

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

JAMES STEELE, et al.	§	IN THE DISTRICT COURT OF
<i>Plaintiffs,</i>	§	
	§	
V.	§	
	§	TRAVIS COUNTY, TEXAS
GTECH CORPORATION,	§	
<i>Defendant.</i>	§	
	§	201 ST JUDICIAL DISTRICT
	§	
	§	
	§	

PLAINTIFFS' FIFTH SET OF DISCOVERY TO DEFENDANT GTECH CORPORATION

To: Defendant, GTECH Corporation, by and through its attorneys of record, Kenneth E. Broughton and Francisco Rivero, REED SMITH, LLP, 811 Main Street, Suite 1700, Houston, Texas 77002-6110.

Plaintiffs, JAMES STEELE, et al., serve these interrogatories, requests for production, and requests for admission on Defendant, as allowed by Texas Rules of Civil Procedure 197, 196, and 198. Defendant must answer each interrogatory separately, fully, in writing, and under oath, within 30 days of service. Defendant must also produce all requested documents (as they are kept in the ordinary course of business or organized and labeled to correspond with categories in each request) for inspection and copying, not more than 30 days after service, at 3000 Wesleyan Street, Suite 380, Houston, Texas 77027. Finally, Defendant must admit or deny each request for admission, in writing, within 30 days after service.

Respectfully submitted,

LAGARDE LAW FIRM, P.C.



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CO-COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause in accordance with Texas Rules of Civil Procedure on the 31st day of July, 2015.

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**COUNSEL FOR INTERVENORS,
WILEY-BEAMON, ET AL.**



RICHARD L. LAGARDE

INSTRUCTIONS

For any requested information about a document that no longer exists or cannot be located, identify the document, state how and when it passed out of existence or when it could no longer be located, and give the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss, and identify each document evidencing the existence or nonexistence of each document that cannot be located.

DEFINITIONS

The following definitions shall have the following meanings, unless the context requires otherwise:

1. "Plaintiff" or "defendant," as well as a party's full or abbreviated name or a pronoun referring to a party, means the party, and when applicable, the party's agents, representatives, officers, directors, employees, partners, corporate agents, subsidiaries, affiliates, or any other person acting in concert with the party or under the party's control, whether directly or indirectly, including any attorney.
2. "You" or "your" means Defendant, GTECH CORPORATION, your successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, and all other persons acting on behalf of Defendant or their successors, predecessors, divisions, and subsidiaries.
3. "Communication" means any disclosure, transfer, or exchange of information or opinion, however made.
4. "Document" means all written, typed, or printed matter and all magnetic, electronic, or other records or documentation of any kind or description in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys, or other agents, whether or not prepared by you, that constitute or contain matters relevant to the subject matter of the action. "Document" includes, but is not limited to, the following: letters, reports, charts, diagrams, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations or conferences, interoffice communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, faxes, invoices, tape recordings, computer printouts, drafts, résumés, logs, and worksheets.

5. "Electronic or magnetic data" means electronic information that is stored in a medium from which it can be retrieved and examined. The term refers to the original (or identical duplicate when the original is not available) and any other copies of the data that may have attached comments, notes, marks, or highlighting of any kind. Electronic or magnetic data includes, but is not limited to, the following: computer programs; operating systems; computer activity logs; programming notes or instructions; e-mail receipts, messages, or transmissions; output resulting from the use of any software program, including word-processing documents, spreadsheets, database files, charts, graphs, and outlines; metadata; PIF and PDF files; batch files; deleted files; temporary files; Internet- or web-browser-generated information stored in textual, graphical, or audio format, including history files, caches, and cookies; {continue listing examples as necessary}; and any miscellaneous files or file fragments. Electronic or magnetic data includes any items stored on magnetic, optical, digital, or other electronic-storage media, such as hard drives, floppy disks, CD-ROMs, DVDs, tapes, smart cards, integrated-circuit cards (e.g., SIM cards), removable media (e.g., Zip drives, Jaz cartridges), microfiche, punched cards, etc. Electronic or magnetic data also includes the file, folder, tabs, containers, and labels attached to or associated with any physical storage device with each original or copy.
6. "Fun 5's" refers to the scratch-off game referred to by the Texas Lottery as Instant Game # 1592.
7. "Possession, custody, or control" of an item means that the person either has physical possession of the item or has a right to possession equal or superior to that of the person who has physical possession of the item.
8. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.
9. "Mobile device" means any cellular telephone, satellite telephone, pager, personal digital assistant, handheld computer, electronic rolodex, walkie-talkie, or any combination of these devices.
10. "Non-privileged" means documents not protected by the attorney-client privilege or the attorney work-product privilege as those privileges are currently defined by Texas law.
11. "Contract" means an oral or written agreement.
12. "Identify" or "describe," when referring to a person, means you must state the following:

