

US Appeals Court Action Set for July on Internet Gambling Law

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It is turning out to be a active week and month for that matter in the internet gambling sector, with announcements that a Harvard Study debunked Focus on the Family's (Citizen Link) claim that gambling online is more addictive than land based casino gambling and now the US 3rd Circuit Court of Appeals has notified lawyers for the Interactive Media & Gaming Association (iMEGA) and the US Department of Justice that the Courts is set to consider iMEGA's challenge to the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).

In a letter to counsel for both parties, Marcia M. Waldron, clerk for the appeals court, wrote that iMEGA v. Attorney-General USA, et al (Case Number 08-1981) has been tentatively listed on the merits on Monday, July 6 2009, in Philadelphia, PA. Oral arguments had originally been scheduled for April, but the Court has since sent iMEGA's motion to supplement the record with news about the blocking of state lottery payments to its Merit Panel for a decision. The DOJ opposes the motion.

The Court's letter stated: "The panel will determine whether there will be oral argument, and if so, the amount of time allotted for each side. No later than one (1) week prior to the disposition date will you be advised whether oral argument will be required, the amount of time allocated by the panel, and the specific date on which the argument will be scheduled."

A "judgment on the merits" refers to a judgment, decision or ruling based upon the facts presented in evidence and the law applied to that evidence. A judge decides a case "on the merits" when he/she bases the decision on the fundamental issues and considers technical and procedural defenses as either inconsequential or overcome. For example: An attorney is two days late in filing a set of legal points and authorities in opposition to a motion to dismiss. Rather than dismiss the case based on this technical procedural deficiency, the judge considers the case "on the merits" as if this mistake had not occurred.

This may be significant as iMEGA submitted a motion in March to have the Court record in the case supplemented with news of "over-blocking" of state lottery transactions in New Hampshire and North Dakota by credit card companies. Despite having a clear exemption from UIGEA, the credit card companies nonetheless changed the transaction codes for the lotteries from "government" to one designating online gambling, preventing the exempted transactions from being processed. The Justice Department opposed the addition of the new information on the law's effect, stating the new information was not submitted to the district court and that the challenge to the law was not an "exceptional case".

"We're very happy the Court is moving forward on this, and we're confident the Court will consider the real-world effect of the law, regardless of the DOJ's opposition," said Joe Brennan Jr., iMEGA's chairman.

Notice from US 3rd Circuit Court of Appeals - iMEGA v. Holder, et al