



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**February 19, 2016 10:30**

By: MATTHEW ABENS 0075308

Confirmation Nbr. 674884

MICHAEL KLINGENSMITH

CV 16 859231

vs.

YAHOO!, INC.

**Judge:**

NANCY R. MCDONNELL

**Pages Filed: 23**



4. Yahoo defines its sports betting scheme as a DFS in a specious attempt to circumvent the Ohio Revised Code, which expressly prohibits profiting from a “game of chance,” which is defined as including a “\* \* \* game in which a player gives anything of value in hope of gain, the outcome of which is determined largely by chance, but does not include bingo.”<sup>1</sup>

5. On page 2 of Yahoo’s DFS Terms of Service, attached hereto as Exhibit 1, Yahoo deceptively claims that its DFS gambling scheme is a contest of skill.

6. Specifically, Yahoo deceptively states that contest winners are determined “\* \* \* through the relative knowledge and skill of entrants to score the highest amount of Contest points from the accumulated statistical results of the performance of individual athletes in multiple real-world sporting events.” See Exhibit 1.

7. Yahoo’s DFS betting contests are based upon the performance of a team and individuals that participate in NFL, NBA, MLB, NHL, and NCAA football and basketball games.

8. In traditional, season-long fantasy sports leagues, contestants draft their initial teams from a pool of all available players before the season begins.

9. These season-long contestants then must deploy the majority of this initially drafted team for the duration of the professional sports season.

10. As a season unfolds, traditional fantasy players then use skill and research to trade and add/drop players from their originally drafted rosters as players’ performance levels and availability due to injury change over the course of a season.

11. In a traditional fantasy league, a particular athlete can only be on the team roster of one contestant.

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<sup>1</sup> R.C. 2915.01(D)

12. A contestant can obtain a particular athlete not currently on his roster by way of trade or picking a player off of “waivers” (i.e. meaning that particular athlete is not on any contestant’s team and is available for any contestant to add to his roster).
13. In contrast to season-long fantasy sports, Yahoo DFS is based on the performance of an athlete or team during a single game (versus their season long performance).
14. Also in contrast is the fact that a contestant is not limited to the players whom he initially drafted or subsequently added during the waiver/trade process.
15. In short, all contestants to a particular DFS contest have equal access to the select pool of players Yahoo makes available for any given contest.
16. As such, a contestant gambles on a select number of specific players, out of the different players made available by Yahoo, that he thinks will score the most points in a particular week.
17. After the sporting events are scheduled, Yahoo calculates a score using the scheme it has created that awards points based upon the various individual, professional athletes’ and teams’ performance and pays bettors that have the highest total number of points.
18. Bettors select an entry fee, up to \$1,050.00, and the contest they wish to play.
19. Upon information and belief, the money Yahoo collects as entry fees are commingled with other contestants’ entry fees and pooled by Yahoo.
20. In the sense of the gaming industry, Yahoo is acting as the “house.”
21. As the games unfold, contestants are awarded points, based on a system contrived by Yahoo.
22. Yahoo awards points for when a player does something positive such as scoring.
23. Yahoo also detracts points when a player does something negative, such as turn the ball over to the opposing team.

24. Once all of the sports games of a particular betting contest are completed, Yahoo tallies up each contestant's final score derived from the individual player's performance on each contestant's team.

25. Yahoo, i.e. the "house", then pays pre-determined winnings amounts to a certain percentage or number of top scores.

26. For instance, Yahoo may declare that the top 100 contestant scores win money from their bet.

27. In this example if a contestant does not place in the top 100 contestants, then that contestant loses the entire entry fee gambled.

28. Yahoo then credits and/or pays out or causes to be paid out the winnings for all successful wagers (i.e., the top 100).

29. From the bets collected from the contestants, Yahoo ("the house") takes in a guaranteed and pre-determined rake of approximately 10% of all bets.

30. In sum and substance, Yahoo is running a gambling house that permits people to bet on the individual facets of a particular sporting event.

31. Yahoo not only promotes and provides this illegal forum, but it also profits from it by taking a rake.

32. Yahoo's collecting of a rake in connection with its operation of its DFS leagues is illegal under Ohio law.

33. Gambling on the outcomes of sporting events is illegal under Ohio law.

34. Yahoo's DFS leagues' outcomes are directly associated with the outcome of sporting events.

35. Yahoo's DFS operation violates Ohio Revised Code 2915.02 and Chapter 3763, *et seq.*

36. Plaintiff and the putative class are entitled, as a matter of law, to recover money for each occasion they did not win, and in addition, are entitled to any and all fees that inured to Yahoo on account of the contracts underlying the DFS leagues being void.

**PARTIES, JURISDICTION AND VENUE**

37. Plaintiff Michael Klingensmith is a resident of Cuyahoga County, and is a citizen of Ohio. Plaintiff brings this action on behalf of himself individually, and on behalf of a class of persons similarly situated as described in the class definition below.

38. Yahoo is a Delaware corporation with its principal place of business in Sunnyvale, California.

39. Yahoo is authorized to conduct business in Ohio and does, in fact, conduct business throughout the State of Ohio.

40. This Honorable Court has jurisdiction over this action pursuant to R.C. 2305.01 and 2307.382.

41. Venue is proper in this Court pursuant to Ohio Rule of Civil Procedure 3(B).

**FACTUAL BACKGROUND**

42. Yahoo is operating an illegal online sports betting business within the State of Ohio.

43. Yahoo accepts wagers from bettors for various sporting events using a scheme it created that assigns points based upon the performance of athletes and teams engaged in professional athletic competitions.

44. Bettors, using either a credit card or their PayPal account, deposit money into their Fantasy Wallet and then use that money to pay the entry fee, up to \$1,050.00, for the various Daily or Weekly Contests.

45. After the sporting events are concluded, Yahoo calculates a score using the system it created that awards points based upon the various individual professional athletes' and teams' performances.

46. Yahoo then pays the bettors who have the highest total number of points.

47. Plaintiff is an individual who has utilized Yahoo's DFS website.

48. Plaintiff has incurred monetary losses as a result of his use of Yahoo's DFS website.

49. Plaintiff Michael Klingensmith, who first played Yahoo's DFS on or about January 9, 2016, notified Yahoo via a letter dated January 14, 2016, of his decision to opt out of the arbitration and class action waiver provisions contained in Yahoo's Terms of Use. See Exhibit 2, attached hereto.

