NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,

Plaintiffs,

v.

CHRISTOPHER J. CHRISTIE, et al.,

Defendants.

Civil Action No. 12-4947 (MAS) (LHG)

MEMORANDUM OPINION

SHIPP, District Judge

This matter comes before the Court upon several motions filed by the Parties. The National Collegiate Athletic Association ("NCAA"), National Basketball Association ("NBA"), National Football League ("NFL"), National Hockey League ("NHL"), and Office of the Commissioner of Baseball doing business as Major League Baseball ("MLB") (collectively, "Plaintiffs" or "the Leagues") filed their Complaint on August 7, 2012. (Compl., ECF No. 1.) On August 10, 2012, Plaintiffs filed a "Motion for Summary Judgment and, If Necessary to Preserve the Status Quo, a Preliminary Injunction" seeking to enjoin Defendants Christopher J. Christie, Governor of the State of New Jersey, David L. Rebuck, Director of the New Jersey Division of Gaming Enforcement and Assistant Attorney General of the State of New Jersey, and Frank Zanzucci, Executive Director of the New Jersey Racing Commission (collectively, "Defendants" or the "State"), from implementing N.J. Stat. Ann. 5:12A-1, *et seq.* (West 2012) ("New Jersey's Sports Wagering Law" or "Sports Wagering Law"). (Pls.' Mot. Summ. J., ECF

No. 10.) On September 7, 2012, Defendants filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) asserting that Plaintiffs lacked standing pursuant to Article III of the U.S. Constitution. (Defs.' Mot. Dismiss, ECF No. 29-1.) Plaintiffs filed their Opposition to Defendants' Motion to Dismiss on October 1, 2012. (Pls.' Opp'n to Defs.' Mot. to Dismiss, ECF No. 39.) Defendants replied to Plaintiffs' Opposition on October 9, 2012. (Defs.' Reply, ECF No. 43.)

On November 21, 2012, following expedited discovery regarding standing, Defendants filed a Cross Motion for Summary Judgment. Defendants' Cross Motion challenged Plaintiffs' standing and raised constitutional challenges to the controlling federal statute. (Defs.' Cross Mot., ECF No. 76.) Defendants submitted their Statement of Undisputed Material Facts along with their Cross Motion. (Defs.' SUMF, ECF No. 78-2.) On December 7, 2012, Plaintiffs filed their Reply in response to Defendants' Cross Motion and in support of Plaintiffs' Motion for Summary Judgment. (Pls.' Reply, ECF No. 95.) Plaintiffs included their Response to Defendants' Statement of Undisputed Material Facts. (Pls.' Response to Defs.' SUMF, ECF No. 96-13.)

On November 21, 2012, the State filed a Notice of Constitutional Question. (ECF No. 79.) The Court certified the Notice of Constitutional Challenge to the United States Attorney General on November 27, 2012. (ECF No. 84.) As a result of the constitutional challenge and pursuant to Federal Rule of Civil Procedure 5.1(c), the United States Attorney General has until January 20, 2013, to enter an appearance in this case. (ECF No. 84.) Therefore, the Court limited the December 18, 2012 Oral Argument to the issue of standing. (ECF No. 106.)

For the reasons stated below, and other good cause shown, the Court finds that Plaintiffs have demonstrated, based on undisputed material facts, standing to challenge New Jersey's

Sports Wagering Law. As such, the Court denies both of Defendants' motions: the Motion to Dismiss in full and the Motion for Summary Judgment in so far as it challenges Plaintiffs' standing.

