

NOTICE OF CLASS ACTION SETTLEMENT

Komins v. Yonamine, et al., Case No. 19STCV24865
Superior Court of California for the County of Los Angeles

IF YOU ARE A UNITED STATES CITIZEN AND PLAYED ANY OF THE FOLLOWING MOBILITYWARE GAMING APPS ON A MOBILE DEVICE IN THE UNITED STATES AT ANY TIME BETWEEN JULY 17, 2015 AND JUNE 11, 2024, PLEASE READ THIS NOTICE CAREFULLY, AS IT DESCRIBES A SETTLEMENT THAT MAY AFFECT YOUR RIGHTS.

A state court authorized this Notice. It is not a solicitation from a lawyer. YOU ARE NOT BEING SUED.

Included MobilityWare Gaming Apps:

- Solitaire
- Tripeaks Solitaire
- Pyramid Solitaire
- FreeCell Solitaire
- Crown Solitaire
- Spider Solitaire
- Spider Go Solitaire
- Castle Solitaire
- Addiction Solitaire
- Mahjong Solitaire
- Yukon Russian Solitaire Game
- Aces Up Solitaire
- Destination Solitaire
- Hearts Card Game
- Puzzle Cats
- Sudoku Simple
- Spades Card Game
- Tropical Treats
- Word Wiz
- Word Warp
- Sunny Shapes
- Word Search
- Tetra Block – Puzzle Game
- Dice Merge Puzzle Master
- Blackjack
- Match & Rescue – Match 3 Game
- Vegas Blvd Slots
- Block Party Bingo
- 52 Card Pick-up
- Excite Bear – Animal Bikers
- Monopoly Solitaire.

This Settlement resolves a lawsuit against MobilityWare, LLC, Dave Yonamine, and John Libby (the “Defendants”) alleging that MobilityWare’s gaming apps collect personal information about the users and track online behavior to sell to third parties and to profile for targeted advertising.

Defendants deny the allegations and any wrongdoing. Nonetheless, they have agreed to settle this lawsuit to avoid the cost and uncertainty of litigation. The parties have reached a settlement that would provide injunctive relief and a *cy pres* award as detailed below in exchange for a waiver and release of injunctive relief claims. The settlement does not provide money compensation to class members, and class members do not release any claims for monetary damages. Class Counsel will request that the Court award them reasonable attorneys’ fees and expenses as compensation for their obtaining Defendants’ agreement to make certain changes to its business practices.

You are not required to take any action. This Notice further explains the litigation, the Settlement, and how you may comment, object to, or opt out of the Settlement, if you want.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do Nothing	If you do nothing, then you will automatically receive benefits under this Settlement in the form of a <i>cy pres</i> award to the Electronic Frontier Foundation and the Electronic Privacy Information Center, and Defendants’ added disclosures and changes to certain business practices that are further described in this notice. You will also give up your right to sue Defendants and certain related entities and individuals regarding any claims for injunctive relief that are part of the Settlement. You will not give up any claims for monetary damages.
Exclude Yourself from the Settlement Class by August 19, 2024	If you are a Class Member, you may ask to be excluded from the Settlement Class. If you ask to be excluded, you will not be bound by what the Court does in this case, and will keep any right you might have to sue Defendants separately about the legal claims in this lawsuit. Requests for Exclusion must be sent to the Notice Administrator and postmarked no later than August 19, 2024.
Object or Comment in Writing by August 19, 2024	If you are a Class Member, you may write to the Notice Administrator about why you object to the Settlement. Written objections must be sent to the Notice Administrator and postmarked no later than August 19, 2024. If you do not submit a written objection, you may appear at the final approval hearing in Department 14 of the Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012 and request to speak regarding your objection.
Appear in the lawsuit by August 19, 2024 and Attend a Hearing on September 18, 2024 at 11:00 a.m. in Department 14 of the Spring Street Courthouse	If you are a Class Member, you may ask to speak in Court about the fairness of the Settlement at the Final Approval Hearing. You may enter your appearance in Court either pro se or through an attorney at your own expense if you so desire.

