investigations including the potential loss or denial of gaming licenses. As a result of
27 the misconduct alleged herein, Defendants are liable to the Company and their continuing
28 violations of duty should be enjoined.

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1 **SECOND CLAIM FOR RELIEF**
2 **(Unjust Enrichment Against All Defendants)**

3 202. Plaintiffs incorporate by reference and reallege each and every allegation contained
4 above as though fully set forth herein.

5 203. By their wrongful acts and omissions, Defendants were unjustly enriched at the
6 expense, and to the detriment, of Wynn Resorts and its stockholders.

7 204. Defendants were unjustly enriched for years as a result of compensation, stock
8 options, stock awards, directors' fees and other remuneration they received while breaching their
9 fiduciary duties owed to the Company.

10 205. Plaintiffs, as stockholders and representatives of Wynn Resorts, seek restitution
11 from Defendants and seek an order from this Court disgorging all profits, benefits, stock options,
12 stock awards, and other compensation obtained by the Defendants from their wrongful conduct
13 and fiduciary breaches.

14 206. Plaintiffs, on behalf of Wynn Resorts, has no adequate remedy at law.

15 **THIRD CLAIM FOR RELIEF**
16 **(Breach of Fiduciary Duty Against Steve Wynn and the Officer Defendants)**

17 207. Plaintiffs incorporate by reference and reallege each and every allegation set forth
18 above, as though fully set forth herein.

19 208. Steve Wynn was formerly Chairman of the Board and CEO of Wynn Resorts. On
20 February 6, 2018, Steve Wynn resigned from his positions at the Company and the Board. Steve
21 Wynn held those positions since 2002 when the Company went public. During his tenure as an
22 executive and director of Wynn Resorts, Steve Wynn owed Wynn Resorts and its stockholders the
23 highest fiduciary duties of loyalty, good faith, fair dealing, due care, and oversight.

24 209. Steve Wynn engaged in the misconduct described above and knowingly and
25 intentionally breached his fiduciary duties by engaging in a pattern of sexual harassment and abuse
26 and actively concealing such misconduct in violation of Wynn Resorts' Code and various laws
27 and regulations.

1 210. As a result of the intentional misconduct alleged herein, Steve Wynn is liable to the
2 Company for damages in excess of fifteen thousand dollars (\$15,000.00), resulting directly and
3 proximately from his breaches of fiduciary duty.

4 211. Defendant Sinatra is the current General Counsel, Secretary, and Senior Vice
5 President of the Company. Defendant Sinatra engaged in the misconduct described above and
6 knowingly and intentionally breached her fiduciary duties by actively concealing Steve Wynn's
7 pattern of sexual harassment and abuse in violation of Wynn Resorts' Code and various laws and
8 regulations.

9 212. As a result of the intentional misconduct alleged herein, Defendant Sinatra is liable
10 to the Company for damages in excess of fifteen thousand dollars (\$15,000.00), resulting directly
11 and proximately from her breaches of fiduciary duty.

12 213. Defendant Maddox is the current CEO and President of the Company. Defendant
13 Maddox engaged in the misconduct described above and knowingly and intentionally breached his
14 fiduciary duties by actively concealing Steve Wynn's pattern of sexual harassment and abuse in
15 violation of Wynn Resorts' Code and various laws and regulations.

16 214. As a result of the intentional misconduct alleged herein, Defendant Maddox is
17 liable to the Company for damages in excess of fifteen thousand dollars (\$15,000.00), resulting
18 directly and proximately from his breaches of fiduciary duty.

19 **FOURTH CLAIM FOR RELIEF**
20 **(Derivative Claim for Insider Trading Against Insider Trading Defendants)**

21 215. Plaintiffs incorporate by reference and reallege each and every allegation contained
22 above, as though fully set forth herein.

23 216. The Selling Defendants owed and owe fiduciary duties to the Company to disclose
24 material information to the Company's shareholders and to refrain from using non-public material
25 information in connection with trading their personal holdings of Wynn Resorts stock.

