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For more information on Michigan's gaming industry, please visit [www.michigangaming.com](http://www.michigangaming.com)

*Editor in Chief:*

**David D. Waddell, Esq.**

Phone: 517.507.3859

[waddell@rmclegal.com](mailto:waddell@rmclegal.com)

*Senior Gaming Analyst*

*& Editor:*

**Robert R. Russell, II**

Phone: 517.507.3858

[russell@rmclegal.com](mailto:russell@rmclegal.com)

*Reporter*

**Douglas L. Minke**

Phone: 313.221.9380

[minke@rmclegal.com](mailto:minke@rmclegal.com)

*Reporter*

**Blaine R. DeGracia**

Phone: 517.507.3857

[degracia@rmclegal.com](mailto:degracia@rmclegal.com)

*Subscription information:*

[info@michigangaming.com](mailto:info@michigangaming.com)

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**RMC Ventures, LLC**

University Place Center  
333 Albert Ave, Suite 450  
East Lansing, MI 48823  
Phone: 517.507.3860  
Fax: 517.908.0235  
[www.rmclegal.com](http://www.rmclegal.com)

# The MICHIGAN GAMING Newsletter



## COURT RULES IN FAVOR OF MOTORCITY CASINO IN CASE FILED BY DISGRUNTLED PATRON

This morning, Judge Michael F. Sapala of the Wayne County Circuit Court heard oral arguments in the matter of Parise v Detroit Entertainment, L.L.C., d/b/a MotorCity Casino.

At issue in this case was the Plaintiff's claim that MotorCity Casino should be required to refund him more than \$670,000 that he allegedly lost while gambling at the Casino over a period of nine years. Mr. Parise claims that he was owed this money under MCL 600.2939(1), a statute first enacted in Michigan nearly 160 years ago, and which permits a wagerer, under certain circumstances, to recover money lost while engaged in gaming activities. It was the position of the Casino that the provisions of MCL 600.2939(1) applied only to money lost in illegal gaming activities, not while engaged in the legal and regulated commercial gaming conducted under the provisions of the Michigan Gaming Control and Revenue Act (the "Gaming Act").

In deciding on the cross-motions for summary disposition filed by both Mr. Parise and MotorCity Casino, Judge Sapala found squarely in the favor of the Casino. In granting MotorCity Casino's motion and denying Mr. Parise's motion, Judge Sapala noted that it was a "fair inference", in reading MCL 600.2939(1) with the operative provisions of the Gaming Act, that the provisions of MCL 600.2939(1) apply to illegal gaming activities, and not to legal commercial gaming conducted under the Gaming Act. In what Judge Sapala described as an "easy" and "straight forward" decision, he held that MCL 600.2939(1) is clearly inconsistent with the entire legislative scheme set forth in the Gaming Act, and that the Gaming Act's pronouncement that "[a]ny other law that is inconsistent with this act does not apply to casino gaming as provided for by this act" (MCL 432.203(3)) is clear and

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unambiguous, and for these reasons, he dismissed Mr. Parise's lawsuit as a matter of law.

In concluding the hearing, Judge Sapala said that he needed more time to decide whether Mr. Parise's lawsuit was "frivolous", and whether sanctions should be imposed. A hearing on Judge Sapala's decision as to sanctions will be held on October 16, 2009.

## **MICHIGAN BUSINESS LEADERS RALLY FOR "PURE MICHIGAN" CAMPAIGN FUNDING**

According to a recent *MIRS* report, on Wednesday, Michigan business leaders gathered at Michigan's capitol to protest budget cuts affecting the "Pure Michigan" travel and tourism campaign. The current funding of the state's Pure Michigan campaign, which includes television, radio and print advertisements in surrounding states and within Michigan, has been paid for by \$30 million in state spending. The campaign has been funded by special appropriations from the 21<sup>st</sup> Century Job Fund and early payout of the state's tobacco lawsuit settlement. This funding source is set to expire at the end of the current 2009 fiscal year (September 30, 2009).

According to the report, Steve Yenich, president and CEO of the Michigan Lodging and Tourism Association (MLTA), stated that the proposed budget could cut Pure Michigan spending by 80 percent.

A recent survey of tourism business which track the origin of their guests reported that 73 percent of those businesses had an increase in visitors from out-of-state.

In addition, the Michigan Legislature has attempted to create funding avenues for the campaign by introducing several bills. Currently, considered bills include: House Bills 5017, 5018, 5088, and 5098. Below is a summary of the package of bills from a June 15, 2009 House Fiscal Agency Analysis:

House Bill 5017 would create the "Michigan Promotion Assessment Act" to impose a \$2.50 per

day assessment on certain rental vehicle transactions in Michigan during the period October 1, 2009 through September 30, 2014. These assessments would be deposited into the Michigan Promotion Fund created by House Bill 5018. If a balance of more than \$40 million dollars (adjusted annually for inflation) remained in the Promotion Fund at the end of a state fiscal year, the rental vehicle assessment would be reduced by 50 cents the next fiscal year and new assessments would be deposited in the General Fund, not the Promotion Fund. If the balance exceeded \$40 million for two years in a row, the assessment would no longer be collected.

House Bill 5018 would create the "Michigan Promotion Fund" to be administered by the Michigan Strategic Fund. (MCL 125.20038) At least 75 percent of the money in this fund would be used for tourism promotion with up to 25 percent allowed to be used for business development.

