

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

ALABAMA-COUSHATTA TRIBES OF
TEXAS,

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*Plaintiff and
Counter-Defendant,*

§

§

v.

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STATE OF TEXAS,

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*Defendant and
Counter-Plaintiff.*

No. 9:01-CV-00299

JOINT MOTION TO REALIGN THE PARTIES

Defendant and Counter-Plaintiff the State of Texas filed its motion to realign the parties on June 27th (the “Realignment Motion”) [DE 65] and stated its intention to file a motion for contempt (the “Contempt Motion”) against Plaintiff and Counter-Defendant the Alabama-Coushatta Tribe of Texas (the “Tribe”). The State’s pending and anticipated requests for relief stem from the Tribe’s opening of “Naskila,” a gaming facility, on its reservation in Livingston, Texas. The National Indian Gaming Commission (“NIGC”) issued a letter in October 2015 concluding that that the Tribe is regulated under the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701–2721 (“IGRA”), and therefore may engage in “Class II” gaming, even if it violates State law. Before opening Naskila, the Tribe consulted with the State, which agreed to forebear any enforcement action until after inspecting the gaming activities. The State filed the Realignment Motion shortly after that inspection.

The parties have reopened this case to finally determine two principal questions: First, does IGRA apply to the Tribe, as the NIGC’s October 2015 letter concluded, or does the Tribe’s Restoration Act control, 25 U.S.C. §§ 731–737, as the State argues? Second, if IGRA controls,

do the operations at Naskila consist of “Class II” gaming? Moreover, the Tribe contends that, if the Restoration Act controls, it can continue to offer Class II bingo free from State oversight.

The parties propose to answer these questions through two motions. The State intends to file the Contempt Motion on the grounds that the injunction previously entered by this Court bars the gaming at Naskila. The Tribe, for its part, intends to file a motion for relief from judgment asserting that, under administrative-law principles announced by the Supreme Court since entry of the injunction, this Court must give controlling effect to the NIGC letter concluding that IGRA applies to the Tribe. The parties agree that realignment of the parties will simplify the presentation of these issues. Because the resolution of both of these motions will require fact and expert discovery, as well as detailed briefing, neither party is seeking preliminary relief at this time. The parties will submit a joint proposed scheduling order for the Court’s approval setting a proposed discovery and briefing schedule shortly after or contemporaneously with the filing of the State’s Contempt Motion and the Tribe’s motion for relief from judgment.

The Tribe therefore withdraws its opposition to the Realignment Motion and now joins in the relief requested therein; the Tribe and the State respectfully jointly request that the Court grant this Joint Motion and realign the parties to position the State as Plaintiff and the Tribe as Defendant.

Dated: July 14, 2016

Respectfully submitted,

/s/ William T. Deane

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