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NY Daily Fantasy Sports Case May Not Be Decided Solely on Whether DFS is Skill or Chance

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Due to the specifics of **New York** state law, the outcome of the closely-watched New York state case against daily fantasy sports operators may not come down solely to a question of whether DFS is skill. New York has a two-part test. One part of the test focuses on whether the relevant activity involves skill on the part of the participant. The other part of the test however arguably does not.

Under New York state law, gambling includes the staking or risking of something of value on the outcome of either (1) “a contest of chance,” or (2) “a future contingent event not under [that person’s] control or influence,” in each case where the person will receive something of value in the event of a certain outcome.

The recent hearing focused extensively on whether the relevant future contingent event was the outcomes of selected players’ performances in the sporting events themselves or the fantasy sports contest itself.

A very good summary of the oral argument and the parties positions in this issue can be found [here](#).

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