

**IN THE COURT OF COMMON PLEAS
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 TROTTHING
ASSOCIATION, INC., a Delaware
corporation, WTA ACQUISITION CORP., a
Delaware corporation, CANNERY CASINO
RESORTS, LLC, CANNERY CASINO
RESORTS and WASHINGTON TROTTHING
ASSOCIATION, INC., t/d/b/a THE
MEADOWS RACETRACK & 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.

**DEFENDANTS' BRIEF IN OPPOSITION
TO PLAINTIFFS' MOTION TO COMPEL
DISCOVERY**

Filed on behalf of Defendants,
Cannery Casino Resorts, LLC, Washington
Trotting Association, Inc., and WTA
Acquisition Corp.

Counsel of Record for these Parties:

Patrick L. Abramowich, Esquire
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Benjamin I. Feldman, Esquire
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RESORTS and WASHINGTON TROTTHING
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MEADOWS RACETRACK & CASINO, an
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unidentified natural and/or legal persons,
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Defendants.

**DEFENDANTS' BRIEF IN OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL DISCOVERY**

Defendants, Cannery Casino Resorts, LLC ("Cannery"), Washington Trotting
Association, Inc. ("WTA"), and WTA Acquisition Corp. ("WTA Acquisition") (collectively

¹ Defendants, Cannery Casino Resorts, LLC, Washington Trotting Association, Inc., and WTA Acquisition Corp. (collectively, "Defendants") deny that Cannery Casino Resorts exists as a business organization apart from Cannery Casino Resorts, LLC. Defendants further deny that Cannery Casino Resorts, LLC and/or Washington Trotting Association, Inc. participate in unincorporated associations, and further deny that an unincorporated association can sue as a party. Accordingly, Defendants object to the caption to the extent that it purports to state claims against any entity other than Cannery Casino Resorts, LLC, Washington Trotting Association, Inc., and WTA Acquisition Corp. individually.

“Defendants”), by their counsel, Fox Rothschild LLP, file the following Brief in Opposition to the Motion to Compel Discovery (“Motion to Compel”) filed by Plaintiffs Janine Litman (“Litman”) and Timothy Mastroianni (“Mastroianni”) (collectively, “Plaintiffs”), stating as follows:

I. INTRODUCTION

As Defendants understand it, the Motion to Compel raises two issues:

1. Are Defendants required to produce confidential internal documents, including non-public financial information and patron statistics, without a written confidentiality agreement and order?
2. Are documents that WTA provided to the Pennsylvania Gaming Control Board (“PGCB”) in connection with a settlement agreement discoverable?

With regard to the first issue, a written confidentiality order is justified by (i) the confidential, non-public nature of the documents and information requested by Plaintiffs, and (ii) Defendants’ legitimate concerns regarding how Plaintiffs and their counsel may use Defendants’ confidential information. Defendants have been ready and willing to produce documents and a privilege log as soon as such an agreement and order is in place.

Regarding the second issue, the Pennsylvania Race Horse Development and Gaming Act (the “Gaming Act”) expressly provides that information submitted to the PGCB “shall be confidential and withheld from public disclosure,” and the Pennsylvania Commonwealth Court has held that such protection extends to discovery. In addition, pursuant to the policies underlying Pennsylvania Rule of Evidence, which makes evidence of settlement discussions inadmissible at trial, such documents and information should either be privileged or, at the very least, subject to a heightened burden of relevance that Plaintiffs do not even attempt to meet. Accordingly, Plaintiffs’ Motion to Compel should be denied in its entirety.

II. FACTS

Plaintiffs, former patrons of The Meadows Racetrack and Casino (“The Meadows”), have sued WTA, the owner and operator of The Meadows, and Cannery, a corporate parent of WTA, on a variety of theories.² Plaintiffs’ original Complaint contained 18 separate causes of action. Plaintiffs amended their complaint three times in response to Defendants’ preliminary objections. On December 17, 2013, this Honorable Court ruled on Defendants’ preliminary objections to Plaintiffs’ Third Amended Complaint, sustaining the objections to seven (7) counts and allowing Plaintiffs to proceed on six (6) counts.

Pursuant to the parties’ agreement to stay discovery during the pendency of the preliminary objections, Defendants responses to Plaintiffs’ 46 Requests for Admissions, 37 Interrogatories, and 21 Requests for Production of Documents were due on February 3, 2014. Defendants timely served verified responses on those dates and informed Plaintiffs in the transmittal letter that they were prepared to produce documents consistent with those responses upon entry of a stipulated confidentiality order.

Counsel for Plaintiffs and Defendants participated in two hour-long discovery conferences on February 11 and February 12, 2014. Prior to the second conference, Defendants sent a draft confidentiality agreement and order to Plaintiffs’ counsel by e-mail and requested comments. True and correct copies of that email and the draft confidentiality agreement and order are attached hereto collectively as Exhibit 1. On February 13, 2014, Defendants sent a letter, attached hereto as Exhibit 2, stating in part:

² Defendants WTA and WTA Acquisition merged in 2001, and the merged entity operates as Washington Trotting Association, Inc. Accordingly, WTA Acquisition, although named as a party, is not a separate corporation from WTA.

[A]s we discussed on Monday, Defendants are not going to make a piecemeal production and will produce all documents when a stipulated confidentiality order is entered. I trust that the draft I forwarded will be acceptable, and that production can be made soon. In addition, to the extent that Defendants withhold documents from their production based upon claims of privilege, they will produce a privilege log.

Plaintiffs' counsel acknowledged the letter in an e-mail dated Friday, February 14, 2014, stating, "Without waiver, thank you." See Exhibit 3. Nonetheless, Plaintiff's counsel faxed a motion to compel to Defendants after the close of business on Friday, February 14th, for presentation on Tuesday, February 18, 2014 at 9:15 a.m.³ Plaintiffs agreed not to proceed with the Motion to Compel due to Defendants' objections to the adequacy of notice. However, they still failed to provide comments to the draft confidentiality agreement and order until February 24, 2014, 12 days after Defendants forwarded the draft. While the parties will continue to pursue an agreement, Defendants are submitting this Brief in the event that one cannot be reached before presentation of the Motion to Compel.