There is no need to submit a claim form. This Settlement provides benefits in the form of added disclosures, changes to certain business practices, and a *cy pres* award that are further detailed on page six of this notice. If you do nothing, then you will automatically receive the benefits of this Settlement.

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BASIC INFORMATION

1. Why did I Receive this Notice?

If you are a United States citizen who played one or more of the MobilityWare gaming apps listed on page 1 of this Notice at any time between July 17, 2015 and June 11, 2024 (the “Class”), then you have a right to know about a proposed settlement (“Settlement”) in this class action lawsuit and your options in relation thereto, before the Court decides whether to give its final approval of the settlement.

This Notice explains the lawsuit, the Settlement, your legal rights, and what benefits are available. The Court overseeing the case is the Superior Court of the State of California, County of Los Angeles, and the case is known as *Komins v. Yonamine, et al.*, Case No. 19STCV24865. Rona Komins, the person who sued, is called the Plaintiff, and the company and individuals she sued, MobilityWare, LLC, Dave Yonamine, and John Libby, are called the Defendants.

2. What is This Lawsuit About?

The Plaintiff who filed the lawsuit alleges that MobilityWare’s gaming apps collect personal information about the users without consent and track online behavior to sell to third parties and profile for targeted advertising.

Defendants deny the allegations in the lawsuit, and the Court has not made any ruling on the merits of the lawsuit. To avoid the expense of further litigation, the parties have reached a settlement that is further described in this Notice.

3. What Is a Class Action and Who Is Involved?

In a class action lawsuit, one or more people, called Class Representatives (in this case Rona Komins) represent the interests of similarly situated people who may have the same claims in common, but have not filed a lawsuit. All of these people are collectively referred to as a class. The persons who filed the lawsuit are called the Plaintiffs. The company or persons they sue are called the Defendants. One court resolves the issues for everyone in the class.

4. Why Is There a Proposed Settlement?

The Court has not decided in favor of either side. Defendants deny all allegations in the lawsuit. Defendants are settling simply to avoid the expense, inconvenience, and inherent risk of litigation, as well as the related disruption to its business. The Plaintiff and her attorneys assert that the proposed Settlement is in the best interests of the Class because it provides an appropriate recovery now while avoiding the risk, expense, and delay of pursuing a lawsuit through trial and any appeals. There would be no guarantee of success for either side if the lawsuit were pursued through trial and any appeals.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT

5. How Do I Know If I Am Part of the Proposed Settlement?

You are a part of the Settlement Class if you are a United States citizen who played one or more of the following MobilityWare gaming apps on a mobile device at any time between July 17, 2015 and June 11, 2024 (the “Class Period”):

- Solitaire
- Tripeaks Solitaire
- Pyramid Solitaire
- FreeCell Solitaire
- Crown Solitaire
- Spider Solitaire
- Spider Go Solitaire
- Castle Solitaire
- Addiction Solitaire
- Mahjong Solitaire
- Yukon Russian Solitaire Game
- Aces Up Solitaire
- Destination Solitaire
- Hearts Card Game
- Puzzle Cats
- Sudoku Simple
- Spades Card Game
- Tropical Treats
- Word Wiz
- Word Warp
- Sunny Shapes
- Word Search
- Tetra Block – Puzzle Game
- Dice Merge Puzzle Master
- Blackjack
- Match & Rescue – Match 3 Game
- Vegas Blvd Slots
- Block Party Bingo
- 52 Card Pick-up
- Excite Bear – Animal Bikers
- Monopoly Solitaire.

You are not a part of the Settlement Class if you are Defendants or Defendants’ officers, directors, employees, agents and affiliates, or the Court and its staff.

If you are still not sure whether you are included in the Settlement Class, you can go to www.MobilityWareClassAction.com to consult additional information.

