

United States District Court, D. New Jersey.

**John D. RUDOLPH, on Behalf of Himself and All Similarly
Situated Persons, Plaintiffs,**

v.

**ADAMAR OF NEW JERSEY, INC. d/b/a Tropicana Casino
and Resort, Defendant/Third Party Plaintiff,**

v.

**The State of New Jersey, Christine Todd Whitman,
Governor of the State of New Jersey, John J. Farmer, Jr.,
Attorney General of the State of New Jersey, James R.
Hurley, Chairperson of the New Jersey Casino Control
Commission, Third Party Defendants.**

No. 1:00CV190.

Oct. 10, 2001.

Console Law Offices LLC, By Stephen G. Console, Esquire, Westmont, for Plaintiff, John D. Rudolph, on behalf Of himself and all similarly Situated persons.

Schnader, Harrison, Segal & Lewis LLP, By Louis R. Moffa, Jr., Esquire, Jerry L. Tanenbaum, Esquire, Cherry Hill, for Defendant/Third-Party Plaintiff, Adamar of New Jersey, d/b/a Tropicana Casino and Resort.

John R. Zimmerman, Esquire, General Counsel, New Jersey Casino Control Commission, David C. Missimer, Esquire, Assistant General Counsel, Atlantic City, for Third-party Defendant, James R. Hurley, Chairman, New Jersey Casino Control Commission.

Mager & White P.C., By Carol A. Mager, Esquire, Deborah H. Simon, Esquire, Westmont, for Plaintiff, John D. Rudolph, on behalf of himself and all similarly situated Persons.

John J. Farmer, Jr., Esquire, Attorney General of New Jersey, Mark Turner Holmes, Esquire, Deputy Attorney General, R.J. Hughes Justice Complex, Trenton, for Third-Party Defendants, the State of New Jersey, Donald T. DiFrancesco, Acting Governor of the State of New Jersey, and John J. Farmer, Jr., the Attorney General Of the State of New Jersey.

STIPULATION

ORLOFSKY, D.J.

All parties, by their undersigned counsel, hereby request that the Court enter an Order in the form attached hereto as Exhibit "A."

EXHIBIT A

ORDER FOR DECLARATORY RELIEF AND PERMANENT INJUNCTION

WHEREAS, on July 31, 2001 this Court issued an Opinion and Order granting the third-party defendants' motions to dismiss all claims other than claims for declaratory and prospective injunctive relief, and attorneys' fees and costs related thereto;

WHEREAS, on August 8, 2001 this Court issued an Opinion and Order in the matter of *Mary Osgood, on Behalf of Herself and All Similarly Situated Persons v. Harrah's Entertainment, Inc., d/b/a Harrah's Atlantic City, Inc. and Marina Associates, Inc. and Marina Associates, d/b/a Harrah's Casino Hotel Atlantic City*, Civil Action No. 00-CV-284, certifying a class of certain Harrah's employees, applicants and former employees for purposes of injunctive and declaratory relief and otherwise denying class certification;

WHEREAS, briefing on plaintiff's motion for class certification in this action is presently stayed;

WHEREAS, counsel for the plaintiff in this action have represented that they intended to file a motion for preliminary injunctive relief similar to that filed by the same counsel for plaintiff in the *Osgood v. Harrah's* matter, but also seeking relief from the third-party defendants;

WHEREAS, counsel for Tropicana in this action have represented that they intended to file a motion for preliminary injunctive relief against the third-party defendants;

WHEREAS, the parties have reached agreement as set forth herein regarding certain issues that would have been raised in the proposed motions for preliminary injunctive relief; and

WHEREAS, the Court has independently reviewed the proposed stipulations of the parties as set forth herein.

IT IS HEREBY ORDERED THAT:

1. The Court finds and declares that the current versions of N.J.A.C. Sections 19:53-4.3, 4.4, 4.5, 4.6, 6.4(b), 6.8 and 6.12 and any regulatory provision contained in Chapter 53 of the regulations of the New Jersey Casino Control Commission to the extent that it relates to the implementation of these sections violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, 42 U.S.C. Section 1981 and 42 U.S.C. Section 1983, and are hereby declared invalid.

2. The State of New Jersey (the “State”) and the New Jersey State Casino Control Commission (the “Commission”) are permanently enjoined from enforcing the foregoing provisions and any portion of any Equal Employment and Business Opportunity Plan (“EEBOP”) substantially based on these provisions.

3. The Commission Chairman shall notify each casino licensee that each provision of each EEBOP substantially based on the above referenced sections of N.J.A.C. 19:53 is invalid pursuant to this Order and may not be enforced.

4. The Commission Chairman is directed to formally repeal N.J.A.C. Sections 19:53-4.3, 4.4, 4.5, 4.6, 6.4(b), 6.8 and 6.12.

5. The Commission Chairman shall direct each casino licensee to delete any portion of its EEBOP which is substantially based on the above referenced sections of N.J.A.C. 19:53.

6. The Commission Chairman shall direct each casino licensee to prominently post a copy of this Consent Order at each location within New Jersey where individuals are employed by casino licensees.

7. Tropicana shall prominently post copies of this Order at each location where notices to employees are posted.

8. All claims of the plaintiff and Tropicana against the third-party defendants based upon the provisions of the New Jersey Casino Control Act, N.J.S.A. 5:12-1 et seq., are hereby dismissed without prejudice. The plaintiff and Tropicana retain their rights to challenge the legality and constitutionality of N.J.S.A. 5:12-1 et seq., and any regulations promulgated thereunder.

9. The plaintiff and Tropicana are prevailing parties within the meaning of 42 U.S.C. Section 1988 in connection with the relief granted in this Order and shall be awarded reasonable attorneys' fees and costs which shall be the subject of a future application to the Court.

10. Within thirty (30) days of the entry of this Order, counsel for plaintiff and Tropicana shall provide the Court with a proposed schedule to finally resolve all class issues, declaratory and injunctive claims.

11. By consenting to the entry of this Order, all parties have reserved, and no party has waived, any of the legal or factual claims or defenses that any party may have in connection with the individual claims of John D. Rudolph or any other individual or class claim which may be asserted.