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## Cubs' ticket policy, prior settlement strike out broker

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A Cook County judge has thrown out a man's breach-of-contract claim against the Cubs for not renewing his season tickets.

Calling it a "creative, yet untenable" argument, Cook County Circuit Judge Celia G. Gamrath this week dismissed the man's one-count complaint that said since other ticket holders were allowed to renew, he should be as well.

The plaintiff, Yehuda Frager, is a Pennsylvania resident and ticket broker who entered into a settlement agreement with the Cubs after a dispute over canceled tickets for the 2015 season.

"The agreement gives him the right to enter the ballpark, attend the game and sit in the assigned seat," the judge wrote. "These rights and privileges may be revoked by defendant at any time, for any reason, for all ticket holders, not just plaintiff."

The agreement allowed him a nonrenewable, revocable license to 15 tickets for the 2016 season. It also stated that the plaintiff "shall enjoy the same privileges as any other similarly situated 2016 [s]eason [t]icket [h]older."

Gamrath wrote in the four-page opinion released Tuesday that the plaintiff's belief he was entitled to renew for the 2017 season was undercut by the specific language and overall intent of the prior agreement. The first paragraph, for example, stated that the agreement "shall only apply to the 2016 [s]eason [t]ickets" and "this paragraph applies solely to the 2016 season tickets."

The terms and conditions attached to the agreement also spelled out that it was nonrenewable and revocable, without "reasonable expectation of a guaranteed renewal of the [l]icense nor any right or privilege, implied or otherwise, to renew the [l]icense."

Language that states the plain-

tiff had similar rights and privileges as other ticket holders also gave him "any ability to purchase any 2016 post-season tickets to the extent that privilege is extended to other similarly situated (e.g. by section and price point) season ticket holders."

He argued it showed the agreement was not limited simply to the 2016 season and included all privileges extended to other ticket holders in the same situation as him. "Not so," Gamrath wrote.

"Although some season ticket holders were offered the chance to renew in 2017, all were subject to the [t]erms and [c]onditions that expressly provide no 'reasonable expectation of a guaranteed renewal of the [l]icense nor any right or privilege, implied or otherwise, to renew the [l]icense.'"

She went on to explain how the plaintiff was treated the same as other ticket holders, even if they were offered the chance to renew and he wasn't. He was still given the same privileges, Gamrath

wrote, "that is, the privilege to hold a nonrenewable, revocable ticket license for the 2016 season with no expectation, right or privilege, implied or otherwise, to renew.

"Because defendant has no obligation to renew plaintiff's tickets, nor anyone else's, there can be no breach."

Gamrath granted the Cubs' Section 2-615 motion to dismiss with prejudice.

Andrew A. Kasoff, a partner at Kirkland & Ellis LLP who represented the Cubs, declined to comment on the case.

Matthew V. Topic, of Loevy & Loevy, represented the plaintiff in the case. He could not be reached.

Frager is a plaintiff in another federal case over canceled tickets — a case against the NFL's Indianapolis Colts that is currently pending in the 7th U.S. Circuit Court of Appeals.

The case against the Cubs is *Frager v. Chicago Cubs Baseball Club, LLC*, No. 17 CH 1622.