

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROSE WONG)	CASE NO.
20121 Van Aken Blvd.)	
Shaker Heights, Ohio 44122)	JUDGE
)	
and)	
)	
PATRICK GIBSON)	
18725 Shelburne Road)	
Shaker Heights, Ohio 44118)	
)	
Plaintiffs,)	
v.)	
)	
PARTYGAMING LTD)	
dba, "PARTY POKER")	COMPLAINT
c/o WPC Productions (Gibraltar) Ltd.)	(Jury Trial Demanded)
Iglobal Media Centre)	
561 Imossi House)	
#6-254)	
Irishtown)	
Gibraltar)	
)	
and)	
)	
PARTYGAMING PLC)	
711 Europort)	
Gibraltar)	
)	
Defendants.)	

Now come Plaintiffs Patrick Gibson and Rose Wong (collectively, "Plaintiffs") for themselves and on behalf of all others similarly situated, and for their Complaint against Defendants PartyGaming PLC and PartyGaming LTD and PartyGaming LTD dba, PartyPoker (collectively, "PartyGaming") and assert the following:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiffs and class representatives are residents of the State of Ohio.

2. Defendant PartyGaming is a publicly owned corporation existing under the laws of Gibraltar, with a principal place of business in Gibraltar. PartyGaming operates, *inter alia*, the PartyPoker.com and PartyPoker.net websites (collectively, "PartyPoker"). PartyGaming is the biggest name in the business of online poker, hosting as many as 100,000 on line players a night, with yearly earnings in the range of \$300-500 million. PartyGaming is publicly traded on the London stock exchange and conducts business with the public under the name PartyPoker.

3. The vast majority of PartyGaming's customers, generating 84% of PartyGaming's revenue, reside in the United States. While PartyGaming does not maintain a physical presence in the United States, it does advertise its gaming sites in the United States (and Ohio) and receives funds and pays out winnings to its United States-based and Ohio-based customers.

4. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), as Plaintiffs are class members and citizens of Ohio, PartyGaming is a citizen of a foreign country, and the amount in controversy exceeds \$5 million.

5. Venue is proper in the Northern District of Ohio, under 28 U.S.C. §1391(B)(2), as it is the jurisdiction in which the events giving rise to the Complaint occurred and the damages occurred in Ohio.

FACTS

6. At the PartyGaming websites, potential customers sign-up and play against other customers in a variety of poker games, competing against other competitors at "virtual tables." Common forms of play include single-table tournaments and single-table cash games.

7. To play, the potential customer must sign-up over the internet at a PartyPoker website. In order to open an account, the customer must agree to the “terms and condition of use” located on the website.

8. On its websites, PartyGaming provides the potential customer a great deal of information about PartyPoker, so that the customer can familiarize himself with PartyPoker before he agrees to the “terms and conditions of use” and becomes a registered member.

9. Among the information provided to the customer by PartyGaming is a statement as to collusion among its players. It reads as follows:

Collusion happens between two or more players. It can be defined as strategy intended to take an undue advantage over the other players at the table. **We have developed a “Collusion Prevention System” to detect such players and ban them from the site.** The sophisticated systems are developed on a high level technological platform and work based on a combined set of algorithms, permutations and combinations. We have further modified our systems to filter the players who collude and identify them so that the appropriate action can be taken against them. (Emphasis added.)

Thus, PartyGaming represents to its potential customers that it has developed software to eliminate any collusion among players, so that customers playing at PartyPoker could rely on the fact that the poker games were honest and without collusion. This representation is false.

10. One way a potential customer is assured there will be no collusion is PartyPoker’s representation that players will be allowed only one account per player, so that players cannot utilize multiple accounts and/or enter more than one account into the same single-table game, thereby creating an obvious opportunity to cheat other players at the table. As to this subject, PartyGaming pledges to the potential customer:

Players are only allowed one account per player and our system performs random security checks and other log-file reviews to maintain system integrity and fairness at the tables. If we find any players participating in collusion or deceptive practices, we will close their accounts immediately. (Emphasis added.)