III. ARGUMENT

A. A Confidentiality Agreement Is Necessary to Protect the Documents and Information Being Produced by Defendants.

Nearly all of the documents sought by Plaintiffs in discovery are confidential internal documents of WTA and Cannery, including non-public financials, patron statistics, and internal training and operating manuals. Given the corporate governance issues raised by Plaintiff's fraud claims, the examination at depositions is likely to be even more intrusive.

³ Plaintiffs' counsel did not call Defendants' counsel to tell them that the Motion to Compel would be faxed at 5:30 p.m. on a Friday before a holiday weekend. Furthermore, although Defendants' letter stated that William Stang is no longer working on this case, and that all correspondence should be addressed to Patrick Abramowich, Plaintiffs' counsel continues to send all correspondence to Mr. Stang and has stated that he will continue to do so until Mr. Stang withdraws his appearance.

Plaintiffs' counsel has argued that a written confidentiality agreement is unnecessary, and that Defendants' confidentiality concerns are adequately addressed by his statement in a letter that he will not disclose their documents and information. Such an agreement is inadequate because it fails to describe, *inter alia*, (i) the criteria and procedures for designating confidential information, (ii) the specific persons to whom confidential information may be disclosed, (iii) the procedures for maintaining, filing, and disposing of confidential information, and (iv) the procedures applicable to experts and third parties who are provided with or requested to produce confidential information. Notably, Plaintiffs also have objected to an "attorneys' eyes only" designation for highly confidential information. While Defendants do not intend to designate any of the documents that they have identified to produce as "attorneys' eyes only," they believe that such a designation should be available to the extent that Plaintiffs request documents or information concerning, *inter alia*, proprietary business plans, customer lists, or marketing plans.

Equally important, Defendants have cause for concern regarding Plaintiffs' intentions with regard to their confidential information. Specifically:

1. Mastroianni already has gone to the press regarding his accusations against Defendants, resulting in the December 15, 2011, *Pittsburgh Post-Gazette* article attached hereto as Exhibit 4. Mastroianni claimed in the article that he "badgered" The Meadows' general manager and director of table games over certain allegations in the Complaint, and that The Meadows "has it out" for him.
2. Plaintiffs' counsel also has been publicizing this case on his website, apparently to promote his firm. Plaintiffs' counsel has posted all filings from this case on his website and also written and published a press release regarding the Court's ruling on Defendants' Motion to Dismiss. *See* Exhibit 5.
3. Paragraph 72 of Plaintiffs' Third Amended Complaint states, "Defendant Mastroianni was known to be collecting data regarding the [table games] play [at The Meadows], as he was openly documenting play statistics for use, data warehousing and data sharing with Plaintiff Litman." Clearly, it would be improper for Mastroianni to continue collecting and using data from The Meadows through discovery.

Given the above, Defendants have heightened concerns regarding their privacy and maintaining the confidentiality of their business operations. Defendants continue to be ready and willing to produce documents responsive to Plaintiffs' requests as soon as an appropriate confidentiality agreement is reached.

B. Documents Relating To Defendants' Settlement Negotiations with the Pennsylvania Gaming Control Board Are Confidential and Not Discoverable.

Plaintiffs also seek the production of all documents and communications related to Defendants' settlement negotiations with the PGCB regarding The Meadows' collection of a commission, or "vigorous," on certain craps bets. Defendants have objected to such discovery as confidential and seeking statements made during settlement negotiations. When Plaintiffs requested authority to substantiate Defendants' claims during the meet-and-confer process, Defendants provided the letter attached hereto as Exhibit 6. While Plaintiffs did not provide any contrary authority –to either Defendants' counsel or this Court – they have included settlement communications in the Motion to Compel.

The recently-revised Section 1206(f) of the Gaming Act provides that information "obtained by the board or the bureau as part of a background or *other investigation from any source shall be confidential and withheld from public disclosure.*" 4 Pa.C.S. § 1206(f) (emphasis added). Since WTA provided the PGCB with the communications requested by Plaintiffs as part of a PGCB investigation, those communications are confidential pursuant to Section 1206(f) and not subject to disclosure under the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1, *et seq.* See 65 P.S. § 66.102-305 (providing that the Pennsylvania Right-to-Know Law does not permit the disclosure of information that is prohibited from disclosure by a federal or state law or regulation).

In a recent opinion, the Pennsylvania Commonwealth Court ruled that the application of Section 1206 made information provided to the PGCB confidential, and thus, non-discoverable in litigation. *Philadelphia Entm't & Dev. Partners, L.P. v. Pa. Gaming Control Bd.*, 34 A.3d 261, 279 (Pa.Commw.Ct. 2011). While the court did not elaborate on its holding, the rationale is sound. If a party could discover communications to the PGCB through a discovery request or subpoena, rather than a Right-to-Know request, the confidentiality provided for in Section 1206(f) would be meaningless.

Even if Section 1206 did not protect WTA's communications with the PGCB from discovery, numerous courts interpreting Federal Rule of Evidence 408, which is materially similar to Pennsylvania Rule of Evidence 408, hold that documents related to settlement discussions are not only inadmissible at trial, but privileged from discovery. *See, e.g., Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976 (6th Cir. 2003); *California v. Kinder Morgan Energy Partners, L.P.*, Civ.-A. No. 07-1883-MMA(WVG), 2010 WL 3988448 (S.D.Cal. Oct. 12, 2010); *Therapeutic Research Faculty v. NBTY, Inc.*, Civ.-A. No. S-05-2322 GEB DAD, 2006 WL 3371856 (E.D.Cal. Nov. 21, 2006). Logically, those courts conclude that "[c]ommunications made in furtherance of settlement negotiations are protected from third party discovery because of the public policy favoring confidentiality of such communications." *California*, 2010 WL 398848 at *4.

Moreover, even in jurisdictions that do not recognize an outright privilege for documents related to settlement discussions, the party seeking such discovery must make a heightened showing of relevance for those documents to become discoverable. *See Allison v. Goodyear Tire & Rubber Co.*, Civ.-A No. 07-69104, 2010 WL 3384723 (E.D.Pa. Aug. 19, 2010). Plaintiffs

have not even attempted to make such a showing, and their motion to compel the discovery of settlement communications should be denied.

IV. CONCLUSION

In light of the foregoing, Defendants respectfully request that this Honorable Court deny Plaintiffs' Motion to Compel Discovery and enter an appropriate confidentiality order concerning the production of documents and information in this case.

