

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

GLS Companies and James Mattson, on behalf
of themselves and all others similarly situated,

Case No:

Plaintiffs,

CLASS ACTION COMPLAINT

v.

JURY TRIAL DEMANDED

Minnesota Timberwolves Basketball LP,
Defendant.

Plaintiffs GLS Companies and James Mattson (“Plaintiffs”), individually and on behalf of a Class of all others similarly situated, make the following allegations based upon personal knowledge as to their own acts and upon information and belief, as well as upon their attorneys’ investigative efforts as to Defendant Minnesota Timberwolves Basketball LP’s (“Defendant”) actions, and alleges as follows:

INTRODUCTION

1. This case involves the ticketing policy implemented by the Minnesota Timberwolves for the 2015–2016 NBA season. This new policy fundamentally, and unlawfully, alters the way Timberwolves ticket holders may use and transfer tickets. Simply put, the new policies were designed to benefit Defendant and harm ticket purchasers.

2. The Timberwolves’ new ticket policy eliminates paper tickets and imposes draconian and unlawful limitations on the ability of ticket holders, including season ticketholders, to acquire, sell, or transfer the tickets for which they paid.

3. Moreover, Defendant has reserved the right to continue implementing new limitations at its complete discretion. Defendant has, in fact, acted on this discretion when it imposed harsh re-sale minimums partway through the 2015–2016 season. Ticket holders now are barred from selling their tickets below an arbitrarily imposed minimum price – somewhere between 75 and 90 percent of the ticket’s face value in most instances. Because the Timberwolves have performed so poorly, Plaintiffs and class members have been left holding the bag, since reasonable market purchasers have no interest in paying premium prices for a team mired at the bottom of the conference standings with no hopes of making the NBA playoffs.

4. Plaintiffs, on behalf of themselves and all others similarly situated, assert six legal bases for relief: (1) Breach of Contract; (2) violations of the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. § 325F.69; (3) violations of the Minnesota Unlawful Trade Practices Act, Minn. Stat. § 325D.13; (4) violations of the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.44; (5) violation of the Minnesota Antitrust Law of 1971, Minn. Stat. § 325D.52; and (6) Unjust Enrichment.

PARTIES

5. Plaintiff GLS Companies is a Minnesota s corporation with its principal place of business located at 6845 Winnetka Circle, Brooklyn Park, Minnesota.

6. Plaintiff James Mattson is a natural person and citizen of the State of Minnesota.

7. Defendant Minnesota Timberwolves Basketball LP is a Minnesota limited partnership with its principal place of business located at 600 First Avenue North, Minneapolis, Minnesota.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to Minn. Const. Art. VI § 3 and Minn. Stat. § 484.01.

9. This Court has personal jurisdiction over Defendant because it is incorporated in Minnesota, has its principal place of business in Minnesota, and transacts business in the state.

10. The Court also has personal jurisdiction over Defendant because it committed an act within Minnesota that caused injury and damage to Plaintiffs within the State.

11. Venue in Hennepin County is appropriate under Minn. Stat. § 542.09 because the causes of action alleged herein arose, in whole or in part, in this county. Plaintiffs purchased the tickets at issue in Hennepin County and suffered economic harm in the county as a result of Defendant's conduct. Defendant also has its principal place of business in Hennepin County.

FACTUAL BACKGROUND

12. Defendant owns and manages the Minnesota Timberwolves, a professional basketball team that plays in the National Basketball Association ("NBA"). The NBA is by far the most dominant provider of professional basketball in the United States. Overall, more than 21 million tickets were sold to NBA games for the 2014–2015 season.

13. Defendant earns substantial revenue from its primary ticket sales. For just the 2014–2015 season, Defendant sold 595,652 tickets to its 41 home games, averaging 14,528 tickets sold per game. Revenue from primary ticket sales was estimated to be more than \$22 million during the 2014–2015 season alone.

A. Relevant Market

14. The relevant geographic market is the United States.

15. The relevant product market is the market for the facilitation of the secondary sale or transfer of Timberwolves home game tickets. The market for facilitating secondary ticketing is a distinct market from the primary ticketing market – that is, the sale of tickets directly from Defendant to purchasers. Secondary ticketing involves the resale of tickets by holders of tickets originally purchased from Defendant.

16. Defendant, and nearly all other amateur and professional sports organizations, treats the markets for primary ticket sales and secondary ticket sales as separate and distinct markets. During the 2015 NBA playoffs, for example, the NBA advertised that “[t]he Flash Seats secondary ticket marketplace is NOW OPEN for fans looking for tickets for Games 3 and 4 of the 2015 NBA Finals.” Additionally, Flash Seats’ website states “[t]eam venues that allow their tickets to be sold on Flash Seats endorse it as their official secondary marketplace.”

