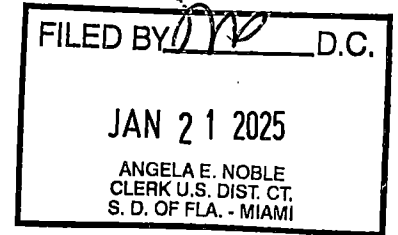


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA



NICOLAS A. MANZINI,

Plaintiff,

vs.

CASE NO.: 1:24-cv-24670-RAR

TALBERT CYPRESS, individually
and in his official capacity as Chairman
of the Miccosukee General Council
a/k/a Miccosukee Business Council
and the Miccosukee Gaming Agency, and
LUCAS K. OSCEOLA, individually
and in his official capacity as Assistant
Chairman of the Miccosukee General Council
a/k/a Miccosukee Business Council and the
Miccosukee Gaming Agency,

Defendants.

**AMENDED COMPLAINT FOR DAMAGES,
DECLARATORY AND INJUNCTIVE RELIEF**
(Jury Trial Demanded)

Pursuant to Fed. R. Civ. P. 15(a)(1)(A), Plaintiff Nicolas A. Manzini, in propria persona, hereby files this *Amended Complaint for Damages, Declaratory and Injunctive Relief* as a matter of course — and makes these allegations based upon information and belief and/or which are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery — against Defendants Talbert Cypress, individually and in his official capacity as Chairman of the Miccosukee General Council a/k/a Miccosukee Business Council and the Miccosukee Gaming Agency (hereinafter “Cypress”) and Lucas K. Osceola, individually and in his official capacity as Assistant Chairman of the Miccosukee Executive Council a/k/a Miccosukee Business Council and Miccosukee Gaming

Agency (hereinafter "Osceola") both of whom are responsible for overseeing the tribal gaming operations but whose actions in relation to Plaintiff, a member of the gaming public, have been taken in bad faith and/or fall outside the scope of their lawful authority as tribal officers in fact and under the Indian Gaming Regulatory Act of 1988 (hereinafter "IGRA").

I. INTRODUCTION

1. At the direction of the Defendants, the Miccosukee Tribe of Indians of Florida (hereinafter the "Tribe") has made false and misleading statements to deceive Plaintiff, a reasonable consumer and member of the gaming public as defined by IGRA, and to countless other casino patrons, and has otherwise used and continues to use deceit or trick and/or other wrongful conduct to cause Plaintiff and countless others to act to their disadvantage. These false and misleading representations are the result of deceptive and unfair business practices that violate the letter and spirit of IGRA and the regulations of the National Indian Gaming Commission's (hereinafter "NIGC").

2. Casino operators enter into hundreds of thousands of transactions every day. When a casino starts taxing its players by refusing to refund cash change, it racks up millions of dollars in profits. As a result of Defendants' actions, the Tribe is liable to thousands of its casino players for shortchanging them.

II. PARTIES

3. Plaintiff is an individual who, as of the filing of this *Amended Complaint*, is 74 years of age and a resident of Miami-Dade County, Florida. He is a disabled former lawyer.

4. The Tribe is a federally recognized Indian tribe which for the past 34 years has owned and operated the Miccosukee Resort & Gaming Casino located at 500 S.W. 177th Avenue in Miami-Dade County, Florida. The Tribe's lands are situate primarily within the boundaries of Miami-Dade and Broward Counties, Florida. The Tribe is an organization composed of individuals who are of varying degrees of blood quantum of Miccosukee Indian descent. Defendants Cypress and Osceola are the chief officers of the tribal Business Council and Gaming Agency and are responsible for guiding tribal business policies and overseeing tribal gaming operations. As members of a federally recognized Indian tribe, i.e., a sovereign nation, Defendants Cypress and Osceola are foreign defendants.

III JURISDICTION AND VENUE

5. This is an action for damages and equitable relief within dual bases of subject matter jurisdiction: a) the Court's federal question jurisdiction pursuant to Title 28, § 1331, United States Code (2024); and b) the Court's diversity jurisdiction pursuant to Title 28, § 1332, United States Code (2024).

