

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK,
by ERIC T. SCHNEIDERMAN, Attorney General
of the State of New York,

Plaintiff,

-against-

FANDUEL, INC.,

Defendant.

Index No. 453056/2015
IAS Part 13 (Justice Mendez)
NYSCEF Case

PREARGUMENT STATEMENT

Pursuant to Rule 600.17 of the Appellate Division, First Judicial Department,
Defendant-Appellant FanDuel Inc., by its undersigned counsel, states as follows:

1. The title of this action is set forth in the caption above.
2. The full names of the parties are stated in the captions above. There

have been no changes in the parties.

3. Counsel for Defendant-Appellant is:

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4. Counsel for Plaintiff-Respondent is:

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5. The appeal is from a preliminary injunction order of the Supreme Court
of the State of New York in and for the County of New York, the Honorable Manuel

Mendez, J.S.C., entered in the New York County Clerk's Office on December 11, 2015.

A copy of the order with notice of entry is annexed hereto.

6. The Attorney General commenced this action pursuant to Executive Law § 63(12), General Business Law § 349 and Business Corporation Law § 1303, seeking to enjoin Defendant-Appellant from operating daily fantasy sports games for customers in New York on the ground that they allegedly constitute unlawful gambling. The Attorney General moved for a preliminary injunction enjoining that business as well as certain advertisements.

7. The court below granted the motion for a preliminary injunction.

8. Defendant-Appellant seeks reversal on the ground that its daily fantasy sports games do not constitute gambling under New York law; that the State therefore did not demonstrate a likelihood of success on the merits, irreparable harm, or a balance of equities in the State's favor; and that the preliminary injunction accordingly should have been denied.

9. No other appeal in this action is pending. The following related case is pending before in the Supreme Court, New York County: *FanDuel Inc. v. Eric T. Schneiderman et al.*, Index No. 161691/2015. In addition, two similar actions involving another party are also pending before the same court and justice: *People by Schneiderman v DraftKings Inc.*, Index No. 453054/2015, and *Matter of DraftKings Inc. v. Schneiderman*, Index No. 102014/2015; an appeal may have been filed to this Court in one or both of those actions.

Dated: New York, New York
December 11, 2015

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