FOX ROTHSCHILD LLP

By: 

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*Counsel for Defendants,
Cannery Casino Resorts, LLC,
Washington Trotting Association, Inc.,
and WTA Acquisition Corp.*

EXHIBIT 1

From: Abramowich, Patrick L. <PAbramowich@foxrothschild.com>
Sent: Wednesday, February 12, 2014 12:05 AM
To: Gregg R. Zegarelli (gregg.zegarelli@zegarelli.com)
Subject: Stipulated Agreement and Order on Confidentiality
Attachments: 24708750_1_Stipulated Agreement and Order on Confidentiality.DOC

Gregg,

I am attaching a proposed Stipulated Agreement and Order on Confidentiality for your review and comment. I look forward to speaking with you later today.

Very truly yours,

Patrick Abramowich
Partner
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Defendants.

**STIPULATED AGREEMENT AND
ORDER ON CONFIDENTIALITY**

Filed on Behalf of:

Defendants Cannery Casino Resorts, LLC,
Washington Trotting Association, Inc., and
WTA Acquisition Corp.

Counsel of Record for these Parties:

Patrick L. Abramowich, Esquire
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Defendants.

STIPULATED AGREEMENT AND ORDER ON CONFIDENTIALITY

Plaintiffs Janine Litman and Timothy Mastroianni, and Defendants Cannery Casino Resorts, LLC, Washington Trotting Association, Inc., and WTA Acquisition Corp (herein sometimes referred to separately as a “Party” and collectively as “the Parties”), by their undersigned counsel, hereby stipulate and agree to the following limitations on the use and

¹ Defendants, Cannery Casino Resorts, LLC, Washington Trotting Association, Inc., and WTA Acquisition Corp. (collectively, “Defendants”) deny that Cannery Casino Resorts exists as a business organization apart from Cannery Casino Resorts, LLC. Defendants further deny that Cannery Casino Resorts, LLC and/or Washington Trotting Association, Inc. participate in unincorporated associations, and further deny that an unincorporated association can sue as a party. Accordingly, Defendants object to the caption to the extent that it purports to state claims against any entity other than Cannery Casino Resorts, LLC,

dissemination of documents and other information obtained through discovery in the above-captioned Action (the “Action”), and to seek Court approval of the same:

1. (a) The Parties may designate as confidential any document produced or testimony given by any of them or a third party which the designating Party in good faith believes contains, refers to, or relates to: (i) confidential personal information; (ii) confidential business information; (iii) trade secrets; or (iv) sensitive proprietary information, which may include, but is not limited to, commercial, financial, regulatory, customer, client and/or vendor information (referred to herein collectively as “Confidential Information”). The Parties shall designate documents and/or testimony as confidential only to the extent reasonably necessary to preserve the confidentiality of the Confidential Information. The documents and/or testimony subject to restricted use and disclosure under this Stipulated Agreement and Order on Confidentiality (the “Agreement and Order”) shall bear the word “CONFIDENTIAL” on each page.

(b) In addition, the Parties may designate as highly confidential any document produced or testimony given by them or a third party which the designating Party in good faith believes: (i) contains, refers to, or relates to Confidential Information, and (ii) concerns matters of central importance to the finances, trade secrets, intellectual property, internal policies and procedures, business/customer relationships, strategic plans and/or business methods of the producing Party (referred to herein as “Highly Confidential Information”). Documents and/or testimony designated as highly confidential shall be subject to all of the provisions, restrictions and obligations of this Agreement and Order applicable to Confidential Information, as well as

Washington Trotting Association, Inc., and WTA Acquisition Corp. individually. This objection is made by the Defendants alone, and Plaintiffs do not join the objection by signing this Agreement and Order.

the additional provisions of Paragraph 4, and bear the words "HIGHLY CONFIDENTIAL" on each page.

2. The restrictions and obligations set forth in this Agreement and Order relating to Confidential Information and Highly Confidential Information shall not apply to any information which: (i) is already public knowledge; (ii) has become public knowledge other than as a result of disclosure by a receiving Party; or (iii) a receiving Party legitimately possesses independent of the producing Party. The provisions of this paragraph shall not preclude the Parties from designating as confidential or highly confidential any documents that one Party obtained directly or indirectly from another Party as a result of the Parties' business/customer relationship prior to the Action.

3. Disclosure by the Parties of Confidential Information shall be limited to:

(a) The Parties to this Action and any employees and/or agents of the Parties who, in the good faith opinion of the receiving Party, have a legitimate need to know the information in connection with litigation of the Action;

(b) Both in-house and outside counsel employed or consulted by any Party to assist in the Action; the attorneys, paralegals and stenographic and clerical employees in the respective law firms and legal departments of such counsel; the personnel supplied by any independent contractor with whom such attorneys work in connection with the Action; and stenographic employees and court reporters recording and transcribing testimony relating to the Action;

(c) Any consultant or expert who has been retained to assist counsel or a Party to the Action and to whom it is reasonably necessary to disclose Confidential Information for the purpose of assisting in, or consulting with respect to, the preparation and trial of the Action,

provided that such person has read or been advised of the terms of this Agreement and Order and agreed to be bound by its terms in accordance with Paragraph 6 hereof before viewing any such Confidential Information and otherwise complies with this Agreement and Order;

(d) The Court and any members of its staff to whom it is reasonably necessary to disclose Confidential Information for the purpose of assisting the Court in this Action; and

(e) Witnesses who appear at any deposition, hearing or trial in this Action, provided that counsel making such disclosure shall provide a copy of or describe the terms of this Agreement and Order to each witness and shall use his or her best efforts to obtain the witness' agreement to be bound by its terms in accordance with Paragraph 6 of this Agreement and Order.

4. Disclosure by the Parties of Highly Confidential Information shall be limited to:

(a) Both in-house and outside counsel employed or consulted by any Party to assist in the Action; the attorneys, paralegals and stenographic and clerical employees in the respective law firms and legal departments of such counsel; the personnel supplied by any independent contractor with whom such attorneys work in connection with the Action; and stenographic employees and court reporters recording and transcribing testimony relating to the Action;

(b) Any consultant or expert who has been retained to assist counsel or a Party to the Action and to whom it is reasonably necessary to disclose the particular document or testimony that has been marked Highly Confidential for the purpose of assisting in, or consulting with respect to, the preparation and trial of the Action, provided that such person has read or been advised of the terms of this Agreement and Order and agreed to be bound by its terms in

accordance with Paragraph 6 hereof before viewing any such Highly Confidential Information and otherwise complies with this Agreement and Order;

(c) The Court and any members of its staff to whom it is reasonably necessary to disclose Highly Confidential Information for the purpose of assisting the Court in this Action; and

(d) Witnesses who appear at any deposition, hearing or trial in this Action, provided that (i) such witness was an author, addressee, or prior recipient of the Highly Confidential Information, or had access to such information by virtue of his/her employment, and (ii) counsel making such disclosure provides a copy of or describes the terms of this Agreement and Order to each such witness and uses his or her best efforts to obtain the witness' agreement to be bound by its terms in accordance with Paragraph 6 of this Agreement and Order.

