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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  
UNOPPOSED MOTION TO DISMISS  
ON GROUNDS OF MOOTNESS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT**

Date: May 20, 2022  
Time: 10:00 a.m.  
Ctrm: 6 – 17th Floor  
Judge: Hon. Charles R. Breyer

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

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 May 20, 2022 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 without opposition for an order dismissing this case, with prejudice, as moot.

7            Plaintiffs K.W. and Jillian Williams are members of the nationwide class of *Fortnite* players  
8 certified for settlement purposes in *Zanca v. Epic Games, Inc.*, No. 21-CVS-534 (N.C. Super. Ct.).  
9 The trial court in *Zanca* granted final approval to that settlement on November 18, 2021. Plaintiffs  
10 and one other member of the *Zanca* class submitted a joint objection to the settlement and appealed  
11 from the trial court’s order approving the settlement. On April 8, 2022, however, the objectors  
12 withdrew their appeal. Accordingly, the *Zanca* settlement has become final. Because the release  
13 of claims provided for by the *Zanca* settlement agreement extends to all the claims Plaintiffs have  
14 pleaded or could plead in this case, the finality of the *Zanca* settlement has rendered this case moot.  
15 Epic Games therefore seeks dismissal of the case, and Plaintiffs’ counsel have authorized Epic  
16 Games to represent to the Court that the motion is unopposed.

17            The instant Motion is based on this Notice of Motion and Motion, the Memorandum of  
18 Points and Authorities in support, the Declaration of Jeffrey S. Jacobson and exhibits thereto, as  
19 well as all papers and pleadings on file herein, and such argument as properly may be presented at  
20 a hearing (if necessary).

21            Dated: April 13, 2022

FAEGRE DRINKER BIDDLE & REATH LLP

22  
23                                    By: /s/ Jeffrey S. Jacobson

Jeffrey S. Jacobson (*pro hac vice*)

Matthew J. Adler

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25                                    Attorneys for Defendant

26                                    EPIC GAMES, INC.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Plaintiff K.W., a minor, and his mother Jillian Williams, assert several claims in this case  
4 arising from K.W.'s having played *Fortnite*, a highly popular video game published by Epic Games,  
5 and having made in-game purchases while playing. Among other things, Plaintiffs assert that  
6 certain of Epic Games' sales and marketing practices violated California consumer protection  
7 statutes and that K.W., as a minor, should be able to "disaffirm" his purchases pursuant to California  
8 Family Code § 6710 and therefore receive a full refund for those purchases. Plaintiffs filed this  
9 case in February 2021, but the Court stayed the case on April 19, 2021, while the court in a parallel  
10 matter, *Zanca v. Epic Games, Inc.*, No. 21-CVS-534 (N.C. Super. Ct., Wake County) considered  
11 the fairness of an earlier-proposed nationwide class action settlement which, if approved, would  
12 moot Plaintiffs' case. *See* Dkt. 36 at 1-2. The Court renewed that stay six times, most recently on  
13 February 2, 2022. *See* Dkt. 38, 40, 42, 45, 49, 51.

14 The trial court in *Zanca* granted final approval to the settlement on November 18, 2021.  
15 *See* Dkt. 47-1 (final approval order). As the parties advised the Court on February 1, 2022 (Dkt.  
16 50), the lone group of objectors to the settlement—Plaintiffs and one other commonly-represented  
17 member of the *Zanca* settlement class—timely filed an appeal from that final approval order. The  
18 objectors/appellants, however, withdrew that appeal on April 8, 2022. *See* Declaration of Jeffrey  
19 S. Jacobson ("Jacobson Decl.") ¶ 2 & Ex. A (notice of withdrawal). Now that the appeal has been  
20 dismissed by the only people who had standing to appeal, the *Zanca* settlement has become final.

21 The *Zanca* settlement class is defined by the trial court's final approval order to include  
22 "[a]ll persons in the United States who, at any time between July 1, 2015, and [February 25, 2021],  
23 had a *Fortnite* or *Rocket League* account that they used to play either game on any device and in  
24 any mode, and (a) exchanged in-game virtual currency for any in-game benefit, or (b) made a  
25 purchase of virtual currency or other in-game benefit for use within *Fortnite* or *Rocket League*.<sup>1</sup>  
26 *See* Dkt. 47-1 at 56. Plaintiffs are members of the *Zanca* settlement class. *See* Dkt. 1 (Complaint)  
27 ¶¶ 43-44 (alleging that K.W. made in-game purchases while playing *Fortnite* in and after 2018).

28 <sup>1</sup> *Rocket League* is another popular video game published by Epic Games.

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