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## Rivers Casino Schenectady Amicus Brief Shot Down in New York DFS Appeal Case

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Philip Conneller

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Rivers Casino in Schenectady has failed to insert itself via an amicus brief into a court case that will rule on the constitutionality of daily fantasy sports (DFS) in New York.



The appeal against a New York Supreme Court ruling that effectively decriminalized DFS in the Empire State is due to be heard in November, but without the input of Rush Street Gaming. (Fortune)

Last month, Rivers accepted the first legal sports bet in the state when it launched its sportsbook at the casino near Albany. But parent Rush Street Gaming believes that DFS poses a threat to its new operations, citing the large crossover between sports bettors and DFS players.

But New York's Appellate Division, Third Department has taken the unusual step of rejecting Rivers's amicus brief. An amicus brief is a legal document filed in appeal cases by non-litigants who have a strong interest in the case. They present relevant arguments or additional information that they believe the courts may wish to consider.

Amicus briefs are routinely approved by appellate courts and rejection is rare. In this case, the courts' motives are unclear. But commenting on the case in [nyappeals.com](http://nyappeals.com), Albany-based attorney Rob Rosborough noted that a brief can be turned down if the non-litigant has a direct financial interest in the outcome of the appeal and therefore isn't a true "amicus" (friend) of the court.

## Supreme Court Ruling

In 2016, New York lawmakers passed a law exempting DFS from state gambling laws on the grounds that it was a game of skill. This enabled DraftKings and FanDuel to resume offering contests in New York, their second-biggest market. The two companies had suspended operations following a legal spat with then-Attorney General Eric Schneiderman.

But anti-gambling groups said the legislature had not played by the rules. They believe that DFS can only be declared legal in the state by an amendment to its constitution agreed by public referendum.

Campaign group Stop Predatory Gambling (SPG) sued the state, asking the court to have DFS declared unconstitutional.

Last year, the [State Supreme Court agreed](#) the games amounted to illegal gambling under the state constitution, but also ruled that the legislature had been within its right to exempt them from New York's gambling laws.

After initial confusion about what this meant in practical terms, DraftKings and FanDuel declared victory, and continue to operate their contests in New York.

SPG's appeal will be heard in November, but the appellate panel won't be listening to Rush Street's two cents on the issue.

## Illinois Sports Betting Clash

This isn't the first time Rush Street has [clashed with DraftKings and FanDuel](#). In Illinois, where the company owns the Rivers Casino in Des Plaines, it lobbied successfully to have DFS companies temporarily frozen out of the new sports betting market.

The state's sports betting legislation, enacted in June, dictates that online operators will have to sit in a "penalty box" for at least 18 months after the launch of the market to give local land-based casinos a head start.

Rush Street, which asked for a three-year freeze-out, argues the delay is justified because DraftKings and FanDuel operated DFS in Illinois before it was legalized, which has allowed them to build up ready-made player bases for sports betting.

In New York, FanDuel followed Rivers Casino into the market last month, opening New York's second land-based sports book at the Tioga Downs Casino in Nichols. Mobile sports betting is not currently legal in the state.

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