

FILED

1 David R. Houston, Esq. (*pro hac vice pending*)  
2 432 Court Street  
3 Reno, Nevada 89501  
4 Tel: (775) 786-4188

2011 NOV -1 PM 1:22

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

4 Aaron D. Aftergood, Esq. (SBN 239853)  
5 The Aftergood Law Firm  
6 1875 Century Park East, Suite 2230  
7 Los Angeles, California 90067  
8 Tel: (310) 551-5221

8 Attorneys for Plaintiff,  
9 JOSEPH R. FRANCIS

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12  
13 JOSEPH R. FRANCIS, an individual,

CASE NO. **CV 11-9054-DSF**  
(VBA)

14 Plaintiffs,

COMPLAINT FOR:

15 v.

- 1. MALICIOUS PROSECUTION;
- 2. ABUSE OF PROCESS;
- 3. INTENTIONAL MISREPRESENTATION;
- 4. DEFAMATION;
- 5. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; AND
- 6. CONSPIRACY

16 WYNN LAS VEGAS, LLC, dba WYNN  
17 LAS VEGAS, a Nevada limited liability  
18 company, STEPHEN A. WYNN, an  
19 individual, BARBARA CONWAY, an  
20 individual, and DOES 1 through 10 ,  
inclusive,

21 Defendants.

AND DEMAND FOR JURY TRIAL.

22  
23  
24 Plaintiff complains and alleges as follows:

25 JURISDICTON AND VENUE

- 26 1. Jurisdiction is proper pursuant to 28 USC § 1332 because there is complete diversity
- 27 between the parties and the amount in controversy exceeds \$75,000.00.
- 28 2. Venue is proper in the Central District of California pursuant to 28 USC § 1391

1 because a substantial part of the breaches, acts, and omissions alleged in this complaint took  
2 place in Los Angeles, California.

3 **THE PARTIES**

4 3. Joseph R. Francis (“PLAINTIFF”) is an individual, and resident of Los Angeles  
5 County, California.

6 4. Defendant WYNN LAS VEGAS, LLC, dba WYNN LAS VEGAS (“WYNN LAS  
7 VEGAS”) is a limited liability company, incorporated under the laws of the State of  
8 Nevada with its principal place of business in the State of Nevada.

9 5. WYNN LAS VEGAS actively advertises to, and contracts with, residents of the  
10 State of California, and, therefore, had actual and constructive knowledge that its acts and  
11 omissions as alleged in this Complaint would have consequences within the State of  
12 California.

13 6. WYNN LAS VEGAS has transacted business in the State of California at all times  
14 relevant to this Complaint, and WYNN LAS VEGAS solicited PLAINTIFF’s business  
15 while PLAINTIFF was in California.

16 7. Defendant STEPHEN A. WYNN (“WYNN”) is a Nevada resident, and  
17 representative and chief executive of WYNN LAS VEGAS.

18 8. At all times relevant to this complaint, WYNN was acting within the scope of his  
19 employment and on behalf of, and with the knowledge and authorization of WYNN LAS  
20 VEGAS.

21 9. Defendant BARBARA CONWAY (“CONWAY”) is a Nevada resident, and  
22 representative of WYNN LAS VEGAS.

23 10. At all times relevant to this complaint, CONWAY was acting within the scope of her  
24 employment and on behalf of, and with the knowledge and authorization of WYNN LAS  
25 VEGAS.

26 11. PLAINTIFF is ignorant of the true names and capacities of defendants sued herein as  
27 DOES 1-100 inclusive, and, therefore, sues these defendants by such fictitious names.  
28 PLAINTIFF will amend this complaint to allege their true names and capacities when

1 ascertained. PLAINTIFF is informed and believes and thereon alleges that each of the  
2 fictitiously named defendants is responsible in some manner for the occurrences herein  
3 alleged.

4 12. PLAINTIFF is informed and believes and thereon alleges that at all times herein  
5 mentioned, each of the defendants sued herein as DOES 1-10 , inclusive, was the agent and  
6 employee of each of the remaining defendants and was at all times acting within the scope  
7 of such agency and employment.