In other words, PartyGaming represents to its potential customers that no members exist in its system who have multiple accounts and, therefore, there exist no players who can use multiple accounts to take more than one position at a poker table and cheat the other players. This representation is false.

11. Of course, gambling (especially gambling that is available 24-hours a day by computer in one's own home) can be a dangerous and addictive habit which can literally destroy people's lives. For this reason, PartyGaming claims that it does not unfairly or unreasonably solicit customers to gamble more than they should. PartyGaming claims that, in soliciting the business of customers, it takes actions to protect minors and to protect "problem gamblers." Specifically, PartyGaming claims that its software will identify addicted gamblers, so that their gambling activity can be restricted by PartyGaming and so that it can assist them in seeking counseling. Specifically, PartyGaming asserts as follows:

We see online gambling as a legitimate form of entertainment that is enjoyed by millions of adults worldwide. However, we also realize that there may be players who seek to play that are underage or who have let gambling take too large a role in their life. We advertise and operate responsibly in order to protect minors, and we assist problem gamblers to identify their addiction and seek counseling. For more information, see game fairness and responsible gaming.

In other words, PartyGaming claims that it conducts business in a manner that does not encourage gambling by minors or by people who have a gambling addiction. This representation is false.

12. In fact, PartyGaming's software does not preclude people from colluding with others in order to cheat people who are playing honestly on the internet and its representations to the contrary are blatantly false.

13. In fact, PartyGaming's software does not preclude people from having multiple accounts, and its representations to the contrary are blatantly false.

14. In fact, PartyGaming does not conduct its business and advertising so as not to solicit gambling by persons with gambling addictions, and/or minors, and its representations to the contrary are blatantly false.

15. In fact, during the entire history of PartyPoker on the internet, there has been rampant and wide-spread collusion among players who intend to, and do, cheat any players who come onto the site and play honestly. The result is that any player who enters the Party Poker websites and plays a single-table game has a very high likelihood of being cheated. PartyGaming has known about this problem for a long time and has failed and refused to disclose this problem to its customers and potential customers, and it has failed to remedy the problem. PartyGaming knows that disclosure of this problem would cause PartyGaming the loss of a great number of customers. Rather, PartyGaming has chosen to conceal this problem to the detriment of its honest clientele.

16. PartyGaming has known for some time that its efforts to preclude multiple accounts for one player have not been successful and as a result, there are numerous players with

multiple accounts. Because disclosure of this problem would cause PartyGaming to lose much of its business, it has chosen not to disclose this problem to its clientele. Rather, it has chosen to conceal this problem.

17. The previously-described representations made on the PartyPoker websites to customers and potential customers alike as to collusion, multiple accounts, and problem gambling, are all representations that are made in order to induce individuals to become PartyPoker members. PartyGaming's representations are negligent, reckless, and fraudulent and intended to induce the customer to adopt the terms and conditions contained on the website and become a PartyPoker member. Because the customer's agreement to these terms and conditions is obtained by these negligent, reckless, and fraudulent representations, those terms and conditions are null and void.

18. Paragraph 27 of these terms and conditions, entitled GOVERNING LAW, requires that any and all disputes between customers and PartyGaming be determined only in the exclusive jurisdiction of the courts of Gibraltar and the only law applicable to the agreement shall be the law of Gibraltar. This provision is null and void and unenforceable in the State of Ohio because the customer's agreement to the terms and conditions was negligently, recklessly, and fraudulently obtained by the aforementioned representations that (a) the poker games are honest and without collusion; (b) customers have only one account; and (c) that problem gambling is neither permitted nor encouraged.

19. Plaintiffs are present and/or former customers of PartyGaming. Before becoming customers, they individually entered onto the PartyPoker websites and reviewed the information made available to them. Among that information was the aforementioned representations

described in this Complaint. Based upon PartyGaming's representations that its poker games are honest, without collusion, without multiple accounts, and without abuse of problem gaming, Plaintiffs agreed to sign on and become PartyPoker customers. Subsequently, they played numerous single-table games and lost money. Had Plaintiffs known, in fact, that collusion amongst other members existed, that other members had multiple accounts, of the abuses of problem gaming, and that the games were not honest, they would not have become PartyGaming customers; they would not have played poker at any Party Poker websites; they would not have paid fees and rakes to PartyPoker; and they would not have lost any money. In fact, it is unlikely that any potential customer would become a PartyGaming customer if he or she knew that other members had multiple accounts, collusion existed, and the poker games were not honest.