17. Tickets sold directly by Defendant are sold for a set price, or face value. Tickets sold in the secondary resale market are resold by individual ticket holders (not by Defendant) for prices set by the person selling that individual ticket. Businesses, such as Flash Seats, who operate platforms facilitating the resale of tickets generate revenue by charging fees to sellers and buyers who use their services.

18. Events of the same sport are not viable substitutes because they are almost always in different geographic regions and each team has unique players and skill levels. Events associated with other sports are distinct and often attract an altogether different fan-base. These distinctions are especially true in the context of sports teams because of the fan loyalty that each of those teams engender. Although there may be some substitution that might occur between Defendant’s home game tickets and tickets to other sporting or entertainment events, the availability of other distinct events does not compete away Defendant’s ability to anti-

competitively control secondary ticket sales and prices or otherwise act in hindrance of competition.

B. Defendant's Longstanding Ticketing Policy

19. From the Timberwolves' inaugural season in 1989 –1990 up through the 2014–2015 season, Defendant's ticketing policy has operated in generally the same manner: Defendant offered to sell tickets to Timberwolves basketball games; interested consumers accepted Defendant's offer and paid money to Defendant for an agreed-upon number of tickets; and Defendant provided the consumers tickets that allowed access to the arena for games. Once the ticket holder had possession of the paper tickets, they were free to use them in any manner they chose, an important factor when one considers the number of games in an NBA season. They could use them to attend the game themselves, they could resell them on the secondary market, or they could give them away to friends, family, or coworkers. Regardless of how they were used, the ticket holder had full control over the purchased paper tickets.

20. Given Defendant's longstanding ticketing policy, ticket holders and consumers generally came to know, understand, and reasonably rely on the policy. Specifically, ticket holders came to reasonably expect that, upon purchase of tickets from Defendant, they would receive paper tickets that they would be able to use in any manner they chose, free and unfettered from unreasonable interference.

21. Thus, if Defendant decided to change its ticketing policy to eliminate the rights of ticket holders to sell or give away tickets the ticket holders, at a minimum, could reasonably expect to be told about the change and given an opportunity to discuss any proposed change prior to implementation. If Defendant and ticket holders could not reach an agreement with respect to

a proposed change, ticket holders could reasonably expect to be given the opportunity to decide whether or not to purchase tickets from Defendant.

C. Defendant's 2015–2016 Ticketing Policy

22. After nearly 25 years of employing the same ticketing policy, Defendant unilaterally changed its policy for the 2015–2016 season – after season ticket holders had already purchased their tickets. In doing so, Defendant unilaterally, and fundamentally, altered the way ticket holders may use, transfer, sell, or give away Timberwolves tickets.

23. Defendant made these changes without informing, or even consulting with, ticket holders or prospective ticket holders. Again, Defendant did not tell current ticket holders and new ticket purchasers about the changes prior to selling them their 2015–2016 tickets. In fact, ticket holders only learned about Defendant's new, restrictive, and anti-competitive changes months after purchasing their tickets when Defendant sent them a vague form email "explaining" the changes.

24. Defendant did not inform ticket holders about the changes to its ticketing policy because Defendant knew that the changes were harmful to prospective ticket holders and that prospective ticket holders would be upset and unsupportive of the changes.

25. The changes to Defendant's ticketing policy are numerous, onerous, and far-reaching. They harm both ticket holders and the free market.

26. The changes also restrict the free and unfettered use, resale, and transfer of the tickets by ticket holders, thereby drastically decreasing the value of the tickets.

27. Defendant's ticketing policy changes harm ticket holders in the following specific ways described herein.

i. Ticket holders wishing to use their tickets themselves

28. Unlike the previous 25 seasons, and in contravention to generally understood and accepted ticketing practices throughout amateur and professional sports, Defendant no longer provides ticket holders with paper tickets corresponding to the number of tickets purchased. Instead, Defendant now requires all Timberwolves tickets to be paperless and electronic. Defendant's elimination of paper tickets allows it to control the use, resale, and transfer of tickets by ticket holders – and to employ minimum resale prices, added fees, and other draconian restrictions on subsequent transfers of the tickets. As described more fully below, such control is designed exclusively to allow Defendant to control, and generate revenue from, the secondary ticket sales market, as opposed to conferring any benefit upon ticket holders. This, of course, is in addition to the significant revenue already generated by Defendant from the primary sales of its tickets.