- a. The full name.
 - b. The present or last known residential address and residential telephone number.
 - c. The present or last known office address and office telephone number.
 - d. The occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular interrogatory.
 - e. In the case of any entity, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory and the officer who is responsible for supervising that officer or employee.
13. "Identify" or "describe," when referring to a document, means you must state the following:
- a. The nature of the document (e.g., letter, handwritten note).
 - b. The title or heading that appears on the document.
 - c. The date of the document and the date of each addendum, supplement, or other addition or change.
 - d. The identities of the author, signer of the document, and person on whose behalf or at whose request or direction the document was prepared or delivered.
 - e. The present location of the document and the name, address, position or title, and telephone number of the person or persons having custody of the document.

PLAINTIFFS' FIFTH SET OF DISCOVERY

Defendant is expressly requested to comply with the requirements of Tex. R. Civ. P. 193.3 (a).

1. REQUEST FOR PRODUCTION: Produce all Communications to or from Jay Gendron from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592.

RESPONSE:

2. REQUEST FOR PRODUCTION: Produce all Communications to or from Joseph Lapinski from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592.

RESPONSE:

3. REQUEST FOR PRODUCTION: Produce all Communications to or from Thomas Stanek from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592.

RESPONSE:

4. REQUEST FOR PRODUCTION: Produce all Communications to or from Brian Finnigan from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592.

RESPONSE:

5. REQUEST FOR PRODUCTION: Produce all Communications to or from GTECH Corporation's Regional Sales Managers in Texas from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592. This request is meant to include but not be limited to Communications to or from George Sanchez and/or Linda Sanderson.

RESPONSE:

6. REQUEST FOR PRODUCTION: Produce all Communications to or from GTECH Corporation's District Sales Managers in Texas from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592. This request is meant to include but not be limited to Communications to or from:

Pamela Batten;
Damon Conrad;

Joey Parker;
Barbara Broadus;
Stephen McCurley;
Robert Hebert;
Camille Moore;
Jesse Carrasco;
Terrance Kearns;
Terri Rose;
Felipe Elizondo; and/or
Charles Howard.

RESPONSE:

7. REQUEST FOR PRODUCTION: Produce all Communications to or from GTECH Corporation's Senior Lottery Sales Representatives in Texas from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592. This request is meant to include but not be limited to the Senior Lottery Sales Representatives whose names are listed on GTECH000008 – GTECH000016.

RESPONSE:

8. REQUEST FOR PRODUCTION: Produce all Communications to or from GTECH Corporation's Lottery Sales Representatives in Texas from September 1, 2014 through October 30, 2014 that refer to or relate to the Fun 5's game also known as Texas Lottery Instant Game No. 1592. This request is meant to include but not be limited to the Lottery Sales Representatives whose names are listed on GTECH000008– GTECH000016.

RESPONSE:

9. REQUEST FOR ADMISSION: Admit that one or more documents or other pieces of tangible evidence responsive to the above-listed Requests for Production has been lost, destroyed, or cannot be found.

RESPONSE:

10. REQUEST FOR ADMISSION: Admit that your agent, Corporation Service Company, received the letter attached as Exhibit "A" on October 20, 2014.

RESPONSE:

11. REQUEST FOR ADMISSION: Admit that your agent, Corporation Service Company, received the letter attached as Exhibit "B" on October 28, 2014.