8 **FACTUAL ALLEGATIONS**

9 13. PLAINTIFF gambled at a casino owned and operated by WYNN LAS VEGAS  
10 during February 12-18, 2007. On February 16, 2007, WYNN LAS VEGAS obtained  
11 PLAINTIFF's signature on a \$2.5 million marker bearing number 70354728. PLAINTIFF  
12 also executed a marker bearing number 70356588 to WYNN LAS VEGAS for \$300,000.00  
13 on February 18, 2007.

14 14. Prior to making the above-described markers available to PLAINTIFF, WYNN LAS  
15 VEGAS required PLAINTIFF to provide information regarding his bank accounts.  
16 PLAINTIFF was considered to be a good customer and creditworthy by WYNN LAW  
17 VEGAS. PLAINTIFF listed two accounts with WYNN LAS VEGAS: a Morgan Stanley  
18 Bank One account valued at several million dollars, and a Wells Fargo account valued at  
19 approximately \$700,000.00. Both accounts were open at the time PLAINTIFF took out the  
20 \$2.5 million marker, and together contained more than sufficient funds to cover the  
21 markers. Even without the Wells Fargo account, the Morgan Stanley Account had more  
22 than sufficient funds to honor the marker. The Morgan Stanley account was listed as the  
23 primary account from which to draw.

24 15. Shortly after his trip to Las Vegas, on February 24, 2007, PLAINTIFF deposited  
25 \$800,000.00 with WYNN LAS VEGAS, and internal WYNN LAS VEGAS records  
26 showed the funds being "on deposit," with the \$2.5 million marker and \$300,000.00 marker  
27 outstanding.

28 16. Shortly after the February 2007 Las Vegas trip, PLAINTIFF began to experience

1 unrelated legal troubles which resulted in closure of his Wells Fargo Bank account on  
2 May 2, 2007 by Wells Fargo Bank, not by PLAINTIFF. WYNN LAS VEGAS became  
3 aware of this account closure shortly thereafter. PLAINTIFF was incarcerated **on a tax-**  
4 related matter for some time, impairing his ability to settle his accounts with WYNN LAS  
5 VEGAS.

6 17. Months passed without the parties being able to settle PLAINTIFF's accounts with  
7 WYNN LAS VEGAS. At PLAINTIFF's request, representatives of WYNN LAS VEGAS  
8 agreed not to submit the markers for payment during this time.

9 18. Then, on June 18, 2008, approximately sixteen months after PLAINTIFF had  
10 originally signed the \$2.5 million marker, WYNN LAS VEAGS dated the marker "June 18,  
11 2008" and, with full knowledge that PLAINTIFF's Wells Fargo Bank account had been  
12 closed for some time, and that the account originally lacked sufficient funds as per the  
13 credit request form filed by PLAINTIFF with WYNN LAS VEGAS, presented the marker  
14 to Wells Fargo Bank instead of the Morgan Stanley Bank One account.

15 19. On July 1, 2008, Wells Fargo Bank returned the marker unpaid to WYNN LAS  
16 VEGAS, due to the account long having been closed.

17 20. No effort was made to present the marker to PLAINTIFF's Morgan Stanley Bank  
18 One account.

19 21. WYNN LAS VEGAS openly admits "that it has the reputation for 'playing  
20 hardball,'" and using the Clark County District Attorney's Office to collect debts for it if  
21 the player is "not cooperating" after the fact. This fact was established by the sworn  
22 testimony of Larry Altschul, a casino host for WYNN LAS VEGAS, before the Clark  
23 County, Nevada Grand Jury in PLAINTIFF's criminal case described below.

24 22. On July 17, 2008, consistent with WYNN LAS VEGAS' admitted reputation for  
25 "playing hardball," Defendant CONWAY submitted on behalf of WYNN LAS VEGAS a  
26 "Bad Check/Marker Complaint Form" to the District Attorney's office for Clark County,  
27 Nevada.

28 23. At the very top of the Bad Check/Marker Complaint Form, the following questions

1 were posed:

2 “Does this complaint involve a post-dated check?”

3 “Was partial payment received on this account?”

4 “Does this complaint involve an extension of credit?”

5 The form then states in relation to each of these questions, that:

6 “Any ‘yes’ answer indicates that this matter should be handled through the  
7 appropriate civil courts.”