29. Ticket holders wishing to use their tickets to attend a game themselves no longer receive, and are not allowed to present, a paper ticket at the arena gate for entry. Rather, Defendant now requires ticket holders to access and claim their tickets through a digital service called Flash Seats. Ticket holders cannot make use of their tickets any other way.

30. Flash Seats essentially operates as a tightly controlled ticketing repository for Defendant. Flash Seats “holds” the paperless, electronic ticket until a ticket holder claims it. To do so, the ticket holder must visit Flash Seats’ website, create a user profile, and agree to Flash Seats’ voluminous privacy policy and terms and conditions, which includes providing access to certain personal data on the ticket holder’s smart phone.

31. Once the ticket holder has successfully created a Flash Seats account and “unlocked” the paperless, electronic ticket, they may then attend a Timberwolves game one of

two ways: (1) if the ticket holder has a smart phone, download the Flash Seats mobile application and bring the smart phone to the game; or (2) if the ticket holder does not have a smart phone, bring a form of acceptable digital identification, e.g. credit card or driver's license, to the game. To enter the game, employees at the arena's entrance scan the barcode on the ticket holder's mobile application or swipe their credit card or driver's license with handheld electronic devices. Once verified, a paper "seat finder" is printed off that informs the ticket holder where their seat is located in the arena.

32. If the ticket holder does not exactly follow all of the burdensome steps set forth by Defendant's new ticketing policy, they are unable to claim and use the ticket for which they paid substantial sums of money to Defendant. For Defendant, the ticket holder's actual ability to use their ticket is immaterial, since Defendant has already been paid in full. The burdens of the new ticketing policy thus fall entirely on ticket holders.

ii. Ticket holders wishing to resell or transfer their tickets

33. Unlike the previous 25 seasons, and again in contravention to generally understood and accepted ticketing practices throughout amateur and professional sports, Defendant no longer allows ticket holders to freely resell or transfer their tickets. Instead, Defendant now requires that tickets may only be resold or transferred through Flash Seats. Defendant does this in an attempt to control, and unilaterally generate profits from, the secondary market for Timberwolves ticket sales through restrictions on ticket holders implemented *after* the tickets were purchased. Defendant is able to enforce this anti-competitive arrangement because Timberwolves tickets are now paperless and electronic (at Defendant's behest), thereby making it impossible for ticket holders to list the tickets on a secondary marketplace or platform such as

StubHub or Ticketmaster, or even to physically resell or transfer them in a hand-to-hand transaction.

34. Without any reasonable alternative, ticket holders are thus forced to use Flash Seats to resell, give away, or otherwise transfer their tickets. Doing so, however, comes at a cost. For every ticket resold or transferred by a ticket holder, Flash Seats charges a fee to either the ticket seller, the ticket buyer, or both. Fee amounts vary, and are subject to change, but they are charged for every resale or transfer transaction that occurs on Flash Seats.

35. For each ticket that is resold or transferred, Defendant receives a percentage of the fees collected by Flash Seats – currently 15 percent.

36. Finally, and most disturbingly, Defendant requires that ticket holders resell their tickets at mandatory minimum prices determined unilaterally by Defendant on a game-by-game basis. Defendant's minimum prices have no relation to the actual fair market for such tickets. Defendant does not, for example, account for the fact that reasonable consumers wish to pay less for tickets to see a team with a losing record. Defendant instead sets the mandatory minimum prices for resale of Timberwolves tickets very high—usually 75 percent or more of the tickets' face value—despite the fact the market dictates that tickets to see a team having the Timberwolves' record should be priced much lower (i.e., when ticket supply far outstretches ticket demand). The inability to sell tickets at prices dictated by the fair market renders them worth far less than what Plaintiffs and the Class paid for them.

37. A brief example underscores the harm this blatant price manipulation causes ticket holders:

A ticket holder planning on attending a Timberwolves games finds out a few hours before tip-off that they can no longer go to the game. The ticket holder thus attempts to resell

their ticket to the game on Flash Seats. Since time is short, the ticket holder is willing to sell the ticket for less than what they paid. For example, if the ticket holder paid \$50.00 initially, they may set the resale price for \$25.00, hoping to recoup half of their investment. Defendant's new ticketing policy prohibits this rational conduct and instead requires the ticket holder to attempt to resell the ticket for a higher price determined by Defendant. If the ticket does not sell for Defendant's arbitrary, mandatory minimum price, the ticket goes unsold, and the ticket holder loses their entire \$50.00 investment instead of just \$25.00.