5. The persons identified in Paragraphs 3 and 4 shall be prohibited from using any Confidential Information and/or Highly Confidential Information in any way outside the scope of litigating this Action and/or from disclosing Confidential Information and/or Highly Confidential Information to any other person or entity, except as otherwise agreed upon in writing by the producing Party; or except as required by law or as permitted by subsequent order of the Court.

6. Any person to whom Confidential Information and/or Highly Confidential Information is disclosed shall be provided a copy of this Agreement and Order, prior to disclosure of the Confidential Information and/or Highly Confidential Information; shall be directed not to reveal the contents of the Confidential Information and/or Highly Confidential Information for any purpose other than as permitted in this Agreement and Order; or as required by law, or a subsequent order of the Court; and shall execute an Affidavit in the form attached hereto as Exhibit A. By executing the attached Affidavit, the person to whom Confidential

Information and/or Highly Confidential Information is disclosed shall agree to be bound by the terms and conditions of this Agreement and Order and to subject himself/herself to the jurisdiction of the Court of Common Pleas of Washington County, Pennsylvania solely for the enforcement of this Agreement and Order prior to being permitted to review documents or testimony.

7. Should any Confidential Information and/or Highly Confidential Information be disclosed, inadvertently or otherwise, by the receiving Party or Parties to any person or entity not authorized under this Agreement and Order to receive such Confidential Information and/or Highly Confidential Information, then the disclosing Party shall: (i) use that Party's best efforts to obtain the return of any such Confidential Information, Highly Confidential Information and/or any copies thereof and to bind the unauthorized recipient to the terms of this Agreement and Order; (ii) promptly notify the producing Party of the unauthorized disclosure and the identity of the unauthorized recipient; and (iii) serve on the other Parties a copy of an Affidavit in the form attached hereto as Exhibit A executed by the unauthorized recipient.

8. The use of Confidential Information and/or Highly Confidential Information for any purpose other than the discovery, trial preparation, trial and appeal of the Action is prohibited, except as required by law or as authorized by subsequent order of the Court. In the event that a Party is served with a subpoena seeking the production of Confidential Information and/or Highly Confidential Information, the Party receiving the subpoena shall, prior to producing such Confidential Information and/or Highly Confidential Information: (i) provide prompt written notice of the subpoena to the Party that produced such Confidential Information and/or Highly Confidential Information, and (ii) afford the Party that produced such Confidential Information and/or Highly Confidential Information a reasonable period of time, not less than

seven (7) business days after the notice required hereunder is received, to object to the production of the Confidential Information and/or Highly Confidential Information.

9. The acceptance of Confidential Information and/or Highly Confidential Information by the Parties shall not constitute an admission or concession or permit an inference that the Confidential Information and/or Highly Confidential Information is, in fact, confidential and/or highly confidential. A Party's failure to challenge the propriety of a confidential or highly confidential designation at the time such designation is made shall not preclude a subsequent challenge thereto. In the event that any Party disagrees at any stage of these proceedings with the designation of any information as confidential and/or highly confidential, the Parties shall try first to resolve such dispute in good faith on an informal basis. If the dispute cannot be resolved, the Party challenging the confidentiality designation must move the Court to remove such designation. Nothing in this paragraph in any way alters the Parties' respective burdens of proof if the challenging Party seeks approval of the Court to remove such designation. This Agreement and Order shall be without prejudice to any Party's right to bring before the Court at any time the question of whether any particular information is or is not confidential or to seek modification of this Agreement and Order.

10. Inadvertent production of any information, testimony, document or thing without it being designated confidential and/or highly confidential shall not itself be deemed a waiver of any claim of confidentiality as to such information, testimony, document or thing, and the same may thereafter be designated as confidential or highly confidential. A Party may not be held in violation of this Agreement and Order for the distribution of information, testimony, documents and/or things prior to their designation as confidential and/or highly confidential.

11. (a) In the event that counsel for any Party determines to file with this Court any Confidential Information and/or Highly Confidential Information or any documents containing or making reference to such Confidential Information and/or Highly Confidential Information, such documents, or the portions of them that contain Confidential Information and/or Highly Confidential Information, shall be filed only in a sealed envelope on which the case caption and a statement substantially in the following form shall be endorsed:

CONFIDENTIAL

This envelope contains documents that are subject to a Stipulated Agreement and Order on Confidentiality, approved as an order of Court, governing the use of confidential and highly confidential documents and information. This envelope is not to be opened until further order of Court.

All such material so filed shall be maintained by the Prothonotary separate from the public records in this Action and shall be released only upon further order of the Court. However, the Prothonotary may release such materials to Court personnel and to counsel of record for the Parties without further order.

(b) The Prothonotary shall also (i) accept under seal all hearing and trial transcripts wherein Confidential and/or Highly Confidential Information is disclosed and any exhibits moved into evidence that have been designated by the producing party as “Confidential” or “Highly Confidential,” (ii) shall maintain all transcripts wherein Confidential and/or Highly Confidential Information is disclosed and any exhibits designated as “Confidential” or “Highly Confidential” separate from the public records in this Action, and (iii) shall release the transcripts and exhibits designated as “Confidential” and/or “Highly Confidential” only upon further order of the Court, except that the Prothonotary may release the transcripts and exhibits to Court personnel and to counsel of record for the Parties without further order.

12. (a) All copies of documents containing Confidential Information and/or Highly Confidential Information shall be destroyed (or, to the extent stored electronically, deleted) by the Parties to whom they were produced at the termination of this Action, except that counsel of record for the Parties in the Action may each retain one archival copy of any Confidential Information and/or Highly Confidential Information contained in (i) deposition and/or trial exhibits, (ii) deposition and/or trial transcripts, (iii) pleadings, or (iv) materials constituting attorney work product. Such archival copies shall continue to be treated as Confidential Information and/or Highly Confidential Information under this Agreement and Order. The destruction of documents containing Confidential Information and/or Highly Confidential Information shall be completed no later than sixty (60) days after the time limit for final appeal has expired.

