

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

No. SJC-11641

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STEVEN P. ABDOW, STEPHANIE C. CRIMMINS, JOSEPH A.  
CURTATONE, GERI EDDINS, MARK A. GOTTLIEB, CELESTE B.  
MEYERS, KRISTIAN M. MINEAU, KATHLEEN CONLEY NORBUT,  
JOHN F. RIBEIRO, and SUSAN C. TUCKER,

Plaintiffs/Appellants,

v.

GEORGE DUCHARME, ET AL., DANIEL RIZZO, ET AL.,  
and DOMENIC J. SARNO, ET AL.,

Interveners/Appellants,

v.

ATTORNEY GENERAL and SECRETARY OF THE COMMONWEALTH,

Defendants/Appellees.

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BRIEF OF AMICUS CURIAE

STOP PREDATORY GAMBLING

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## Introduction

The eyes of the nation are upon this Court and this case, which is historic in that it is believed to be the first citizen-led effort to repeal a state government's sponsorship of casinos. Mounting evidence from our neighboring states and from other states across the country proves that the experiment of government-sponsored casinos has failed. It has failed to deliver on its promises to fund education, lower taxes, or pay for needed public services.<sup>1</sup> More importantly, as more fully developed below, it has exacerbated the growing problem of unfairness and inequality of opportunity in America, increasing the divide between the haves and the have-nots.

Rather than take a hard look at the evidence and consider whether to end the experiment, however, states have responded by sponsoring and promoting ever more extreme, more predatory forms of gambling. Within the last month, for example, the Massachusetts Lottery unveiled a \$30 instant scratch ticket.<sup>2</sup> Many

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<sup>1</sup> Lucy Dadayan at el, *For the First Time, A Smaller Jackpot*, NELSON A. ROCKEFELLER INSTITUTE OF GOVERNMENT, September 21, 2009, at 19-20, [http://www.rockinst.org/pdf/government\\_finance/2009-09-21-No\\_More\\_Jackpot.pdf](http://www.rockinst.org/pdf/government_finance/2009-09-21-No_More_Jackpot.pdf)

<sup>2</sup> Donna Goodison, *With casinos closing in, Lottery rolls out \$30 ticket*, BOSTON HERALD, March 26, 2014, [http://www.bostonherald.com/news\\_opinion/local\\_coverage/2014/03/with\\_casinos\\_closing\\_in\\_lottery\\_rolls\\_out\\_30\\_ticket](http://www.bostonherald.com/news_opinion/local_coverage/2014/03/with_casinos_closing_in_lottery_rolls_out_30_ticket)

states, including Massachusetts, are considering sponsoring internet gambling, which would open a casino in every bedroom, dorm room and smart phone in the state.<sup>3</sup>

Any serious and meaningful effort to address this problem must include a rigorous debate and examination of state government's sponsorship of casinos. The one and only way this rigorous debate and examination can take place in Massachusetts is if this Court allows the Plaintiffs/Appellants' initiative to go forward.

#### Interest of Amicus Curiae

Stop Predatory Gambling ("SPG") is a Washington, DC-based nonprofit, transpartisan coalition of individuals and organizations from diverse backgrounds, political convictions and religious faiths dedicated to a fundamental national reform: ending the unfairness and inequality produced by government sponsorship of casinos and lotteries. SPG's core belief is that no taxpayer dollar should be used by government to lure citizens into gambling away

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<sup>3</sup> Nicholas Kusnetz, *Casinos and offshore companies battle for billions in online gambling push*, CENTER FOR PUBLIC INTEGRITY, April 14, 2014, <http://www.publicintegrity.org/2014/04/14/14561/casinos-and-offshore-companies-battle-billions-online-gambling-push>

their money and becoming slaves to debt; no agency or entity of government should depend on gambling to fund its activities; and no legislature, whether in the name of economic development or raising revenue, should pass laws to promote or sponsor gambling.

The coalition took root in 1994 as state and community leaders across the country challenged efforts to force commercially-exploitive forms of gambling into their communities, emerging as a diverse national coalition of groups and individuals and leading to the organization of SPG in 2008.