THE PROPOSED SETTLEMENT BENEFITS

6. What Are The Benefits of the Proposed Settlement?

Defendants have agreed to provide added disclosures relating to the collection and use of personal information by the MobilityWare apps. Defendants have also agreed to implement certain business practices in order to better ensure that children do not have their data collected by the MobilityWare apps.

Specifically, MobilityWare will update each of the MobilityWare Gaming Apps to include a permanent, clear, and conspicuous pop-up notification to be served to app users whose device settings indicate that they are in the United States that cannot be skipped, closed, or bypassed and that: (i) informs app users of MobilityWare’s privacy policy and collection of personal information, and of app users’ ability to opt out of selling of their personal information as applicable based on their regional privacy laws; (ii) informs app users that MobilityWare will delete personal information collected by app users upon request; and (iii) asks users to confirm that they are at least 18 years of age. MobilityWare will not collect, share, or sell personal information from new app users whose device settings indicate that they are in the United States unless and until the app users have (i) scrolled through the entirety of the notification, (ii) confirmed that they have read the notification, and (iii) confirmed that they are at least 18 years of age.

All such injunctive relief modifications are permanent unless prohibited by applicable laws, regulations, and/or Apple, Google, or Amazon app store mandatory standards; provided, however, that MobilityWare is not prevented from asking the Court to modify such injunctive relief on the ground that there has been a change in the applicable laws, regulations, and/or prevailing industry practices such that the injunctive relief is no longer required under federal law or the law of any state in the United States and/or is contrary to Apple, Google, or Amazon app store mandatory standards.

Cy Pres Award

Defendants have agreed to make a \$100,000.00 *cy pres* payment, split equally between the Electronic Frontier Foundation, a non-profit digital rights group that champions user privacy (*see* <https://www.eff.org/about>), and the Electronic Privacy Information Center, a public interest non-profit research and advocacy organization established to “secure the fundamental right to privacy in the digital age for all people...” *See* <https://epic.org/about/>

Attorneys’ Fees and Incentive Award

Defendants have also agreed to pay reasonable attorneys’ fees and costs, and a Class Representative incentive award to the named Plaintiff. Class Counsel may request attorneys’ fees and costs (including the cost of notice) and an incentive award for Plaintiff from the Defendants of no more than \$800,000. As part of this request, Class Counsel will specifically petition the Court for attorneys’ fees in the amount of \$732,100; attorneys’ costs and expenses in the amount of

\$31,400; notice administration costs in the amount of \$29,000; and an incentive award to Plaintiff Rona Komins in the amount of \$7,500. The final amount of attorneys' fees and costs and incentive award will be determined by the Court.

YOUR RIGHTS AND CHOICES – EXCLUDING YOURSELF FROM THE SETTLEMENT

Settlement Class Members will release claims for injunctive relief, but not monetary relief. Released injunctive relief claims do not include any claims from minors who are under the age of 18 as of the Effective Date. The statutes of limitations for individual claims for monetary relief by members of the putative class were tolled as of the date of filing of the Complaint in this action, and the statute of limitations for minors are tolled until the minor turns 18. If you want to preserve the right to sue Defendants for injunctive relief claims that are asserted in the operative complaint, then you must take affirmative steps to opt out of the Settlement.

7. How Do I Exclude Myself From the Settlement?

To exclude yourself from the Settlement Class, you must send a signed written request for exclusion to the Notice Administrator at RG/2 Claims Administration, P.O. Box 59479, Philadelphia, PA 19102, not later than August 19, 2024.

Your Request for Exclusion must reasonably communicate your election to be excluded from the Settlement in *Komins v. Yonamine, et al.*, Case No. 19STCV24865, and must include your name, address, and telephone number. To be valid, all Requests for Exclusion must be timely postmarked by August 19, 2024. The Notice Administrator will accept any Request for Exclusion as valid if the Notice Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded.

Any Settlement Class member whose request to be excluded from the Settlement Class is approved by the Court will not be bound by the Settlement and will have no right to object, appeal, or comment thereon.