I. Background

On December 8, 2011, the New Jersey Legislature amended the New Jersey Constitution to permit gambling "on the results of any professional, college, or amateur sport or athletic event" except collegiate games involving New Jersey colleges or venues. N.J. Const., Art. IV, Sec. VII Para. 2 (D), (F). The amendment limited the permissible gambling fora to Atlantic City's casinos and gambling houses as well as horse racing tracks. *Id.* To this end, on January 17, 2012, New Jersey enacted the Sports Wagering Law authorizing gambling on the Leagues' sporting events pursuant to the amendment's structure and limitations. On July 2, 2012, the New Jersey Division of Gaming Enforcement proposed a series of regulations further delineating practices and procedures related to the Sports Wagering Law. These regulations went into effect on October 15, 2012. N.J. Admin. Code § 13:69-1.1, *et seq.*

On August 7, 2012, the Leagues filed a complaint claiming that the Sports Wagering Law violates the Professional and Amateur Sports Protection Act ("PASPA"), 28 U.S.C. § 3701, *et seq.* Enacted in 1992, PASPA prohibits any person or governmental entity from "authorizing . . . betting, gambling, or wagering" on amateur or professional sporting events. § 3702. On August 10, 2012, the Leagues filed a "Motion for Summary Judgment and, if Necessary to Preserve the Status Quo, a Preliminary Injunction." The Leagues assert that the integrity of their games and reputation with their fan base will be injured by implementation of the Sports Wagering Law. Plaintiffs argue that summary judgment is appropriate because of the alleged violation of PASPA. Further, the Leagues rely heavily on *Office of Commissioner of Baseball, et al. v.*

Markell, et al., where the Third Circuit held that Delaware's attempt to authorize state-sponsored gambling violated PASPA. 579 F.3d 293 (3d Cir. 2009), *cert. denied*, 130 S. Ct. 2403 (2010). Defendants, however, argue that Plaintiffs have failed to establish the minimum injury required for standing. Standing is a threshold jurisdictional requirement and must be addressed before the Court can reach the merits of Plaintiffs' Complaint.

II. Legal Standard and Analysis

A. Summary Judgment

Summary judgment is appropriate if the record shows "that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A district court considers the facts drawn from the "materials in the record, including depositions, documents, electronically stored information, affidavits . . . or other materials" and must "view the inferences to be drawn from the underlying facts in the light most favorable to the party opposing the motion." Fed. R. Civ. P. 56(c)(1)(A); *Curley v. Klem*, 298 F.3d 271, 276-77 (3d Cir. 2002) (internal quotations omitted). The Court must determine "whether the evidence presents a sufficient disagreement to require submission to a [trier of fact] or whether it is so one-sided that one party must prevail as a matter of law." *Anderson v. Liberty Lobby*, 477 U.S. 242, 251-52 (1986). More precisely, summary judgment should be granted if the evidence available would not support a jury verdict in favor of the non-moving party. *Id.* at 248-49. "[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact." *Id*. at 247-48 (emphasis in original). These requirements apply as fully to an inquiry regarding standing as they do to any other issue before the Court. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992).

B. Standing

A plaintiff seeking injunctive relief must show the following in order to establish Article III standing: (1) he is under threat of suffering injury-in-fact that is both "concrete and particularized" and "actual and imminent;" (2) the threat is fairly traceable to the challenged action of the defendant; and (3) it is likely that a favorable judicial decision will prevent or redress the injury. *See Summers v. Earth Island Inst.*, 555 U.S. 488, 493 (2009) (internal citations omitted). The three elements constitute "the irreducible constitutional minimum" of Article III standing. *Lujan*, 504 U.S. at 560-61. After careful consideration, the Court finds that the Leagues demonstrated Article III standing.

1. Implications of *Markell*

As a preliminary matter, the Parties dispute the significance of the Third Circuit's decision in *Markell* on the standing analysis in the present case. Plaintiffs assert that the court performed an extensive jurisdictional analysis in *Markell*. (Pls.' Opp'n to Mot. to Dismiss at 8 n.3.) Plaintiffs also assert that the Third Circuit is keenly aware of its affirmative duty to assure itself that there is Article III standing. (*Id.*) Finally, Plaintiffs note that *Markell's* omission of a specific standing analysis "strongly suggest[s]" that, to the Third Circuit, the Leagues' "standing to challenge a state's violation of PASPA was obvious." (*Id.*) Defendants, on the other hand, argue that a "drive-by jurisdictional analysis" which does not specifically address an issue such as standing "does not create binding precedent." (Defs.' Reply Br. in Supp. of Mot. to Dismiss at 5 n.3 (citing *United States v. Stoerr*, No. 11-2787, 2012 WL 3667311, at *5 n.5 (3d Cir. Aug. 28, 2012).) In effect, Defendants argue that the Third Circuit failed to sufficiently demonstrate satisfaction of its affirmative duty to ensure that the Leagues possessed Article III standing. (Defs.' Reply Br. in Supp. of Mot. to Dismiss at 5 n.3.)

