STATE OF MICHIGAN

COURT OF CLAIMS

SHALESH BERI,

Plaintiff,

v

MICHIGAN GAMING CONTROL BOARD,

Defendant.
_____/

OPINION AND ORDER

Case No. 25-000117-MM

Hon. Sima G. Patel

OPINION AND ORDER GRANTING DEFENDANT'S 9/5/25 MOTION FOR SUMMARY DISPOSITION AND DENYING PLAINTIFF'S 9/25/25 CROSS MOTION

The Court STRIKES plaintiff's August 25, 2025 second amended complaint because it was filed in contravention of the court rules and without leave of the Court.

The Court STRIKES plaintiff's September 15, 2025 sur-reply in response to defendant's September 5, 2025 motion for summary disposition, March 19, 2026 notice of recent regulatory action, and March 31, 2026 notice of supplemental evidence because they were filed in contravention of the court rules and without leave of the Court.

The Court GRANTS defendant's September 5, 2025 motion for summary disposition and DENIES plaintiff's September 25, 2025 cross-motion.

The Court DISMISSES plaintiff's complaint in its entirety but without prejudice to plaintiff filing a second amended complaint within 21 days of the entry of this opinion and order. If plaintiff does not file a second amended complaint by this deadline, this order will become final.

I. BACKGROUND

As described in this Court's August 25, 2025 Opinion and Order denying plaintiff's motion for a preliminary injunction, plaintiff voluntarily enrolled in the Disassociated Persons List (DPL) under MCL 432.225 and Responsible Gaming Database (RGD) under MCL 432.312(5) and MCL 432.412(5) in December 2024. Individuals on the DPL and RGD are prohibited from in-person and on-line casino gaming and internet and sports betting in Michigan.

Plaintiff's claims stem from MCL 432.225(9), which provides:

> Except as otherwise provided in this subsection, a casino licensee shall not extend credit, offer check cashing privileges, or offer coupons to, o*r market its services, or send advertisements to, or otherwise solicit the patronage in the casino of*, those persons whose names are on the [DPL]. A casino licensee may market or advertise its services, other than by direct mail, for the casino licensee's nongaming amenities, such as hotels, restaurants, and event centers. [Emphasis added.]

Plaintiff claims BetMGM has continued to send him marketing materials and defendant has not adequately enforced the statute against it. As a result, plaintiff submitted a letter to defendant, Michigan Gaming Control Board (MGCB), demanding to be removed from the DPL and RGD. Defendant denied the request because the statute requires a person on the DPL to wait at least five years before requesting removal, plaintiff selected to remain on the RGD for five years, and plaintiff failed to fill out the necessary form to request removal of his name from the DPL.

Plaintiff's initial complaint, and first amended complaint filed in response to the Court's Order to Show Cause, sought an order compelling defendant to remove his name from the DPL and RGD and he sought a preliminary injunction for the removal of his name from the list and database pending a final resolution in this case. This Court denied the preliminary injunction.

Plaintiff thereafter filed a second amended complaint completely changing the relief requested. Plaintiff sought a declaratory judgment that defendant was required by MCL 432.225(9) to investigate and sanction BetMGM for violating its provisions and breached that duty. He also sought a writ of mandamus compelling defendant "to take enforcement action against casino licensees who violate MCL 432.225(9)." In the alternative, plaintiff sought the "equitable remedy" of having his name removed from the DPL and RGD.

II. CROSS MOTIONS FOR SUMMARY DISPOSITION

The parties filed cross motions for summary disposition. Defendant sought summary disposition on the same grounds it opposed plaintiff's motion for a preliminary injunction. Plaintiff responded that defendant improperly ignored his second amended complaint in seeking dismissal of only the claims in his original and first amended complaint.

Plaintiff moved for summary disposition, contending that his requests in his second amended complaint for a declaratory judgment regarding defendant's duty under MCL 432.225(9) and for a writ of mandamus compelling defendant's enforcement of the statute were meritorious as a matter of law. In addition to challenging the merits of plaintiff's motion in its response, defendant sought to strike plaintiff's second amended complaint because it was filed in contravention of MCR 2.118(A)(1).

