

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

_____	:	Civil Action No. 15-7959 (FLW)(LHG)
MARNI TRUGLIO, individually and as a	:	
class representative on behalf of others	:	<b><u>ORDER</u></b>
similarly situated,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PLANET FITNESS, INC.; FIT TO BE	:	
TIED II, LLC d/b/a PLANET FITNESS;	:	
JOHN DOES 1-75; PLANET FITNESS	:	
FRANCHISES 1-75; AND XYZ	:	
CORPORATIONS 1-10,	:	
Defendants.	:	
_____	:	

THIS MATTER having been opened to the Court by Craig R. Tractenberg, Esq., on behalf of Defendant Planet Fitness, Inc., on a Motion pursuant to Federal Rule of Civil Procedure 12(b)(6) seeking dismissal of Plaintiff Marni Truglio’s (“Plaintiff”) Amended Complaint or, in the alternative, striking the class action allegations of the Amended Complaint pursuant to Federal Rules of Civil Procedure 12(f) and 23(d)(1)(D); it appearing that Defendant Fit To Be Tied II, LLC (collectively with Planet Fitness, Inc., “Defendants”), through its counsel, Louis A. Felicetta, Esq., has joined in the Motion; it further appearing that Plaintiff, through her counsel, Benjamin J. Wolf, Esq., and Joseph K. Jones, Esq., opposes the Motion; the Court having considered the parties’ written submissions in connection with the Motion pursuant to Federal Rule of Civil Procedure 78, for the reasons set forth in the Opinion filed on even date, and for good cause shown,

**IT IS** on this 28th day of July, 2016,

**ORDERED** that Defendants’ Motion to dismiss [Dkt No. 11] is GRANTED in part and DENIED in part as follows:

1. **ORDERED** that Count II of the Amended Complaint is DISMISSED without prejudice;
2. **ORDERED** that Count I of the Amended Complaint is DISMISSED to the extent it is based on alleged violations of N.J.S.A. 56:8-41(a), -42(b), (c), and (i);
3. **ORDERED** that Defendants' motion to dismiss Count I of the Amended Complaint, insofar as it is based on Defendants' alleged use of misleading cancellation policies in the Membership Agreement, is DENIED without prejudice;
4. **ORDERED** that Defendants' motion to strike the class action allegations of the Amended Complaint is DENIED without prejudice; and

**IT IS FURTHER ORDERED** that Defendants shall SHOW CAUSE within twenty (20) days of the date of this Order why this matter should not be remanded to state court based on a lack of subject-matter jurisdiction under the Class Action Fairness Act of 2005 ("CAFA").

/s/ Freda L. Wolfson  
The Honorable Freda L. Wolfson  
United States District Judge