Lawrence's Les Bernal has served as SPG's National Director since the organization's founding. Bernal has testified before Congress; appeared on national television and radio including *60 Minutes*, *CNN*, *Fox News*, *MSNBC*, *National Public Radio* and *The BBC*; and been interviewed by national newspapers and magazines including *The New York Times*, *The Washington Post*, *The Economist*, *USA Today*, *Sports Illustrated*, and *The Los Angeles Times*.

From its office in Lawrence, SPG has played an active role in the effort to educate Massachusetts citizens about casinos and the state law that authorized them. SPG's Bernal has spoken about casinos at more than thirty public forums around Massachusetts; appeared in newspaper, TV and radio

media across the state, including op-eds and letters in *The Boston Globe* and frequent posts on the popular statewide blog *Blue Mass Group*; testified at state legislative hearings; distributed hundreds of research reports, fact sheets and other educational materials to citizen leaders in the state; and collected more than 1000 voter signatures for the casino repeal ballot question.

### Argument

#### **I. THE QUESTION OF STATE GOVERNMENT SPONSORSHIP OF CASINOS MERITS A STATEWIDE VOTE.**

Whether Massachusetts state government should sponsor casino gambling, despite mounting health and social science evidence that casino gambling contributes to inequality of opportunity is a question of such critical importance to the citizenry of this Commonwealth that it deserves inclusion on the statewide ballot.

Casinos have become a public policy issue in Massachusetts, not because of a movement by concerned citizens demanding casinos in the state, but because one of the most powerful special interests in the world has spent tens of millions of dollars on an

unprecedented amount of lobbying,<sup>4</sup> paid and earned media,<sup>5</sup> highly-sophisticated public affairs campaigns<sup>6</sup> and political contributions<sup>7</sup> to make it one. These powerful interests have had their "debate." Citizens, on the other hand, have been denied the opportunity to debate and decide this public policy, which evidence clearly shows is contributing to inequality. A statewide vote would provide the opportunity to debate and decide an issue of such magnitude.

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<sup>4</sup> Shirley Leung, *In casino race, lawyers, lobbyists winning big*, BOSTON GLOBE, January 29, 2014, <http://www.bostonglobe.com/business/2014/01/29/war-over-casinos-there-one-thing-everyone-agrees-lawyers-and-lobbyists-are-making-out/S9kz1AjapheltYzB2fwNtO/story.html>

<sup>5</sup> Mark Arsenault, *MGM woos Springfield voters*, BOSTON GLOBE, April 10, 2013, <http://www.bostonglobe.com/metro/2013/04/09/mgm-pushing-hard-springfield-public-campaign/NW6R6GiZSU0sa8RHFTqaZI/story.html>

<sup>6</sup> Mark Arsenault, *Wynn finances ballot drive for Everett casino*, BOSTON GLOBE, June 7, 2013, <http://www.bostonglobe.com/metro/2013/06/06/with-wynn-financial-backing-everett-united-organizing-referendum-referendum-campaign/0QOuXDizBtS6iZi53GWWQP/story.html>

<sup>7</sup> Steve LeBlanc, *Fund-raisers abound as House prepares to vote on casino bill*, BOSTON GLOBE, April 7, 2010, [http://www.boston.com/news/local/massachusetts/articles/2010/04/07/fund\\_raisers\\_abound\\_as\\_house\\_prepares\\_to\\_vote\\_on\\_casino\\_bill/](http://www.boston.com/news/local/massachusetts/articles/2010/04/07/fund_raisers_abound_as_house_prepares_to_vote_on_casino_bill/)



**A. Unfairness and Inequality of Opportunity Are Issues at the Center of Our National and State Discourse**

The unfairness and inequality of opportunity in America is at the top of the nation's issue agenda, for liberals and conservatives alike. President Obama described it as "the defining challenge of our time" and declared it would be the primary focus for the remainder of his presidency.<sup>8</sup> Leading Republicans have introduced a series of proposals to improve social mobility for everyday Americans.<sup>9</sup> Strong evidence supports this concern. Today, American economic growth is being enjoyed by an extraordinarily small share of the population: 95% of the gains from the recent economic recovery have gone to the richest 1% of people, whose share of overall income is once again close to its highest level in a century.<sup>10</sup>

Asset-building, in essence the opposite of gambling, is almost non-existent for nearly half the

