

**UNITED STATES DISTRICT COURT**  
**for the**  
**SOUTHERN DISTRICT OF INDIANA**

**ESTATE OF LILDON WILLIAMS**  
**By and through its Administratrix, Rannisha**  
**Liveious,**

and

**RANNISHA LIVEIOUS, individually as wife**  
**of LilDon Williams, and as mother and**  
**guardian of R.W., a minor child**

and

**Plaintiff**

v.

**CAESARS ENTERTAINMENT, INC**

and

**EBCI Holdings, LLC**

and

**VICI Properties**

and

Eric Golebiewski

**Defendants.**

Civil Action No. 4:24-cv-00145-TWP-  
KMB

**PLAINTIFF’S RESPONSE TO  
DEFENDANTS’ MOTION TO DISMISS**

Defendants are engaged in yet another attempt to confuse this court, walk back previous admissions, and hide behind the shroud of muddled corporate relations that they are trying so desperately to create. Contrary to Defendants’ assertion, the Seventh Circuit has previously held that tribal entities are considered citizens of a state pursuant to 28 USC 1332. *Wells Fargo Bank National Association v. Lake of the Torches Economic Development Corporation*, 658 F.3d 684 (7th Cir. 2011). Given this holding, and the fact that Defendants’ fail to cite to any Seventh Circuit precedent that supports their position, Plaintiffs request that this Court deny Defendants’ Motion.

**STATEMENT OF FACTS**

***A. A brief background on Caesars Southern Indiana***

Caesars Southern Indiana is a casino entertainment venue in Elizabeth, Indiana. The ownership and operation of Caesars is somewhat confusing for those of us not apprised of the conglomerate’s business model. Some part of ownership and operation is shared by CSI Operating Company, LLC and Caesars Entertainment Inc. While other parts are enjoyed by EBCIH, a limited liability company owned, at least in part by the Eastern Band of Cherokee Indians (hereafter known as “EBCI”). [Transcript of Meeting with Indiana Gaming Commission, attached at Exhibit 1]. To date, it is unclear how the companies work together in their operation of the casino, and which are responsible for what portion of the business’s operations.

As for EBCIH, EBCI has long boasted that the company is a “separate legal entity.” [Meeting Minutes, attached at Exhibit 1]. Moreover, in its Answer, EBCIH distinguished between EBCIH and EBCI, admitting that EBCIH is a limited liability company organized and formed

under the laws of North Carolina. [DN 14, at ¶ 8]<sup>1</sup>. In August of 2021, EBCIH met with the Indiana Gaming Commission to answer questions about EBCIH and its purchase of Caesars Southern Indiana. [See Exhibit 1]. During the meeting, EBCIH said of EBCIH and EBCI:

This Entity is designed to operate independent [sic] and autonomous [sic] of the Eastern Band of Cherokee Indians tribal government [Exhibit 1, at p. 18]....The remaining proceeds will flow up through EBCI Holdings, where 75 percent of that will be retained in that entity for growth, and then 25 percent flows up to EBCI [Exhibit 1, at p. 21]...[and] the majority of [its] employees are not citizens of the tribe.[Exhibit 1, at p. 18].

In other words, EBCIH is not only a separate legal entity, but it also funds itself and retains the majority of all monies earned. [DN 16 at p. 4-5]. Moreover, according to the Municipal Code for the Eastern Band of Cherokee Indians, the tribe does not retain ownership or management of the LLCs that it owns. [See attached, at Exhibit 2]. Specifically, per the Code,

The management affairs of Eastern Band of Cherokee Indians Limited Liability Companies, shall be managed by the Kituwah Economic Development Board... **The Tribe shall have no authority to direct the business affairs of the Company, except through The Kituwah Economic Development Board.**

Mun. Code, EBCI, Sec. 55B-3.1. (Emphasis added). According to Kituwah's website, the Development Board consists of the following individuals: Chrissy Arch, Adam West, Sam Owl, Stacy Leeds, Lance Morgan, and Mark Hubble. [See Kituwah Development Board, attached at Exhibit 3].

### **ARGUMENT**

It is strikingly apparent that we have been kept in the dark regarding the intricate ownership structure of the Defendants, CSI Operating Company, LLC and EBCI Holdings, LLC. In the

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<sup>1</sup> Importantly, EBCIH is not registered or organized under the laws of North Carolina. In fact, upon investigation, Plaintiff has discovered that EBCIH is actually organized and registered under the laws of the state of Delaware.

Seventh Circuit, establishing the citizenship of a limited liability company (LLC) mandates a thorough examination of its members' citizenship, as delineated in *Page v. Democratic National Committee*, 2 F.4th 630 (7th Cir. 2021). At this juncture, scant information is available about the actual ownership of EBCI Holdings, LLC and CSI Operating Company, LLC. Instead, the Defendants resort to broad, generalized declarations, insisting that each entity is “solely owned” by the tribe. However, their failure to attach any verifiable ownership documentation to their motions raises alarms about their transparency and reluctance to clarify their organizational structure.

