



**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
BESSEMER DIVISION**

STATE OF ALABAMA

Plaintiff,

v.

**JAY'S CHARITY BINGO,
MUNEER MUTEI MOFLIHI ZINDANI,
HASSAN NOMAN ALSHOHATEE,
BENJAMIN 2012, LLC,
CITY OF LIPSCOMB,
FICTITIOUS PARTY A,
FICTITIOUS PARTY B, AND
FICTITIOUS PARTY C,**

Defendant(s).

Civil Action No.

COMPLAINT

Comes now, the State of Alabama, by and through its Attorney General Steve Marshall and undersigned counsel, and respectfully moves this Honorable Court for declaratory and injunctive relief to abate a public nuisance of unlawful gambling, pursuant to ALA. CODE § 6-5-120. The State of Alabama, in support of its Complaint, asserts the following:

I. JURISDICTION

1. This Court has jurisdiction over the parties as they are all residents or do business in the Bessemer Division of Jefferson County, Alabama.

II. PARTIES

2. Plaintiff is the **State of Alabama** by and through its Attorney General, Steve Marshall, who has standing to bring this action on behalf of the State. *See* Ala. Code § 36-15-12.

3. Defendant **Jay's Charity Bingo**, an Alabama business with a principal place of business at 6405 Avenue K, Lipscomb, Alabama.

4. Defendant **Muneer Mutee Moflihi Zindani** owns and/or operates Jay's Charity Bingo located at 6405 Avenue K, Lipscomb, Alabama.

5. Defendant **Hassan Noman Alshohatee** owns and/or operates Jay's Charity Bingo located at 6405 Avenue K, Lipscomb, Alabama.

6. Defendant **Benjamin 2012, LLC**, the property owner of the property located at 6405 Venue K, Lipscomb, Alabama, receives illegal gambling proceeds as payment for the lease/rental agreement with Jay's Charity Bingo and has a registered business address of 2107 5th Avenue N, Ste. 100, Birmingham, Alabama.

7. Defendant **City of Lipscomb** is the municipality responsible for enforcement of the game of bingo and the party that has licensed and continues to profit and obtain illegal funding from the illegal gambling with an address of 5512 Avenue H, Bessemer, Alabama.

8. Fictitious Party A is a business organization that owns, manages, and/or operates machines and devices at Jay's Charity Bingo located at 6405 Venue K, Lipscomb, Alabama.

9. Fictitious Party B is a business organization that owns, manages, and/or operates machines and devices at Jay's Charity Bingo located at 6405 Venue K, Lipscomb, Alabama.

10. Fictitious Party C is a business organization that owns, manages, and/or operates machines and devices at Jay's Charity Bingo located at 6405 Venue K, Lipscomb, Alabama.

III. VENUE

11. Venue is appropriate in this Court. The Defendants either live, work, or conduct business in the Bessemer Division of Jefferson County, Alabama.

IV. GENERAL ALLEGATIONS

12. Defendants operate, allow to operate, administer, or provide slot machines, gambling devices, and illegal gambling at Jay’s Charity Bingo, located at 6405 Venue K, Lipscomb, Alabama (hereinafter “facility”).

13. At the facility, approximately 60 slot machines and gambling devices (hereinafter “devices and games”) are in open, continuous, and notorious use.

14. Gambling is generally illegal in Alabama, and slot machines are particularly so. The State’s general prohibition on gambling is so fundamental that the people enshrined it in the Constitution. *See* ALA. CONST. art. IV, §65. The Legislature has specifically criminalized possession of slot machines and other gambling devices. ALA. CODE §13A-12-27. Nevertheless, because of the immense profits associated with organized gambling, the industry frequently has tried to “evade[]” these prohibitions, as the Alabama Supreme Court put it in *Barber v. Jefferson Cnty. Racing Ass’n*, 960 So. 2d 599 (Ala. 2006), by asserting that “loophole[s]” in Alabama law were much larger than they in fact were. *Id.* at 614. The Alabama Supreme Court has consistently held that substance is more important than legal technicality; accordingly, gambling devices are illegal if they “look like, sound like, and attract the same class of customers as conventional slot machines.” *Id.* at 616. *See also Ex parte State*, 121 So.3d 337 (Ala. 2013); *Barber v. Cornerstone Comm. Outreach*, 42 So. 3d 65 (Ala. 2009); *State ex rel. Tyson v. Ted’s Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004).

15. The game of bingo cannot be played on electronic machines in the State of Alabama. *See HEDA v. State*, 168 So. 3d 4 (Ala. 2014); *State v. \$223,405.86 et al.*, 203 So. 3d 816 (Ala. 2016); *State v. 825 Electronic Gambling Devices*, 226 So. 3d 600 (Ala. 2016).

16. The game commonly known as bingo must include, at a minimum, of all six of the *Cornerstone* factors.

17. The devices and games at the facility are slot machines completely reliant on games of chance. Someone who wants to play one of the devices inserts currency into the machine directly or indirectly through a digital network and personal identification number (PIN).

18. The player then presses a button to wager a certain amount of money on the devices and games at the facility. Once the bet is placed, the player presses a button to start the game and digital depictions of slot machines reels appear and show the play of the game. Seconds later, the machine displays the game's result. If the customer wins, then his or her credits go up; if not, the credits go down. The player can then either play again or cash out to receive money for any credits he or she has remaining.

