

NO

EXHIBITS

CASE NO. 2018CH13834

DATE: 11/5/2018

CASE TYPE: Class Action

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CASE NOTE

12-Person Jury

CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

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DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2018CH13834

PANDI RRAPO, individually and on behalf)
of a class of similarly situated individuals,)

Plaintiff,)

v.)

COFFEE MEETS BAGEL, INC., a Delaware)
corporation,)

Defendant.)

No. 2018CH13834

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Pandi Rrapo brings this Class Action Complaint and Demand for Jury Trial against Coffee Meets Bagel, Inc., (“Defendant” or “CMB”) on his own behalf, and on behalf of a class and subclass of individuals who purchased a CMB Premium Subscription, to seek redress for CMB’s violations of the Illinois Dating Referral Services Act, 815 ILCS 615/1 *et seq.* (the “DRSA”). On behalf of himself and the proposed Class and Subclass, Plaintiff seeks damages, restitution and injunctive relief against CMB. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and as to all other matters, upon information and belief, including an investigation conducted by his attorneys.

NATURE OF THE CASE

1. Coffee Meets Bagel, Inc. owns and operates a dating service, primarily through a smartphone application called “Coffee Meets Bagel.”

2. CMB promotes its smartphone application through its website, <https://site.coffeemeetsbagel.com>, as well as through the Apple iOS App Store and the Google Play Store. The interface to use the CMB dating services is available through the iOS CMB mobiles application and the Android CMB mobile application (collectively, the “CMB App.”).

3. CMB advertises the CMB App. as being an effective way of meeting potential romantic partners by using a data-driven algorithm to match users based on their interests, location, and other criteria. Users are shown a profile of another user who uses the CMB App., which includes their pictures, occupation, and interests.

4. CMB provides access to the CMB App. for free to anyone who signs up (“CMB Free Users”). A CMB Free User signs up via an email address or by connecting their Facebook account. Then, they are prompted to create a profile, directing them to upload photos of themselves, provide information about their career and education, and to list their interests.

5. CMB also offers a paid, premium membership to CMB Free Users which gives users advanced features, such as activity reports of other users and the ability to see when a message has been “read” by another user.

6. Both CMB premium members (“CMB Members”) and CMB Free Users (collectively, “CMB Users”) see the same profiles of other CMB Users in the CMB App. When shown a profile, the CMB User can either “pass” or “like” the profile. After a selection is made, the next profile in the queue is shown to the CMB User. Approximately 20 profiles are queued up for a CMB User everyday at noon.

7. When two CMB Users have liked each other’s profiles, a match is made and both CMB Users are able to chat with each other within the CMB App.

8. A CMB Member has the added ability to see an “Activity Report” on a CMB User’s profile. This Activity Report contains information such as how fast a particular CMB User responds to messages and how often they use the CMB App. CMB Members also gain the ability to see if a message has been “read” by the other CMB User when in the chat window of the CMB App.

9. Additionally, CMB sells a digital currency called beans (“CMB Beans”), which can be used for various in-app purchases through the CMB App. and can be purchased by both CMB Members and CMB Free Users. Potential purchases that can be made with CMB Beans include seeing if a dating profile has mutual friends with the CMB User and for “liking” profiles outside of the daily queue in the “Discover” section of the CMB App.

10. Purchasing a CMB Premium subscription or purchasing CMB Beans is done within the CMB App. A CMB User is not presented with the terms of the agreement when they pay. They are instead directed to the CMB website to read the Terms and Conditions (<https://coffeemeetsbagel.com/terms>).

11. The Terms and Conditions webpage does not expressly contain the required three-day cancellation provision, and CMB does not allow any refunds of CMB Premium subscription purchases, which is in violation of the DRSA and renders all contracts for CMB Premium subscriptions void and unenforceable.

12. CMB’s violation of the DRSA constitutes unlawful and deceptive acts under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, *et seq.* (“ICFA”).

