IN THE IOWA DISTRICT COURT FOR POLK COUNTY

BELLE OF SIOUX CITY, L.P., Petitioner, vs. IOWA RACING AND GAMING COMMISSION, SCE PARTNERS, LLC, MISSOURI RIVER HISTORICAL DEVELOPMENT, INC. and CITY OF SIOUX CITY Respondents.	Case No. CV9254 (CV9316, CV9383, CV045760) **SCE PARTNERS, LLC'S RESISTANCE TO WARRIOR ENTERTAINMENT, LLC'S PETITION IN INTERVENTION**

COMES NOW SCE Partners, LLC ("SCE"), and submits its Resistance to Warrior Entertainment, LLC's Petition in Intervention, stating as follows:

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I. INTRODUCTION

Recognizing its failure to file a timely petition for judicial review, Warrior Entertainment, L.L.C. ("Warrior") attempts to slip in the back door of these proceedings with a "Petition in Intervention" which does not comply with the procedural or substantive dictates of the applicable rule.[1] The petition is untimely, is literally unprecedented, does not satisfy the requirements of "intervention of right," and, despite its false assertions to the contrary, does not warrant the exercise of this Court's discretion for permissive intervention. Contrary to the position of SCE in the Belle/MRHD litigation (Polk Co. Case No. CL126161), in which Belle sought injunctive relief to prevent MRHD from becoming a potential QSO of SCE, no such emergency or injunctive relief is sought. Instead, Warrior wants this Court to violate one of the most elementary concepts of separation of powers and bestow upon it the title of "licensed-operator" for a land-based casino in Woodbury County. *See* Warrior Entertainment, LLC's Petition in Intervention ¶ 28. This Court should treat Warrior's filing as a motion to intervene and deny the same.

II. ARGUMENT

A. Warrior's Petition is Without Authority and Untimely.

[1] Iowa Rule of Civil Procedure 1.407(3) requires "A person desiring to intervene shall serve a motion to intervene upon the parties. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought." Warrior did not serve said motion, but rather filed only a petition. Warrior's deficient filing should not be considered and be dismissed for failure to comply with the Iowa Rules of Civil Procedure.

The rule on intervention is, of course, a Rule of Civil Procedure. It was never intended or designed to be used in the judicial review of "other agency action." Contested cases, yes; other agency action, no. As the Supreme Court specifically promulgated a rule on intervention applicable to contested cases, the absence of a reference to "other agency action" in that rule is conclusive evidence the Court did not want intervention to be used as a tool for any person or entity who thought they may be aggrieved or adversely affected by "other agency action." *See* Iowa R. Civ. P. 1.1603(1). The balance of this resistance, assumes, for the sake of argument, that Warrior can get past this rule and threshold hurdle.

1. Warrior's Petition in Intervention is actually a delinquent attempt to seek judicial review and is untimely as such.

Under the guise of a "Petition in Intervention," Warrior's filing is, in actuality, a delinquent petition for judicial review of agency action. Warrior, a savvy litigant, attempts to intervene late in the game, knowing that it failed to exercise its exclusive procedural remedy under Iowa Code section 17A.19. Iowa Code § 17A.19 ("the judicial review provisions of this chapter shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action."). Section 17A.19(3) provides that a petition for judicial review, "may be filed at any time petitioner is aggrieved or adversely affected by that action." This is not a case of ongoing effects. The conclusive date for any action taken by the IRGC to have adversely affected Warrior is April 18, 2013, the day the IRGC awarded the license to operate a land-based gaming facility in Woodbury County to SCE and concluded its application process. Warrior has never filed such a petition and should not be allowed, in effect, to do so now.

The time limit in which to file a petition for judicial review is circumscribed by the holding of *Oliver v. Teleprompter Corp.*, 299 N.W.2d 683 (Iowa 1980). In *Oliver*, the Iowa

