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dba Wynn Las Vegas and Wynn Resorts, Ltd.

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

11 KANIE KASTROLL, on her own behalf
and on behalf of all others similarly
12 situated,

13 Plaintiff,

14 v.

15 WYNN RESORTS, LTD., a Nevada
corporation d/b/a WYNN LAS VEGAS,

16 Defendant.

CASE NO. 2:09-cv-02034-LDG-LRL

ANSWER

18
19 Defendant Wynn Las Vegas, LLC dba Wynn Las Vegas, erroneously named in this action
20 as Wynn Resorts, Ltd. (hereinafter "Wynn" or "Wynn Las Vegas"),¹ hereby responds to the
21 Complaint filed by Plaintiff Kanie Kastroll ("Plaintiff") as follows:

22 **NATURE OF ACTION**

23 1. Paragraph 1 of Plaintiff's Complaint alleges facts proper for an expert opinion.
24 Therefore, Wynn is currently without sufficient knowledge or information to form a belief as to
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26 _____

27 ¹ To the extent Plaintiff intentionally named Wynn Resorts, Ltd., this Answer is filed on its
28 behalf as well.

1 the truth or falsity of the allegations contained in Paragraph 1 of Plaintiff's Complaint and
2 therefore denies the same.

3 2. In answering Paragraph 2 of Plaintiff's Complaint, Wynn is without sufficient
4 knowledge or information to form a belief as to the truth or falsity of the allegations regarding
5 other Las Vegas casinos, and therefore denies the same, and denies any and all remaining
6 allegations therein.

7 3. Wynn denies the allegations in Paragraph 3 of Plaintiff's Complaint.

8 **EFFECTS OF SECOND-HAND SMOKE**

9 4. Paragraph 4 of Plaintiff's Complaint alleges facts proper for an expert opinion.
10 Therefore, Wynn is currently without sufficient knowledge or information to form a belief as to
11 the truth or falsity of the allegations contained in Paragraph 4 of Plaintiff's Complaint and
12 therefore denies the same.

13 5. Paragraph 5 of Plaintiff's Complaint alleges facts proper for an expert opinion.
14 Therefore, Wynn is currently without sufficient knowledge or information to form a belief as to
15 the truth or falsity of the allegations contained in Paragraph 5 of Plaintiff's Complaint and
16 therefore denies the same.

17 6. Paragraph 6 of Plaintiff's Complaint alleges facts proper for an expert opinion.
18 Therefore, Wynn is currently without sufficient knowledge or information to form a belief as to
19 the truth or falsity of the allegations contained in Paragraph 6 of Plaintiff's Complaint and
20 therefore denies the same.

21 7. Paragraph 7 of Plaintiff's Complaint alleges facts proper for an expert opinion.
22 Therefore, Wynn is currently without sufficient knowledge or information to form a belief as to
23 the truth or falsity of the allegations contained in Paragraph 7 of Plaintiff's Complaint and
24 therefore denies the same.

25 **PARTIES**

26 8. Wynn is without sufficient knowledge or information to form a belief as to the
27 truth or falsity of the allegations contained in Paragraph 8 of Plaintiff's Complaint and therefore
28 denies the same.

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COUNT II

BREACH OF STATUTORY DUTY TO PROVIDE A SAFE WORKPLACE

(N.R.S. 618.375)

(By Plaintiff individually and on behalf of the Class)

44. Wynn repeats its answers to Paragraphs 1 through 43 of Plaintiff's Complaint as though fully set forth herein.

45. Paragraph 45 of Plaintiff's Complaint calls for a legal conclusion, to which no admission or denial is required. To the extent a response is required, Wynn denies the same.

46. Paragraph 46 of Plaintiff's Complaint merely recites the language of N.R.S. 618.375 with the omission of "or her" in the phrase "to his or her employees" in N.R.S. 618.375(1). Thus, no admission or denial is required.

47. Wynn denies the allegations in Paragraph 47 of Plaintiff's Complaint.

48. Wynn denies the allegations in Paragraph 48 of Plaintiff's Complaint.

49. Wynn denies the allegations in Paragraph 49 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. This Court lacks subject matter jurisdiction over Plaintiff's claims.
3. Past and future Wynn employees lack standing to assert claims against Wynn in this Court.
4. Plaintiff cannot meet the class certification requirements.
5. Plaintiff's allegations concern conduct specifically permitted under Nevada law.
6. Plaintiff has failed to allege a duty under Nevada law.
7. Plaintiff has assumed the risk.
8. Plaintiff's claims are barred by the doctrine of estoppel.
9. Plaintiff's claims are barred by the doctrine of waiver and release.
10. Plaintiff's claims against Wynn are barred in whole or in part by Plaintiff's failure to take reasonable steps to mitigate, reduce, or diminish the damages allegedly sustained. Any recovery is accordingly barred or diminished.

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11. Plaintiff's claims are barred by unclean hands.

Wynn reserves the right to (a) rely upon such other affirmative defenses as may be supported by the facts to be determined through full and complete discovery, and (b) voluntarily withdraw any affirmative defense.

WHEREFORE, having fully answered Plaintiff's Complaint, Wynn respectfully demands judgment in its favor as follows:

1. That Plaintiff's Complaint against be dismissed with prejudice, with Plaintiff taking nothing thereby;
2. That Wynn be awarded its costs incurred herein;
3. That Wynn be awarded its reasonable attorneys' fees incurred herein; and
4. That Wynn be awarded such other and further relief as the Court deems just and proper.

DATED this 8th day of October, 2010.

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