



**STETSON** LAW

**2016**  
**Ninth Annual**  
**National Pretrial Competition**

**Competition Problem –**  
**Supplemental Evidence**

This Competition will be held October 13-16, 2016  
at Stetson University College of Law  
Gulfport, Florida

The 2016 Stetson Law National Pretrial Competition Problem was drafted by Stetson University College of Law Alumni Brandon K. Breslow (J.D. '16) and Lara E. McGuire (J.D. '16) in association with the Stetson University College of Law Center for Excellence in Advocacy, Advocacy Center Director Charles Rose III, and Advocacy Center Assistant Director Erika S. McArdle (JD '12). The 2016 Competition Problem is the property of the Stetson Law Center for Excellence in Advocacy.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF STETSON

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

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**DEFENDANT’S MOTION TO CHANGE VENUE OR, ALTERNATIVELY,  
MOTION TO SEVER DEFENDANT’S CHARGES FROM INDICTMENT**

Defendant, United States Representative Charlie Wyatt (“Rep. Wyatt”), respectfully moves this Court to transfer the trial venue in the present case to a United States District Court outside the Southern District of Stetson or, alternatively, to sever Defendant’s charges from the Indictment, Doc. 1, so Defendant may proceed to trial separately from his/her co-defendants. The grounds supporting this motion are set forth in the following Memorandum.

**MEMORANDUM**

1. On or about July 1, 2016, a Grand Jury in the Southern District of Stetson returned an Indictment against Rep. Wyatt and eleven other Defendants. The Indictment charged Rep. Wyatt solely for Identity Theft (Counts 9-18), in violation of 18 U.S.C. § 1028(a)(7), and with hi/hers co-defendants for Conspiracy to Defraud the United States (Count 1), in violation of 18 U.S.C. § 371.

2. Following the initial success of the “Up and At ‘Em” Act in early 2015, Rep. Wyatt announced his/her intent to run for re-election in the 2016 election cycle.

During his/her press conference in August 2015, Rep. Wyatt announced that his/her former legislative aide, Bobby Newport ("Newport"), would serve as his/her campaign manager.

3. In November 2015, the Federal Election Commission ("FEC") began investigating Newport upon an anonymous tip that Newport was engaging in fraudulent practices to obtain additional financing for Rep. Wyatt's campaign. At present time, the FEC investigation of Newport remains ongoing.

4. After the release of initial stories of the Newport investigation, local journalist Sandy Waters ("Waters") began highlighting Rep. Wyatt's campaign and the Newport investigation on his popular podcast "Blood in the Waters" in November 2015. This podcast is known for its extreme inquiries into the acts of local politicians and general distrust for government officials.

5. Seeking to quell any rumors that Rep. Wyatt was involved with the Newport investigation, Rep. Wyatt agreed to give an interview to Waters that would be featured in the podcast in January 2016. The interview took place at Rep. Wyatt's house, and Rep. Wyatt vehemently emphasized that he/she had no knowledge of an campaign finance fraud or of any misconduct by Newport.

6. In the released podcast episode featuring the interview, Waters' commentary suggested that Rep. Wyatt was involved in Newport's alleged indiscretion with campaign finances despite his/her claim otherwise. This episode amassed twelve times the number of downloads of any previous podcast of "Blood in the Waters."

7. In July 2016, shortly after the Indictment in the present case was unsealed, Waters began a separate podcast entitled “Wicked Wyatt,” which continues to follow the Government’s case against Rep. Wyatt. Between July 2016 and August 2016, Waters released six episodes, with the promise to continue episodes during the trial “Wicked Wyatt” has garnered national attention, with more than five million subscribers. The nature of the podcast not only heavily publicizes the trial, but it also misrepresents the facts of the case to potential jurors.

8. As a result of the negative impact “Wicked Wyatt” and Waters’ journalism as a whole has created on the public image of Rep. Wyatt, as well as his/her own notoriety as a Congressman/Congresswoman, Defendant respectfully asserts that he/she would be unable to receive a fair and impartial trial in this district, and, therefore, requests a transfer to another district pursuant to Fed. R. Crim. P. 21(a).

9. Alternatively, Defendant’s joinder with his/her co-Defendants would result in substantial prejudice to his/her defense at trial. Therefore, Defendant respectfully requests that his/her charges be severed from the Indictment pursuant to Fed. R. Crim. P. 14(a).

For the foregoing reasons, Defendant respectfully requests the Court transfer the trial venue in the present case to a United States District Court outside the Southern District of Stetson or, alternatively, sever Defendant’s charges from the Indictment.

(Continued on next page)

s/ Stephanie Vaughn  
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Counsel for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 15, 2016, a true copy of the foregoing was filed utilizing the Stetson E-Filing Portal and was served via email to:

Joseph Francis  
Assistant United States Attorney  
[jfrancis@ausa.doj.gov](mailto:jfrancis@ausa.doj.gov)

/s/ Stephanie Vaughn  
Stephanie Vaughn, Esq.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO.: 15:16-cr-02342-CHR-ESW

v.

