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## NFL, DirecTV Sued Again Over Exclusive Broadcast Deal

By **Jeff Zalesin**

Law360, New York (July 21, 2015, 4:43 PM ET) -- An Illinois football fan hit the National Football League and DirecTV LLC with a proposed class action in California federal court Tuesday, the latest suit to claim the exclusive "NFL Sunday Ticket" package blocks competition and pumps up prices for out-of-market game broadcasts.

The complaint, filed by Mario Aliano on behalf of a proposed class of NFL Sunday Ticket subscribers, is at least the third to allege that the agreement between NFL and DirecTV violates antitrust law. The National Hockey League and Major League Baseball have faced similar claims, but Aliano said the exclusive deal behind NFL Sunday Ticket has no parallel in the other major American sports leagues.

"This exclusive agreement between DirecTV and the NFL eliminates competition by preventing other media providers from distributing Sunday afternoon out-of-market NFL games," he said. "But for the agreement, other providers would be willing to compete for consumers of these games, which would reduce consumer costs and increase competition for viewership."

According to the complaint, the NFL's 32 teams have pooled their television rights and given the league the power to negotiate broadcast deals on their behalf. Under the resulting set of deals, viewers who don't subscribe to NFL Sunday Ticket generally can't watch Sunday afternoon games that don't involve teams in their home markets, Aliano said.

Instead, fans who want to see those games must subscribe to NFL Sunday Ticket, which has the exclusive right to rebroadcast network feeds to out-of-market viewers under the deal between the NFL and DirecTV.

Because of its monopoly on out-of-market NFL broadcasts, Aliano said, DirecTV can charge higher prices for NFL Sunday Ticket than it charges for similar packages for NHL, MLB and National Basketball Association fans. Those other leagues don't have exclusive deals for out-of-market broadcasting, according to the complaint.

Thomas A. Zimmerman Jr., an attorney for Aliano, said his client bought an NFL Sunday Ticket subscription because some of his favorite teams don't play in his home market. The price for that subscription, Zimmerman said, was inflated by the exclusive agreement.

"It's an unfair monopoly that requires consumers to have to purchase this service if they want to watch out-of-market football games," he said. "It artificially raises the price because there's no competition."

Aliano said in a separate Tuesday court filing that his complaint is related to **a suit filed by football fan Thomas Abrahamian**. That suit has been deemed related to another case

filed by Ninth Inning Inc., which owns The Mucky Duck sports bar in San Francisco, **alleging that bars and restaurants overpay** for NFL Sunday ticket because of a lack of competition.

The spate of antitrust litigation over NFL Sunday Ticket comes after a New York federal judge in June **preliminarily approved a settlement** between the NHL and television subscribers who lobbed an antitrust class action for allegedly being forced to overpay to watch out-of-market hockey games, saying it was a fair deal.

As part of the settlement, the NHL would offer cheaper, unbundled and team-specific subscription packages to TV subscribers in the suit. U.S. District Judge Shira A. Scheindlin found that the deal was fair, reasonable, adequate and in the certified class's best interests.

A representative of the NFL declined to comment Tuesday.

A representative of DirecTV and an attorney representing the company in related litigation did not immediately respond to requests for comment.

The proposed class is represented by Adam M. Tamburelli, Eliot F. Krieger and Charles T. Spagnola of Jarvis Krieger & Sullivan and Thomas A. Zimmerman, Jr. and Matthew C. De Re of Zimmerman Law Offices PC.

Counsel information for the defendants was not immediately available.

The case is Aliano v. National Football League Inc. et al., case number 2:15-cv-05508, in the U.S. District Court for the Central District of California.

— Additional reporting by Linda Chiem and Jacob Fischler. Editing by Ben Guilfooy.