50. As a result of this waiver, Plaintiff is not bound to arbitrate its matter before the AAA and is capable of bringing this lawsuit on a class action basis.

51. As a result of Plaintiff's losses, Yahoo is indebted to Plaintiff for, or received to Plaintiff's use, the money so lost and paid, or converted the goods won from Plaintiff to Yahoo's use.

52. Yahoo markets and represents DFS as a game of skill, like chess or the stock market.

53. However, Yahoo's sports betting scheme is a game of chance that involves little skill because the chance element predominates over any skill set.

54. More specifically, the way a specific athlete performs on a game-to-game basis is unpredictable and inconsistent and there is no way to determine this performance in advance.

55. Anybody who thinks they can accurately predict an athlete's performance on any given day is merely making a guess.

56. Yahoo's sports betting scheme involves selecting a set number of athletes that will play in a single sporting event.
57. This contestant-selected set number of athletes, usually less than 10, is chosen from a Yahoo selected pool of players.
58. Users have a \$200.00 virtual budget/salary cap to spend when creating their lineup.
59. Each player is assigned a value (i.e. a spread) that counts towards the \$200.00 virtual budget/salary cap computation when a specific player is selected by the bettor.
60. For example, for Yahoo organized NFL betting contests commencing on October 25, 2015, a bettor would have to spend \$48 of his total salary cap to bet on the results Tom Brady would have against the New York Jets versus only \$25 for Landry Jones, the Pittsburgh Steelers back-up quarterback versus the Kansas City Chiefs.
61. Yahoo establishes a point system that correlates with the athletes' performance during a single athletic event.
62. Yahoo determines which athletes bettors can select and gamble on, assigning an individual price for each player based upon the athletes' perceived potential to score points.
63. Yahoo eliminates almost the entire element of skill by establishing an individual price for a limited number of athletes it determines can be used for a particular wagering event.
64. By establishing a "spread" for each athlete and limiting the number of athletes the bettors can use, bettors are engaging in a gambling scheme predominately based upon chance.
65. Ohio's civil law prohibit Yahoo's sports betting scheme because it is a game of chance.
66. How a particular athlete performs on any given day is completely left to chance.
67. A contestant of the DFS leagues has absolutely no influence on the outcome of any given player's performance.



68. DFS, including the sports betting schemes implemented by Yahoo, return casino-type “odds” and involve little skill.

69. A player may win with a randomly generated roster, just as one may win with a carefully selected roster.

70. Yahoo’s gambling scheme is a game of chance because an individual athlete’s performance (especially in one game) will always be affected by material elements of chance that affect scoring and winning outcomes, including variables such as player performance on any given day, player injury, opposing team’s performance (or lack thereof), turnovers, bad coaching decisions, weather conditions, controversial officiating, suspension, or other off-field circumstances.

71. Contestants/bettors have absolutely no measure of control over all the variables that affect the performance of professional athletes, rendering Yahoo’s scheme a game of chance.

72. Ohio law prohibits sports betting schemes, including Yahoo’s, and prohibits Yahoo from accepting payments from or entering into contracts with persons in Ohio.

### **CLASS ALLEGATIONS**

73. A class action is the proper vehicle to bring Plaintiff’s claims under Ohio Rule of Civil Procedure 23. The potential class is so large that joinder of all members would be impracticable. Additionally, there are questions of law or fact common to the class, the claims or defenses of the representative party are typical of the claims or defenses of the class, and the representative party will fairly and adequately protect the interests of the class.

74. This action satisfies all the requirements of Civ.R. 23, including numerosity, commonality, typicality, adequacy, predominance and superiority.

75. Numerosity: The class is so numerous that joinder of all members is impracticable. While the exact number is not known at this time, it is generally ascertainable by appropriate discovery.

76. Commonality: The claims made by Plaintiff meet the commonality requirement because they present shared questions of law and fact, and resolving these questions will resolve the class-wide litigation. These shared questions predominate over individual questions, and they include, without limitation:

- (a) Whether Plaintiff and members of the proposed class have entered into contracts with Yahoo within the past year;
- (b) Whether such contracts are *per se* void, pursuant to Ohio law;
- (c) Whether Plaintiff and members of the proposed class paid monies to Yahoo in consideration of these contracts;
- (d) Whether Yahoo's operations are a game of chance under Ohio law;
- (e) Whether Yahoo's operations violate Ohio criminal and civil laws;
- (f) Whether Plaintiff and members of the proposed class are entitled to restitution and recovery of lost wagers from Yahoo;
- (g) Whether Yahoo fraudulently induced Plaintiff and the members of the proposed class into using its website under false pretenses, through material misrepresentations or material omissions;
- (h) Whether Yahoo is liable for violations of Ohio's Consumer Sales Practice Act
- (i) Whether Yahoo is required to disgorge all monies received as a result of illegal gambling in violation of Ohio law;
- (j) Whether consumers were harmed by Yahoo's actions as described above; and
- (k) Whether Yahoo's Terms of Use are unconscionable, illusory, fraudulent or otherwise invalid.

77. Typicality: Plaintiff's claims are typical of those of the other proposed class members because Plaintiff, like every other proposed class member, was induced to use Yahoo's site based on false and misleading advertisements that DFS was a game of skill when, in fact, it is a game

of chance, thus constituting illegal gambling under Ohio law. Furthermore, Plaintiff's claims and those of the other proposed class members are based upon the same legal theories and arise out of the same practices and course of conduct engaged in by Yahoo.

