

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAFA SAID-IBRAHIM and ADHID IBRAHIM,
on Behalf of Themselves and All Others Similarly
Situating,

Plaintiffs,

v.

FUBOTV INC., DAVID GANDLER, EDGAR M.
BRONFMAN JR., and SIMONE NARDI

Defendants.

Case No.

CLASS ACTION

**COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiffs, Wafa Said-Ibrahim and Adhid Ibrahim (“Plaintiffs”), on behalf of themselves and all others similarly situated, by and through his undersigned counsel, hereby brings this Class Action Complaint for Violation of Federal Securities Law (“Complaint”) against FuboTV Inc. (“Company” or “Fubo”) and David Gandler (“Gandler”), Fubo’s Co-Founder, Chief Executive Officer (“CEO”) and director; Edgar M. Bronfman Jr., (“Bronfman”), Fubo’s Executive Chairman; and Simone Nardi (“Nardi”), Fubo’s Chief Financial Officer (“CFO”) (collectively, “Individual Defendants,” and together with the Company, “Defendants”), based upon, *inter alia*, the investigation conducted by counsel, which included a review of the Company’s public documents, conference calls, and announcements, United States (“U.S.”) Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding the Company, analysts’ reports and advisories about the Company and other information. Plaintiffs’ counsel’s investigation into the matters alleged herein is ongoing and many relevant facts are known only to, or are exclusively within the custody or control of, the Company and the Individuals Defendants. The Plaintiffs believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of a class consisting of all persons other than Defendants who purchased or otherwise acquired common shares of Fubo stock between March 23, 2020 and January 4, 2021, both dates inclusive (the “Class Period”), seeking to recover damages caused by Defendants’ violation of the federal securities laws under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. Founded in 2015, Fubo is a Florida corporation headquartered in New York. Fubo is a multichannel video programming distributor (“vMVPD”), offering subscribers access to thousands

of live sporting events as well as news and entertainment content. Fubo's platform allows customers to access content through streaming devices, and on SmartTVs, mobile phones, tablets and computers. It streams its services to United States, Canada and Spain. In its regulatory filings and public statements, Fubo positions itself as a content distributor at the intersection of three "megatrends": cord-cutting, connected TV advertising, and online sports wagering. Fubo revenues are almost entirely derived from the sale of subscription services and advertising in the United States.

3. During the Class Period, Defendants disseminated false and misleading statements that misrepresented Fubo's financial health and its operating condition. These misleading statements included representations relating to a variety of Fubo's business operations and performance metrics, including, among others, Fubo's ability to grow subscription levels and future profitability, seasonality factors, cost escalations and potentially shrinking addressable market, ability to attract and generate advertising revenue, the Company's valuation, and its prospects of entering the arena of online sports wagering. For example, one of the Company's unrealistic promises included courageous claims of the Company's plans to scale its sport wagering business by, among other things, acquiring Balto Sports, which significantly inflated the price of Fubo securities, and also created a false basis for its valuation and revenue projections. In reality, the Company's prospects of scaling the sports wagering business was far from realistic given its size and market share, a fact that investors were never apprised of. As some analysts later described Fubo's strategy, it amounted to "putting a lipstick on a pig."

4. Investors learned the truth gradually through a series of research reports beginning on December 23, 2020. Those reports revealed, among others things, that (i) Fubo's growth in subscriber and profitability was unsustainable past the one-time seasonal surge; (ii) Fubo's offering of products would be subject to cost escalation; (iii) Fubo could not successfully compete and perform as sports book operator and could not capitalize on its online sports wagering opportunity; (iv) Fubo's data and inventory was not differentiated to allow Fubo to achieve its long-term advertising growth goals; (v)

Fubo's valuation was overstated in light of its total revenue and subscription levels; and (vi) the acquisition of Balto Sports did not provide the stated synergies and internal expertise, and did not expand the Company's addressable market into sports wagering.

5. Upon the publication of the research reports, the price of Fubo securities declined 54% from a close of \$52.59 on December 23, 2020 to a close of \$24.24 on January 4, 2021. As a result of Fubo's wrongful acts and omissions, and the precipitous decline in the market value of Fubo's common shares, Plaintiffs and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

6. The claims asserted herein arise under Section 10(b) and 20(a) of the Exchange Act (15 U.S.C. § 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act.

8. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b), as the alleged misstatements and omissions were made or omitted, and the subsequent damages took place in this Judicial District. Pursuant to Fubo's most recent quarterly report (SEC Form 10-Q), as of November 11, 2020, there were 67,533,800 shares of the Company's common stock outstanding. Fubo's common stock trades on the New York Stock Exchange ("NYSE"). Accordingly, there are presumably hundreds, if not thousands, of investors in Fubo's common stock located within the U.S., some of whom undoubtedly reside in this judicial district.

9. In connection with the acts alleged in this Complaint, Fubo, directly or indirectly, used the instrumentalities of interstate commerce, including interstate wires, U.S. Postal Service mail, wireless spectrum, and the national securities exchange.

PARTIES

10. Plaintiffs are residents of Calgary, Alberta, Canada. As set forth in the attached Certification(s), incorporated by reference herein, Plaintiffs acquired Fubo shares during the Class Period, at artificially inflated prices, and was damaged by the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

11. Defendant Fubo is a Florida corporation with a principal place of business at 1330 Avenue of the Americas, New York, NY 10019. Fubo shares trade on the NYSE under the ticker symbol “FUBO.”

12. Defendant Gandler is the co-founder of the Company and has served as the Company’s CEO and a director since April 1, 2020.

13. Defendant Bronfman has served as the Company’s Executive Chairman since April 29, 2020.

14. Defendant Nardi has served as the Company’s CFO since May 31, 2020. Defendant Nardi served as Interim Chief Financial Officer since March, 2020.

15. Defendants Gandler, Bronfman, and Nardi are sometimes referred to herein as the “Individual Defendants.” The Individual Defendants, together with Fubo, are sometimes referred to herein as the “Defendants.”

16. The Individual Defendants possessed the authority to control the contents of statements made by Fubo in the Company’s reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. The Individual Defendants were provided with copies of the Company’s reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Due to their positions with Fubo, and their access to Fubo’s material information that was unavailable to the public, the Individual Defendants

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.