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Brooklyn Nets Jump To Block Ticket Holder's Antitrust Suit

By **Mike Curley**

Law360 (December 16, 2019, 1:38 PM EST) -- The Brooklyn Nets are urging a New York federal court to bench a former season ticket holder's suit claiming the Nets violated federal antitrust law by canceling his membership, saying that a single team's tickets don't count as a market for antitrust action.

In a motion to dismiss filed Friday, the Nets argued that multiple courts within the Second Circuit have held that sports teams can't monopolize the sale of tickets to their own games, and the team was within its legal rights to deny Simon Yedid additional tickets because he violated its policies and state law.

Yedid's stated preference for the Nets does not create a market, the team said, arguing that the complaint does not take into account alternatives to the Nets tickets, such as tickets to the New York Knicks or any other entertainment available in New York.

In Yedid's suit, which was **removed to federal court** in October, he claimed the team was trying to monopolize the resale market under a preferred company by canceling his season ticket membership when he sold his tickets through another broker. Yedid, who's been a Nets season ticket holder since 2012, claims the team is in violation of federal antitrust law as well as New York law, which allows season ticket holders to resell their own personal tickets.

According to the team, however, Yedid received every ticket he was entitled to for the 2018-2019 season, and the team only ended the membership between seasons. While Yedid claims he had an agreement with the team to purchase tickets for the next two seasons, the team disputes that he had a valid contract, saying that because the Nets didn't sign it, it was never fully executed.

The Nets also contest Yedid's argument that New York law allows him to sell his tickets, saying the Arts and Cultural Affairs Law, or ACAL, only creates specific exemptions for resale rather than allowing unrestricted resale. Otherwise, state law still requires a license for resale of tickets, the team said.

The ACAL allows tickets to be resold without a state license if they're to be resold for their market value or less, but the team argued that Yedid never alleged this was the case. According to the team, his sale of the tickets to a professional broker implies they were to be sold at higher prices, meaning the team was within the law to deny him further tickets.

The team further argued that by reselling his tickets without a license, Yedid was committing ticket speculation in violation of state law and could face criminal penalties.

In addition, the Nets argued Yedid's antitrust claims fail because the team's agreement with its preferred seller is not a conspiracy to fix prices or restrict the amount of product, but rather a standard agreement by which the broker can sell up to 25% of tickets to a given game. The team further noted that courts in the Second Circuit have "routinely" found entirely exclusive agreements of this type to not be antitrust violations, so it's implausible to find that an agreement for only a quarter of the tickets creates a conspiracy to monopolize a market.

Yedid has also not alleged any facts that the Nets set prices for ticket resale through its preferred broker, or that the broker has any affect on the Nets' policies, so there is nothing indicating a conspiracy or agreement to control the market, the team said.

An attorney for Yedid, Terrence A. Oved of Oved & Oved LLP, told Law360 on Monday, "We are confident that the case will move forward because the Net's motion to dismiss misconstrues both the facts and the law."

A spokesperson for the Nets declined to comment Monday.

Yedid is represented by Darren Oved, Terrence A. Oved, Andrew J. Urgenson and James Reilly of Oved & Oved LLP.

The Nets are represented by Anthony J. Dreyer, Karen Hoffman Lent, Jordan A. Feirman, Marissa E. Troiano and Andrew K. Patrick of Skadden Arps Slate Meagher & Flom LLP.

The case is Yedid v. Brooklyn Nets LLC, case number 1:19-cv-06061, in the U.S. District Court for the Eastern District of New York.

--Editing by Marygrace Murphy.

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