The Court does not find Defendants' arguments regarding *Markell* persuasive. The facts contained in the public record for *Markell* do not indicate that the Third Circuit performed a "drive-by jurisdictional analysis." Although the *Markell* parties did not brief or argue the precise standing issue currently before this Court, the pleadings in *Markell* did raise an issue of standing. *See generally* Defendants Jack A. Markell and Wayne Lemons' Answer to the Leagues' Complaint, C.A. No. 09-538, Doc. No. 26, Fourth Affirmative Defense (stating "Plaintiffs lack standing under PASPA to seek relief respecting any sporting events with which they are not affiliated."). Further, the Third Circuit's *Markell* decision opened "by considering whether [the Third Circuit had] jurisdiction . . . ." *Markell*, 579 F.3d at 297-300. Therefore, the Third Circuit must have assured itself "that plaintiffs . . . suffered an injury-in-fact sufficient to support Article III standing." *Alston v. Countrywide Fin. Corp.*, 585 F.3d 753, 762 (3d Cir. 2009).

2. Injury-in-Fact

The facts in the present case indicate that the Leagues have suffered an injury-in-fact sufficient to support Article III standing. "[I]njury-in-fact is a hard floor of Article III jurisdiction that cannot be removed by statute." *Summers*, 555 U.S. at 497. In addition, the injury-in-fact requirement cannot be waived "at the behest of Congress." *Lujan*, 504 U.S. at 581 (Kennedy, J., concurring in part and concurring in judgment). In its most basic form, standing requires that "the party bringing suit must show that the action injures him in a concrete and personal way." *Id.* The mandates of Article III are intended to "limit access to the federal courts to those litigants best suited to assert a particular claim." *The Pitt News v. Fisher*, 215 F.3d 354, 362 (3d Cir. 2000) (internal citations omitted).

"The contours of the injury-in-fact requirement, while not precisely defined, are very generous." *Bowman v. Wilson*, 672 F.2d 1145, 1151 (3d Cir. 1982). The standard is met as long

as the party alleges a specific "identifiable trifle" of injury. *United States v. Students Challenging Regulatory Agency Procedures*, 412 U.S. 669, 690 n.14 (1973) (internal citations omitted). The Plaintiffs may also demonstrate injury-in-fact by showing a "personal stake in the outcome of [the] litigation," *Pitt News*, 215 F.3d at 360.

Plaintiffs argue that their games are the very object of the sports betting at issue and that they have an interest in how their athletic contests are perceived by fans. (Pls.' Opp'n to Defs.' Mot. to Dismiss at 7-8; Pls.' Reply at 3.) According to Plaintiffs, their fans' perception of the integrity of their games will decline if the Sports Wagering Law goes into effect. (Pls.' Reply at 6.) In addition, Plaintiffs assert that the Sports Wagering Law will result in an increase of legal and illegal gambling. During oral argument, Plaintiffs stated, "legalizing gambling does not regulate illegal gambling, it fuels illegal gambling . . . ." (Oral Arg. Tr. 35:18-20.)

Regarding injury-in-fact, Defendants dismiss as mere conjecture Plaintiffs' assertions that legalized gambling will impugn the Leagues' bonds with their fans and that their reputations will suffer harm. (Defs.' Mot. to Dismiss 7; Defs.' Cross Mot. at 15, 17.) Defendants argue that since the Leagues have enjoyed success despite the existence of legalized sports betting, it is implausible that Plaintiffs will suffer harm should the Sports Gambling Law take effect. (Defs.' Mot. to Dismiss at 7-8; Defs.' Cross Mot. at 15.) Defendants also challenge the imminence of any harm, stating that even if injury flowed from the Sports Gambling Law, it is by no means immediate. (Defs.' Mot. to Dismiss at 10; Defs.' Cross Mot. at 20.) Finally, Defendants further argue that the alleged injury is not sufficiently "concrete" or "particularized" to any individual player, team, or League. (Defs.' Mot. to Dismiss at 11.)