78. Adequacy: Plaintiff will fairly and adequately represent and protect the interests of the proposed class in that they have no disabling conflicts of interest that would be antagonistic to those of the other members of the proposed class. Plaintiff seeks no relief that is antagonistic or adverse to the members of the proposed class and the infringement of the rights and the damages he has suffered are typical of other members of the proposed class. In addition:

- (a) Plaintiff is aware of his duties and responsibilities as class representative and has agreed to undertake those responsibilities to the best of his ability;
- (b) Plaintiff has knowledge regarding the facts and circumstances that give rise to his claims and the claims of the class and its members;
- (c) Plaintiff is strongly interested and highly motivated to assert and protect his own rights and the rights of class members in a vigorous fashion;
- (d) Plaintiff, while playing DFS, has incurred losses as a result of Yahoo's actions;
- (e) Plaintiff has retained counsel with experience in representing multiple claimants in civil actions and in Class Actions. The attorneys will also vigorously assert and protect the interests of Class members; and
- (f) Neither Plaintiff nor Plaintiff's counsel have any interests adverse to or in conflict with the class members.

79. Superiority: The class litigation is an appropriate method for fair and efficient adjudication of the claims involved. Class action treatment is superior to all other available methods for the fair and efficient adjudication of the controversy alleged herein; it will permit a large number of class members to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that hundreds of individual actions would require. Class action treatment will permit the

adjudication of relatively modest claims by certain class members, who could not individually afford to litigate a complex claim against a large corporate defendant. Further, even for those class members who could afford to litigate such a claim, it would still be economically impractical.

80. The nature of this action and the nature of Ohio law available to Plaintiff and the proposed class makes the use of the class action device a particularly efficient and appropriate procedure to afford relief to Plaintiff and the proposed class members for the wrongs alleged because Yahoo would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual class member with superior financial and legal resources; the costs of individual suits could unreasonably consume the amounts that would be recovered; proof of a common source of conduct to which Plaintiff was exposed is representative of that experienced by the proposed class and will establish the right of each member of the proposed class to recover on the cause of action alleged; and individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation.

81. The proposed class is described as follows:

**“All persons in the State of Ohio who participated in Yahoo’s DFS, deposited money into a Yahoo DFS account, and competed in any Yahoo DFS contest.”**

82. Plaintiff reserves the right to modify or amend the definition of the proposed class and to modify, amend, add or remove proposed subclasses, before the Court determines whether certification is appropriate and as the parties engage in discovery.

83. Excluded from the class are:

(a) Yahoo and any entities in which Yahoo has a controlling interest;

- (b) Any entities in which Yahoo's officers, directors, or employees are employed and any of the legal representatives, heirs, successors, or assigns of Yahoo;
- (c) The Judge to whom this case is assigned and any member of the Judge's immediate family and any other judicial officer assigned to this case;
- (d) All persons or entities that properly execute and timely file a request for exclusion from the class; and
- (e) All attorneys representing Plaintiff or the class.

**COUNT I – VIOLATION OF OHIO REVISED CODE CHAPTER §3763, et seq.:**  
**GAMING**

84. Plaintiff repeats and alleges paragraphs 1-83 as though fully set forth herein.

85. R.C. Chapter 3763: Gaming, provides, in pertinent part, as follows:

3763.01(A) Gaming contracts void: All promises, agreements, notes, bills, bonds, or other contracts, mortgages, or other securities, when the whole or part of the consideration thereof is for money or other valuable thing won or lost, laid, staked, betted at or upon a game of any kind, or upon a horse race or cockfights, sport or pastime, or on a wager, or for the repayment of money lent or advanced at the time of a game, play, or wager, for the purpose of being laid, betted, staked, or wagered, are void.

3763.02 Money lost at games may be recovered – exceptions: If a person, by playing a game, or a wager, loses to another, money or other thing of value, and pays or delivers it or a part thereof, to the winner thereof, such person losing and paying or delivering, within six months after such loss and payment or delivery, may sue for and recover such money or thing of value or part thereof, from the winner thereof, with costs of suit.

3763.03 Sufficiency of allegations in pleading: In the prosecution of an action under 3763.02 of the Revised Code, the plaintiff need only allege that the defendant is indebted to the plaintiff for, or received to the plaintiff's use, the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him, without setting forth the special matter.

3763.04 Suit by third party: If a person losing money or thing of value, as provided in section 3763.02 of the Revised Code, within the time therein specified, and without collusion or deceit, does not sue, and effectively prosecute, for such money or thing of value, any person may sue for and recover it, with costs of suit, against such winner, for the use of such person in prosecuting such suit.

86. Yahoo contracts for DFS are not based upon skill, but instead are a game of chance and, thus, constitute illegal gambling under Ohio law.

87. To this end, whether Tom Brady outscores Landry Jones the week of October 25, 2015, for example, is a game of chance.

88. As such, those contracts violate R.C. 2915.01, *et seq.*, and R.C. 3763, *et seq.* and, therefore, are void as a matter of law.

89. As to Plaintiff, and those similarly situated, Yahoo is indebted to the Plaintiff for, or received to the Plaintiff's use, the money so lost and paid, or converted the goods won of the Plaintiff to Yahoo's use.

90. As a direct and proximate result of Yahoo's violation of the applicable state law, Plaintiff and the proposed class were damaged and are entitled to recover any and all monies lost as a result of Yahoo's void gaming contracts on behalf of themselves and all others, as allowed pursuant to R.C. 3763.04, as well as punitive damages.

91. As a direct and proximate result of Yahoo's actions, Plaintiff and the proposed class have suffered damages and continue to suffer damages in an amount greater than Twenty-Five Thousand Dollars (\$25,000.00).

#### **COUNT II – FRAUDULENT INDUCEMENT**

92. Plaintiff repeats and alleges paragraphs 1-91 as though fully set forth herein.

93. Yahoo committed fraud at the formation of the online contract to participate in DFS.

94. Yahoo represented in writing that its DFS was a legal game of skill and not illegal gambling.

95. Yahoo knew at the time Plaintiff and the proposed class members opened their accounts with Yahoo that the statements, acts and omissions regarding the DFS were false and/or misleading.

96. Yahoo intended that Plaintiff and the proposed class members be induced by their false statements that the DFS was a game of skill rather than a game of chance so Plaintiff and the proposed class members would pay money to participate and play DFS.

97. Plaintiff and the proposed class members acted in reliance on the false, material representations and omissions made by Yahoo that the DFS was a game of skill rather than a game of chance, which has caused them to incur damages.

