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10 Attorneys for Plaintiffs and Intervenors
11 (other than El Camino Boosters)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VIDEO GAMING TECHNOLOGIES, INC.,
dba, VGT, Inc., a Tennessee Corporation;
UNITED CEREBRAL PALSY OF GREATER
SACRAMENTO, a California Non-Profit
Corporation; WIND Youth Services, a
California Non-Profit Corporation; ROBERT
FOSS, an individual; JOAN SEBASTIANI, an
individual,

Plaintiff,
vs.

BUREAU OF GAMBLING CONTROL, a law
enforcement division of the California
Department of Justice; MATHEW J.
CAMPOY, in his official capacity as the Acting
Chief of the Bureau of Gambling Control,

Defendant.

and

CAPITAL BINGO, INC., a California
Corporation; HAGGIN GRANT POST NO.
521, THE AMERICAN LEGION
DEPARTMENT OF CALIFORNIA, a
California Non-Profit Corporation; CASA
ROBLE HIGH SCHOOL RAMSEmen, INC., a
California Non-Profit Corporation; MARY
BROWN, an individual,

Intervenors

Case No: 2:08-CV-01241 JAM EFB

**TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

ASSIGNED FOR ALL PURPOSES TO:
HON. JOHN A. MENDEZ

Date:
Time:
Courtroom:

1 This matter is before this Court on Plaintiffs' Motion for Temporary Restraining Order
2 and to Show Cause Re Preliminary Injunction ("TRO Motion"), following the Order by the Court
3 of Appeal vacating the previously-issued preliminary injunction and remanding to this Court.
4 The Court, having reviewed and fully considered all of the evidence and briefs submitted and
5 oral arguments made before the Court issued its Order Granting the Preliminary Injunction and
6 after having reviewed Plaintiffs' TRO Motion and its supporting papers, the Court finds as
7 follows:

8 (1) The Court has jurisdiction to adjudicate this matter. The proscriptions of Title II of
9 the Americans with Disabilities Act, 42 U.S.C. §§ 12131-65, apply to state laws and
10 ordinances. See Bay Area Addiction Research and Treatment, Inc. v. City of Antioch,
11 179 F.3d 725, 730-32 (9th Cir. 1999); see also South Dakota Farm Bureau v. Hazeltine,
12 202 F.Supp.2d 1020 (D.S.D. 2002); Crowder v. Kitagawa, 81 F.3d 1480, 1483 (9th Cir. 1986).

13 (2) Plaintiffs have a likelihood of success on the merits of their claims because it
14 appears that to preclude the use of electronic bingo machines discriminates against disabled
15 individuals in violation of the federal Americans with Disabilities Act.

16 (3) The balance of hardships weighs in favor of Plaintiffs. If injunctive relief is not
17 granted and the Bureau seizes the electronic bingo machines at issue and shuts down bingo
18 facilities using electronic bingo machines, Plaintiffs will be irreparably harmed as follows: the
19 charitable organization Plaintiffs would suffer a severe reduction in revenue and a resulting
20 decrease in their ability to deliver social services; Plaintiff Capital Bingo would suffer a
21 dramatic loss of income and the individual disabled Plaintiffs would lose their freedom to
22 engage in this form of entertainment on an equal footing with their non-disabled peers.

23 (4) No imminent harm will befall the defendants or the citizens of California if
24 injunctive relief is granted and the defendants are not permitted to immediately enforce the
25 provisions of S.B. 1369 restricting the use of electronic bingo devices.

26 (5) The public interest favors granting injunctive relief and maintaining the status quo
27 to allow bingo facilities to continue to provide revenue to charitable organizations. It is further
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1 in the public interest to ensure that disabled persons have access to the same services as
2 non-disabled persons pending resolution of the merits of Plaintiffs' case.

3 Accordingly, IT IS HEREBY ORDERED that a temporary restraining order is entered,
4 effective as of April 6, 2009, restraining and enjoining Defendants and any other person and/or
5 entity or agency acting in concert or participation with them (including, but not limited to, the
6 California Attorney General and any other division or bureau of the California Department of
7 Justice and the Sacramento County Sheriff), from taking enforcement action in any manner
8 (including, but not limited to, seizing the electronic bingo machines at issue in this case,
9 commencing criminal prosecutions, and halting the play of charitable bingo through electronic
10 bingo machines) that were in operation on May 24, 2009. No bond is required.

11 IT IS FURTHER ORDERED that Defendants shall appear before Judge John A.
12 Mendez, in Courtroom 6, of the United States District Court, Eastern District of California,
13 located at 501 I Street, Sacramento, CA, on April 14, 2009 at 1:30 P.M., or as soon thereafter
14 as the matter may be heard, and show cause why a preliminary injunction should not issue
15 during the pendency of this action restraining and enjoining Defendants and any other person
16 and/or entity or agency acting in concert or participation with them (including, but not limited to,
17 the California Attorney General and any other division or bureau of the California Department
18 of Justice and the Sacramento County Sheriff), from taking enforcement action in any manner
19 (including, but not limited to, seizing the electronic bingo machines at issue in this case,
20 commencing criminal prosecutions, and halting the play of charitable bingo through electronic
21 bingo machines) that were in operation on May 24, 2008. Any response or opposition to this
22 Order to Show Cause shall be filed no later than April 10, 2009. Any reply brief shall be filed
23 no later than April 13, 2009.

24 Memoranda of law in opposition to or in support of this Order to Show Cause, and reply
25 memoranda are limited to fifteen (15) pages.

26 IT IS SO ORDERED.

27
28 Dated: April 6, 2009

/s/ John A. Mendez
U. S. DISTRICT JUDGE