In a prior statement, the Defendants claimed that EBCI Holdings, LLC was formed under the laws of North Carolina and registered in that state. This assertion, however, is inaccurate, as the company is legitimately formed and registered under the corporate laws of Delaware. For reasons that remain unclear, EBCIH neglected to rectify this misinformation, leading to a concerning misrepresentation before this Court that undermines the integrity of their claims.

Ultimately, we face a critical crossroads in this case: either the tribe stands as the sole member of these companies, or their membership is comprised of individuals who serve on the Economic Development Board. Importantly, the citizenship of an individual is not merely a reflection of legal status but is fundamentally rooted in their place of domicile. If the Economic Development Board indeed functions as the managing representative of EBCI concerning these companies, as the existing Municipal Code suggests, then the membership will likely consist of those individuals. Each of these members possesses a specific domicile that must be diligently considered by this Court in its deliberations. This connection is pivotal, as it directly impacts jurisdictional determinations and the overall adherence to legal standards essential for just proceedings.

**1. A Hearing on this Issue, and Additional Discovery is required.**

First, and as a preliminary issue, at this stage of litigation—when so little is still known about the ownership of EBCIH and CSI Operating Company, LLC—it is premature for the Court to rule on the Defendants’ Motion. Their previous assertions regarding ownership and the formation of each business have not been honest. It is therefore difficult to take their current allegations regarding their “sole ownership” as truth. At a minimum, it is therefore necessary that the Court be presented with additional evidence of the ownership structure of each company.

**2. EBCIH is a separate entity, and “no tribe is a party to this case.”**

Defendants’ argument ignores the logical and practical issues with its position. EBCIH has previously admitted that “no Indian tribe is a party to the case.” [DN 19, at ¶ 6]. On its face, this direct statement is sufficient to end the argument. Despite the insinuations of Defendants, EBCI Holdings, LLC is a separate legal entity apart from the Eastern Band of Cherokee Indians—to wit, when the Eastern Band of Cherokee Indians formed EBCIH, it did so utilizing Delaware law and availed itself of the laws of Delaware. In so doing, EBCIH formed a separate legal entity and consented to the jurisdiction of the Federal Court(s). It engaged in business with other entities, entered into indescribable and unknown agreements with those entities, it operated a business—primarily for the purpose of funding the business itself and other financial opportunities—in the state of Indiana. It appeared before the Indiana Gaming Commission and swore under oath that it was a separate legal entity apart from the EBCI. The Plaintiffs merely ask that this Court take EBCIH at its word.

**3. In practicality, Defendants urge this Court to rule that they cannot be sued in any court of the United States.**

In the comprehensive review of various state court actions, the Eastern Band of Cherokee Indians (EBCI) consistently asserts the defense of sovereign immunity, a fundamental legal principle that protects it from being sued without its consent. In the present case, EBCIH further contends that it qualifies as “stateless” under federal law, arguing that this classification precludes any lawsuits based on diversity jurisdiction, which typically allows parties from different states to litigate in federal court.

Should both defenses succeed, EBCIH would be effectively insulated from legal accountability in any court across the United States for tortious conduct arising from state law claims, regardless of the nature or severity of those claims. This presents a troubling scenario, particularly given EBCIH's operation of a major casino located in Indiana, which attracts thousands of visitors and generates significant revenue. The implications of this legal determination are far-reaching and concern not only the parties directly involved in this case but also the wider community and the public interest at large.

The plaintiff urges this Court to take into account the profound consequences of its ruling, which extend well beyond the issues at hand, potentially affecting future cases involving state jurisdiction and the accountability of businesses operated by sovereign entities. Such a decision could set a precedent that diminishes the protections available to individuals who seek redress for wrongs occurring in jurisdictions where such entities operate, calling into question the balance of justice and fairness within the legal system.

**4. The Seventh Circuit makes no distinction between types of corporations and has previously considered a diversity case involving a tribal company.**

The Seventh Circuit has already analyzed a similar jurisdictional challenge. In *Wells Fargo*, Plaintiff Wells Fargo sued Defendant, a tribal entity “wholly owned by a federally

recognized Indian tribe” in Federal Court asserting Diversity Jurisdiction. *Wells Fargo Bank National Association v. Lake of the Torches Economic Development Corporation*, 658 F.3d 684, 686 (7th Cir. 2011). In that case, the Defendant, Lake of the Torches, was established under tribal law but operated a casino in Wisconsin. Utilizing the same argument relied upon by EBCIH, Lake of the Torches filed a Motion to Dismiss arguing lack of subject matter jurisdiction and, asserting that because it is wholly owned by a Federally recognized tribe, it must be considered a “stateless citizen.” *Id.* at 693.

