

COMMONWEALTH OF KENTUCKY
HENDERSON COUNTY CIRCUIT COURT
CIVIL ACTION NO. 24-CI-00062

BROOKE KINGSTON,
on behalf of himself and all others similarly situated,

PLAINTIFF,

v.

NOTICE-MOTION-ORDER
(Electronically Filed)

SPINX GAMES LTD.,

DEFENDANT.

NOTICE

Please take notice that this Agreed Motion will be heard at the convenience of the Court.

AGREED MOTION TO EXTEND DEADLINES

Plaintiff Brooke Kingston (“Plaintiff”) and Defendant SpinX Games LTD. (“SpinX” or “Defendant”), jointly move the Court for an order:

a. Extending the deadline for the Settlement Administrator to disseminate class notice pursuant to Settlement Agreement § 4.2 from September 25, 2024 to November 25, 2024. Settlement Administrator to send Reminder Notice via email both thirty (30) days prior to the Claims Deadline and seven (7) days prior to the Claims Deadline. Settlement Administrator to provide Notice on the settlement website no later than seven (7) days after entry of Preliminary Approval.

b. Extending the deadline for any Settlement Class Member to submit claims from February 20, 2025, to April 21, 2025, which is no fewer than fifty-six (56) days following the rescheduled Final Approval Hearing.

c. Extending the deadline for any Settlement Class Member wishing to be excluded

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from the Settlement Class from November 12, 2024 to January 13, 2025, which is no fewer than 45 days after the dissemination of the class notice and claims forms but no sooner than 14 days after Class Counsel submits papers supporting a Fee Award.

b. Extending the deadline for any Settlement Class Member wishing to object to the terms of the Settlement Agreement from November 12, 2024 to January 13, 2025, which is no fewer than 45 days after the dissemination of the class notice and claims forms but no sooner than 14 days after Class Counsel submits papers supporting a Fee Award.

c. Extending the deadline for Class Counsel to file their memorandum of points and authorities in support of their motion for approval of attorneys' fees, costs, from October 28, 2024 to December 27, 2024 (*suggested date 14 days prior to the Objection/Exclusion Deadline*).

d. Extending the deadline for Class Counsel to file a memorandum of points and authorities in support of the final approval of the Settlement Agreement from December 9, 2024 to February 7, 2025, more than fourteen (14) days prior to the Final Approval Hearing.

e. Rescheduling the final settlement approval fairness hearing on the question of whether the proposed Settlement Agreement, attorneys' fees to Class Counsel, and the Settlement Class Representative's Incentive Award should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class from January 13, 2025, at 9:00 a.m. local time to February 24, 2025 at 9:00 a.m. local time.

f. This motion is made upon the grounds that, due to unforeseen delays in pulling class member data, and corresponding delays in the service of subpoenas to third parties for class member contact information, notice could not be disseminated by the Settlement Administrator on the court-ordered notice date of September 25, 2024. The Parties have been working diligently to negotiate with the subpoenaed parties, and are currently awaiting the production of responsive

documents and data regarding class member contact information from the subpoenaed parties. Thus, the Parties respectfully request that all deadlines set by the Court be extended approximately 60 days, as detailed above, to allow time for negotiations as to the production of class member data and for the Settlement Administrator to disseminate notice upon the receipt of the same.

This motion is based upon this notice, the complete records and file in this action, and upon any other such oral or documentary evidence as may be permitted by the Court.

Respectfully submitted,

By: /s/ Philip G. Fairbanks

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Counsel for Plaintiff and the Putative Class

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/s/ Timothy J. Weatherholt, with permission

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing motion was electronically filed on September 19, 2024, using the Court's electronic filing system, which will send notice to all counsel registered to receive filings in this action.

/s/Philip G. Fairbanks

PHILIP G. FAIRBANKS

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BROOKE KINGSTON,
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SPINX GAMES LTD.,

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[PROPOSED] ORDER EXTENDING DEADLINES

WHEREAS, the above-captioned matter came before this Court upon the Parties' Joint Motion to Extend Deadlines. Based upon the motion and all the files and proceedings herein, the Court finds as follows:

1. The Court adopts the following revised dates and deadlines to replace the corresponding dates in the Preliminary Order Approving Class Action Settlement, Certifying the Class for Settlement Purposes, Approving Notice Plan, Appointing Class Representative, and Appointing Class Counsel ("Preliminary Approval Order") previously entered by this Court on August 15, 2023. Other than these revised dates, the Preliminary Approval Order remains in effect, unchanged, in all respects:

- a. The deadline for the Settlement Administrator to disseminate class notice pursuant to Settlement Agreement § 4.2 shall be November 25, 2024. Settlement Administrator shall send Reminder Notice via email both thirty (30) days prior to the Claims Deadline and seven (7) days prior to the Claims Deadline. Settlement Administrator shall provide Notice on the settlement website no later than seven (7) days after entry of Preliminary Approval.

- b. The deadline for any Settlement Class Member to submit claims shall be April 21, 2025, which is no fewer than fifty-six (56) days following the rescheduled Final Approval Hearing.
- c. Any Settlement Class Member wishing to be excluded from the Settlement Class shall have until January 13, 2025 to do so, which is no more than 45 days after the dissemination of the class notice and claims forms but no sooner than 14 days after Class Counsel submits papers supporting a Fee Award.
- d. Any Settlement Class Member wishing to object to the terms of the Settlement Agreement shall have until January 13, 2025 to do so, which is no more than 45 days after the dissemination of the class notice and claims forms but no sooner than 14 days after Class Counsel submits papers supporting a Fee Award.
- e. Class Counsel shall file their memorandum of points and authorities in support of their motion for approval of attorneys' fees, costs, and expenses no later than December 27, 2024 (*suggested date 14 days prior to the Objection/Exclusion Deadline*).
- f. Class Counsel shall file a memorandum of points and authorities in support of the final approval of the Settlement Agreement no later than February 7, 2025, more than fourteen (14) days prior to the Final Approval Hearing.
- g. The final settlement approval fairness hearing on the question of whether the proposed Settlement Agreement, attorneys' fees to Class Counsel, and the Settlement Class Representative's Incentive Award should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class shall be

rescheduled from January 13, 2025, at 9:00 a.m. local time to to February 24, 2025
at 9:00 a.m. local time.

SO ORDERED this _____ day of _____, 2024.

HON. KAREN L. WILSON
Henderson County Chief Circuit Judge

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