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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-CRB

**L.R. 3-12 ADMINISTRATIVE MOTION
TO CONSIDER WHETHER CASES
SHOULD BE RELATED**

Complaint Filed: February 8, 2021

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") in this case respectfully request the Court
3 find their case to be related to closed Case No. 4:19-cv-3629-YGR, styled *C.W., a minor, by and*
4 *through his guardian, Rebecca White, etc. v. Epic Games, Inc.*, (the "Prior Action") under Civil
5 L.R. 3-12. An action is related to another when:

6 (1) The actions concern substantially the same parties, property, transaction or event; and

7 (2) It appears likely that there will be an unduly burdensome duplication of labor and
8 expense or conflicting results if the cases are conducted before different Judges.

9 Civil L.R. 3-12.

10 In every respect that matters to the efficient management of judicial resources, this case and
11 the Prior Action are identical. This case is a proposed class action brought on behalf of K.W., a
12 minor, and K.W.'s parent, against Epic Games, Inc. in which Plaintiffs allege that Epic Games
13 misleads and manipulates minors into making purchases of virtual items and game content in the
14 game *Fortnite*. (Compl., Dkt. 1, ¶¶ 10-55). The complaint asserts, among other things, counts
15 seeking a declaration regarding a minor's rights to disaffirm contracts with Epic Games, for
16 violations of California Business and Professional Code § 17200, and for negligent
17 misrepresentation. (*Id.* at Counts I, III, IV, V). The Prior Action, which was voluntarily dismissed
18 last month, was likewise a proposed class action brought on behalf of C.W., a minor, against Epic
19 Games in which C.W. alleged that Epic Games misleads and manipulates minors into making
20 purchases of virtual items and game content in the game *Fortnite*. (Prior Action Am. Compl., Dkt.
21 56, ¶¶ 11-63). The amended complaint in the Prior Action asserted, among other things, counts
22 seeking a declaration regarding a minor's rights to disaffirm contracts with Epic Games, for
23 violations of California Business and Professional Code § 17200, and for negligent
24 misrepresentation. (*Id.* at Counts I, IV, V). This action seeks, and the Prior Action sought,
25 certification of national and California classes of minor plaintiffs. (*Compare* Compl., Dkt. 1, ¶ 56
26 with Prior Action Am. Compl., Dkt. 56, ¶¶ 67-68). Plaintiffs' co-counsel (One LLP) and defense
27 counsel (Faegre Drinker Biddle & Reath LLP) in this case also represented the named plaintiff and
28

1 Epic Games, respectively, in the Prior Action.¹ Thus, the two actions concern substantially the
2 same parties, property, transaction, or events.

3 Furthermore, there will be an unduly burdensome duplication of labor and an unnecessary
4 risk of conflicting results if this case is assigned to a different judge. Before the Prior Action was
5 voluntarily dismissed, the presiding judge ruled on multiple motions directed to the legal
6 sufficiency of the pleadings, whether C.W.'s claims were required to be arbitrated, whether venue
7 was proper in this court, and whether the action should be transferred to a different judicial district
8 under 28 U.S.C. § 1404(a). (*See* Prior Action Order (1) Denying Motion To Compel Arbitration or
9 Transfer; (2) Granting In Part And Denying In Part Motion To Dismiss; (3) Granting Motion To
10 Compel Compliance With F.R.C.P. 10(A), Dkt. 54; Order Granting In Part And Denying In Part
11 Motion To Dismiss, Dkt. 59). Those issues were resolved substantially in favor of C.W. and the
12 plaintiff class. A new judge will have to work to learn the operative facts and analyze the applicable
13 law to resolve similar issues in this case. The presiding judge in the Prior Action has already done
14 that work. Furthermore, a new judge may resolve identical issues affecting an identical plaintiff
15 class in this case differently from the presiding judge in the Prior Action, creating inconsistent
16 results affecting the same members of a class of minor plaintiffs.

17 Although Epic Games has not yet appeared in this action, we have consulted with its
18 counsel, who states that Epic Games opposes this motion. We expect—but do not know—that Epic
19 Games will highlight that the complaint in this case is not a precise copycat of the amended
20 complaint in the Prior Action or suggest that it has changed its arrangements with consumers in
21 ways that it thinks make a difference. We acknowledge that there will be some differences between
22 this action and the Prior Action. Nothing is static. But the important point for purposes of a
23 determination of relatedness is this: In those respects that matter, the two cases are essentially the
24 same. They involve the same class of plaintiffs, the same sets of facts and transactions, the same
25 kinds of legal claims, and the same kinds of requested relief. If assigned to the presiding judge in
26

27 ¹ Although One LLP represented the named plaintiff in the Prior Action, it played no part in
28 the decision to voluntarily dismiss it. That decision was made by the named plaintiff after a former
partner of One LLP joined a different firm and the named plaintiff became represented by that firm.
(*See* Prior Action, Dkt. 89).

1 the Prior Action, pretrial rulings and proceedings can build upon work already done. Having the
2 case decided by the presiding judge in the Prior Action thus saves resources and avoids inconsistent
3 results. Having the case decided by a different judge, in contrast, does not.

4
5 Dated: February 16, 2021

ONE LLP

6 By: /s/ John E. Lord

7 Peter R. Afrasiabi

8 John E. Lord

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