At the outset, the Court recognized that “although neither the Supreme Court nor [the Seventh Circuit] ha[d] addressed this issue previously, most courts agree that Indian tribes are not citizens of any state for purposes of the diversity statute.” *Id.* at 692-93. In deciding this issue of first impression, the court looked first at cases within the Seventh Circuit and noted that the court has “previously entertained a diversity suit involving a tribal corporation as a party.” *Id.* (referring to *Alzheimer & Gray v. Sioux Mfg. Corp.*, 983 F.2d 803 (7th Cir. 1993)). Next, the court looked the opinions of other Circuits, stating:

Our colleagues in the Eighth Circuit have held that an unincorporated school board operated by an Indian tribe and “considered a part of the Indian tribe” is not a citizen of a state. *Auto-Owners Ins. Co. v. Tribal Court of the Spirit Lake Indian Reservation*, 495 F.3d 1017, 1021 (8th Cir.2007). However, on the precise point now before us, both the Ninth and Tenth Circuits have held that “an entity incorporated under tribal law is the equivalent of a corporation created under state or federal law for diversity purposes” and therefore “should be analyzed for diversity jurisdiction purposes as if it were a state or federal corporation.” *Cook v. AVI Casino Enters., Inc.*, 548 F.3d 718, 723 (9th Cir.2008) (internal quotation marks omitted); see also *Gaines v. Ski Apache*, 8 F.3d 726, 729 (10th Cir.1993) (explaining that a “tribe may ... charter a corporation pursuant to its own tribal laws, and such a corporation will be considered a citizen of a state for purposes of diversity jurisdiction”); *Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1226 (9th Cir.1989). Relatedly, in holding that

a tribal housing agency was a stateless entity under the diversity statute, the First Circuit indicated that the result would have been different had the housing authority been a corporation: “We see no reason why the Authority (an arm of the Tribe, not separately incorporated) should be treated any differently for jurisdictional purposes.” *Ninigret Dev. Corp. v. Narragansett Indian Wetuomuck Hous. Auth.*, 207 F.3d 21, 27 (1st Cir.2000) (emphasis added); cf. *Miccosukee Tribe of Indians of Florida*, 607 F.3d at 1276 (stating that the “majority view ... is that unincorporated Indian tribes cannot sue or be sued in diversity” (emphasis added) (quotation marks omitted)).

*Id.* at 693. The court agreed with the Ninth Circuit in *Cook*, and found that the Seventh Circuit has “hewn to the mechanical application of a clear rule ‘treating any corporation as a corporation for diversity purposes’ and have noted that the diversity statute itself does not distinguish between types of corporations or limit its reach to businesses incorporated under state law.” *Id.*(internal citations omitted). In fact, the court failed to “discern any significant reason that corporations organized under tribal law and participating in economic transactions with individuals and businesses from a variety of states merit different jurisdictional treatment than their counterparts under state law.” *Id.* Thus, the *Wells Fargo* court decided the issue, affirmatively, “**hold[ing] that a corporation chartered under Native American tribal law should be treated as a citizen of a state pursuant to § 1332(c).**” *Id.* at 693-94 (emphasis added). Accordingly, the court determined that Lake of the Torches was a citizen of Wisconsin, for the purposes of diversity jurisdiction. *Id.* at 694. A similar analysis should apply in this case.

Applying *Wells Fargo*, EBCIH’s diversity argument necessarily falls short under a clear Seventh Circuit precedent. EBCIH is an entity that, as was the case with Lake of the Torches in *Wells Fargo*, “is participating in economic transactions with individuals and businesses from a variety of states.” *Wells Fargo Bank National Association v. Lake of the Torches Economic Development Corporation*, 658 F.3d at 693-94. Additionally, unlike the entity in *Wells Fargo*—



and more indicative of state citizenship—EBCIH is organized under the laws of Delaware, and not the tribal constitution. *See e.g. Ninigret Development Corp., v. Narragansett Indian Wetuomuck Housing Authority*, 207 F.3d 21 (1st Cir. 2000)(holding that a tribal corporation is not a citizen of any state only because it functioned as “an arm of the Tribe, not separately incorporated.”). Here, given that (1) “no Indian tribe is a party to the case,” (2) EBCIH is a separate corporate entity, and is (3) organized under the laws of Delaware.

### **CONCLUSION**

In light of the substantial uncertainties surrounding the citizenship and ownership structure of the Defendant companies, CSI Operating Company, LLC and EBCI Holdings, LLC, it is imperative that this matter be addressed with greater clarity. The lack of transparency in the Defendants' assertions and the discrepancies regarding their registration raise significant questions that impact the jurisdictional validity of this case.

Therefore, we respectfully request a hearing to thoroughly explore and resolve the underlying issues of citizenship and ownership for both Defendant companies. This hearing will provide the opportunity for all parties involved to present evidence and arguments, ensuring that the Court has the necessary information to make an informed decision. Addressing these critical issues is essential for upholding the principles of justice and accountability, and for ensuring that the legal rights of all parties are properly safeguarded.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 11<sup>th</sup> day of March 2025, a true and accurate copy of the foregoing was electronically served upon the following using the Court's CM/ECF system:

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