(b) A Party providing documents containing Confidential Information and/or Highly Confidential Information to an expert, consultant, or witness pursuant to this Agreement and Order shall ensure that all copies of those documents are destroyed at the termination of the Action. To the extent that a Party provides copies of documents containing Highly Confidential Information to an outside expert or consultant pursuant to paragraph 4(b) herein, such expert or consultant shall retain copies of such documents only so long as reasonably necessary to assist in, or consult with respect to, the preparation and trial of the Action and/or in conjunction with providing testimony at deposition and/or trial, after which time the documents shall be returned to counsel by whom the expert or consultant was engaged.

13. If a third party provides discovery to any Party in connection with this Action, such third party may adopt the terms of this Agreement and Order with regard to the production of Confidential Information and/or Highly Confidential Information by executing and filing with

the Court a notice of election in the form attached hereto as Exhibit B. In the event of such election, the provisions of this Agreement and Order shall apply to such discovery as if such discovery were being provided by a Party. Under such circumstances, the third party shall have the same rights and obligations under this Agreement and Order as held by the Parties to this Action.

14. This Agreement and Order shall survive the termination of the Action.

15. The Parties shall seek the Court's approval of the agreement set forth herein, which, if so granted, shall have the full force and effect of an order of Court.

[SIGNATURE PAGE TO FOLLOW]

Dated: February __, 2014

FOX ROTHSCHILD LLP

ZEGARELLI TECHNOLOGY & ENTREPRENEURIAL
VENTURES LAW GROUP, P.C.

By:

Patrick L. Abramowich, Esquire
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*Counsel for Defendants,
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and WTA Acquisition Corp.*

By:

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*Counsel for Plaintiffs,
Janine Litman and
Timothy Mastroianni*

APPROVED and ORDERED this _____ day of _____, 2014.

J.

**IN THE COURT OF COMMON PLEAS
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 TROTTHING
ASSOCIATION, INC., a Delaware
corporation, WTA ACQUISITION CORP., a
Delaware corporation, CANNERY CASINO
RESORTS, LLC, CANNERY CASINO
RESORTS and WASHINGTON TROTTHING
ASSOCIATION, INC., t/d/b/a THE
MEADOWS RACETRACK & 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.

**AFFIDAVIT AND AGREEMENT TO BE BOUND BY
STIPULATED AGREEMENT AND ORDER ON CONFIDENTIALITY**

1. I, _____, have been asked by counsel
for _____ in the above-captioned matter to review
certain documents, testimony, or other information which is confidential and/or highly
confidential and subject to a Stipulated Agreement and Order on Confidentiality dated
_____, 2014 (“the Agreement and Order”), entered by the Court, which governs

EXHIBIT A

the use of Confidential Information and Highly Confidential Information (as defined in the Agreement and Order).

2. Counsel for _____ has explained to me that I am not permitted to disclose the Confidential Information and/or Highly Confidential Information or use documents or testimony containing Confidential Information and/or Highly Confidential Information for any purpose other than as permitted in the Agreement and Order.

3. I have reviewed the Agreement and Order governing the use of this Confidential Information and Highly Confidential Information and agree to be bound thereby, and voluntarily submit to the jurisdiction of the Court of Common Pleas of Washington County, Pennsylvania with respect to the enforcement of said Agreement and Order, or with respect to any other order issued by the Court governing the use of Confidential Information and/or Highly Confidential Information in this Action.

Dated: _____

Sworn and Subscribed before me
this _____ day of _____, 201 _____

Notary Public

My Commission expires:

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

JANINE LITMAN and TIMOTHY
MASTROIANNI, individually and
jointly,

CASE NO. 2012-8149

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RESORTS and WASHINGTON TROTTHING
ASSOCIATION, INC., t/d/b/a THE
MEADOWS RACETRACK & 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 ELECTION TO ADOPT STIPULATED
AGREEMENT AND ORDER ON CONFIDENTIALITY**

1. _____, a non-party to the above-captioned
Action, has been requested and/or subpoenaed by a Party to produce discovery containing
Confidential Information and/or Highly Confidential Information in connection with the Action.

2. _____ hereby elects to adopt the terms of
the Stipulated Agreement and Order on Confidentiality dated _____, 2014,

EXHIBIT B

(herein, the "Agreement and Order") with regard to its production of Confidential Information and/or Highly Confidential Information.

3. The provisions of the Agreement and Order shall apply to written discovery and testimony produced by _____ as if such discovery were being provided by a Party. _____ shall have the same rights and obligations under the Agreement and Order as held by the Parties.

4. All capitalized terms herein shall have the meaning ascribed to them in the Agreement and Order.

Dated: _____

By: _____

Title: _____

APPROVED and ORDERED this ____ day of _____, 2014.

J.

EXHIBIT 2



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ATTORNEYS AT LAW

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PATRICK L. ABRAMOWICH
Direct Dial: 412-394-5566
Email Address: PAbramowich@Foxrothschild.com

February 13, 2014

**VIA EMAIL, FACSIMILE
AND FIRST-CLASS MAIL**

Gregg R. Zegarelli, Esquire
Zegarelli Technology & Entrepreneurial
Ventures Law Group, P.C.
2585 Washington Road, Suite 134
Summerfield Commons Office Park
Pittsburgh, PA 15241

**Re: Janine Litman, et al., v. Cannery Casino Resorts, LLC, et al.
Court of Common Pleas of Washington County, Pennsylvania; No. 2012-8149**

Dear Mr. Zegarelli:

I am writing in response to (i) the Motion for Sanctions, of which I received service yesterday, and (ii) your fax dated February 12, 2014.

With regard to the Motion for Sanctions, Defendants Cannery Casino Resorts, LLC, Washington Trotting Association, Inc., and WTA Acquisition Corp. (collectively, "Defendants") are entitled to have Plaintiffs Janine Litman and Timothy Mastroianni (collectively, "Plaintiffs") allege the factual basis for denying every allegation in Defendants' New Matter. Pa.R.Civ.P. 1029(b). Since Plaintiffs' Reply to New Matter lacked any such factual allegations, Defendants' Preliminary Objections are perfectly appropriate, and the Motion for Sanctions is baseless.

