

The Honorable Robert S. Lasnik

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ADRIENNE BENSON and MARY
SIMONSON, individually and on behalf of all
others similarly situated,
Plaintiffs,

v.

DOUBLEDOWN INTERACTIVE, LLC, a
Washington limited liability company,
INTERNATIONAL GAME TECHNOLOGY, a
Nevada corporation, and IGT, a Nevada
corporation,
Defendants.

Case No. 18-cv-525-RSL

**UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AGREEMENT**

NOTE ON MOTION CALENDAR:
November 11, 2022

TABLE OF CONTENTS

1

2 **INTRODUCTION** 1

3 **BACKGROUND** 2

4 **I. Plaintiffs’ Allegations** 2

5 **II. Relevant Litigation History** 3

6 **A. First Motion to Compel Arbitration and Related Appeal** 3

7 **B. Initial Subpoenas and Discovery Requests**..... 3

8 **C. Defendant’s Pleadings Motions** 4

9 **D. Plaintiffs’ Motion for Class Certification and Preliminary Injunction**..... 5

10 **E. Discovery and Related Motions**..... 6

11 **F. Plaintiffs’ Motions for Spoliation Sanctions** 8

12 **G. Plaintiffs’ Omnibus Motion to Seal in Part and Unseal in Part**..... 8

13 **III. Litigation-Adjacent Efforts** 8

14 **IV. The Parties Reach a Mediated Settlement** 8

15 **THE TERMS OF THE SETTLEMENT AGREEMENT** 10

16 **I. Settlement Class Definition**..... 10

17 **II. Monetary Benefits** 10

18 **III. Prospective Relief** 11

19 **IV. Release** 11

20 **V. Class Notice** 11

21 **VI. Incentive Award Requests** 12

22 **VII. Attorneys’ Fees and Expenses Requests**..... 12

23 **ARGUMENT** 12

24 **I. The Proposed Class Should Be Certified**..... 12

25 **A. The Proposed Class Meets the Requirements of Rule 23** 13

26 1. The Proposed Settlement Class Is Sufficiently Numerous..... 14

27 2. Settlement Class Members Share Common Questions of Law and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

	<u>Fact</u>	14
	3. <u>Plaintiffs’ Claims are Typical of Settlement Class Members’ Claims</u>	15
	4. <u>The Class Representatives and Proposed Class Counsel Adequately Represent the Settlement Class</u>	16
	B. The Proposed Class Satisfies the Requirements of Rule 23(b)(3)	18
	1. <u>Common Questions of Law and Fact Predominate</u>	19
	2. <u>A Class Action Is the Superior Method of Resolving the Controversy</u> ...	20
	II. The Proposed Settlement Merits Preliminary Approval	21
	A. The Class Representatives and Proposed Class Counsel Have Adequately Represented the Settlement Class	23
	B. The Settlement Was Reached as a Result of Arm’s-Length Negotiations Between the Parties	23
	C. The Settlement Treats Class Members Equitably	25
	D. The Relief Secured for the Settlement Class Is Adequate	26
	1. <u>The Cost, Risk, and Delay of Further Litigation, Compared to the Settlement’s Benefits, Favor Approval</u>	28
	2. <u>The Method of Processing Claims and Distributing Relief to the Settlement Class Members is Effective and Supports Preliminary Approval</u>	30
	3. <u>The Terms of the Requested Attorneys’ Fees are Reasonable</u>	31
	4. <u>The Parties’ Stipulation Regarding the Timing of Establishing the Settlement Fund is Fair and Reasonable</u>	32
	III. The Court Should Approve the Proposed Notice Plan	33
	CONCLUSION	35

TABLE OF AUTHORITIES**United States Supreme Court Cases:**

1		
2		
3	<i>Amchem Products, Inc. v. Windsor,</i>	
4	521 U.S. 591 (1997)	12, 13
5	<i>Erica P. John Fund, Inc. v. Halliburton Co.,</i>	
6	563 U.S. 804 (2014)	19
7	<i>Gen. Tel. Co. of the SW v. Falcon,</i>	
8	457 U.S. 147 (1982)	16
9	<i>Tyson Foods, Inc. v. Bouaphakeo,</i>	
10	577 U.S. 442 (2016)	19, 20
11	<i>Wal-Mart Stores, Inc. v. Dukes,</i>	
12	564 U.S. 338 (2011)	14, 16

United States Circuit Court of Appeals Cases:

13	<i>Abdullah v. U.S. Sec. Assocs., Inc.,</i>	
14	731 F.3d 952 (9th Cir. 2013)	15
15	<i>Bateman v. Am. Multi-Cinema, Inc.,</i>	
16	623 F.3d 708 (9th Cir. 2010)	13
17	<i>Benson v. Double Down Interactive, LLC,</i>	
18	No. 18-36015 (9th Cir. 2020)	3
19	<i>Briseno v. ConAgra Foods, Inc.,</i>	
20	844 F.3d 1121 (9th Cir. 2017)	13
21	<i>Churchill Vill. v. Gen. Elec.,</i>	
22	361 F.3d 566 (9th Cir. 2004)	22, 26
23	<i>Class Plaintiffs v. City of Seattle,</i>	
24	955 F.2d 1268 (9th Cir. 1992)	22
25	<i>Ellis v. Costco Wholesale Corp.,</i>	
26	657 F.3d 970 (9th Cir. 2011)	17
27	<i>Evon v. Law Offices of Sidney Mickell,</i>	
	688 F.3d 1015 (9th Cir. 2012)	15

1	<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	14, 16, 18
2		
3	<i>In re Bluetooth Headset Prods. Liab.</i> , 654 F.3d 935 (9th Cir. 2011)	22, 24
4		
5	<i>In re Hyundai & Kia Fuel Econ. Litig.</i> , 926 F.3d 539 (9th Cir. 2019)	13
6		
7	<i>Kater v. Churchill Downs</i> , 886 F.3d 784 (9th Cir. 2018)	2
8		
9	<i>Kim v. Allison</i> , 8 F.4th 1170 (9th Cir. 2021)	22
10		
11	<i>Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco</i> , 688 F.2d 615 (9th Cir. 1982)	27
12		
13	<i>Parra v. Bashas', Inc.</i> , 536 F.3d 975 (9th Cir. 2008)	15
14		
15	<i>Roes, I-2 v. SFBSC Mgmt., LLC</i> , 944 F.3d 1035 (9th Cir. 2019)	22
16		
17	<i>Rodriguez v. W. Publ'g Corp.</i> , 563 F.3d 948 (9th Cir. 2009)	23, 28
18		
19	<i>Staton v. Boeing Co.</i> , 327 F.3d 938 (9th Cir. 2003)	22
20		
21	<i>Torres v. Mercer Canyons Inc.</i> , 835 F.3d 1125 (9th Cir. 2016)	19
22		
23	<i>Vizcaino v. Microsoft Corp.</i> , 290 F.3d 1043 (9th Cir. 2002)	24
24		
25	<i>Wolin v. Jaguar Land Rover N. Am., LLC</i> , 617 F.3d 1168 (9th Cir. 2010)	15, 20
26		
27	United States District Court Cases:	
	<i>Ali v. Menzies Aviation, Inc.</i> , No. 16-cv-00262-RSL, 2016 WL 4611542 (W.D. Wash. Sept. 6, 2016)	14, 15
	<i>Bennett v. SimplexGrinnell LP</i> , No. 11-cv-01854-JST, 2015 WL 1849543 (N.D. Cal. Apr. 22, 2015)	27

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.