26 217. The Selling Defendants knew and understood but concealed the following non-
27 public material facts: (1) that Steve Wynn had engaged in sexual misconduct with a Wynn
28

1 Resorts' employee in 2005, resulting in a multimillion dollar settlement, and created a hostile
2 workplace environment due to an ongoing pattern of sexual harassment and abuse of Wynn
3 Resorts' employees; (2) Steve Wynn's misconduct placed the Company's gaming licenses at risk
4 due to possible findings of "unsuitability" by gaming regulators; (3) Defendants concealed these
5 facts from the public, regulators, and stockholders and publicly and falsely stated that any
6 allegations of misconduct against Steve Wynn and the Board were untrue; and (4) the Selling
7 Defendants omitted material information about these matters from their public filings.

8 218. This information was proprietary, non-public information concerning the
9 Company's business, operations, corporate governance, and regulatory issues. As demonstrated
10 by the reaction of the market to the *WSJ* article, this information was not previously available or
11 widely disseminated to the public. It was proprietary information belonging to the Company,
12 which the Selling Defendants used for their own benefit when they sold Wynn Resorts' stock at
13 artificially inflated prices.

14 219. Because use of the Company's proprietary information for personal gain constitutes
15 a breach of the Selling Defendants' duties of loyalty and good faith, the Company is entitled to
16 damages and to the imposition of a constructive trust on any profits obtained thereby.

17 **FIFTH CLAIM FOR RELIEF**
18 **(Derivative Claim for Aiding and Abetting Steve Wynn's Breach of Fiduciary Duty Against**
19 **the Officer Defendants and the Director Defendants)**

20 220. Plaintiffs incorporate by reference and reallege each and every allegation contained
21 above, as though fully set forth herein.

22 221. Steve Wynn owed the Company the fiduciary duties of due care, loyalty, and good
23 faith under Nevada law. These fiduciary duties on behalf of Steve Wynn were well-known to the
24 Director Defendants and the Officer Defendants.

25 222. As alleged herein, Steve Wynn knowingly and intentionally breached his fiduciary
26 duties to the Company.

27 223. Each of the Director Defendants and Officer Defendants aided and abetted Steve
28 Wynn's breaches of fiduciary duty. The Director Defendants and Officer Defendants knowingly

1 and intentionally failed to act to investigate or prevent Steve Wynn's longstanding pattern of
2 sexual harassment and abuse.

3 224. The Director Defendants' knowledge of Steve Wynn's breaches of fiduciary duty is
4 based, in part, on their knowledge of the 2005 assault no later than March 28, 2016.

5 225. Defendant Sinatra's knowledge of Steve Wynn's breach of fiduciary duty is based,
6 in part, on Defendant Sinatra's knowledge of the 2005 assault as early as 2009.

7 226. Defendant Maddox's knowledge of Steve Wynn's breaches of fiduciary duty is
8 based, in part, on his knowledge of the 2005 assault no later than March 28, 2016.

9 227. The Company has been harmed by the Director Defendants and Officer
10 Defendants' aiding and abetting of Steve Wynn's breaches of fiduciary duty.

11 228. The harm to the Company as a result of the Director Defendants and Officer
12 Defendants' aiding and abetting of Steve Wynn's breaches of fiduciary duty exceeds fifteen
13 thousand dollars (\$15,000.00).

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs seek the following relief:

16 A. A determination that this action is a proper derivative action and that demand on
17 the Director Defendants is excused as futile;

18 B. A finding that Defendants breached their fiduciary duties;

19 C. An award against all of the Defendants and in favor of the Company for the amount
20 of all damages sustained by Wynn Resorts as a result of Defendants' breaches of fiduciary duties
21 and unjust enrichment, including any and all damages compensable by statute and/or law, as well
22 as disgorgement of all profits, benefits and other compensation that Defendants obtained because
23 of the misconduct alleged herein, including damages for insider trading, together with pre and
24 post-judgment interest, in an amount in excess of \$15,000.00;