Nonetheless, in an effort to streamline the matters for the Court's consideration, Defendants will exclude from their Preliminary Objections Plaintiffs' answers to Paragraphs 1, 14, 15, 16, 18, 23, 25, and 26 of Defendants' New Matter, which state primarily legal defenses. Accordingly, Defendants will limit the relief sought in their Preliminary Objections to Paragraphs 2 through 13, 17, 19, 20, 21, 22, and 24 of Defendants' New Matter, which are either exclusively or significantly factual in nature.

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia
Florida Nevada New Jersey New York Pennsylvania



Fox Rothschild LLP
ATTORNEYS AT LAW

Gregg R. Zegarelli, Esquire
February 13, 2014
Page 2.

With regard to your fax, as we discussed on Monday, Defendants are not going to make a piecemeal production and will produce all documents when a stipulated confidentiality order is entered. I trust that the draft I forwarded will be acceptable, and that production can be made soon. In addition, to the extent that Defendants withhold documents from their production based upon claims of privilege, they will provide a privilege log.

Finally, as Mr. Stang is no longer litigating this case, he has requested that all communications be directed exclusively to me.

Very truly yours,

Patrick L. Abramowich

PLA:msh

cc: William L. Stang, Esq.

EXHIBIT 3

From: Gregg R. Zegarelli [<mailto:gregg.zegarelli@zegarelli.com>]
Sent: Friday, February 14, 2014 11:15 AM
To: Abramowich, Patrick L.
Cc: Stang, William
Subject: RE: Litman v. Cannery

Without waiver, thank you. As to Bill, I do not recall receiving a withdrawal of appearance, so I believe Bill is still be entered as one of the responsible attorneys of record. Let me know if you will file a formal withdrawal with the court, or if you will not be doing so.

Best,
Gregg

Gregg R. Zegarelli

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gregg.zegarelli@zegarelli.com
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From: Abramowich, Patrick L. [<mailto:PAbramowich@foxrothschild.com>]
Sent: Thursday, February 13, 2014 1:01 PM
To: Gregg R. Zegarelli
Cc: Stang, William
Subject: Litman v. Cannery

Please see the attached.

Patrick Abramowich

Fox Rothschild LLP
(412) 394-5566
PAbramowich@foxrothschild.com

ATTENTION: IRS CIRCULAR 230 DISCLOSURE: Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.

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EXHIBIT 4



Man charged with crime accuses The Meadows of dicey practices

December 15, 2011 12:00 AM

By Bill Toland Pittsburgh Post-Gazette

State police say he was making an illegal late bet. Tim Mastroianni says he was merely making a pest of himself because he thought The Meadows Racetrack & Casino in North Strabane was wrongly collecting commissions, or "vigs," on losing craps bets.

Conventional wisdom says the house always wins. But Mr. Mastroianni says he has the evidence on his side, and that the casino is making a big stink about a small bet.

In an unusual case that pits the gambler against casino, the Mt. Lebanon man now faces a charge of "past posting," a charge he believes was brought about because he complained about the casino's "unfair" commission practices.

Mr. Mastroianni was charged in October with an obscure misdemeanor: "knowingly by trick or fraud win, or reduce a loss." The state police charge stems from a July 11 incident at The Meadows Racetrack and Casino, in which the casino accused him of "past posting" -- making a late bet on the craps table.

He won \$41 for his efforts, the casino initially alleged, although the amount has since been reduced to \$16.

Mr. Mastroianni, 49, and his attorney say that version of events doesn't tell the full story.

He says the charge actually stems from a visit three days earlier, on July 8, when he was playing craps and questioned the casino's pre-winnings vig collection policy.

After confronting the pit boss, he snapped a photo of the craps table with his cell phone.

Three days later, he said, he returned to The Meadows and was surrounded by casino security and

state police. Police then accused him of past-posting a \$16 bet.

Following that visit, Mr. Mastroianni said he was "blackballed" at other local casinos, turned away at Mountaineer casino in West Virginia and the Rivers Casino on the North Shore.

At issue is The Meadows' practice of taking a 5 percent commission on certain craps bets.

Mr. Mastroianni says the Meadows was collecting commissions on wagers in craps bets at a time when rules governing the state's new table games said a casino "may not charge a percentage, fee or vigorish to a player in making any wager in the game of craps."

New rules that went into effect in 2010, shortly after table games were installed at the state's casinos, permitted those commissions on "buy" and "lay" bets. By the time Mr. Mastroianni snapped the cell phone photo in July of this year, he admits, the practice was legalized.

But he contends that The Meadows was collecting those vigs before it was permitted by Pennsylvania Gaming Control Board rules.

Mr. Mastroianni badgered the casino's general manager and director of table games over the next several months about the vigs, he said, and he believes that's why The Meadows got tired of him, and targeted him. He also filed a complaint with the Pennsylvania Gaming Control Board about the vig issue. The complaint has since been closed, according to the gaming board, meaning nothing came of it.

A Meadows spokesman said the casino had no comment on the case specifically, and noted that both the criminal case and the dispute over the vigs are now out of the casino's hands.

"Any matters of this nature are reported to regulatory agencies and handled by them," said Meadows spokesman Tom Meinert.

At his preliminary hearing on Dec. 6, in the courtroom of Washington County District Judge Jay Weller, Mr. Mastroianni said the casino had offered a deal -- if Mr. Mastroianni signed an admission of guilt and paid a \$300 fine, the issue would be dropped. He said no, and then the casino reduced the proposed fine to \$100, he said.

"I wasn't up for it," he said.

At the hearing, attorneys for the casino showed a security tape, he said, which showed him

making a bet after the marker puck had been turned. Mr. Mastroianni said his mistake was innocent because he was distracted by a discussion with his girlfriend and that, in the complex game of craps, human error happens all the time.

Normally a casino wouldn't make a big deal about a single late bet, especially on a busy craps table over such a trivial amount, he claimed, unless someone demonstrates a pattern of past-posting.

A criminal defense attorney and former prosecutor from Las Vegas says that's not exactly true.

"I can tell you that here in Nevada, that would have been a felony. The amount does not matter," said Chip Siegel. Small types of fraud -- sneaking a peek at a poker hand and bumping your bet by \$10, for example -- happens all the time, and is prosecuted all the time.

