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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

Epic Games Inc. v. Google LLC et al.,
Case No. 3:20-cv-05671-JD

*In re Google Play Consumer Antitrust
Litigation*, Case No. 3:20-cv-05761-JD

State of Utah et al. v. Google LLC et al.,
Case No. 3:21-cv-05227-JD

Case No. 3:21-md-02981-JD

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR SANCTIONS, AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Judge: Hon. James Donato

1 **NOTICE OF MOTION TO ALL PARTIES HEREIN**

2 **AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to the October 5, 2022 Order in this litigation by
4 the Honorable James Donato, Dkt. 340, Plaintiffs will and hereby do move this Court pursuant to
5 Federal Rule of Civil Procedure 37(e)(2) for an adverse inference instruction based on Defendants
6 Google LLC, Google Ireland Limited, Google Commerce Limited, Google Asia Pacific Pte.
7 Limited and Google Payment Corp.’s (collectively, “Google”) spoliation of evidence in the above-
8 captioned action (the “Action”), or in the alternative for sanctions to cure Plaintiffs’ prejudice
9 under Federal Rule of Civil Procedure 37(e)(1). This motion is based upon this Notice of Motion,
10 the Memorandum of Points and Authorities filed herewith, the Proposed Order Granting Plaintiffs’
11 Motion for Sanctions, the Declaration of Lee M. Mason (the “LMM Decl.”), all matters with
12 respect to which this Court may take judicial notice, and such oral and documentary evidence as
13 properly may be presented to the Court.

14 **RELIEF SOUGHT**

15 Plaintiffs request that the Court issue adverse inference jury instructions to remedy
16 Google’s spoliation of Google Chats as provided by Rule 37(e)(2)(B). In the alternative, Plaintiffs
17 request that the Court issue a curative jury instruction consistent with Rule 37(e)(1).
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