

1 K. Greg Peterson, Esq. (SBN: 118287)  
2 John H. McCardle, Esq. (SBN: 155115)  
3 LAW OFFICES OF K. GREG PETERSON  
4 1716 L Street  
5 Sacramento, California 95811  
6 Telephone: (916) 443-3010  
7 Facsimile: (916) 492-2680  
8 Email: greg@kgregpeterson.com  
9 john@kgregpeterson.com

10 Attorney for Plaintiff -Intervenor, EL CAMINO ATHLETIC BOOSTERS CLUB, a California  
11 non-profit corporation

12 UNITED STATES DISTRICT COURT

13 EASTERN DISTRICT OF CALIFORNIA

14 VIDEO GAMING TECHNOLOGIES, INC., ) Case No. 2:08-CV-01241 JAM EFB  
15 dba, VGT, Inc., a Tennessee Corporation; )  
16 UNITED CEREBRAL PALSY OF GREATER ) FIRST AMENDED COMPLAINT IN  
17 SACRAMENTO, a California Non-Profit ) INTERVENTION FOR  
18 Corporation; WIND Youth Services, a ) DECLARATORY AND INJUNCTIVE  
19 California Non-Profit Corporation; ROBERT ) RELIEF  
20 FOSS, an individual; JOAN SEBASTIANI, an )  
21 individual, ) (JURY TRIAL DEMANDED)  
22 ) [Fed. R. Civ. P. 38(b), Civil Local Rule  
23 ) 38-201]

24 Plaintiffs,

25 v.

26 BUREAU OF GAMBLING CONTROL, a law )  
27 enforcement division of the California )  
28 Department of Justice; MATHEW J. )  
CAMPOY, in his official capacity as the )  
Acting Chief of the Bureau of Gambling )  
Control, and JOHN MCGINNESS, in his )  
official capacity as Sacramento County )  
Sheriff, )

29 Defendants.

30 AND RELATED INTERVENORS )  
31 )  
32 )

33 Plaintiff-Intervenor, EL CAMINO ALTHLETIC BOOSTERS CLUB, LLC,  
34 ("Boosters") brings this First Amended Complaint against defendants BUREAU OF



1 violate California law and, Boosters is informed and believes, will violate the amended  
2 Ordinance. These are the same 71 machines which the Sacramento County Sheriff has  
3 licensed as in compliance with the Sacramento County Ordinance applicable to electronic  
4 bingo machine gaming and which resulted in the issuance Special Business License No.  
5 SSD 4067. As a condition of the issuance of this license, Boosters was required the  
6 Sacramento County Sheriff's Department to obtain independent certification, which it did,  
7 that its 71 electronic bingo machines were not unlawful bingo devices or illegal slot  
8 machines. Therefore, according to Sacramento County and its ordinance, Boosters is in  
9 full compliance with California law.

10 24. The Boosters' electronic bingo machines operate as follows. The customer  
11 walks up to a kiosk, inserts the desired cash amount into kiosk and receives a voucher  
12 print out. The customer then takes the voucher, inserts it into the desired machine, and  
13 selects the bingo game from a menu of optional animations. The electronic bingo  
14 machines allow the customer to play pennies, nickels, dimes, or quarters. Once a random  
15 bingo ball drops, its number then appears on the bingo card displayed on the above  
16 screen. To obtain the sequence of numbers needed to win, the customer must hit the  
17 same button three times: once to play, once to daub the bingo card, and once to claim his  
18 or her winnings. If a customer decides to keep playing, he or she simply starts the  
19 process over again; play, daub, and claim. As the customer repeats the process, he or  
20 she either gains or loses credits towards their bingo game. If a customer wins or decides  
21 to leave a machine for any given reason, he or she hits the "redeem" button. In doing so,  
22 another voucher is printed from the machine and brought to the cashier to be exchanged  
23 for the dollar amount printed on the ticket. Boosters' electronic bingo machines are not  
24 classified as slot machines because the customers are playing a bingo card and at all  
25 times are playing against each other, only. There must be two or more players at all  
26 times to initiate a bingo game. On the above display screen a digital bingo card appears,  
27 and on which randomly generated numbers appear. The screen below is merely a video  
28 screen which displays a different electronic game for entertainment purposes only, in

1 regards to which there is no combination needed to win. It does not generate any actual  
2 cash winnings, and has absolutely no bearing on the outcome of the bingo games.