8. If I Don't Exclude Myself, Can I Sue Defendants Later?

If you do not properly and timely submit a Request for Exclusion, you waive your right to opt out, you will be deemed to be a member of the Settlement Class, you give up the right to sue Defendants for the injunctive relief claims the Settlement resolves, and you will be bound by the terms of the Settlement Agreement.

The Settlement does not affect your right to seek monetary relief from the Defendants. If you do not opt out, you will still maintain your rights to sue Defendants for monetary relief, as the Settlement does not release monetary claims.

YOUR RIGHTS AND CHOICES - OBJECTING TO THE PROPOSED SETTLEMENT

You can tell the Court that you object to the Settlement or any particular part of it.

9. How Do I Tell the Court That I Object to the Proposed Settlement?

You can ask the Court to deny approval by submitting a written objection to the Notice Administrator. If you are a Class Member, you or an attorney on your behalf may object to the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval of a Settlement, none of the agreed-upon disclosures or changes to business practices in the Settlement will be required to be implemented, and the lawsuit will continue. If that is what you want to happen, you must object.

Written objections must be sent to the Notice Administrator at RG/2 Claims Administration, P.O. Box 59479, Philadelphia, PA 19102, and postmarked on or before August 19, 2024. If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. **If you appear through your own attorney, you are responsible for hiring and paying that attorney.**

All written objections and supporting papers should contain information sufficient to identify and contact you (or your attorney, if any), and should reasonably communicate your desire to object to the Settlement in *Komins v. Yonamine, et al.*, Case No. 19STCV24865.

If you do not submit a timely written objection, the Court will still hear from any class member who attends the final approval hearing and asks to speak regarding his or her objection. The final approval hearing will be held on September 18, 2024 at 11:00 a.m. in Department 14 of the Spring Street Courthouse before the Honorable Kenneth R. Freeman.

10. What's The Different Between Objecting and Excluding?

Objecting is explaining to the Court why you do not believe it should approve the Settlement. You can object only if you stay in the Settlement Class.

Excluding yourself from the Settlement is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you will not be eligible to file an Objection or to appear at the Final Approval Hearing.

YOUR RIGHTS AND CHOICES - APPEARING IN THIS LAWSUIT

11. Can I Appear or Speak in the Lawsuit About the Proposed Settlement?

You may participate and speak for yourself in the lawsuit about the proposed Settlement. This is called making an appearance. You can also have your own lawyer appear in court and speak for you, but you must pay for the lawyer yourself.

12. How Can I Appear in This Lawsuit?

If you want yourself or your own lawyer (instead of Class Counsel) to participate or speak for you in this lawsuit, you may, but are not required to, file a "Notice of Appearance" with the Court. If

a Notice of Appearance is filed, it should list the name, address and telephone number of the attorney, if any, who will appear on your behalf.

Your Notice of Appearance can also state that you or your lawyer would like to speak at the Court's Final Approval Hearing on the proposed Settlement. If you submit an Objection and would like to speak about the Objection at the Court's Final Approval Hearing, both your Notice of Appearance and your Objection can include that information.

You are not required to file a Notice of Appearance in order to participate in the Final Approval Hearing. In general, the Court will hear from any class member who attends the Final Approval Hearing and asks to speak regarding his or her objection. The final approval hearing will be held on September 18, 2024 at 11:00 a.m. in Department 14 of the Spring Street Courthouse before the Honorable Kenneth R. Freeman.

IF YOU DO NOTHING

13. What Happens If I Do Nothing At All?

You do not have to take any action to receive the benefits of the Settlement. If the Settlement is approved by the Court, you will not be able to seek injunctive and other non-monetary equitable relief against Defendants for claims that are asserted in the operative complaint. The Settlement will not affect your right to seek monetary relief from the Defendants.

THE LAWYERS REPRESENTING YOU

14. Do I Have a Lawyer in This Case?

The Court has appointed the Law Offices of Ronald A. Marron, APLC as legal counsel for the Settlement Class. The law firm is called Class Counsel. You will not be charged for these lawyers.