19. All it takes to operate the devices and games at the facility is a touch of a button or two. With a touch of a button, the machines initiate a game and/or bring that game to a conclusion.

20. The devices and games offer a game of chance in an electronic format.

21. The devices and games at the facility are not “bona fide coin-operated amusement machines,” permissible in Alabama pursuant to ALA. CODE §13A-12-76, because chance predominates the outcome of the games. *See Ex parte Ted's Game Enterprises*, 893 So.2d 376 (2004) (holding that “Article IV, § 65, means what it says, and prohibits the Legislature from authorizing “lotteries or gift enterprises” that involve games or devices in which chance predominates the outcome of the game, even if ‘some skill’ is involved.”).

22. The devices and games at the facility are not “bona fide coin-operated amusement machines,” permissible in Alabama pursuant to ALA. CODE §13A-12-76, because they allow the payment of winnings with cash. *Id.* (“rewards the player exclusively with merchandise limited to

noncash merchandise, prizes, toys, gift certificates, or novelties, each of which has a wholesale value of not more than five dollars (\$5).”).

23. The devices and games play like, look like, sound like, and attract the same class of customers as acknowledged slot machines.

24. The devices and games at the facility are not “the game commonly known as bingo” because they do not utilize a physical card to play the game.

25. The devices and games at the facility are not “the game commonly known as bingo” because they do not require the announcing of alphanumeric values by an announcer to multiple players.

26. The devices and games at the facility are not “the game commonly known as bingo” because they do not require players to identify and mark alphanumeric values on a card.

27. The devices and games at the facility are not “the game commonly known as bingo” because there is no requirement that a player know a predetermined pattern in order to play or win a game.

28. The devices and games at the facility are not “the game commonly known as bingo” because they do not require players to recognize and announce they have a winning pattern on their card.

29. The devices and games at the facility are not “the game commonly known as bingo” because there is no competition between players to be the first to gain a bingo.

30. The devices and games at the facility are not “the game commonly known as bingo” because the game does not offer a set award based on the cards purchased for entry into the game.

COUNT I: PUBLIC NUISANCE UNDER STATE LAW

31. The State incorporates paragraphs 1 through 32 as if fully stated in Count I.

32. The devices and games at the facility do not play “the game commonly known as bingo” as defined by Alabama law. *See Barber v. Cornerstone Comm. Outreach*, 42 So. 3d 65 (Ala. 2009); *HEDA v. State*, 168 So. 3d 4 (Ala. 2014); *State v. \$223,405.86 et al.*, 203 So. 3d 816 (Ala. 2016); *State v. 825 Electronic Gambling Devices*, 226 So. 3d 600 (Ala. 2016).

33. The devices and games at the facility are prohibited gambling devices, as defined in Alabama Code § 13A-12-20(5), as they are machines or equipment used in the playing phases of gambling activity between persons or machines. *Id.*

34. The devices and games at the facility are slot machines or readily convertible to slot machines, as defined in Alabama Code § 13A-12-20(10). As a result of the insertion of an object, the devices and games operate with the aid of a physical act by the player to eject something of value based on the element of chance.

35. Defendants have no legal authority or right to license, operate, advance, or profit from unlawful gambling activity in violation of Article IV, Section 65 of the Alabama Constitution (1901) and ALA. CODE § 13A-12-20 *et seq.*

36. Defendants, because of their engaging in interstate commerce in the State of Alabama, must comply with Alabama’s laws. This includes the prohibition of the possession, promotion or transportation of gambling devices and records. *See* ALA. CODE § 13A-12-20 *et seq.* The Defendants have engaged in all these illegal behaviors by operating, allowing to operate, administering, or providing the games in the facility.

37. This continued operation of the devices and games as unlawful gambling devices is a *per se* public nuisance. *See State v. Epic Tech, LLC*, --- So.3d ----, 2022 WL 4588777 (2022); *see also Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

38. The continued operation of the devices and games as slot machines and unlawful gambling devices works hurt, inconvenience, or damage to the public interest.

39. The public policy of Alabama is emphatically against lotteries or any scheme in the nature of a lottery.

40. The State has an interest in the welfare of the people within her domain and, of consequence, the enforcement of the State's declared public policy against lotteries or gift schemes. *Id.*

41. Defendants' operation of the devices and games as slot machines and unlawful gambling devices are enjoinable in suit by the State by virtue of this Court's equity jurisdiction to abate a public nuisance. *Id.*

42. The State of Alabama, through its Attorney General, is a proper party to file an action to enjoin this public nuisance of unlawful gambling in the State of Alabama.

V. REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order:

- 1) declaring that the gambling activities being conducted by or through the Defendants is a public nuisance;
- 2) permanently enjoining the Defendants from providing such unlawful gambling activities;
- 3) permanently enjoining the Defendants from using, offering, profiting from, and otherwise operating illegal slot machines;
- 4) permanently enjoining the Defendants from receiving or transmitting any funds related to the illegal gambling activities; and

5) ordering such other and further relief as this Court deems appropriate.

Respectfully submitted,

STEVE MARSHALL
ATTORNEY GENERAL

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