Supreme Court evaluated the timeliness of Wayne Oliver's petition for judicial review of an agency finding of no probable cause. *Id.* at 685. Oliver filed a civil rights complaint with the Iowa Civil Rights Commission, claiming that because of age and sex discrimination he was demoted and discharged from his job, and arguing he should be reinstated with back pay. *Id.* On January 30, 1979, the commission found no probable cause and lack of jurisdiction. *Id.* On August 14, 1979, Oliver filed a petition in district court for judicial review. *Id.* Confining itself to the facts of the case, the Iowa Supreme Court held that his petition was timely filed six months after issuance of the no-probable-cause order. *Id.* at 687. Importantly, the Iowa Supreme Court noted that Oliver's claim was "a claim of ongoing effects of the alleged discrimination." *Id.* It stated, "We do not now depart from the present facts to consider troublesome situations which may arise, as where the effects of alleged discrimination were ***complete at a specific time*** or where the effects were ongoing but the ***petition for judicial review was filed a very lengthy period after the alleged discrimination occurred***." Id. (emphasis added). Warrior has presented just such a "troublesome situation," and its attempt to seek judicial review through an inappropriate procedural mechanism must be rejected.

Warrior's petition is presented not six months after alleged adverse agency action, but 11 months after alleged action. In addition, Warrior cannot claim ongoing effects from this agency's decision as any adverse effect was complete as of April 18, 2013. Warrior even agrees. Although its petition fails to elucidate exactly how it is "aggrieved or adversely affected" by agency action, it identifies April 18, 2013 as the conclusion of the Application Process with which it takes issue. *See* Warrior Entertainment, LLC's Petition in Intervention ¶ 11. Since that time, Warrior has suffered no "ongoing effects" comparable to the petitioner in *Oliver*. *Oliver*, 299 N.W.2d at 687.

Warrior's situation is that which the *Oliver* Court declined to address: "where the effects of the alleged discrimination were complete at a specific time." In the event that Warrior claims effects of the April 18, 2013 action which are in fact "ongoing," it must contend with the *Oliver* Court's identification of the "troublesome situation . . . where the effects were ongoing but the petition for judicial review was filed a very lengthy period after the alleged discrimination occurred." It cannot do so. Warrior failed to timely file for judicial review under Iowa Code Section 17A.19(3). It may not now, 11 months after an alleged adverse agency action, seek judicial review in this manner, by and through its improper petition in intervention.

2. Warrior's Petition in Intervention is barred by laches.

Whether considered as a delinquent petition for judicial review or as an eleventh hour petition for intervention, not only is Warrior's Petition untimely, but it is barred by the doctrine of laches. One of the most fundamental maxims of equity is that "he who comes into a court of equity must do equity." *See, e.g., Frederick v. Douglas Cnty.*, 71 N.W. 798 (Wisc. 1897) (barring equitable relief where taxpayers waited nine months before taking action to stop payments to a person performing legal services for the county, stating "under all the circumstances, the plaintiff having invoked the relief of a court of equity, that court, in granting the relief, will not take away the fruit of honest labor"). Laches is an equitable doctrine premised on unreasonable delay in asserting a right, which causes disadvantage or prejudice to another. *Garrett v. Huster*, 684 N.W.2d 250, 255 (Iowa 2004) (citing *State ex rel. Holleman v. Stafford*, 584 N.W.2d 242, 245 (Iowa 1998) (internal citations omitted)). The party asserting the defense has the burden to establish all the essential elements thereof by clear, convincing, and satisfactory evidence. *Id.* Prejudice is an essential element of laches. *Id.* Thus, a party asserting the defense of laches must

demonstrate (1) unreasonable delay, and (2) prejudice. *See id.*; *Blume v. Crawford Cnty.*, 250 N.W. 733, 738 (Iowa 1933).

Here, Warrior has unreasonably delayed, waiting nearly a year before attempting to intervene. It did not try to intervene in these judicial review proceedings, filed by Belle, until well after a reasonable time had passed to file its own, independent, petition for judicial review. Thus, seeing a potential opening, Warrior now attempts to circumvent the proper procedural avenues by joining Belle's action.

Moreover, as if the length of the delay itself is not enough, the unreasonableness of such a delay is demonstrated by the circumstances of this litigation. It is not as if this matter has progressed quietly. In fact, it has seen extensive local media coverage.[2] Yet, despite its awareness, Warrior consciously chose not to file a petition for judicial review or attempt to intervene at any time, including:

- On April 18, 2013—when the license was awarded to SCE, rejecting Warrior's bid, and concluding the application process; or
- On May 17, 2013—when Belle filed its fourth petition for judicial review, challenging the precise actions now challenged by Warrior; or
- On June 3, 2013—when SCE entered a development agreement with the City of Sioux City, detailing significant public works projects, utility relocation, and construction; or
- On August 16, 2013—when SCE held a public ceremony and broke ground on the Hard Rock Sioux City Hotel and Casino; or
- On September 16, 2013—when Belle filed for injunctive relief in these proceedings to stay the IRGC's award of the license; or
- On December 10, 2013—when a stay was entered; or

