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Attorney for Plaintiffs

LISA D’ALESSANDRO; M.D., a minor child;
and J.D., a minor child;

Plaintiff(s),

v.

DRAFTKINGS, INC.; RESORTS ATLANTIC
CITY; DGMB CASINO, LLC; DGMB
CASINO HOLDING, LLC; JOHN/JANE
DOE(S) 1-10; and ABC CORPORATION(S),
1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

ESSEX COUNTY

DOCKET NO.: L-

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiffs Lisa D’Alessandro, M.D. (a minor child) and J.D. (a minor child) (collectively “Plaintiffs”), by way of a Complaint by and through their attorney Litt Law, LLC against the defendants DraftKings, Inc., Resorts Atlantic City, DGMB Casino, LLC, DGMB Casino Holding, LLC, John/Jane Doe(s) 1-10, and ABC Corporation(s) 1-10, (Collectively “Defendants”) do hereby state:

INTRODUCTION

The Plaintiffs are the separated spouse and two minor children of a problem gambler, known to Defendants by his username Mdallo1990.¹ Mdallo1990 gambled nearly \$15 Million dollars with Defendants, losing \$942,232.32 of the Plaintiffs' money between January 1, 2020 and January 13, 2024. Mdallo1990 was at all times relevant known by the Defendants to be a problem gambler through the data they actively collected, monitored, and used to entice him to deposit and gamble at exponentially higher amounts and frequencies.

As discussed in detail herein, the data Defendants kept on Mdallo1990 showed Defendants that he went from wagering on sports in the amount of: a) \$174,246.90 in 2020, to b) \$1,148,075.90 in 2021, to c) \$4,911,002.91 in 2022, and finally d) \$6,267,348.82 in 2023.

To be clear, this suit does not allege liability on the basis that Defendants passively permitted a problem gambler to use its gambling platform. Rather, this suit alleges violation of New Jersey statutory and common law because Defendants actively participated in the addiction of Mdallo1990 by targeting him with incentives, bonuses, and other gifts to create, nurture, expedite, and/or exacerbate his addiction.

The Defendants and their customer-facing employees are trained to recognize the symptoms and consequences of gambling addiction. As part of that training, Defendants learned that a problem gambler will use any and all funds to which he has access to continue gambling -- including and especially the funds of immediate family members. The theft of Plaintiffs' money by Mdallo1990 to gamble on Defendants' site was the wholly foreseeable consequence of the Defendants' creation, nurturing, expedition, and/or exacerbation of his gambling addiction.

¹ The real name of Mdallo1990 is not used herein out of respect for his privacy. Upon information and belief, Defendants are able to readily identify this individual using this DraftKings username.

FACTS RELEVANT TO ALL COUNTS

Gambling Addiction

1. Mdallo1990 was, and exhibited the fundamental symptoms of being, a problem gambler, also referred to herein as gambling addiction, compulsive gambling, or gambling disorder.
2. Gambling disorder is classified by both the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders ("DSM 5") and World Health Organization's International Classification of Diseases as an addiction disorder, alongside alcohol, opioid, hallucinogen, sedative, stimulant, and tobacco disorders.
3. At all times relevant to this Complaint, the Defendants were trained to recognize the nature and symptoms of problem gambling behavior.
4. At all times relevant to this Complaint, the Defendants trained, or had trained, their customer-facing employees to recognize the nature and symptoms of problem gambling behavior.
5. At all times relevant to this Complaint, the Defendants were trained and otherwise were aware that its product was dangerous and would cause addiction to a significant number of its customers.
6. At all times relevant to this Complaint, the Defendants trained, or had trained, their customer-facing employees to understand that its product was dangerous and would cause addiction in certain of its customers.
7. At all times relevant, the Defendants were trained to understand that theft of funds from family members is a common symptom of gambling addiction.

8. At all times relevant, the Defendants trained, or had trained, their customer-facing employees to understand that theft of funds from family members is a common symptom of gambling addiction.

Defendant's Collection, Active Monitoring, and Use of Customer Data

9. At all times relevant, Defendants cultivated and actively monitored and utilized vast quantities of data on its customers ("Data").