6. Federal question jurisdiction arises from Defendants Cypress and Osceola's status as members and officers of a federally recognized Indian tribe who have violated federal law, to-wit, IGRA and the NIGC's regulations, because a) the claims alleged herein evince that the Defendants have acted in bad faith and beyond the scope of their authority as tribal officers vis-à-vis Plaintiff; b) the claims alleged herein require judicial interpretation of discrete provisions of IGRA and the NIGC's regulations; and c) controlling precedent recognizes a private right of action for equitable relief against Defendants Cypress and Osceola for acts

taken by them in bad faith and beyond the scope of their authority as tribal officers making them subject to suit in the form of injunctive relief, to-wit, an order requiring them to comply with IGRA and the NIGC regulations relating to the fair and honest operation of the Tribe's casino.¹

7. Diversity jurisdiction arises from the fact that Plaintiff is a United States citizen and a resident of the State of Florida while Defendants Cypress and Osceola as members of a federally recognized Indian tribe are citizens of a sovereign nation and foreign defendants so that true diversity of citizenship is deemed to exist as between the parties relating to all causes of action, statutory, common law and equitable, alleged in this *Amended Complaint*.

8. This is an action for damages and for declaratory and injunctive relief which the Court is authorized to grant inter alia under IGRA, the NIGC's regulations, the Florida Deceptive and Unfair Trade Practices Act, §§ 501.201-501.213, Fla. Stat. (2024) ("FDUTPA"), and the Federal Declaratory Judgment Act, Title 28, section 2201, United States Code (2024) (hereinafter "FDJA") as well as Rule 57 of the Federal Rules of Civil Procedure (2024).

9. Venue is proper in Miami-Dade County, Florida, in that Plaintiff is a resident of Miami-Dade County, Florida, the Tribe has its principal place of business located on its land located within Miami-Dade County, Florida, Defendants Cypress and Osceola both reside in either Miami-Dade County,

¹ Tamiami Partners, etc. v. Miccosukee Tribe of Indians of Florida, 63 F. 3d 1030, 1055-6 (11th Cir. 1995); Ex parte Young, 209 U.S. 123 (1908).

Florida, and all of the acts and omissions complained of herein and giving rise to this action occurred in Miami-Dade County, Florida.

IV. FACTS

10. The acts and omissions described in this complaint violate both the letter and spirit of IGRA, the NIGC's regulations, and FDUTPA. Plaintiff seeks individual remedies including actual and compensatory damages, declaratory and injunctive relief,² taxable costs and (if applicable at a later date) reasonable attorney's fees which are all expressly recoverable under FDUTPA.³

11. Under Defendants' oversight, the Tribe is a casino operator. Every day, thousands of people enter the casino and gamble. They give the casino their hard-earned money for a chance to win more money. The concept has existed for hundreds of years and is understood across the globe. The key to this contract of luck is the consistent application of agreed-upon rules and both sides honoring their debts.

12. Under Defendants' oversight, the casino sets the rules and the players agree to those rules when they change their money, spin the wheel, roll the dice or ante up. The casino is ensured its winnings because the games are operated on a cash-on-the-barrel basis. The players are supposed to be ensured their winnings because the casino is highly regulated and follows strict rules in order to preserve the public trust and its right to operate. Under Defendants' oversight, the

² Alternatively, Plaintiff seeks declaratory and injunctive relief under the Federal Declaratory Judgment Act.

³ Punitive damages are also recoverable under decisional authority. See PNR, Inc. v. Beacon Property Management, 842 So. 2d 773 (Fla. 2003).

casino has broken those widely understood and apparent rules and violated the public trust, and Defendants are thus liable to Plaintiff and countless others.

13. The casino has been taxing its players by manipulating the cash-out system employed by its electronic gaming systems (slot machines).