8 24. Defendant CONWAY, knowing the answer to each of the above questions to be  
9 “Yes,” checked the “No” box next to each question, so as to employ criminal charges to  
10 unfairly collect money WYNN LAS VEGAS was not owed, by using the threat of prison  
11 and felony conviction.

12 25. Furthermore, Defendants actively encouraged the Clark County District Attorney’s  
13 office to press charges and issue a warrant for PLAINTIFF’s arrest, despite knowledge that  
14 their representations were false.

15 26. Criminal proceedings were then initiated against PLAINTIFF, based upon these  
16 misrepresentations.

17 27. PLAINTIFF was arrested October 2008, and held until the posting of a bond at  
18 substantial cost to PLAINTIFF.

19 28. On February 1, 2011, the Grand Jury for the Eighth Judicial District State of Nevada  
20 met and, pursuant to the presentation and instructions of the Clark County District  
21 Attorney, charged PLAINTIFF with one count of omnibus theft, and one count of drawing  
22 and passing a check without sufficient funds in drawee bank with intent to defraud.

23 29. Due to these false charges initiated by CONWAY and WYNN LAS VEGAS,  
24 PLAINTIFF was required to retain criminal defense counsel to protect his freedom and  
25 reputation at substantial cost.

26 30. On May 18, 2011, PLAINTIFF filed a pre-trial Writ of *Habeas Corpus* in the Clark  
27 County Court seeking to bring the above-described misrepresentations of his accusers to  
28 light.

1 31. Upon consideration of the evidence and argument presented by PLAINTIFF, the  
2 Court fully exonerated PLAINTIFF and dismissed the criminal case on September 14,  
3 2011, finding that, “[t]he State did not present ‘slight’ or ‘marginal’ evidence demonstrating  
4 [PLAINTIFF] intended to take the marker out from [WYNN LAS VEGAS] and not repay  
5 his debt.”

6 32. Because of DEFENDANTS’ conduct, PLAINTIFF suffered injury, including but not  
7 limited to defamation of character, emotional distress and attorney’s fees.

8 **FIRST CAUSE OF ACTION**

9 (Malicious Prosecution Against All Defendants)

10 33. PLAINTIFF incorporates herein by reference all the allegations contained in  
11 paragraphs 1 through 32 of this Complaint.

12 34. WYNN LAS VEGAS, WYNN and CONWAY, were active in causing PLAINTIFF  
13 to be prosecuted in a criminal proceeding, on or about July 17, 2008, by claiming that  
14 PLAINTIFF had taken out a marker with the intent not to pay the same, with full  
15 knowledge WYNN LAS VEGAS and/or its employees or agents had misrepresented or  
16 omitted critical facts to the Clark County, Nevada District Attorney.

17 35. On September 14, 2011, the criminal proceeding against PLAINTIFF was dismissed.

18 36. WYNN LAS VEGAS, WYNN and CONWAY made the accusations causing the  
19 criminal proceeding to be filed against the PLAINTIFF, without reasonable belief in their  
20 truth, and in fact with actual knowledge of their falsity.

21 37. WYNN LAS VEGAS and WYNN knew about all of CONWAY’s conduct in  
22 relation to the malicious prosecution and expressly ratified such conduct.

23 38. WYNN LAS VEGAS, WYNN and CONWAY made these accusations primarily for  
24 a purpose other than bringing PLAINTIFF to justice, specifically for the purpose of  
25 wrongfully imprisoning PLAINTIFF, and forcing him to pay a disputed balance by utilizing  
26 the threat of prison.

27 39. Because of WYNN LAS VEGAS, WYNN and CONWAY’s malicious prosecution,  
28 the State of Nevada filed criminal charges against PLAINTIFF, for which PLAINTIFF was

1 forced to suffer, among other injuries, jail time, emotional distress, a loss of reputation and  
2 attorney's fees, thus causing PLAINTIFF damages in an amount according to proof at trial,  
3 in excess of the minimum for unlimited jurisdiction of this Court.

