

Karjohn v. Davis

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Karjohn v. Davis

Case: Karjohn v. Davis (1990)

Subject Category: Pyramid

Agency Involved: Private Civil Suit

Court: Connecticut Superior Court

Connecticut

Case Synopsis: Karjohn was involved in a pyramid scheme operated by Davis, and sued to recover her money under the state's anti-gambling statute. Pyramid programs were prohibited as a form of gambling under Connecticut state statutes. The statute allowed for the recovery of money paid into such a program to be recovered within three months from the date of loss.

Legal Issue: Does the date that money is paid into a pyramid program correspond with the date of loss, for the purpose of recovering under Connecticut state statute?

Court Ruling: The Connecticut Superior Court held that the date of payment does not necessarily correspond with the date of loss. Davis moved for Summary Judgment on the grounds that the statute allowed for recovery if such was sought within three months of the date of loss, and the suit was filed nearly nine months after Karjohn paid money into the scheme. The Court rejected this contention,

claiming that the date of loss and the date of payment were not the same, and a material question of fact existed.

Practical Importance to Business of MLM/Direct Sales/Direct Selling/Network Marketing/Party Plan/Multilevel Marketing: Consumer protection statutes, like anti-gambling or anti- pyramid statutes, will be heavily construed in favor of the consumer.

Karjohn v. Davis, 1990 WL 283898 (1990) : The Connecticut Superior Court held that the date of payment does not necessarily correspond with the date of loss. Davis moved for Summary Judgment on the grounds that the statute allowed for recovery if such was sought within three months of the date of loss, and the suit was filed nearly nine months after Karjohn paid money into the scheme. The Court rejected this contention, claiming that the date of loss and the date of payment were not the same, and a material question of fact existed.

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1990 WL 283898 (Conn.Super.)

Clarice KARJOHN

v.

Carmen F. DAVIS.

No. 357214.

Connecticut Superior Court, Judicial District of Hartford-New Britain at

Hartford.

July 10, 1990.

MEMORANDUM OF DECISION ON MOTION FOR SUMMARY JUDGMENT

HENNESSEY, Judge.

*1 With the pleadings closed, the defendant Carmen F. Davis filed a motion on April 26, 1990 seeking summary judgment on counts one and three of plaintiff Clarice Karjohn's complaint. The plaintiff withdrew count three of her complaint on June 18, 1990.

Count one of the plaintiff's complaint alleges that "the defendant was the manager, chairman, owner, and/or operator ... [of a] corporation or club operated as a pyramid scheme...." Count one further

alleges that the defendant has failed to return to the plaintiff upon demand a \$12,000 payment made by the plaintiff on or before May 1988 to participate in the pyramid scheme.

The defendant argues that because a pyramid scheme is a type of gaming prohibited by Connecticut General Statutes s 42-145, Connecticut General Statutes s 52-554, which provides for recovery of money lost in gaming, applies to the plaintiff's claim.

Connecticut General Statutes s 52-554 states in pertinent part,

Any person who, by playing in any game ... loses the sum or value of one dollar in the whole and pays or delivers the same or any part thereof, may, within three months next following, recover from the winner the money or value of the goods so lost and paid or delivered....

Connecticut General Statutes s 52-554 (emphasis added)

The defendant argues that because the plaintiff alleges that she gave the defendant a sum of money before May 1988 and did not commence this action until February 10, 1989, section 52-554 bars plaintiff's recovery. The defendant further argues that summary judgment should be granted "as there is no genuine issue of fact in that this action was commenced more than three months after the date this alleged incident took place...."

"Summary judgment is a method of resolving litigation when pleadings, affidavits, and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Practice Book s 380." *Wilson v. New Haven*, 213 Conn. 277, 279 (1990).

The plaintiff's complaint alleges only that she gave the defendant a sum of money on or before May 1988; a genuine issue of material fact remains as to when the actual loss occurred. Accordingly, the defendant's motion for summary judgment is denied.

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