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No. 13-1438

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In the  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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STATE OF MICHIGAN,  
Plaintiff-Appellee,

v.

THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS,  
Defendant-Appellant.

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Appeal from the United States District Court  
Western District of Michigan, Southern Division  
Honorable Robert J. Jonker

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**THE NOTTAWASSEPI HURON BAND OF THE POTAWATOMI'S BRIEF  
IN SUPPORT OF MOTION TO FILE AMICUS CURIAE BRIEF ON  
BEHALF OF THE STATE OF MICHIGAN**

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Dated: June 20, 2013

COMES NOW, the Nottawaseppi Huron Band of the Potawatomi (“NHBP”) and hereby respectfully submits this Brief in Support of its Motion for Leave to File an *Amicus Curiae* Brief on Behalf of the State of Michigan.

**I. AUTHORITY OF THIS COURT TO GRANT LEAVE TO FILE AMICUS CURIAE BRIEF**

This Court has the authority to grant leave for entities to appear as *amicus curiae* pursuant to Rule 29 of the Federal Rules of Appellate Procedure.

**II. FRAP 29 REQUIREMENTS**

FED. R. APP. P. 29, which provides in relevant part:

“(a) ... Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing. (b) **Motion for Leave to File.** The motion must be accompanied by the proposed brief and state: (1) the movant’s interest; and (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.”

**A. NHBP’s interest in this case and reason why an amicus brief is desirable and why the matters asserted are relevant.**

The NHBP is a federally-recognized Indian tribe located in Calhoun County, and a signatory to the Michigan Tribal-State Gaming Compact. The State of Michigan has twelve (12) Tribal-State gaming compacts with similar Section 9 language. The Sault Ste. Marie Section 9 Compact is entitled “Off-Reservation Gaming.” The NHBP Section 9 Compact is entitled “Gaming Outside of Eligible Indian Lands.” The NHBP Compact Section (2)(b) specifically provides a definition of “eligible Indian lands” subject to a revenue sharing agreement.



Whereas the Sault Ste. Marie Compact Section (2)(b) provides a definition of “Indian lands” identical to the IGRA statutory definition in 25 U.S.C. § 2703(4). Further, the Sault Ste. Marie Compact states “an application to take land into trust for gaming purposes pursuant to [25 U.S.C. § 2719] shall not be submitted...absent an...agreement” to share revenues with all tribes.

This brief is desirable and relevant to the disposition of this case because the NHBP has an interest in implementation of the Sault Tribe Section 9 provision. The NHBP currently operates a single casino located in Calhoun County. Section 17 of the NHBP Compact provides that in exchange for NHBP revenue-sharing participation between NHBP and the State of Michigan, the State will provide exclusive geographic gaming opportunities. Given the proximity of Lansing to Calhoun County, an additional casino in nearby Lansing would violate NHBP’s exclusive gaming agreement with the State of Michigan. NHBP has not been given an opportunity to assess whether a Section 9 revenue sharing agreement for a Lansing casino is in the interest of NHBP.

The District Court granted the State’s motion for a preliminary injunction prohibiting the Sault Tribe from filing an application to take the Lansing property into trust for gaming purposes unless the Sault Tribe first obtained a revenue-sharing agreement with the other tribes. The Sault Tribe appealed from the entry of the injunction. In response, the State requests that this Court affirm the

preliminary injunction entered by the District Court. NHBP files this *amicus curiae* brief in support of the State of Michigan. In support of the State's position, NHBP argues that any Sault Tribe application to take land into trust is subject to a Section 9 revenue sharing agreement as a condition precedent to the submission of the fee-to-trust application. NHBP's interests in a Sault Tribe Section 9 revenue sharing agreement, given its current operation in Calhoun County, are central to the disposition of this case.

Dated: June 21, 2013

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of June 2013, a copy of the foregoing  
was served via the Court's Electronic Case Filing System to:

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