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MAR 21 2014

FRANCIS B. SCHULTZ, J.S.C.

LYNNE MITCHNICK,

Plaintiff,

vs.

WILLIAM LEE CHILDS,

Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUDSON COUNTY

DOCKET NO: HUD-L-4742-12

Civil Action

ORDER DENYING MOTION FOR
RECONSIDERATION

THIS MATTER having been opened to the Court by counsel for the defendant, William Lee Childs (hereinafter "Defendant") by way of a motion pursuant to R. 4:49-2, seeking reconsideration of the Court's December 4, 2013 Order granting partial summary judgment in favor of the plaintiff, Lynne Mitchnick (hereinafter "Plaintiff") as to the Defendant's affirmative defense of illegality; and the Court having read and considered the moving papers filed by all parties and the papers filed in opposition thereto; and having heard request from the parties for amplification of the December 4, 2013 Order; and good cause having been shown;

IT IS, on this 21st day of MARCH, 2014

ORDERED that the Defendant's motion be and hereby is denied in its entirety; and it is further

ORDERED that the Court hereby finds that, at all relevant times, on-line gambling was illegal under the laws of the State of New Jersey and monies provided to the Defendant for on-line gambling cannot be recovered in the above-entitled action; and it is further

* **ORDERED** that, at the trial to be conducted in the above-entitled action, Plaintiff shall be limited to the recovery of monies provided to Defendant for lawful casino gambling and other damages arising from or relating to monies provided to Defendant for lawful casino gambling as specified in the September 13, 2008 agreement between the parties; and it is further

ORDERED that Defendant be and hereby is barred from raising any defense of illegality as to any monies provided by the Plaintiff to the Defendant for lawful casino gambling pursuant to the terms of the September 13, 2008 agreement between the parties; and it is further

ORDERED that, at the trial to be conducted in the above-entitled action, Defendant shall be permitted to argue that the damages provision of the September 13, 2008 agreement between the parties is an improper contractual penalty provision instead of a lawful liquidated damages provision; and it is further

ORDERED that copies of this Order be served upon all parties within 7 days of the date hereof.

Francis B. Schultz
Honorable Francis B. Schultz, J.S.C.

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Opposed *

Unopposed

It remains the plaintiff's burden to establish her damages are due to legal casino gambling and the Defendant is free to defend by arguing that alleged damages are due to illegal online gambling