15. Contacting Class Counsel, Defense Counsel, and Notice Administrator

Class Counsel may be contacted as follows:

LAW OFFICES OF RONALD A. MARRON

Ronald A. Marron
ron@consumersadvocates.com
Lilach Halperin
lilach@consumersadvocates.com
651 Arroyo Drive
San Diego, California 92103
Telephone: (619) 696-9006

Defense Counsel may be contacted as follows:

PILLSBURY WINTHROP SHAW PITTMAN LLP
Robert L. Wallan

robert.wallan@pillsburylaw.com
Carolyn S. Toto
carolyn.toto@pillsburylaw.com
725 South Figueroa Street, Suite 3600
Los Angeles, California 90017-5524
Telephone: (213) 488-7100

The Notice Administrator may be contacted as follows:

RG/2 Claims Administration
P.O. Box 59479
Philadelphia, PA 19102-9479

Toll-free telephone helpline: 1-866-742-4955

16. How Will The Lawyers Be Paid?

Class Counsel has not yet received any payment for prosecuting this lawsuit, nor have they been reimbursed for any out-of-pocket expenses they have incurred. When they ask the Court to approve the Settlement, Class Counsel will also make a motion to the Court to approve and award attorneys' fees and a reimbursement of expenses to Class Counsel, costs of notice, and an incentive award to the Plaintiff in a total amount of up to \$800,000. No matter what the Court decides with regard to the requested attorneys' fees, members of the Settlement Class will never have to pay anything toward the fees or expenses of Class Counsel. Class Counsel will seek final approval of the Settlement on behalf of all members of the Settlement Class. You may hire your own lawyer to represent you in this lawsuit if you wish, but it will be at your own expense.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You have the right to attend or speak at the hearing, but do not have to do so.

17. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court overseeing this case will hold a Final Approval Hearing in Department 14 of the Spring Street Courthouse of the Superior Court of California, County of Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012 on September 18, 2024 at 11:00 a.m. to decide whether the Settlement is fair, reasonable, and adequate, as well as to determine the amount of attorneys' fees and costs and incentive fees to award.

The date of the Final Approval Hearing may change without further notice to the Class. Class Members are advised to check the settlement website to confirm that the date has not been changed.

If there are objections, the Court will consider them at the Final Approval Hearing. After the Final Approval Hearing, the Court will decide whether to approve the Settlement and whether to grant

Class Counsel's request for attorneys' fees and expenses and an incentive award to the Plaintiff. We do not know how long it will take the Court to make these decisions.

18. Do I Have to Come to the Hearing?

You are not required to attend the hearing, but you are welcome to attend at your own expense. If you send a written Objection, you do not have to appear in Court to present it. As long as you mailed your written Objection to the Notice Administrator on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

FINAL SETTLEMENT APPROVAL

19. What Is The Effect of Final Settlement Approval?

If the Court grants final approval of the Settlement and any appeals have been exhausted, the Released Parties (as defined in the Settlement Agreement), including Defendants, will be released from any and all injunctive or equitable relief claims that are asserted in the operative complaint. The released claims expressly do not include any claims for damages or other monetary relief for any Settlement Class Member.

If the Court does not approve the Settlement, this lawsuit will proceed as if no settlement had been attempted.

GETTING MORE INFORMATION

20. Are There More Details About the Settlement?

This Notice is only intended to provide a summary of the proposed settlement. You may obtain the complete text of the Settlement Agreement at www.MobilityWareClassAction.com, by contacting the Notice Administrator (at the address listed above), by contacting class counsel (see section above, "Contacting Class Counsel"), or by accessing the Court docket in this case through the Los Angeles Superior Court Register of Actions.

By visiting the website located at www.MobilityWareClassAction.com, you will find the Plaintiff's operative Complaint, the Settlement Agreement, Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and other important documents in the case.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

This Notice is given with the approval and at the direction of the Court.