3 25. Each player obtains a digitized or electronic bingo card which is visible on  
4 the above screen before the first ball drops or appears. Each player has at their disposal  
5 a paper card that the electronic card represents. These paper cards are available in  
6 booklet at any time from stands in the hall, from the cashier on demand, or the player can  
7 request a booklet of paper bingo cards from an assistant who is usually a volunteer from  
8 one of Boosters' charities. This allows the customer to determine a win solely based on  
9 the paper card alone. The electronic bingo machines themselves do not accept nor  
10 disburse cash or coins.

11 26. Boosters' electronic bingo machines are in all respects therefore compliant  
12 with the California Constitution, the California Penal Code (specifically §326.5(o)), and  
13 the relevant Sacramento County ordinances. Boosters is informed and believes that  
14 Defendants' allegations contained in the Cease and Desist Order are based upon the  
15 Boosters' use of electronic bingo cards and/or the intent of Defendants to use any pretext  
16 available to prohibit electronic bingo machine gaming in California.

17 **E. Intervention, The TRO and Preliminary Injunction**

18 27. Based upon Boosters' belief that its electronic bingo machines complied  
19 with Penal Code section 326.5, Boosters filed papers seeking to intervene in this case on  
20 June 18, 2008.

21 28. On June 28, 2008, the Court granted Boosters' application for leave to  
22 intervene and on August 5, 2008, Boosters filed its complaint in intervention for  
23 declaratory and injunctive relief. Boosters' claims included several claims for declaratory  
24 relief that Boosters' electronic bingo machines do not violate Penal Code section 326.5  
25 and the other statutes identified in the Order because tangible paper cards are available  
26 to all players using Boosters' electronic bingo machines; section 326.5 does not preclude  
27 the use of electronic cards in any event; a lawful bingo device cannot be a slot machine  
28 or other gambling device by definition; and also that the Bureau's threatened seizure of

1           72. Boosters has been obliged to retain the undersigned counsel for the filing  
2 and prosecution of this action. Boosters is entitled to recover its attorney's fees, costs  
3 and expenses from the Sheriff pursuant to 42 U.S.C. §§ 12205.

4           73. Pursuant to 42 U.S.C. § 12133, 29 U.S.C. § 794(a), and 42 U.S.C. § 2000e-  
5 5(g), this Court is vested with the authority to grant injunctive relief in favor of Boosters,  
6 including enjoining the Sheriff from enforcing the amended Ordinance in a manner that  
7 prohibits or threatens to prohibit the use of Boosters' electronic bingo devices.

8  
9                   **WHEREFORE**, Boosters respectfully requests that this Court grant the  
10 following relief:

11           A. Enter a declaratory judgment that the enforcement of SB 1369 in a manner  
12 that prohibits or threatens to prohibit the use of Boosters' electronic bingo devices is a  
13 violation of Title II of the ADA and the federal Supremacy Clause;

14           B. Enter a further declaratory judgment that the enforcement of the amended  
15 Ordinance in a manner that prohibits or threatens to prohibit the use of Boosters'  
16 electronic bingo devices is a violation of Title II of the ADA and the federal Supremacy  
17 Clause;

18           C. Enter a preliminary injunction enjoining Defendants Bureau and Campoy  
19 from acting on and/or enforcing SB 1369, or directing others to act or enforce SB 1369, in  
20 a manner that prohibits or threatens to prohibit the use of Boosters' electronic devices  
21 until after a trial on the merits of plaintiffs' claims;

22           D. Enter a preliminary injunction enjoining Defendant Sheriff from acting on  
23 and/or enforcing the amended Ordinance, or directing others to act or enforce the  
24 amended Ordinance, in a manner that prohibits or threatens to prohibit the use of  
25 Boosters' electronic devices until after a trial on the merits of Boosters' claims;

26           E. Enter a permanent injunction to enjoin Defendants from acting on and/or  
27 enforcing SB 1369 and the amended Ordinance, or directing others to do so, in the  
28 manner described above;