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<sup>8</sup> Transcript of Speech, *President Obama on Inequality*, POLITICO, December 4, 2013, <http://www.politico.com/story/2013/12/obama-income-inequality-100662.html>

<sup>9</sup> Jeremy W. Peters, *Two Parties Place Political Focus on Inequality*, N.Y. TIMES, January 8, 2014, <http://www.nytimes.com/2014/01/09/us/politics/republicans-move-to-reclaim-poverty-fighting-mantle.html? r=0>

<sup>10</sup> *Inequality: Growing Apart*, THE ECONOMIST, September 21, 2013, <http://www.economist.com/news/leaders/21586578-america-income-inequality-growing-again-time-cut-subsidies-rich-and-invest>

country's population; in 2010 less than half (46.9 percent) of households owned any stock at all – even indirectly through mutual funds and/or retirement plans.<sup>11</sup> Less than one-third (31.1 percent) owned more than \$10,000 in stocks.<sup>12</sup> The median African American and Latino family owns no stock at all.<sup>13</sup>

In Massachusetts, nearly every candidate for governor has latched onto this issue, and for good reason.<sup>14</sup> As the gap between rich and poor widens in the world's richest nation, Massachusetts is among those leading the way. Over the past 20 years, America's best-educated state has experienced the country's second-biggest increase in income inequality, according to a Reuters analysis of U.S. Census data.<sup>15</sup> Between 1989 and 2011, the average income of the state's top fifth of households jumped

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<sup>11</sup> LAWRENCE MISHEL ET AL., ECONOMIC POLICY INSTITUTE, THE STATE OF WORKING AMERICA, CHAPTER 6, WEALTH (12<sup>th</sup> ed. 2012), <http://www.stateofworkingamerica.org/fact-sheets/wealth/#sthash.FAd5Y9PE.dpuf>

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> "From Left To Right, Inequality At Center Of Governor's Race," *WBUR* 90.9, February, 20, 2014, <http://www.wbur.org/2014/02/20/gubernatorial-income-inequality-massachusetts>

<sup>15</sup> David Rohde et al, *The Unequal State of America*, REUTERS, December 12, 2012, <http://www.reuters.com/subjects/income-inequality/massachusetts>

17 percent. The middle fifth's income dropped 2 percent, and the bottom fifth's fell 9 percent.<sup>16</sup> Massachusetts now has one of the widest chasms between rich and poor in America. It is the seventh-most unequal of the 50 states, according to a Reuters ranking of income inequality. Two decades ago, it ranked 23rd.<sup>17</sup>

**B. Mounting Health and Social Science Evidence Shows Casinos Are Contributing to Unfairness and Inequality in American Life**

Many forces currently contributing to the rise of inequality, such as globalization and technological change, cannot be directly controlled by public policy. But government-sponsored gambling *is* a public policy - and it exists only because policy makers want it to exist. While most people understand lotteries are an extension of government, many citizens do not fully realize that the same is true for casinos.

Casinos are a creation of state government and its public policies. They are instituted by the states to create a new revenue source separate from direct taxation, and they create regional monopolies for the casinos in the process. Without the legal,

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

administrative, regulatory, and promotional privileges provided by state governments, casinos would not be spreading into mainstream American life as they are today and likely would exist only on the fringes of society.

A growing body of independent evidence from the health and social sciences shows at least three reasons why this public policy of spreading casinos into mainstream American life is contributing to inequality, supporting the argument for a statewide vote. First, it is regressive; second, it is addictive; and third, it is exploitive.

#### **1. Casinos Are Regressive**

Casino gambling was once an activity largely for the well-to-do. A prominent study from the mid-1970's showed profits from casino gambling in that era came disproportionately from upper-class Americans who could travel long distances to a resort casino and gamble money they could afford to lose.<sup>18</sup> An author of that study speculated that casino gambling would become more regressive as it became more widespread.<sup>19</sup> His prediction proved to be right on the mark.

