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# The MICHIGAN GAMING Newsletter



## U.S. SUPREME COURT GRANTS CERTIORARI IN VANDERBILT CASINO CASE

On Monday, June 24, 2013, the United States Supreme Court granted the petition for writ of certiorari filed by the State of Michigan in the matter involving the Bay Mills Indian Community's ("Bay Mills Tribe") Vanderbilt casino. In announcing its decision to take up this case, the Supreme Court identified the "two recurring questions of jurisprudential significance" that will be reviewed:

"The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* (IGRA), authorizes an Indian tribe to conduct class III gaming under limited circumstances and only on "Indian lands." 25 U.S.C. § 2710(d)(1). This dispute involves a federal court's authority to enjoin an Indian tribe from operating an illegal casino located *off* of "Indian lands." The petition presents two recurring questions of jurisprudential significance that have divided the circuits: 1. Whether a federal court has jurisdiction to enjoin activity that violates IGRA but takes place outside of Indian lands [and] 2. Whether tribal sovereign immunity bars a state from suing in federal court to enjoin a tribe from violating IGRA outside of Indian lands."

The Bay Mills Tribe had opened a casino in Vanderbilt, Michigan in November, 2010 on land that was approximately 125 miles south of its reservation land located in Michigan's Upper Peninsula. The casino was closed following the entry of a preliminary injunction issued by the U.S. District Court for the Western District of Michigan in March, 2011. The Bay Mills Tribe then appealed this decision to the Sixth Circuit Court of Appeals, which reversed the decision of the District Court. The State of Michigan then appealed the Sixth Circuit's decision to the U.S. Supreme Court. Notably, the U.S. Solicitor General filed an amicus brief on behalf of the Federal Government which argued against the Court reviewing this

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case.

In a press release following the Supreme Court's decision, Michigan Attorney General Bill Schuette said, "[t]oday's ruling sets the stage for an important discussion about the states' ability to halt the unrestrained expansion of off-reservation tribal casino gambling. We look forward to making our case before the nation's highest court this fall."

The Bay Mills Tribe responded to the Supreme Court's decision with the following statement, "The Bay Mills Indian Community is deeply concerned by the U.S. Supreme Court's decision to review this case as it is in any case where it appears the Court may examine the doctrine of tribal sovereign immunity. We remain confident that the nation's highest Court will agree with our position."

## MICHIGAN LOTTERY PUTS ILOTTERY PLANS ON HOLD

Last week, the Michigan Lottery announced that it was suspending its plans to allow lottery tickets and other games to be purchased and/or played over the internet (which has come to be known as "iLottery"), with Michigan Lottery spokeswoman Andrea Brancato recently telling the Associated Press that "plans for an iLottery system have been suspended so that the Lottery may further evaluate the program."

Though Governor Rick Snyder supported the iLottery plans and proposed \$3.4 Million be allocated for this purpose in his 2014 budget proposal, the Senate Appropriations Committee eventually de-funded this proposal, and separate iLottery funding did not make it into the final omnibus budget bill sent to the Governor (see "Michigan iLottery Plans Defunded in 2014 Budget", *Michigan Gaming Newsletter*, Volume 19, Issue 16, June 7, 2013). The allocated funding was meant to aid in the development of the iLottery plans and also pay to hire 10 additional employees to handle the iLottery program.

It is unknown whether the Michigan Lottery may still plan to move forward with iLottery in the future, even in the absence of separate allocated funding for the program. In this regard, however,

Senator Rick Jones (R-Grand Rapids) introduced a bill on April 10<sup>th</sup> that would prohibit the Michigan Lottery from selling "tickets or shares...over the Internet." This measure, Senate Bill 0294, was referred to the Senate Committee on Regulatory Reform, and has not yet been released from this committee.

## AGA ACCEPTING 13TH ANNUAL COMMUNICATIONS AWARDS

The American Gaming Association ("AGA") is currently accepting entries for the 13th annual AGA Communications Awards.

The Communications Awards recognize outstanding achievement in advertising, public relations, and financial and corporate communications in the global gaming industry. According to the AGA, it is the only such award of its kind and celebrates the creativity of industry's communication efforts.

All companies involved in the casino, lottery or pari-mutuel industries are eligible to submit entries in any of 15 categories, ranging from annual report and communications campaign .

To access category information as well as the entry form, please visit <http://www.americangaming.org/events-and-programs/communications-awards>.

## SIGN UP FOR RMC'S DAILY GAMING NEWS FEED

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