

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 2023-CI-_____
DIVISION _____
Electronically Filed

ARKK PROPERTIES, LLC;
B.J. NOVELTY, INC.; THE CUE CLUB, LLC;
HOME RUN, LLC; FEDERAL POST NO. 313, THE
AMERICAN LEGION, DEPARTMENT OF
KENTUCKY, INC.; MFPALMINVESTMENTS, LLC;
VINCENT MILANO; TANYA MILANO; and
POM OF KENTUCKY, LLC

PLAINTIFFS

v.

DANIEL CAMERON, in his official capacity
as Attorney General of the Commonwealth
of Kentucky

DEFENDANT

Serve: Attorney General Daniel Cameron
Capitol Building
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601

**COMPLAINT AND PETITION FOR DECLARATION OF
RIGHTS AND FOR INJUNCTIVE RELIEF**

Come the Plaintiffs, ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., MFPalmInvestments, LLC, Vincent Milano, Tanya Milano, and POM of Kentucky, LLC, by

counsel, and for their Complaint and Petition for Declaration of Rights and for Injunctive Relief against the Defendant Attorney General Cameron, state as follows:

INTRODUCTION

1. During the 2023 Regular Session of the Kentucky General Assembly, various sections of the gambling laws found within KRS Chapter 528 were amended by HB 594 to ban and make illegal certain specific types of electronic skill-based game devices and to make illegal the offering for play or the playing of such specific types of electronic skill-based games (the “Amendment”). *See* Exhibit 1, Chapter 4 of the 2023 Acts of Kentucky (HB 594).

2. Skill-based games have been legal for centuries under the statutory and common law of the Commonwealth of Kentucky and in virtually every other jurisdiction in the United States, which have distinguished skill-based games from illegal gambling devices because the outcome of a skill-based game is controlled by the skill of the player rather than chance or other factors outside the player’s control.

3. The types of electronic skill-based games banned and made illegal under the Amendment have recently drawn the ire of certain horse racing interests within the Commonwealth of Kentucky because such electronic skill-based games are a popular form of entertainment in local neighborhood convenience stores, restaurants, truck stops, and other locations that retain the revenue generated by such games in the local businesses and communities, but purportedly threaten the monopolization of gaming enjoyed by the horse racing interests.

4. Plaintiff POM currently owns and operates within the Commonwealth of Kentucky numerous electronic skill-based game devices of the type that have been banned and made illegal by the Amendment.

5. Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC currently operate within the Commonwealth of Kentucky electronic skill-based game devices of the type that have been banned and made illegal by the Amendment.

6. Plaintiffs Vincent Milano and Tanya Milano have played, currently play, and seek to continue to play within the Commonwealth of Kentucky electronic skill-based game devices of the type that have been banned and made illegal by the Amendment.

7. Skill-based games and skill-based game devices, of the type owned by Plaintiff POM and operated by Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC, and played by Plaintiffs Vincent Milano and Tanya Milano, are legal in the Commonwealth of Kentucky, and but for the Amendment, skill-based games and skill-based game devices, of the type owned by Plaintiff POM and operated by Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC, and played by Plaintiffs Vincent Milano and Tanya Milano, would continue to be legal in the Commonwealth of Kentucky

8. This is an action seeking the following relief: (a) a declaration of rights that the Amendment is unconstitutional in violation of Plaintiffs' rights of freedom of speech, due process of law, and equal protection under the law, as well as rights against special legislation, the impairment of contracts, the taking of property without just compensation, and the separation of powers, as well as other constitutional rights as are guaranteed by the Kentucky Constitution; and (b) entry of a temporary and permanent injunction against the Defendant Attorney General and all

law enforcement, prosecutors, government officers and administrative agencies authorized to enforce the laws of Kentucky, enjoining the Defendant Attorney General and such law enforcement, prosecutors, government officers and administrative agencies from enforcing the Amendment against the Plaintiffs and other similarly-situated persons or entities.

PARTIES

9. Plaintiff POM is a Wyoming limited liability company authorized to do business in the Commonwealth of Kentucky, and is the developer, manufacturer, owner, distributor, operator, and possessor of numerous electronic skill-based game devices located within the Commonwealth of Kentucky which have been or will be banned and made illegal by the Amendment.