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<sup>18</sup> Institute for American Values, Council on Casinos, *Why Casinos Matter, Thirty-One Evidence-Based Propositions from the Health and Social Sciences*, September 2013, at 29, <http://americanvalues.org/catalog/pdfs/why-casinos-matter.pdf>

As casino gambling has spread into economically distressed communities like Detroit, Michigan; Gary, Indiana; and East St. Louis, Missouri, the evidence shows it has lured more Americans from the lower rungs of the income ladder.<sup>20</sup> Low-income workers, retirees, minorities, and the disabled comprise a disproportionately large share of regional casino gamblers.<sup>21</sup>

In this way state-sponsored casino gambling creates a stratified pattern that parallels the separate and unequal life patterns in education, marriage, work, and play that increasingly divide America into haves and have-nots.... Those in the upper ranks of the income distribution rarely, if ever, make it a weekly habit to gamble at the local casino. Those in the lower ranks of the income distribution often do. Those in the upper ranks rarely, if ever, contribute a large share of their income to the state's take of casino revenues. Those in the lower ranks do.<sup>22</sup>

The most telling evidence of casino gambling's regressive effect may come from the casino operators themselves. The predominance of penny slot machines on

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<sup>19</sup> William R. Eadington, *The Economics of Casino Gambling*, JOURNAL OF ECONOMIC PERSPECTIVES 13 (3) (Summer 1999), at 173-192.

<sup>20</sup> Institute for American Values, *Why Casinos Matter*, *supra* at 33.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

the casino floors reveals who their target market really is.<sup>23</sup> Because the state's middle-to-low income citizens make up this target market, it is only fair that they should be given the opportunity for a statewide vote on a regressive public policy contributing to inequality.

## 2. Casinos Are Addictive

Slot machines make up almost 70% of all floor space in casinos.<sup>24</sup> Yet studies have shown consistently that those who play slot machines as their primary form of gambling are most likely to become problem gamblers.<sup>25</sup> According to the research findings of MIT's Dr. Natasha Schull, author of "Addiction By Design" and whose work was featured on *60 Minutes*, the machines are designed to get every user "to play to

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<sup>23</sup> Hoa Nguyen, *Penny slots are popular, flexible and profitable, so they're gaining more space on casino floors*, THE PRESS OF ATLANTIC CITY, December 14, 2014, [http://m.pressofatlanticcity.com/news/breaking/penny-slots-are-popular-flexible-and-profitable-so-they-re/article\\_a161f006-82a4-11e2-9477\\_001a4bcf887a.html?mode=jqm](http://m.pressofatlanticcity.com/news/breaking/penny-slots-are-popular-flexible-and-profitable-so-they-re/article_a161f006-82a4-11e2-9477_001a4bcf887a.html?mode=jqm)

<sup>24</sup> David Stewart, Ropes & Gray, LLP et al., *Demystifying Slot Machines and Their Impact in the United States*, American Gaming Association White Paper, at 1, [http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/demystifying\\_slot\\_machines\\_and\\_their\\_impact.pdf](http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/demystifying_slot_machines_and_their_impact.pdf)

<sup>25</sup> Natasha Dow Schull, PhD, *Beware: Machine Zone Ahead*, WASHINGTON POST, July 6, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/07/04/AR2008070402134.html>

extinction'' - i.e., until all their money is gone - by using technology described as a "high-tech version of loaded dice."<sup>26</sup> The slot machine is designed to be so effective at extracting money from people it is "a product that, for all intents and purposes, approaches every player as a potential addict - in other words, someone who won't stop playing until his or her means are depleted."<sup>27</sup>

Studies have shown that living close to a casino increases one's chance of becoming an addicted gambler.<sup>28</sup> One large-scale study found that people living within 10 miles of a casino have twice the rate of pathological and problem gambling as those who do not.<sup>29</sup>

Since a significant percentage of our fellow citizens lives within ten miles of communities with proposed state-sponsored casino gambling locations, it is only fair they should be given the chance to vote on a public policy that will create life-altering

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Institute for American Values, *Why Casinos Matter*, *supra*, at 18.

<sup>29</sup> John W. Welte et al, *The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology*, *Journal of Gambling Studies*, Winter 2004, 20(4): 405-23, <http://www.ncbi.nlm.nih.gov/pubmed/15577275>

addictions for some among their families and friends, rendering them unequal, expendable and unworthy of protection.