CHARLIE WYATT,

Defendant.

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**AMENDED NOTICE OF HEARING**

This Court, upon review of Defendant's Motion filed September 15, 2016, amends the Notice of Hearing for Friday, October 14, 2016, as follows:

A. The parties shall address only the following two issues during the oral argument portion of the hearing:

- i) Whether the Government violated Defendant Rep. Wyatt's Fourth Amendment right to be free from unreasonable searches and seizures in obtaining the content of his/her SkyCloud storage account without a warrant supported by probable cause?
- ii) Whether Counselor Mona Ralphio may be permitted to testify as an expert witness pursuant to Federal Rule of Evidence 702?

B. The parties will have one (1) hour reserved for oral argument on the foregoing issues.

C. The parties will have two (2) hours reserved for an evidentiary hearing on the Defendant's Motion to Change Venue or, Alternatively, Motion to Sever Defendant's Charges From Indictment.

D. Pursuant to the Status Conference held on Friday, September 16, 2016, the parties are permitted to take depositions of the opposing party's witnesses for the evidentiary hearing.

E. Pursuant to the Status Conference held on Friday, September 16, 2016, the Defendant, who holds the burden of proof on his/her motion and will present evidence first, is permitted to call himself/herself and expert witness Jess Barlee as witnesses at the evidentiary hearing.

F. Pursuant to the Status Conference held on Friday, September 16, 2016, the Government is permitted to call IRS Agent Alex Avery and Sebastian Swanson as witnesses at the evidentiary hearing.

G. Pursuant to the Status Conference held on Friday, September 16, 2016, the Government stipulates to the tendering of Jess Barlee as an expert witness in the area of jury selection.

H. In deciding Defendant's motion filed on September 15, the Court will consider the following matters to be relevant during the evidentiary hearing:

- i) The probable cause against Rep. Wyatt,
- ii) Prejudice to Rep. Wyatt in being charged with his/her co-defendants,
- iii) Rep. Wyatt's ability to receive a fair and impartial trial in the Southern District of Stetson, and

iv) The association between Rep. Wyatt and his co-defendants.

I. The Court will permit parties to make additional arguments during the course of the evidentiary hearing as to the relevancy of other matters to the docketed motion. That being stated, the Court reminds parties not to use this hearing to pre-try their cases.

J. The Federal Rules of Evidence will apply, to the extent practicable, during the evidentiary portion of the hearing.

/s/ CHR  
Judge Claire Harper Rothman  
United States District Court for the  
Southern District of Stetson  
Courtroom 3B



1 Q: Would you please state your name for the record, spelling your last name?

2 A: My name is Charlie Wyatt, W-Y-A-T-T.

3 Q: What do you do for a living?

4 A: I am a House Representative in the United States Congress.

5 Q: How long have you been a Representative?

6 A: This is the last year of my third term, so about six years.

7 Q: Do you have any family?

8 A: Yes. The love of my life, Taylor, and our three beautiful daughters, April, May,  
9 and June. Taylor and I met on our first day of classes at Stetson State University.

10 Q: What is your educational and professional background?

11 A: Well, I was born in Eleazer, Stetson, in 1972. I received my Bachelor of Arts in  
12 History at Stetson State University in 1991, and then I proceeded to earn a Master's  
13 Degree in Public Policy from University of Stetson in 1993. After graduating from  
14 University of Stetson, I enrolled in the police academy to become a law enforcement  
15 officer. Once I graduated, I was sworn in as a deputy for the Gordon County Sheriff's  
16 Office. Gordon County includes both Eleazer and South City within its jurisdiction.  
17 While I had huge dreams of giving back to my community through local government, I  
18 wanted to proudly wear a badge of honor and protect residents of this town like myself. I  
19 spent one year on road patrol and then the rest of my tenure with the up-and-coming  
20 Major Crimes Bureau.

21 Q: How long were you with the Gordon County Sheriff's Office?

22 A: Three years.

1 Q: What did you do after leaving?

2 A: I spent five years as an Investigator for the Gordon County Public Integrity Unit. It  
3 was an autonomous unit within the county government that investigated public corruption  
4 and the alleged misuse of municipal funds. It's not as exciting as an Internal Affairs  
5 Bureau might be within a police department, but it allowed me to put my investigative  
6 skills to use for a good cause. In 2006, after five years as a Deputy County Administrator  
7 in Gordon County, I was elected Mayor of Eleazer. I thought this would be my dream  
8 job, but my one term was not as successful as I would have hoped.