10. The Data showed, and among many other things: a) how much money was deposited onto their platform on a daily basis, b) how many bets were placed on a daily basis, and c) how much money was lost on a daily basis (collectively "Data").

11. At all times relevant, Defendants cultivated and actively monitored and used vast quantities of Data on Mdallo1990 showing, and among many other things: a) how much money he deposited onto Defendants' platform on a daily basis, b) how many bets he placed on a daily basis, and c) how much money he lost on a daily basis.

12. The Data showed Defendants that its product was dangerous and causing and/or exacerbating the gambling addiction of Mdallo1990.

13. Defendants knew that its product was dangerous and causing addiction to Mdallo1990.

14. Defendants knew Mdallo1990 was an addicted gambler because they actively monitored his Data.

15. The Data kept on Mdallo1990 showed Defendants that he was depositing and gambling money in exponentially escalating amounts and betting with an exponentially escalating frequency that only an addicted gambler would deposit and gamble.

16. Defendants knew Mdallo1990 was an addicted gambler because Defendants' Data showed exponential growth in the deposits, frequency, and in amounts and frequencies which only an addicted gambler would deposit and gamble.

17. The amounts and frequency of Mdallo1990's deposits and betting grew exponentially as the proximate and foreseeable result of the Defendants' incentives, gifts, bonuses, and awards for doing so.

18. Defendants knew or should have known Mdallo1990 was betting more money than he could afford based on the exponential growth of his deposits.

Source of Funds Verification

19. At all relevant times, Defendants had in place a procedure for verifying the legitimacy of a gambler's source of funds.

20. Such procedure requires a gambler to provide a W2, bank account statement, or similar to verify the legitimacy of the gambler's source of funds.

21. Mdallo1990 was depositing money in such increasingly high amounts that Defendants should have verified the source of the funds he was depositing.

22. Mdallo1990 was betting in such increasingly high amounts that Defendants knew they should verify the source of the funds he was using to gamble.

23. Defendants did not perform a verification of the source of funds of Mdallo1990.

24. Defendants intentionally failed to verify the source of funds which Mdallo1990 was using to gamble.

25. Defendants knew or should have known that the source of Mdallo1990's funds were not legitimate.

26. Defendants knew that Mdallo1990 would not be able to continue to deposit such large sums of money on its site if they required a verification of his funds.
27. Defendants knew that the source of the money wagered by Mdallo1990 was illegitimate.
28. If Defendants had performed a source of funds check of Mdallo1990, they would have discovered that his W2 showed an annual income of approximately \$175,000 in the years 2021 – 2023.
29. Mdallo1990 deposited approximately 87% of his W2 income into DraftKings in 2021, over 300% of his W2 income in 2022, and approximately 440% of his W2 income in 2023.
30. Mdallo1990 stole money from his spouse, the Plaintiff Lisa D'Alessandro, to deposit with the Defendants including, but not limited to, stealing money from her credit card(s) and taking money from other accounts without her permission or knowledge.
31. The theft of money from Mdallo1990's spouse was the foreseeable result of his gambling addiction, because most compulsive gamblers steal money to finance their gambling addiction.
32. Mdallo1990's gambling addiction was caused, nurtured, and/or exacerbated by the Defendants through relentless incentives, bonuses, and other gifts.
33. Mdallo1990 stole money from the savings account of his minor child, M.D. to deposit with the Defendants.
34. The savings account was funded exclusively with gifts from baptism, Christmas presents, and birthday presents given to M.D. by family and friends.
35. The theft of money from Mdallo1990's minor child was the foreseeable result of his gambling addiction, because most compulsive gamblers steal money to finance their gambling addiction.
36. Mdallo1990 stole money from his minor child, J.D., to deposit with the Defendants.

37. The money taken from J.D. was made up exclusively of gifts given to him for his baptism by family and friends.

38. The theft of money from Mdallo1990's minor child was the foreseeable result of his gambling addiction, because most compulsive gamblers steal money to finance their gambling addiction.