### 3. Casinos Are Exploitive

#### a. Casinos Depend on Problem Gamblers for Their Revenue Base

Over the last decade there are 11 different independent studies that show 40%-60% of slot machine profits come from problem gamblers.<sup>30</sup> Despite all the public relations by gambling interests to the contrary, the percentage of gambling revenue that comes from people who follow "responsible gambling codes of conduct" - people who can be described as casual gamblers - is *virtually irrelevant to their profits*. A Canadian study found that people who follow responsible gambling guidelines made up 75% of the players but contribute a mere 4% of gambling profits.<sup>31</sup> "They only bring in 4% of our revenues, the responsible gamblers," said Tracy Schrans, an author of that Canadian study, in a 2006 radio interview. "If

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<sup>30</sup> Institute for American Values, *Why Casinos Matter*, *supra*, at 18.

<sup>31</sup> Focal Research Consultants, *The 1997/98 Nova Scotia Regular VL Players Study Highlight Report*, at 11, available at <http://stoppredatorygambling.org/wp-content/uploads/2012/12/Novia-Scotia-Problem-Gambling-Study.pdf>



responsible gaming were successful then the industry would probably shut down for lack of income."<sup>32</sup>

Slot machines are designed to exploit aspects of human psychology and induce irrational and irresponsible behavior. And they do it well. Every feature of a slot machine - its mathematical structure, visual graphics, sound dynamics, seating and screen ergonomics - is designed to increase a player's "time on device" (i.e., how long a person plays).<sup>33</sup> Gambling operators found that their profits were not about the size of the gamblers' stakes but rather the volume of their play. 'If you provide them with the right time-on-device, they will stay and play,' said one slot designer. 'If you take it too quickly and they lose, they're going to leave.'<sup>34</sup> In the actual language of the casino business, the goal is to get every user "to play to extinction" - until all their money is gone.<sup>35</sup> "I want to keep you there as long as humanly possible," said another casino

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<sup>32</sup> NATASHA DOW SCHULL, PHD, ADDICTION BY DESIGN, MACHINE GAMBLING IN LAS VEGAS, at 267 (2012), available at <http://press.princeton.edu/titles/9156.html>

<sup>33</sup> Schull, *Beware: Machine Zone Ahead*, *supra*.

<sup>34</sup> SCHULL, ADDICTION BY DESIGN, *supra*, at 126.

<sup>35</sup> Schull, *Beware: Machine Zone Ahead*, *supra*.

consultant. "That's the whole trick, that's what makes you lose."<sup>36</sup>

This "trick" has major implications for those citizens exposed to the machines. One former slot machine addict interviewed by MIT's Schull said:

How do they expect people to gamble responsibly when they build machines that make them behave irresponsibly? They say the problem is our fault, because we can't gamble like normal people. I sit there and think, You're so full of [expletive deleted] your eyes are brown - what the hell is normal about sitting in front of a machine and pressing buttons to give your money away?<sup>37</sup>

Slot machine design is not the only technique used to get citizens to gamble irrationally.<sup>38</sup> Casino marketing practices are also a major factor. Some of the marketing practices include: giving away free slot machine play to area citizens to lure them into the casino and expose them to the machines;<sup>39</sup> providing

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<sup>36</sup> SCHULL, ADDICTION BY DESIGN, *supra*, at 126.

<sup>37</sup> *Id.*

<sup>38</sup> Steve Wartenberg, *Penn National disappointed in Columbus casino's revenue*, COLUMBUS DISPATCH, July 24, 2013, <http://www.dispatch.com/content/stories/business/2013/07/24/not-a-full-house.html>

<sup>39</sup> Donald Wittkowski, *Slot players at Bally's casino can order drinks with the touch of the screen*, PRESS OF ATLANTIC CITY, February 8, 2012, [http://www.pressofatlanticcity.com/news/top\\_three/slot-players-at-bally-s-casino-can-order-drinks-with/article\\_95ff1e64-52c1-11e1-9e95-0019bb2963f4.html](http://www.pressofatlanticcity.com/news/top_three/slot-players-at-bally-s-casino-can-order-drinks-with/article_95ff1e64-52c1-11e1-9e95-0019bb2963f4.html)

free alcohol to make it easier for people to lose their self-control;<sup>40</sup> offering visitors interest-free loans known as "markers" that are used to gamble inside the casino; aggressively targeting people who take cash advances from casino ATMs because they demonstrated a weakness to chase their losses<sup>41</sup> - a leading indicator of problem gambling behavior;<sup>42</sup> using "hosts" who are in constant contact with heavy gamblers away from the casino to lure them right back;<sup>43</sup> enlisting "Luck Ambassadors," casino employees who hand out small cash vouchers to losing gamblers identified by the casino's player tracking system in an attempt to uplift their spirits and prolong their stay in front of the slot machine, all in real time on

