UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTEENTH REGION

CHICKASAW NATION operating
WINSTAR WORLD CASINO

and **Cases 17-CA-25031**
17-CA-25121

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS LOCAL 886,
affiliated with THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

ANSWER TO AMENDED CONSOLIDATED COMPLAINT

1. The Chickasaw Nation is a federally-recognized Indian Tribe (*see* 75 Fed. Reg. 60,810 (Oct. 1, 2010)), with the seat of its government located in Ada, Oklahoma. The Chickasaw Nation is organized under the Chickasaw Constitution. The Nation is a party to the 1830 Treaty of Dancing Rabbit Creek, Act of Sept. 30, 1830, 7 Stat. 333; the 1832 Treaty of Pontitock Creek, 7 Stat. 381; the 1855 Treaty of Washington, Act of June 22, 1855, 11 Stat. 611; and the 1866 Treaty of Washington, Act of Apr. 28, 1866, 14 Stat. 769.

2. The Nation's government is comprised of three departments: Legislative, Executive and Judicial, Chickasaw Const., art. V, § 1, which govern within the territory described in the Constitution. *Id.*, pmbl. (hereafter the Nation's Treaty Territory).

3. The Chickasaw Nation does not "do business as" Winstar World Casino ("Winstar"). Winstar is a location and the name of a gaming facility situated in Thackerville, Oklahoma, within the Nation's Treaty Territory, on lands held in trust by the United States for the benefit of the Chickasaw Nation, and operated by the Chickasaw Nation to raise revenues for the provision of essential governmental functions by the Chickasaw Nation.

4. The Chickasaw Nation regulates, operates and manages all activities at the Winstar location in the exercise of the Nation's Treaty right of self-government and inherent sovereign authority to engage in economic activity, and in accordance with the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701-2721, the Chickasaw Nation – State of Oklahoma Gaming Compact ("Compact"), and the Nation's laws. The Winstar location is licensed by the Chickasaw Nation's Office of the Gaming Commissioner ("CNOGC"), as required by the Chickasaw Nation Public Gaming Act of 1994 ("Public Gaming Act"), Chickasaw Nation Code ("CNC") § 3-3306(9)(a), and IGRA, 25 U.S.C. §§ 2710(b)(1)(B), 2710(d)(1)(A). All persons working at the Winstar location are employees of the Chickasaw Nation, and are subject to personnel rules and regulations enacted by the Nation's Legislature. *See* CNC §§ 2-550.01 to 2-550.04 ("Personnel Code"). The Chickasaw Nation conducts gaming at the Winstar location in the exercise of its sovereign authority as a federally-recognized tribal government. The application of the NLRA to those activities is barred by the terms of the NLRA and by the Nation's Treaty rights, inherent sovereign authority, and other federal law.

5. The Chickasaw Nation admits that the Amended Consolidated Complaint is based on charges filed by the International Brotherhood of Teamsters Local 886, affiliated with the International Brotherhood of Teamsters (Union), but denies that those charges are well founded. The Chickasaw Nation admits that the Amended Consolidated Complaint purports to be issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. and Sections 102.15 and 102.17 of the Rules and Regulations of the National Labor Relations Board, but denies that the Board possesses jurisdiction or authority to issue such charges against the Chickasaw Nation under that Act and the Board's Rules and Regulations.

6. The Chickasaw Nation admits that the events described in Paragraphs 1(a) through 1(e) of the Amended Consolidated Complaint occurred as alleged.

7. With respect to Paragraph 2(a) of the Amended Consolidated Complaint, the Chickasaw Nation denies that it has been engaged in "a commercial gaming and entertainment establishment" on trust land in Thackerville, Oklahoma. The Chickasaw Nation's activities at the Winstar location are governmental activities undertaken to raise revenues for the provision of essential governmental services, and the application of the NLRA to those activities is barred by the terms of the NLRA and by the Nation's Treaty rights, inherent sovereign authority, and other federal law.

