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**COURT DISMISSES SUIT CHALLENGING CONSTITUTIONALITY OF
VIDEO LOTTERY TERMINALS AND CASINO STATUTES
Judge Timothy S. Horton Finds Plaintiffs Do Not Have Standing to Sue**



Judge Timothy S. Horton issued a much anticipated opinion today ruling to dismiss a historic suit filed against Ohio's Governor, John Kasich, and challenging the constitutionality of statutes regulating Ohio's first casinos and video lottery terminals. Judge Horton dismissed the suit, ruling that the Plaintiff did not have standing to bring their claims.

According to Judge Horton in his opinion, the judiciary "operates within certain boundaries and should not be used wantonly and/or for political or social gain. Throughout their pleadings and oral arguments, Plaintiffs have offered little more than bare assertions of harm or injury." As such, the Court could not find Plaintiffs had standing.

Standing is a requirement that anyone bringing a suit must meet. Essentially, standing ensures that the judiciary refrains from giving opinions or advice on potential controversies or imposing judgment on premature declarations, requiring that the courts only hear actual controversies between parties.

Plaintiffs, Ohio Roundtable and nineteen individuals, several of whom are members of or officers in Ohio Roundtable, filed suit on October 21, 2011 against Governor Kasich, the Ohio Lottery Commission, the Ohio Tax Commissioner, the Ohio Casino Control Commission, and several individual members and directors of the named Commissions. Ohio Roundtable is a non-profit organization which has "actively opposed the expansion of legalized gambling in Ohio." Plaintiffs' claims against the Governor and other Defendants arise from newly enacted amendments and sections to the Ohio Revised Code and the Ohio Constitution dealing with legalized gambling and casinos.

In 2009, for the first time in Ohio's history, its citizens voted to amend the Ohio Constitution to permit four casinos to operate in the state. Plaintiff did not challenge the actual amendments to the Ohio Constitution authorizing the casinos. Rather,

Plaintiffs alleged in their suit that several statutes implementing the constitutional provisions authorizing the four casino facilities are unconstitutional. Among other things, the statutes in question specify how the casinos will be built and what taxes the casino operators are subjected to.

The Plaintiffs also challenged the constitutionality of video lottery terminals. In 2009 and 2011, Ohio's General Assembly enacted legislation that amended a number of Ohio statutes and created new sections pertaining to the State's lottery. Included in this legislation was language providing that the statewide lottery includes video lottery terminals. Video lottery terminals, or VLTs, are electronic devices that provide immediate prize determinations for participants on an electronic display. (Ohio Revised Code 3770.21.) Among other assertions, Plaintiffs alleged in their suit that inclusion of VLTs as part of the statewide lottery exceeded the General Assembly's authority, as VLTs were not contemplated in the definition of "lottery" as used in the Constitution.

Defendants motioned the Court to consider dismissal based upon lack of standing. Both parties submitted briefs to the Court supporting their positions. Judge Horton also heard oral arguments on the matter.

The case is *State ex rel. Robert L. Walgate Jr. v. John R. Kasich, Governor, et al.*, Case No. 11 CV 13126 at the Franklin County Court of Common Pleas, located in Columbus, Ohio.

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Judge Horton's final opinion on this issue can be found under Case No. 11 CV 13126 at the following address: <http://fedcfjcs.co.franklin.oh.us/CaseInformationOnline/>
For further information, please call Atiba Jones at 614/525-7492.