

Peter R Afrasiabi (SBN 193336)
pafrasiabi@onellp.com

ONE LLP

4000 MacArthur Blvd.
East Tower, Suite 500
Newport Beach, CA 92660
Telephone: (949) 502-2870
Facsimile: (949) 258-5081

John E. Lord (SBN 216111)
jlord@onellp.com

ONE LLP

9301 Wilshire Blvd.
Penthouse Suite
Beverly Hills, CA 90210
Telephone: (310) 866-5157
Facsimile: (310) 943-2085

Maximillian N. Amster (*PHV to be applied for*)
max@bayadvocacy.com

Samuel J. Salaro, Jr. (*PHV to be applied for*)
sam@bayadvocacy.com

BAY ADVOCACY PLLC

1700 South Mac Dill Avenue
Tampa, FL 33629
Telephone: (813) 251-6262

Attorneys for Plaintiffs,

K.W., a minor through K.W.'s guardian, Jillian Williams,
and Jillian Williams, individually, on behalf of themselves
and all others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

K.W., a minor and through K.W.'s guardian,
Jillian Williams; and JILLIAN WILLIAMS,
individually, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

EPIC GAMES, INC., a Maryland corporation,

Defendant.

Case No. 3:21-cv-00976

**COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE AND
MONETARY RELIEF**

CLASS ACTION

DEMAND FOR JURY TRIAL

Case No. 3:21-cv-00976

1 Plaintiffs K.W., a minor, by and through K.W.'s guardian Jillian Williams, and Plaintiff
2 Jillian Williams individually (collectively, "Plaintiffs"), file this Complaint against Defendant Epic
3 Games, Inc. ("Defendant" or "Epic Games") for declaratory, injunctive, and monetary relief on
4 behalf of themselves and a class of individuals similarly situated. Plaintiffs allege, on personal
5 knowledge as to their own actions and upon information, belief, and investigation of counsel as to
6 other matters, as follows.

7 **NATURE OF THE ACTION**

8 1. Epic Games has built a multi-billion-dollar online video game business that
9 substantially depends upon contracts with minors. Its flagship game *Fortnite* has permeated the
10 lives and culture of American children. Through *Fortnite*, Epic Games has entered into millions of
11 contracts with minors under which minors pay real-world money to by video-game currency, virtual
12 items, and game content.

13 2. Epic Games misleads and manipulates minors into handing over ever-increasing
14 amounts of real money for virtual things. Epic Games makes it all but impossible for minors to
15 determine the real cost of the virtual items they buy, fails to provide them with information about
16 their purchasing history, pressures them to buy more and more virtual things, and cuts their parents
17 out of their purchasing decisions. At the end, Epic Games misleads them about their right to undo
18 their contracts and obtain a refund.

19 3. The law generally holds that those who contract with minors do so at their own peril.
20 Many of the contracts Epic Games has made with minors are subject to disaffirmance and, as a result,
21 are voidable at the minor's election. Still other such contracts were void at their inception. This
22 lawsuit seeks, on a class action basis, to vindicate the rights of minors and their parents and to obtain
23 (1) declaratory judgments that the contracts are voidable or void, as appropriate; (2) injunctions
24 prohibiting Epic Games' manipulative and misleading conduct toward minors; and (3) monetary
25 relief in the form of refunds or compensatory damages.

26 **PARTIES**

27 4. Plaintiff K.W. is a natural person and resident of the state of California. K.W. is a
28 minor. K.W. brings this action by and through a parent and guardian, Jillian Williams.

6. Defendant Epic Games is a Maryland corporation that has its principal place of business in Cary, North Carolina. Epic Games maintains offices in Larkspur, California and San Francisco, California, both located in the Northern District of California. Epic Games conducts substantial business related to *Fortnite* in this District. Epic Games' Chief Technology Officer is located in the Northern District of California. The Creative Cinematic Director focused on *Fortnite* is located in the Northern District of California. Epic Games employs in-house counsel in this District. Epic Games posts employment openings in this District related in whole or in part to *Fortnite*—engineers, programmers, and other positions—on its website. Epic Games has filed at least seven lawsuits in this District in the last five years. At least three of those lawsuits involved *Fortnite*, and at least two of those implicated contracts to which Epic Games was a party and in which Epic Games agreed that any lawsuit was required to be brought in this District.¹

6 7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §
7 1332(d)(2)(A) because this is a proposed class action in which the matter in controversy exceeds \$5
8 million exclusive of interest and costs and at least one member of the class of plaintiffs is a citizen
9 of a State different from Epic Games.