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<sup>40</sup> Screenshot of Harrah's Metropolis Casino website, May 30, 2012, available at <http://stoppredatorygambling.org/wp-content/uploads/2012/12/2012-Harrahs-Casino-Credit-info.pdf>

<sup>41</sup> Bob Tita, *Casino fined \$800K for marketing to banned gamblers*, CRAIN'S CHICAGO BUSINESS, May 19, 2008, [http://www.aproundtable.org/gamblingsruinedlives/casino\\_fined.html](http://www.aproundtable.org/gamblingsruinedlives/casino_fined.html)

<sup>42</sup> Rhode Island Hospital's Gambling Treatment Program, 2014 <http://www.rhodeislandhospital.org/services/mental-health/gambling-treatment-program/signs-of-gambling-problems.html>

<sup>43</sup> Mark Gruetze, *Casino hosts turn to stats in rating players, giving comps*, PITTSBURGH TRIBUNE-REVIEW, February 2, 2014, <http://triblive.com/aande/gambling/5509017-74/casino-player-percent#axzz2z11sfGqs>

the casino floor;<sup>44</sup> and providing gamblers free meals and free lodging.<sup>45</sup>

Since so many Massachusetts citizens will experience the intense advertising and marketing that accompanies state-sponsored casino gambling, it is only fair that they be afforded the opportunity to vote on a public policy that is exploitive and, as a result, is contributing to inequality.

**b. Government Sponsorship of Casinos Encourages Citizens to Bet Against the Laws of Probability, a Practice Historically Viewed as Dishonest**

There is no dispute that each bet put in a slot machine is a bet against the laws of probability. The more you bet, the more you lose and ultimately, the casino gets it all. When state government sponsors and promotes casino gambling, especially slot machines, its citizens will lose their money over and over again. Government is not merely permitting private, consensual behavior. It is a public policy actively encouraging, and profiting from, the statistical

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<sup>44</sup> Christina Binkley, *Taking Retailer's Cues, Harrah's Taps into Science of Gambling*, WALL STREET JOURNAL, November 22, 2004, available at <http://stoppredatorygambling.org/wp-content/uploads/2012/12/Taking-Retailers-Cues-Harrahs-Taps-Into-Science-of-Gambling.pdf>

<sup>45</sup> John Aziz, *How did Americans manage to lose \$119 billion gambling last year?*, THE WEEK, February 5, 2014, <http://theweek.com/article/index/255982/how-did-americans-manage-to-lose-119-billion-gambling-last-year>

certainty of citizens losing their money over time. And for many, it turns their lives upside down forever. Permitting such a process to occur under the full protection of the law conflicts with the public interest and historically has been viewed as dishonest.<sup>46</sup>

Historically, some have viewed slot machine operation as dishonest because it was illegal - a common misperception. The larger truth is that slot machine operation has been regarded as illegal because it is dishonest. Encouraging citizens from the ranks of the lower income to lose their money by betting against a machine that has been programmed in advance to take their money has not, in the American experience, been generally viewed as an honest thing to do. It explains why former New York City mayor Fiorello La Guardia, widely considered one of the greatest mayors in American history, called the machines "mechanical pickpockets" and distributed brochures across the city entitled "You Can't Win at the Slot Machine Racket."<sup>47</sup>

Unlike Massachusetts citizens, La Guardia did not seek a statewide vote on slot machines. He exercised

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<sup>46</sup> DAVID BLANKENHORN, *NEW YORK'S PROMISE: WHY SPONSORING CASINOS IS A REGRESSIVE POLICY OF A GREAT STATE*, at 51-52 (2013), available at <http://www.americanvalues.org/search/item.php?id=1980>

<sup>47</sup> *Id.* at 27.

