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## DraftKings, FanDuel Users Want MDL Halted For Deal Talks

By Rachel Graf | April 11, 2018

Daily fantasy sports players, DraftKings, FanDuel and their payment processors asked a Massachusetts federal court on Tuesday to pause the multidistrict litigation in which the players accuse the companies of operating an illegal online gambling enterprise while the parties pursue settlement talks.

An agreement would end allegations that DraftKings and FanDuel falsely advertised for years that their daily fantasy sports products could be won by the average player. Instead, DraftKings and FanDuel needed the money deposited by new players to essentially fund the awards for experienced, high-volume users, said a September 2016 amended **master complaint** in the MDL, which was consolidated in Massachusetts in February of the same year.

The companies spent hundreds of millions of dollars on advertisements portraying average people playing and winning fantasy sports, the players alleged. The CEOs of DraftKings and FanDuel separately admitted on the daily fantasy sports website RotoGrinders that the advertisements were meant to attract new players who would lose to the more experienced players. This would help the companies retain the experienced players, who generate most of their revenue, the complaint said.

To attract these new players, the advertisements misrepresented that the people winning the money were “average guys” rather than professional players, the suit claimed. This marketing strategy attracted millions of new users who helped generate company revenue while losing a substantial amount of their own money, the complaint alleged. The companies' payment processors Vantiv Inc. and Paysafecard.com USA Inc. provided "easy payment methods" that legitimized and furthered the gambling scheme, the suit said.

DraftKings and FanDuel also had misrepresented that new players could receive bonus money that would match their initial deposit, according to the complaint.

“In addition to never receiving the promised bonus money, consumers pumped hundreds of millions of dollars into the [daily fantasy sports] economy that went to the few at the top, including DraftKings and FanDuel employees,” the players said.

The complaint alleged 27 separate causes of action in three main areas: claims over alleged bonus fraud, “insider” claims alleging employees used inside information to win money on rival daily fantasy sports sites, and illegal gambling and false advertising claims over the companies’ advertisements that the contests are “100% legal, easy, and games of skill that anyone could win.”

The 291-page complaint came after the Judicial Panel on Multidistrict Litigation pulled together dozens of proposed consumer class actions filed during DraftKings Inc.’s and FanDuel Inc.’s advertising blitz in the 2015 NFL season. The JPML **consolidated** the suits into a sweeping nationwide multidistrict case in Massachusetts federal court in February 2016.

Counsel for payment processor Paysafecard.com declined to comment. Counsel for the remaining parties didn't respond Wednesday to requests for comment.

The plaintiffs' lead counsel include Napoli Shkolnik PLLC, Jones Ward PLC, Stull Stull & Brody and Todd & Weld LLP.

FanDuel is represented by Morrison & Foerster LLP. DraftKings is represented by Boies Schiller & Flexner LLP.

Payment processor Vantiv is represented by Ifrah PLLC. Paysafecard.com is represented by Paul Hastings LLP and Birnbaum & Godkin LLP.

The MDL is In re: Daily Fantasy Sports Litigation, case number 1:16-md-02677, in the U.S. District Court for the District of Massachusetts.

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