This scenario applies with additional force to tickets for teams who are not performing well in in the 2015–2016 season, such as the Timberwolves, for whom prospective buyers are unwilling to pay anywhere close to full face value for tickets. Thus, not only does Defendant's ticketing policy interfere with the ticket holders' rights as owner of the ticket, but it also harms them monetarily because often times they cannot resell the ticket for Defendant's arbitrary minimum price.

38. Taken in total, Defendant's changes to ticket holders' ability to resell and transfer their tickets are unconscionable. Defendant first forces ticket holders to use only Flash Seats to resell or transfer their tickets. Defendant is able to this because it has eliminated paper tickets, making traditional methods of ticket resale and transfer impossible. If ticket holders refuse to use Flash Seats, their tickets go unsold. With ticket holders at its mercy, Defendant is able to unilaterally impose fees of whatever level it chooses to resell or transfer tickets on Flash Seats – the very application ticket holders have no choice but to use.

39. And to top it off, Defendant also requires ticket holders to resell their tickets at mandatory minimum prices determined by Defendant on a game-by-game basis. If ticket holders

attempt to resell their tickets for less than the mandatory minimum price, Defendant's system refuses to allow the sale to proceed.

40. Defendant did not implement the mandatory minimum resale price requirements until months into the 2015 –2016 season, further highlighting the arbitrary and capricious nature of Defendant's new ticketing system. This arbitrary scheme devalues the tickets purchased by ticket holders who purchased tickets both before and after Defendant announced and implemented the Flash Seats system.

41. Ultimately, ticket holders are left with no choice but to abide by Defendant's ticketing tactics. This is because they are faced with a harsh, unfair reality: (1) try to resell or transfer their tickets without using Flash Seats, which is impossible; or (2) resell or transfer their tickets using Flash Seats—at the minimum price set by Defendant—and incur a fee. Rationally, ticket holders choose option (2), the better of the two bad options, but even then are often unable to find a buyer willing to pay the mandatory minimum prices and added fees. If a ticket holder is fortunate enough to find a buyer, Defendant gets paid while ticket holders suffer.

iii. Recipients of resold or transferred tickets.

42. Even if ticket holders are able to navigate the maze of restrictions created by Defendant's new ticketing policy, and successfully resell or transfer their tickets to a willing third party using Flash Seats, the purchaser nonetheless must also comply with Defendant's ticketing policy. The ticket policy thus reaches beyond harming primary ticket purchasers and harms secondary ticket purchasers, as well.

43. Like the ticket holders themselves, secondary purchasers must sign up for Flash Seats in order to "claim" their ticket. They do so by logging onto Flash Seats' website, creating a user profile, and agreeing to Flash Seats' voluminous and invasive privacy policy and terms

and conditions. Once the ticket has been “unlocked,” the secondary purchaser can then attend the Timberwolves game in the same manner as a ticket holder – that is, they must download the Flash Seats application or bring their credit card or driver’s license with them to the game. One of these three items is scanned at the gate, and upon verification, a paper “seat finder” is printed off that informs them where their seat is located in the arena

44. These cumbersome and complicated requirements make it far more difficult for ticket holders to resell or transfer their tickets to third parties. In fact, many ticket holders are now unable to resell or transfer their tickets because recipients are unable or unwilling to jump through all of the hoops related to Defendant’s ticketing policy just to attend a single Timberwolves game. This causes ticket holders to lose money on their tickets that they would not have lost but for the new policy. It also causes ticket holders who intended to give away their seats for free to clients for business purposes to suffer economic harm.

FACTS RELATED TO PLAINTIFFS

A. GLS Companies

45. On or about February 2015, Plaintiff GLS Companies (hereinafter “GLS”) purchased season tickets for the 2015–2016 season from Defendant in Minneapolis, Minnesota. GLS paid approximately \$32,000.00 for the season tickets.

46. GLS purchased the season tickets pursuant to Defendant’s season ticket holder renewal policy. The policy allows Defendant to automatically renew a season ticket holder’s tickets for the following season unless the ticket holder objects. GLS did not object, thus Defendant renewed its tickets for the 2015–2016 season.

47. GLS agreed to pay Defendant for the 2015–2016 season tickets in 12 monthly installments of approximately \$2,666.00, which it at all times performed.

48. Defendant did not tell GLS about its new ticketing policy prior to renewing GLS' season tickets for the 2015–2016 season.

49. GLS had no knowledge of Defendant's new ticketing policy at the time its season tickets were renewed for the 2015–2016 season.