9 Q: What happened during your term as mayor?

10 A: Well, with my experience, I ran on the platform that I would tackle corruption in  
11 local government and make it more transparent. My parents and grandparents were blue  
12 collar workers; they owned one of Eleazer's oldest automobile repair shops. They would  
13 pay excessive amounts of money in taxes and donate to government-sponsored projects,  
14 but they had no idea where the money would actually be used. I made it my goal that all  
15 of the residents, from Grandpa Bill to the lawyer that hung his shingle, would understand  
16 everything about their city government.

17 Q: How did you go about doing that?

18 A: I made our budget accessible to the public with annotations from Stetson High's  
19 economics faculty, to make sure the comments were understandable to anyone with a  
20 high school education. I also started a body camera task force that included  
21 administrative officers from the Gordon County Sheriff's Office and the Stetson Police  
22 Department. The task force was one of the first in the nation to investigate the

1 implementation and use of body cameras by law enforcement. However, my worst  
2 disgrace as Mayor came out of my work with the Eleazer Recreation Department.

3 Q: Can you talk about that?

4 A: I don't really want to.

5 Q: Well, that isn't optional. What happened?

6 A: In 2007, shortly after I took the oath, I encouraged the City Council to approve a  
7 dormant project that the Eleazer Recreation Department wanted to finally implement. It  
8 was called Skate City. Stetson gets extraordinarily hot in the summer months, while kids  
9 are out of school. Skate City was going to be an indoor ice-skating complex. It opened  
10 June 15, 2008, and closed July 15, 2008.

11 Q: Why did it close so soon?

12 A: The Recreation Department, and myself, did not take into account how much  
13 electricity would be needed to keep an indoor ice-skating complex functioning during the  
14 summer months. That part of Eleazer, including the residential area, had a brown out for  
15 an entire week. We had to close, and those residents never forgave me. They filed  
16 complaints with the Eleazer City Council and the Governor, and they have continued to  
17 fundraise for my opponents during my elections for Congress.

18 Q: That's rather cold of them. Sorry. How did you get involved with the federal  
19 government?

20 A: In 2009, I was approached by then-Congresswoman Dexter to take her seat after  
21 her retirement. She campaigned with me, mentored me, and, luckily, I was elected in  
22 2010 by an overwhelming majority. I won 78 percent of the votes from residents of

1 Eleazer and obtained an overall majority of 65 percent in my district. Those numbers  
2 have continued to go up, slightly, during my re-elections in 2012 and 2014.

3 Q: What have been your initiatives since becoming a Representative?

4 A: I have devoted my work to the Education and Workforce Committee. I sponsored  
5 the Up and At 'Em Act in 2015, which allocates government funds to create jobs for  
6 senior citizens and reformed convicted felons within federal agencies. However, after the  
7 Act passed, some of my senior-citizen constituents approached me with concerns that  
8 they did not have the skills to secure or maintain employment.

9 Q: So what did you do?

10 A: I moved some money around in my office's budget to hire two administrative  
11 assistants that would help these senior citizens and convicted felons secure jobs through  
12 Up and At 'Em. This was in July 2015. Once my assistants compiled potential candidates  
13 for the program, I reached out to twenty-five of them personally to help them learn  
14 necessary employment and interviewing skills and act as an intermediary between them  
15 and the personnel offices of local federal agencies.

16 Q: During work hours?

17 A: Of course not. This was on my own time, and I was not compensated. It was time-  
18 consuming to moonlight as a headhunter, but I did what I needed to do to help them out. I  
19 bet you've never heard of a member of Congress that hadn't gone above and beyond  
20 before.

21 Q: I can't say I have. During your work with these twenty-five seniors, did you  
22 compile any personal information about them?

1 A: Of course. I needed their name, mailing address, date of birth, family members,  
2 and social security number to get them through a government background search. In  
3 October, I compiled this into a spreadsheet on my computer and saved it in my secured  
4 SkyCloud. Unfortunately, the SkyCloud was later hacked and the information was stolen.  
5 I feel absolutely horrible about it.

6 Q: Was one of the assistants you hired in 2015 named Sebastian Swanson?

7 A: Yes. Regrettably.

8 Q: What did you know about Sebastian when you hired him?

9 A: When I hired him, he was 21 years old. He came from a broken home and had a  
10 quite the record. But my friends at the Sheriff's Office told me that he took his time in  
11 jail seriously and wanted to straighten out. I never knew he would lead to this sort of  
12 trouble.

13 Q: What trouble?

14 A: I started to notice it around Christmas 2015. Sebastian was getting upset more  
15 frequently, and he repeatedly showed up late to work. I confronted him about it, and he  
16 told me he was upset because his sister was sick. I invited him to a New Years' Eve party  
17 at my home to help him take his mind off things. Around 2:00 a.m., we were outside on  
18 my balcony, drinking, when he asked me if he could borrow \$2,000 to hire a nurse for his  
19 sister.

20 Q: Did you give him the money?

21 A: Yes. I gave it to Sebastian the next day and told him to pay me back soon or I  
22 would be in huge trouble with my wife. We tell each other everything.