14. When a player decides to play a slot machine at the casino, he/she pays for credits with the machine via cash. For example, on a 25-cent machine, a \$20-dollar bill will buy 80 credits. By pressing a button or pulling a lever, the player then chances one or more of those credits on a "spin" or chance that the machine generates a winning combination. If the slot machine generates a winning combination, the credit count increases; if not, the credit count decreases. The player repeats this process as much and as long as he cares to gamble. Sometimes the player runs out of credits and has essentially lost his money. Other times, for whatever reason, the player decides to cease playing while there are still "credits" on the slot machine. That is where the issue herein arises.

15. A player's decision to cease play before he has lost all his money is commonly referred to as making the decision to "cash out." Cashing out is the conversion of the slot machine credits back into U.S. currency.

16. When the player decides to cash out, on the overwhelming number of the casino's machines, he presses a button or display marked "cash out." In early generations of slot machines, coins would be dispensed at that point. In today's slot machines, instead, the machine automatically generates a gaming voucher that reflects and represents the amount owed by the casino to the player.

17. The gaming vouchers generated by the Tribe's casino are all very similar. They bear a scannable barcode, the name of the casino establishment, the dollar amount owed, and several markings either used to instruct the player or assist the casino in tracking vouchers.

18. Since the adoption of electronic slot machines, these gaming vouchers have been used as a convenience to the casino; the casino does not have to stock each slot machine with cash and can instead stock a few automatic cash-out machines (kiosks). For decades, players would insert a gaming voucher into the kiosk at the casino and most other casinos, and the kiosk would pay them in exact change, in cash.

19. During the COVID-19 pandemic, the casino and most other casinos grappled with a coin shortage. Many similarly situated businesses posted conspicuous signs informing customers that they were unable to pay exact change due to the coin shortage. In fact, many of the casino's competitors adopted responsible practices to notify players of their inability to pay exact change. The casino herein was far less forthcoming.

20. Since on or about 2021 and under Defendants' oversight, the casino has been keeping the change off of hundreds of thousands of gaming vouchers, essentially robbing its customers a few cents at a time, on millions of transactions.

21. When a player inserts a gaming cashout voucher into a kiosk at the casino, the kiosk rounds down to the nearest dollar and pays that amount in cash. The kiosk then generates a "change voucher" that represents the amount of change that was not paid out. For example, if a player inserts a cashout voucher

for \$1.35, the kiosk pays out a single dollar and generates a change voucher for 35 cents. The change voucher is, for more often than not, a vehicle for converting players' funds into the casino's funds.

22. The change voucher is not cash and has no value outside of the casino. Upon information and belief, the change voucher can only be cashed at the main cashier's window, commonly referred to as the casino "cage."

23. Until October, 2024, there were no conspicuous signs posted at the Tribe's casino, saying that the casino does not pay change at the kiosks. Indeed, the only notice to the unwitting patrons was this electronic message which was displayed by the kiosk **after** a patron had inserted his or her cashout voucher: "This kiosk does not dispense coins." The message did not direct patrons to the cage either before or after dispensing the change voucher or inform patrons that exact (coin) change may only be obtained at the cage. Worse yet, there was no notice on either the cashout vouchers dispensed by casino slot machines or the change vouchers dispensed by casino kiosks that they could only be redeemed for exact change at the cage. In fact, all that the cashout and change vouchers says **even now** vis-à-vis payment is that the ticket is void after a date certain, i.e., exactly 30 days after the date of validation (date of transaction), period. This has the same eventual effect of depriving the player of his change.

24. Upon information and belief fueled by personal observation, virtually everyone chooses to trash the change voucher or stick it in his or her pocket where it will expire in 30 days. The casino is littered with discarded change vouchers varying in value of less than \$1.00.

25. On October 2, 2024, Plaintiff notified the Tribe that its casino failed to put an average player on reasonable notice that a change voucher could only be converted into cash at the cage and made it difficult or inconvenient for an average player to quickly convert a change voucher into cash.