98. Plaintiff and the proposed class members would not have deposited money or engaged in any activity on Yahoo's website if they had known that the services for DFS offered by Yahoo were a game of chance, and thus, illegal in nature.

99. Yahoo was aware that the legality of the games was a material fact inducing Plaintiff and the proposed class members to give them money in exchange for services and agreeing to the alleged contract.

100. As a direct and proximate result of Yahoo's fraudulent representations and fraudulent omissions, Plaintiff and the proposed class members were induced into a contract that they otherwise would not have made and suffered damages in an amount greater than Twenty-Five Thousand Dollars (\$25,000.00).

### **COUNT III – VIOLATION OF OHIO'S CONSUMER SALES PRACTICE ACT**

101. Plaintiff repeats and alleges paragraphs 1-100 as though fully set forth herein.

102. The commercial transaction between Plaintiff and Yahoo was a "consumer transaction" as defined in the R.C. 1345.01 as Plaintiff purchased a service from Yahoo for personal use.

103. Consequently, the transaction between Plaintiff and Yahoo is subject to the provisions of the Ohio Consumer Sales Practice Act ("CSPA").

104. Yahoo represented to Plaintiff and the putative class that the DFS was a game of skill rather than a game of chance.

105. Pursuant to the Ohio Attorney General's rule making authority under the Consumer Sales Practice Act, it is a deceptive and/or unconscionable practice under Ohio Adm.Code 109:4-3-10 for a supplier to make any representations, claims, or assertions of fact that would cause a reasonable consumer to believe such statements are true.

106. Yahoo's representations to Plaintiff and the putative class that the DFS is a game of skill and not of chance is a misrepresentation that has been declared a deceptive and/or unconscionable practice under Ohio Adm.Code 109:4-3-10.

107. Plaintiff has sustained economic damages as a direct and proximate result of Yahoo's unfair, deceptive, and unconscionable acts.

#### **COUNT IV – UNJUST ENRICHMENT**

108. Plaintiff repeats and alleges paragraphs 1-107 as though fully set forth herein.

109. Plaintiff and the putative class conferred a benefit on Yahoo by depositing money and playing in contests through Yahoo's DFS.

110. Yahoo has been unjustly enriched in retaining the revenues derived from Plaintiff's and the putative class members' deposits and contest entries, which retention under these circumstances is unjust and inequitable because Yahoo's DFS is illegal under Ohio.

111. Yahoo has been unjustly enriched in retaining the revenues derived from Plaintiff's and the putative class members' deposits and contest entries, which retention under these circumstances is unjust and inequitable because Yahoo misrepresented the facts concerning the fair play available for its DFS.



112. Plaintiff and the putative class were injured as a direct and proximate result of Yahoo's conduct because they paid for entry into contests and deposited money with Yahoo.

113. Because Yahoo's retention of the non-gratuitous benefit conferred on them by Plaintiff and the putative class is unjust and inequitable, Yahoo must pay restitution to Plaintiff and the putative class for its unjust enrichment.

#### **COUNT V – DECLARATORY JUDGMENT**

114. Plaintiff repeats and alleges paragraphs 1-113 as though fully set forth herein.

115. Yahoo DFS's Terms of Use, attached hereto as Exhibit 1, including the arbitration and waiver of class action rights clauses, is not a valid, enforceable contract.

116. There is a live, justiciable controversy between the parties as Yahoo continues to hold funds illegally obtained from Plaintiff.

117. Pursuant to R.C. 3763.01(A), all promises, agreements or other contracts, when the whole or part consideration thereof is for money or other valuable thing won or lost, laid, staked, or betted at or upon a game of any kind, are void *ab initio* as a matter of Ohio law.

118. In addition, Plaintiff and the proposed class members did not have actual or constructive knowledge of Yahoo DFS's Terms of Use prior to using Yahoo's website.

119. Therefore, Plaintiff and the members of the proposed class request the Court, pursuant to Chapter 2721 of the Ohio Revised Code, to issue an order declaring that Yahoo DFS's Terms of Use is an invalid and unenforceable contract.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and the members of the proposed class pray for relief and judgment against Yahoo, as follows:

- 1) For an order certifying the class, appointing Plaintiff and their counsel to represent the class and notice to the class to be paid by Yahoo;

- 2) For damages suffered by Plaintiff and the proposed class members, including punitive damages;
- 3) For restitution to Plaintiff and the proposed class members of all monies wrongfully obtained by Yahoo;
- 4) For injunctive relief requiring Yahoo to cease and desist from engaging in the unlawful, unfair, illegal, and/or deceptive practices alleged in the Complaint;
- 5) For Plaintiff's reasonable attorneys' fees and costs incurred;
- 6) For pre-judgment and post-judgment interest at the maximum allowable rate on any amounts awarded; and
- 7) For declaratory relief declaring Yahoo's Terms of Use a void contract under Ohio law.
- 8) For any such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

/s/ Matthew Abens

DAVID L. HARVEY III (0080918)

MATTHEW B. ABENS (0075308)

JASON T. HARTZELL (0092458)

Harvey Abens Iosue Co., LPA

3404 Lorain Avenue

Cleveland, Ohio 44113

Phone: (216) 651-0256

Fax: (216) 651-1131

dvdharv@harvlaw.com

mbabens@harvlaw.com

jhartzell@harvlaw.com

*Attorneys for Plaintiff*

Win cash in one-day contests from the most trusted name in Fantasy!

Learn how to play

# Yahoo Sports: Daily Fantasy Terms of Service

**IMPORTANT NOTICE:** THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED BELOW

## ACCEPTANCE OF TERMS

This Yahoo Sports Daily Fantasy Terms of Service ("Daily Fantasy TOS") sets forth terms and conditions, additional to the Yahoo Terms of Service ("TOS"), that govern your access to and use of the Yahoo Sports Daily Fantasy service ("Yahoo Sports Daily Fantasy" or the "Service") and your participation in the contests offered therein (each, a "Contest"). This Daily Fantasy TOS and the TOS, together with any additional terms, addendums, or documents that may be referenced herein and therein (collectively, "Agreement"), form the entire agreement between you and Yahoo! Inc. and its affiliates (collectively, "Yahoo") in connection with the Service. Your use, or continued use of the Service constitutes acceptance of the Agreement. Do not use Yahoo Sports Daily Fantasy if you do not wish to be bound by the Agreement. Yahoo may update and change this Agreement at any time without notice to you; your access to and/or use of Yahoo Sports Daily Fantasy after any such change means you accept such change. At any time you can review the most current version of the Daily Fantasy TOS at <https://sports.yahoo.com/dailyfantasy/help/terms> (and any successor pages) and the most current version of the TOS at <https://policies.yahoo.com/us/en/yahoo/terms/utos/index.html> (and any successor pages).

