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FILED
Superior Court of California
County of Los Angeles

06/11/2024

David W. Slayton, Executive Officer / Clerk of Court

By: I. Arellanes Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

11 RONA KOMINS, on behalf of herself, her
12 children, B.K. and M.K, and all others
13 similarly situated,

14 Plaintiff,

15 v.

16 DAVE YONAMINE, JOHN LIBBY,
17 MOBILITYWARE, LLC; DOES 1-100,
18 inclusive, and ROES Software Development
19 Kit Business Entities 1-100, inclusive,

20 Defendants.
21

Case No. 19STCV24865

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

Komins v. Yonamine, et al., Case No. 19STCV24865

~~Proposed~~ Order Granting Plaintiff's Unopposed Motion for Preliminary Approval of Class
Action Settlement

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1 Plaintiff Rona Komins (“Plaintiff”), on behalf of herself, her children, B.K. and M.K, and
2 the settlement class that she purports to represent, moves this Court for preliminary approval of
3 the proposed settlement in the above-captioned action. This Court has reviewed and considered
4 Plaintiff’s Motion for Preliminary Approval and supporting materials. Now, having fully
5 considered the record and the requirements of law, this Court orders that the Motion for
6 Preliminary Approval is **GRANTED** as set forth below.

7 **IT IS THIS ____ DAY OF _____, 2024 ORDERED** that the settlement
8 (including all terms of the Settlement Agreement and exhibits thereto) is hereby
9 **PRELIMINARILY APPROVED**. The Court further preliminarily finds and orders as follows:

10 1. The Court finds that the Settlement Agreement is the product of arms-length
11 negotiation conducted by experienced legal counsel after extensive discovery and settlement
12 negotiations, including a full-day mediation conducted by the Honorable Jay C. Gandhi (Ret.) of
13 JAMS. The Settlement Agreement is not the result of collusion.

14 2. The Court finds that the proceedings that occurred before the Parties reached the
15 Settlement Agreement gave counsel and the Parties an opportunity to adequately assess the
16 strengths and weaknesses of their respective positions in this case, and, therefore, to structure the
17 settlement in a way that adequately accounts for those strengths and weaknesses.

18 3. The Court finds that, subject to the Final Approval hearing, the Settlement
19 Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class. The
20 Court further finds that the settlement falls well within the range of reasonableness and has no
21 obvious deficiencies.

22 4. Because the settlement meets the standards for preliminary approval, the Court
23 preliminarily approves all terms of the settlement, including the Settlement Agreement and all of
24 its exhibits.

25 5. The Court finds that the requirements of Cal. Code Civ. P. § 382 have been
26 satisfied. The Court hereby certifies, for settlement purposes only, a Settlement Class of all
27 United States citizens who played one or more of the following MobilityWare Gaming Apps on
28 a mobile device at any time between July 17, 2015 and [the date preliminary approval is

1 granted], excluding Defendants and Defendants' officers, directors, employees, agents and
2 affiliates, and the Court and its staff:

- 3 • Solitaire
- 4 • Tripeaks Solitaire
- 5 • Pyramid Solitaire
- 6 • FreeCell Solitaire
- 7 • Crown Solitaire
- 8 • Spider Solitaire
- 9 • Spider Go Solitaire
- 10 • Castle Solitaire
- 11 • Addiction Solitaire
- 12 • Mahjong Solitaire
- 13 • Yukon Russian Solitaire Game
- 14 • Aces Up Solitaire
- 15 • Destination Solitaire
- 16 • Hearts Card Game
- 17 • Puzzle Cats
- 18 • Sudoku Simple
- 19 • Spades Card Game
- 20 • Tropical Treats
- 21 • Word Wiz
- 22 • Word Warp
- 23 • Sunny Shapes
- 24 • Word Search
- 25 • Tetra Block – Puzzle Game
- 26 • Dice Merge Puzzle Master
- 27 • Blackjack
- 28 • Match & Rescue – Match 3 Game
- Vegas Blvd Slots
- Block Party Bingo
- 52 Card Pick-up
- Excite Bear – Animal Bikers
- Monopoly Solitaire.

6. The Court appoints Plaintiff Rona Komins as Class Representative and appoints
the Law Offices of Ronald A. Marron as Class Counsel.

7. The Court preliminarily approves the *cy pres* award of \$100,000.00, split equally
between the Electronic Frontier Foundation and the Electronic Privacy Information Center. The
Court finds that the *cy pres* remedy accounts for the nature of Plaintiff's lawsuit, the objectives
of the underlying statutes, and the interests of the Settlement Class members.

1 8. The Court has reviewed the content of the Parties’ proposed Notice Plan and the
2 long-form and summary notices and finds that they satisfy the requirements of California law
3 and the Due Process Clause of the United States Constitution. Accordingly, the Court approves
4 the notices.

5 9. The Court further approves the methods for giving notice of the settlement to the
6 members of the Class, as reflected in the Settlement Agreement and proposed in Plaintiff’s
7 Motion for Preliminary Approval. The Court also approves payment of the costs of notice as
8 provided for in the Settlement Agreement. The Court finds that the notice procedures, carried out
9 with reasonable diligence, will satisfy the requirements of the California Code of Civil Procedure
10 and due process of law, are the best practicable notice under the circumstances, and are
11 reasonably calculated to apprise Settlement Class members of the pendency of the Litigation and
12 their right to object to the Settlement.