[2] *See, e.g.*, http://siouxcityjournal.com/, (last viewed March 24, 2014); Dave Dreesen, Ho-Chunk pitches casino options for Warrior and Pearl sites, Sioux City Journal, October 11, 2012 http://siouxcityjournal.com/business/local/ho-chunk-pitches-casino-options-for-warrior-and-pearl-sites/article_c8df87d4-cb19-5c1c-8a59-70b2f28f37f2.html, (last viewed March 24, 2014) (quoting Ho-Chunk Inc., CEO Lance Morgan, "Our favorite proposal is the one that the IRGC likes best . . . The Hard Rock obviously put together an impressive proposal.").

- On December 19, 2013—when SCE sought and received relief from the Supreme Court of Iowa, staying the stay pending further review; or

- During any time from December 19, 2013 to February 14, 2014—when Belle and SCE litigated the inappropriateness of the stay, SCE was made a party as a result of its indispensability, the stay lifted, and the Court found Belle unlikely to succeed on the merits of its petition.

In fact, Warrior did not intervene until 26 days after SCE, MRHD, and the City of Sioux City, all of whom have a much greater interest in these proceedings, were made parties to this action because they were indispensable under Iowa Rule of Civil Procedure 1.234. All told, Warrior waited approximately 11 months, or to be precise, 330 days, before attempting to involve itself in these proceedings through an in appropriate procedural mechanism. Such a lengthy delay, in light of the circumstances, is unreasonable.

SCE acknowledges similar arguments were unsuccessfully raised by Belle in the recent dispute over indispensability of parties, claiming SCE unreasonably delayed in asserting its indispensability. SCE anticipates Warrior will claim hypocrisy, arguing that SCE wants it both ways; delay and prejudice are irrelevant to SCE joining the judicial review at a later date but are dispositive in keeping other interested parties from joining the legal fray. However, this argument fails for several reasons. At issue are two distinct rules of civil procedure—1.234 and 1.407—and two different legal standards. Judicial inability to render a judgment or the inequities inherent in rendering one are at the heart of indispensability; not so with intervention. As this Court noted in its February 14, 2014 Ruling on Limited Remand, arguments that SCE should have intervened earlier were "irrelevant," as SCE is an indispensable party. Ruling Following Limited Remand, Polk Co. Case No. CV9254, filed February 14, 2014, at 6–7 ("these reasons are irrelevant. Also irrelevant is the fact that SCE had actual notice and actually attended the previous hearing."); *see also*, *Sear v. Clayton County Board of Adjustment*, 590

N.W.2d 512 (Iowa 1999). The same cannot be said, nor has it been argued, with respect to Warrior. Moreover, the indispensability issue before the court at the January 30 hearing revolved around Belle's attempt to seek emergency relief in the form of a stay. No such specific relief is sought here. Finally, Rule 1.1603, one of only three rules the Supreme Court thought was necessary to supplement the administration of judicial review proceedings, implicitly rejects the concept that intervention is a vehicle that can be used when "other agency action" is being reviewed, as opposed to a contested case decision. Thus, the distinction is that Belle and the Court had an obligation to join SCE as an indispensable party prior to issuing a stay and any delay was irrelevant, whereas here, where Warrior seeks to intervene in the proceedings generally, delay is a crucial factor and dispositive of Warrior's ability to intervene.

Further, not only is Warrior's delay unreasonable, but Warrior's intervention will result in substantial prejudice to SCE and the other respondents joined to this action. Following SCE's joinder as an indispensable party, this Court scheduled this matter on an expedited trial schedule, complying with the direction of the Iowa Supreme Court. This matter is currently set for trial on September 26, 2014. Warrior's intervention at this juncture stands to jeopardize the trial schedule, as additional discovery will likely follow and/or be required if Warrior is made a party to the proceedings at this late stage. Warrior's intervention will cause SCE to incur added expense, burden, and prejudice by having to defend its lawfully obtained license from yet another unsuccessful bidder, whose likelihood for success on the merits is also unlikely. *See* Ruling Following Limited Remand, Polk Co. Case No. CV9254, filed February 14, 2014.

