

CAUSE NO. D-1-GN-14-005114

JAMES STEELE, et al.,
Plaintiffs

V.

GTECH CORPORATION,
Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST
JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

Plaintiffs, James Steele et al., file this original petition and request for disclosure against Defendant, GTECH Corporation, and allege as follows:

A. DISCOVERY CONROL PLAN

1. Plaintiffs intend to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4, and affirmatively plead that this suit is not governed by the expedited actions process in Texas rule of Civil Procedure 169.

B. RELIEF

2. Plaintiffs seek monetary relief of over \$1,000,000.

C. PARTIES

3. Plaintiffs are as follows:

a. The following plaintiffs are residents of the State of Texas:

JAMES STEELE	Geraldine Steele	Luciano T. Alaniz	Pablo Almaguer
Luis Alvarado	Sandra Alvarado	Allan Antich	Jo Antich
Everado Armendariz	Karina Armendariz	Cherie Arnold	Alifonso Arredondo
Cynthia Arreola	Gabriel Ramirez Arreola	David Avalos	Richard Balladares
Jonathan Banks	Lindsay Banks	Sandra L. Barber	Cathy Barr-Baker
Clarence Barr-Baker	Robert Baugh	Kevin Beckner	Bon Beltran
Diana Beltran	Felicia Bhelle	Shyam Bhelle	Loyce Boose
Jessica Bornholdt	Susan I. Bosquez	Sascha Brigham	David Brockwell
Alan Brown	Jeanette Brown	Mary Brown	Stacey L. Brown
Tara Brown	Tyrone Brown	LaKasha Brownfield	William S. Bryer
Allison Butler	Dietriche Butler	David W. Byars	Stacie Byington
Amber Cain	Rashelle Caliebe	Jesus Campos	Ricardo Canales, Jr.
Herlinda Cantu	Pauline Cantu	Roel Cantu	Melvin Carraway
Esther Castaneda	Joe Castaneda	Sylvester Celestine	Anthony Cerniglia
April Davis Cerniglia	Mary Helen Cervantez	Trini Rivera Cervantez	Josie Chapa
James R. Chapman	T C Chat	Jessie Chavarria	Sonia Chavarria
Arturo Chavez	Berta Chavez	Cruz Chavez	Crystal Chavez
Maria H. Chavez	Roy Chavez	Dena Claver	Mark Claver
Billy Cleaver	Cathy Cleaver	Kwamen Cleveland	Christopher Cloyd
Karon Cloyd	Corey Cobb	Cynthia Guice Cobb	Cynthia Cobian
Dan Cobian	Felicia Coleman	Sharon Conti	Irma Contreras
Cheryl Renee Cook	Kathy Cook	Ben Cooke	Luis Correa
Jeff Corzine	Lisa Corzine	Gloria Cotton	Mack Cotton
Dorothy Crane	Larry Crane	Don Crawford	Andrea Creamer
Bobby Stell Creamer	Bobbie Cruikshank	Jerry Cruikshank	Gerald Crump
Alfredo V. Cruz	Felix Cruz	Gloria Valdez Cruz	Melva Cruz
David Culver	Stephanie Culver	Sandra Curry	Jacqueline Dans
Jesse Dans	Michelle Davies		Bennie Davis
Bobby Davis	Dequincy Hollins Davis	Lakesha Davis	Latoya C. Davis
Lisa Davis	Michelle Davis	R L Davis	Juan Albert De La