20. As a result of PartyGaming's negligent, reckless, and intentionally false misrepresentations, fraud, breaches of contract, and violations of the Ohio Consumer Sales Practices Act and similar other state consumer protection acts, Plaintiffs have paid fees and rakes directly to PartyGaming and have lost money while playing single-table games at PartyPoker websites.

CLASS REPRESENTATIVE ALLEGATIONS

21. Pursuant to FRCP 23(A) and (B), the Class Representatives bring this action on their own behalf and on behalf of others similarly situated. The Class Representatives are members of the class.

22. The class in this action is defined as follows: all persons who were customers of PartyGaming (through PartyPoker.net and PartyPoker.com) from January 1, 2002 to the present who lost money gambling at the PartyGaming websites.

23. Pursuant to FRCP 23(A)(1), the class is so numerous that joinder of all members is impracticable. Upon information and belief, there are thousands of members in the class.

24. Pursuant to FRCP 23(A)(2), common questions of fact and law affect the claims of each class member, and these common questions predominate over individualized issues. The common questions of fact or law include, but are not limited to: (a) whether PartyGaming possessed software capable of preventing collusion among PartyPoker participants; (b) whether collusion among PartyPoker participants occurred; (c) whether PartyGaming members were led to believe PartyGaming prevented and eliminated collusion among its members; (d) whether members had multiple accounts through PartyGaming; and (e) whether PartyGaming allowed collusion and multiple member accounts, to the detriment of the class.

25. Pursuant to FRCP 23(A)(3), the class of the Plaintiffs, as class representatives, are typical of the claims of each member of the class. The legal claims asserted in this action, as well as the facts underlying those claims, are the same as would be advanced by all members of the class were they to institute individual actions. Further, members of the class have sustained damages as a result of the same course of action – PartyGaming’s misconduct and misrepresentations as to the alleged level playing field for those participating at the PartyPoker websites.

26. Pursuant to FRCP 23(A)(4), the Plaintiffs are adequate representatives of the class and will fairly and adequately protect the interests and rights of the class. The Plaintiffs are aware of their duties and responsibilities as class representatives and have agreed to undertake those responsibilities to the best of their ability. The Plaintiffs possess a general understanding of the nature of the claims being asserted and are willing to represent the interests of the class as

a whole. The undersigned attorneys have substantial experience in complex cases, cases involving fraud, and class action litigation and will adequately represent the interests of the class.

27. Pursuant to FRCP 23(B)(2), PartyGaming has refused to provide a fair and honest online poker game, despite being aware of an easy solution: random “virtual table” assignments for its members. PartyGaming has refused to take this simple action, as it believes this action would cause it to lose customers. PartyGaming’s refusal to act appropriately on behalf of its members makes injunctive relief an appropriate measure on behalf of the class as a whole.

28. Pursuant to FRCP 23(B)(3), common issues of fact or law predominate over any other questions affecting only individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The size of the claims of the class members, in light of the complexity of the issues, render individualized suits cost prohibitive. There is no discernible interest of class members in individually controlling the prosecution of separate actions. Upon information and belief, no other litigation of this controversy has been commenced by other members of the class. It is desirable to concentrate the litigation of the claims in this forum. There are no significant or unusual difficulties associated with the facts and legal theories giving rise to these claims which would preclude the maintenance of this case as a class action.

FIRST CLAIM FOR RELIEF

(Violation of the Ohio Consumer Sales Practices Act and
Similar Other State Consumer Protection Acts)

29. Plaintiffs allege and incorporate herein each and every allegation contained in the preceding paragraphs.

30. The commercial transaction where Plaintiffs signed-on to become customers and/or members of PartyPoker, subsequently utilizing the services provided by PartyGaming, to play in dishonest poker games was a “consumer transaction” as defined in the Ohio Consumer Sales Practices Act (“OCSPA”), Ohio Revised Code § 1345.01, *et. seq.* Consequently, each and every transaction was subject to the provisions of the OCSPA.