Plaintiffs must set forth a "*trifle*" of an injury-in-fact. Based on an examination of the Statements and Responses to the Undisputed Material Facts, the Court finds that Plaintiffs

demonstrated sufficient undisputed material facts to warrant a finding of injury-in-fact. The Leagues articulated a particularized injury based upon the negative effect the Sports Wagering Law would have upon perception of the integrity of the Leagues' games and their relationship with their fans.

Plaintiffs' interest in protecting how they are perceived by their fans is sufficient to create the identifiable trifle of injury necessary for purposes of standing. The Third Circuit addressed the issue of injury-in-fact based on perception in *Doe v. National Board of Medical Examiners*, 199 F.3d 146, 153 (3d Cir. 1999). In *Doe*, the Third Circuit found that the plaintiff made a reasonable and justifiable showing that being flagged as disabled by the defendant would have an adverse effect on how the plaintiff would be perceived by third-parties who had the power to affect his future employment. *Id.*

In setting forth its perception-based injury-in-fact analysis, the *Doe* Court relied in substantial part upon *Meese v. Keene*, 481 U.S. 465 (1987). The plaintiff, a California State Senator, sought to challenge a federal law which required that certain materials be labeled as "political propaganda." *Id.* at 467. Specifically, the plaintiff sought to exhibit three Canadian films which had been designated as political propaganda and wished to avoid being regarded as a "disseminator of foreign political propaganda" by the public. *Id.* The district court held that the plaintiff had standing because "damage to [the plaintiff's] reputation" would flow from being associated with materials deemed political propaganda. *Id.* at 468. The United States Supreme Court, upon appeal, upheld the district court's determination that the plaintiff had standing. Citing the district court, the Supreme Court found that if the plaintiff "were to exhibit the films while they bore such characterization, his personal, political, and professional reputation would suffer and his ability to obtain re-election and to practice his profession would be impaired." *Id.*

at 473 (citation omitted). Additionally, the finding of reputational harm was supported by uncontradicted affidavits. *Id.* at 473-74. Those affidavits contained the "results of an opinion poll" and the "views of an experienced political analyst." *Id.*

Doe and *Meese* both make clear that harm to the way one is perceived is a sufficient basis to find standing so long as that perceived harm is based in reality. At oral argument, Defendants attempted to distinguish *Doe* with *Simon, et al. v. Eastern Kentucky Welfare Rights Organization, et al.*, 426 U.S. 26 (1975). (*See* Oral Arg. Tr. 20:13-18.) The Court does not find Defendants' argument persuasive. *Simon* does not speak to the primary challenge that *Doe* presents for Defendants—specifically, that an adverse effect on perception, rooted in reality, is sufficient injury-in-fact for purposes of Article III standing. Here, the facts demonstrate a perception based in reality. For purposes of standing, Plaintiffs demonstrated, at least by an identifiable trifle, that state-sanctioned gambling will adversely impact how the Leagues are perceived by those who can affect their future, specifically their fans.

The following undisputed material facts support the Court's conclusion that the Leagues have demonstrated injury-in-fact:

1. **2009 NBA Integrity Study** — This study found that 5% of the respondents felt that gambling, and 10% felt that game fixing, most negatively affected the integrity of the Leagues' games. (2009 NBA Integrity Study 6, ECF. No. 78-40.) Even among those fans who did not consider game fixing or gambling to be their utmost concern, significant percentages of fans responded that game fixing and gambling were a "problem" for the Leagues. Specifically, 33% of NBA fans, 15% of NFL fans, 13% of MLB fans, 7% of NHL fans, 18% of NCAA Basketball fans and 15% of NCAA Football fans thought game fixing was problematic. (*Id.* at 7.) Gambling was cited as a problem among 36% of NBA fans, 26% of NFL fans, 28% of MLB fans, 15% of NHL fans, 22% of NCAA Basketball fans and 22% of NCAA Football fans. (*Id.*)