House Bill 5088 would send a specified portion of Michigan's use tax collections to the new Promotion Fund. (MCL 205.111) Generally, the growth in collections from the first four cents of the use tax on certain tourist-related businesses would flow to the Fund.

House Bill 5089 would send a specified portion of Michigan's sales tax collections to the new Promotion Fund. (MCL 205.75) Generally, the growth in collections from the first four cents of the sales tax on certain tourist-related businesses would flow to the Fund.

A copy of the complete Fiscal Agency Analysis and draft legislation can be obtained at: [www.legislature.mi.gov](http://www.legislature.mi.gov).

## **OHIO SUPREME COURT RULES VIDEO LOTTERY TERMINALS MUST BE PUT TO VOTE**

On Monday, September 21, 2009, the Ohio Supreme Court ruled that the budget bill authorizing video lottery terminals ("VLTs") to be installed at Ohio racetracks must be approved

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through a statewide voter referendum. The court rendered its decision by a 6-1 vote.

Under the initial plan, Ohio Gov. Ted Strickland sought to allow up to 15,200 VLTs at seven horse racetracks. The proposed plan was projected to generate nearly \$1 billion in net revenue within two years. The state would collect 50 percent of revenue, while the other 50 percent would be split among the seven track owners to pay operational expenses, including payouts to winners.

The Ohio Supreme Court ruled that the decision that VLT implementation was exempt from a voter referendum was inaccurate. Justice Terrence O'Donnell noted in the court opinion, "[t]he VLT provisions of H.B. 1 are not themselves appropriations for state expenses because they do not set aside a sum of money for a public purpose."

"While I am disappointed by this decision, we need to fully review the court's judgment before determining next steps," said Gov. Strickland in a statement.

The court also ordered Ohio Secretary of State Jennifer Brunner to process a summary of petitions from LetOhioVote.org, an organization promoting a voter referendum regarding VLTs. The group has filed referendum language with the Secretary of State and is prepared to collect the required number of signatures from registered Ohio voters by December 20 to be included on the November, 2010 ballot.

Any expansion of gaming in the state will likely compete with a separate proposal to allow four Las Vegas-style casinos in Ohio. The Ohio Jobs and Growth Committee campaign submitted 850,000 petition signatures to the Ohio Secretary of State earlier this year. Thus, Ohio voters will be asked on the November 2009 state-wide ballot whether casinos should be built in Cleveland, Cincinnati, Columbus, and Toledo. The tax rate for the casinos would be 33%, the minimum capital investment per casino location would be \$250 million each and each casino would be required to pay a \$50 million licensing fee.

## **G2E & THE FINE POINT GROUP PRESENT PART III OF FREE WEBINAR SERIES: *THRIVING IN A CRISIS***

Next Wednesday, September 30, professionals from Global Gaming Expo and The Fine Point Group will continue their multi-part Webinar series: *Thriving in a Crisis*, which is designed to lend helpful advice and strategies to businesses who seek to stay competitive and survive despite the unfavorable state of the economy. Representatives of both G2E and The Fine Point Group will be speaking throughout the multi-part series.

Part 3, *Tightening the Reins: Effective and Efficient Cost Cutting* will focus on how to properly cut costs without 'chopping out the heart' of a casino operation. It will examine optimization strategies regarding labor, food & beverage, hotel, and gaming floor product placement.

The first and second parts of the Webinar series, *State of the Gaming Economy: The Facts at Hand*, and *Weathering the storm: The Era of Optimization* covered issues regarding the reasons that the casinos in Las Vegas and Atlantic City are suffering more than some middle-American and international casinos during the current recession, as well as the implementation of new financial, operating and marketing models for casinos properties which seek to utilize existing assets. You may access Parts I and II of the series: *State of the Gaming Economy: The Facts at Hand*, by [clicking here](#).

Speakers for **Part 3** will include:

*Introductory Remarks:*

Frank J. Fahrenkopf, president and CEO,  
American Gaming Association

*Moderators:*

Randy Fine, managing director, The Fine Point  
Group

Scott Kreeger, senior vice president of operations

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and CIO, Station Casinos, Inc.

*Speakers:*

Dave Jonas, president, Philadelphia Park

Thomas Brosig, owner, The Brosig Group

Therrin Protze, vice president, gaming operations,  
Delaware North Companies

Part III will be held from 2:00 pm - 3:00pm EST on Wednesday, September 30, 2009. Those interested in reserving a seat can do so by [clicking here](#).

After registering, a confirmation e-mail will be sent which contains a link to the Webinar.

Save the date for future presentations:

**PART 4**

Part 4, *Applying Analytics to Determine Business Levels*, will be held at this year's *Global Gaming Expo* in Las Vegas, Nevada on Wednesday, November 18, 2009 from 2:00 PM to 3:00PM PDT.

**PART 5**

Part 5, *Leveraging the Present to Build the Future*, will also be held at this year's *Global Gaming Expo* in Las Vegas, Nevada on Wednesday, November 18, 2009 from 3:15 PM to 4:15 PM PDT.

The *Global Gaming Expo 2009* will be held November 17-19 at the Las Vegas Convention Center. For more information on the Expo, please visit the G2E website at:

[www.globalgamingexpo.com](http://www.globalgamingexpo.com).