26. During the COVID-19 pandemic, most other casinos in the United States also grappled with a coin shortage. Similarly situated casinos posted conspicuous signs informing customers that they were unable to pay exact change due to the coin shortage, a practice which has become the industry standard. In fact, most of the Tribe's South Florida competitors have adopted responsible practices to notify players of their inability to pay exact change. By way of example:

A. At The Big Easy Casino in Hollywood, Broward County, Florida, signage at all kiosks reads:

“NOTICE! KIOSKS DO NOT ISSUE COIN CHANGE. YOU WILL RECEIVE A PAPER VOUCHER STATING YOUR COIN CHANGE TOTALS. PLEASE PRESENT YOUR CHANGE VOUCHER TO ANY CASHIER WITHIN 30 DAYS OF VOUCHER DATE TO REDEEM.”

B. At the Casino at Dania Beach, Dania Beach, Broward County, Florida, signage at all kiosks reads:

“COIN VOUCHER CAN BE REDEEMED IN A SLOT MACHINE OR AT THE CAGE. PLEASE WAIT A FEW SECONDS FOR THE COIN VOUCHER TO DISPENSE.”

C. At the Hialeah Park Casino in Hialeah, Miami-Dade County, Florida, signage at all kiosks reads:

“KIOSKS DO NOT DISPENSE COING CHANGE. YOU WILL RECEIVE A CHANGE VOUCHER STATING YOUR COIN CHANGE TOTALS. PLEASE PRESENT YOURPAPER VOUCHER TO ANY CASHIER WITHIN 30 DAYS OF VOUCHER DATE TO REDEEM.”

D. Even at the casinos operated by the Seminole Tribe of Florida, which is also a federally recognized Indian tribe, electronic warnings at all kiosks prompts gaming patrons to donate their coin change to charity, else receive a change voucher that can be redeemed at the cage.

The change vouchers dispensed by the kiosks at those other South Florida casinos also contain similar printed language.

27. But until October, 2024, the Tribe's casino was far less forthcoming as it did not expressly inform patrons that the kiosks did not pay coin change and/or that coin change could only be had by taking the cash-out vouchers and/or change vouchers to the casino cage. This was in direct violation of the letter and spirit of IGRA and the NIGC's regulations which require that tribal casino operators must act in an honest manner.⁴ Accordingly, on October 17, 2024, Plaintiff reported this violation to the NIGC. Sometime thereafter the Tribe added the following signage to each one of its casino kiosks: “COINLESS UNIT: Tickets for coin may be redeemed at cashier or played at slot machine.” This evidence of a subsequent remedial measure by the Tribe as guided by Defendants a) was the direct and proximate result of Plaintiff's complaint to both the Tribe and the NIGC, and b) is

⁴ Section 2702 (b) of IGRA expressly declares that among the Act's purposes is “to assure that gaming is conducted fairly and honestly by both the operator [Tribe] and players.” 25 C.F.R section 552.2 (e) (the NIGC's regulations) expressly states that Tribe's gaming ordinance must describe procedures for resolving disputes like this one between the gaming public and the Tribe.

admissible in this civil action to prove that this remedial measure was always easily and readily available but for the Tribe's greed under Defendants' oversight. As guided by Defendants, the Tribe has made no amends and/or adjustments for the sums that it has retained in unredeemed change vouchers for the more than three-year period from 2021 until October, 2024.

28. Upon information and belief, Plaintiff is similarly situated to thousands of casino patrons who have been deprived, little by little, of thousands of dollars since the casino's adoption of its no-change policy. The casino thus unlawfully holds and detains Plaintiff's funds which are acts of conversion, unjust enrichment and deceptive and unfair trade practices. Plaintiff has been subjected to the casino's above-described scheme to defraud him and countless others through its use of its misleading, deceptive and unfair no-change policy. Plaintiff brings this action to redress such harm.