III. THE COURT STRIKES PLAINTIFF'S SUR-REPLY, SUPPLEMENTAL NOTICES, AND SECOND AMENDED COMPLAINT

The Court first concludes that it must strike plaintiff's August 25, 2025 second amended complaint because it was filed in contravention of MCR 2.118, and plaintiff's September 15, 2025 sur-reply to defendant's motion for summary disposition, March 19, 2026 notice of recent

regulatory action, and March 31, 2026 notice of supplemental evidence because they were filed in contravention of MCR 2.119.

MCR 2.118(A)(1) permits a plaintiff to file an amended complaint "once as a matter of course within 14 days after being served with a responsive pleading by an adverse party." Plaintiff had already filed a first amended complaint in response to this Court's order to show cause. And although defendant filed a responsive pleading to plaintiff's motion for a preliminary injunction on August 14, 2025, 11 days before plaintiff filed his second amended complaint, the Court had already resolved the preliminary injunction motion. Given the procedural posture of the case, plaintiff was required to seek leave to file a second amended complaint under MCR 2.118(A)(2). Because plaintiff did not do so, the Court must STRIKE plaintiff's second amended complaint.

MCR 2.119 governs motion practice in state courts. MCR 2.119(A)(2) permits an opposing party to file a response to a motion. MCR 2.119(A)(2)(b) provides, "Except as permitted by the court or as otherwise provided in these rules, no reply briefs, additional briefs, or supplemental briefs may be filed." Court of Claims Local Court Rule 2.119(C)(4) permits a party to file a single reply brief to a response to a motion for summary disposition. No court rule permits a party to file a sur-reply or supplemental notices following a motion for summary disposition. Therefore, plaintiff was required to seek leave of the Court to file his September 15, 2025 sur-reply in relation to defendant's motion for summary disposition, March 19, 2026 notice of recent regulatory action, and March 31, 2026 notice of supplemental evidence. Because plaintiff did not seek leave of the Court, the Court STRIKES these pleadings.

As explained in the following section, the Court is granting defendant's motion for summary disposition of plaintiff's first amended complaint in part under MCR 2.116(C)(8) and

(10). Pursuant to MCR 2.116(I)(5), the Court will permit plaintiff, if he so chooses, to file a second amended complaint that includes the information in his supplemental notices within 21 days of the entry of this opinion and order. If plaintiff does not file an amended complaint by that deadline, this Order will become a final order and this case will be closed.

IV. DEFENDANT IS ENTITLED TO SUMMARY DISPOSITION

Defendant seeks summary disposition under MCR 2.116(C)(7), (8), and (10).

Summary disposition is warranted under MCR 2.116(C)(7) when the plaintiff signed a release of liability. In his application for the DPL, plaintiff attested that he "knowingly and voluntarily accept[ed] any and all risk" from placing his name on the list and of any "injury or harm which may, directly or indirectly, result to [him] as a consequence of the release of information contained" in his application or the DPL itself. He agreed to release defendant "from any harm, monetary or otherwise, that may arise of a consequence" of plaintiff's placement on the DPL.

In his first amended complaint, plaintiff seeks the removal of his name from the DPL and RGD. This claim does not seek to impose any financial or other type of liability on defendant. Plaintiff did not release his right to assert his rights under the statutes or to compel defendant's compliance with the statutes. Defendant is not entitled to dismissal of those claims under (C)(7). However, plaintiff also seeks monetary relief in the form of compensatory damages. That claim is directly barred by the release signed by plaintiff and must be dismissed. The Court directs plaintiff that if he chooses to file a second amended complaint following this opinion and order, any claim for compensatory damages will be barred as result of the release he voluntarily entered.

> A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint. When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone. A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.
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> A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim. When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. [*El-Khalil v Oakwood v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019) (cleaned up).]

For the same reasons the Court denied plaintiff's motion for a preliminary injunction, the Court dismisses plaintiff's claims under MCR 2.116(C)(8) and (10). Plaintiff's allegations and the evidence presented thus far by the parties do not support that defendant improperly placed plaintiff's name on the DPL or RGD or improperly refused to remove it.

Plaintiff asserted that defendant improperly placed his name on the DPL and RGD because he did not "complete" the application, i.e. he left certain fields on the application blank. Subsections (3) and (4) of MCL 432.225 govern the application process:

> (3) The [MGCB] shall create and make available form applications for placement on the [DPL]. The forms must have spaces to include all of the following information about the individual who is applying:
>
> (a) Full name and all aliases.
>
> (b) Physical description including height, weight, hair and eye color, skin color, and any other noticeable physical characteristics.
>
> (c) Occupation.
>
> (d) Current home and work addresses and phone numbers.
>
> (e) Social Security number.
>
> (f) Date of birth.