31. In all 50 states, there are statutes enacted to protect consumers, typically identified as consumer protection acts, which are similar to the OCSPA in all pertinent respects with regard to the misconduct of PartyGaming.

32. The negligent, reckless, and/or intentional misrepresentations PartyGaming made regarding the integrity and honesty of the PartyPoker games (as previously described herein at ¶¶6-20) constitute unfair and/or deceptive acts or practices as defined in the OCSPA, §§ 1345.02(B)(1) and 1345.02(B)(2) and in all other similar state consumer protection acts.

SECOND CLAIM FOR RELIEF
(Breach of Contract)

33. Plaintiffs allege and incorporate each and every allegation contained in the preceding paragraphs.

34. Pursuant to the agreement and understanding between Plaintiffs and PartyGaming, PartyGaming was required to provide for Plaintiffs poker games in which other customers did not have multiple accounts and could not collude; that is, PartyGaming agreed to provide fair and honest poker games.

35. PartyGaming breached the agreement and understanding between it and Plaintiffs by failing to prevent members from obtaining multiple accounts, by failing to prevent collusion, and by failing to provide fair and honest poker games to its members.

THIRD CLAIM FOR RELIEF

(Negligent, Reckless, and/or Intentional Misrepresentation)

36. Plaintiffs allege and incorporate each and every allegation contained in the preceding paragraphs.

37. PartyGaming negligently, recklessly, and/or intentionally induced Plaintiffs to become members to play in its poker games by falsely representing that (a) customers did not have multiple accounts; (b) there was no collusion among PartyPoker players on the website; and (c) the poker games were fair and honest. PartyGaming made these misrepresentations to Plaintiffs with the purpose and intent (and effect) of inducing Plaintiffs to become PartyGaming customers to participate in playing online poker with their own money. But for these false representations, Plaintiffs would not have become members and would not have participated in playing PartyGaming's internet poker games. PartyGaming made these misrepresentations negligently, recklessly, and/or knowing that they were false, in order to protect its business and recruit new customers such as Plaintiffs.

RELIEF REQUESTED

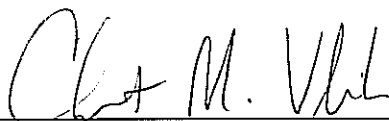
WHEREFORE, Plaintiffs, individually and as class representatives, request the following relief on their behalf and on behalf of all others similarly situated:

- (A) An Order certifying the class and, if necessary, any sub-classes;

- (B) An Order appointing Plaintiffs proper representatives of the class;
- (C) An Order appointing the undersigned as counsel for the class;
- (D) Final judgment awarding compensatory damages, punitive damages, pre-judgment and post-judgment interest in favor of the class and against PartyGaming;
- (E) A preliminary and permanent injunction ordering PartyGaming to cease offering single-table games on their websites until they have eliminated all collusion and rendered the poker games fair and honest;
- (F) In the alternative, an order creating a constructive trust to supervise and/or operate all single-table games on behalf of PartyGaming to ensure fair and honest poker games without collusion;
- (G) Final judgment awarding reasonable attorneys' fees and reimbursement of costs and expenses to undersigned as counsel for the class; and
- (H) Other such relief as this Court deems appropriate.

** ** * ** **

Respectfully submitted,



Joel Levin (0010671)
Christopher M. Vlasich (0075546)
Aparesh Paul (0077119)
LEVIN & ASSOCIATES CO., L.P.A.
The Tower at Erieview, Suite 1100
1301 East 9th Street
Cleveland, Ohio 44114
(216) 928-0600
(216) 928-0016 - Fax No.

Edward Cochran (0032942)
COCHRAN & COCHRAN
20030 Marchmont Road
Shaker Heights, OH 44122

Attorneys for Plaintiffs

JURY DEMAND

A trial by jury before the maximum number of jurors allowed by law is hereby demanded.



Christopher M. Vlasich (0075546)
One of the Attorneys for Plaintiffs