Capitalized terms not defined in this Daily Fantasy TOS have the meanings ascribed to them in the TOS. Certain defined terms in this Daily Fantasy TOS are included in the definitions of capitalized terms in the TOS. In particular, Yahoo Sports Daily Fantasy is a "Yahoo Service"; accordingly, all references in the Agreement to Yahoo Service incorporate by reference Yahoo Sports Daily Fantasy. If there is a conflict between the terms of the Daily Fantasy TOS and the TOS, the terms of the Daily Fantasy TOS shall control. The imposition of additional enumerated restrictions or liabilities on your actions or omissions, by one document over the other, shall not be considered in and of itself a conflict.

## ELIGIBILITY

The Contests are void where prohibited. To be eligible to enter any paid Contest, you must meet all of the following conditions:

- You are at least 18 years of age (or the age of majority in your state of legal residence, whichever is greater);
- You are a resident of the District of Columbia or the fifty United States, except for residents of Arizona, Iowa, Louisiana, Montana, Washington, Nevada, and Florida (collectively, the "Eligibility Area");
- You are physically located in the Eligibility Area at the time of your participation in a Contest; and
- You are not listed on any US Government prohibited or watch list.

You may also be required to sign and return an Affidavit of Eligibility as proof of your eligibility to participate in the Contests. You will be required to provide this information within ten (10) days after Yahoo first attempts to contact you. If you fail to comply with this deadline, Yahoo may disqualify you from further participation, and withhold or revoke any prizes at its sole discretion. If Yahoo chooses to disqualify you on this basis, it will refund the Contest entry fee for the Contest from which you were disqualified.

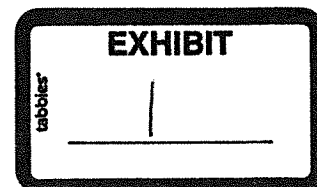
Employees and agents of Yahoo, its affiliates, subsidiaries, advertising and promotional agencies, any other prize sponsor and any entity involved in the development, production, implementation, administration or fulfillment of the Contests (all the foregoing, together with Yahoo, collectively referred to as "Contest Entities"), and the immediate family members and persons living in the same household as any of the above may not participate in any publicly available paid Contests or free contests with cash or cash equivalent prizes except for purposes of testing the user experience on a limited basis. Participation in free contests with no prizes and private Contests is permitted.

Athletes, coaches, and other team management, team support personnel, and team owners are not eligible for any Yahoo Contests in the sport or sports in which their team competes. Team owners, referees, league employees, sports commissioners and other individuals who, through an ownership interest or game-related employment, can influence gameplay in the real world game are also ineligible.

## HOW TO REGISTER

A valid Yahoo ID is required to participate in Yahoo Sports Daily Fantasy. If you do not have a Yahoo ID, you will be prompted to sign up for one before being permitted to enter or participate in a Contest offered on the Service. Please ensure that your contact information is accurate, up-to-date, and complete. This information is **mandatory** if you wish to be eligible to win and collect prizes. A user who has not provided valid registration information will automatically be deemed ineligible and will not be considered for a prize. A valid PayPal account is also required to receive and collect a prize.

Please note that the Contests may only be played under the Yahoo ID with which they were created or entered, and may not be transferred. You may not create a new Yahoo ID to play under or allow another user to play under your Yahoo ID. Likewise, you may not enter a Contest on behalf of someone without a Yahoo ID, or that is ineligible to participate in the Contest. As a rule, each Contest entrant ("entrant") is allowed to play under one Yahoo ID. There may be unique



cases where Yahoo may allow entrants to play under a second Yahoo ID. These cases will be reviewed by Yahoo on a case-by-case basis. You are not permitted to play using an additional Yahoo ID without explicit and written consent from Yahoo after your case has been reviewed. It is at Yahoo's sole discretion and judgment to determine whether multiple Yahoo IDs belong to the same entrant. If you are found to be participating in the Contests using more than one Yahoo ID without explicit and written consent from Yahoo, such penalties may include, but are not limited to, disqualification from current and future Contests.

## GAME RULES

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### How To Play:

In addition to these rules, additional rules, instructions and guidelines regarding game play and scoring (which are fully incorporated into this Daily Fantasy TOS by reference) are located at <https://sports.yahoo.com/dailyfantasy/help/nfl/rules> (the "Official Rules"). In the event of a conflict between the Official Rules and the Daily Fantasy TOS, the Daily Fantasy TOS will control.

### Contest of Skill:

All Contests offered on Yahoo Sports Daily Fantasy are contests of skill. Contest winners are determined using the criteria set forth in the posted rules for each Contest, and through the relative knowledge and skill of entrants to score the highest amount of Contest points from the accumulated statistical results of the performance of individual athletes in multiple real-world sporting events. All prizes offered are established and made known to entrants in advance of a Contest and the value of prizes is not determined by the number of entrants or the amount of any fees paid by those entrants. No Contests offered on Yahoo Sports Daily Fantasy are based on the score, point spread, or any performance(s) of any single real-world team or any combination of such teams, or solely on any single performance of an individual athlete in any single real-world sporting or other event.

### Contest Entry:

Contests on Yahoo Sports Daily Fantasy will display an entry fee listed in US dollars. Once you select the Contest you wish to enter and submit the athletes in your lineup, your Yahoo Sports Fantasy account balance will be debited for the respective entry amount. Additional funds may be deposited into your Yahoo Sports Fantasy account at any time if you do not have enough funds to enter a Contest.

### Contest Term:

The term and length of each Contest will depend on the professional sport related to that Contest, generally commencing and ending either on a single day or over the course of a week. The length of each individual Contest will be explicitly stated on its respective Contest page.