13. As a result of CMB’s conduct, Plaintiff and other consumers who paid for CMB Premium or CMB Beans were deprived of the ability to exercise their statutory rights to cancel and obtain a refund. Plaintiff, on his own behalf, and on behalf of a class of purchasers in Illinois, seeks statutory, equitable, injunctive, and monetary relief as set forth below.

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 and in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant transacts business in Illinois by soliciting and providing its CMB App. and CMB

Premium subscription to Illinois residents.

15. Venue is proper in this Court because Plaintiff resides in Cook County and a substantial part of the events giving rise to the claims occurred in Cook County, as the statutory violations at issue occurred in Cook County and Plaintiff utilized the CMB App. in Cook County.

COMMON ALLEGATIONS OF FACT

16. Defendant operates a dating referral services through its mobile operated CMB App..

17. A consumer can sign up for a free, basic membership for Defendant's dating referral services through the CMB App. available on both the Google Play Store and the Apple iOS App Store. In the Google Play Store, the CMB App. is called "CMB Free Dating App" and, in the Apple iOS App Store, the CMB App. is called "Coffee Meets Bagel Dating App".

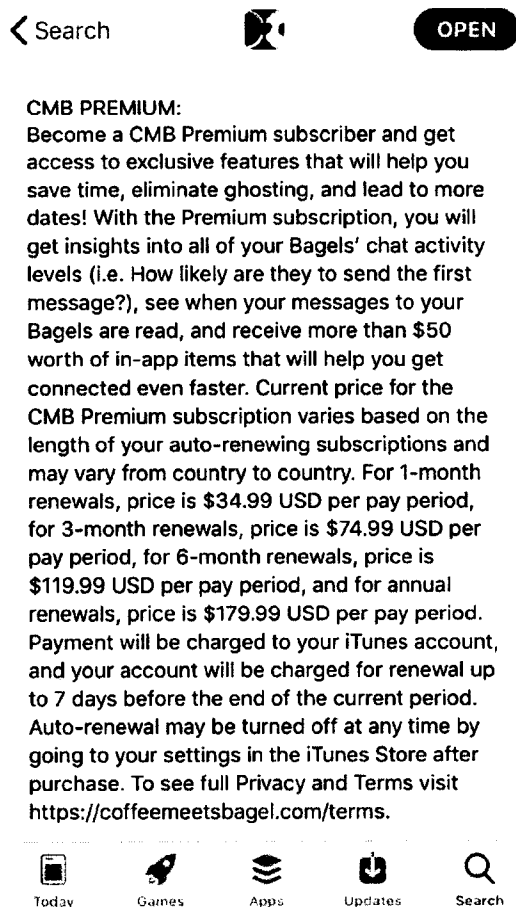
18. Through the CMB App., Defendant matches CMB Users for the purpose of dating. Based on an algorithm, the CMB App. shows users potential romantic partners which match with the user's preference for age, location, and other criteria.

19. Every day at noon, the CMB App. presents users with a limited number of potential romantic matches (called "bagels" within the CMB App.). If both users like each other, there is a match and they are able to send each other written messages within the CMB App.

20. Defendant also advertises a premium subscription ("CMB Premium") through the CMB App., which is an optional, paid subscription package. CMB Premium provides users with unique features, such as "read" receipts and activity reports on "bagels."

21. CMB Premium has four subscription plans for Apple iOS devices. A 1-month plan for \$34.99, a 3-month plan for \$74.99, a 6-month plan for \$119.99, and a 12-month plan for \$179.99. For Android devices, the monthly subscription is a flat \$34.99 per month.

22. As shown below, CMB's description in the Apple iOS App Store provides a summary of what a premium subscription provides.



23. Additionally, Defendant sells “beans” to users, a digital currency which can be bought in bulk and used to move up in the queue with a potential match in order for the user’s profile to be seen faster by the potential match or used to unlock other additional features in the CMB App.