39. Mdallo's gambling addiction was caused, nurtured, and/or exacerbated by the Defendants.

Exponential Increase in Deposits, Amounts Gambled, and Frequency of Bets

40. The Data Defendants kept on Mdallo1990 showed Defendants that he went from depositing a mean average of: a) \$2,040.57 per month into DraftKings in 2020, to b) \$12,759.91 per month in 2021, to c) \$44,234.16 per month in 2022, to d) \$64,715.62 per month in 2023.

41. In 2020, Mdallo1990 never deposited more than \$3,775 with the Defendants in a single month.

42. In 2021, Mdallo1990 made high monthly deposits in amounts of \$15,106 (March), \$17,088.00 (May), \$10,310.00 (August), \$19,950 (September), \$12,835 (October), \$20,116 (November), and \$37,152 (December).

43. In 2022, Mdallo1990 made high monthly deposits in amounts of \$29,729 (January), \$31,333 (February), \$23,292 (March), \$34,463 (April), \$32,620 (May), \$17,274 (June), \$46,405 (September), \$70,135 (October), \$103,554 (November), and \$141,820 (December).

44. In 2023, Mdallo1990 made high monthly deposits in amounts of \$107,010 (January), \$69,351 (February), \$106,800 (March), \$125,734 (April), \$77,786 (May), \$57,264 (June), and \$74,782 (July).

45. Mdallo1990 went from depositing a total of \$24,486.84 in 2020, to \$153,118.92 in 2021, to \$530,809.92 in 2022, to \$776,587.44 in 2023.
46. The Data Defendants kept on Mdallo1990 showed Defendants that he went from wagering on sports in the amounts of: a) \$174,246.90 in 2020, then b) \$1,148,075.90 in 2021, then c) \$4,911,002.91 in 2022, then d) \$6,267,348.82 in 2023.
47. In 2020, Mdallo1990 never wagered more than \$25,000 on sports with the Defendants in a single month.
48. In 2021, Mdallo1990 wagered more than \$25,000 on sports with the Defendants in 10 out of 12 months, including the highest months in excess of \$175,000 (May), \$250,000 (September), \$145,000 (November), and \$290,000 (December).
49. In 2022, Mdallo1990 wagered over \$100,000 in 10 out of 12 months, including two months over \$1,000,000.
50. In 2023, Mdallo1990 wagered over \$500,000 on sports in 6 out of 12 months.
51. The frequency of betting by Mdallo1990 also increased exponentially.
52. Mdallo1990 placed: a) 1,560 sportsbook bets in 2020, b) 2,674 sportsbook bets in 2021, c) 6,139 bets in 2022, and then d) 14,736 sportsbook bets in 2023.
53. The increases in the deposits of Mdallo1990 were exponential.
54. Defendants actively monitored the exponential increase in the deposits of Mdallo1990.
55. Defendants were aware that Mdallo1990 displayed hallmark symptoms of problem gambling and/or was a problem gambler based on his exponential increase in deposits.

Defendants' VIP Hosts

56. Defendants assigned Mdallo1990 to be in a VIP Private Group based on the amount of money its Data showed him to be depositing.

57. As a member of Defendants' VIP Private Group, Mdallo1990 was assigned a series of VIP hosts named Brad Aikins, Samantha (last name unknown), Conor (last name unknown), and Pete (last name unknown)(collectively "VIP Hosts").

58. The VIP Hosts were at all times relevant instructed and incentivized by Defendants to extract as much money from gamblers as possible.

59. The VIP Hosts were at all times relevant instructed and incentivized by Defendants to extract as much money from Mdallo1990 as possible.

60. The VIP Hosts were instructed and incentivized by Defendants to ignore the symptoms of problem gambling behavior exhibited by Defendants' customers.

61. The VIP Hosts were instructed and incentivized by Defendants to ignore the symptoms of problem gambling behavior exhibited by Mdallo1990.

62. The VIP Hosts did, in fact, ignore the symptoms of problem gambling behavior exhibited by Mdallo1990.

63. The VIP Hosts were instructed and/or incentivized to avoid providing information on addicted gambling resources to customers who exhibited symptoms of gambling addiction.

64. The VIP Hosts were instructed and/or incentivized by Defendants to avoid providing information on addicted gambling resources to Mdallo1990.