			Cruz
Eduardo Tarango De La O Jr.	Mary Diaz De Leon	Janie De Los Santos	Joe De Los Santos
Gaile Dearing	Douglas P Deeken	Kristen Deeken	Dian Degollado
Josie Degollado	Carlos De la Fuente	Joe DeLeon	Virginia Diaz DeLeon
Angelica M. Delgado-Goudschaal	Kelly B. Delgado-Goudschaal	Velma Denby	Derek Deplanter
Jo Helen Deplanter	Elissa Dews	Jeanette Dilosa	Manuel Dominguez
Sanjuana Dominguez	Carol Donald	Lionel Donald, Sr.	Derek Doughty
Rena Doughty	Tyler Doyle	TrayLicia Dunlap	Suehadie Elizondo
Cardell D. Ellis	Adrian Esparza	Cindy Esparza	Daisy Evans
Freddie Evans	Stephanie Evans	Doug Farmer	Jason Feagin
Ovum Ferguson	Alvin Ferrell	Daniel Joel Fink	Copeland Fitzgerald
Brandi Flanagan	Donnie Flanagan	Thil Flinoil	Alejandra Flores
Alma Flores	Aurelia Flores	Edgar Flores	Gloria Sedillo
Sandra Guerrero Flores	Beau Follis	Rachel M. Follis	Audery Franklin
Clarence Franklin	Josephine K. Franklin	Jaime E. Yeack	Michelle Fuentes
Nick Fuentes	Daniel Galindo	Martha Galindo	Cruz Gallardo, Jr.
Soledad Gallardo	Kay Gallivan	Andrew J. Garcia	Erica Garcia
Godofredo Garcia	Lucy T. Garcia	Olga Garcia	Olivia Garcia
Rafael Garcia	Raphael Garcia	Robert Garcia	Rolando Garcia
Terri Gilmore	Kortina Givens	Roland Chandler	Tina Gladney
David Lopez	Milagros Gomez	Yolanda Lopez Gomez	Cesar M. Gonzales
Roy A. Gonzales	Sylvia Gonzales	Amelia Gonzalez	Patricia A. Goodley
Cecilia Graham	Connie Graham	Tommie Graham	Charles Grays
Monique Green	Randy Gregory	Pernell Grisby	Mireya Guerra
Sammy Guerra	Nerio Abel Guerrero, Jr.	Mary Lewis Guidry	Anthony Gutierrez
Charles Aaron Hailey	Christa Hailey	Christina Hall	Timothy Hall
James E. Hamilton	Cynthia Harris	Howard Harris	Kanitia Harris
Russell Hasker	Mary S. Haveron	Robert D. Haveron	Brian Heard
Kandy Heard	Gerald Jones, Jr.	Tawanda Heim-Jones	Angela Henson
Laquena Henson	Maria D. Hernandez	Elizabeth Hertenberger	Heath Hertenberger

Lawrence Hicks	Carnell Hines	Carolyn Hines	Dale Hodge
Darlene Hodge	Jon Hoggard	Lindsey Hoggard	Georgie Holmes
Jacob Daniel Honea	Sean Honea	Minnie Rene	Renah House
Shalen House	Angela Howard	Daneka Howard	Ralph Gene Howard
Michael Hudson	Rene Huerta	Rosa A. Huerta	David E. Hurles
Luewilda M. Hurles	Johnathan Jaramillo	Gwendolyn R. Jefferson	Charles E. Johnson
Clarice P. Johnson	Lakundria Johnson	Meesha Johnson	Roland Johnson
Terrance Johnson	Wanda A. Johnson	Wilhelmina Johnson	Africa K. Jones
David Jones	Mary Jones	Robert Jones, II	Metilda Joseph
Alexis Joubert	Ronald Joubert	Markeith Joulevette	Carlos Escobedo Joya
Sandra Joya	Arturo Juarez	Cleofas Juarez	David Juarez
Deborah Juarez	Diana Juarez	David Juarez, Jr.	Hasibullah Karim
Ernest W. Karisch	Katherine T. Karisch	Aminata Keita	Mambi Keita
Brenda Kimble	Arthur King	Derry King	Felicia King
Brittany Kiser	Z.E. Kominczak	Helen Krueger	Ronald Krueger
Carmene L. Kyle	George Kyle	Jeremy Lane	Kendrick J Lane
Nikki Michele Larkin	Danielle Lavertu	Pete Laxson	Richard Layman
Veronica Layman	Grace Little	Margaret L. Lombrano	Paul A. Lombrano
San Juanita Lopez	Hortencia Loredo	Jose Guadalupe Loredo	Tasma Greer Love
Willie Love	Tarik Lovelace	Daniel Luna	Deanne Marie Luna
Delfino Macatangay	Josefina Macatangay	Carmela Madarieta	Daniel Martinez
Hilda Martinez	Linda T. Martinez	Melissa Martinez	Andrea Mayes
Marcus McCarty	Sondra McCarty	Pam McClendon	Kenny McClure
Connie McComb	Denise McCoy	Walter Dale McCulley	Russell W. McDaniel
Melissa McDermott	Sean McDermott	J J McKeller	Rosemary McKeller
Denise McNeal	Laquisha McQueen	Jenaro Medrano	Rebecca Medrano
Juan F. Mendoza, Jr.	Virginia S. Mendoza, Jr.	Cynthia Merritt	Charma Migas
Ken Migas	Brian Miller	Lauren Miller	John Mitschke
Kathy McMorrow	Joseph Monroe	Glenn Moore	Penelope Moore
Nathaniel Morris	Lorena Mottu	Robert Mottu	Jason Mouton