29. On October 31, 2024, Defendant Osceola in his official capacity as Assistant Chairman of the Miccosukee Gaming Agency, replied to Plaintiff's report of the Tribe's violation to the NIGC by advising that, despite the above-described subsequent remedial measures taken as a direct and proximate result of Plaintiff's complaint, said complaint was "without merit." A copy of Defendant Osceola's letter to Plaintiff is attached hereto and marked as Exhibit "1." Defendant Osceola's disingenuous rejection of Plaintiff's complaint violates both IGRA's mandate that tribal gaming must be conducted in a fair and honest manner and the NIGC's regulation that requires the Tribe to have procedures in place to resolve disputes between the gaming public like Plaintiff and itself. See footnote 3, *supra*.

30. Moreover, on October 14, 2024, shortly after he complained to the Tribe about its deceptive and unfair change voucher policy, the Tribe through Defendant Cypress in his capacity as Chairman of the Miccosukee General Council a/k/a the Miccosukee Business council sent tribal police officers to Plaintiff's home in West Miami, Florida to deliver a letter informing him that he is permanently banned from the Tribe's facilities and territories and to threaten Plaintiff with arrest if he trespassed onto tribal land.⁵ Defendant Cypress' action was in obvious retaliation for Plaintiff engaging in the protected activity of complaining about the Tribe's unfair and dishonest acts in violation of IGRA and the NIGC's regulations as comprehensively described elsewhere in this complaint. Copies of Defendant Cypress' letters to Plaintiff are attached hereto and marked as Exhibit "2" and "3."

FIRST CAUSE OF ACTION
VIOLATION OF IGRA AND NIGC REGULATIONS
(FDUTPA, CONVERSION, UNJUST ENRICHMENT)

31. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 – 30 above.

32. Plaintiff has been economically damaged by the Tribe's fraudulent, misleading, deceptive and unfair practices and representations as alleged elsewhere in this complaint which were carried out under the oversight of Defendants Cypress and Osceola acting in bad faith and/or while exceeding the

⁵ A second similar letter was received by Plaintiff through the U.S. Mail on October 15, 2024

scope of their authority as tribal officers in fact and in violation of IGRA and the NIGC's regulations.

33. Plaintiff contends that Defendants as overseers of the Tribe's casino operations should a) immediately cease the casino's change voucher policy, and b) immediately refund to Plaintiff and countless others all sums converted and/or stolen from them through its change voucher practice. Additionally, to the extent that the Tribe has been unjustly enriched by its acts and practices, Defendants Cypress and Osceola should be required to disgorge all such sums into a fund to be managed by the Court subject to disbursement to Plaintiff and all members of the gaming public who claim entitlement to refunds. Both IGRA and the NIGC's regulations provide and/or imply a right of action by Plaintiff as a member of the gaming public against Defendants Cypress and Osceola as officers the Tribe as an Indian casino operator for their actions taken in bad faith and/or outside the scope of their authority as tribal officers in violation of IGRA and the NIGC's regulations.

34. Plaintiff therefore brings this action to secure, among other things, permanent declaratory and injunctive relief and actual and compensatory damages against Defendants Cypress and Osceola as specifically alleged elsewhere in this complaint. Plaintiff's problem with the Tribe's so-called change voucher practice evinces the fact that a case of actual controversy exists entitling Plaintiff to seek a permanent declaration that the casino's change voucher practice under Defendants' oversight constitutes a contract of adhesion that is both unconscionable and unenforceable and violates IGRA and the NIGC's regulations.

35. Plaintiff is informed and believes, and thereon alleges, that Defendants Cypress and Osceola by their conduct as alleged elsewhere in this complaint have engaged in a deceptive and unfair trade practice as defined in FDUTPA and acts of conversion and unjust enrichment in violation of IGRA and the NIGC's regulations.

36. FDUTPA, in particular, prohibits "unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce." See § 501.202, Fla. Stat (2024). Such practices are, by definition, unfair and dishonest acts that violate IGRA and have resulted in a dispute between the gaming public and the Tribe which 25 C.F.R. section 522.2 (e) requires the Tribe under Defendants Cypress and Osceola's control to resolve.

37. An unfair practice is "one that 'offends established public policy' and one that is 'immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.'" Samuels v. King Motor Co. of Boca Raton, 782 So.2d 489, 499 (Fla. 4th DCA 2001).

