

March 27, 2015

Volume 21, Issue 10

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The MICHIGAN GAMING Newsletter



SAULT TRIBE OFFICIALS SEEK DISMISSAL OF LANSING CASINO LAWSUIT

On Friday, March 20, 2015, tribal government officials of the Sault Ste. Marie Tribe of Chippewa Indians (“Tribe”) filed a motion to dismiss the State of Michigan’s most recent complaint regarding the Tribe’s efforts to develop a casino in Lansing. The State’s amended complaint, filed on February 3, 2015, follows a remand of the litigation by the Sixth Circuit Court of Appeals in 2013.

At issue in the litigation is whether the Tribe can apply to have certain parcels of property in Lansing taken into trust by the U.S. Secretary of the Interior before it obtains written revenue sharing agreements with the other federally recognized Indian Tribes in Michigan pursuant to Section 9 of the Tribe’s Tribal-State Gaming Compact with the State of Michigan. Having this land taken into trust is one of the required steps that a Native American tribe must take in order to open a casino pursuant to the federal Indian Gaming Regulatory Act.

After the Tribe sought to place the Lansing land into trust, the State sued the Tribe in the U.S. District Court for the Western District of Michigan in September 2012 (Case No. 1:12-cv-00962-RJJ). The District Court initially granted an injunction in favor of the State that prevented the Tribe from moving forward with plans for a Lansing-based casino. The Sixth Circuit, however, subsequently overturned this injunction but issued a stay of the proceedings until the State had a chance to apply for certiorari with the Supreme Court. The Supreme Court did not grant certiorari in the case, dismissing the request on June 5, 2014 per request of the parties to the suit due to the Supreme Court’s recent precedent in *Michigan v. Bay Mills Indian Community*, which affected the claims of the current lawsuit.

In addition, the Sixth Circuit held that the State's original claims were not ripe because the claims depended on future events that are uncertain and that federal law did not abrogate the Tribe's sovereign immunity. The Tribe and the State jointly agreed to dismiss the case in December of 2014 and to allow the State to bring new claims against the Tribe's individual officers in an amended pleading.

In its amended complaint, the State dropped the Tribe as a party to the suit, instead listing the individual tribal officers as defendants and maintained its arguments that the conduct of each tribal officer related to the Tribe's land-into-trust efforts would result in a breach of the Tribal-State Gaming Compact. As such, the State is seeking to have the court order the tribal officials to withdraw the Tribe's land-into-trust applications and related submissions.

The tribal officers' motion to dismiss the suit argues that each officer retains sovereign immunity when conducting official tribal business. Furthermore, the Tribe must be joined to any lawsuit involving its gaming compact as a necessary party because "[h]owever creatively pled, all of the State's claims would require interpretation of the *Tribe's* compact" (emphasis in original). Defendant's Brief in Support of Motion to Dismiss Amended Complaint, p. 13 (Mar. 20, 2015). As noted above, the Sixth Circuit ruled that the Tribe's sovereign immunity would bar the current lawsuit until such immunity is otherwise waived or abrogated by the actions of the Tribe. Such a waiver or abrogation is unlikely to be found unless or until the Tribe actually begins Class III gaming in violation of its gaming compact with the State.

The District Court has scheduled a hearing on the Tribe's motion to dismiss for Wednesday, June 17, 2015.

U.S. HOUSE HOLDS HEARING ON BILL TO BAN ONLINE GAMING

On Wednesday, March 25, 2015, the U.S. House Subcommittee on Crime, Terrorism, Homeland Security and Investigations held a hearing on [House Resolution 707, the Restoration](#)

[of America's Wire Act \("HR 707"\)](#). If passed, the legislation would generally ban online gaming activity throughout the country by clarifying that the Wire Act applies to wagering other than merely sports wagering.

Wednesday's hearing featured five witnesses: **Mr. John Warren Kindt**, Professor Emeritus of Business Administration, University of Illinois School of Law; **Mr. Les Bernal**, National Director, Stop Predatory Gambling Foundation; **Mr. Michael K. Fagan**, Adjunct Professor of Law, Washington University School of Law; **Mr. Andrew Moylan**, Executive Director and Senior Fellow, R Street; and **Ms. Parry Aftab**, Executive Director, Wired Safety.

The legislation has been sponsored by Rep. Jason Chaffetz (R-Utah) and has been designed to rollback changes in the interpretation and application of the Wire Act, which has allowed for the expansion of online, intrastate gaming activities for states that choose to authorize such activity. Committee members raised questions regarding the accuracy and sufficiency of geo-tracking software, if online gambling will allow for increased money laundering activities, and whether expansions of online gaming will result in measurable social harms.

The witnesses were split on their support for the bill, with Mr. Kindt, Mr. Bernal, and Mr. Fagan noting their support of the legislation and Mr. Moylan and Ms. Aftab opposing the bill. Those witnesses supporting the bill noted their concerns regarding the ability for state governments to effectively regulate Internet gaming activity to prevent money laundering and other organized crime, that online gaming will result in the spread of social harms associated with gaming, and that the Department of Justice's 2011 reinterpretation of the Wire Act was inappropriate.