Judy Mouton	Gary Muenchow	Rosemary Muenchow	Michael J. Mulcahey
George L. Muniz, Sr.	Janie L. Muniz	Maria Del Carmen Munoz	Ricardo Munoz, Jr.
Catherine Murry	Mohammad M. Musleh	Adrienne Myers	Michael Myers
Elvis Navarro	Ronald Neal	Ryan Neff	Dahlia Nicholos
Edward Nicholos	Dana Norton	Daniel Carey	Brenda Nunez
Albert Orosco, Jr.	Mary Lou Orosco	Selena Orozco	Latoya Owens
Michael Owens	Aaron Oyler	Robin Oyler	David Palmer
Famatta Jebbeh Paye	Lawrence Paye	Leticia Marie Pecina	Cristina Perez
Dario Perez	Laura Bettina Perez	Matthew Perez	Virginia M. Perez
Taunya Perry	Wash Sellers, Jr.	Ashley Poblete	Mark Pollack
Clyde Powell	Sigamone Price	Julieta Quintana	Daisy Veronica Quintanilla
Carol Loretta Rainey	Blanca C Ramirez	Janice M. Randall	Victor Randall
Jimmie Reynolds	LorinRichardson	Cecilia Ellen Ridgeway	Aisha Riley
Cynthia D. Robinson	Jose Rodriguez	Tamiko D. Rodriguez	Andrew Curtiss
Dora Rodriquez-Curtiss	Michael Rutherford	Terrell Sadrick	Linda Sample
Terry Sample	Alberta Sanchez	Bernardo Sanchez	Carmen Sanchez
Edward Sanchez	Jason Sanchez	Jose Sanchez	Juan D. Sanchez
Katharina Sanchez	Frederick D. Satchell	Vennie Iris Savia	Schonda Schannon
Darrell Scott	James N. Seguin	Olivia M. Benavides	Adrian Sheffield
Chrystal Sheffield	Mary Shelton	Debra A. Shelwood	Howard Shelwood
Chaz Simmons	Diane Sivadge	Terry Sivadge	Jacob Cole Skains
William Slater	Donald Slaughter	Natausha Slaughter	Andrew Peter Slovak
Sandra J. Slovak	Cassandra Tabion Smith	Eric Dinell Smith	Jason G. Smith
Lance Smith	Christopher John Sotelo	John Spears	Lisa Spinks
Terry Stevens	Sharon Stinnett	Diane Sullivan	Nebahat Sungur
Drake Thais	Shoneta Thomas	John M. Thompson	Shirley M. Thompson
Ashley Tijerina	Delia Valdez	Pascual Valdez	Ivy Vallee

Gary Van Ausdall	Domingo Vargas	Sylvia Vargas	Angelica M. Vasquez
Lenny Vega	Donald Vermeulen, Jr.	Jill Vermeulen, Jr.	Michael Leon Verner
Latricia Vessel	Delores A. Wade	Deborah Wainwright	Sitman Wainwright
Vanessa Jenkins Walker	Arthur G. Walker, Jr.	Dane Warren	Emma Warren
Wilmer Washington	Deanna Way	Jeff Way	Barbara Wenberg
Timothy Wenberg	Cynthia Werner	Barbara West	Jay West
Terry West	Dan White	Debra White	Jackie White
Bryce Wilhite	Dolores Williams	Dwayne Williams	Keith Williams
Mark Williams	Bobby Wilson	Tiffany Wilson	Anna Ruth Wiltz
Antonio Wiltz	Shantera Jones Wiltz	Donald Wooten	Linda Wyatt
Rosendo Ybarra	Scott Young	April Zuar	Joe Zuar
Daniel Zuniga	Erica Zuniga		