RESPONSE:

12. INTERROGATORY: Identify each and every document or other piece of tangible evidence responsive to the above-listed Requests for Production that has been lost, destroyed, or cannot be found. For each document identified, state whether any other copy of it can be accounted for.

RESPONSE:

13. REQUEST FOR PRODUCTION: All written policies, procedures and/or guidelines related to GTECH Corporation's computers, computer systems, electronic data and electronic media that refer to or reflect any of the following:
- a. Backup tape rotation schedules;
 - b. Electronic data retention, preservation and destruction schedules;
 - c. Employee use policies of company computers, data, and other technology;
 - d. File naming conventions and standards;
 - e. Password, encryption and other security protocols;
 - f. Diskette, CD, DVD, and other removable media labeling standards;
 - g. Email storage conventions (i.e., limitations on mailbox sizes/storage locations, schedule and logs for storage, etc.);
 - h. Electronic media deployment, allocation and maintenance procedures for new employees, current employees or departed employees;
 - i. Software and hardware upgrades (including patches) from September 1, 2014 through October 30, 2014; and,
 - j. Personal or home computer usage for work-related activities.

RESPONSE:

14. REQUEST FOR PRODUCTION: Organization charts for all Information Technology or Information Services departments or divisions from September 1, 2014 through October 30, 2014.

RESPONSE:

15. REQUEST FOR PRODUCTION: Backup tapes containing email and other electronic data related to this action from September 1, 2014 through October 30, 2014.

RESPONSE:

16. REQUEST FOR PRODUCTION: Exact copies (i.e., bit-by-bit mirror image copies) of all hard drives on the desktop computers, laptop computers, notebook computers, personal digital assistant computers, servers, and other electronic media related to this action from September 1, 2014 through October 30, 2014.

RESPONSE:

17. REQUEST FOR PRODUCTION: Exact copies of all relevant disks, CDs, DVDs and other removable media related to this action from September 1, 2014 through October 30, 2014.

RESPONSE:

Richard L. LaGarde
Board Certified in Civil Trial Law and
Personal Injury Trial Law by the Texas
Board of Legal Specialization. Licensed in
Texas, Louisiana, and Florida.

Mary Ellis LaGarde
Licensed in Texas and Florida.

Kristina M. Hernandez
Licensed in Texas.

Jason M. Welborn, Of Counsel
Licensed in Louisiana.



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Fax: (337) 504-7706

October 16, 2014

Certified Mail RRR 7006 0100 0001 5523 2686

Texas Lottery Commission
c/o Gary Grief, Executive Director
611 E. 6th Street
Austin, TX 78701

Certified Mail RRR 7006 0100 0001 5523 2679

GTECH Corporation
c/o Corporation Service Company, Registered Agent
211 E. 7th Street, Suite 620
Austin, TX 78701

Re: Cause No. ____ ; Dawn Nettles v. The Texas Lottery Commission and GTech Corporation;
In the ____ Judicial District Court of Travis County, Texas.

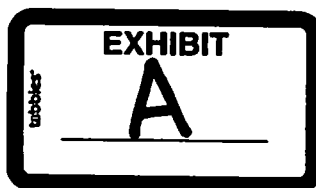
To Whom It May Concern:

Enclosed please find a copy of the Verified Petition to Take Deposition Before Suit filed in the
above referenced court.

Should you have any questions or concerns, do not hesitate to contact our office.

Sincerely,

Amanda Zubire
Legal Assistant to Richard L. LaGarde



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GoTech Corporation
 c/o Corporation Service Co., Registered Agent
 201 E. 7th Street, Ste. 620
 Austin, TX 78701

COMPLETE THIS SECTION ON DELIVERY

A. Signature:  Agent
 Addressee

B. Received by (Printed Name): C SAIZAP C. Date of Delivery: 10-20-14

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

10 - 22 - 2014
 Agent

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7006 0100 0001 5523 2679
 (Transfer from service)

PS Form 3811, February 2004 Domestic Return Receipt 102585-02-14-15-0

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LeGarde Law Firm, P.C.
3000 Westway Street
Suite 300
Houston, Texas 77027
(713) 939-0660

10/16/14

1411: Pet. to take Dep. Before Suit

Richard L. LaGarde
Board Certified in Civil Trial Law and
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Licensed in Texas and Florida.