50. GLS did not learn about Defendant's new ticketing policy until months after it renewed its 2015–2016 season tickets.

51. At the time of purchase, GLS reasonably expected that it would receive paper tickets for all of the 2015–2016 Timberwolves home games, consistent with its prior purchases of tickets to sporting events from the Timberwolves and other sports. Indeed, receiving paper tickets was an important factor in GLS' decision to purchase season tickets.

52. At the time of purchase, GLS also reasonably expected that it would be able to use, resell, or transfer its 2015–2016 season tickets free from draconian restrictions imposed by Defendant. Having control over the tickets, and the ability to sell or give away tickets to games it could not attend, was also an important factor in GLS' decision to purchase season tickets and is an important factor to any rational season ticket holder.

53. GLS purchased the 2015–2016 season tickets with the intention of attending some games and giving his tickets away for some games. Defendant's new ticketing policy has drastically reduced GLS' ability to carry out this intention. GLS has been economically harmed by this interference.

54. Had GLS known about Defendant's new ticketing policy prior to renewal, it would have not renewed, or would have paid less for, its 2015–2016 season tickets.

B. James Mattson

55. On or about February of 2015, Plaintiff James Mattson (hereinafter “Mattson”) purchased season tickets from Defendant in Minneapolis, Minnesota. Mattson paid approximately \$21,000.00 for the season tickets.

56. Mattson purchased the season tickets while attending a Timberwolves home game during the 2014–2015 season.

57. Prior to the game, a representative of Defendant offered Mattson an opportunity to purchase season tickets for the 2015–2016 season.

58. Mattson accepted Defendant’s offer and proceeded to pick out two seats in the Timberwolves’ arena for which he wanted to purchase 2015–2016 season tickets.

59. Mattson was then ushered to an area where Defendant’s representative took Mattson’s credit card information. Mattson agreed to pay Defendant several hundred dollars as a down payment, then pay off the remainder of the balance in 12 monthly installments of \$1,720.00, which he at all times performed.

60. Mattson signed a form memorializing his agreement to pay Defendant for the 2015–2016 season tickets. The form stated that Mattson agreed to his credit card being charged and that Mattson agreed to the financing structure described above.

61. The form stated nothing about Defendant’s new ticketing policy.

62. Defendant did not tell Mattson about its new ticketing policy prior to selling Mattson his 2015–2016 season tickets.

63. Mattson had no knowledge of Defendant’s new ticketing policy at the time he purchased his 2015–2016 season tickets.

64. Mattson did not learn about Defendant's new ticketing policy until months after he purchased his 2015–2016 season tickets.

65. At the time of purchase, Mattson reasonably expected that he would receive paper tickets for all of the 2015–2016 Timberwolves home games, consistent with his prior purchases of tickets to sporting events from the Timberwolves and other sports teams throughout his life. Indeed, receiving paper tickets was an important factor in Mattson's decision to purchase season tickets.

66. At the time of purchase, Mattson also reasonably expected that he would be able to use, resell, or transfer his 2015–2016 season tickets free from draconian restrictions imposed by Defendant. Having control over the tickets, and the ability to sell or give away tickets to games he could not attend, was also an important factor in Mattson's decision to purchase season tickets and is an important factor to any rational season ticket holder.

67. Mattson purchased the 2015–2016 season tickets with the intention of attending some games, reselling his tickets for some games, and giving his tickets away for some games. Defendant's new ticketing policy has drastically reduced Mattson's ability to carry out this intention. Mattson has been economically harmed by this interference.

68. One specific example of harm Mattson suffered occurred on February 22, 2016. As part of his season ticket package, Mattson had two tickets to the Timberwolves game against the Boston Celtics. Mattson had paid \$240.00 per ticket. Mattson was unable to attend the game so he attempted to resell his tickets on Flash Seats. Mattson listed the tickets for \$100.00 per ticket, hoping to recoup at least part of his \$480.00 investment. Defendant prohibited Mattson's attempted sale, instead requiring him to list the tickets for \$180.00 per ticket – 75 percent of face

value. At this price, Mattson's tickets went unsold and Mattson lost his entire \$480.00 investment.

69. Had Mattson known about Defendant's new ticketing policy prior to purchase, he would have not purchased, or would have paid less for, his 2015–2016 season tickets.

CLASS ACTION ALLEGATIONS

70. Pursuant to Rule 23.02(b) and 23.02(c) of the Minnesota Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and the following class:

All persons and entities in the United States who, from 2015 to the present, purchased Minnesota Timberwolves tickets from Defendant that were subjected to the Flash Seats platform.