65. The VIP Hosts did not, in fact, provide information on addicted gambling resources to Mdallo1990.

66. Defendants at all times relevant, through the VIP Hosts, knew that Mdallo1990 was married and had children.

67. Defendants knew that Mdallo1990 was an addicted gambler because their VIP Hosts engaged with him through text messages, telephone, and email on a near-daily basis.

68. Through its VIP Hosts, Defendants created, nurtured, expedited, and/or exacerbated the addiction of Mdallo1990 by offering him incentives including free bets, loss-back credits, gifts, trophies, and other incentives to manipulate him to deposit money and gamble at levels far beyond his means.

69. These incentives were calculated to result in Mdallo1990 depositing money and gambling at levels far beyond his means.

70. These incentives did, in fact, result in Mdallo1990 depositing money and gambling at levels far beyond his means.

71. Several of the gifts and trophies provided by the VIP Hosts perversely “congratulate” Mdallo1990 for depositing money and gambling at levels far beyond his means.

72. These gifts and trophies provided by the VIP Hosts were calculated to result in Mdallo1990 depositing money and gambling at levels far beyond his means.

73. These gifts and trophies did, in fact, result in Mdallo1990 depositing money and gambling at levels far beyond his means.

74. Defendants provided Mdallo1990 with Onyx Elite level status and rewards in 2022 and 2023, which included, but was not limited to a suite of high-end Apple products, options for a vacation paid for by Draft Kings, Draft Kings branded whiskey glasses, and Draft Kings branded duffle bag.

75. These rewards were intended to, and did in fact, create, nurture, expedite, and/or exacerbate the addiction of Mdallo1990.

76. Defendants intentionally exploited the gambling addiction of Mdallo1990 to the detriment of the Plaintiffs, and to their own benefit.

Creation, Nurturing, Expediting, and/or Exacerbation of Mdallo1990's Addiction

77. Defendants provided training for all employees who had direct contact with patrons on the recognition of the nature and symptoms of problem gambling behavior, and how to assist players in obtaining information regarding help for a gambling problem.

78. All VIP Hosts assigned to Mdallo1990 were trained by Defendants to recognize the nature and symptoms of problem gambling behavior, and how to assist players in obtaining information regarding help for a gambling problem.

79. Defendants at all times relevant used its Data to monitor the amounts of money Mdallo1990 deposited and gambled, and actively enticed and manipulated him to deposit and gamble in exponentially higher amounts.

80. The amounts of money Mdallo1990 gambled with the Defendants was known by Defendants to be a fundamental and visible symptom of problem gambling.

81. Defendants at all times relevant used its Data to monitor the amounts of money Mdallo1990 deposited, and enticed and manipulated him to deposit in exponentially higher amounts.

82. The amount of money Mdallo1990 deposited with the Defendants was known by Defendants to be a fundamental and visible symptom of problem gambling.

83. Defendants at all times relevant used its Data to monitor the frequency of bets made by Mdallo1990, and enticed and manipulated him to bet with exponentially higher frequency.

84. The frequency of bets made by Mdallo1990 was known by Defendants to be a fundamental and visible symptom of problem gambling.

85. Mdallo1990 was at all times relevant particularly vulnerable to enticements to gamble because he was a compulsive gambler.

86. Defendants knew that Mdallo1990 was vulnerable to enticements to gamble because he was a compulsive gambler.

87. The enticements to gamble given to Mdallo1990 by the Defendants were provided with the intent to create, nurture, expedite, and/or exacerbate his gambling addiction.

88. The Defendants' enticements to gamble had the effect of creating, nurturing, expediting, and/or exacerbating Mdallo1990's gambling addiction.

89. The Defendants made enticements to gamble to Mdallo1990 because he was known by them to be a compulsive gambler, and/or exhibited symptoms of gambling addiction.

90. The Defendants made enticements to gamble to Mdallo1990 despite knowing he was a problem gambler and/or exhibited symptoms of problem gambling.

91. The Defendants' creation, nurturing, expediting, and/or exacerbation of the gambling addiction of Mdallo1990 was the proximate cause, in whole or in part, of damages to the Plaintiffs including, but not necessarily limited to, pecuniary losses in an ascertainable and precise amount to be determined at trial, inclusive of monies lost and related emotional distress.