8. With respect to Paragraph 2(b) of the Amended Consolidated Complaint, the Chickasaw Nation denies that it has been engaged in "business operations" at the Winstar location. The Chickasaw Nation's activities at the Winstar location are governmental activities undertaken to raise revenues for the provision of essential governmental services, and the application of the NLRA to those activities is barred by the terms of the NLRA and by the Nation's Treaty rights, inherent sovereign authority, and other federal law. The Chickasaw Nation admits that at its Winstar location the Chickasaw Nation has purchased and received goods valued in excess of $50,000 directly from points outside the Nation's Treaty Territory and outside the State of Oklahoma.

9. With respect to Paragraph 2(c) of the Amended Consolidated Complaint, the Chickasaw Nation admits that its operations at the Winstar location derived gross revenues in excess of $500,000, but denies that the activities at the Winstar location are "business operations." The Chickasaw Nation's activities at the Winstar location are governmental activities undertaken to raise revenues for the provision of essential governmental services, and

the application of the NLRA to those activities is barred by the terms of the NLRA and by the Nation's Treaty rights, inherent sovereign authority, and other federal law.

10. With respect to Paragraph 2(d) of the Amended Consolidated Complaint, the Chickasaw Nation denies that it has been an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the National Labor Relations Act. The Chickasaw Nation's activities at the Winstar location are governmental activities undertaken to raise revenues for the provision of essential governmental services, and the application of the NLRA to those activities is barred by the terms of the NLRA and by the Nation's Treaty rights, inherent sovereign authority, and other federal law. Furthermore, the Nation is not a covered employer under the NLRA, as Section 2(2) of the Act and Sections 102.1 and 102.7 of the Rules and Regulations of the National Labor Relations Board confirm.

11. With respect to Paragraph 3 of the Amended Consolidated Complaint, the Chickasaw Nation admits that at all material times the Union has been a labor organization within the meaning of Section 2(5) of the Act.

12. With respect to Paragraph 4 of the Amended Consolidated Complaint, the Chickasaw Nation admits that at all material times Bill Foley held the position of Shift Manager with the Chickasaw Nation but denies that Mr. Foley has been a "supervisor" within the meaning of Section 2(11) of the NLRA or an agent within the meaning of Section 2(13) of the NLRA, and denies that the National Labor Relations Act applies to the Chickasaw Nation.

13. With respect to Paragraph 5 of the Amended Consolidated Complaint, the Chickasaw Nation admits that Mr. Foley informed Chickasaw Nation employees at the Winstar location that the National Labor Relations Act does not apply to the Chickasaw Nation as a

sovereign Indian tribal government. The Chickasaw Nation asserts that the NLRA does not apply to the Chickasaw Nation.

14. With respect to Paragraph 6 of the Amended Consolidated Complaint, the Chickasaw Nation denies that it has interfered with, restrained or coerced employees in the exercise of any rights guaranteed in Section 7 of the NLRA in violation of Section 8(a)(1) of the Act. The Chickasaw Nation asserts that the NLRA does not apply to the Chickasaw Nation.

15. With respect to Paragraph 7 of the Amended Consolidated Complaint, the Chickasaw Nation denies that it has engaged in unfair labor practices affecting commerce within the meaning of Sections 2(6) and 2(7) of the Act. The Chickasaw Nation asserts that the NLRA does not apply to the Chickasaw Nation.

WHEREFORE, the Chickasaw Nation prays that the foregoing Amended Consolidated Complaint be dismissed for lack of jurisdiction.

RESPECTFULLY SUBMITTED this 11th day of July 2012.

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July 2012 I served or caused to be served upon the following a copy of the foregoing document via electronic mail (e-mail):

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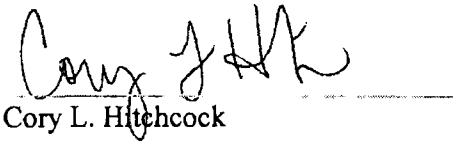

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