1 Q: Are you familiar with Exhibit E?

2 A: Yes. This is the letter I attached to the cash.

3 Q: You do know this isn't the story Sebastian is currently telling about what you gave  
4 him?

5 A: I know. He has accused me of conspiring with this gang, the Morning-something  
6 Gang.

7 Q: MorningStar?

8 A: Yes. Sorry. I had never even seen the names of my co-defendants, except for  
9 Sebastian, or the name of this gang until I was arrested in this case. I can't believe this  
10 case against me is being built on Sebastian's story as an informant, after all of the shady  
11 things he's done.

12 Q: What are you talking about?

13 A: Last year, after Sebastian was hired, I got a call from the Department of Children  
14 and Families asking about Sebastian's income following his application for EBT benefits.  
15 They were investigating whether the information was false, which it was since I know his  
16 income. I helped him get out of any trouble with DCF.

17 Q: What can you tell us about the gun in your home?

18 A: It's a Smith and Wesson M&P Shield 9mm. I bought it in 2009 after my home was  
19 broken into to protect my family. I wanted the safest gun available, and I keep it in a  
20 locked drawer in my office.

21 Q: Did you know that this is the same firearm members of the MorningStar Gang  
22 carry?

1 A: No. Not until that awful tabloid podcast “Wicked Wyatt” was released. Sandy  
2 Waters is a real piece of work with his yellow journalism.

3 Q: What has your life been like since Wicked Wyatt?

4 A: Horrible. An absolute nightmare. I’ve received hate mail, there are protestors  
5 outside of my office, the poll numbers in my re-election campaign are dropping by the  
6 minute, and my family has received threats. I would never have hired Sebastian if I knew  
7 it would get me here.

8

9 *The foregoing deposition of Charlie Wyatt was taken on oral examination, pursuant to*  
10 *notice for purposes of discovery, and for use as evidence, and for other uses and*  
11 *purposes as may be permitted by the applicable and governing rules. Reading and*  
12 *signing were not waived.*

1 Q: Good morning, Mr./Ms. Barlee. Could you please state your full name for the  
2 record?

3 A: My name is Jess Barlee.

4 Q: Please describe your educational background.

5 A: I received my Bachelor's Degree in Psychology from Cornell, then my Master's  
6 Degree in Mass Communication from Boston University. A few years later, I decided to  
7 go to law school, and received my J.D. from UCLA.

8 Q: Where did you practice as an attorney, and for how long?

9 A: After graduating law school, I passed the Stetson state bar, and began working as  
10 an Assistant State Attorney in Gordon County. I worked as an ASA for three years before  
11 becoming an Assistant United States Attorney in the Southern District of Stetson, which I  
12 did for seventeen years. I then left the USAO and decided to start my own private  
13 consulting firm, which I've been running for the past six years.

14 Q: What is the focus of your consulting practice?

15 A: We primarily focus on jury selection. I've helped you with this once or twice  
16 before, Joe....

17 Q: Mr./Ms. Barlee—

18 A: Mr. Francis. Sorry, old habits.

19 Q: What do you do for jury consultation?

20 A: A large part of our analysis comes from media review. We conduct statistical  
21 analysis of how either the plaintiff or defendant has been portrayed in the local media in  
22 that jurisdiction, their public image as a whole, and how that will likely affect their



1 chances of success in front of a jury. We frequently conduct mock trials to evaluate the  
2 potential impartiality, or, depending on the client, the likelihood of favoritism, towards  
3 our client from a venire panel.

4 Q: What sources of information do you use in your statistical analysis?

5 A: The media obviously plays a major role in this analysis, particularly local news,  
6 talk radio, and print journalism in the local jurisdiction. Essentially anything that may  
7 reach a potential juror. We used to conduct our own polls with a small but representative  
8 sample of the population, or, again, depending on the client, use readily available poll  
9 data. However, now with the influx of social media, my job has become much more  
10 difficult, as that becomes a large part of the analysis as well. We set up alerts for our  
11 clients that notify us of any reference—whether it’s a blog post, article, or even a  
12 Tweet—that pops up on the Internet. Social media trends have truly begun to play a huge  
13 role in shaping a juror’s perspective in recent years.

14 Q: In conducting this analysis, have you been tendered as an expert before?

15 A: Yes.

16 Q: How many times?

17 A: If I remember correctly—which I always do—I’ve testified as an expert in twenty-  
18 seven civil cases, and eight criminal cases.

19 Q: Have you testified in a capacity like this before?

20 A: Yes, six times previously.

21 Q: Why were you hired in this case?

22

1 A: To determine whether Charlie Wyatt would receive a fair trial based on the  
2 rampant media publicity surrounding him/her, particularly with the surging popularity of  
3 Sandy Waters' podcasts.