25 D. An order directing the Director Defendants to take necessary actions to enhance the
26 Company's governance to comply with applicable laws and to protect Wynn Resorts, its
27 employees, and its stockholders from repeating the harms described herein;

28

1 E. An award to Plaintiffs of the costs and disbursements of this Action, including
2 reasonable attorneys' fees, experts' fees, costs, and expenses; and,

3 F. An award of such other further relief as the Court deems just and equitable

4 **JURY DEMAND**

5 Plaintiffs demand a trial by jury.

6 DATED this 23rd day of March, 2018

7 **WOLF, RIFKIN, SHAPIRO,
8 SCHULMAN & RABKIN, LLP**

9 By: /s/ Don Springmeyer

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12 BRADLEY S. SCHRAGER, ESQ.

13 Nevada Bar No. 10217

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19 **COHEN MILSTEIN SELLERS & TOLL PLLC**

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21 *(pro hac vice to be submitted)*

22 KALPANA KOTAGAL

23 *(pro hac vice to be submitted)*

24 ELIZABETH A. ANISKEVICH

25 *(pro hac vice to be submitted)*

26 ERIC S. BERELOVICH

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*Attorneys for Plaintiffs Thomas P. DiNapoli,
Comptroller of the State of New York, as Administrative
Head of the New York State and Local Retirement System
and Trustee of the New York State Common Retirement
Fund, and the New York City Pension Funds*

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of March, 2018, a true and correct copy
of **VERIFIED AMENDED STOCKHOLDER DERIVATIVE COMPLAINT** was served by
electronically filing with the Clerk of the Court using the Odyssey eFileNV system and serving all
parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the
N.E.F.C.R.

By /s/ Christie Rehfeld
Christie Rehfeld, an Employee of
WOLF, RIFKIN, SHAPIRO, SCHULMAN &
RABKIN, LLP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THOMAS P. DiNAPOLI, COMPTROLLER X
OF THE STATE OF NEW YORK, AS)
ADMINISTRATIVE HEAD OF THE NEW)
YORK STATE AND LOCAL RETIREMENT)
SYSTEMS AND SOLE TRUSTEE OF THE)
NEW YORK STATE COMMON)
RETIREMENT FUND and NEW YORK)
CITY EMPLOYEES' RETIREMENT)
SYSTEM, NEW YORK CITY POLICE)
PENSION FUND, POLICE OFFICER'S)
VARIABLE SUPPLEMENTS FUND,)
POLICE SUPERVISOR OFFICERS')
VARIABLE SUPPLEMENTS FUND, NEW)
YORK CITY FIRE DEPARTMENT)
PENSION FUND, FIRE FIGHTERS')
VARIABLE SUPPLEMENTS FUND, FIRE)
OFFICERS' VARIABLE SUPPLEMENTS)
FUND, BOARD OF EDUCATION)
RETIREMENT SYSTEM OF THE CITY OF)
NEW YORK, TEACHERS' RETIREMENT)
SYSTEM OF THE CITY OF NEW YORK,)
and NEW YORK CITY TEACHERS')
VARIABLE ANNUITY PROGRAM,)
derivatively on behalf of WYNN)
RESORTS, LTD.,)
Plaintiffs,)

CASE NO. A-18-770013-B
DEPT. NO. Department 13

v.

STEPHEN A. WYNN, JOHN J.
HAGENBUCH, RAY R. IRANI, JAY L.
JOHNSON, ROBERT J. MILLER,
PATRICIA MULROY, CLARK T.
RANDT, JR., ALVIN V. SHOEMAKER, J.,
EDWARD VIRTUE, D. BOONE WAYSON,
MATT MADDOX and KIMMARIE
SINATRA

And,

WYNN RESORTS, LTD.

Nominal Defendant.

