

No. D077571

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION ONE

Rincon Band of Luiseno Mission Indians
of The Rincon Reservation California,

Plaintiffs and Appellants,

vs.

Larry Flynt, et al.,

Defendants and Respondents.

Appeal From the Superior Court of San Diego County
The Honorable Timothy Taylor, Judge
Case No. 37-2018-00058170 -CU-NP-CTL

RESPONDENTS' BRIEF

Danielle M. Guard (SBN 173505)
J. Blonien, APLC
1121 L St., Ste 105
Sacramento, CA 95814
dguard@jblonien.com
(916) 441-4242

Attorneys for Halcyon Gaming,
LLC; LE Gaming, Inc.; Certified
Players, Inc.; and Qualified
Players Services

(Initial) Certificate of Interested Entities or Persons

California Rules of Court, rule 8.208

This form is being filed on behalf of Halcyon Gaming, LLC; LE Gaming, Inc; Certified Players, Inc.; and Qualified Players Services.

1. Interested entities or persons required to be listed under rule 8.208 for **Halcyon Gaming, LLC:**

Full name of interested entity or person: Patrick Sanders

Nature of Interest: Owns 10 percent or more of the party

2. Interested entities or persons required to be listed under rule 8.208 for **LE Gaming, Inc.:**

Full name of interested entity or person: Michael
Leblanc

Nature of Interest: Owns 10 percent or more of the party

3. Interested entities or persons required to be listed under rule 8.208 for **Certified Players, Inc.:**

Full name of interested entity or person: Michael
Leblanc

Nature of Interest: Owns 10 percent or more of the party

4. Interested entities or persons required to be listed under rule 8.208 for **Qualified Players Services:**

Full name of interested entity or person: Casey Zolnier

Nature of Interest: Owns 10 percent or more of the party

May 18, 2021

/s/ Danielle M. Guard

Danielle M. Guard

Table of Contents

Certificate of Interested Entities or Persons.....	2
Table of Contents.....	3
Table of Authorities.....	4
I. Joinder and Introduction.....	5
II. Conclusion.....	6
Certificate of Compliance.....	7
Proof of Service.....	8

Table of Authorities

Cases

<i>Applied Equipment Corp. v. Litton Saudi Arabia Ltd.</i> (1994) 7 Cal.4th 503.....	5, 6
---	------

Rules

Cal. Rules of Court, rule 8.200(a)(5).....	5
--	---

I. Joinder and Introduction.¹

The TPPs Defendants hereby join in the Cardroom Defendants' Respondents' Brief under California Rules of Court, rule 8.200(a)(5).²

Of the eight causes of action the Indian tribes, tribal entities, and tribal members pled, the fifth through eighth causes of action were against the Cardroom Defendants and the TPPs Defendants jointly. (AA 425-428.) As to those claims, the Cardroom Defendants' arguments apply directly to the TPPs Defendants.

Plaintiffs pled nuisance and unfair competition claims against the Cardroom Defendants in the first and second causes of action and conspiracy to commit those torts against the TPPs Defendants in the third and fourth causes of action. (AA 420-425.) The Cardroom Defendants' arguments apply directly to the predicate torts for the conspiracy claims against the TPPs Defendants. Without an underlying tort, civil conspiracy ““does not per se give rise to a cause of action[.]”” (*Applied Equipment Corp. v. Litton Saudi Arabia Ltd.* (1994) 7 Cal.4th 503, 511.) .) “Standing alone, a conspiracy does no harm and engenders no tort liability. It must be

¹ This brief refers to the third-party proposition player and cardroom defendants as the TPPs Defendants and Cardroom Defendants, respectively.

² This brief is being filed on behalf of four of the TPPs Defendants.

activated by the commission of an actual tort.” (*Ibid.*)

The TPPs Defendants do not repeat the Cardroom Defendants’ arguments in this brief.

The TPPs Defendants filing this brief join in and do not repeat the information provided about third-party proposition players’ role in non-banked card games offered by the other TPPs Defendants in their brief.

II. Conclusion

The Court of Appeal should affirm the judgment of dismissal.

May 18, 2021	J. Blonien, APLC <i>/s/ Danielle M. Guard</i> Danielle M. Guard Attorneys for Halcyon Gaming, LLC; LE Gaming, Inc.; Certified Players, Inc.; and Qualified Players Services
--------------	--

Certificate of Compliance

(California Rules of Court, rule 8.268)

I, Danielle M. Guard, counsel for Halcyon Gaming, LLC; LE Gaming, Inc.; Certified Players, Inc.; and Qualified Players Services, certify that the foregoing Respondents' Brief contains 262 words.

/s/Danielle M. Guard
Danielle M. Guard

Proof of Service

I, Danielle M. Guard declare:

I am a citizen of the United States and employed within the County of Sacramento, California. I am over the age of 18 and not a party to the within cause of action. My business address is 1121 L. Street, Ste. 105, Sacramento, CA 95814. I am ready and familiar with this office's practices for collection and processing of correspondence for mailing with the United States Postal Service and for pick up by Federal Express.

On May 18, 2021, I served the foregoing **Respondents' Brief** by placing a true copy of it in a sealed envelope, addressed as shown below with the postage prepaid, and depositing it in the U.S. mail at Sacramento, California:

San Diego County Superior Court
110 Union Street
San Diego, CA 92101
(for delivery to Hon. Timothy Taylor)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and that I executed this declaration on May 18, 2021.

/s/ Danielle M. Guard
Danielle M. Guard