4 Q: Podcasts?

5 A: Yes; Waters initially interviewed Rep. Wyatt on his weekly podcast, "Blood in the  
6 Waters," and then his subsequent podcast focusing solely on Rep. Wyatt, "Wicked  
7 Wyatt." It's really disgusting the lack of journalistic integrity that man has—he should  
8 be ashamed.

9 Q: What would be the impact of this podcast on Rep. Wyatt?

10 A: There are major issues with both the nature of the podcasts, as well as the  
11 popularity of both "Blood in the Waters" and "Wicked Wyatt."

12 Q: Could you first explain what you believe to be the problem with the nature of the  
13 podcasts?

14 A: Joe, I don't believe, I *know*. It's like I said before—that man wholly lacks  
15 journalistic integrity. Anyone with a tenth-grade education can recognize how totally  
16 slanted the presentation is from Waters. It's like he's auditioning for a certain network  
17 news channel. He ignores the facts, entirely favors the Government's case, and  
18 misrepresents Charlie Wyatt. This is a far cry from true investigative podcasts, and  
19 creeps into the realm of slander. Granted I'm not accusing him of slander at the moment,  
20 but...

21

1 Q: I believe that is a discussion for another day, Mr./Ms. Barlee. What about the  
2 popularity?

3 A: Well, the problem with the popularity of the podcast is how wide of an audience it  
4 has amassed. Millions of people have listened and downloaded “Wicked Wyatt”—far  
5 more than the approximately 500,000 constituents Rep. Wyatt has in the jury pool in this  
6 district. The negative portrayal from the podcasts more likely than not has impacted the  
7 potential jury pool in some manner.

8 Q: You can’t possibly be suggesting that every potential juror in this District has  
9 listened to these podcasts?

10 A: Whether someone listened to the podcasts or not is only half of the battle Rep.  
11 Wyatt would face. Although I can’t tell you the *exact* number of potential jurors that have  
12 listened and downloaded the podcasts themselves, there has been additional publicity  
13 surrounding the podcasts. Everyone knows it exists, or knows someone who listens to it.

14 Q: Why would that matter if they themselves have not actually listened?

15 A: The second-hand knowledge is potentially more dangerous. Many constituents  
16 heard from a friend who heard from a friend who listened. It’s almost like a game of  
17 telephone—the longer the chain of people telling the story, the more distorted it becomes.  
18 The non-listeners are learning even more inaccurate summaries of the podcasts. The  
19 episode recaps online, the bits and pieces from friends—these all disjoint the story to  
20 Rep. Wyatt’s constituents.

21 Q: What has been the worst source of publicity?

1 A: Hands-down, Twitter has proven to be the absolute worst for Charlie. He/she  
2 has been trending, but not in a good way.

3 Q: What do you mean by trending?

4 A: In our social media world, popular topics may be sorted through “hashtags.”  
5 Twitter, Facebook, Instagram, Tumblr—they all use hashtags to show what is popular.

6 Q: Does Rep. Wyatt have a—what was it you called them—hashtag?

7 A: Yes, #RepWyatt is all over Twitter. The number of Tweets with #RepWyatt  
8 generally peak shortly before and after every new episode of Wicked Wyatt.

9 Q: Can you describe the Tweets?

10 A: If you look at Exhibit C, it provides an accurate summary of the type of Tweets  
11 people post about Charlie. These are examples that led me to conclude that Rep. Wyatt  
12 will not have a fair trial based on the negative social media reaction, particularly amongst  
13 constituents.

14 Q: But going back to the trending issue—are you suggesting that Rep. Wyatt would  
15 be permanently trending?

16 A: No. Obviously, I can't sit here and tell you that the Twitter storm he/she is  
17 currently facing will last for another month, let alone another year.

18 Q: So it is possible that by the time jury selection begins, this would not be a major  
19 topic on social media sites?

20 A: Correct. Trends change rapidly, and you never know what the next big thing will  
21 be. But for now, there is too much negative media attention surrounding Rep. Wyatt  
22 amongst his constituents.

1 Q: Is there any concern that these are constituents, rather than unaffiliated potential  
2 jurors?

3 A: Oh absolutely! Anything these constituents learn about Rep. Wyatt damages their  
4 view of him/her even more because they link it to his/her role in Congress. A lot of  
5 constituents already hold a grudge over that monstrosity "Skate City." Even I admit that  
6 was a disaster when Rep. Wyatt was mayor; I would have told him/her to never attempt  
7 that. But then again, what do I know, I'm not a political campaign strategist.

8 Q: So you believe there is a bias due to Rep. Wyatt's political position?

9 A: Yes. Potential jurors who live outside of Rep. Wyatt's Congressional district  
10 would not take his/her actions so personally. That's one of the biggest problems with  
11 impaneling a jury from this District. Plus, the demographics of this District sure don't  
12 help things.

