

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: DAILY FANTASY SPORTS
LITIGATION

MDL No. 1:16-md-02677-GAO

This Document Relates to:
All Cases

**ORDER GRANTING PROVISIONAL CERTIFICATION OF SETTLEMENT CLASS
AND PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT**

WHEREAS, the Class Representative Plaintiffs, on behalf of themselves and all similarly situated DraftKings participants, and Defendant DraftKings Inc. (“DraftKings”), all acting by and through their respective counsel, have agreed, subject to Court approval following notice to the Settlement Class and a hearing, to settle their claims in this litigation as they relate to DraftKings only upon the terms as set forth in the Settlement Agreement;

WHEREAS, this Court has reviewed and considered the Settlement Agreement dated March 3, 2021, entered into among the Class Representative Plaintiffs and DraftKings (the “Agreement”), together with all exhibits thereto, the record in this case, and the briefs and arguments of counsel; and

WHEREAS, this Court preliminarily finds, for the purposes of settlement only, that the above-captioned action (the “Action”) meets all the prerequisites of Rule 23 of the Federal Rules

of Civil Procedure, that the Class Representatives are adequate representatives of the Settlement Class (as defined below), and that Class Counsel are adequate to represent the Settlement Class.

NOW, THEREFORE, based upon the files, records, and proceedings herein, and it appearing to the Court that a hearing should be held on notice to the Settlement Class of the proposed settlement to determine finally if the terms of the settlement are fair, reasonable, and adequate;

IT IS HEREBY ORDERED THAT:

1. All terms and definitions used herein have the same meanings as set forth in the Agreement.
2. The proposed settlement set forth in the Agreement is hereby preliminarily approved as being within the range of reasonableness such that notice thereof should be given to members of the Settlement Class.
3. The following Settlement Class is conditionally and preliminarily certified for settlement purposes only:

All Persons in the United States who made a first-time deposit into their DraftKings Daily Fantasy Sports account prior to January 1, 2018, and who are not net lifetime winners on DraftKings.
4. The Class Representative Plaintiffs listed on **Exhibit A** to the Agreement are hereby found to be adequate and are therefore appointed as representatives of the Settlement Class (the “Class Representatives”).

5. The following counsel are hereby found to be adequate and are therefore appointed as class counsel for the Settlement Class (“Class Counsel”):

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6. If final approval of the settlement is not obtained, this certification order, including the above description of the Settlement Class and appointment of the Class Representatives and Class Counsel, shall be vacated and this Action shall proceed as though the certification and appointments never occurred.

7. Pending final determination of whether the settlement should be approved, neither the Class Representatives nor any member of the Settlement Class, whether directly, indirectly, individually, representatively, or in any other capacity, shall commence or prosecute any action or proceeding of any nature whatsoever asserting any of the claims herein against DraftKings.

8. The Class Action Settlement Notices (“Class Notices”), which are attached as **Exhibits C-1 and C-2** to the Agreement, are hereby approved as to form. DraftKings shall cause the Class Notices (which shall be substantially identical to the form of **Exhibits C-1 and C-2** to the Agreement) to be disseminated by the Claims Administrator who shall send the Class Notices via email to DraftKings’ current and former customers who are within the Settlement Class (the “Class Notice Emails”) by July 15, 2021.

9. Tracking and reporting of Persons eligible to be Settlement Class Members who request a valid and timely exclusion from the Settlement Class that fully complies with the provisions of the Class Notices and Paragraph 17 of this Order (the “Opt Outs”) shall be compiled by the Claims Administrator and reported to DraftKings, Class Counsel and the Court. DraftKings shall pay all costs associated with such tracking and reporting of Opt Outs.

10. DraftKings shall pay all costs associated with preparing and disseminating the Class Notices.

11. DraftKings shall provide and bear the cost of notice to appropriate federal and state officials as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(a).

12. DraftKings is directed to file with the Court and serve upon Class Counsel, no later than July 22, 2021, a declaration confirming that dissemination of the Class Notices has taken place in accordance with this Order.

13. The Court finds that the dissemination of the Class Notices under the terms and in the format provided for in the Agreement and this Order constitutes the best notice practicable under the circumstances, that it is due and sufficient notice for all purposes to all persons entitled to such notice, and that it fully satisfies the requirements of due process and all other applicable laws.

14. A hearing (the “Fairness Hearing”) shall be held on October 6, 2021, at 11:00 a.m., in Courtroom 22, before the Honorable George A. O’Toole, Jr., John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, MA 02210 to determine whether the proposed settlement of this Action as to DraftKings should be finally approved as fair, reasonable, and adequate and whether the Final Judgment approving the settlement and dismissing certain claims

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