71. Members of the Class are so numerous that the individual joinder of all absent Class is impracticable. While the exact number of Class is unknown to Plaintiffs at this time, based upon the nature of the trade and commerce involved, the proposed Class likely includes at least thousands of members.

72. Common questions of law and fact exist as to all Class Members. These questions predominate over any questions unique to any individual Class Member and include, without limitation:

- a. Whether Defendant unilaterally changed its ticketing policy for the 2015–2016 season as described above;
- b. Whether Defendant did not tell ticket purchasers about the ticketing policy changes for the 2015–2016 season prior to selling them their tickets;
- c. Whether Defendant breached its contracts with ticket purchasers who purchased tickets for the 2015–2016 season;
- d. Whether Defendant's conduct as described herein was intentional;

- e. Whether Defendant's conduct as described herein was willful;
- f. Whether Defendant's conduct described herein constitutes fraud by omission;
- g. Whether Defendant's conduct described herein has caused it to be unjustly enriched.

73. Plaintiffs' claims are typical of the claims of the Class. Defendant's actions have affected Class Members equally because those actions were directed at Plaintiffs and Class Members and affected each in the same manner. Accordingly, Plaintiffs' claims against Defendant based on the conduct alleged in this Complaint are identical to the claims of other Class Members.

74. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs are Class Members and have no interests adverse to the interests of the members of the Class. Plaintiffs are committed to prosecuting this action to a final resolution and have retained competent counsel who have extensive experience in prosecuting complex class action litigation and who will vigorously pursue this litigation on behalf of the Class.

75. A class action is superior to other methods of adjudicating this controversy.

76. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Defendant.

77. Defendant has acted or refused to act on grounds generally applicable to the Class.

78. Questions of law and fact common to members of the Class predominate over any individual questions that may be alleged to affect only individual Class Members.

79. The damages sustained by the individual Class Members will not be large enough to justify individual actions when considered in proportion to the significant costs and expenses necessary to prosecute this claim. The expense and burden of individual litigation would make it impossible for members of the Class individually to address the wrongs done to them.

80. Even if every Class Member could afford individual litigation, the court system could not. Class treatment, on the other hand, will permit the adjudication of claims of Class Members who could not afford individually to litigate their claims against Defendant and will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that individual actions would entail.

81. No difficulties are likely to overcome the manageability of this class action, and no superior alternative exists for the fair and efficient adjudication of this controversy.

COUNT ONE
Breach of Contract

82. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

83. Defendant entered into a contract with each Plaintiff and member of the Class to sell tickets, including season tickets, for the Minnesota Timberwolves 2015–2016 season home games.

84. Plaintiffs and the Class performed under the contract by providing payment for the tickets as called for by the contracts.

85. Defendant breached its contracts with Plaintiffs and members of the Class by supplying tickets, including season tickets, that did not provide the qualities and attributes that were reasonably expected and bargained for by Plaintiffs and the Class.

86. As a direct and proximate result of the Defendant's breach of contract, Plaintiffs and the Class have sustained economic losses and are entitled to compensatory damages in an amount to be proven at trial.

COUNT TWO

Violations of the Minnesota Prevention of Consumer Fraud Act Minn. Stat. § 325F.69

87. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

88. Minn. Stat. § 325F.69 Subd. 1 provides:

The act, use, or employment by any person of fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

89. Defendant sells tickets to NBA basketball games, which falls within the meaning of "merchandise" under Minn. Stat. § 325F.68, Subd. 2.

90. Defendant's pattern and practice of selling Plaintiffs and the Class tickets for the 2015–2016 season without first informing them that Defendant had fundamentally and unilaterally changed its ticketing policy constitutes the use of fraud, false pretense, and deceptive practices and, thus, constitutes multiple separate violations of Minn. Stat. § 325F.69.

91. Defendant's material omissions constitute deceptive conduct that violates Minn. Stat. § 325F.69. Specifically, at the time of ticket purchase, Defendant omitted the following facts from Plaintiffs and the Class:

- a. That Flash Seats had been hired by Defendant to exclusively manage and control the distribution, resale, and transfer of tickets for the 2015–2016 season;

- b. That Flash Seats would charge fees related to the resale and transfer of tickets;
- c. That Defendant would receive a percentage of said resale and transfer fees;
- d. That ticket holders would no longer receive tickets in paper form and instead tickets would be paperless and electronic;
- e. That ticket holders would be forced to use only Flash Seats to access, unlock, and use their tickets;
- f. That ticket holders would be forced to use only Flash Seats to resell, give away, or otherwise transfer their unused tickets;
- g. That any recipient of tickets would have to download software and agree to lengthy privacy agreements regarding their private data to receive and use the tickets; and
- h. That ticket holders would be forced to resell their unused tickets only on Flash Seats at arbitrary minimum prices determined on a game-by-game basis by Defendant;

92. These omitted facts were material in that a reasonable consumer would not have purchased tickets from Defendant, or would have paid less for tickets purchased from Defendant, had they known about them prior to purchase.

