

**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

LEAD PLAINTIFF'S MOTION FOR IMPOUNDMENT

Lead Plaintiff Justin Dufoe,¹ on behalf of himself and the Settlement Class, intends to file the Motion for Authorization to Distribute Net Settlement Fund to Authorized Claimants and Supporting Memorandum of Law ("Distribution Motion"), and an accompanying Declaration of Kathleen M. Brauns Regarding Distribution Plan ("Brauns Distribution Declaration" or "Brauns Distribution Decl."). Pursuant to Local Rule 7.2, Lead Plaintiff hereby respectfully requests that this Court allow the unredacted copies of the following exhibits to the Brauns Distribution Declaration to be filed under seal:

- Exhibit B-3 – Reports of Settlement Class Members Who Submitted Untimely Claims with an Individual Recognized Loss Under the Plan of Allocation After the July 30, 2025 Settlement Hearing and Subsequently Requested that the Untimeliness of Their Claims Be Excused;

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 "§ ____."

- Exhibit C – Reports of Claimants Who Disputed A.B. Data’s Calculation of Their Individual Recognized Loss Under the Court-Approved Plan of Allocation.

An unredacted copy of these exhibits will be provided to the Court via email simultaneously with the filing of this Motion. Lead Plaintiff has provided these exhibits to Defendants via email.² In compliance with Local Rule 7.1(a)(2), Lead Counsel conferred with counsel for Defendants, who take no position on the relief requested.

The exhibits contain non-public, personally-identifiable information of Settlement Class Members, other claimants, and third parties. “Among other things, ‘privacy rights of participants and third parties are among those interests which, in appropriate cases, can limit the presumptive right of access to judicial records.’” *Nachbaur on behalf of Bos. Sci. Corp. v. Mahoney*, No. 23 Civ. 10750, 2024 WL 3471300, at *1 (D. Mass. Feb. 6, 2024) (quoting *FTC v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 411 (1st Cir. 1987)). For these reasons, Lead Plaintiff requests that these exhibits be sealed.

² Pursuant to the Settlement Agreement, previously approved by the Court, Defendants have no interest in the relief sought by the Distribution Motion. *See* § 27 (“No Defendant . . . shall be permitted to review, contest, or object to any Proof of Claim, or any decision of the Settlement Administrator or Class Counsel with respect to accepting or rejecting any claim for payment.”).

Dated: January 26, 2026

Respectfully Submitted,

KIRBY McINERNEY LLP

/s/ Sarah E. Flohr

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CERTIFICATE OF SERVICE

I, Sarah E. Flohr, hereby certify that on January 26, 2026, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel via transmission of Notices of Electronic Filing generated by CM/ECF, served upon the *pro se* filers listed in the Certificate of Service for Lead Plaintiff's Response to Late Claimant David Kipe's *Pro Se* Motion for Equitable Tolling and Acceptance of Late Filed Claim (ECF No. 116) and Nyree Hinton, by mail and email, and will be uploaded to the Settlement website

Dated: January 26, 2026

/s/ Sarah E. Flohr
Sarah E. Flohr