

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANDREW B. MELNICK, individually,)
and on behalf of all others similarly)
situated,)

Plaintiff,)

BETFAIR INTERACTIVE US, LLC,)
d/b/a FANDUEL SPORTSBOOK,)
an Illinois limited liability company,)

Defendant.)

Case No.

**PLAINTIFF DEMANDS
TRIAL BY JURY**

CLASS ACTION COMPLAINT

Plaintiff, ANDREW B. MELNICK, individually, and on behalf of all others similarly situated, by and through his undersigned attorneys, based upon personal knowledge with respect to himself, on information and belief derived from investigation of counsel, and review of public documents as to all other matters, complains against Defendant, BETFAIR INTERACTIVE US, LLC, d/b/a FanDuel Sportsbook (“FanDuel”), as follows:

Introduction

1. This case involves an unlawful pattern and practice of unfair and deceptive trade practices on the part of FanDuel, an on-line sports gaming platform with a membership, upon information and belief, in excess of 6,000,000 people, spanning across (10) ten states, of providing materially false and misleading information to customers while making wagers on live sporting events via its digital platform.

2. More specifically, while purporting to provide its customers with real-time, live sports game data, FanDuel regularly understates the time remaining in a given live sporting event in order to induce its customers to make wagers that they are more likely to lose, and/or that are riskier, than if they were being provided accurate, real-time information in connection with their live wagering.
3. Plaintiff seeks both damages for himself, as well as the Multi-State Class and, alternatively, for the State-Wide Classes or sub-classes, and an order enjoining the further operation of the FanDuel platform until its app (the “App”) as represented, *accurately* reflects the time remaining in a given live sporting event.

The Parties

4. Plaintiff, ANDREW B. MELNICK (“Melnick”), is an individual and citizen of the State of Illinois residing at 906 Oxford Road, Deerfield, Illinois 60015. Melnick is a customer/member of FanDuel.
5. On March 2, 2021, Melnick attempted to contact customer service of FanDuel via telephone to notify FanDuel of the unfair and deceptive acts and practices alleged herein and attempted to obtain a full refund; all to no avail.
6. By written correspondence dated March 2, 2021, Melnick exercised his right to opt-out of the paragraph of the “Terms of Use” of FanDuel otherwise purportedly requiring arbitration of disputes and a Class Action Waiver (“Terms and Conditions”). *See* Terms of Use at Paragraph 15.6. (A true and

correct copy of Melnick's correspondence dated March 2, 2021, and the Terms of Use of FanDuel are attached hereto as Exhibits "A" and "B", respectively, and made a part hereof.).

7. While the Terms of Use, at Paragraph 15.7 contain a forum selection clause for courts located in New York and a choice law provision for the application of New York law, there are public interest factors which strongly outweigh the enforcement of that provision and the State of New York has little or no connection to this dispute.
8. Defendant, FanDuel, is a limited liability company organized and existing under the laws of the State of Illinois, with its place of business located at 6701 Center Drive West, Suite 800, Los Angeles, California 90045.
9. FanDuel has been operating its sports-betting platform since approximately July 2020. (the "relevant period").
10. FanDuel's two managers are Samuel Levin and John Hindman, both with offices located at 6701 Center Drive West, Suite 800, Los Angeles, California 90045.
11. Plaintiff is currently unaware of the identities of those holding membership interests in FanDuel as that information is not publicly available.
12. FanDuel is a gaming company that offers sportsbook, daily fantasy sports, online casino and online horse race betting products through its free downloadable app, and has been offering the same in ten (10) states since approximately July 2020.

13. FanDuel accepts bets in the States of Illinois, New Jersey, Pennsylvania, West Virginia, Indiana, Iowa, Colorado, Tennessee, Virginia and Michigan through the FanDuel online sportsbook and betting app that represents the evolution of daily fantasy sports sites into full-on sports and live wagering. The FanDuel app is available for download on the iPhone smartphone, iPad Touch handheld computer, the iPad tablet computer and android operating systems via iTunes App Store and Google Play store. FanDuel does not offer on-line sports wagering to citizens or residents of the State of New York.
14. FanDuel permits its members to make a number of types of wagers on its platform including, but not limited, to “Totals” or what are referred to as “Unders” and “Overs” on a live basis; while the sporting event is underway.

Jurisdiction and Venue

15. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). The amount in controversy exceeds \$5,000,000.00 exclusive of interest and costs, there are more than 100 putative class members and minimal diversity exists because many putative class members are, upon information and belief, citizens of different states than FanDuel.
16. This Court has personal jurisdiction over FanDuel because it is authorized to and regularly conducts business in the State of Illinois.

17. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because FanDuel resides in this District and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

Facts Specific to Plaintiff

18. On or about February 26, 2021, Plaintiff downloaded the app for FanDuel on his cellular android smartphone from the Google Play store.

19. On or about February 26, 2021, Plaintiff deposited \$100.00US into his account on FanDuel for the purpose of making wagers on the FanDuel platform; which monies were immediately available for wagering on live sporting events via the App.

20. On February 28, 2021, Plaintiff began placing wagers on the FanDuel platform focusing on men's NCAA college basketball where, after the start of the sporting event, he made live wagers on the "Unders."

21. The "Totals" or "Over/Under" bet is a wager in which a sportsbook will predict a number in a given game (usually the combined score of the two teams), and the bettor's wager that the actual number in the game will be either higher or lower than the number.

22. The betting platform on FanDuel purports to display on the customer's smartphone, via the App, the time elapsed, score and the odds of a given wager in a given sporting event on a real-time basis.

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