93. Defendant intended that Plaintiffs and the Class rely upon the omissions they made in connection with the sale of Timberwolves tickets for the 2015–2016 season in violation of Minn. Stat. § 325F.69.

94. As a result of the Defendant's misconduct, Plaintiffs and the Class have suffered damages and are entitled to injunctive and equitable relief including, but not limited to, restitution and disgorgement and an award of attorneys' fees pursuant to Minn. Stat. § 8.31, Subd. 3a.

COUNT THREE

Violations of the Minnesota Unlawful Trade Practices Act, Minn. Stat. § 325D.13

95. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

96. Minnesota Stat. § 325D.13 provides: "No person shall, in connection with the sale of merchandise, knowingly misrepresent, directly or indirectly, the true quality, ingredients or origin of such merchandise."

97. Defendant is a "person" within the meaning of Minn. Stat. § 325D.10.

98. Defendant's unlawful conduct and deceptive practices include, but are not limited to,:

- a. Defendant's fraudulent omission that its ticket policies for the 2015–2016 season were different from, and far more restrictive than, previous seasons; specifically, that Flash Seats had been hired by Defendant to exclusively manage and control the distribution, resale, and transfer of tickets;
- b. Defendant's fraud and misrepresentation by omission that ticket holders for the 2015–2016 season would not be given paper tickets, as was standard in previous seasons, and instead would only be given paperless, electronic tickets;
- c. Defendant's fraud and misrepresentation by omission that tickets for the 2015–2016 season could no longer be resold and transferred freely, as was

standard in previous seasons, and instead could only occur pursuant to the unreasonable terms and conditions unilaterally instituted by Defendant; and

- d. Defendant's fraud and misrepresentation by omission that tickets for the 2015–2016 season could no longer be resold at prices dictated by the market or determined by the ticket holder, as was standard in previous seasons, and instead could only be resold for arbitrary minimum prices determined on a game-by-game basis by Defendant.

99. As a result of Defendant's practices described herein, Plaintiffs have suffered actual damages by purchasing tickets that they otherwise would not have purchased, or by paying more for tickets than they otherwise would have paid, had they known about these facts prior to purchase.

100. Defendant's conduct described herein constitutes a violation of Minnesota's Unlawful Trade Practices Act, § 325D.13, injuring Plaintiffs and entitling them to damages and injunctive and equitable relief including, but not limited to, restitution and disgorgement and an award of attorneys' fees pursuant to Minn. Stat. § 8.31, Subd. 3a.

COUNT FOUR

Violations of Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.44

101. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

102. Minn. Stat. § 325D.44, Subd. 1 provides:

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

(5) represents that goods or services have . . . characteristics, ingredients, uses, benefits . . . they do not;

(13) engages in any other conduct which similarly creates a likelihood of confusion or misunderstanding.

103. Defendant's material omissions constitute deceptive conduct that violates Minn. Stat. § 325D.44. Specifically, Defendant omitted the following facts at the time of ticket sales to Plaintiffs and members of the Class:

- a. That Flash Seats had been hired by Defendant to exclusively manage and control the distribution, resale, and transfer of tickets for the 2015–2016 season;
- b. That Flash Seats would charge fees related to the resale and transfer of tickets;
- c. That Defendant would receive a percentage of said resale and transfer fees;
- d. That ticket holders would no longer receive tickets in paper form and instead tickets would be paperless and electronic;
- e. That ticket holders would be forced to use only Flash Seats to access, unlock, and use their tickets;
- f. That ticket holders would be forced to use only Flash Seats to resell, give away, or otherwise transfer their tickets;
- g. That any recipient of tickets would have to download software and agree to lengthy agreements regarding their private data to receive and use the tickets; and
- h. That ticket holders would be forced to resell their tickets only on Flash Seats at mandatory minimum prices determined on a game-by-game basis by Defendant.

104. As a result of Defendant's practices described above, Plaintiffs have suffered actual damages by purchasing tickets that they otherwise would not have purchased, or by paying more for tickets than they otherwise would have paid, had they known about these facts prior to purchase.