2. **2003 & 2008 NCAA National Studies on Collegiate Sports Wagering and Associated Behaviors** — This study found that 1.5% of men's basketball players and 1.6% of football players knew of a teammate who

took money to play poorly, 1.2% of men's basketball players and 2.8% of football players provided inside information to outside sources, 2.1% of men's basketball players and 2.3% of football players were asked to affect the outcome of a game "because of gambling debt," and 1% and 1.4%, respectively, actually did so. (2003 NCAA National Study on Collegiate Sports Wagering and Associated Behaviors 24-25, ECF No. 95-18.) In a follow-up study performed in 2008, the results found that 3.8% of men's basketball players, 3.5% of football players, and 1.4% of all other student-athletes were contacted by outside sources to provide inside information, and that .9%, 1.1% and 0.7%, respectively, actually did so; 1.6% of men's basketball players, 1.2% percent of football players, and 1.1% of all other student-athletes were asked to affect the outcome of a game. (2008 NCAA Study on Collegiate Wagering 34-35, ECF No. 95-25.)

3. **2007 NBA Las Vegas/Gambling Survey** — An additional survey found that 11% of the respondents to the survey would "somewhat oppose" legalized sports gambling throughout the U.S. and an additional 27% "strongly opposed" legalized gambling throughout the United States; therefore, 38% of total survey respondents opposed legalizing gambling nationwide. (2007 NBA Las Vegas/Gambling Survey 7, ECF No. 96-9.) Only 1% of respondents stated they would spend more money on the Leagues, defined by the Leagues as "ticketing and merchandise," if a professional sports franchise was located in Las Vegas, where there is legalized gambling. (*Id.*) Additionally, 17% of respondents stated that they "would definitely spend *less* money on the league[s]," if professional sports franchises were situated in Las Vegas. (*Id.*) (Emphasis added.)

The 2007 NBA Las Vegas/Gambling Survey draws an undisputed direct link between legalized gambling and harm to the Leagues. Placing professional sports in close geographic proximity to legalized gambling, the exact situation which 17% of survey respondents disapproved, would automatically and immediately occur if legalized sports gambling pursuant to the Sport Wagering Law was implemented. In addition to the three professional sports teams located in New Jersey (the New York Giants, New York Jets and New Jersey Devils), ten additional professional sports teams are also located in close proximity to New Jersey.[1] When

[1] Six professional sports teams are located in the metropolitan New York City area: the New York Knicks, New York Nets, New York Yankees, New York Mets, New York Rangers and New York Islanders. Four professional sports teams are located in Philadelphia: the Philadelphia Phillies, Philadelphia Flyers, Philadelphia 76ers and Philadelphia Eagles. A considerable number

provided with the opportunity during oral argument to address the concerns of these 17% of fans, Defendants declined. (*See* Oral Arg. Tr. 21:19- 23:10.)

While most of these studies alone may not constitute a direct causal link between legalized gambling and negative issues of perception on the part of Plaintiffs' fans, sufficient support to draw this conclusion exists. As conceded by Defendants' expert, Mr. Willig, "legalizing sports wagering in New Jersey . . . could stimulate a certain amount of sports wagering that would not otherwise occur. Such new (legal) wagering would result in an overall increase in total (legal plus illegal) sports wagering." (Willig Report ¶ 10(b), ECF No. 78-4.) Therefore, even assuming that the aforementioned harm to Plaintiffs' reputation could only be traced to illegal gambling, Defendants' implementation of the Sports Wagering Law will increase the total pool of gambling, "legal plus illegal," such that fans' negative perceptions attributed to game fixing and gambling will necessarily increase. Defendants' actions, as conceded by Defendants' expert and as further supported by the record, will cause this increase.