4 40. In addition, WYNN LAS VEGAS, WYNN and CONWAY's malicious prosecution  
5 of PLAINTIFF was committed with oppressive, fraudulent, or malicious intent, and  
6 exhibits a deliberate disregard for PLAINTIFF's well-being and the judicial system as a  
7 whole, in that defendants knowingly made false accusations against the PLAINTIFF with  
8 the intent of having him wrongfully imprisoned and prosecuted criminally.

9 41. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
10 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY and  
11 deter them from similar conduct in the future.

12 **SECOND CAUSE OF ACTION**

13 (Abuse Of Process Against All Defendants)

14 42. PLAINTIFF incorporates herein by reference all the allegations contained in  
15 paragraphs 1 through 41 of this Complaint.

16 43. WYNN LAS VEGAS, WYNN and CONWAY initiated a criminal procedure, based  
17 on fraudulent representations, for drawing and passing a check without sufficient funds in  
18 drawee bank with intent to defraud, when CONWAY filed the Bad Check/Marker  
19 Complaint Form with the Clark County District Attorney's office.

20 44. WYNN LAS VEGAS and WYNN knew about all of CONWAY's false accusations  
21 and expressly ratified such conduct.

22 45. WYNN LAS VEGAS and WYNN, by CONWAY, intentionally initiated this  
23 procedure against PLAINTIFF for the purpose of wrongfully imprisoning PLAINTIFF and  
24 in so doing purposefully changed internal accounting records to accomplish the same.

25 46. Because of WYNN LAS VEGAS, WYNN and CONWAY's conduct, PLAINTIFF  
26 was charged with a crime he did not commit and was wrongfully imprisoned.

27 47. Because of WYNN LAS VEGAS, WYNN and CONWAY's abuse of process, the  
28 State of Nevada filed criminal charges against PLAINTIFF, for which PLAINTIFF was

1 forced to suffer, among other injuries, jail time, emotional distress, a loss of reputation and  
2 attorney's fees, thus causing PLAINTIFF damages in an amount according to proof at trial,  
3 in excess of the minimum for unlimited jurisdiction of this Court.

4 48. In addition, WYNN LAS VEGAS, WYNN and CONWAY's abuse of process was  
5 committed with oppressive, fraudulent, or malicious intent, and exhibits a deliberate  
6 disregard for PLAINTIFF's well-being and the judicial system as a whole, in that  
7 defendants knowingly made false and defamatory statements about the PLAINTIFF with  
8 the intent of having him wrongfully imprisoned.

9 49. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
10 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY,  
11 and deter them from similar conduct in the future.

12 **THIRD CAUSE OF ACTION**

13 (Intentional Misrepresentation Against All Defendants)

14 50. PLAINTIFF incorporates herein by reference all the allegations contained in  
15 paragraphs 1 through 49 of this Complaint.

16 51. WYNN LAS VEGAS, WYNN and CONWAY, represented to the District  
17 Attorney's Office of Clark County, State of Nevada, as well as to the Grand Jury for the  
18 Eighth Judicial District State of Nevada, that PLAINTIFF had written a bad check with the  
19 intent to defraud WYNN LAS VEGAS.

20 52. Additionally, WYNN LAS VEGAS, WYNN and CONWAY, or another  
21 WYNN LAS VEGAS employee, forged the date of PLAINTIFF's February 16, 2007  
22 marker so that it would appear that it was recently issued, and not stale. Internal accounting  
23 records were also altered by WYNN LAS VEGAS, WYNN and CONWAY, or another  
24 WYNN LAS VEGAS employee, to create the appearance of criminality.

25 53. WYNN LAS VEGAS and WYNN knew about all of CONWAY's conduct in  
26 relation to the falsified Bad Check/Marker Complaint Form, changing of internal  
27 accounting documents, and forged date on the February 16, 2007 marker, and expressly  
28 ratified such conduct.



1 54. WYNN LAS VEGAS, WYNN and CONWAY's representations to the Clark County  
2 District Attorney's office and criminal court were false and manufactured in order to cause  
3 the arrest and prosecution of PLAINTIFF.

4 55. WYNN LAS VEGAS, WYNN and CONWAY knew, or should have known, that  
5 these representations were false because CONWAY, or another employee of WYNN LAS  
6 VEGAS forged the date of the February 16, 2007 marker, and further knew the checks were  
7 part of an extension of credit and were at least partially repaid.