10. Plaintiff ARKK Properties, LLC is a Kentucky limited liability company with its principal office located at 633 Pasadena Drive, Lexington, KY 40503.

11. Plaintiff B.J. Novelty, Inc. is a Kentucky corporation with its principal office located at 4314 Boron Drive, Covington, KY 41015.

12. Plaintiff The Cue Club, LLC is a Kentucky limited liability company with its principal office located at 633 Pasadena Drive, Lexington, KY 40503.

13. Plaintiff Home Run, LLC is a Kentucky limited liability company operating under the assumed name of Banners with its principal office located at 3933 Gladman Way, Lexington, KY 40514.

14. Plaintiff Federal Post No. 313, The American Legion, Department of Kentucky, Inc. is a Kentucky non-profit corporation with its principal office located at 1794 Bryan Station Road, Lexington, KY 40505.

15. Plaintiff MFPalmInvestments, LLC is a Kentucky limited liability company operating under the assumed name Parlay's Tavern with its principal office located at 1410 #3 Versailles Road, Frankfort, KY 40601.

16. Plaintiffs Vincent Milano and Tanya Milano are residents of the Commonwealth of Kentucky who reside in Florence, Kentucky.

17. Defendant Daniel Cameron is the Attorney General of Kentucky, and in such official capacity is, pursuant to KRS §15.020, the chief law enforcement officer of the Commonwealth of Kentucky, and as a result, is empowered to prosecute persons or entities for violating Kentucky's laws prohibiting gambling and gambling-related activities, including the Amendment. Additionally, pursuant to the Amendment, Defendant Attorney General is empowered to prosecute a civil action to enjoin the operation of any banned skill-based game, to attach and take possession of any banned skill-based game, and to recover a civil penalty against any person who conducts, finances, manages, supervises, directs, or owns any banned skill-based game device. KRS §528.100(3). Defendant Attorney General is well-suited to represent the interests of the Commonwealth of Kentucky and all law enforcement, prosecutors, government officers and administrative agencies throughout the Commonwealth of Kentucky responsible for prosecuting persons or entities for violating Kentucky's laws prohibiting gambling and gambling-related activities, including the Amendment. The Attorney General may be served at the Capitol Building, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601.

JURISDICTION AND VENUE

18. An actual controversy exists between the parties, and the Franklin Circuit Court has jurisdiction over this action pursuant to KRS §§418.040, 418.055, and 23A.010, as well as Civil Rules 57 and 65.

19. Venue is appropriate in the Franklin Circuit Court pursuant to KRS §§452.005, 452.405 and 452.480 as this is an action against a government official in his official capacity whose official acts occur in Franklin County, Kentucky, and whose office is located within Franklin County, Kentucky.

STATEMENT OF FACTS

A. The Amendment

20. The Amendment makes substantial changes to the existing gambling laws found within KRS Chapter 528, including, but not limited to, the following:

(a) It expands and changes the definition of “gambling device” to include mechanical, electronic, computerized, or other game devices where the outcome of the game is determined by any element of skill of the player, except certain legislatively-preferred skill-based game devices expressly excluded from such definition. KRS §528.010(7)(a).

(b) It expressly excludes from the definition of “gambling device” certain legislatively preferred skill-based game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines. KRS §528.010(7)(b).

(c) It expands and changes the definition of “gambling” to include the playing or offering for play any game, contest, or competition that uses any prohibited skill-based gambling device. KRS §528.010(6)(a).

(d) It expressly excludes from the definition of “gambling” the playing or offering for play of certain legislatively-preferred skill-based games, including e-sports competitions, skill-based contests, and the use or operation of any of the skill-based gambling devices expressly excluded from the definition of prohibited gambling devices. KRS §528.010(6)(b).

(e) It imposes a civil penalty of \$25,000 per device against any person who conducts, finances, manages, supervises, directs, or owns a prohibited gambling device intended for use in Kentucky, but also appears to require the device be operated for the civil penalty to be assessed. KRS §528.100(2).