- b. The following plaintiff is a resident of the State of Colorado: Anton Bailey.
 - c. The following plaintiff is a resident of the State of Maryland: Lena Kelley.
 - d. The following plaintiffs are residents of the State of Connecticut: Eva Muriel Kendrick and Frederick A. Kendrick.
 - e. The following plaintiff is a resident of the State of Illinois: Samuel W. Kostis.
 - f. The following plaintiff is a resident of the State of Florida: Kristine Rios.
 - g. The following plaintiff is a resident of the State of Rhode Island: Derrick Torres.
 - h. The following plaintiff is a resident of the State of Louisiana: Robert T. Thomas.
4. Defendant, GTECH Corporation, a foreign corporation organized and existing under the laws of the State of Delaware, whose principal office is located in Providence, Rhode Island, is authorized to do business in Texas and may be served with process by serving its registered agent for service of process, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701.

D. JURISDICTION

5. The court has jurisdiction over the lawsuit because the amount in controversy exceeds the court's minimum jurisdictional requirements.

E. VENUE

6. Venue is proper in Travis County under Texas Civil Practice & Remedies Code section 15.002 because Defendant, a corporation, maintains its principal office in Travis County.

F. FACTS

7. According to its website¹, GTECH, along with its Italian parent corporation, GTECH S.p.A.,
 - Is the largest global company in the regulated gaming space;
 - Has €3 billion in revenues with 8,600 employees globally;
 - Provides products and services in approximately 100 countries;
 - Has a 79% market share for U.S. lottery draw-based games and instant tickets;
 - Is the leading revenue generator in government-sponsored video lottery markets;
 - Is the largest single-end user of satellite technology in the world, providing VSAT communications to more than 140,000 lottery terminals in the U.S.;
 - Is the instant ticket partner of choice for more than 50 lotteries around the world; and,

¹ www.gtech.com

- Employs the best solutions in the market to grow lotteries, to maximize profits, and to generate more money.

8. In December of 2010, the Texas Lottery Commission awarded to GTECH Corporation (hereinafter “GTECH), a nine-year contract to operate the Texas Lottery. The contract sets a very high standard of care and conduct for GTECH. Specifically, Paragraph 3.71 of the GTECH contract provides, in relevant part, as follows:

“The Texas Lottery is an extremely sensitive enterprise because its success depends on maintaining the public trust by protecting and ensuring the security of Lottery Products. The Texas Lottery incorporates the highest standards of security and integrity in the management and sale of entertaining lottery products, and lottery vendors are held to the same standards. Therefore, it is essential that operation of the Texas Lottery, and the operation of other enterprises which would be linked to it in the public mind, **avoid not only impropriety, but also the appearance of impropriety**. Because of this, GTECH shall:

- (a) **Offer goods and services only of the highest quality and standards.**
- (b) **Use its best efforts to prevent the industry from becoming embroiled in unfavorable publicity.**
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- (d) **Avoid activities, operations, and practices that could be interpreted as improper and cause embarrassment to the Texas Lottery and/or to the industry.”**

(Emphasis added).

9. In 2014, GTECH, as operator of the Texas Lottery, proposed that the Texas Lottery Commission begin selling a new instant scratch-off game to be given the official title of “Instant Game No. 1592” but to be marketed to the public as the “Fun 5’s” game.

10. GTECH designed Instant Game No. 1592, proposed the language for the official game regulations, designed the scratch-off tickets, designed the instructions used on the tickets, and prepared the computer validation program to be used by the Texas Lottery to determine which scratch-off tickets were “winning” tickets and which were “non-winning” tickets.

11. The Fun 5’s scratch-off tickets contained five games as is illustrated below:

\$5

-TEXAS LOTTERY-

Over 200,000 \$50 Winners!

FUN 5's

GAME 1

Reveal two "5" symbols, win the PRIZE. Reveal three "5" symbols, win 5 times the PRIZE.

Reveal three matching prize amounts, win that amount. Reveal two matching prize amounts and a "5" symbol, win 5 times that amount.

GAME 2



GAME 3 Reveal a "5" symbol, win the PRIZE for that symbol.