8 56. WYNN LAS VEGAS, WYNN and CONWAY intended for the criminal court to  
9 rely on CONWAY's representations concerning the alleged bad marker in its improper  
10 prosecution of PLAINTIFF.

11 57. The Nevada Criminal Court and Clark County District Attorney's Office did in fact  
12 rely on WYNN LAS VEGAS, WYNN and CONWAY's representations in charging  
13 PLAINTIFF with criminal conduct.

14 58. As a direct and proximate result of WYNN LAS VEGAS, WYNN and CONWAY's  
15 intentional misrepresentations, the State of Nevada filed criminal charges against  
16 PLAINTIFF, for which PLAINTIFF was forced to suffer, among other injuries, jail time,  
17 emotional distress, a loss of reputation and attorney's fees thus causing PLAINTIFF  
18 damages in an amount according to proof at trial, in excess of the minimum for unlimited  
19 jurisdiction of this Court.

20 59. In addition, WYNN LAS VEGAS, WYNN and CONWAY's conduct in making  
21 these false accusations was committed with oppressive, fraudulent, or malicious intent, and  
22 exhibits a deliberate disregard for PLAINTIFF's well-being and the judicial system as a  
23 whole, in that the defendants knowingly made false accusations against the PLAINTIFF  
24 with the intent of having him wrongfully imprisoned.

25 60. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
26 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY and  
27 deter them from similar conduct in the future.

28

1 **FOURTH CAUSE OF ACTION**

2 (Defamation Against All Defendants)

3 61. PLAINTIFF incorporates herein by reference all the allegations contained in  
4 paragraphs 1 through 60 of this Complaint.

5 62. WYNN LAS VEGAS and WYNN, by CONWAY, made a false, unprivileged,  
6 defamatory, and written statement concerning PLAINTIFF when CONWAY filed the Bad  
7 Check/Marker Complaint Form, and accused PLAINTIFF of writing a bad check.

8 63. Additionally, WYNN LAS VEGAS and WYNN by CONWAY or another WYNN  
9 LAS VEGAS employee, forged the date of PLAINTIFF's February 16, 2007 marker so that  
10 it would appear that it was not part of an extension of credit as well as modified internal  
11 accounting records to create the appearance of criminality.

12 64. WYNN LAS VEGAS and WYNN knew about all of CONWAY's false accusations  
13 and expressly ratified such conduct.

14 65. This written statement was made to the Clark County District Attorney's office, and  
15 the criminal court of Clark County, State of Nevada.

16 66. The only reasonable interpretation the criminal court of Clark County, State of  
17 Nevada could have had concerning this written statement was that PLAINTIFF had  
18 committed a crime.

19 67. The written statements concerning PLAINTIFF were false, in that the marker was  
20 part of an extension of credit and had been repaid, at least in part. The original \$2.5 million  
21 marker had been internally voided due to partial payment, only to be resurrected to  
22 accommodate criminal charges.

23 68. The written statements concerning PLAINTIFF were proven to be false when the  
24 charges issued against PLAINTIFF related to such written statements were fully dismissed  
25 in September 2011.

26 69. WYNN LAS VEGAS, WYNN and CONWAY knew, or should have known, that the  
27 written statements were false at the time CONWAY made the statements and testified to the  
28 Clark County Grand Jury.

1 70. Because of WYNN LAS VEGAS, WYNN and CONWAY's false and defamatory  
2 statements, PLAINTIFF's reputation was harmed.

3 71. Furthermore, because of WYNN LAS VEGAS, WYNN and CONWAY's false and  
4 defamatory statement, PLAINTIFF was further harmed, in an amount according proof at  
5 trial in excess of the minimum for unlimited jurisdiction of this Court, by being forced into  
6 jail time, suffering a loss of reputation and attorney's fees.

7 72. In addition, WYNN LAS VEGAS, WYNN and CONWAY's defamatory statements  
8 were made with oppressive, fraudulent, or malicious intent, and exhibit a deliberate  
9 disregard for PLAINTIFF's well-being and the judicial system as a whole, in that  
10 defendants knowingly made these false and defamatory statements about the PLAINTIFF  
11 with the intent of having him wrongfully imprisoned.