B. <u>Warrior Cannot Meet the Requirements of Iowa Rule of Civil Procedure 1.407.</u>

Iowa Rule of Civil Procedure 1.407 provides for two types of intervention: (1) intervention of right and (2) permissive intervention. Under either analysis, having sat on its rights for more than 11 months, Warrior must not be allowed to intervene.

1. Warrior has no intervention of right.

Iowa Rule of Civil Procedure 1.407(1) allows an applicant to intervene *by right* (a) "when a statute conveys an unconditional right to intervene or (b) "when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." Warrior cannot and does not claim a statutory right to intervene. Therefore, Warrior may only intervene by right upon a showing of interest that will be affected by the action such that it will impair its ability to protect that interest and that its interest is inadequately represented. Warrior cannot make such a showing.

i. Warrior's articulated interest is indirect, speculative, and remote and will not be impaired.

Before allowing intervention a court must be certain the applicant has asserted a legal right or liability that will be directly affected. *In re H.N.B.*, 619 N.W.2d 340, 343 (Iowa 2000) (denying intervention where the applicant failed to possess a sufficient interest under the circumstances of the case and, therefore, did not have a legal right directly affected). An indirect, speculative, or remote interest is insufficient to provide a right to intervene. *State ex. rel. Miles* v. *Minar*, 540 N.W.2d 462, 465 (Iowa Ct. App. 1995) (denying intervention, noting a potential intervenor must have more than a "speculative or contingent interest."); *H.N.B.*, 619 N.W.2d at 343.

As articulated, Warrior's ability to protect its limited interest in this judicial review proceeding will not be impaired or impeded by its disposition. Although Warrior does not clearly articulate any interest whatsoever, what limited interest it may possess may be gleaned from paragraphs 26–30 of its Petition in Intervention. In particular, Warrior most clearly articulates its interest in paragraph 28, stating:

> Warrior possesses an interest in the transaction that is the subject of the above-captioned matter, and is so situated that disposition of the foregoing action would impair and impede Warrior's ability to protect such interest. To the extent that the Court determines that neither SCE, nor Belle, should ultimately be awarded the Casino licenses, and that the Application Process was inappropriate or flawed, Warrior would be the logical recipient of the Casino Project license.

This questionable interest in challenging the application process in an attempt to steal SCE's lawfully obtained and rightfully held license more than 11 months after the award and 10 months after Belle's Petition for Judicial Review is speculative, as it assumes any number of contingencies falling in Warrior's favor, either during or following these proceedings. Further, to the extent it may even claim an interest, such an interest is ludicrous. Under what legal authority does Warrior contend that the court—having already ruled on February 14, 2014, that appropriate deference must be given the IRGC under section 17A.19(11)(c) of the Iowa Code—is empowered to issue a license, a power specifically delegated by the legislature to the executive branch of government? Warrior cannot answer this question affirmatively without violating the aforementioned order and the constitutional separation of powers. Accordingly, it's articulated interest of being a "logical recipient of the Casino Project license" falls by the constitutional wayside and is contrary to the law of judicial review of the state of Iowa as declared by this Court.

In addition, to the extent Warrior claims a financial interest as a result of funds expended through the application process, its interest is insufficient. Not only is such a financial interest incredibly remote as a result of the fact that Warrior was not guaranteed any likelihood of success as an applicant, but a financial interest is insufficient to justify intervention by right. *See Lakes Gas Co. v. Terminal Properties, Inc.*, 720 N.W.2d 192 (Iowa Ct. App. 2006); *U.S. v. Metro St. Louis Sewer Dist.*, 569 F.3d 829, 840 (8th Cir. 2009) ([the applicant] claims no direct interest . . . its interest is limited to how this action's financial consequences might eventually affect its members' own pocketbooks."); *Eischeid v. Dover Const., Inc.*, 217 F.R.D. 448, 468 (N.D. Iowa 2003) ("a party must show more than a mere economic interest."). As a result, Warrior's interest, if any exists, will not be impaired or impeded by the disposition of this review action filed by Belle.

ii. Warrior's limited interest is adequately represented by Belle.