13 10. The Court further approves the appointment of RG/2 Claims Administration or an
14 equivalent notice administrator identified by the Parties to administer and oversee the Notice
15 Plan.

16 11. The Court directs that a hearing will be held on September 18, 2024, to consider
17 final approval of the settlement (the “Final Approval Hearing”), including, but not limited to, the
18 following issues: (a) the fairness, reasonableness, and adequacy of the settlement; (b) Class
19 Counsel’s application for an award of attorneys’ fees and costs; and (c) approval of incentive
20 awards to the Class Representative.

21 12. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
22 must send the Notice Administrator a signed written Request for Exclusion that reasonably
23 communicates the Class Member’s election to be excluded from the Settlement in *Komins v.*
24 *Yonamine, et al.*, Case No. 19STCV24865 and includes the Class Member’s name, address, and
25 telephone number. To be valid, a Request for Exclusion must be timely postmarked no later than
26 thirty (30) calendar days prior to the date of the Final Approval Hearing.

27 13. Class Members may object to the Settlement in writing. Written objections must
28 be sent to the Notice Administrator and must be postmarked no later than 30 calendar days prior

1 to the Final Approval Hearing. All written objections and supporting papers should contain
2 information sufficient to identify and contact the Settlement Class Member (or his or her
3 attorney, if any), and should reasonably communicate the Settlement Class Member's desire to
4 object to the Settlement in *Komins v. Yonamine, et al.*, Case No. 19STCV24865.

5 14. In the alternative, Settlement Class Members may appear in Court (or hire an
6 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. In
7 general, the Court will hear from any Settlement Class Member who attends the final approval
8 hearing in Department 14 of the Spring Street Courthouse before Judge Kenneth R. Freeman and
9 asks to speak regarding his or her objection.

10 a. If an objecting party intends to appear at the Final Approval Hearing, the
11 objector may file with the Court, at least thirty (30) days before the Final Approval Hearing (or
12 such other deadline as may be set by the Court), a notice of intent to appear. The notice of intent
13 to appear should list the name, address, and telephone number of the attorney, if any, who will
14 appear on behalf of that party.

15 b. Class Counsel and Defendants shall have the right, but not the obligation,
16 to respond to any written Objection, by filing opposition papers no later than seven (7) calendar
17 days prior to the Final Approval Hearing.

18 15. The deadlines for key events are as follows:

19

EVENT	[Proposed] Deadlines	DATES
20 Class Action Website Activated	30 days after Preliminary Approval Order	June 5, 2024
21 Social Media Notice 22 Disseminated	30 days after Preliminary Approval Order	June 5, 2024
23 Filing of Motion for Attorneys' 24 Fees and Costs and Incentive Awards	45 days before Final Approval Hearing	August 5, 2024
25 Submitting Written Objections 26 or Requests for Exclusion with the Notice Administrator	30 days before Final Approval Hearing	August 19, 2024
27 Filing Notice of Intent to Appear 28 at Final Approval Hearing	30 days before Final Approval Hearing	August 19, 2024

1 2 3 4	Filing of Motion for Final Approval	21 days before Final Approval Hearing	August 28, 2024
5 6 7 8	Filing of Response(s) to Objections	7 days before Final Approval Hearing	September 11, 2024
9 10 11 12	Final Approval Hearing		September 18, 2024 at 11:00 a.m.

16. To the extent not otherwise defined herein, all defined terms in this Order shall have the meaning assigned to them in the Settlement Agreement.

17. In the event the settlement does not become effective for any reason, the Parties shall be restored to their respective positions in the Litigation as of the date the Motion for Preliminary Approval was filed.

18. Neither this Settlement, nor any act performed or document executed pursuant to or in furtherance of this Settlement is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any released claim, or of any wrongdoing or liability of Defendants; or is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal. Any party to this Litigation may file the Settlement Agreement and/or the Judgment in any action that may be brought against it in order to support any defense or counterclaim, including without limitation those based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

19. All activity in the action with respect to Defendants shall be stayed unless and until the Settlement Agreement is terminated pursuant to its terms and conditions or the Settlement Agreement is finally approved and the case is dismissed.

20. Upon final approval of the Settlement, the Class Representative will release and discharge the Released Persons from any and all injunctive or equitable relief claims that are asserted in the operative complaint. Plaintiff will also release and discharge the Released Persons from all claims for damages or other monetary relief (whether actual, nominal, punitive, exemplary, statutory, or otherwise) that are asserted in the operative complaint.


1 21. Upon final approval of the Settlement, Settlement Class Members will release and
2 discharge the Released Persons from any and all injunctive or equitable relief claims for, by, or
3 on behalf of, Settlement Class Members, that are asserted in the operative complaint. Released
4 injunctive relief claims do not include any claims from minors who are under the age of 18 as of
5 the Effective Date. The Class Members' released claims expressly do not include any claims for
6 damages or other monetary relief. The statutes of limitations for individual claims for monetary
7 relief by members of the putative class were tolled as of the date of filing of the Complaint, and
8 the statute of limitations for minors are tolled until the minor turns 18.

9 22. The Court shall retain continuing jurisdiction over the Parties and the
10 implementation and enforcement of the terms of the Settlement Agreement, and to assure that all
11 payments and other actions required of any of the Parties by the Settlement Agreement are
12 properly made or taken.

13
14 **IT IS SO ORDERED.**

15
16 DATED: 06/11/2024




HON. KENNETH R. FREEMAN
Judge of the Superior Court
Kenneth R. Freeman/Judge