12 73. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
13 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY and  
14 deter them from similar conduct in the future.

15 **FIFTH CAUSE OF ACTION**

16 (Intentional Infliction Of Emotional Distress Against All Defendants)

17 74. PLAINTIFF incorporates herein by reference all the allegations contained in  
18 paragraphs 1 through 73 of this Complaint.

19 75. WYNN LAS VEGAS, WYNN and CONWAY acted outrageously, and in a manner  
20 deemed outrageous by society, by making false accusations to the State of Nevada in the  
21 hopes of having PLAINTIFF wrongfully imprisoned.

22 76. WYNN LAS VEGAS and WYNN knew about all of CONWAY's false accusations  
23 and expressly ratified such conduct.

24 77. WYNN LAS VEGAS, WYNN and CONWAY made these false accusations with  
25 intent, or with reckless disregard to the probability, that improper criminal prosecution of  
26 and imprisonment of PLAINTIFF would cause PLAINTIFF severe emotional distress.

27 78. WYNN LAS VEGAS, WYNN and CONWAY's conduct was a substantial factor in  
28 causing PLAINTIFF severe emotional distress in the form of severe mental anguish and

1 humiliation.

2 79. Because of WYNN LAS VEGAS, WYNN and CONWAY's conduct intended to  
3 cause intentional infliction of emotional distress, the State of Nevada filed criminal charges  
4 against PLAINTIFF, for which PLAINTIFF was forced to suffer, among other injuries,  
5 undeserved jail time, severe emotional distress related to such imprisonment and attorney's  
6 fees, thus causing PLAINTIFF damages in an amount according to proof at trial, in excess  
7 of the minimum for unlimited jurisdiction of this Court.

8 80. In addition, WYNN LAS VEGAS, WYNN and CONWAY's conduct in making  
9 these false accusations was committed with oppressive, fraudulent, or malicious intent, and  
10 exhibits a deliberate disregard for PLAINTIFF's well-being and the judicial system as a  
11 whole, in that defendants knowingly made false accusations against the PLAINTIFF with  
12 the intent of having him wrongfully imprisoned.

13 81. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
14 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY and  
15 deter them from similar conduct in the future.

16 **SIXTH CAUSE OF ACTION**

17 (Conspiracy Against All Defendants)

18 82. PLAINTIFF incorporates herein by reference all the allegations contained in  
19 paragraphs 1 through 81 of this Complaint.

20 83. All defendants actively participated in the above referenced conduct constituting  
21 Malicious Prosecution.

22 84. All defendants actively participated in the above referenced conduct constituting  
23 Abuse of Process.

24 85. All defendants actively participated in the above referenced conduct constituting  
25 Intentional Misrepresentation.

26 86. All defendants actively participated in the above referenced conduct constituting  
27 Defamation.

28 87. All defendants actively participated in the above referenced conduct constituting

1 Intentional Infliction of Emotional Distress.

2 88. All defendants engaged in the above referenced conduct in order to improperly  
3 incarcerate PLAINTIFF and cause him severe emotional distress and other harm.

4 89. All defendants agreed to the aforementioned conduct with the intent to cause  
5 PLAINTIFF monetary and emotional harm.

6 90. Because of WYNN LAS VEGAS, WYNN and CONWAY's conspiracy, the State of  
7 Nevada filed criminal charges against PLAINTIFF, for which PLAINTIFF was forced to  
8 suffer, among other injuries, jail time, emotional distress, loss of reputation and attorney's  
9 fees thus causing PLAINTIFF damages in an amount according to proof at trial, in excess  
10 of the minimum for unlimited jurisdiction of this Court.

11 91. In addition, WYNN LAS VEGAS, WYNN and CONWAY's conspiracy was  
12 engaged in with oppressive, fraudulent, or malicious intent, and exhibits a deliberate  
13 disregard for PLAINTIFF's well-being and the judicial system as a whole, in that  
14 defendants knowingly made false accusations against the PLAINTIFF with the intent of  
15 having him wrongfully imprisoned.

