

**IN THE SUPREME COURT OF PENNSYLVANIA**

SANDS BETHWORKS GAMING, LLC :

*Petitioner,* :

v. :

Docket No.: 216 MM 2017

PENNSYLVANIA DEPARTMENT OF :  
REVENUE; C. DANIEL HASSELL IN HIS :  
OFFICIAL CAPACITY AS SECRETARY OF :  
THE PENNSYLVANIA DEPARTMENT OF :  
REVENUE; and THE PENNSYLVANIA :  
GAMING CONTROL BOARD :

*Respondents.* :

**PETITIONER’S REPLY TO NEW MATTER OF RESPONDENTS  
PENNSYLVANIA DEPARTMENT OF REVENUE; C. DANIEL HASSELL  
IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT  
OF REVENUE; AND THE PENNSYLVANIA GAMING CONTROL  
BOARD**

Petitioner Sands Bethworks Gaming, LLC, by counsel, hereby files this  
Reply to Respondents’ New Matter to the Petition for Review:

75. Denied. The averments of paragraph 75 state conclusions of law not  
assertions of fact. Therefore, no response is required under the Pennsylvania Rules  
of Civil Procedure. The averments are denied nonetheless. This Court has  
exclusive jurisdiction “to hear any challenge to or to render a declaratory judgment  
concerning the constitutionality” of the Pennsylvania Gaming Act. 4 Pa. C.S.  
§ 1904; *see DePaul v. Commonwealth*, 969 A.2d 536, 538 n.1 (Pa. 2009);  
*Pennsylvania Against Gambling Expansion Fund, Inc. v. Commonwealth*, 877

A.2d 383, 392 (Pa. 2007). To the extent needed, and if Respondents continue to pursue this issue, this matter could be further addressed in the parties' briefing on the merits.

76. Denied. The averments of paragraph 76 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. Petitioner has been paying the unconstitutional tax since January 1, 2018, the challenged provisions have been in effect since that date, and its claims are ripe. To the extent needed, and if Respondents continue to pursue this issue, this matter could be further addressed in the parties' briefing on the merits.

77. Denied. The averments of paragraph 77 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. This matter is being addressed in the parties' merits briefing.

78. Denied. The averments of paragraph 78 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. This matter is being addressed in the parties' merits briefing.

79. Denied. The averments of paragraph 79 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless.

80. Denied. The averments of paragraph 80 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. This matter is being addressed in the parties' merits briefing.

81. Denied. The averments of paragraph 81 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. The Eleventh Amendment relates to suits in federal court against States. It does not apply to claims in this Court. To the extent needed, and if Respondents continue to pursue this issue, this matter could be further addressed in the parties' briefing on the merits.

82. Denied. The averments of paragraph 82 state conclusions of law not assertions of fact. Therefore, no response is required under the Pennsylvania Rules of Civil Procedure. The averments are denied nonetheless. The Tax Injunction Act relates to suits in federal court. It does not apply to claims in this Court. To the extent needed, and if Respondents continue to pursue this issue, this matter could be further addressed in the parties' briefing on the merits.

WHEREFORE, Petitioner Sands Bethworks Gaming, LLC demands judgment in its favor on its claim for declaratory judgment and injunctive relief.

Dated: February 23, 2018

Respectfully submitted,

By: /s/ Ilana Eisenstein

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**PROOF OF SERVICE**

I hereby certify that this 23rd day of February 2018, I have served the foregoing Reply to New Matter via electronic filing upon the persons indicated below:

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