(g) A statement that the individual believes he or she is a problem gambler and is seeking treatment.

(h) A photograph suitable for the [MGCB] and casino licensees to use to identify the individual.

(i) Other information that the board considers necessary.

(4) An individual's name must be placed on the [DPL] after all of the following have occurred:

(a) The individual has submitted a completed application to be placed on the [DPL] to the [MGCB].

(b) The application has been verified by a representative of the [MGCB].

(c) The individual has signed an affidavit in which he or she affirms that he or she wishes to be placed on the [DPL] and authorizing the [MGCB] to release the contents of his or her application to all casino licensees in this state.

(d) The individual signs a form releasing this state, the [MGCB], and the casino licensees from any injury the individual suffers as a consequence of placing his or her name on the [DPL].

(e) The individual signs a form stating that he or she understands and authorizes all of the following:

(*i*) That a criminal complaint for trespassing will be filed against him or her if he or she is found on the premises of a casino in this state and he or she will be immediately removed from the casino premises.

(*ii*) That if he or she enters a casino and wins any money, the [MGCB] will confiscate the winnings.

MCL 432.225(5) states that "[e]xcept as otherwise provided in this subsection, the name of an individual placed on the [DPL] must remain on the list for the remainder of the individual's life." The statute does permit removal from the list, but only under certain conditions: "Not earlier than 5 years after an individual's name has been placed on the [DPL], the individual may submit a form, provided by the [MGCB], to the [MGCB] to have the individual's name removed from the [DPL]." *Id*.

MCL 432.312(5) and MCL 432.412(5) provide that an individual may voluntarily enroll in the RGD to prohibit him or herself from establishing on-line gaming or betting accounts. The administrative rules allow an individual to elect to have his or her name added to the RGD for either one or five years. See Mich Admin Code, R 432.672(1); Mich Admin Code, R 432.772(1). Plaintiff chose a five-year enrollment.

Plaintiff contended that he was subjected to a video interview despite that this was not required by the statutes. He also contended that he did not complete the application to be placed on the DPL because he did not identify his skin color, occupation, or work address and phone number. The Court still fails to discern how the additional video interview to clarify information could render plaintiff's application incomplete. As the Court previously concluded, the interview assisted defendant in ensuring "[t]he application has been verified by a representative of the [MGCB]." MCL 432.255(4)(b). Contrary to plaintiff's assertion, his skin color was documented on the application; he selected the option for "Asian/Pacific Islander." While plaintiff left the spaces regarding his occupation blank, nothing in the relevant statutes required defendant to deny an application with missing information. Moreover, as the Court found in its earlier order, it is possible that defendant gleaned this information during the video interview. Most importantly, plaintiff signed an affidavit requesting to be placed on the DPL, acknowledging he had a gambling problem and authorizing the MGCB to release the contents of his application to all casino licensees in this state.

Plaintiff also failed to demonstrate that defendant violated any statute in denying his request to be removed from the DPL and RGD. The RGD rules and application permit the individual to select whether to remain on the RGD for one or five years. Plaintiff voluntarily chose to be listed on the RGD for five years. Defendant provided a DPL request for removal form, but

plaintiff failed to submit this form. In any event, MCL 432.225(5) clearly states that an individual's name "must" remain on the DPL for five years. There is no statutory mechanism for removing one's name sooner.

Accordingly,

1) The Court STRIKES plaintiff's August 25, 2025 second amended complaint.

2) The Court STRIKES plaintiff's September 15, 2025 sur-reply in response to defendant's September 5, 2025 motion for summary disposition, March 19, 2026 notice of recent regulatory action, and March 31, 2026 notice of supplemental evidence.

3) The Court GRANTS defendant's September 5, 2025 motion for summary disposition and DENIES plaintiff's September 25, 2025 cross-motion.

4) The Court DISMISSES plaintiff's complaint in its entirety but without prejudice to plaintiff filing a second amended complaint within 21 days of the entry of this opinion and order. If plaintiff does not file a second amended complaint by this deadline, this order will become final.

5) This is not a final order.

Date: June 17, 2026

Sima G. Patel
Judge, Court of Claims