8. This Court has personal jurisdiction over Epic Games because its continuous corporate operations within California are so substantial and of such a nature as to justify suit against it on any cause of action in this State. Further, Epic Games has sufficient minimum contacts with the State of California and this suit arises out of or relates to those contacts. Epic Games has purposely availed itself of the benefits and protections of California law such that the exercise of jurisdiction over Epic Games would comport with due process requirements.

DOCKET
ALARM

8 | A. Overview of Fortnite.

11. As relevant here, *Fortnite* can be played in one of two modes: *Battle Royale* or *Save the World*. *Battle Royale* is a player-versus-player game in which up to one hundred players airdrop into an imaginary territory where they get weapons and other in-game items to attack and eliminate other players. The last player—or duo or squad of players—alive at the end is the winner. *Save the World* is a player-versus-environment game set after a fluke storm causes the world’s population to disappear, with the survivors being attacked by zombie-like “husks”. The players collect in-game items, save survivors, and perform various missions.

12. *Fortnite Battle Royale* is a free-to-play or “freemium” game in which the game itself does not cost the player anything. *Fortnite Save the World* is a pay-to-play game. Epic makes most of its money from the sale of in-game content that players purchase electronically while in the game environment. That content includes items that are used or enjoyed during game play, such as “skins” (uniforms), “gliders” (parachutes), “emotes” (dance moves), materials, ammunition, and other things for use during game play. It also includes additional game content or play modes—for example, the “Battle Pass” in *Battle Royale*, which offers 100 tiers of in-game extras (skins, emotes, V-bucks, etc.) over the course of a game season.

13. Players make in-game purchases of items and game content using what Epic Games represents to its players is a “virtual currency” called V-Bucks. A player acquires V-Bucks by paying for them in-game using real-world currency by, for example, paying for V-Bucks in U.S. dollars using a debit card, a credit card, or a gift card. V-Bucks are used to buy items and game content, which are offered for sale for a price stated in V-Bucks.

14. Regardless of the platform used or the game mode played, the experience of all *Fortnite* players with respect to in-game purchases is the same in all material respects. Real-world money is used to purchase V-Bucks and V-Bucks are used to purchase in-game items and game content priced in V-Bucks, which are offered for sale and advertised in the same way.

15. This model has been spectacularly profitable for Epic Games. In August 2020, Epic Games announced that *Fortnite* had over 350 million registered players who, collectively, had spent 3.2 billion hours in the game.² It is estimated that Epic Games earned \$2.4 billion in revenue from *Fortnite* in 2018 and \$1.8 billion in revenue from *Fortnite* in 2019.³ It is estimated that V-Bucks purchases represent 83% of all spending in *Fortnite*.⁴

B. Fortnite Targets Minors.

16. *Fortnite* has a huge number of players who are children. Although Epic does not report the number of *Fortnite* players who are children, a 2018 analysis comparing players of *Fortnite Battle Royale* to players of a competitor game reported that 53% of players who played *Fortnite* exclusively were between 10 and 25 years old.⁵ Another 2018 survey reports that 61% of teenagers have played *Fortnite*.⁶ Of the six top *Fortnite* players in the world, five—including the first-place player—were minors as of August 2020, and four remain minors today. It is fair to

² See <https://twitter.com/FortniteGame/status/1258079550321446912> (May 6, 2020) (last accessed Feb. 4, 2021).

³ See Iqbal, Mansoor, Fortnite Usage and Revenue Statistics (2020), Business of Apps (Jan. 26, 2021), available at <https://www.businessofapps.com/data/fortnite-statistics/#3> (last accessed Feb. 6, 2021).

⁴ *Id.*

⁵ Meehan, Orla, A Profile of the Battle Royale Player and How They Compare to Other Gamers, Newzoo (May 22, 2018), available at <https://newzoo.com/insights/articles/a-profile-of-the-battle-royale-player-and-how-they-compare-to-other-gamers/> (last accessed Feb. 4, 2021).

⁶ Common Sense Media, Fortnite Frenzy (2018), available at https://www.commonsensemedia.org/sites/default/files/uploads/landing_pages/fortnite_frenzy_infographic_release.pdf (last accessed Feb. 6, 2021).

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