The facts of the present case fit squarely within the matrix of harm outlined in *Meese* and *Doe*. Both cases persuade the Court that Plaintiffs have demonstrated standing due to an injury-in-fact traceable to the Sports Wagering Law. *Meese* makes abundantly clear that uncontroverted material facts contained in opinion polls, such as those regarding Plaintiffs' reputational harm which will likely result if the Sport Wagering Law is given full effect, are proper grounds to find that Plaintiffs have standing.

In *Meese*, the plaintiff's purported injury-in-fact was a risk that "the much larger audience that is his constituency would be influenced against him . . . ." *Id.* at 475. Plaintiffs' fans are much like the *Meese* plaintiff's constituents. The Leagues have a "personal stake" in

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of collegiate sports teams which would be objects of the Sports Wagering Law are also located close to New Jersey's borders.

assuring that their relationship with their fans is not tainted by legalized gambling. Plaintiffs have also shown a congressionally recognized risk of reputational injury. Thus, Plaintiffs' injury is a far cry from a "generalized grievance shared in substantially equally measure by all or a large class of citizens." *Warth v. Seldin*, 422 U.S. 490, 499 (1975) (internal citations omitted).

Along with Plaintiffs' established injury-in-fact, the provisions of PASPA further afford Plaintiffs a cause of action. While the Court takes no position as to whether PASPA affords standing in absence of an injury, PASPA clearly affords Plaintiffs a cause of action and Plaintiffs have identified at least a "trifle" of an injury. As such, Plaintiffs have standing to bring this suit and the Court has jurisdiction to address the merits.

Plaintiffs bolster their position by reference to New Jersey's prohibition of gambling on its own college and university teams and all collegiate sporting events within New Jersey. (Pls.' Opp'n to Defs.' Mot. to Dismiss 10; Pls.' Reply at 5.) This could be interpreted to suggest that New Jersey is attempting to protect the integrity of college teams and games located in New Jersey against injury related to sports gambling. (*Id.*) Defendants argue that this carve-out was made in response to a request from the NCAA and that their mere acquiescence to the NCAA's request is not a concession of injury. (Defs.' Reply at 5 n.4.) Plaintiffs' argument regarding this issue is duly noted by the Court.

For the reasons set forth above, Plaintiffs established an injury-in-fact.[2]

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[2] In an attempt to undermine Plaintiffs' alleged injury, Defendants analogize legalized sports betting and fantasy sports. (Defs.' Cross Motion at 18-19.) Defendants contend that this analogy impacts the injury-in-fact analysis because Plaintiffs' involvement with fantasy sports implicitly indicates that Plaintiffs do not believe that gambling (in the form of fantasy sports) injures them. (Defs.' Cross Mot. at 6, 18-20.) The Court is not persuaded by Defendants' analogy. Notably, Congress excluded fantasy sports from prohibition under the Unlawful Internet Gambling Act ("UIGEA"), 31 U.S.C. § 5362(1)(E)(ix). In addition, United States District Judge Dennis M. Cavanaugh's decision holding that fantasy sports fall outside the definition of gambling envisioned by New Jersey's *qui tam* statute, N.J. Stat. Ann. 2A:40-6, lends further support to

3. Traceability of Plaintiffs' Injury to Defendants

In order to establish Article III standing, "there must be a causal connection between the injury and the conduct complained of-the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court." *Lujan*, 504 U.S. at 560 (internal citations omitted).

Defendants argue that "it is not conceivable that a non-trivial increase in the risk of match-fixing could be 'fairly traceable' to the Sports Wagering Law." (Defs.' Mot. to Dismiss at 16.) Further, Defendants allege that any potential injury to Plaintiffs would be traceable to the independent actions of Plaintiffs' agents. (Defs.' Mot. to Dismiss at 17-18; Defs.' Cross Mot. at 14.) As such, any alleged injury would be self-inflicted. Finally, Defendants also contend that any harm to the Leagues should be attributed to illegal, rather than legal gambling. (Oral Arg. Tr. 23:11-24:7.)