13 Q: What role do the demographics play?

14 A: This District has one of the largest elderly populations in the state of Stetson.  
15 Look at the victims of the Morningstar Gang's false tax returns—almost all elderly  
16 individuals. This group is more impacted by this case than most, because they relate to  
17 the victims. They need to protect their own, thus creating tremendous bias.

18 Q: In light of the age of the population, do you still stand by your argument about the  
19 social media influence on this case?

20 A: Yes.

21 Q: So are you suggesting that a majority of the elderly population in Stetson are  
22 active Twitter users?

1 A: Not necessarily. There is a portion of the elderly population that has become tech-  
2 savvy, but I cannot tell you for certain what percentage of that age group is active on  
3 social media, no.

4 Q: Are there any other issues as it relates to the Morningstar Gang?

5 A: Wrongfully lumping Rep. Wyatt into the charges with the Morningstar Gang have  
6 unfairly hurt his/her chances even more. The charges have become inextricably  
7 intertwined, and it is made worse by the strong favoritism toward law enforcement in this  
8 district. Plus, it creates a negative affiliation with organized crime, which again is far  
9 from the case with Rep. Wyatt. Ignoring the fact that Rep. Wyatt was *not* part of this  
10 absurd conspiracy you have orchestrated, the average juror will not be able to separate  
11 Charlie from these criminals. It will unfairly impact his/her chances of having a truly fair  
12 trial.

13 Q: One last question, Mr./Ms. Barlee. How much are you getting paid by the  
14 Defendant?

15 A: I get \$1,000 an hour, so let's wrap things up because you really don't want to  
16 spend more money to talk to me.

17

18 *The foregoing deposition of Jess Barlee was taken on oral examination, pursuant to*  
19 *notice for purposes of discovery, and for use as evidence, and for other uses and*  
20 *purposes as may be permitted by the applicable and governing rules. Reading and*  
21 *signing were not waived.*

1 Q: Would you please state your name for the record, spelling your last name?

2 A: My name is Sebastian Swanson, S-W-A-N-S-O-N. But growing up some people  
3 knew me as Li'l Sebastian.

4 Q: How old are you?

5 A: I am 22 years old.

6 Q: Do you know your relationship to the case of United States v. Charlie Wyatt?

7 A: Yes.

8 Q: And...?

9 A: And...the answer to that question is a yes. You asked me if I knew the  
10 relationship. You did not ask me what that relationship was.

11 Q: I'm sorry. I will be clearer with my questions. What is your relationship to the  
12 case of United States v. Charlie Wyatt?

13 A: I was a co-defendant in this case. Since my attorney and I entered a plea deal with  
14 the Government, I am now their witness against Rep. Wyatt and the rest of the gang.

15 Q: What are the terms of your plea deal?

16 A: I don't remember off the top of my head.

17 Q: Did you ever read your plea deal before signing it?

18 A: Yes. I did.

19 Q: What is your educational background?

20 A: I received my GED while I was incarcerated in 2014. Before that, I had finished  
21 up through the ninth grade. I'm still not good at reading or nothing, but numbers make

22 sense to me.

1 Q: Have you ever been convicted of a crime?

2 A: Yes.

3 Q: On what charges?

4 A: Possession of cocaine. Except it wasn't mine. I don't touch the stuff. I dealt it.

5 Q: Do you know what it means to be adjudicated delinquent?

6 A: Is that where you get in trouble in juvenile court?

7 Q: Yes.

8 A: Yes. I do know what it means then. And I have been. Seven times. Four of them  
9 were for misdemeanor trespassing when I was between 13 and 15. When I was 16, they  
10 popped me for grand theft auto. Then, right before my 18th birthday, I had two counts of  
11 criminal mischief for vandalizing some houses. They charged me as a juvenile on all of  
12 them, even on the last one where they could have locked me up for more than a year.

13 Q: You mentioned getting your GED in prison, how long were you locked up for?

14 A: I was in for 18 months on a two-year sentence. I tried to be good during that time  
15 and keep my nose clean. By the time I got out in April 2015, I had learned computer  
16 coding. Like I said, reading never really clicked. But computers are a whole new ball  
17 game, and I could call the shots.

18 Q: What do you mean?

19 A: Since I've been out, I made money, under the...never mind.

20 Q: It's okay. I don't think these nice prosecutors are going to bust you on tax evasion  
21 after giving you a deal for your murder charge, but I'm not your attorney. What have you  
22 been doing?



1 A: I've been paid to act as a "security advisor" to companies looking to make sure  
2 their security programs are safe. I test these programs, really make sure that somebody  
3 who knows a lot and has the tools can't penetrate the firewall.

4 Q: What does that require you to do?

5 A: Think of it like this. Have you ever bought an alarm system or a guard dog and  
6 slipped someone \$20 to try to break into your home? Like that.