38. Under Defendants' oversight, the Tribe's peremptory response to Plaintiff's complaint to the NIGC about its deceptive and unfair practices is that Plaintiff's complaint was "without merit" even while acknowledging that it has implemented the aforementioned signage at its casino kiosks as a direct and proximate result of Plaintiff's complaint. Under Defendants' oversight, the Tribe is attempting an avoidance of the monetary impact of its decision to implement the signage which is the reimbursement of all aggregate sums that it has converted and/or stolen from its gaming patrons between 2021, when the change

voucher practice was first implemented, and October, 2024, when the above-described signage was installed at its casino's kiosks in direct response to Plaintiff's complaint. It is a sum that is capable of being determined through the database that tracks all expired (unredeemed) change vouchers which is part of the casino's monitoring system.

39. In addition to actual damages, FDUTPA affords civil private causes of action for both declaratory and injunctive relief.

40. Plaintiff seeks an order of this Court: (a) enjoining Defendants from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the Tribe's change voucher practice; and (b) restoring all monies that have been acquired by the casino from Plaintiff and countless others as a result of such unfair and/or deceptive acts or practices into a fund managed by the Court, i.e. the Court Registry, for distribution to the Tribe's patrons, as well as Plaintiff's compensatory damages.

41. Plaintiff will be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted. The deceptive and unfair acts and practices of the Tribe's casino as described above present a serious threat to the gaming public and Defendants' acts beyond the scope of their authority as tribal officers have enabled the Tribe to violate IGRA and the NIGC's regulations, and Defendants are thus also liable to Plaintiff under controlling precedent. See Tamiami Partners, supra at 1055-6; Ex parte Young, supra.

WHEREFORE, Plaintiff Nicolas A. Manzini prays for all remedies allowed by law in accordance with this complaint including actual and compensatory

damages, interest, and taxable costs, as well as declaratory and injunctive relief, against Defendants Talbert Cypress and Lucas K. Osceola, jointly and severally.

**SECOND CAUSE OF ACTION – DECLARATORY AND INJUNCTIVE RELIEF
PURSUANT TO THE FEDERAL DECLARATORY JUDGMENT ACT**

42. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 – 30 above.

43. As an alternative to the declaratory and injunctive relief requested and expressly provided under count I, Plaintiff seeks declaratory and injunctive relief under the provisions of the FDJA.

44. Plaintiff seeks a permanent declaratory judgment that the practices comprehensively detailed elsewhere in this complaint by Defendants Cypress and Osceola are unenforceable because they violate equity's conscience and constitute an otherwise unconscionable, deceptive, or unfair business practice that violate IGRA and the NIGC's regulations.

45. There is a bona fide, actual, present practical need for a declaration that Defendants' practices as comprehensively detailed elsewhere in this complaint are unenforceable as unconscionable because they violate public policy because: a) the declaration sought by Plaintiff deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts; b) one or more of Plaintiff's rights is dependent upon the facts or the law applicable to the facts; c) Defendants as the Tribe's overseers have an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law; d) the antagonistic and adverse interests are all before the Court by proper

process; and e) the relief sought is not merely giving of legal advice by the Court or the answer to questions propounded from curiosity.

46. Plaintiff and countless others have been deceived by the Tribe's practices as guided by Defendants Cypress and Osceola comprehensively detailed elsewhere in this complaint and will continue to be damaged unless the casino is restrained from the continuation of said practices.

47. Pursuant to the FDJA, this Court has jurisdiction to declare that Defendants Cypress and Osceola's practices as comprehensively detailed elsewhere in this complaint are unenforceable because they violates equity's conscience, and to enjoin Defendants' continued use of said practices.

WHEREFORE, Plaintiff Nicolas A. Manzini prays for permanent declaratory and injunctive relief under the FDJA against Defendants Talbert Cypress and Lucas K. Osceola together with an award of his taxable costs.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues, claims and defenses in this action that are triable as of right by a jury.

January 21, 2025



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Pro se Plaintiff