But he also acknowledged that a count of winning money "knowingly by trick or fraud" inherently requires an intent to defraud. And it's up to the prosecution to prove not only the fraud, but the intent, or the "knowingly," part of the charge.

"Intent is a lot more difficult [for the prosecution to prove] in a fast-paced craps game," Mr. Siegel said.

The charges were upheld at the Dec. 6 preliminary hearing, meaning the case could proceed to a trial.

Mr. Mastroianni, who describes himself as an avid craps player at all of the casinos in the region, noticed in 2010 that The Meadows was taking a commission on certain bets, while Rivers and casinos in West Virginia did not, which is what precipitated the dispute with The Meadows.

He said the fact that The Meadows was taking vigs when other casinos didn't meant that the bets at The Meadows cost patrons hundreds or thousands of dollars over time.

"If any other business were to do this, they'd be shut down," he said.

He also was amazed that the casino would initiate a criminal case over this issue.

"This is 16 bucks," he said. "They have it out for me."

EXHIBIT 5

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SPECIAL REPORT

COURT UPHOLDS CITIZEN'S RIGHTS TO SUE CASINO FOR GAME RULES VIOLATIONS

Subject-Matter Jurisdiction Exists for Civil Court
for Lawsuits by Gambling Patrons against Casinos

What do we do if we claim that a casino cheated or otherwise violated its published game rules?

The Hon. Debbie O'Dell-Seneca, President Judge Court of Common Pleas of Washington County, Pennsylvania, issued an important ruling that is likely to affect the gambling industry within the Commonwealth of Pennsylvania, and possibly other jurisdictions.

Denying a motion by The Meadows Racetrack and Casino, the defendant, by Order dated October 7, 2013, Judge O'Dell-Seneca ruled that patron gamblers of casinos are permitted to bring civil lawsuits in the Court of Common Pleas for claims that the casinos violated the published rules of the game.

The Meadows Racetrack and Casino is claimed to be owned and operated by Cannery Casino Resorts, LLC, of Las Vegas. The case is *Litman v. Cannery Casino*, 2012-8149 (Washington County, PA 2012).

The new ruling is believed to be the first time the Court ruled on the question under the Commonwealth of Pennsylvania's new gambling industry laws.

What is the case about?

According to the plaintiffs, for more than one year (c. May 27, 2011 and August 27, 2012), the Meadows charged a fee, or vigorish, at its craps tables in violation of the casino's published craps table rules.

Plaintiffs initiated a complaint procedure with the Pennsylvania Gaming Control Board that resulted in an investigation, and The Meadows ultimately paid a civil penalty of \$30,000 by Consent Agreement to the Gaming Control Board. The penalty funds are alleged to be in the Commonwealth of Pennsylvania General Fund commingled with citizen tax dollars. [Additional information is in the Complaint, Exhibit 12]

When the plaintiffs sued The Meadows in civil court, among other things, including to recover their monies -- that is, to recover the vigorish fees that had been taken at the craps tables in claimed violation of the rules -- the casino filed preliminary objections and filed a Motion to Dismiss, to which the plaintiffs filed a responsive brief and Opposition, respectively. The Court has not yet ruled upon the preliminary objections, but has now ruled on the more universal legal question of subject-matter jurisdiction, which affects casinos operating within the Commonwealth and possibly other jurisdictions.

On October 7, 2013, the attorneys for the parties presented oral arguments. In its Motion to Dismiss, the The Meadows argued that Pennsylvania trial courts are not legally authorized to hear disputes arising from casino game-rules violations, lacking "subject-matter jurisdiction." According to the casino, among other things, the right of legal action, if gambling houses violate their own rules of the games -- or even cheat at the games -- is for gambling patrons to let the Gaming Control Board conduct an investigation and to litigate, dismiss, penalize, or fine, as the Gaming Control Board

determines.

According to Gregg Zegarelli, counsel for plaintiffs, "Our position was clear and straight-forward. An investigation by the Gaming Control Board, even with \$30,000 in civil penalties, still does not, among other things, return my clients' monies.

"If a casino is claimed to be violating the rules of the game, then patrons of the gambling houses, including senior citizens, people on fixed incomes, and people of lesser or greater education, experience and financial status, all deserve the equal right to due process in civil court. They get their day in court. Those are the rules of the game in America."

[Document repository at <http://www.zegarelli.com/cases/TheCasinoCase>]

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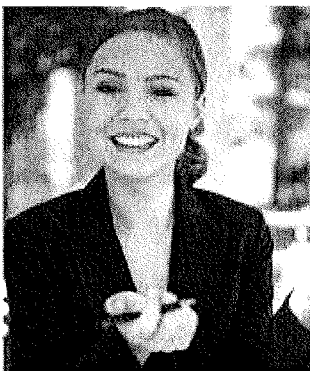
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The Meadows Racetrack & Casino Case

These documents are for your convenience only. These documents may have been modified, redacted or may be incomplete in some regards. For citing these cases, you are encouraged to obtain the filed versions in the exact form and format as filed. Subject to the foregoing, the documents are public record. * = Key Document Important: Some of the documents are large and may take some time to download; that is, they may not open immediately.

Washington County Documents	Appellate Court Documents	Explanation
* PA Gaming Control Board, Meadows Civil Fine Consent Agreement		"The OEC maintains that from the period from May 27, 2011 through August 27, 2012 the Meadows violated 58 Pa. Code §521.2 by collecting craps vigorish of 5% of all Buy Bets and Lay Bets in a manner that was not in compliance with its May 27, 2011, Rule Submission." Plaintiffs were the complainants who initiated the investigation regarding this practice.
* 6-5-13 Third Amended Complaint in Civil Action		This Complaint, with exhibits, identifies the personal claim of right by the patrons of The Meadows who were personally injured by the Meadows taking their money in violation of the rules of the game.
7-2-13 ORDER: Extending Discovery Schedule		Order of Court: Extending Discovery. 212b Complex Case
8-7-13 Plaintiffs' Pending Motion to Compel Discovery		
8-19-13 ORDER: Scheduling Oral Arguments on Preliminary Objections		Order of Court: Oral Arguments on Preliminary Objections are scheduled for October 7, 2013, also orally argued on the same date was Defendants' Motion to Dismiss
9-23-13 Defendants' Preliminary Objections Brief		Defendants object to every basis by which Plaintiffs could recover their money.
9-30-13 Plaintiffs' Brief in Opposition to Preliminary Objections		
10-2-13 Defendants' Motion to Dismiss		Ten months following the case initiating, Defendants object to the Court's power to hear the controversy, claiming lack of "subject-matter jurisdiction."
10-6-13 Plaintiffs' Brief in Opposition to Motion to Dismiss		
* 10-7-13 ORDER: Denying Defendants' Motion to Dismiss for Lack of Subject-Matter Jurisdiction		Court denies casino motion to dismiss for the court's lack of subject-matter jurisdiction.
11-4-13 Defendants' Motion for Reconsideration		Defendants ask the Court to reconsider the order that denied Defendants' request for dismissal of the case.
11-7-13 Plaintiffs' Brief in Opposition of Motion for		