VERIFICATION OF INGA VAN EYSDEN IN SUPPORT OF DERIVATIVE COMPLAINT OF THOMAS P. DiNAPOLI, COMPTROLLER OF THE STATE OF NEW YORK, AS ADMINISTRATIVE HEAD OF THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEMS AND SOLE TRUSTEE OF THE NEW YORK STATE COMMON RETIREMENT FUND, AND NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, NEW YORK CITY POLICE PENSION FUND, POLICE OFFICER'S VARIABLE SUPPLEMENTS FUND, POLICE SUPERVISOR OFFICERS' VARIABLE SUPPLEMENTS FUND, NEW YORK CITY FIRE DEPARTMENT PENSION FUND, FIRE FIGHTERS' VARIABLE SUPPLEMENTS FUND, FIRE OFFICERS' VARIABLE SUPPLEMENTS FUND, BOARD OF EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW YORK, TEACHERS' RETIREMENT SYSTEM OF THE CITY OF NEW YORK, AND NEW YORK CITY TEACHERS' VARIABLE ANNUITY PROGRAM PURSUANT TO THE NEVADA RULES OF CIVIL PROCEDURE RULE 23.1

STATE OF NEW YORK)
)
) ss.
)
 COUNTY OF NEW YORK)

Inga Van Eysden, being of full age, having been duly sworn according to law, upon her oath, deposes and says:

1. I am a Senior Counsel in the Affirmative Litigation Division of the New York City Law Department.


2. I am authorized to submit this Verification on behalf of Plaintiffs the New York City Employees' Retirement System ("NYCERS"); the New York City Police Pension Fund ("PPF"); Police Officer's Variable Supplements Fund ("POVSF"); Police Supervisor Officers' Variable Supplements Fund ("POVSF"); the New York City Fire Department Pension Fund ("FDPF"); Fire Fighters' Variable Supplements Fund ("FFVSP"); Fire Officers' Variable Supplements Fund

(“FOVSP”); Board of Education Retirement System of the City of New York (“BERS”), the Teachers’ Retirement System of the City of New York (“TRS”); and New York City Teachers’ Variable Annuity Program (“TRS-VA”) (collectively, the “NYC Funds” or “New York City Funds”) in connection with the filing the Amended Verified Shareholder Derivative Complaint (“Amended Complaint”) in the above captioned matter.


2. As stated in the Amended Complaint, the NYC Funds are and have been a stockholder of Wynn Resorts, Limited continuously at the time of fiduciary wrongdoing and breaches underlying the claims alleged, and will continue to hold Wynn Resorts, Limited shares at all times relevant to this action.

3. Plaintiff has retained counsel in connection with this litigation. I have reviewed the Amended Complaint and I am familiar with the allegations in the Amended Complaint. To the extent the allegations in the Amended Complaint concern the NYC Funds, I know those allegations to be true and correct. To the extent the allegations in the Amended Complaint concern parties other than the NYC Funds, I believe those allegations to be true and correct.

4. I hereby declare under penalty of perjury that the foregoing is true and correct.

By: 
Inga Van Eysden
Senior Counsel
Affirmative Litigation Division
New York City Law Department

SWORN TO AND SUBSCRIBED
before me this 23rd day of March, 2018.


Notary Public KRISTA ANN FRIEDRICH
Notary Public, State of New York
No. 02FR6216306
Qualified in New York County
Commission Expires 01/11/2022

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THOMAS P. DiNAPOLI, COMPTROLLER X
OF THE STATE OF NEW YORK, AS)
ADMINISTRATIVE HEAD OF THE NEW)
YORK STATE AND LOCAL RETIREMENT)
SYSTEMS AND SOLE TRUSTEE OF THE)
NEW YORK STATE COMMON)
RETIREMENT FUND and NEW YORK)
CITY EMPLOYEES' RETIREMENT)
SYSTEM, NEW YORK CITY POLICE)
PENSION FUND, POLICE OFFICER'S)
VARIABLE SUPPLEMENTS FUND,)
POLICE SUPERVISOR OFFICERS')
VARIABLE SUPPLEMENTS FUND, NEW)
YORK CITY FIRE DEPARTMENT)
PENSION FUND, FIRE FIGHTERS')
VARIABLE SUPPLEMENTS FUND, FIRE)
OFFICERS' VARIABLE SUPPLEMENTS)
FUND, BOARD OF EDUCATION)
RETIREMENT SYSTEM OF THE CITY OF)
NEW YORK, TEACHERS' RETIREMENT)
SYSTEM OF THE CITY OF NEW YORK,)
and NEW YORK CITY TEACHERS')
VARIABLE ANNUITY PROGRAM,)
derivatively on behalf of WYNN)
RESORTS, LTD.,)
Plaintiffs,)