21. The Amendment has an effective date of June 29, 2023; the enforcement of the Amendment against Plaintiffs is therefore imminent.

B. The Burning Barrel Game

22. Plaintiff POM is the developer, manufacturer, owner, distributor, operator, and possessor of numerous electronic skill-based game devices located within the Commonwealth of Kentucky, including those marketed with the trade name “Burning Barrel” (the “Game”).

23. Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC are each possessors and operators of one or more of the Game within the Commonwealth of Kentucky.

24. Plaintiffs Vincent Milano and Tanya Milano have regularly been players of the Game within the Commonwealth of Kentucky and intend to continue to play, but for the Amendment.

25. The Game is an electronic video-style skill-based game where the result and outcome of the Game is based entirely and exclusively upon the skill of the player of the Game, not upon chance, and as a result, skillful players of the Game can win the Game every time they play through the use of their skill.

26. The types of skill-based games and game devices that are now banned and made illegal in the Commonwealth of Kentucky by the Amendment include the Game.

27. It is legal to own, possess, offer for play, or play the Game in the Commonwealth of Kentucky, and but for the Amendment, it would continue to be legal to own, possess, offer for play, or play the Game in the Commonwealth of Kentucky.

COUNT I
(Declaration of Rights – Right of Free Speech under the Kentucky Constitution)

28. The allegations set forth in numerical paragraphs 1-27 above are incorporated herein by reference.

29. The Kentucky Constitution recognizes the freedom of speech. Ky. Const. §1 and §8.

30. The Game is an electronic video-style skill-based game and is not a chance-based game.

31. Electronic video-style skill-based games like the Game are a form of expression and expressive activity which communicate ideas and messaging through literary devices and through features distinctive to the medium and are, therefore, protected speech under the Kentucky Constitution.

32. The expression and expressive activity of the Game is protected speech for the owner or operator of the Game.

33. The receipt of and interaction with the expression and expressive activity of the Game is also protected speech for the consumer or player of the Game.

34. The skill-based game ban set out in the Amendment bans certain types of electronic video-style skill-based games, including the Game.

35. There is no articulable compelling government interest, nor important or substantial government interest, for the banning of such electronic video-style skill-based games, including the Game.

36. The Amendment's ban on such electronic video-style skill-based games, including the Game, is not narrowly tailored to effectuate any purported government interest and is not substantially related to that government interest.

37. The banning of such electronic video-style skill-based games, including the Game, by the Amendment is a ban on free speech and violates Plaintiffs' rights of free speech under §1 and §8 of the Kentucky Constitution.

38. The skill-based game ban set out in the Amendment invidiously and discriminatorily singles out and bans certain types of electronic video-style skill-based game devices, including the Game, while excluding from such ban and invidiously and discriminatorily giving preferred status and treatment to other skill-based game devices, including game devices used in e-sports competitions, game devices used in skill-based contests, and coin-operated amusement machines.

39. The skill-based game ban set out in the Amendment is a content-based ban and restriction upon free speech.

40. There is no articulable compelling government interest, nor important or substantial government interest, for this content-based ban and restriction upon free speech.

41. This content-based ban and restriction upon free speech is not narrowly tailored to effectuate any purported government interest and the invidious, discriminatory and selective content-based ban is not substantially related to that purported government interest.

42. The skill-based game ban set out in the Amendment constitutes an impermissible content-based ban and restriction upon free speech in violation of Plaintiffs' rights of free speech under §1 and §8 of the Kentucky Constitution.

43. The skill-based ban set out in the Amendment is also a speaker-based ban and restriction upon free speech.

44. There is no articulable compelling government interest, nor important or substantial government interest, for this speaker-based ban and restriction upon free speech.

45. This speaker-based ban and restriction upon free speech is not narrowly tailored to effectuate any purported government interest and the invidious, discriminatory and selective speaker-based ban is not substantially related to that purported government interest.

46. The skill-based game ban set out in the Amendment constitutes an impermissible speaker-based ban and restriction upon free speech in violation of Plaintiffs' rights of free speech under §1 and §8 of the Kentucky Constitution.