In opposing the bill, Mr. Moylan noted, under the traditional federal system, that states should have the right to develop their own independent laws, regulations, and policies related to gaming activity. Ms. Aftab further noted that the recent legalization of forms of online gaming has resulted in the decrease in illegal online gaming activities due to the activity being regulated.

LEADING INDUSTRY CONFERENCE ON iGAMING IN NORTH AMERICA: APRIL 14-16

The 2015 iGaming North America (“IGNA”) conference marks the fifth year of this unique networking and educational event designed to facilitate and cultivate the convergence of the land-based and online gambling industries in North America. The conference is designed to provide a cost-effective networking environment that helps foster understanding regarding the impacts of existing and potential regulated internet gambling in the U.S. and Canada and provides critical information regarding the players, resources, legislative framework and topics that are important to all of the parties that comprise the important commercial gaming segment. With the surge in activity at both the state/provincial as well as federal levels, the conference organizers welcome all of the operators, consultants, vendors and suppliers focused on North America to come together April 14-16 in Las Vegas, Nevada at the Planet Hollywood Casino and Hotel.

Conference founder and lead organizer, Tony Cabot, Esq. states “[w]e envisioned IGNA as an event by iGaming companies and professionals for iGaming companies and professionals. From its inception, the conference has delivered content, learning experiences and networking that we hope you would find valuable as active members of the iGaming community.”

In addition, IGNA will be hosting a two-part webinar series. The first installment is scheduled for Tuesday, April 7: "Seizing the Opportunities of the US Gaming Market: Offering a Digital Social Casino Experience." The U.S. real-money iGaming market is taking time to emerge at a state level. In contrast, social gaming brands offer land-based casinos and standalone iGaming operators the chance to enter the US gaming market and prepare for the eventual regulation of real-money online gaming. The webinar will include a presentation by Income Access CEO Nicky Senyard and she will review: 1) the short-term and long-term benefits of developing a social brand; 2) a roadmap for developing a social brand and then marketing it; and 3) integrating casinos' above-the-line channels with digital below-the-line channels.

Please see www.igamingnorthamerica.com for the registration information for both webinars.

CASINOS BRING TOP-NOTCH ENTERTAINMENT PERFORMANCES TO MICHIGAN

This spring brings many top-name entertainment performances to several Michigan casinos. Several of Michigan's tribal and commercial casinos have had great success bringing customers in through the use of big-name performers. The casinos seek to provide casino patrons with a wealth of show and concert options in their own backyards.

MotorCity Casino Hotel's Sound Board live-music theater venue opened in October of 2008 with performances by Anita Baker and Fleetwood Mac's Stevie Nicks. Since opening, it has hosted numerous performances by both national and local entertainers.

Upcoming performances include acts from:

- Whoopi Goldberg— April 17th, 2015; and
- Aaron Lewis — April 26th, 2015.

The state-of-the-art Sound Board theater is able to seat between 1,500 and 2,300 people. The venue is in addition to MotorCity's existing Amnesia and Radio Bar lounges, which feature local musicians and DJ's.

For more information, please visit:

www.motorcitycasino.com.

The **Soaring Eagle Casino and Resort** will be hosting big-name acts in their Concert Hall this year. The Soaring Eagle Casino and Resort Concert Hall opened in 1998 and has hosted hundreds of concerts and events including Alice Cooper, Brooks & Dunn and Rodney Carrington.

Upcoming performances include acts from such names as:

- Steve Martin and Martin Short – April 25th, 2015

- Weird Al Yankovic – May 29th, 2015
- Keith Urban – June 25th, 2015
- Def Leppard — July 21st, 2015

For more information, please visit:
www.soaringeaglecasino.com

Firekeepers Casino will also add to list of Big Name acts coming to Michigan this year. Their Event Center opened in 2012, initially hosting big acts such as Rascal Flatts, Aretha Franklin, and Hall & Oates.

Upcoming performances include acts from:

- ZZ Top — March 20th, 2015;
- REO Speedwagon – April 4th, 2015;
- Daughtry — Friday, June 26th, 2015;
- Tim Allen — July 11th, 2015; and
- Boston — July 18th, 2015.

For more information, please visit:
www.firekeeperscasino.com

Four Winds Casino in New Buffalo adds to the lineup as well. Between their Silver Creek Event Center and the Hard Rock Café, Four Winds has hosted a great variety of acts.

Upcoming performances at the Silver Creek Event Center include acts from:

- Frank Caliendo — March 27th, 2015; and
- Smokey Robinson — May 29th, 2015.

For more information, please visit:
www.fourwindscasino.com.

*The Michigan Gaming Newsletter would like to
thank Jack Waier for his contributions to this
Newsletter*