### Prizes:

At the conclusion of each Contest, Yahoo Sports Daily Fantasy will display the list of potential Contest winners (subject to verification) generally by 10:00 AM PT on the following day. These Contest results will not be changed due to any subsequent official adjustments of statistics by Yahoo's data providers unless otherwise determined by Yahoo at its sole discretion. All prizes offered are established and made known to Contest entrants in advance of each Contest and are listed on each respective Contest page. In the event of a tie, Yahoo will combine the winning prizes and evenly distribute the prizes to the tied entrants. For example, if three participants tie for 1st place, with 1st place winning \$100, 2nd place winning \$50, and 3rd place winning \$30, each of the tied entrants will receive \$60.

All potential winners are subject to verification by Yahoo, and must meet all eligibility requirements before a prize will be awarded. In addition, you **MUST** provide valid contact information during the Yahoo ID registration process to be considered for a prize. An entrant who finishes in a prize-winning position in a Contest, but has not provided valid contact information during the Yahoo ID registration process will be deemed ineligible.

If you are a potential winner, you may also be required to sign and return an Affidavit of Eligibility and Liability/Publicity Release. You will be required to provide this information within ten (10) days after Yahoo first attempts to contact you. If you fail to comply with this deadline, or if a prize or prize notification is returned as undeliverable, Yahoo may disqualify you from further participation, and withhold or revoke any prizes at its sole discretion. Winners will have their prizes deposited in their Yahoo Sports Fantasy account.

Prizes may not be transferred or assigned except by Yahoo. Only listed prizes will be awarded and no substitutions, equivalents or redemptions will be made. Expenses not specifically stated in this Daily Fantasy TOS, together with the reporting and payment of all applicable taxes, fees, and/or surcharges, if any, arising out of, or resulting from, acceptance or use of a prize, are the sole responsibility of the winner of that prize. A potential winner may be required to provide additional documentation (such as social security number) in order to comply with tax reporting requirements. Each winner may receive an IRS Form 1099 for the value of the prize awarded. Contest Entities expressly disclaim any responsibility or liability for injury or loss to any person or property relating to the delivery and/or subsequent use of the prizes awarded. Contest Entities make no representations or warranties concerning the appearance, safety, or performance of any prize awarded. Any unclaimed prizes will not be awarded. Restrictions, conditions, and limitations apply. Contest Entities will not replace any lost or stolen prize items.

### Withdrawals:

Entrants may withdraw cash prize winnings and any cash deposits (excluding bonuses and promotions) once funds have settled. Withdrawals will be deposited directly into the entrant's PayPal account, or such other means as Yahoo determines in its sole discretion. Please review the PayPal User Agreement for more information.

Bonuses and promotions may be offered by Yahoo Sports Daily Fantasy from time-to-time. Any cash bonuses and promotions an entrant receives may not be withdrawn from your Yahoo Sports Fantasy account unless certain conditions are met as stated by the terms for each applicable bonus, or promotion. These terms may include, but are not limited to, using the bonus to enter into at least one Contest with an entry fee greater than zero dollars. Any attempted abuse of bonuses is prohibited, and may result in the loss of bonuses, and the suspension of all playing privileges on Yahoo Sports Daily Fantasy.

### Cancellation Policy:

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If any Contest is not capable of running as planned, for any reason including infection by computer virus, bugs, tampering, unauthorized

intervention, fraud, technical failures, or any other causes beyond the control of Contest Entities which corrupt or affect the administration, security, fairness, integrity or proper conduct of any Contest, Yahoo reserves the right at its sole discretion to cancel, terminate, modify, or suspend a Contest without any further obligation.

In the event Yahoo is prevented from continuing with a Contest or the integrity and/or feasibility of a Contest is severely undermined by any event beyond the control of Yahoo, including but not limited to fire, flood, epidemic, earthquake, explosion, labor dispute or strike, act of God or public enemy, satellite or equipment failure, riot or civil disturbance, war (declared or undeclared), terrorist threat or activity, or any federal, state or local government law, order, or regulation, order of any court or jurisdiction, infection by computer virus, unauthorized intervention, technical failures or other cause not reasonably within the control of Yahoo (each a "Force Majeure" event or occurrence), Yahoo reserves the right at its sole discretion to cancel, terminate, modify, or suspend a Contest without any further obligation.

## CONDUCT

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By accessing and using Yahoo Sports Daily Fantasy and entering the Contests, entrants agree to be bound by the decisions of the Contest Entities, which are final and binding in all respects. Yahoo reserves the right at its sole discretion to disqualify any individual it finds to be (a) tampering or attempting to tamper with the entry process or the operation of Yahoo Daily Fantasy, any Contest, or any Yahoo website; (b) violating the Official Rules, these Daily Fantasy TOS, or any other guidelines, rules, or instructions associated with Yahoo Daily Fantasy or the Contests; (c) violating the TOS, conditions of use and/or general rules or guidelines of any other Yahoo product or service; or (d) acting in an unsportsmanlike or disruptive manner, or with intent to annoy, abuse, threaten or harass any other person.

Actions deemed as improper conduct include, but are not limited to, those actions outlined in the "Member Conduct" section of the TOS, as well as the following:

- Providing false information about your eligibility to enter Contests and collect prizes
- Using any fraudulent, or unauthorized credit cards, or payment methods
- Using any automated services or routines including, but not limited to, robots, web crawlers, spiders, ants, and scrapers to access and/or collect information on any Yahoo site without explicit written consent from Yahoo
- Attempting to abuse, as determined solely at Yahoo's discretion, bonuses and promotions
- Attempting to tamper with, or alter a real-life sporting event that is directly connected with the Contests in which you have direct involvement or interest

If you create a Yahoo ID, nickname, or Contest name that Yahoo deems, in its sole discretion, to be abusive, defamatory, harassing, hateful, indecent, objectionable, offensive, or vulgar, we reserve the right to cancel any Contests you created, cancel any of your Contest entries, and block your Yahoo Sports Fantasy account from any future activity.