105. Because Defendant willfully engaged in such trade practices, knowing them to be deceptive, Plaintiffs are entitled to recover damages and all other remedies available at law, including their costs and attorneys' fees under Minn. Stat. § 325D.45, subd. 2.

COUNT FIVE

Violation the Minnesota Antitrust Act of 1971, Minn. Stat. § 325D.52

106. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

107. As described herein, Defendant knowingly and willfully engaged in a course of conduct designed to improperly obtain, extend, and maintain monopoly power in the Relevant Market.

108. This course of conduct includes the following acts: (1) eliminating paper tickets to Timberwolves home games, making traditional methods of resale and transfer of tickets, e.g. hand-to-hand transactions, impossible; (2) eliminating ticket holders' ability to resell and transfer their purchased tickets on any secondary market or platform of their choosing; (3) requiring ticket holders to resell and transfer their purchased tickets only on Flash Seats, Defendant's approved secondary platform; and (4) requiring ticket holders to resell their purchased tickets on Flash Seats under substantial, non-competitive restrictions, for instance for mandatory minimum prices that are unilaterally determined by Defendant on a game-by-game basis and not related to the market. The result of Defendant's unlawful conduct has been to obtain, extend, and maintain an illegal monopoly in the Relevant Market.

109. Defendant intentionally and wrongfully created and maintained a monopoly in the Relevant Market in violation of the Minnesota Antitrust Act of 1971, § 325D.52.

110. Plaintiffs and other members of the Class as described herein have been injured in their business or property by reason of Defendant's antitrust violations alleged in this Cause of Action. Plaintiffs' and the Class' injuries consist of being deprived the ability to resell or transfer their purchased tickets in a free and unfettered way, namely on platforms other than Flash Seats and for prices determined by the fair market and not arbitrarily by Defendant. These injuries would not have occurred in the absence of Defendant's antitrust violations. The injuries to Plaintiffs and the Class are of the type of injuries antitrust laws were designed to prevent and their injuries flow from Defendant's unlawful conduct.

111. Pursuant to Minn. Stat. § 325D.57, Plaintiffs and the Class seek treble damages for the injuries they have suffered due to Defendant's anticompetitive conduct, together with costs and disbursements, including reasonable attorneys' fees.

112. Pursuant to Minn. Stat. § 325D.56, Plaintiffs and the Class also seek damages for the injuries they have suffered due to Defendant's anticompetitive conduct.

113. Plaintiffs and the Class further seek equitable and injunctive relief pursuant to Minn. Stat. § 325D.58, and other applicable law, to correct for the anticompetitive market effects caused by Defendant's unlawful conduct, and other relief so as to assure that similar anticompetitive conduct does not occur in the future.

COUNT SIX
Unjust Enrichment

114. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

115. Defendant has been unjustly enriched. Defendant expressly offered to sell tickets to Plaintiffs and the Class and Plaintiffs and the Class accepted these offers. Plaintiffs and the Class paid substantial sums of money to purchase said tickets in order to attend Timberwolves games, to sell them to others, and to give them away to others.

116. Defendant is a for-profit business. Plaintiffs' and the Class' purchase of tickets enriched Defendant.

117. Plaintiffs and the Class performed their obligation by paying substantial sums of money for the tickets.

118. Defendant failed to perform its obligations, however, because it did not provide tickets in accordance with what was reasonably expected and bargained for by Plaintiffs and the Class.

119. Plaintiffs and the Class lost money, in the form of overpayment for their tickets, and Defendant was unjustly enriched as a result of the misconduct described herein. Defendant received the full benefit of Plaintiffs' and the Class' purchase money while providing Plaintiffs and the Class with tickets that had significantly less value than the amount actually paid by Plaintiffs and the Class.

120. Because Defendant did not perform under the contracts with Plaintiffs and the Class, it would be unjust for Defendant to retain the benefits from the conferred by Plaintiffs and the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of himself and all others similarly situated, pray for judgment against Defendant as follows:

- A. An Order certifying the Class under Minnesota Rule of Civil Procedure 23 and appointing Plaintiffs and his counsel to represent the Class;
- B. An Order enjoining Defendant's ongoing unlawful conduct herein described;
- C. A declaration that the actions of Defendant, as set out above, are unlawful;
- D. Damages permissible by law;
- E. Costs, disbursements, expenses, and attorneys' fees;
- F. Pre- and post-judgment interest, to the extent allowable; and
- G. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs, on behalf of themselves and all others similarly situated, hereby demand a trial by jury in this case as to all issues so triable.

Respectfully submitted,

Dated: March 3, 2016

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