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Lafayette, Louisiana 70501
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Fax: (337) 504-7706

October 23, 2014

Via CMRRR 7006 0100 0001 5523 2733

Texas Lottery Commission
c/o Gary Grief, Executive Director
611 E. 6th Street
Austin, TX 78701

Via CMRRR 7006 0100 0001 5523 2730

GTECH Corporation
c/o Corporation Service Company, Registered Agent
211 E. 7th Street, Suite 620
Austin, TX 78701

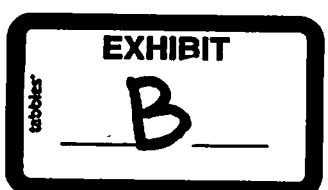
Re: Cause No. D-1-GN-14-004345; *Dawn Nettles v. The Texas Lottery Commission and GTECH Corporation*; In the 345th Judicial District Court of Travis County, Texas.

To Whom It May Concern:

This is to advise you that LaGarde Law Firm and Sternberg & Associates have been retained by over 300 Texas consumers who purchased Fun 5's scratch-off tickets from the Texas Lottery. Most of them have tickets that revealed a Money Bag symbol which should have been a winning ticket under the plain language printed on the game cards. Some of them have tickets that revealed three "5" symbols in a row but did not also reveal a Money Bag symbol as required by the official rules of the game published in the Texas Register.

Demand for Preservation of Documents and Electronically Stored Information

This letter is sent to inform you of our intent to seek all relevant information including electronic information during the course of the discovery process, and to put you on notice of your obligation to preserve all such evidence. Under Texas law, once a party knows that an action has been brought, or reasonably should know that there is a substantial chance that a claim will be filed, that party has a duty to preserve evidence in the party's possession and control that will be relevant and material to the claim. *Wal-Mart Stores, Inc. v. Johnson*, 106 S.W.3d 718, 722 (Tex. 2003).



You should anticipate that much of the information which may be stored on your current and former computer systems and other media devices, (including digital or tape video recordings, audio recordings, digital assistants, voice-messaging systems, online repositories and cell phones) may be subject to disclosure or responsive to potential discovery in this matter. We demand that you preserve all such documents, tangible things, videos and electronically stored information potentially relevant to the issues related to the Fun 5's Game.

Suspension of Routine Destruction

You are directed to immediately initiate a hold for potentially relevant documents, and tangible things, and to act diligently and in good faith to secure and audit compliance with this suspension. You are requested to identify and modify or suspend features of your information systems and devices that, in routine operation, operate to cause the destruction of the potentially relevant items.

We request that you comply with these legal obligations and preserve all potentially relevant paper, electronic media, or magnetic documents and information. For evidence preservation purposes, it is necessary that electronic data/media continue to be preserved in a format that maintains metadata, maintains the ability to search files, and allows access to formulas (such as those used in spreadsheets). For instance, it is not acceptable to convert word processing document files into "TIFF" files, which maintain images of the files, but do not preserve hidden data.


Please confirm that you have taken the necessary steps outlined in this letter to preserve any and all relevant documents and things. If you have not undertaken the steps outlined above, or have taken other actions, please describe what you have done to preserve the potentially relevant evidence.

Finally, please direct all correspondence and communications regarding this matter to our office or Mr. Sternberg's office. Thank you for your cooperation.

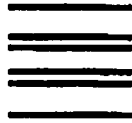
Sincerely,



Richard L. LaGarde
LAGARDE LAW FIRM, P.C.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>C FAIZAN</u> C. Date of Delivery <u>10-28-14</u></p>	
<p>1. Article Addressed to:</p> <p><i>GTECH Corporation olo Corporation Service Co., Registered Agent 211 E. 7th Street, Ste. 620 Austin, TX. 78701</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>10-31-2014</i></p>	
<p>2. Article Number (Transfer from service tag)</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>7006 0100 0001 5523 2730</p>		

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Suite 200
Houston, Texas 77027
(713) 800-0600

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1411 WOLFANS: LTV RE PRESERVATION OF EVIDENCE