If you, as an entrant, notice any improper conduct, please notify our Customer Care team at once using the following link so that we can investigate and take the appropriate action – if any is deemed necessary – against the offending entrants and accounts.

Please note that a violation of this Daily Fantasy TOS, the Official Rules, the TOS, conditions of use, and/or the general guidelines of any Yahoo product or service may be enforced against all other activities associated with the offending Yahoo ID. If your Yahoo ID is found to be in violation of the terms of service or official rules of another Yahoo product or service, that violation is grounds for Yahoo to suspend or terminate your access to all products or services played under your Yahoo ID – including Yahoo Sports Daily Fantasy.

**CAUTION: ANY ATTEMPT BY AN ENTRANT OR ANY OTHER INDIVIDUAL TO DELIBERATELY DAMAGE ANY WEBSITE OR MOBILE APPLICATION OR UNDERMINE THE LEGITIMATE OPERATION OF YAHOO DAILY FANTASY OR THE CONTESTS MAY BE A VIOLATION OF CRIMINAL AND CIVIL LAWS. SHOULD SUCH AN ATTEMPT BE MADE, YAHOO RESERVES THE RIGHT TO IMMEDIATELY TERMINATE THE ENTRANT'S ACCOUNT, IF ANY, AND SEEK DAMAGES FROM ANY SUCH PERSON TO THE FULLEST EXTENT PERMITTED BY LAW.**

## GENERAL CONDITIONS

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The Contests are governed by the laws of the United States, without regard to its conflict of laws principles, and are subject to all applicable federal, state, and local laws and regulations, and is void where prohibited by law. Yahoo Sports Daily Fantasy is offered for entertainment purposes only and may not be used in connection with any form of gambling or wagering. By entering, each entrant: (a) releases and holds harmless the Contest Entities, including, without limitation, the respective directors, officers, employees and agents of each, from any and all liability for any injuries, loss or damage of any kind to persons, including death, or property damage resulting in whole or in part, directly or indirectly, from the use of Yahoo Sports Daily Fantasy, acceptance, possession, misuse or use of any prize, participation in the Contests, or while traveling to, preparing for, or participating in any prize-related activity; and (b) grants to Contest Entities the right to use and publish Yahoo ID or nickname, city/state of residence, score, and Contest ranking, in any and all media now known or hereinafter developed without territorial or time limitations, in connection with the Contests.

## LIMITATIONS OF LIABILITY

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Contest Entities assume no liability for lost, late, misdirected or garbled entries, or for theft, destruction, or unauthorized access to, entries. Contest Entities assume no responsibility for any incorrect or inaccurate information, whether caused by website users, by any of the equipment or programming associated with or utilized in the Contest, or by any technical or human error which may occur in the processing of submissions or game transactions in connection with the Contest. Contest Entities assume no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, failures, or technical malfunction of any telephone network or lines, computer online systems, servers, providers, computer equipment, software, email, players, or browsers, whether on account of technical problems, traffic congestion on the Internet or at any website, or on account of any combination of the foregoing, that may occur (including but not limited to any such problems which may result in the inability to access the Contest Site or to process any game transaction(s) in connection with the Contest). Contest Entities assume no responsibility for any injury or damage to entrants or to any computer related to or resulting from participating in, or downloading materials in connection with, Yahoo Sports Daily Fantasy or any Contests. If Yahoo Sports Daily Fantasy or any Contest is not capable of running as planned, for any reason including infection by computer virus, bugs, tampering, unauthorized intervention, fraud, technical failures, or any other causes beyond the control of Contest Entities which corrupt or affect the administration, security, fairness, integrity or proper conduct of Yahoo Sports Daily Fantasy or the Contests, Yahoo reserves the right at its sole discretion to cancel, terminate, modify, or suspend Yahoo Sports Daily Fantasy or any Contest.

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DISPUTES GOVERNING LAW

BY ACCESSING AND USING THE YAHOO SPORTS DAILY FANTASY AND PARTICIPATING IN THE CONTESTS, EACH ENTRANT AGREES THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW: (1) ANY AND ALL DISPUTES, CLAIMS AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THE CONTESTS, OR ANY PRIZE AWARDED, WILL BE RESOLVED INDIVIDUALLY THROUGH BINDING ARBITRATION AS SET FORTH BELOW, WITHOUT RESORT TO ANY FORM OF CLASS ACTION; (2) ANY AND ALL CLAIMS, JUDGMENTS AND AWARDS WILL BE LIMITED TO ACTUAL THIRD-PARTY, OUT-OF-POCKET COSTS INCURRED (IF ANY) AND ATTORNEYS' FEES WILL NOT BE AWARDED OR RECOVERABLE IN ARBITRATION UNLESS THE ARBITRATOR DETERMINES THE CLAIMS ARE FRIVOLOUS; (3) UNDER NO CIRCUMSTANCES WILL ANY ENTRANT BE PERMITTED TO OBTAIN ANY AWARD FOR, AND ENTRANT HEREBY KNOWINGLY AND EXPRESSLY WAIVES ALL RIGHTS TO SEEK, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, LOST PROFITS AND/OR ANY OTHER DAMAGES (OTHER THAN ACTUAL OUT OF POCKET EXPENSES), AND/OR ANY RIGHTS TO HAVE DAMAGES MULTIPLIED OR OTHERWISE INCREASED; AND (4) ENTRANT'S REMEDIES ARE LIMITED TO A CLAIM FOR MONEY DAMAGES (IF ANY), AND ENTRANT IRREVOCABLY WAIVES ANY RIGHT TO SEEK INJUNCTIVE OR EQUITABLE RELIEF.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATIONS OR EXCLUSION OF LIABILITY, SO THE ABOVE MAY NOT APPLY TO EVERY ENTRANT.

## BINDING ARBITRATION AND CLASS ACTION WAIVER

PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT

### Initial Dispute Resolution:

Our Customer Care team is available via the web to address any concerns you may have regarding the Service. Our Customer Care team is able to resolve most concerns quickly to our entrants' satisfaction. The parties shall use their best efforts through this Customer Care process to settle any dispute, claim, question, or disagreement and good faith negotiations, which shall be a condition to either party initiating a lawsuit or arbitration.