Over \$50,000,000 in Prizes!

GAME 4

Reveal three "5" symbols in any one ROW across, win PRIZE for that ROW. Reveal two "5" symbols and a Star "★" symbol in any one ROW across, win 5 times the PRIZE for that ROW.

ROW 1	\$	\$	\$	PRIZE
ROW 2	\$	\$	\$	PRIZE
ROW 3	\$	\$	\$	PRIZE
ROW 4	\$	\$	\$	PRIZE
ROW 5	\$	\$	\$	PRIZE



WIN UP TO \$100,000!

GAME 5

Reveal three "5" symbols in any one row, column or diagonal, win PRIZE in PRIZE box. Reveal a Money Bag "5" symbol in the 5X BOX, win 5 times that PRIZE.

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12. The instructions GTECH printed on the Fun 5's tickets for Games 1, 2, 4, and 5 contained two sentences that described two separate and independent ways to win money in each of those games. The instructions for Game 3 were contained in one sentence that described the one way to win money in that game. In a predetermined pattern, all game instruction sentences consistently began with the word "Reveal".

13. The instructions for Game 5 that GTECH printed on the Fun 5's ticket stated as follows:

Reveal three "5" symbols in any one row, column or diagonal, win PRIZE in PRIZE box. Reveal a Money Bag "👛" symbol in the 5X BOX, win 5 times that PRIZE.

14. The official game procedures for Instant Game No. 1592 were recommended by GTECH and were published by the Texas Lottery Commission in the Texas Register.


15. Paragraph 2.0 of the official game procedures for Instant Game No. 1592, as published in the Texas Register, describes "Determination of Prize Winners" for Game 5 as follows:

"GAME 5: If a player reveals three "5" Play Symbols in any one row, column or diagonal, the player wins the PRIZE in the PRIZE box. If a player reveals a "MONEY BAG Play Symbol in the 5X BOX, the player wins 5 times that PRIZE."

16. Paragraph 1.2(L) of the official game procedures for Instant Game No. 1592, defines a "Non-Winning Ticket" as follows:


A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.


17. In other words, under the official game procedures for Instant Game No. 1592, a ticket will be treated as a “Non-Winning Ticket” by the Texas Lottery Commission if GTECH fails to validate the ticket as a “Winning Ticket”, even if the ticket otherwise meets all the criteria of being a winning ticket under the official game procedures. Because the validation of winning scratch-off tickets was an act uniquely within the power and control of GTECH, players of the Texas Lottery, including these Plaintiffs, placed a high degree of trust and confidence in GTECH and were dependent on GTECH to act in the best interest of the citizens who purchased scratch-off lottery tickets.

18. The Texas Lottery Commission began selling Fun 5’s tickets to the public on or about September 1, 2014. Almost immediately after the first tickets were sold, consumers began complaining to the Lottery Commission that although their tickets revealed a Money Bag “

19. GTECH’s computer validation program did not conform to the official game procedures for Instant Game No. 1592 or to the instructions on the Fun 5’s ticket. GTECH’s non-conforming computer program added a requirement for a ticket to be validated as a “Winning Ticket” that was not present in the instructions printed on the Fun 5’s tickets and was not present in the official game procedures. Specifically, GTECH programmed its computer validation program to treat the instructions for Game 5 as if the following language had been added:

Reveal three “5” symbols in any one row, column or diagonal, win PRIZE in PRIZE box. [***And, if you also***] Reveal a Money Bag “

20. GTECH learned, in the early days of September 2014, of complaints from lottery players who had purchased tickets which revealed a Money Bag “” symbol but who were not being paid their prize money. Despite notice of these complaints, GTECH knowingly and intentionally decided to continue using its non-conforming computer validation program to validate winning tickets as “Non-Winning Tickets”. Had GTECH corrected its error and changed its computer validation program to conform to the instructions printed on the Fun 5’s tickets and the language of the official game procedures, it would have exposed the Texas Lottery to a total payout for the Fun 5’s game far in excess of the payout GTECH originally calculated for the Texas Lottery. Rather than admit that it had made a costly mistake, GTECH decided to cover up its mistake by continuing to use its non-conforming validation program to validate winning tickets as “Non-Winning Tickets”.