Should this Court find that Warrior does have an interest, however limited such an interest may be, Warrior still does not have the right to intervene, as any interest is adequately represented by Belle. If the interests of the proposed intervenor and an existing party are identical, intervention is not allowed. *Great Lakes Commc'n Corp. v. Iowa Util. Bd.*, 2009 WL 3806176, at *4 (N.D. Iowa 2004). The arguments and issues alleged by Warrior in its Petition in Intervention are nothing new to these proceedings. They are, in fact, the *identical* issues Belle has been arguing for more than 10 months, after filing its fourth Petition for Judicial Review, Polk Co. No. CVCV045760. *See, e.g.*, Belle's Brief in Support of Motion to Stay, Polk Co. Case No. CV9254 (consolidated), filed September 15, 2013 (180 days prior to Warrior's Petition in Intervention). Belle's involvement in the same application process and complaints regarding the same violations alleged by Warrior in paragraphs 13–17 and 24, demonstrates that any

arguments Warrior may wish to assert are adequately and competently represented through Belle.

2. Warrior should not be permitted to intervene permissively.

In pertinent part, Iowa Rule of Civil Procedure 1.407(2) provides that a party may be permitted to intervene in an action when the party's "claim or defense and the main action have a question of law or fact in common." Iowa's Rule 1.407 mirrors Federal Rule of Civil Procedure 24 and Iowa courts draw guidance from the federal law in this area. *Lakes Gas Co.*, 720 N.W.2d 192; *see also* Official Comment to Iowa R. Civ. P. 1.407 ("The amendments to former Iowa R. Civ. P. 75, now rule 1.407, adopted provisions substantially similar to Fed. R. Civ. P. 24 and allow the trial court more discretion in determining whether to allow intervention").

As in Iowa, the decision under Fed. R. Civ. P. 24 to grant or deny a motion for permissive intervention is wholly discretionary. *S. Dakota ex. rel. Barnett v. U.S. Dep't of Interior*, 317 F.3d 783, 787 (8th Cir. 2003); *see also*, *Bush v. Viterna*, 740 F.2d 350, 359 (5th Cir.1984). Even though a common question of law or fact may exist and the requirements for permissive intervention satisfied, the court may refuse a party's intervention. *Id; Bush*, 740 F.2d 350, 359 ("Permissive intervention is wholly discretionary with the district court ***even though there is a common question of law or fact, or the requirements of Rule 24(b) are otherwise satisfied***.") (emphasis added); 7C Wright, Miller & Kane, Federal Practice and Procedure § 1913, at 376–77 ("If there is no right to intervene under Rule 24(a), it is wholly discretionary with the court whether to allow intervention under Rule 24(b) and **even though there is a common question of law or fact, or the requirements of Rule 24(b) are otherwise satisfied, the court may refuse to allow intervention**.") (emphasis added).

Here, both the realities and equities of these proceedings weigh heavily against Warrior's intervention. First, Warrior has very little, if any, stake in these proceedings. Warrior is simply an unsuccessful bidder. Warrior is neither the former license holder, like Belle, nor the current and lawful license holder, like SCE. Warrior has nothing to lose in these proceedings. To allow Warrior to intervene on the extremely remote possibility that these proceedings are remanded to the IRGC, at which time, at best, Warrior would be allowed to re-apply for a license it may never be awarded anyway, would be an unreasonable stretch of permissive intervention. Such an action would result in a slippery slope, allowing any disgruntled applicant to intervene in an action, however limited their interest and remote their possibility of success may be.

Second, the Court should exercise its substantial discretion to deny Warrior's intervention as a result of Warrior's unreasonable delay in seeking relief of any sort. Despite having complained to the IRGC about the application process in a January 2013 letter, Warrior has not appealed on its own accord at any time. In fact, in the 11 months since the award of the license to SCE and the conclusion of the application process Warrior complains of, Warrior has not lifted a finger. It has never filed a petition for judicial review of the agency's action. It has not filed to intervene timely during the 10 months since Belle filed its last petition. Rather, it sat idly by, knowing it had long since allowed its opportunity to file for judicial review in a reasonable time frame to lapse, until it saw an opportunity to sneak in the back door once all indispensable parties had been joined. While Iowa Code section 17A.19(3) is more lenient when considering a review of "other agency action," certainly it does not contemplate allowing an 11 month delay in seeking relief for an agency's final licensing decision. *Compare* Iowa Code section 17A.19(3), requiring a petition for judicial review to be filed within thirty days after the issuance of an agency's final decision in a contested case. The Court must not reward Warrior's dilatory

behavior and endorse similar behavior in the future. Rather, the Court should exercise its considerable discretion to prohibit Warrior's intervention.

