

persons who have or claim any interest that would be affected by the declaration must be made parties. A declaration does not prejudice the rights of a person not a party to the proceeding.”

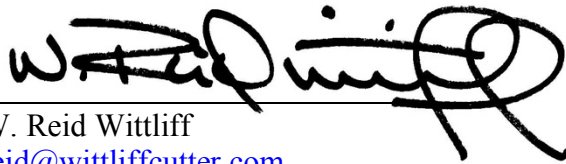
Like Plaintiff DraftKings, FanDuel is in the business of offering DFS contests that are the subject of this action to its customers and the relief sought would impact FanDuel equally as the Plaintiff DraftKings. FanDuel’s intervention is thus proper and necessary because it could have brought the action in its own name, has a justiciable interest in this action, will be affected by the declaration DraftKings seeks, intervention would not complicate the case by excessive multiplication of the issues, and intervention is essential to protect FanDuel’s interests. *Guar. Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990); *Orion Reining Corp. v. UOP*, 259 S.W.3d 749, 777 (Tex. App.-Houston [1st Dist.] 2007, *pet. denied*).

FanDuel intervenes in this action pursuant to Texas Rule Civil Procedure 60 and Texas Civil Practice and Remedies Code § 37.006(a) to challenge the Opinion Letter and joining Plaintiff DraftKings’ request for injunctive and declaratory relief.

Dated: August 24, 2018

Respectfully Submitted

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served pursuant to the Texas Rules of Civil Procedure through electronic service on August 24, 2018

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