47. The types of skill-based games and game devices, including the Game, that are invidiously and discriminatorily banned and made illegal by the Amendment are no different in substance and form from the skill-based games and game devices used in e-sport competitions, game devices used in skill-based contests, and coin-operated amusement machines that are excluded from the ban by the Amendment, and, therefore, the ban is underinclusive, arbitrary and capricious, and without any substantial or rational basis.

48. There is no articulable compelling government interest, nor important or substantial government interest, for invidiously and discriminatorily singling out and banning certain types of electronic video-style skill-based game devices, including the Game, while selectively excluding from such ban and giving preferred status and treatment to other skill-based game devices, including game devices used in e-sports competitions, game devices used in skill-based contests, and coin-operated amusement machines, which are no different in substance and form from the banned skill-based games and game devices.

49. Invidiously and discriminatorily singling out and banning certain types of electronic video-style skill-based game devices, including the Game, while selectively excluding from such ban and giving preferred status and treatment to other skill-based game devices, including game devices used in e-sports competitions, game devices used in skill-based contests, and coin-operated amusement machines, which games and game devices are no different in substance and form from the banned skill-based games and game devices, is not narrowly tailored to effectuate any purported government interest and is not substantially related to that purported government interest.

50. The skill-based game ban set out in the Amendment, which arbitrarily, capriciously, invidiously and discriminatorily singles out and bans certain types of electronic video-style skill-based games devices, including the Game, while selectively excluding from such ban and giving preferred status and treatment to other skill-based game devices, including game devices used in e-sports competitions, game devices used in skill-based contests, and coin-operated amusement machines, constitutes an impermissible overbroad and/or under-inclusive ban and restriction upon free speech in violation of Plaintiffs' rights of free speech under §1 and §8 of the Kentucky Constitution.

COUNT II
(Declaration of Rights – Right of Due Process under the Kentucky Constitution)

51. The allegations set forth in numerical paragraphs 1-50 above are incorporated herein by reference.

52. The Kentucky Constitution recognizes the right of due process of law and the protection against the exercise of arbitrary power by the government. Ky. Const. §2.

53. The skill-based game ban set out in the Amendment, arbitrarily and capriciously and without any rational or substantial basis, singles out and bans certain types of electronic video-

style skill-based games and game devices, including the Game, while excluding from such ban and giving preferred status and treatment to other skill-based games and game devices, including skill-based games and game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines, in violation of the Plaintiffs' rights of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution.

54. The skill-based game ban set out in the Amendment, which singles out and bans certain types of electronic video-style skill-based games and game devices, including the Game, while excluding from such ban and giving invidious and discriminatory preferred status and treatment to other skill-based games and game devices, including skill-based games and game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines, is vague, overbroad, and nonsensical, in violation of the Plaintiffs' right of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution.

55. The skill-based game ban set out in the Amendment, which singles out and bans certain types of electronic video-style skill-based games and game devices, including the Game, while excluding from such ban and giving invidious and discriminatory preferred status and treatment to other skill-based games and game devices, including skill-based games and game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines, is unintelligible, is not expressed in language that the people of the Commonwealth of Kentucky upon whom the Amendment is designed and intended to operate or affect can understand, and is not expressed in language sufficient for the courts to deduce the legislative intent and will, all in violation of the Plaintiffs' rights of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution

56. The skill-based game ban set out in the Amendment, which singles out and bans certain types of electronic video-style skill-based games and game devices, including the Game, while excluding from such ban and giving invidious and discriminatory preferred status and treatment to other skill-based games and game devices, including skill-based games and game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines, is over-inclusive and under-inclusive, in violation of the Plaintiffs' rights of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution.

57. The skill-based game ban set out in the Amendment eviscerates centuries of common law jurisprudence enshrined in the Kentucky Revised Statutes providing that skill-based games are not included within the scope of illegal gambling, in violation of the Plaintiffs' rights of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution.

58. The provision of the Amendment found at KRS §528.100(2), which imposes a civil penalty of \$25,000 against any person who conducts, finances, manages, supervises, directs, or owns a gambling device intended for use in the Commonwealth, but also requires that the civil penalty is payable to the county where the device is operated, is vague, overbroad and nonsensical, in violation of the Plaintiffs' right of due process of law and the protection against the exercise of arbitrary power under §2 of the Kentucky Constitution.