21. Plaintiffs purchased Fun 5’s tickets that revealed a Money Bag “” symbol in Game 5. Plaintiffs were entitled to receive five times the prize amount printed on their tickets in accordance with the instructions printed on their Fun 5’s tickets and in accordance with the official game procedures for Instant Game No. 1592. However, when Plaintiffs attempted to cash their winning tickets, they learned that GTECH’s non-conforming computer validation program did not validate their tickets as winning tickets which meant their tickets were automatically defined as “Non-Winning Tickets” in accordance with Paragraph 1.2(L) of the official game procedures for Instant Game No. 1592.

22. On October 21, 2014, the Texas Lottery issued a press release to announce that it was closing the Fun 5’s game early and would discontinue selling the tickets, citing “confusion” expressed by players and the Texas Lottery’s responsibility to create games that are “clear to understand for our players.”


G. COUNT 1 – NEGLIGENCE

23. Defendant owed a legal duty to Plaintiffs. Specifically, Defendant owed a duty to use ordinary care to ensure that its computer validation program would validate as “Winning Tickets” those tickets that met the requirements of winning tickets under the instructions printed on the Fun 5’s tickets and the official game procedures for Instant Game No. 1592.

24. Defendant breached the duty to Plaintiffs by negligently programming its computers to add a requirement not present in the instructions printed on the Fun 5’s tickets and not present in the official game procedures for Instant Game No. 1592. By so doing, Defendant caused Plaintiffs’ winning tickets to be deemed “Non-Winning Tickets” in accordance with Paragraph 1.2(L) of the official game procedures for Instant Game No. 1592.

25. Defendant’s breach of duty proximately caused injury to Plaintiffs, which resulted in damages totaling more than \$248,795,500.00 which represents five times the collective amount printed in the Prize Box in Game 5 of Plaintiffs’ Fun 5’s tickets.

H. COUNT 2 -- TORTIOUS INTERFERENCE WITH EXPECTANCY

26. Plaintiffs had an expectancy that they would receive five times the amount in the Prize Box in Game 5 of their Fun 5’s tickets because their Fun 5’s tickets revealed a Money Bag “” symbol.

27. There is a reasonable certainty that Plaintiffs would have received their prize money but for the interference of Defendant. Had Defendant not used its non-conforming computer validation program to deem Plaintiffs’ winning tickets to be “Non-Winning Tickets”, Plaintiffs would have been entitled to receive their prize money from the Texas Lottery because their tickets otherwise met all the requirements of the instructions printed on the Fun 5’s tickets and all the requirements of the official game procedures for Instant Game No. 1592.

28. Defendant knowingly and intentionally interfered with Plaintiffs' expectancy by using a non-conforming computer program to deem Plaintiffs' tickets to be "Non-Winning Tickets".


29. Defendant's actions were tortious in that Defendant fraudulently sought to hide from the Lottery Commission and from the public the fact that the language suggested by GTECH for use in the instructions printed on the Fun 5's tickets and in the official game procedures for Instant Game No. 1592 would result in a total prize payout that would far exceed the amount originally represented to the Texas Lottery Commission by GTECH. Rather than admit that it had made a mistake that would cost the Texas Lottery many millions more than expected, GTECH sought to hide its mistake by maliciously continuing to use a non-conforming computer validation program to deem winning tickets to be "Non-Winning Tickets".

30. Defendant's interference proximately caused injury to Plaintiffs, which resulted in damages totaling more than \$248,795,500.00 which represents five times the collective amount printed in the Prize Box in Game 5 of Plaintiffs' Fun 5's tickets.

31. Exemplary Damages. Plaintiffs' injuries resulted from Defendant's malice or actual fraud, which entitles Plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a). Specifically, Defendant had the specific intent to cause substantial injury to Plaintiffs and other lottery winners by declaring that their winning tickets were "Non-Winning Tickets", thereby depriving them of their winnings. Moreover, Defendant was responsible for the representations made to Plaintiffs and the other lottery players in that it suggested the language used for the instructions on the Fun 5's tickets and in the official game procedures for Instant Game No. 1592. Defendant knew that the language for which it was responsible was a material misrepresentation of the requirements it had programmed into the

computer validation program for Game No. 1592. Defendant knew that Plaintiffs and other lottery players would rely upon the language for which it was responsible and intended for them to so rely.