7 Q: In 2015, did you have another job working for Charlie Wyatt?

8 A: Yes. Rep. Wyatt hired me as an assistant that July, to help him/her get his/her  
9 voters through that jobs program. It was a decent job. I got to know Rep. Wyatt. At first  
10 he/she was really energetic and he/she was always nice.

11 Q: What do you mean "at first?"

12 A: Well, after the jobs program started picking up speed, after Mr. Newport was  
13 popped, and certainly after that horrible radio show host started telling everyone Wyatt  
14 was in cahoots with Newport, I noticed his/her mood changed. He/she was really worn  
15 down by November. I considered Rep. Wyatt a mentor and wanted to help him/her out.  
16 Be the son he/she never had.

17 Q: So how did you do that?

18 A: Well, I asked him/her if there was anything I could do to help him/her. I meant  
19 stay later or do his/her errands. He/She asked if I could get him/her some Addy.

20 Q: Addy?

21 A: Adderall.

22 Q: Did you get it for him/her?

1 A: I...uh...yeah, I did. Except that's when my life started to go right back downhill.

2 In order to get him/her Adderall, I had to go through my old supplier, Austin.

3 Q: Is that Austin Applebee?

4 A: Yes.

5 Q: How often did this happen?

6 A: Enough that Wyatt started building up a tab with MorningStar. This got me back  
7 on the hook. These guys don't know their eyes from their elbows, so I took the  
8 opportunity to help them get their act together, make some money. I also gave Wyatt a  
9 chance to get out of his/her debt.

10 Q: How did you do that?

11 A: On New Years' Eve I was at Wyatt's party. After the ball dropped and mostly  
12 everyone left, Wyatt and I were drinking on the patio. I told Wyatt he/she owed the  
13 MorningStar Gang \$10,000, but I could make it so they owed him \$15,000. Adderall isn't  
14 cheap, and these guys knew who I was supplying it to. Since the gang was gearing up for  
15 their new tax fraud scam, I told Wyatt all he/she needed to do was get me the password to  
16 his/her SkyCloud.

17 Q: What did you need that for?

18 A: We needed names and socials, to make the taxes look real. Wyatt had that on  
19 his/her SkyCloud from Up and At 'Em. He/She knew what I meant, especially when I  
20 found that note on my desk the next day with his/her password.

21 Q: Is that Exhibit E?

22 A: Yes m'am.

1 Q: What did you do with the password?

2 A: Used it. Got the spreadsheet off his/her computer. Gave it to MorningStar to use to  
3 file the returns.

4 Q: Did you ever pay Rep. Wyatt the \$15,000 MorningStar owed?

5 A: Not yet. We were still waiting on some refund checks to come through to settle  
6 that debt. I gave him/her a \$2,000 check a few weeks after he/she gave me the password  
7 to make sure he/she knew I hadn't played him/her.

8 Q: Is that Exhibit D?

9 A: Yes. That's it.

10 Q: When did you start cooperating with the Government?

11 A: When we were all picked up on July 1, I slipped a note to the jail officer that I  
12 wanted to speak with an agent. I've been locked up before, and I knew these charges  
13 were serious. If I was the first to talk, I would be the first to walk.

14 Q: Is that note Exhibit A?

15 A: Yes, and I don't regret it one bit.

16 Q: When did you first speak with the Government?

17 A: That same day. I met with Avery and Smith for 45 minutes that day. They said  
18 they wanted to see me in two weeks with my attorney. On July 15, we met for most of the  
19 day and worked out my story and my deal.

20 Q: Did your deal include testifying against Rep. Wyatt?

21 A: Yes. Between that and pleading guilty to only one charge, it may be the smartest  
22 move I ever made.

1 Q: One last question. What can you tell us about the MorningStar Gang?

2 A: They popped up in Stetson in the early 1990s. They gave law enforcement a lot of  
3 trouble back then, and that isn't an exaggeration or nothing. Some deputy at the Sheriff's  
4 Office was killed by the gang's leader in '94 or '95. Since then, they mostly lay low but  
5 everyone in Stetson knows it's where you go when you need drugs or to teach someone a  
6 lesson. There's been a lot of bloodshed from MorningStar. Moving into tax fraud may be  
7 the smartest thing they've ever done.

8 *The foregoing deposition of Sebastian Swanson was taken on oral examination, pursuant*  
9 *to notice for purposes of discovery, and for use as evidence, and for other uses and*  
10 *purposes as may be permitted by the applicable and governing rules. Reading and*  
11 *signing were not waived.*

1 Q: Would you please state your name for the record, spelling your last name?

2 A: My name is Alex Avery, A-V-E-R-Y.

3 Q: What do you do for a living?

4 A: I am an Investigative Agent for the Internal Revenue Service, based out of the  
5 Stetson field office.

6 Q: How long have you been an agent for the IRS?

7 A: 16 years. Prior that, I was an IRS auditor for the three years, auditing the tax  
8 returns of citizens and corporations.

