

Edelson Nabs Interim Lead In Tech Giant Gambling App MDL

By **Hannah Albarazi**

Law360 (September 23, 2021, 8:12 PM EDT) -- A California federal judge on Thursday appointed Edelson PC interim class counsel in multidistrict litigation accusing Apple, Google and Facebook of illegally peddling slot machines and other Las Vegas-style gambling games on their platforms while raking in billions in revenue from commissions off every wager made in these so-called "social casinos."

U.S. District Judge Edward Davila agreed during a hearing Friday to appoint Edelson and its managing partner and general counsel Rafey S. Balabanian as interim lead counsel and to appoint Andrea R. Gold, a partner at Tycko & Zavareei LLP, chair of the plaintiffs' executive leadership committee.

Balabanian and his firm have been pursuing cases related to online gambling games for the last five years, largely taking aim at the app developers who created them. In 2020, Edelson finalized **nearly \$200 million in class action settlements** resolving claims against several game makers over their creation of allegedly "predatory" slot machine smartphone games.

But now, consumers in 25 states have turned their attention to — **and brought lawsuits against** — the tech giants that continue to host casino-style games on their platforms. Consumers claiming violations of various state anti-gambling laws and violations of the federal Racketeer Influenced and Corrupt Organizations Act have launched suits in hopes of getting their money back and getting the companies to comply with laws.

Consumers suing Apple, Facebook and Google argue that while none of the games actually allow players to cash out and win real money, they are nonetheless gambling games under various state laws, as they allow the player to pay money for a chance to win more playing time.

Players can purchase additional in-game coins to keep playing and "winning" the slot or other games also grants players coins, consumers allege.

Earlier this year, the Judicial Panel on Multidistrict Litigation centralized before Judge Davila actions brought against Apple and Google in two MDLs as well as the actions against Facebook.

On Thursday, Balabanian told Judge Davila that he's humbled to have been chosen for the role and shared with the judge his hopes for the litigation.

"Our expectation at the end of all this, and I know the defendants have a very different view, is that we're going to win, that we're going to get a settlement that provides real class relief and that we will petition the court for a fee that is commensurate with the relief that we obtain for the class and not a dollar more," Balabanian told the judge.

Balabanian said the plaintiffs' 14-person executive leadership committee consists of nine firms and includes seven attorneys who identify as women, four who identify as persons of color, two who identify as LGBTQ and four with six or fewer years of experience. He said the diversity of the leadership committee "closely tracks in large part, we think, the diverse classes that we seek to represent."

Balabanian told Law360 after being named interim class counsel Thursday that "we have a strong

team and are looking forward to getting this litigation started."

Andrea Gold, who was appointed chair of the plaintiffs' executive leadership committee, told Law360 following Thursday's hearing, "I am honored to serve as chair of the executive committee in these important and ground-breaking cases."

"I look forward to working with our incredible team of lawyers dedicated to obtaining justice for the millions of consumers who have been harmed by the illegal gambling apps that Apple, Google, and Facebook market, sell, and distribute on their platforms," Gold said.

While neither Facebook, Apple nor Google opposed the motion to appoint lead interim counsel, they did share with Judge Davila their various concerns about the litigation's future.

Apple's attorney, John S. Gibson of DLA Piper, said Apple is concerned that plaintiffs will allege "inconsistent theories, particularly regarding applicable law," in the master complaint for the consolidated Apple cases, which is due in November.

"Plaintiffs here cannot merely string together disparate and inconsistent allegations and theories asserted in the separate actions and call that a master consolidated complaint," Gibson said. There's the potential for inconsistent pleadings with respect to the application of California law on the one hand, and on the other hand, the law of up to 25 other states, he said.

Google's attorney, Teresa Michaud of Baker & McKenzie LLP, urged Judge Davila to promptly issue a protective order to keep confidential and competitive information related to each company away from the other two companies.

Facebook's attorney, Christopher Chorba of Gibson Dunn & Crutcher LLP, said he doesn't see the case against Facebook going to class settlement, but acknowledged that it's still early in the litigation.

Representatives and counsel for the defendants did not immediately respond to requests for comment Thursday.

Plaintiffs are represented by interim lead counsel Rafey S. Balabanian of Edelson PC.

Apple is represented by John S. Gibson and Brooke K. Kim of DLA Piper.

Google is represented by Teresa Michaud and Bradford K. Newman of Baker & McKenzie LLP.

Facebook is represented by Christopher Chorba of Gibson Dunn & Crutcher LLP.

The cases are In Re: Apple Inc. App Store Simulated Casino-Style Games Litigation, case number 5:21-md-02985, In Re: Google Play Store Simulated Casino-Style Games Litigation, case number 5:21-md-03001, Boorn v. Facebook Inc., case number 5:21-cv-02818, Wilkinson et al. v. Facebook Inc., case number 5:21-cv-02777, Lowe v. Apple Inc., case number 5:21-cv-01144, Nelson et al. v. Apple Inc., case number 5:21-cv-00553, McDonald et al. v. Apple Inc., case number 5:21-cv-02461, and Hoose et al. v. Apple Inc., case number 5:21-cv-01676, all in the U.S. District Court for the Northern District of California.

--Editing by Jay Jackson Jr.