

Gambler sues to get winnings returned

A Canberra man has successfully sued the Hellenic Club for failing to stop another patron from interfering with his poker machine and deleting a \$2040 credit.

In what is believed to be an unprecedented case, Youseff Omari sued the club in the Small Claims Court and was awarded damages of \$2040, plus interest and costs. In a recent ruling the ACT Supreme Court refused the club leave to appeal against the ruling of special magistrate Liz Symons.

Mr Omari said he was at the club in January 2003, had a credit on his poker machine of \$2040, and was waiting for staff to pay him his winnings when another patron - an "old person" - touched the machine and wiped out \$2000 of the credit. The man did the same thing again shortly after, allegedly in front of staff.

Mr Omari said a club official had agreed to pay him his money, but later refused. The club denied this, adding that Mr Omari had simply gambled and lost.

The magistrate said Mr Omari's evidence - backed up by the man who had accidentally interfered with his machine - had not been challenged by the club's lawyer. She accepted his account, and that he understood from the club operations manager that he would be paid.

Ms Symons said the club had a duty of care to its members. As a member, Mr Omari was entitled to expect that the money he was spending was protected from being accessed by someone else. The club had breached its duty and Mr Omari was entitled to the money he had lost.

On appeal, the club said there was nothing it could have done to prevent Mr Omari's credit from disappearing. The Supreme Court's Master, David Harper, said whether or not the law should allow people in Mr Omari's position to successfully sue would have to be fully debated another day. He could not

say the magistrate was wrong. It would be unfair to oblige Mr Omari to participate in complex and expensive litigation over a relatively small sum of money.

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