**I. COUNT 3 – TORTIOUS INTERFERENCE WITH EXISTING
CONTRACT**

32. Plaintiffs had valid contracts with the Texas Lottery. They exchanged \$5 of their hard-earned cash for each of their Fun 5’s tickets in return for the promise that they would be entitled to receive five times the amount in the Prize Box if their ticket revealed a Money Bag “” symbol in Game 5.

33. Defendant knew or had reason to know that purchasers of Fun 5’s tickets, such as Plaintiffs, would enter into such contracts with the Texas Lottery. Moreover, Defendant knew or had reason to know of the interest that the purchasers of the Fun 5’s tickets would have in said contracts.

34. Defendant willfully and intentionally interfered with Plaintiffs’ contracts with the Texas Lottery by continuing to use a non-conforming computer program that deemed Plaintiffs’ winning tickets to be “Non-Winning Tickets”.

35. Defendant’s interference proximately caused injury to Plaintiffs, which resulted in damages totaling at least \$248,795,500.00 which represents five times the collective amount printed in the Prize Box in Game 5 of Plaintiffs’ Fun 5’s tickets.

36. Exemplary Damages. Plaintiffs’ injuries resulted from Defendant’s malice or actual fraud, which entitles Plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a). Specifically, Defendant had the specific intent to cause substantial injury to Plaintiffs and other lottery winners by declaring that their winning tickets

were “Non-Winning Tickets”, thereby depriving them of their winnings. Moreover, Defendant was responsible for the representations made to Plaintiffs and the other lottery players in that it suggested the language used for the instructions on the Fun 5’s tickets and in the official game procedures for Instant Game No. 1592. Defendant knew that the language for which it was responsible was a material misrepresentation of the requirements it programmed into the computer validation program for Game No. 1592. Defendant knew that Plaintiffs and other lottery players would rely upon the language for which it was responsible and intended for them to so rely.

J. COUNT 4 – BREACH OF FIDUCIARY DUTY

37. Defendant owed a fiduciary duty to Plaintiffs. Defendant, as Operator of the Texas Lottery, was under a duty to prepare the instruction language on the scratch-off tickets and to use a computer validation program that conformed to the instruction language on those tickets and to the official game procedures for Instant Game No. 1592. Because the validation of winning scratch-off tickets was an act uniquely within the power and control of Defendant, players of the Texas Lottery, including these Plaintiffs, placed a high degree of trust and confidence in Defendant and were dependent on Defendant to act in the best interest of the citizens who purchased scratch-off lottery tickets.

38. As a fiduciary, Defendant owed a duty of loyalty and utmost good faith to Plaintiffs and other players of the Texas Lottery. Defendant also owed a duty of full disclosure, including a duty to disclose all important information concerning Instant Game No. 1592, the scratch-off tickets Defendant prepared, and the computer validation program Defendant prepared.

39. Defendant breached its fiduciary duty to Plaintiffs by willfully and intentionally using a non-conforming computer program to deem Plaintiffs' winning tickets to be "Non-Winning Tickets" and by failing to fully disclose to Plaintiffs that the computer validation program it intended to use did not conform to the instructions printed on the Fun 5's tickets and the official game procedures for Instant Game No. 1592.

40. Defendant's breach of its fiduciary duty injured Plaintiffs by depriving them of the winnings to which they were entitled under the instructions printed on the Fun 5's tickets and under the official game procedures for Instant Game No. 1592.

41. Plaintiffs seek damages within the jurisdictional limits of this Court.

42. Exemplary damages. Plaintiff's injury resulted from Defendant's intentional act, which entitles Plaintiffs to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

K. JURY DEMAND

43. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

L. REQUEST FOR DISCLOSURE

44. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

M. PRAYER

45. For these reasons, Plaintiffs ask that the Court issue citation for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant for the following:

a. Actual damages.

- b. Exemplary damages.
- c. Pre-judgment and post-judgment interest.
- d. Court costs.
- e. All other relief to which Plaintiffs are entitled.

Respectfully submitted,

LAGARDE LAW FIRM, P.C.



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