Third, there is no common question of fact. The papers submitted by Warrior to the IRGC as a part of its land-based casino application are not before the Court. Warrior did not even bother to mention, let alone present, these voluminous papers to the Court for its consideration of whether the agency's action adverse to it—the granting of a license to a competitor—is not unreasonable under section 17A.19(10)(n). To the extent the Court deems there to be a common issue of law on the application process and the character of William Warner, the former can be asserted by Belle and the latter is scandalous and defamatory as set forth in section D, *infra*.

C. <u>Warrior is Not an Indispensable Party.</u>

Warrior's interest is easily distinguished from those parties recently joined to these proceedings as indispensable parties. Iowa R. Civ. P. 1.234, discussed at length before this Court, provides that a party is indispensable when: (1) its interest is not severable, and its absence will prevent the court from rendering any judgment between the parties before it; or (2) if notwithstanding its absence, the absent party would necessarily be inequitably affected by a judgment rendered between those before the court. Warrior cannot satisfy either prong.

First, Warrior's interest is severable and will not, in any way, prevent the court from rendering judgment on Belle's petitions for judicial review. Warrior is an unsuccessful bidder who has failed to protect its interests by filing for judicial review of its own accord. It has never held a license to operate a gaming facility in Woodbury County. Thus, no license, either current or former, will be affected by these proceedings and nothing prevents the Court's judgment as to Belle's complaints in Warrior's absence.

Second, Warrior cannot claim to be inequitably affected by a judgment rendered between those before the Court. Unlike SCE, MRHD, or the City of Sioux City's interests affected by the former stay of SCE's license, nothing in these proceedings stands to inequitably affect Warrior. Belle has set forth the *identical* complaints now argued by Warrior. As such, this Court will reach a determination as to these allegations. No matter the outcome, Warrior will not be inequitably affected by the judgment.

D. <u>Warrior's Defamatory Attacks on William Warner Are Untrue.</u>

Warrior makes serious and misleading allegations against Mr. William Warner, which are untrue and ardently denied. Mr. Warner is licensed in 26 jurisdictions. Exhibit 1, Declaration of William Warner. Warrior falsely implies that Mr. Warner refused to appear before The Missouri Gaming Commission. *See* Warrior Entertainment, L.L.C.'s Petition in Intervention ¶ 19–20. Mr. Warner's employer objected to improper service of notices for an initial hearing. Exhibit 1, Affidavit of William Warner. When properly noticed, Mr. Warner appeared before the very same commission a few months later and cooperated in the inquiry. *Id.* Mr. Warner was not in any way involved or implicated in the improper conduct. *Id.*

In addition, Warrior refers to allegations of wrongdoing relating to the Inn of the Mountain Gods, which is owned by the Mescalero Apache Tribe. *See* Warrior Entertainment, L.L.C.'s Petition in Intervention ¶ 21. Warner Gaming manages the Inn of the Mountain Gods. Exhibit 1, Affidavit of William Warner. In 2011, false accusations were made by two employees who had been terminated by the Inn. *Id.* The tribe was aware of the source of the false allegations and did not ask Warner Gaming to respond to the allegations from the terminated employees. *Id.* Warner Gaming continues to work effectively with the Apache Tribe and has been successfully managing the Inn of the Mountain Gods from before 2011 through today. *Id.*

Quite contrary to Warrior's representations to this court, Ho Chunk, which owns Warrior, and now attacks Mr. Warner, called Mr. Warner in October of 2012 requesting the opportunity to join in the Warner Gaming bid in Woodbury County. *Id.* When Ho Chunk/Warrior asked Mr. Warner to allow them partner with Warner Gaming, they apparently did not have any of the concerns that they now claim. Warrior's misleading, inaccurate, and untrue statements should be summarily rejected and disregarded by the court.

III. CONCLUSION

For the foregoing reasons, SCE Partners, LLC respectfully requests that the Court **DENY** Warrior's Petition in Intervention.

Certificate of Service
The undersigned certifies that the foregoing instrument was served upon the parties to this action by serving a copy upon each of the attorneys listed as receiving notice on March 24, 2014, by EDMS.

/s/ Jessica Boddicker

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