92. The Defendants' creation, nurturing, expediting, and/or exacerbation of the gambling addiction of Mdallo1990 was an unconscionable and/or abusive business practice in violation of New Jersey's Consumer Fraud Act.

93. The Defendants' intentional use of its product in a harmful manner constitutes the tort of common-law intentional negligence.

94. The Defendants' negligent use of its product in a harmful manner constitutes the tort of common-law negligence.

95. The Defendants' knowing, wrongful, and foreseeable interference with the property of Plaintiffs constitutes the tort of common-law conversion.

PARTIES

96. Plaintiff Lisa D'Alessandro is an individual residing in the State of New Jersey, Township of Nutley, County of Essex, and is the separated spouse of Mdallo1990.

97. M.D. is the minor child of Lisa D'Alessandro and Mdallo1990, and resides in the State of New Jersey, Township of Nutley, County of Essex.

98. J.D. is the minor child of Lisa D'Alessandro and Mdallo1990, and resides in the State of New Jersey, Township of Nutley, County of Essex.

99. DraftKings, Inc. is a publicly-traded online sports and casino betting company with its headquarters located at 222 Berkeley Street, 5th Floor, in Boston, Massachusetts.

100. At all times relevant, DraftKings, Inc. was authorized to and did operate its online sports and casino betting company inside the State of New Jersey.

101. The online gambling activity of Mdallo1990 relevant to the instant matter all took place while Mdallo1990 was inside the State of New Jersey.

102. Resorts Atlantic City is a brick-and-mortar casino located at 1133 Boardwalk in Atlantic City, New Jersey.

103. At all times relevant, Resorts Atlantic City was the New Jersey licensing partner of DraftKings, Inc.

104. At all times relevant, Resorts Atlantic City was responsible for the operations of DraftKings, Inc. inside the State of New Jersey.

105. DGMB Casino, LLC is the owner and operator of Resorts Atlantic City, with its principle place of business located at 1133 Boardwalk in Atlantic City, New Jersey.

106. DGMB Casino Holding, LLC is a Delaware limited liability company and the owner of DGMB Casino, LLC, with its principle place of business located at 1133 Boardwalk in Atlantic City, New Jersey.

107. John/Jane Does 1-10 are individuals whose identities are presently unknown to Plaintiffs, but are responsible for all or part of the acts and omissions complained of herein.

108. ABC Corporations 1-10 are entities whose identities are presently unknown to Plaintiffs, but are responsible for all or part of the acts and omissions complained of herein.

CAUSES OF ACTION

FIRST COUNT

Violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.* (As Against All Defendants)

109. Plaintiffs hereby incorporate and restate the allegations contained in all previous paragraphs as if set forth again at full length herein.

110. At all relevant times, Mdallo1990 was a “person” as that term is defined by N.J.S.A. 56:8-1(d) of the New Jersey Consumer Fraud Act.

111. At all relevant times, the Plaintiffs were “person(s)” as that term is defined by N.J.S.A. 56:8-1(d) of the New Jersey Consumer Fraud Act.

112. At all relevant times, Defendants were “persons” as that term is defined by N.J.S.A. 56:8-1(d) of the New Jersey Consumer Fraud Act.

113. The services offered to Mdallo1990 by the Defendants was “merchandise” as defined by N.J.S.A. 56:8-1(c) of the New Jersey Consumer Fraud Act.

114. The sale of goods and services to Mdallo1990 by Defendants was a “sale” as defined by N.J.S.A. 56:8-1(e) of the New Jersey Consumer Fraud Act.

115. “(Contractual) [p]rivity is not a condition precedent to recovery under the New Jersey Consumer Fraud Act...since section 19 clearly grants a remedy to ‘any person who suffers any ascertainable loss.’ There is no provision that the claimant have a direct contractual relationship with the seller of the product or service.” Marrone v. Greer & Polman Const., Inc., 405 N.J. Super. 288 (App.Div. 2009) *quoting* Katz v. Schachter, 251 N.J. Super. 467, 474 (App.Div. 1991).