COUNT III

(Declaration of Rights – Right of Equal Protection under the Kentucky Constitution)

59. The allegations set forth in numerical paragraphs 1-58 above are incorporated herein by reference.

60. The Kentucky Constitution recognizes the right of equal protection under the law. Ky. Const. §3.

61. The skill-based game ban set out in the Amendment, which arbitrarily and capriciously and without any rational or substantial basis, singles out and bans certain types of electronic video-style skill-based games, including the Game, while excluding from such ban and giving invidious and discriminatory preferred status and treatment to other skill-based games, including skill-based game devices used in e-sports competitions, used in skill-based contests, and coin-operated amusement machines, violates the Plaintiffs' rights of equal protection under the law pursuant to §3 of the Kentucky Constitution.

COUNT IV
(Declaration of Rights – Right Against Special Legislation under the Kentucky Constitution)

62. The allegations set forth in numerical paragraphs 1-61 above are incorporated herein by reference.

63. The Kentucky Constitution prohibits the enactment of any special legislation relating to the punishment of crimes or the remittance of fines, penalties, or forfeitures which legislation arbitrarily or beyond reasonable justification discriminates against some persons or objects and favors other persons or objects. Ky. Const. §59.

64. The skill-based game ban set out in the Amendment, arbitrarily or beyond reasonable justification, discriminates against Plaintiffs and the Game and favors others and their skill-based games and devices, in that it invidiously and discriminatorily singles out and bans certain types of electronic video-style skill-based games and devices, including the Game, while excluding from such ban and giving invidious and discriminatory preferred status and treatment to other skill-based games and devices, including skill-based games and devices used in e-sport

competitions, used in skill-based contests, and coin-operated amusement machines, in violation of the Plaintiffs' right against special legislation pursuant to §59 of the Kentucky Constitution.

COUNT V
(Declaration of Rights – Right Against the Impairment of Contracts under the Kentucky Constitution)

65. The allegations set forth in numerical paragraphs 1-64 above are incorporated herein by reference.

66. The Kentucky Constitution prohibits the enactment of any law impairing a person's rights and obligations under existing contracts. Ky. Const. §19.

67. Plaintiff POM has existing contractual agreements with numerous persons and entities for the placement and operation of its Games at locations throughout Kentucky under the control of such persons and entities, which contractual agreements will be impaired by the Amendment.

68. The skill-based game ban set out in the Amendment, which bans the Game and makes it illegal, impairs Plaintiff POM's rights under its aforesaid existing contractual agreements in violation of the Plaintiff's right against the impairment of contracts pursuant to §19 of the Kentucky Constitution.

COUNT VI
(Declaration of Rights – Right Against the Taking of Property under the Kentucky Constitution)

69. The allegations set forth in numerical paragraphs 1-68 above are incorporated herein by reference.

70. The Kentucky Constitution prohibits the taking or impairment of property by the government without just compensation. Ky. Const. §13.

71. Plaintiff POM has a property interest in its Game devices and in its existing contractual agreements with others to place and operate such Game devices at locations throughout Kentucky.

72. Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC have a property interest in their existing contractual agreements with others to place and operate such Game devices at locations throughout Kentucky.

73. The skill-based game ban set out in the Amendment, which bans and makes illegal the Game, constitutes a taking of Plaintiff POM's property interest in those Game devices that are located in Kentucky, and a taking of the property interest that Plaintiffs POM, ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., and MFPalmInvestments, LLC each have in the existing contractual agreements they have with others to place and operate such Game devices at locations throughout Kentucky, all in violation of their rights against the taking or impairment of their property without just compensation pursuant to §13 of the Kentucky Constitution.

COUNT VII
(Declaration of Rights – Separation of Powers under the Kentucky Constitution)

74. The allegations set forth in numerical paragraphs 1-73 above are incorporated herein by reference.

75. The Kentucky Constitution prohibits unintelligible legislation. Ky. Const. §§ 27, 28 and 29.

76. The Kentucky Constitution prohibits the delegation of the power of one department of government to another. Ky. Const. §§ 27, 28 and 29.

