

**IN THE COURT OF COMMON PLEAS  
WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

JANINE LITMAN and TIMOTHY MAS-  
TROIANNI, individually and  
jointly,

Plaintiffs,

v.

CANNERY CASINO RESORTS, LLC, a Ne-  
vada limited liability company,  
WASHINGTON TROTTHING ASSOCIATION,  
INC., a Delaware corporation, WTA  
ACQUISITION CORP., a Delaware cor-  
poration, CANNERY CASINO RESORTS,  
LLC, CANNERY CASINO RESORTS and  
WASHINGTON TROTTHING ASSOCIATION,  
INC. t/d/b/a THE MEADOWS RACETRACK  
& CASINO, an unincorporated asso-  
ciation, CANNERY CASINO RESORTS,  
an unincorporated association con-  
sisting of one or more yet uniden-  
tified natural and/or legal per-  
sons, individually and jointly,

Defendants.

CASE NO: 2012-8149

**NOTICE OF PRESENTATION  
Counter Motion to Strike**

On behalf of Plaintiffs

Counsel of Record for this Party:

Gregg R. Zegarelli, Esq.  
PA I.D. #52717

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WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

JANINE LITMAN and TIMOTHY MASTROIANNI,  
individually and jointly,

CASE NO: 2012-8149

Plaintiffs,

v.

CANNERY CASINO RESORTS, LLC, a Nevada limited liability company, WASHINGTON TROTting ASSOCIATION, INC., a Delaware corporation, WTA ACQUISITION CORP., a Delaware corporation, CANNERY CASINO RESORTS, LLC, CANNERY CASINO RESORTS and WASHINGTON TROTting ASSOCIATION, INC. t/d/b/a THE MEADOWS RACE-TRACK & CASINO, an unincorporated association, CANNERY CASINO RESORTS, an unincorporated association consisting of one or more yet unidentified natural and/or legal persons, individually and jointly,

Defendants.

**NOTICE OF PRESENTATION**  
**Counter Motion to Strike**

**TO:**

WILLIAM L. STANG, ESQ.  
FOX ROTHSCHILD LLP  
625 LIBERTY AVENUE, 29TH FLOOR  
PITTSBURGH, PA 15222-3115

PLEASE TAKE NOTICE that Plaintiffs will present the following Motion to the Honorable Debbie O'Dell Seneca, Court of Common Pleas of Washington County, Pennsylvania on Tuesday, March 18, 2014 at 9:15 a.m. or at such other time as the Court may deem appropriate. You are invited to attend.

March 14, 2014

TEV LAW GROUP, PC

By: /Gregg Zegarelli/  
Gregg R. Zegarelli

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on this date, by depositing the same in the United States Mail, First Class, Postage Pre-Paid, upon the following:

PATRICK ABRAMOWICH, ESQ.  
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March 14, 2014

/Gregg Zegarelli/  
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CASE NO: 2012-8149

**COUNTER MOTION TO STRIKE**

On behalf of Plaintiffs

Counsel of Record for this Party:

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JANINE LITMAN and TIMOTHY MAS-  
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CASE NO: 2012-8149

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**COUNTER MOTION TO STRIKE**

1. Everything is context. This case was filed in 2012. Defendants filed three sets of Preliminary Objections: to every count in each set, a Motion to Dismiss for Lack of Subject Matter Jurisdiction (after 10 months of pending litigation), a Motion for Reconsideration of the Denial to Dismiss for Lack of Subject Matter Jurisdiction (with two presentations, the first to Judge Emery), refused to provide any discovery production,<sup>1</sup> for which an order compelling responses was entered (which is the latest subject of a reconsideration motion), and Defendants even filed Preliminary Objections to Plaintiffs' Reply to Defendants' New Matter.<sup>2</sup>

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<sup>1</sup> This Court will probably recall that Defendants were holding all production hostage and refused to produce anything (not even non-confidential documents) unless the undersigned agreed to attorneys' eyes only provisions, even after the undersigned stipulated on the record to maintain confidentiality.

