IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SEAN McCLOSKEY, on behalf of himself and all others similarly situated,	:	
	:	
6871 Hubbard Drive		
Huber Heights, Ohio 45424	:	
Plaintiff,	:	
v.	:	
Apple, Inc.,	:	**Case No. _____**
1 Apple Park Way		
Cupertino, California		
	:	
Statutory Agent	:	
CT Corporation System	:	
4400 Easton Commons Way		
** Suite 125**	:	
Columbus, Ohio 43219		
	:	
Defendant.		

STATEWIDE CLASS ACTION COMPLAINT

Plaintiff Sean McCloskey, on behalf of himself and others similarly situated, brings this action against defendant Apple, Inc., to recover money lost to illegal gambling pursuant to Section 3763.02 of the Ohio Revised Code. See also O.R.C. §§ 2915.01 et seq. Apple promotes, enables, and profits from games downloaded from its App Store and played by numerous Ohio residents that constitute illegal

gambling under the statutory law and the strong public policy of the state of Ohio.

Plaintiff seeks to represent a class pursuant to Rule 23(b)(3) of the Federal Rules of

Civil Procedure.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Sean McCloskey is an adult resident citizen of the state of

Ohio, residing in Montgomery County, Ohio.

2. Defendant Apple, Inc. is a corporation organized and existing under the

laws of the state of California, with its principal place of business in Cupertino,

California. Apple does business by agent in this state, district, and division.

3. This is a class action brought by Ohio citizens against a California

company. The amount in controversy exceeds $5 million, exclusive of interest and

costs. Subject matter jurisdiction exists pursuant to the Class Action Fairness Act of

2005, 28 U.S.C. § 1332(d).

4. Venue is proper under 28 U.S.C. § 1391(b)(2), because this is a

"judicial district in which a substantial part of the events or omissions giving rise to

the claim occurred."

FACTUAL BACKGROUND

5. Apple is the most valuable company in the world, with a market

capitalization exceeding $2 trillion as of mid-2020. It is by far the world's biggest

technology company, now roughly double the size of both Microsoft Corporation

and Alphabet Inc., the parent company of Google, respectively. Gone are the days when Steve Jobs's little company began its quixotic quest to take market share away from Microsoft's dominance of the computer software market with its introduction of the upstart MacIntosh personal computer. Applications for personal computers, both desktops and laptops, are now a relatively small part of the software market. Mobile devices are now the name of the game and Apple undisputedly dominates that lucrative market.

6.   Apple's operating system for the iPhone smartphone and the iPad tablet, known as the iOS, is a rigidly controlled closed system that has the ability to run numerous applications, or apps, available exclusively through Apple's App Store. Apple takes up to 30% of all revenue generated by app sales in the App Store and in-app purchases made on apps obtained through the App Store.[1] Millions of software developers make applications for the Apple iOS. In order to sell apps in the App Store, developers must submit their programs to Apple, which then decides whether the app may be included in the App Store and thus downloaded to iOS devices.

7.   Many apps, including those that are the subject of this lawsuit, are initially free to download but contain in-app purchases that a customer can choose

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[1] Apple takes 30% of all initial app purchases and in-app purchases made during the first year after the customer downloads the app. After that, the percentage drops to 15%.

to purchase inside the app. Apple provides the payment interface for all such purchases and, as noted, takes a hefty percentage of the money for itself. A 30% processing fee is many times the charge that other payment processors outside the Apple ecosystem, such as Western Union, charge for processing such payments.

8.   The money charged for in-app purchases is paid to Apple. An Apple customer is required to provide a method of payment, usually a credit or debit card, for all purchases made in the App Store, including in-app purchases. Apple then has a contractual obligation to the software developers to remit a portion of the money Apple receives from the purchases, typically 70%, to the developers. This contractual arrangement is between Apple and the developers who sell products in the App Store. As between plaintiff and the class members and Apple, however, all in-app and other purchases involve the payment of money *to Apple*, not the developers.

9.   This case concerns Apple's profiting from illegal gambling machine games that it sells in its App Store. Apple and its chief mobile device software competitor, Google, both allow customers to purchase games that are no more or no less than casino-style slot machines, casino style table games, and other common gambling games.

10.   There are numerous such gambling games that Apple makes available in the App Store, and there is very little variation on how they work. When a

customer downloads the game and opens it for the first time, the customer has a set number of free starting "coins," for example, 100,000 or 1,000,000, to play the slots. The games themselves work precisely like a casino slot machine or other games in Las Vegas. In addition to slots, customers can play blackjack, roulette, poker, keno, bingo, and other card and gambling games. A loss results in a loss of "coins," but the customer has the chance to win more coins. Eventually a customer runs out of coins, and is prompted to use real money to buy more coins for the opportunity to keep playing the game. Hundreds of these games exist. The following table contains the 200 most popular games.

1	Slotomania™ Vegas Casino Slots	101	Lucky Play Casino Slots Games
2	Jackpot Party - Casino Slots	102	Vegas Downtown Slots & Words
3	DoubleDown™- Casino Slots Game	103	Slots-Fortune 777 Classic Slot
4	Playtika Santa Monica, LLCBingo Blitz™ - Bingo Games	104	Gambino Slots Wheel of Fortune
5	Cashman Casino Las Vegas Slots	105	mychoice casino jackpot slots
6	Cash Frenzy™ - Slots Casino	106	FoxwoodsONLINE
7	World Series of Poker - WSOP	107	Gold Fortune Casino
8	Heart of Vegas Slots-Casino	108	GSN Grand Casino: Slots Games
9	POP! Slots ™ Live Vegas Casino	109	Take5 Casino - Slot Machines
10	House of Fun™ - Casino Slots	110	Bid Wars: Pawn Empire
11	Lightning Link Slots-Casino	111	Slots Master-Vegas Casino Game
12	Big Fish Casino: Slots & Games	112	Slots of Vegas
13	DoubleU Casino: Vegas Slots	113	Slingo Arcade - Bingo & Slots
14	Huuuge Casino Slots Vegas 777	114	PokerStars Play – Texas Holdem
15	VEGAS Slots – Casino Slots	115	Blazing 7s Casino: Slots Games
16	Caesars® Casino: Vegas Slots	116	Mystic Slots: Fun Casino Games
17	Jackpot Magic Slots™ & Casino	117	Lucky City™ - 3D Slot Machine
18	Lotsa Slots: Casino SLOTS	118	Governor of Poker 3 - Friends
19	Hit it Rich! Lucky Vegas Slot	119	Casino Roulette: Roulettist
20	my KONAMI - Real Vegas Slots	120	Seminole Social Casino
21	Bingo Party! Lucky Bingo Games	121	Blackjack·
22	Zynga Poker - Texas Holdem	122	Tap Poker Social
23	Wizard of Oz: Casino Slots	123	Slots-Heart of Diamonds Casino

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