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16 EPIC GAMES, INC.

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 K.W., a minor and through K.W.’s guardian,  
21 Jillian Williams, and JILLIAN WILLIAMS,  
22 individually, on behalf of themselves and all  
23 others similarly situated,

24 Plaintiffs,

25 v.

26 EPIC GAMES, INC.,

27 Defendant.

Case No. 3:21-cv-00976-CRB

**DEFENDANT EPIC GAMES, INC.’S  
NOTICE OF MOTION AND  
MOTION TO STAY ACTION;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT**

Date: April 2, 2021  
Time: 10:00 a.m.  
Ctrm: 6 – 17th Floor  
Judge: Hon. Charles R. Breyer

Action Filed: February 8, 2021  
Trial Date: None set

28

1                    **NOTICE OF MOTION AND MOTION – SUMMARY OF ARGUMENT**

2 TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3                    PLEASE TAKE NOTICE that on April 2, 2021 at 10:00 a.m., or as soon thereafter as the  
4 matter may be heard, in Courtroom 6, 17th Floor of the above Court, located at 450 Golden Gate  
5 Avenue, San Francisco, California, 94102, Defendant Epic Games, Inc. (“Epic Games”) will and  
6 hereby does move for an order staying all further proceedings in this action pending the outcome  
7 of nationwide class action settlement approval proceedings in *Zanca, et al. v. Epic Games, Inc.*,  
8 No. 21-CVS-534 (N.C. Super. Ct., Wake County).

9                    Plaintiffs in this case, according to the facts pleaded in their Complaint and the claims they  
10 assert, are members of the putative settlement class in *Zanca*. Under North Carolina state court  
11 rules, which mirror Fed. R. Civ. P. 23 in all relevant respects, Plaintiffs in this case have the  
12 opportunity to opt out of the *Zanca* settlement, but may not purport to exercise anyone else’s right  
13 to do so. Alternatively, they may participate in the *Zanca* settlement and/or raise objections to it.

14                    While the class action settlement approval process is underway in *Zanca*, Epic Games  
15 respectfully seeks a stay of this action, for three reasons. First, the *Zanca* court’s Preliminary  
16 Approval Order enjoins all members of the putative settlement class, including Plaintiffs, from  
17 pursuing separate litigation while the settlement approval process is underway. This Court should  
18 give effect to that order. Second, even without regard to that order, this Court should allow the  
19 settlement process to proceed without interference as a matter of comity. Third, it is most  
20 appropriate for the *Zanca* court to resolve, in the context of an objection or opt-out request, whether  
21 K.W. and Ms. Williams have a claim. This is because neither K.W. nor Ms. Williams made a  
22 purchase from Epic Games, but Epic Games nevertheless already has honored K.W.’s  
23 disaffirmation request and thereby mooted whatever claims he might once have had.

24                    The Motion is based on the Memorandum of Points and Authorities, the Declaration of  
25 Jeffrey S. Jacobson and exhibits thereto, as well as all papers and pleadings on file herein, and such  
26 argument as properly may be presented at a hearing.

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Dated: February 26, 2021

FAEGRE DRINKER BIDDLE & REATH LLP

By: /s/ Jeffrey S. Jacobson

Jeffrey S. Jacobson (*pro hac vice*)

Matthew J. Adler

Attorneys for Defendant

EPIC GAMES, INC.

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