<sup>2</sup> Plaintiffs have a pending Motion for Sanctions noticed for argument on April 4, 2014, in conjunction with the oral argument on Defendants' Preliminary Objections to Plaintiffs' Reply to Defendants' New Matter.

2. Pleadings are still not closed, and Defendants still have not produced one shred of production from Plaintiffs' discovery requests, dated June 10, 2013, and for which there is an Order of this Court, granting Plaintiffs' Motion to Compel, including a sanction clause. Exhibit 1.

3. Defendants now file a Motion to "Amend" which is self-evidencing not an amendment at all to this Court's Order, but a fundamental shift, and immediately before Defendants' ordered deadline. Exhibit 2. The motion is, in reality, another "reconsideration."

4. Respectfully, enough is enough.

5. Defendants' latest act is an attempt to introduce a document from an attorney at the legislative branch Gaming Board, which is nothing more than a re-statement of the law. Defendants do not even produce the source inquiry letter from yet another attorney at their counsels' firm (making it five different attorneys on the case at this point).<sup>3</sup>

6. The letter either re-states the law and is immaterial, or it interprets the law and is incompetent before the power of this Court. This Court interprets the law, unless and until the law is stated otherwise by the higher judiciary branch.

7. The assertion by Defendants is scandalous hearsay and Plaintiffs' request that Defendants' motion and the document be stricken from the record. Plaintiffs' cannot cross-examine the evidence testifying to this Court.

8. On the merits, once again, Defendants purposefully confuse the law. Plaintiffs have not requested discovery from the Gaming Board, and, even so, this Court has the power, on the Court's command, to obtain the documents directly from the Gaming Board. Defendants know this, because it was the subject of the prior argument, on February 27, 2014, and this Court read the provisions to counsel for the Defendants.

9. Indeed, this Court specifically read out loud, in the record, in open court, each provision of the relevant law cited by Defendant in making the determination embodied in the Order, dated February 27, 2014.

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<sup>3</sup> Plaintiffs reserve the right to move to disqualify Defendants' counsel and/or firm in due course.

10. Upon any reconsideration, the Order, dated February 27, 2014, is balanced, fair and appropriate to move the case forward to adjudicate the dispute without further delays.

WHEREFORE, Plaintiffs request that this Court strike Defendants' motion and the document sought to be presented to this Court. If it should please this Court, as a matter of fair play and justice, Plaintiffs' request sanctions pursuant to the Pennsylvania Rules of Civil Procedure.

March 14, 2014

Respectfully submitted,  
TEV LAW GROUP, PC  
By: /Gregg Zegarelli/  
Gregg R. Zegarelli

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CIVIL DIVISION

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**PROPOSED ORDER**

On behalf of Plaintiffs

Counsel of Record for this  
Party:

Gregg R. Zegarelli, Esq.  
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ration, WTA ACQUISITION CORP., a  
Delaware corporation, CANNERY  
CASINO RESORTS, LLC, CANNERY CA-  
SINO RESORTS and WASHINGTON  
TROTting ASSOCIATION, INC.  
t/d/b/a THE MEADOWS RACETRACK &  
CASINO, an unincorporated asso-  
ciation, CANNERY CASINO RESORTS,  
an unincorporated association  
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gal persons, individually and  
jointly,

Defendants.

**ORDER**

AND, NOW, this \_\_\_\_\_ day of March, 2014, it is hereby ORDERED that  
Plaintiffs' Motion to Strike is GRANTED.

[Plaintiffs are entitled to sanctions in the amount of \$\_\_\_\_\_.]

BY THE COURT,

\_\_\_\_\_, J.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on this date, by depositing the same in the United States Mail, First Class, Postage Pre-Paid, upon the following:

PATRICK ABRAMOWICH, ESQ.  
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March 14, 2014

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