

CLERK

SUPREME COURT, COURT OF APPEALS, AND TAX COURT

STATE OF INDIANA

217 STATE HOUSE, INDIANAPOLIS, IN 46204

317-232-1930 • FAX 317-232-8365

Kevin S. Smith
Clerk

Cause Number

THOMAS FISHER
302 WEST WASHINGTON ST.
AG IGC-SOUTH 5TH FL.
INDIANAPOLIS, IN 46204

49A02-0711-CV-00987
Lower Court Number:
49D130705PL019348

Fax Number: 317-232-7979

FOUNDATIONS OF EAST CHICAGO, INC. -V- ATTORNEY GENERAL

You are hereby notified that the

has on this day

SUPREME COURT

6/30/09

ISSUED THE ENCLOSED ORDER:

WITNESS my name and the seal of said Court,

this 30TH day of JUNE, 2009

Clerk, Supreme Court, Court of Appeals and Tax Court

Court of Appeals decision that a statutory scheme is constitutional.

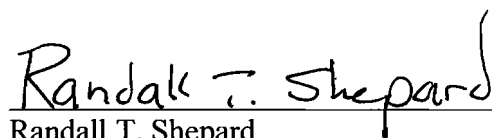
All sides do agree that the Commission was originally named a defendant in this case, and that after the Attorney General appeared on behalf of the Commission in the trial court, Appellant filed a stipulation of dismissal pursuant to Trial Rule 41(A) on or about September 12, 2007. (Mem. in Support of Mot. to Strike, tab 3.) This information was not recited in the Commission's motion for leave to appear as an amicus curiae in this appeal.

The Court has considered in conference the pending motions and the responses. Appellate Rule 17 specifies that a party of record in the trial court shall be a party on appeal. Whether this rule necessarily applies when the party was dismissed by stipulation before any judgment was entered, we do not decide. As for who might represent whom in this appeal and what issues might be argued on transfer, we conclude that the Commission should not have been allowed to appear as an amicus curiae after all.

Accordingly, the motion to strike is GRANTED. The Clerk is directed to collect all copies of the Amicus Curiae Brief Of The Indiana Gaming Commission In Support Of Petition To Transfer that bears a filing date of May 28, 2009, bind them together with a rubber band and place a copy of this order with the stricken briefs.

The Clerk is directed to send copies of this order to all counsel of record.

Done at Indianapolis, Indiana, this 30th day of June, 2009.



Randall T. Shepard
Chief Justice of Indiana

All Justices concur.