9 Q: What is your educational background?

10 A: I received two Bachelor's Degrees from Washington University in St. Louis. One  
11 was for Criminology and Law and other was for Computer Sciences.

12 Q: In your time with the Internal Revenue Service, had you ever investigated  
13 organized crime?

14 A: It depends on what you mean by organized. All of my experience has been white-  
15 collar business persons who conveniently "forgot" that they incurred tax penalties  
16 throughout the year and then claim they are owed a refund. It all looks organized to me.

17 Q: My question referred to gangs.

18 A: Oh, then no.

19 Q: How did you become involved in the case at hand?

20 A: Our field office received a call from an elderly gentleman, Nathan Parker, on  
21 March 1, 2016. He was concerned because he tried to file his annual federal tax return,  
22 but his e-filing was rejected. I initially suspected identity theft, but nothing of this scale.

1 Q: What do you mean?

2 A: Well, between March 1, 2016, and April 15, 2016, we received more than 70  
3 complaints similar to Nathan Parker's. Some of the victims were also friends and lived in  
4 the same area of Stetson, which we thought was odd. Once we reached 50 complaints, my  
5 partner, Agent Smith, and I came up with a plan to find out what was going on.

6 Q: What was your plan?

7 A: We first investigated where the tax refund checks were being sent. It appeared  
8 they were being mailed to various PO Boxes at the same post office. We asked the owner  
9 of the post office, Ron Applebee, for the registered owners of the boxes. Unfortunately,  
10 he wasn't much help and said he would have to go into storage for those records.

11 Q: Did you develop any suspects?

12 A: Well we heard on the street that known associates of the MorningStar Gang  
13 frequented that post office, so we asked a confidential informant to find out if they were  
14 involved in the fraudulent refunds. The informant would pose as a drug supplier. Oddly  
15 enough, the MorningStar Gang turned him away.

16 Q: Do you know why?

17 A: Our informant was told by Skylar Stevenson that the gang was planning to  
18 postpone their drug distribution while they focused on their new scam, the fraudulent tax  
19 returns. We then asked our informant to learn how the gang was getting its PII for the tax  
20 returns.

21 Q: PII?

1 A: Sorry. Personal Identifying Information. It is nearly impossible to file a tax return  
2 under a fake person's name. It appears legitimate if it is a real person's name, social  
3 security number, etc.

4 Q: Did you find out where this information was coming from?

5 A: On April 1, our informant told us a local politician supplied some of the PII. We  
6 kept our ear to the ground over the next few days. Then, we hit the jackpot.

7 Q: Jackpot?

8 A: Yes. My partner, Agent Smith, heard from her husband about a podcast by some  
9 local hack, Sandy Waters. It was called Blood in the Waters, or something like that.  
10 Smith was listening to Sandy's story about the Defendant when he mentioned that Wyatt  
11 owned the same firearm that members of the MorningStar Gang were infamous for  
12 carrying...and using.

13 Q: What does that mean?

14 A: Well, it shifted our focus to Wyatt. Since PII is normally backed up somewhere, I  
15 had a hunch he/she had an account with SkyCloud. After all, Wyatt is Stetson born and  
16 raised, just like SkyCloud.

17 Q: Did he/she have an account there?

18 A: Yes! And they sent us everything, including a worksheet that had PII for 25 of our  
19 victims. We also got what they called "non-content data," which is basically his/her login  
20 history. This corroborated Sebastian Swanson's story about how MorningStar got its PII  
21 on January 2.

22 Q: Does it tell you that Wyatt was the one who accessed the SkyCloud at those times?

1 A: It tells me his/her password was entered at those times successfully.

2 Q: Did you find out how the gang got the rest of its PII?

3 A: No clue. We were hoping they would tell us after they were indicted. There's  
4 always a bigger fish to fry.

5 Q: Speaking of fishing, did you interview anyone other than Rep. Wyatt as a  
6 suspected source?

7 A: No. We didn't need to. We have him/her dead to rights.

8 Q: Just by having the information for 25 of the victims?

9 A: No, we have much more than that! His/Her co-defendant, Sebastian Swanson, sold  
10 him/her up the river after we indicted the gang. When that news broke, the residents of  
11 Eleazer went crazy. I'm surprised the villagers haven't arrived with their torches to  
12 his/her house.

13 Q: Were you ever threatened during this investigation?

14 A: Yes. I guess MorningStar caught on that I was on their trail, so they offered our  
15 informant \$100,000.00 to murder me. I wouldn't want to be on trial when the jury learns  
16 that.

17

18 *The foregoing deposition of Alex Avery was taken on oral examination, pursuant to*  
19 *notice for purposes of discovery, and for use as evidence, and for other uses and*  
20 *purposes as may be permitted by the applicable and governing rules. Reading and*  
21 *signing were not waived.*