### Binding Arbitration:

If the parties do not reach an agreed upon solution within a period of 30 days from the time informal dispute resolution under the Initial Dispute Resolution provision, then either party may initiate binding arbitration as the sole means to resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to this Daily Fantasy TOS (including their formation, performance and breach), the parties' relationship with each other and/or your use of the Service shall be finally settled by binding arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules and the supplementary procedures for consumer related disputes of the American Arbitration Association (the "AAA"), excluding any rules or procedures governing or permitting class actions.

The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of this Daily Fantasy TOS, including, but not limited to any claim that all or any part of these Daily Fantasy TOS are void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written, and binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

The Commercial Arbitration Rules governing the arbitration may be accessed at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Yahoo will pay the additional cost. If the arbitrator finds the arbitration to be non-frivolous, Yahoo will pay all of the actual filing and arbitrator fees for the arbitration, provided your claim does not exceed \$75,000. The arbitration rules also permit you to recover attorney's fees in certain cases. The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

### Location:

If you are a resident of the United States, arbitration will take place at any reasonable location within the United States convenient for you.

### Class Action Waiver:

The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND YAHOO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

### Exception - Litigation of Intellectual Property and Small Claims Court Claims:

Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court to protect its intellectual property rights ("intellectual property rights" means patents, copyrights, moral rights, trademarks, and trade secrets, but not privacy or publicity rights). Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

### 30-Day Right to Opt Out:

You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth above by sending written notice of your decision to opt-out to the following address: Yahoo Sports Daily Fantasy, 30-Day Right to Opt Out, 701 First Avenue, Sunnyvale, CA 94089. The notice must be sent within 30 days of your first use of the Service otherwise, you shall be bound to arbitrate disputes in accordance with the terms of those paragraphs. If you opt-out of these arbitration provisions, Yahoo also will not be bound by them.

## Changes to this Section:

Yahoo will provide 60-days' notice of any changes to this section. Changes will become effective on the 60th day, and will apply prospectively only to any claims arising after the 60th day.

For any dispute not subject to arbitration you and Yahoo agree to submit to the personal and exclusive jurisdiction of and venue in the federal and state courts located in Santa Clara County, California. You further agree to accept service of process by mail, and hereby waive any and all jurisdictional and venue defenses otherwise available.

The Daily Fantasy TOS, the relationship between you and Yahoo, and any issues and questions regarding the rights and obligations of an entrant in connection with Yahoo Sports Daily Fantasy shall be governed by, and construed in accordance with, the laws of the State of California, U.S.A., without giving effect to conflict of laws provisions.

## PRIVACY

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By using Yahoo Sports Daily Fantasy and by entering the Contests, you agree to Yahoo's use of your personal information, as described in the Yahoo Privacy Policy, located at <https://policies.yahoo.com/us/en/yahoo/privacy/index.htm>. You also agree to the use of your personal information as stated in the section entitled "Publicity" below.

## WINNER'S LIST

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While potential winners may be posted on the Contest Site at the conclusion of each Contest, all potential winners are still subject to verification and must meet all eligibility requirements before a prize will be awarded. Lists of verified prize winners may be obtained after winner confirmation is complete and within 90 days after conclusion of any Contest on the Yahoo Sports Daily Fantasy by sending a self-addressed, stamped envelope to: Yahoo Sports Daily Fantasy, Winners List Requests, 701 First Avenue, Sunnyvale, CA 94089.

## PUBLICITY

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Participation in Yahoo Sports Daily Fantasy and acceptance of prizes constitutes each winner's permission for the Contest Entities to use his/her name, address (city and state), likeness, photograph, picture, portrait, voice, biographical information, and/or any statements made by each winner regarding Yahoo Daily Fantasy or Yahoo for advertising and promotional purposes without notice or additional compensation, except where prohibited by law. Additionally, Yahoo may request that you sign and return a publicity release to confirm your grant of rights to Yahoo hereunder.

## INTELLECTUAL PROPERTY

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Yahoo Sports Daily Fantasy and the Contests and all of the related pages, content and code are copyright ©1994-2015, Yahoo! Inc. and/or the Contest Entities. Copying or unauthorized use of any copyrighted materials, trademarks, or any other intellectual property without the express written consent of its owner is strictly prohibited. Yahoo Sports Daily Fantasy and Contests are not affiliated with, nor endorsed by, the National Football League, the National Basketball Association, the National Hockey League, Major League Baseball, or any of their respective member teams, or PayPal.

## Questions or Comments

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If you can't find the answer to your question in reviewing this Daily Fantasy TOS or the Official Rules, we suggest that you review the Help section for additional information.

- NFL
- MLB
- NHL
- NBA
- CFB
- Soccer

The Help section, which can be found [here](#), includes answers to a number of general game-play, scoring, and roster questions.

Last updated 1.20.16

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NFL, NBA, MLB, NHL, NCAA and EPL are not sponsors of, nor are any of them affiliated with, Yahoo Sports Daily Fantasy contests in any way.

Yahoo Sports Daily Fantasy  
30-Day right to Opt Out  
701 First Avenue  
Sunnyvale, CA 94089

January 14, 2016

Sent via Certified and 1<sup>st</sup> Class U.S. Mail

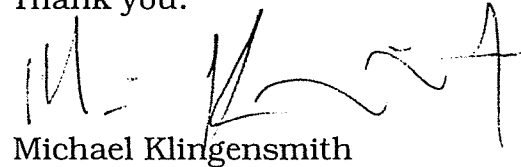
RE: Opting out of the Arbitration and Class Action Waiver Clauses

Dear Yahoo Sports Daily Fantasy,

My name is Michael Klingensmith. On Saturday, January 9, 2016 for the first time ever I played Yahoo's daily fantasy sports. I played 3 separate contests (NHL, NFL and NBA).

Pursuant to Yahoo's terms of service, I would like Yahoo to accept this letter as notice of the exercising of my right to opt out of the arbitration and class action waiver provisions as it relates to my use of Yahoo's daily fantasy sports leagues/contests. This waiver right I am exercising is found on page 4 of the Yahoo's terms of service (subheading "30-Day Right to Opt Out").

Thank you.



Michael Klingensmith