Plaintiffs assert that they have an interest in their sporting events being free from government sponsored gambling and cite to *Markell* for the proposition that New Jersey's conduct will "engender the very ills that PASPA sought to combat." (Pls.' Opp'n to Defs.' Mot. to Dismiss at 18.) Plaintiffs argue that each increase of state-sponsored gambling is distinctly harmful and redressable. (*Id.* at 18-19.) Plaintiffs further argue that if they are successful their alleged injury would be reduced, and thus, the traceability and redressability standards are satisfied. (*Id.* at 19.) In response to Defendants' contention that Plaintiffs' own agents will cause any harm, Plaintiffs state that the personal interest which is the predicate for the Leagues' standing is based on the production and marketing of their contests, the perception of the fans

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Plaintiffs' position. *See Humphrey v. Viacom, Inc.*, No. 06-2768, 2007 WL 1797648 (D.N.J. June 20, 2007). The Court is simply not convinced that legalized gambling, as permitted by the Sports Wagering Law, is similar enough to fantasy sports to inform the Court's standing analysis.

regarding same, and in whether athletic contests constitute the basis for state sponsored gambling. According to Plaintiffs, the State's very invasion into these interests is the cause of their injuries and is redressable by enjoining Defendants from moving forward with the sports gambling law. (*Id.* at 20.)

The Court finds Plaintiffs' alleged injuries fairly traceable to Defendants. Defendants' argument that the perceived injury of match-fixing would be caused by the Leagues' own referees and players misses the point. Critically, the Leagues' referees and players need not *actually* engage in gambling or game fixing in order for fans to have an increased perception that the integrity of the games is suffering due to the expansion of legalized gambling.

It is also reasonable, and likely, that a *perceived* increase in match-fixing and the increase of gambling will be attributable, at least in part, to the implementation of the Sports Wagering Law. Defendants' expert stated that the enactment of legal gambling in New Jersey will likely lead to an increase in illegal gambling. Therefore, the Sports Wagering Law will, at a minimum, likely increase the perception that the integrity of the Leagues' games is being negatively impacted by sports betting. (*See generally* Willig Report ¶ 10(b)).

Finally, 17% of the Leagues' fans responded they would spend less money on the Leagues if they placed a professional sports team in close proximity to legalized sports gambling. (*See* 2007 NBA Las Vegas/Gambling Survey 7.) This undisputed fact clearly indicates that implementation of the Sports Wagering Law will cause traceable harm to Plaintiffs.

For these reasons, the Court concludes that the undisputed facts demonstrate injury-in-fact traceable to Defendants' proposed implementation of the Sports Wagering Law.

4. Redressability

In addition to the injury-in-fact and traceability requirements, a plaintiff must demonstrate that the purported harm will be redressed if the relief it seeks is granted. *See Massachusetts v. EPA*, 549 U.S. 497, 524 (2007). In *Massachusetts,* the Supreme Court addressed the issue of redressability in the motor vehicle regulatory context. (*Id.*) The Court found that "[w]hile it may be true that regulating motor-vehicle emissions will not by itself *reverse* global warming, it by no means follows that we lack jurisdiction to decide whether EPA has a duty to take steps to *slow* or *reduce* it." *Id.* at 525 (emphasis in original). Here, Plaintiffs have demonstrated that even an incremental reduction in the impact of gambling is sufficient to establish redressability. As such, enjoining the implementation of the Sports Wagering Law will redress the incremental harm that will be caused by implementation of the legalized sports betting.

III. Conclusion

For the reasons set forth above, Plaintiffs have made an adequate showing of standing. Accordingly, Defendants' Motion to Dismiss is DENIED. Additionally, Defendants' Motion for Summary Judgment is DENIED insofar as it seeks a finding as a matter of law that Plaintiffs do not have standing. Plaintiffs' Motion to Preclude the Expert Testimony of Robert D. Willig (ECF No. 98) is administratively terminated as moot. An Order consistent with this Opinion will be filed on this date.

/s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE

Dated: December 21, 2012