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Gambling and the Law®: Compulsive Gambler Just Can't Win

A federal judge in New Jersey has issued the most complete and comprehensive judgment ever about whether a compulsive gambler can sue a casino.

The short version of her 10-page-long legal analysis: “No.”

Arelia Margarita Taveras, a disbarred lawyer, sued most of the casinos in Atlantic City, as well as many of their owners and employees.

She alleged that “the Defendants facilitated Plaintiff’s gambling addiction and induced her to gamble away money belonging to her and others . . .” She pleaded 12 separate causes of action, including negligence, negligent and intentional infliction of emotional distress, breach of contract, unjust enrichment, and violations of the federal racketeering statutes and the Bank Secrecy Act.

Some of Taveras’s claims were a stretch. For example, she alleged that the casinos owe her money because they failed to report her cash transactions of more than \$10,000. The problem is that even if a casino does fail to file its required reports, that does not give a player the right to sue.

But raising every possible claim required U.S. District Judge Renee Marie Bumb to examine every possible legal theory a compulsive gambler could have.

Judge Bumb is a federal judge, so she is free to interpret federal statutes, like the Bank Secrecy Act, bound only by the decisions of higher federal courts. But many of Taveras’s causes of action were based on New Jersey state law. Judge Bumb’s role was to decide how the New Jersey Supreme Court would answer legal questions, which it often had never considered.

Judge Bumb started with the rule that for there to be negligence, “the Court must find as a matter of law that Defendants owed Plaintiff a duty.” Taveras argued that casinos have a duty to keep their premises safe, and “that her continued gambling was an unreasonable danger foreseeable to Defendants.”

Judge Bumb focused on New Jersey’s “extraordinary, pervasive and intensive regulations over virtually every facet of casino gambling.” Her conclusion: If the state had wanted to impose a duty on casinos to rescue compulsive gamblers from themselves,

it would have said so.

Judge Bumb similarly rejected Taveras's request to create a duty somewhat like that imposed on bars to not serve drinks to obviously drunk patrons. "Plaintiff's theory would, in effect, have no limit . . . [it] would impose a duty on shopping malls and credit-card companies to identify and exclude compulsive shoppers."

One of the more interesting parts of the Opinion was Taveras's claim that gambling is an "abnormally dangerous activity." Looking at cases such as dumping toxic waste, Judge Bumb concluded: "Needless to say, gambling can indeed be a safe activity, gambling is common, and state-regulated casinos are not inappropriate locations for gambling."

The Opinion contains other statements that can prove useful for the gaming industry both legally and politically. In rejecting Taveras's claims for emotional distress, Judge Bumb held, "In allowing, even encouraging, Plaintiff to continue gambling, Defendants acted well within the bounds of the community norms reflected in state law."

In dismissing the counts based on fraud, for supposedly misleading Taveras "into thinking that gambling would result in high returns and rewards," Judge Bumb ruled, "Plaintiff fails to identify with particularity (by quoting, for example) even a single falsehood or misleading statement . . ."

There is no doubt that compulsive gambling can destroy lives. But the legal problem for compulsive gamblers is that the decision by a state to legalize gaming means the state has consciously weighed the pros and cons.

So long as card clubs and casinos, and their executives, obey the rules, they should not be legally responsible for the harm compulsive gamblers do to themselves.

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