24. According to Defendant’s Terms and Conditions, it has a “no refund” policy when a consumer cancels a CMB Premium subscription. Specifically, the Terms and Conditions provides as follows: “Coffee Meets Bagel is not responsible for refunding for subscription already purchased.” (Cancellations, <https://coffeemeetsbagel.com/terms>.)

25. The DRSA prohibits any contract for dating referral services that does not have a three-day cancellation policy expressly stated within the contract. 815 ILCS 615/20(a)(1).

26. In addition, the DRSA provides that all contracts that are in violation of the Act are rendered void and unenforceable. 815 ILCS 615/35(c).

27. Accordingly, by continuing to enforce its contracts for its Premium Subscription service and not providing for refunds within three days of cancellation, Defendant's conduct violates the Illinois Dating Referral Services Act as well as the Illinois Consumer Fraud and Deceptive Practices Act.

FACTS SPECIFIC TO PLAINTIFF

28. In October 2018, Plaintiff downloaded the CMB App. through the iOS App Store, and created a free profile through the CMB App.

29. Relying on representations made by Defendant, that becoming a CMB Premium user would gain additional features to help him find better matches, Plaintiff purchased the 1-month CMB Premium subscription through the CMB App. for \$34.99 on or about October 24, 2018.

30. Like all CMB Premium subscriptions (monthly, or for longer periods of time), Plaintiff's membership was scheduled to automatically renew each month or each period.

31. Upon subscribing, Plaintiff discovered that CMB Premium was not what was advertised. Although some features were unlocked, the features did not actually help him gain more matches through the CMB App. Instead, the features only let Plaintiff learn more about the potential match, and did not increase his chance of getting an actual match through the CMB App.

32. Believing that the CMB Premium subscription was not suitable for his needs, Plaintiff cancelled his subscription on or about October 26, 2018, within three business days of

when he purchased his subscription.

33. However, Defendant did not provide Plaintiff with a notice of his right to cancel his contract and obtain a full refund within three (3) business days of paying for his premium subscription.

34. Due to Defendant's non-refund policy, Plaintiff was unable to exercise his right to obtain a full refund pursuant to the DRSA.

35. After reviewing the Terms of Service, Plaintiff found that CMB did not provide a three-day cancellation policy as required under the DRSA.

36. The material circumstances surrounding this experience by Plaintiff were the same, or nearly the same, as the other class members Plaintiff proposes to represent, and Plaintiff and all putative class members were required to pay, and did pay, money for the Premium Subscription marketed and sold by CMB which was in violation of the DRSA.

CLASS ACTION ALLEGATIONS

37. Plaintiff brings this action on behalf of himself and a Class and Subclass defined as follows:

The Class: All individuals in Illinois who, within the applicable limitations period, purchased the CMB Premium subscription service.

The Subclass: All individuals in Illinois who, within the applicable limitations period, purchased the CMB Premium subscription service and canceled it within three business days of purchase but did not receive a full refund of the purchase price.

38. **Numerosity:** Upon information and belief there are thousands, if not more, members of the Class and Subclass throughout Illinois. Defendant claims on its website to have made over 978,000 introductions in 2017 in Chicago alone.¹

¹ See Coffee Meets Bagel, *CMB Year Review: Farewell 2017, Hello 2018!*, COFFEE MEETS BAGEL BLOG, https://s3.amazonaws.com/static.cmb.com/images/Chicago_banner.jpg.

39. **Commonality and Predominance:** There are many questions of law and fact common to the claims of Plaintiff and the other members of the putative Class and Subclass, and those questions predominate over any questions that may affect individual members of the Class and Subclass. Common questions for the Class and Subclass include, but are not necessarily limited to the following:

- a. Whether the CMB App. qualifies as a social referral service under the DRSA;
- b. Whether the CMB App.'s Terms of Use violate the DRSA;
- c. Whether the CMB App.'s no-refund policy violates the DRSA;
- d. Whether the agreement entered into between CMB and the Class members is void and unenforceable;
- e. Whether CMB's acts and practices constitute unlawful and deceptive acts under the ICFA; and
- f. Whether, as a result of CMB's conduct, Plaintiff and the Class and Subclass members are entitled to monetary, equitable and/or other relief, and if so, the nature of such relief.

40. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class and Subclass, and has retained counsel competent and experienced in complex class action. Plaintiff has no interest antagonistic to those of the other Class and Subclass members, and Defendant has no defenses unique to Plaintiff.

41. **Appropriateness:** This case is also appropriate for class certification because class proceedings are superior to all other available methods for the **fair and efficient** adjudication of this controversy because joinder of all parties is impracticable. The damages suffered by the individual Class and Subclass members will likely be relatively small, especially given the burden

and expense of individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would be virtually impossible for the individual Class and Subclass members to obtain effective relief from Defendant's misconduct. Even if the Class and Subclass members could sustain such individual litigation, it would still not be preferable to a class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court. A class action maximizes efficiencies and minimizes burdens and expenses on the parties and the judicial system.

COUNT I
Violations of the Illinois Dating Referral Services Act,
815 ILCS 615/1 *et seq.* ("DRSA")
(on behalf of Plaintiff and the Class)

42. Defendant's primary purpose, according to its marketing materials, is to match adult persons for social or romantic encounters.

43. Accordingly, Defendant is a "dating referral service" under the DRSA.

44. The DRSA provides that all contracts that are in violation of the Act are rendered void and unenforceable. 815 ILCS 615/35(c).

45. The DRSA prohibits any contract for dating referral services that does not have a three-day cancellation policy expressly stated within the contract. 815 ILCS 615/20(a)(1).

46. Defendant failed to expressly state a three-day cancellation policy in their contracts with consumers.

47. Defendant also failed to provide any form of refund for individuals who, like Plaintiff and the other members of the Subclass, canceled their subscription within three business days of enrolling.

48. Therefore, pursuant to the DRSA, 815 ILCS 615/35(c), the contracts for the CMB Premium subscription entered into between Defendant and Plaintiff and the other members of the Class were void and unenforceable.

49. Furthermore, pursuant to the DRSA, 815 ILCS 615/20(a)(1), Plaintiff and the other members of the Subclass were entitled to a full refund of their CMB Premium subscription.

50. The DSRA authorizes courts to award triple damages to successful plaintiffs, and also authorizes the award of attorneys' fees and costs. 815 ILCS 615/45.

WHEREFORE, Plaintiff, on behalf of himself and the Class and Subclass members, prays for the following relief:

- a. An order certifying the Class and Subclass defined above;
- b. An award of actual and compensatory damages;
- c. An award of triple damages pursuant to 815 ILCS 645;
- d. An award of attorneys' fees and costs pursuant to 815 ILCS 645;
- e. Such further and other relief the Court deems reasonable and just.

COUNT II
Violations of the Illinois Consumer Fraud and Deceptive Business Practices Act,
815 ILCS 502/1 et seq. ("ICFA")
(on behalf of Plaintiff and the Class and Subclass)

51. Plaintiff incorporates the foregoing allegations by reference as if fully set forth herein.

52. Plaintiff and the other members of the Class and Subclass are "consumers" or "persons," as defined under the ICFA.

53. Defendant's conduct as alleged herein occurred in the course of trade or commerce.

54. The ICFA prohibits deceptive and unfair acts and/or practices in the sale of products and services, such as CMB's Premium subscription.

55. The DRSA provides that all contracts that are in violation of the Act are rendered void and unenforceable. 815 ILCS 615/35(c).

56. The DRSA prohibits any contract for dating referral services that does not have a three-day cancellation policy expressly stated within the contract. 815 ILCS 615/20(a)(1).

57. Defendant failed to expressly state a three-day cancellation policy in their contracts with consumers.

58. Pursuant to the DRSA, 815 ILCS 615/35(c), the contracts for the CMB Premium subscription entered into between Defendant and Plaintiff and the other members of the Class were void and unenforceable.