116. Defendants engaged in an unconscionable and/or abusive commercial practice by providing ongoing enticements to Mdallo1990 to gamble when and because Defendants knew that Mdallo1990 was a compulsive gambler and/or that he demonstrated symptoms of being a compulsive gambler.

117. Defendants engaged in an unconscionable and/or abusive commercial practice by initiating an ongoing series of enticements to gamble which Defendants knew would have the effect of creating, nurturing, expediting, and/or exacerbating problem gambling in a significant number of its customers including, but limited to, Mdallo1990.

118. As a result of the Defendants’ misconduct, the Plaintiffs have suffered ascertainable loss in a specific amount to be determined through discovery and at trial.

119. In light of the foregoing, the Defendants violated N.J.S.A. 56:8-1, *et seq.* of the New Jersey Consumer Fraud Act.

120. The Plaintiffs bring this action pursuant to N.J.S.A. 56:8-19 and, in accordance therewith, are entitled to treble damages in an amount to be determined at the time of trial, plus attorney fees, and court costs.

WHEREFORE, the Plaintiffs demand Judgment against Defendants for: a) compensatory damages, b) statutory treble damages under the New Jersey Consumer Fraud Act, c) together with interest, d) reasonable attorney's fees and costs of suit, and e) for such further relief as this Court deems just and equitable.

SECOND COUNT
Negligence
(As Against all Defendants)

121. Plaintiffs hereby incorporate and restate the allegations contained in all previous paragraphs as if set forth again at full length herein.

122. The Defendants owed Plaintiffs a duty of care as the foreseeable victims of its negligence.

123. Defendants breached their duty of care to Plaintiffs by making ongoing inducements to Mdallo1990 to gamble while Defendants knew or should have known that Mdallo1990 was a compulsive gambler.

124. Defendants breached their duty of care to the Plaintiffs by initiating a long series of enticements to Mdallo1990 gamble which Defendants knew or should have known would have the effect of creating, nurturing, expediting, and/or exacerbating problem gambling in a significant number of its customers including, but not limited to, Mdallo1990.

125. The Plaintiffs, the immediately of Mdallo1990, were the foreseeable victims of the Defendants' negligence.

126. The Defendants' breach(s) of its duty of care was the actual and proximate cause of the Plaintiffs' damages, in whole or in part.

127. The Defendants' negligence was intentional, and done with a wanton and willful disregard of persons who foreseeably might be harmed by their acts, such as Plaintiffs.

WHEREFORE, the Plaintiffs demand judgment against the Defendants for: a) compensatory damages and b) punitive damages, together with c) interest, costs of suit, and such further and other relief as this Court deems just and equitable.

THIRD COUNT
Conversion
(As Against All Defendants)

128. Plaintiffs hereby incorporate and restate the allegations contained in all previous paragraphs as if set forth again at full length herein.

129. The Plaintiff Lisa D'Alessando was the rightful owner of an identifiable amount of money unlawfully taken by Mdallo1990, over which Defendants now exercise full dominion and control in conflict with the Plaintiff's rights.

130. The Plaintiff M.D., a minor child, was the rightful owner of an identifiable amount of money unlawfully taken by Mdallo1990, over which Defendants now exercise full dominion and control in conflict with the Plaintiff's rights.

131. The Plaintiff J.D., a minor child, was the rightful owner of an identifiable amount of money unlawfully taken by Mdallo1990, over which Defendants now exercise full dominion and control in conflict with the Plaintiff's rights.

132. A request for the return of these monies would have been futile.

WHEREFORE, the Plaintiffs demand Judgment against Defendants for the return of these monies, and for such further relief as this Court deems just and equitable.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues for which a jury is available.

DESIGNATION OF TRIAL COUNSEL

MATTHEW R. LITT, ESQ. is hereby designated as trial counsel for the Plaintiffs.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that this matter in controversy is not the subject of other actions pending in any court or arbitration proceedings, or any such contemplated other actions or arbitration proceedings.

LITT LAW, LLC



BY:

Matthew R. Litt, Esq.
Attorney for Plaintiffs

December 5, 2024