77. The Amendment violates the prohibitions of §§ 27, 28 and 29 of the Kentucky Constitution.

COUNT VIII
(Injunctive Relief)

78. The allegations set forth in numerical paragraphs 1-77 above are incorporated herein by reference.

79. Presently skill-based games, including the Game, are legal and lawful for possession, use, and play within the Commonwealth of Kentucky.

80. Upon the effective date of the Amendment, such skill-based games, including the Game, will be illegal and banned.

81. Plaintiffs have been and will continue to be irreparably harmed by the continuing violation of their constitutional rights during the pendency of this litigation and Plaintiffs have no adequate remedy at law for such continuing constitutional violation.

82. Plaintiffs are likely to succeed on the merits of this action.

83. Defendant will not be harmed if a temporary and/or permanent injunction is granted.

84. The public interest in the protection of the Kentucky Constitution's guarantees of free speech, due process, and equal protection, as well as the guarantees against special legislation, the impairment of contracts, and the taking of property without just compensation, and other constitutional rights, is served by the issuance of a preliminary and permanent injunction.

85. Temporary injunctive relief is necessary to preserve the *status quo ante* pending litigation.

86. Permanent injunctive relief is necessary to permanently protect Plaintiffs' constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ARKK Properties, LLC, B.J. Novelty, Inc., The Cue Club, LLC, Home Run, LLC, Federal Post No. 313, The American Legion, Department of Kentucky, Inc., MFPalmInvestments, LLC, Vincent Milano, Tanya Milano, and POM of Kentucky, LLC, pray as follows:

1. For a declaration of rights that the Amendment to KRS Chapter 528 is unconstitutional in violation of Plaintiffs' rights of freedom of speech, due process of law, and equal protection under the law, as well as rights against special legislation, impairment of contracts, the taking of property without just compensation, and the separation of powers, all pursuant to Kentucky Constitution §§1, 8, 2, 3, 59, 19, 13, 27, 28, and 29 respectively, and other constitutional rights guaranteed by the Kentucky Constitution, and holding such Amendment to be null, void and of no legal force or effect;

2. For a temporary and permanent injunction against the Defendant Daniel Cameron, as Attorney General of Kentucky, and all law enforcement, prosecutors, government officers and administrative agencies, enjoining said Defendant and said law enforcement, prosecutors, government officers and administrative agencies from enforcing the Amendment against Plaintiffs and other similarly-situated persons or entities; and

3. For any and all other appropriate relief to which Plaintiffs may be entitled, whether in law or in equity.

Respectfully submitted,

TRUE GUARNIERI AYER, LLP

BY: /s/ J. Guthrie True
J. Guthrie True
Richard M. Guarnieri
124 Clinton Street
Frankfort, KY 40601
Telephone: (502) 605-9900
Facsimile: (502) 605-9901
gtrue@truelawky.com
rguar@truelawky.com

DINSMORE & SHOHL LLP

BY: /s/ R. Kenyon Meyer
R. Kenyon Meyer
101 S. Fifth St., Suite 2500
Louisville, KY 40202
Telephone: (502) 540-2325
Facsimile: (502) 585-2207
kenyon.meyer@dinsmore.com

M. Evan Buckley
100 West Main Street, Suite 900
Lexington, KY 40507
Telephone: (859) 425-1000
Facsimile: (859) 425-1099
evan.buckley@dinsmore.com

Counsel for Plaintiffs

VERIFICATION

The undersigned, Wes Jackson, swears or affirms that he is a Member of the Plaintiffs ARKK Properties, LLC and The Cue Club, LLC, that he has reviewed the Complaint, that he believes that the allegations within the Complaint of which he has personal knowledge to be true, and that he believes that the allegations within the Complaint of which he does not have personal knowledge to be true based on specified information and belief.

Wes Jackson

STATE OF KENTUCKY
COUNTY OF FRANKLIN

The foregoing Verified Complaint was subscribed, sworn to and acknowledged before me by Wes Jackson on this the _____ day of March, 2023.

Notary Public

My Commission Expires: _____