16 92. Accordingly, PLAINTIFF is entitled to punitive damages, pursuant to California  
17 *Civil Code* section 3294, so as to punish WYNN LAS VEGAS, WYNN and CONWAY and  
18 deter them from similar conduct in the future.

19 **PRAYER**

20 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

- 21 A. For general damages;
- 22 B. For special damages;
- 23 C. For exemplary and punitive damages appropriate to punish or set an example of  
24 defendants;
- 25 D. For prejudgment interest in an amount to be proved at time of trial;
- 26 E. For costs of suit incurred herein; and
- 27 F. For attorneys fees as may be provided by law or contract;

28 ///

1 G. For such other and further relief as the court may deem just and proper.

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,  
THE AFTERGOOD LAW FIRM

DATED: November 1 , 2011

By:   
AARON D. AFTERGOOD,  
Attorneys For Plaintiff, JOSEPH R. FRANCIS


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

PLAINTIFF hereby demands a trial by jury.

DATED: November 1 , 2011

Respectfully submitted,  
THE AFTERGOOD LAW FIRM

By:   
AARON D. AFTERGOOD,  
Attorneys For Plaintiff, JOSEPH R. FRANCIS

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

**CV11- 9054 DSF (VBKx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

-----  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



Name & Address:  
Aaron D. Aftergood, Esq. (SBN 239853)  
The Aftergood Law Firm  
1875 Century Park East, Suite 2230  
Los Angeles, CA 90067

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOSEPH R. FRANCIS, an individual,

CASE NUMBER

PLAINTIFF(S)

CV11-9054-DSF (VBC)

v.

WYNN LAS VEGAS, LLC, dba WYNN LAS VEGAS, a Nevada  
limited liability company, STEPHEN A. WYNN, an individual,  
BARBARA CONWAY, an individual, and DOES 1 through 10,  
inclusive,

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  \_\_\_\_\_ amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Aaron D. Aftergood, whose address is 1875 Century Park East, Suite 2230, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: NOV - 1 2011

By: Marilyn Dun  
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:  
Aaron D. Aftergood, Esq. (SBN 239853)  
The Aftergood Law Firm  
1875 Century Park East, Suite 2230  
Los Angeles, CA 90067

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOSEPH R. FRANCIS, an individual,

PLAINTIFF(S)

v.

WYNN LAS VEGAS, LLC, dba WYNN LAS VEGAS, a Nevada  
limited liability company, STEPHEN A. WYNN, an individual,  
BARBARA CONWAY, an individual, and DOES 1 through 10,  
inclusive,

DEFENDANT(S).

CASE NUMBER

CV11-9054 -DSF(VBK)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Aaron D. Aftergood, whose address is 1875 Century Park East, Suite 2230, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: NOV - 1 2011

By: MARILYN DAVIS  
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> JOSEPH R. FRANCIS, an individual	<b>DEFENDANTS</b> WYNN LAS VEGAS, LLC, dba WYNN LAS VEGAS, a Nevada limited liability company, STEPHEN A. WYNN, an individual, BARBARA CONWAY, an individual, and DOES 1 through 10 , inclusive
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Aaron D. Aftergood, Esq, The Aftergood Law Firm 1875 Century Park East, Suite 2230, Los Angeles, CA 90067 Tel: (310) 551-5221	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

1 Original Proceeding    
  2 Removed from State Court    
  3 Remanded from Appellate Court    
  4 Reinstated or Reopened    
  5 Transferred from another district (specify):    
  6 Multi-District Litigation    
  7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:**     **JURY DEMAND:**  Yes      No (Check 'Yes' only if demanded in complaint.)     In excess of \$75,000 and

**CLASS ACTION under F.R.C.P. 23:**  Yes      No     **MONEY DEMANDED IN COMPLAINT:** \$ according to proof at trial.

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Diversity under 28 USC sec. 1332 and causes of action Malicious Prosecution, Abuse of Process, Fraud, Defamation, Infliction of Emotional Distress, etc.

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<b>PETITIONS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE / PENALTY</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	<b>REAL PROPERTY</b>	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<b>IMMIGRATION</b>	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

CV11-9054

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Nevada

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date November 1, 2011

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))