		Reconsideration		
	11-7-13	<u>Defendants' Brief in Support of Motion for Reconsideration</u>		
	11-12-13	<u>Plaintiffs' Supplemental Brief in Opposition to Defendants' Motion for Reconsideration</u>		
*	12-16-13	<u>ORDER: Denying Defendants' Motion to Dismiss for Lack of Subject-Matter Jurisdiction</u>		Court denies casino motion to reconsider the denial to dismiss for the court's lack of subject-matter jurisdiction.
*	12-17-13	<u>ORDER: Overruling in part Defendants' Preliminary Objections</u>		Court upholds counts against casino for BREACH OF IMPLIED CONTRACT, UNJUST ENRICHMENT, FRAUD, CONVERSION, CIVIL CONSPIRACY AND FOR AN ACCOUNTING

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EXHIBIT 6



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February 13, 2014

VIA E-MAIL [gregg.zegarelli@zegarelli.com]
VIA U.S. MAIL

Gregg R. Zegarelli
Zegarelli Technology & Entrepreneurial
Ventures Law Group, P.C.
2585 Washington Road, Suite 134
Summerfield Commons Office Park, Bldg. 100
Pittsburgh, PA 15241

Re: Authority Regarding Privilege of Settlement Discussions

Dear Mr. Zegarelli :

I am writing in response to your meet and confer with Patrick Abramowich yesterday, and your request for authority for withholding documents regarding Washington Trotting Association's ("WTA") settlement discussions with the Pennsylvania Gaming Control Board ("PGCB").

The revised Section 1206(f) of the Pennsylvania Race Horse Development and Gaming Act provides that information "obtained by the board or the bureau as part of a background or *other investigation from any source shall be confidential and withheld from public disclosure.*" 4 Pa.C.S. § 1206(f) (emphasis added). The documents Plaintiffs are requesting were received by the PGCB as part of an investigation and thus are confidential, and furthermore, not subject to disclosure under the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1, *et seq.* See 65 P.S. § 66.102-305 (providing that the Pennsylvania Right-to-Know Law does not permit the disclosure of information that is prohibited from disclosure by a federal or state law or regulation).

In a recent opinion, the Pennsylvania Commonwealth Court ruled that the application of Section 1206 made information provided to the PGCB confidential, and thus, non-discoverable in

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California Colorado Connecticut Delaware District of Columbia
Florida Nevada New Jersey New York Pennsylvania



Fox Rothschild LLP
ATTORNEYS AT LAW

Gregg R. Zegarelli
February 13, 2014
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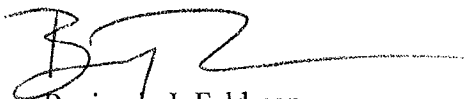
litigation. *Philadelphia Entm't & Dev. Partners, L.P. v. Pa. Gaming Control Bd.*, 34 A.3d 261, 279 (Pa.Comm.w.Ct. 2011).

Even if Section 1206 did not protect WTA's communications with the PGCB from discovery, numerous courts interpreting Federal Rule of Evidence 408, which is materially similar to Pennsylvania Rule of Evidence 408, recognize the existence of a privilege applicable to documents related to settlement discussions. *See, e.g., Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976 (6th Cir. 2003); *California v. Kinder Morgan Energy Partners, L.P.*, Civ.-A. No. 07-1883-MMA(WVG), 2010 WL 3988448 (S.D.Cal. Oct. 12, 2010); *Therapeutic Research Faculty v. NBTY, Inc.*, Civ.-A. No. S-05-2322 GEB DAD, 2006 WL 3371856 (E.D.Cal. Nov. 21, 2006). Logically, those courts conclude that "[c]ommunications made in furtherance of settlement negotiations are protected from third party discovery because of the public policy favoring confidentiality of such communications." *California*, 2010 WL 398848 at *4.

Moreover, even when courts do not recognize an outright privilege for documents related to settlement discussions, the party seeking discovery has the burden of making a heightened showing of relevance for those documents to become discoverable. *See Allison v. Goodyear Tire & Rubber Co.*, Civ.-A No. 07-69104, 2010 WL 3384723 (E.D.Pa. Aug. 19, 2010).

Plaintiffs have made no such showing. Accordingly, Defendants stand on their objections to producing communications with the PGCB, including settlement discussions.

Very truly yours,



Benjamin I. Feldman

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

JANINE LITMAN and TIMOTHY
MASTROIANNI, individually and
jointly,

CASE NO. 2012-8149

Plaintiffs,

v.

CANNERY CASINO RESORTS, LLC, a
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MEADOWS RACETRACK & 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.

[PROPOSED] ORDER

AND NOW, this _____ day of February, 2014, upon consideration of Plaintiffs' Motion to Compel Discovery ("Motion to Compel"), Defendants' Brief in Opposition to the Motion to Compel, and the parties' arguments, it is hereby ORDERED, ADJUDGED and DECREED that the Motion to Compel is DENIED.

BY THE COURT:


_____ J.

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2014, a true and correct copy of Defendants' Brief in Opposition to Plaintiffs' Motion to Compel Discovery was served upon the following counsel of record via e-mail and United States mail, First Class, postage prepaid:

Gregg R. Zegarelli, Esquire
Zegarelli Technology & Entrepreneurial
Ventures Law Group, P.C.
2585 Washington Road, Suite 134
Summerfield Commons Office Park
Pittsburgh, PA 15241
mailroom.grz@zegarelli.com

*Counsel for Plaintiffs,
Janine Litman and
Timothy Mastroianni*


Patrick L. Abramowich