59. Furthermore, Defendant represented to Plaintiff and the other members of the Subclass that they could not receive any refund for their purchase of a CMB Premium subscription.

60. However, pursuant to the DRSA, 815 ILCS 615/20(a)(1), Plaintiff and the other members of the Subclass were entitled to a full refund of their CMB Premium subscription within three business days of purchase.

61. Defendant's conduct in charging subscription fees from Plaintiff and the other Class members for CMB Premium subscriptions that were void and unenforceable offends public policy, has caused and continues to cause substantial injury to consumers, and constitutes an unfair and deceptive trade practice under the ICFA.

62. Defendant's conduct in misrepresenting Plaintiff's and the other Subclass members' ability to cancel their CMB Premium subscription offends public policy, has caused and continues to cause substantial injury to consumers, and constitutes an unfair and deceptive trade practice under the ICFA.

63. As an operator of a "dating referral service," Defendant knew or should have known

at all relevant times that it had to provide a refund to all customers who canceled their CMB Premium subscription within three business days of purchase, but Defendant nonetheless continued to represent that its CMB Premium subscription was non-refundable and continued to collect payments for its void and unenforceable CMB Premium subscriptions.

64. Defendant intended for consumers to rely on its representations that they are not entitled to any refunds for purchasing a CMB Premium subscription and that they were enforceable and valid contracts, and Plaintiffs and the other members of the Subclass did reasonably rely on Defendant's misrepresentations.

65. As a direct and proximate cause of Defendant's deceptive and unfair trade practices, Plaintiff and the other members of the Class and Subclass suffered actual damages, including monetary losses for the purchase price of the CMB Premium subscription which was void and unenforceable and which the members of the Subclass were otherwise entitled to be refunded.

66. Defendant's conduct is in violation of the ICFA, and Plaintiff and the other members of the Class and Subclass are entitled to damages in an amount to be proven at trial, reasonable attorney's fees, injunctive relief prohibiting Defendant's unfair and deceptive practices going forward, and any other penalties or awards that may be appropriate under applicable law

WHEREFORE, Plaintiff, on behalf of himself and the Class and Subclass members, prays for the following relief:

- a. An order certifying the Class and Subclass defined above;
- b. An award of actual or compensatory damages;
- c. Injunctive relief prohibiting Defendant's unfair and deceptive practices;
- d. An award of reasonable attorney's fees and costs; and
- e. Such further and other relief the Court deems reasonable and just.

COUNT III
Unjust Enrichment
(On behalf of Plaintiff and the Class and Subclass)

67. Plaintiff incorporates the foregoing allegations by reference as if fully set forth herein.

68. Plaintiff and the other members of the Subclass conferred a benefit upon Defendant by paying for a one-month subscription for CMB Premium that they cancelled within 3 business days and for which they were entitled to a full refund from Defendant.

69. Similarly, Plaintiff and the other members of the Class conferred a benefit upon Defendant by paying for a one-month subscription to CMB Premium that was void and unenforceable.

70. Defendant's retention of any amounts paid by Plaintiff and the other members of the Class and Subclass thus violates fundamental principles of justice, equity, and good conscience.

WHEREFORE, Plaintiff, on behalf of himself and the Class and Subclass members, prays for the following relief:

- a. An order certifying the Class and Subclass defined above;
- b. An award of actual or compensatory damages;
- c. Injunctive relief prohibiting Defendant's unfair and deceptive sales practices;
- d. An award of reasonable attorney's fees and costs; and
- e. Such further and other relief the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: November 5, 2018

Respectfully Submitted,

PANDI RRAPO, individually and on behalf of a
Class of similarly situated individuals

By: /s/ Eugene Y. Turin
One of His Attorneys

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Dating App Coffee Meets Bagel Hit with Class Action Over No-Refund Policy for Canceled Premium Subscriptions \[UPDATE\]](#)
