

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JUSTIN DUFOE, on Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

DRAFTKINGS INC., JASON D. ROBINS,
JASON K. PARK, and MATTHEW KALISH,

Defendants.

Case No. 23-cv-10524-DJC

CLASS ACTION

Honorable Judge Denise J. Casper

**DECLARATION OF JUSTIN DUFOE IN SUPPORT OF: (1) LEAD PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF
ALLOCATION; AND (2) LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES,
LITIGATION EXPENSES, AND A SERVICE AWARD**

I, Justin Dufoe, pursuant to 28 U.S.C. § 1746 declare as follows:

1. I am the Court-appointed Lead Plaintiff¹ in the above-captioned action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently to them.

2. I submit this Declaration in support of: (1) Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (2) Lead Counsel's Motion for Attorneys' Fees, Litigation Expenses, and a Service Award to Lead Plaintiff, in connection with the representation of the Class.

3. In seeking appointment as Lead Plaintiff, I understood the duty to represent the interests of the Class by supervising the prosecution of this Action.

¹ Unless otherwise indicated, defined terms shall have the definitions set forth in the Stipulation of Settlement ("Settlement" or "Settlement Agreement"), which was filed on February 26, 2025 (ECF No. 87-2). Citations to the Settlement Agreement are abbreviated as "§ ____."

4. I actively and faithfully oversaw the prosecution of the case over the course of the Action in accordance with my duties as Lead Plaintiff.

5. While I believe that the claims asserted against Defendants have merit, I recognize that there are significant risks as to whether I would ultimately be able to prove liability and establish damages on my claims.

6. As Lead Plaintiff, and over the course of the litigation, I was kept fully informed regarding case developments and procedural matters. I have reviewed my correspondence and other records reflecting my involvement in this Action. Based on those records, I estimate that I spent at least 150 hours representing the Class. In my role as Lead Plaintiff, I: (a) engaged in numerous meetings, phone conferences, and correspondence with Class Counsel; (b) reviewed pleadings and briefs; (c) reviewed detailed correspondence concerning the status of the litigation; (d) searched for and provided Class Counsel with documents relevant to this litigation, including numerous posts and correspondence concerning the closure of the DraftKings Marketplace, which had a direct impact on this litigation; (e) consulted with Class Counsel regarding litigation and settlement strategy; and (f) was kept informed about all aspects of the mediation and settlement negotiations.

7. One day after a case management conference was held before this Court following the Court's decision to deny Defendants' motion to dismiss, DraftKings announced that it decided to discontinue Reignmakers and our NFT Marketplace, effective immediately, due to recent legal developments. As a direct response to DraftKings' decision to shut down the Marketplace, immediate speculation and misinformation about Defendants' reasoning for doing so was widespread on DraftKings' Discord channels, which are moderated by DraftKings. Numerous Discord postings targeted me as the reason DraftKings shuttered the Marketplace. In addition to

Discord, I was targeted on other social media platforms such as X (Twitter), Facebook, and Instagram following the news that the Marketplace is shutting down. After, I brought these online threats to the attention of law enforcement, the county sheriff's department dispatched deputies in marked vehicles to pass by my home several times each night as a precaution.

8. Based upon the numerous hours I have spent acting for the benefit of the Class, in addition to the pressure I received while serving as Lead Plaintiff in this case, I respectfully submit that a request for a Service Award of \$50,000 is appropriate.

9. I have evaluated the significant risks and uncertainties of continuing litigation, including the possibility of a nominal recovery or even no recovery at all, and have authorized Class Counsel to settle this litigation for \$10,000,000, subject to the Court's approval. I am aware of the possibility of losing forthcoming motions such as DraftKings' motions for summary judgment and Plaintiff's motion for class certification. Even if Plaintiff were to prevail on these motions, DraftKings could file reconsideration motions or appeal, which would further delay any recovery for the Class. I believe this Settlement is fair and reasonable, represents an excellent recovery, and is in the best interest of the Class.

10. While I recognize that the determination of attorneys' fees is made by the Court, I believe that Class Counsel's request for an award of attorneys' fees of 33 1/3% of the Settlement Amount and their litigation expenses is fair and reasonable, as this Settlement would not have been possible without Class Counsel's diligent and aggressive prosecutorial efforts.

11. In light of the foregoing, I respectfully request that the Court grant final approval of the Settlement and the plan of allocation, approve Class Counsel's motion for an award of attorneys' fees and litigation expenses, and grant the request for a Service Award of \$50,000 for my time and effort expended representing the Class in this Action.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June
June 23, 2025 in South Beloit, Illinois.

/s/ 
Justin Dufoe

2025.06.23 Decl. of Justin Dufoe ISO Final Approval and Attorneys Fees

Final Audit Report

2025-06-23

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"2025.06.23 Decl. of Justin Dufoe ISO Final Approval and Attorneys Fees" History

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