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Order on Motion to Reconsider and Vacate Order
Denying MFSJ (O'Brien _ Conza)

Elizabeth E. Long
Superior Court Judge

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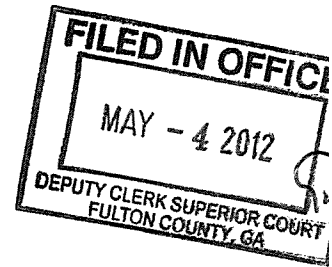
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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



JOY W. O'BRIEN, Executrix of the Estate)
of Randy Pirotin, Deceased)

Plaintiff,)

v.)

Civil Action File No.
2010-CV-188721

JOSEPH CONZA, PAUL GWIN,)
GEORGIA ENTERPRISES, INC., FINNA,)
LP, NICKCO GENERAL, INC., and)
PEACH STATE FRANCHISE)
CONCEPTS, LP,)

Defendants.)

**ORDER ON PLAINTIFF'S MOTION TO RECONSIDER AND VACATE PART OF
THIS COURT'S ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT**

This matter is before the Court on Plaintiff's Motion to Reconsider and Vacate Part of this Court's Order Denying Plaintiff's Motion for Summary Judgment. Upon consideration of the motion, the response, the reply and the record of the case, this Court finds as follows:

Plaintiff insists that the Equityholders Agreement between Randy Pirotin ("Pirotin") and Defendant Joseph Conza ("Conza") unambiguously requires Conza to purchase the ownership interest held by Pirotin in Finna, LP pursuant to a formula set forth in Section 2(b) of the Equityholders Agreement. In its Order on Plaintiff's Motion for Summary Judgment filed on February 8, 2012, the Court disagreed, finding no clear obligation on Conza to purchase Pirotin's interest in Finna, LP under the Equityholders Agreement. Now Plaintiff requests that the Court reconsider and vacate this ruling, offering two affidavits—one from the attorney who purportedly drafted the Equityholders Agreement and one from Plaintiff's friend and financial

advisor who exchanged correspondence with Conza—in support of her contention that the parties’ intent under the Equityholders Agreement is clear.

In addition to the two affidavits offered by Plaintiff in support of her construction of the Equityholders Agreement, Conza has also submitted his own affidavit setting forth his understanding of the intent behind the Equityholders Agreement. At the very least, the conflicting evidence supports the Court’s initial finding of an ambiguity in the construction of the Equityholders Agreement. The Court affirms its ruling and **DENIES** Plaintiff’s motion. The intent of the parties is an issue of fact for the trier of fact.

SO ORDERED this 4th day of May, 2012.


ELIZABETH E. LONG, SENIOR JUDGE
 Superior Court of Fulton County
 Atlanta Judicial Circuit

Copies sent electronically to:

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