his opinion a little differently. He smashed slot machines in a grand spectacle in Rockefeller Center and then dumped them off a barge in New York Harbor.<sup>48</sup>

c. **"The Smartest Guys NOT in the Room:"  
Almost None of the Casino Operators,  
Slot Machine Makers and the Public  
Officials They Partner With Use Slot  
Machines or Gamble Themselves**

One of the most telling and revealing indictments of state government's policy of sponsoring casinos is that those who operate and promote casinos never gamble themselves. They truly are "the smartest guys NOT in the room."<sup>49</sup>

Despite reaping billions of dollars from the have-nots in America, nearly every major casino operator, including most involved in Massachusetts like Steve Wynn<sup>50</sup>, Jim Murren<sup>51</sup>, CEO of MGM, KT Lim<sup>52</sup>,

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<sup>48</sup> *Id.* at 31.

<sup>49</sup> Stop Predatory Gambling Foundation, *The Smartest Guys NOT in the Room*, <http://stoppredatorygambling.org/blog/category/research-center/the-smartest-guys-not-in-the-room/>

<sup>50</sup> "Casino Mogul Steve Wynn's Midas Touch," *60 Minutes*, April 12, 2009, <http://www.cbsnews.com/news/casino-mogul-steve-wynns-midas-touch/>

<sup>51</sup> Andrew Ross Sorkin, *Is There Life After Blackjack? Ask MGM*, N.Y. Times, December 26, 2004, <http://www.nytimes.com/2004/12/26/business/26vegas.html? r=0>

<sup>52</sup> *The Savvy Gambler*, THE BUSINESS TIMES, SINGAPORE, December 2, 2006, <http://stoppredatorygambling.org/wp-content/uploads/2012/12/KT-Lim-The-savvy-gambler.pdf>

Chairman of Genting, the casino operator backing the Mashpee Wampanoag project, and Gary Loveman<sup>53</sup>, CEO of Caesars, do not gamble themselves.<sup>54</sup>

Richard Fields, co-owner of Suffolk Downs and a driving force for casinos in Massachusetts, confessed to *The Boston Globe* that he has "never gambled."<sup>55</sup> Fields went on to admit: "It's so funny—I just don't do that. It's not for any reason other than it's not in my psyche. I go to Vegas or any of these places and I'll go through the projects and find them really interesting and exciting. But I'm a developer and sort of an entertainment guy, and I'll look at this from the standpoint of how do you make sure people have a good time? But it never occurs to me to gamble. Isn't that interesting?" Yes, Mr. Fields, it is interesting, and most revealing.

Equally interesting and revealing was *New York Times* reporter Gary Rivlin's tour of the headquarters of International Gaming Technology (I.G.T.), America's biggest maker of electronic slot machines. Rivlin

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<sup>53</sup> CHRISTINA BINKLEY, *WINNER TAKES ALL*, at 177 (2008).

<sup>54</sup> *The Smartest Guys NOT in the Room*, *supra*.

<sup>55</sup> Mark Arsenault, *Three Titans Contending for Boston-area Casino License*, *BOSTON GLOBE*, January 20, 2013, <http://www.bostonglobe.com/metro/2013/01/20/three-way-race-for-casino-license-hot-greater-boston/RO6jjnatCCWJcjDV7UvDyI/story.html>

tells the story of his visit to the I.G.T. building:  
"Most of the people I met inside I.G.T. told me they never played slot machines on their own time. When I asked one I.G.T. artist if he ever plays, he acted as if I had insulted him. "Slots are for losers," he spat, and then, coming to his senses, begged me to consider that an off-the-record comment."<sup>56</sup>

But casino operators and slot makers are not the only ones who don't gamble. Nearly all of the political officials who sponsor casino legislation and promote this public policy across their states, including Massachusetts, *don't gamble either*. Governor Deval Patrick, who made legalizing casinos a top priority of his administration, has virtually no personal experience gambling inside casinos. According to *State House News Service*, Patrick said he "used to take his mother to gamble at Foxwoods and recalled spending time at a Las Vegas casino when he worked at Coca-Cola."<sup>57</sup>

Massachusetts House Speaker Robert DeLeo, a leading proponent of legalizing casinos in the state, conceded in a television interview in 2011, "I've only