CASE NO. A-18-770013-B
DEPT. NO. Department 13

v.

STEPHEN A. WYNN, JOHN J.
HAGENBUCH, RAY R. IRANI, JAY L.
JOHNSON, ROBERT J. MILLER,
PATRICIA MULROY, CLARK T.
RANDT, JR., ALVIN V. SHOEMAKER, J.,
EDWARD VIRTUE D. BOONE WAYSON,
MATT MADDIX and KIMMARIE
SINATRA

And,

WYNN RESORTS, LTD.

Nominal Defendant.

VERIFICATION OF NANCY G. GROENWEGEN IN SUPPORT OF DERIVATIVE COMPLAINT OF THOMAS P. DiNAPOLI, COMPTROLLER OF THE STATE OF NEW YORK, AS ADMINISTRATIVE HEAD OF THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEMS AND SOLE TRUSTEE OF THE NEW YORK STATE COMMON RETIREMENT FUND, AND NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, NEW YORK CITY POLICE PENSION FUND, POLICE OFFICER'S VARIABLE SUPPLEMENTS FUND, POLICE SUPERVISOR OFFICERS' VARIABLE SUPPLEMENTS FUND, NEW YORK CITY FIRE DEPARTMENT PENSION FUND, FIRE FIGHTERS' VARIABLE SUPPLEMENTS FUND, FIRE OFFICERS' VARIABLE SUPPLEMENTS FUND, BOARD OF EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW YORK, TEACHERS' RETIREMENT SYSTEM OF THE CITY OF NEW YORK, AND NEW YORK CITY TEACHERS' VARIABLE ANNUITY PROGRAM PURSUANT TO THE NEVADA RULES OF CIVIL PROCEDURE RULE 23.1

STATE OF NEW YORK

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ss.

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COUNTY OF ALBANY

)

Nancy G. Groenwegen, being of full age, having been duly sworn according to law, upon her oath, deposes and says:

1. I am Counsel to the Comptroller for the Office of the New York State Comptroller, plaintiff in the above captioned matter.

2. As stated in the Amended Verified Stockholder Derivative Complaint (“Amended Complaint”), the New York State Common Retirement Fund (“NYSCRF”) is and has been has been a stockholder of Wynn Resorts, Limited, continuously at the time of fiduciary wrongdoing and breaches underlying the claims alleged, and will continue to hold Wynn Resorts, Limited shares at all times relevant to this action.

3. Plaintiff has retained counsel in connection with this litigation. I have reviewed the Amended Complaint and I am familiar with the allegations in the Amended Complaint. To the extent the allegations in the Amended Complaint concern the NYSCRF, I know those allegations to be true and correct. To the extent the allegations in the Amended Complaint concern parties other than the NYSCRF, I believe those allegations to be true and correct.

4. I hereby declare under penalty of perjury that the foregoing is true and correct.

New York State Common Retirement Fund

By: Nancy G. Groenwegen
Nancy G. Groenwegen

Counsel to the Comptroller, Office of the
New York State Comptroller

SWORN TO AND SUBSCRIBED
before me this 23 day of March, 2018.

Diane L Foley
Notary Public

10/19/21
My Commission Expires

DIANE L. FOLEY
Notary Public, State of New York
No. 01FO4909004
Qualified in Albany County
Commission Expires October 19, 2021