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<sup>56</sup> Gary Rivlin, *The Tug of the Newfangled Slot Machines*, N.Y. TIMES MAGAZINE, May 9, 2004, <http://www.nytimes.com/2004/05/09/magazine/09SLOTS.html>

<sup>57</sup> "Patrick Signs Casino Law," *State House News Service*, November 22, 2011.



been in a casino twice in my life and one of those times was for a boxing match."<sup>58</sup>

State Senator Stan Rosenberg, a key supporter of legalizing casinos in Massachusetts and described by some in the media as the "State House casino expert," answered "Nope" when asked by *The Boston Globe* if he ever gambled.<sup>59</sup>

State Representative Joe Wagner, chairman of the House legislative committee that spearheaded the push to legalize casinos in the state, confessed to *The Boston Globe* that "his gambling experience is limited to the 'occasional game of Keno.'"<sup>60</sup>

Stephen Crosby, Chairman of the Massachusetts Gambling Commission and the man tasked with bringing casinos to the Bay State, told *The Boston Business Journal* in 2012 he has never set foot in a casino.<sup>61</sup>

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<sup>58</sup> Interview with Massachusetts Speaker of the House Robert DeLeo, WCVB TV Channel 5, September 25, 2011, <https://www.youtube.com/watch?v=55jN3APEfnY&list=PL95F87248339E73A3&index=12&feature=plpp> video

<sup>59</sup> Matt Viser, *Inside Man: An Interview With Stan Rosenberg, the State House's Casino Expert*, BOSTON GLOBE, January 10, 2010, [http://www.boston.com/bostonglobe/ideas/articles/2010/01/10/inside\\_man/](http://www.boston.com/bostonglobe/ideas/articles/2010/01/10/inside_man/)

<sup>60</sup> Mark Arsenault et al, *House Approves Casino Bill*, BOSTON GLOBE, September 15, 2011, <http://www.bostonglobe.com/metro/2011/09/15/house-casino-bill/4cv0eZfj89em7JpHVfBLfI/story.html>

<sup>61</sup> Thomas Grillo, *Mass. casino commissioner has never set foot in a casino*, BOSTON BUSINESS JOURNAL, March 19, 2012,

Not surprisingly, but no less remarkably, the other four members of the Massachusetts Gambling Commission each acknowledged to *The Boston Globe* in 2012 of having little experience at casino gambling. "None of us is a very active gambler," Chairman Crosby said.<sup>62</sup>

Massachusetts residents should be alarmed by the admissions of these "Smartest Guys NOT in the Room." It is only fair that all citizens receive the opportunity for a statewide vote on a public policy whereby the winners win by not playing, at the expense of the losers who do.

#### CONCLUSION

For the foregoing reasons, as well as for those set forth in the Brief of Plaintiffs/Appellants, Amicus respectfully urges this Court to declare that Plaintiffs/Appellants' Petition is eligible for placement on the November 2014 State Election Ballot.

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[http://www.bizjournals.com/boston/real\\_estate/2012/03/gaming-commissioner-no-gambler.html?page=all](http://www.bizjournals.com/boston/real_estate/2012/03/gaming-commissioner-no-gambler.html?page=all)

<sup>62</sup> Mark Arsenault, *Gambling commission lacks casino experience*, BOSTON GLOBE, March 21, 2012, <http://www.bostonglobe.com/metro/2012/03/20/gambling-commission-light-casino-industry-experience/ctug0g3wdTWoQODm4bbHiP/story.html>

Respectfully submitted,  
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By their attorney,



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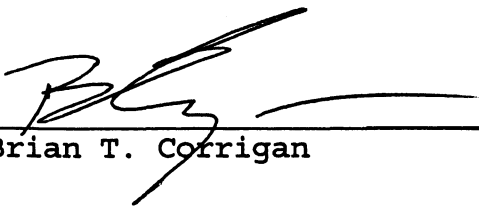
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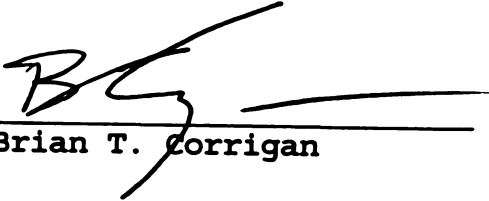
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I, Brian T. Corrigan, hereby certify  
that this brief complies with the rules of  
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