

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

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

PLAINTIFF,

v.

SPINX GAMES LTD.,

DEFENDANT.

**PRELIMINARY ORDER APPROVING CLASS ACTION SETTLEMENT,
CERTIFYING THE CLASS FOR SETTLEMENT PURPOSES, APPROVING NOTICE
PLAN, APPOINTING CLASS REPRESENTATIVE, AND APPOINTING CLASS
COUNSEL**

WHEREAS, the above-captioned matter came before this Court upon the Parties' Joint Motion for Preliminary Approval of Class Action Settlement. Based upon the memoranda, exhibits, and all the files and proceedings herein, the Court finds as follows:

1. The Court grants preliminary approval of the Settlement based upon the terms set forth in the Settlement Agreement.
2. The settlement terms set forth in the Settlement Agreement appear to be fair, adequate and reasonable to the Settlement Class, and the Court preliminarily approves the terms of the Settlement Agreement, including:
 - a. The creation of a Settlement Fund of \$285,500.00 should the Court ultimately grant final approval;
 - b. An Incentive Award, which shall not exceed \$5,000 for Plaintiff Brooke Kingston;
 - c. Attorneys' fees, costs, and expenses to Class Counsel, which shall not exceed one-third of the Settlement Fund; and

- d. Reasonable settlement administration expenses to be drawn from the Settlement Fund.
 - e. Defendant shall pay no fee or cost other than paying or causing to be paid \$285,500.00 to the Settlement Fund.
3. The Court grants the Parties' request for certification of the following KY CR 23 Settlement Class for the sole and limited purpose of implementing the terms of the Settlement Agreement, subject to this Court's final approval:

all individuals who, in Kentucky (as reasonably determined by billing address information, IP address information, or other information furnished by SpinX), spent \$5.00 or more within a 24-hour period on games on Cash Frenzy on the dates between December 18, 2018 and February 24, 2021, Lotsa Slots on the dates between March 27, 2019 and February 4, 2021, Jackpot World (previously known as Jackpot Mania and/or DAFU Casino) on the dates between May 18, 2018 and March 8, 2021, Jackpot Crush on the dates between November 26, 2019 and February 24, 2021, and Vegas Friends on the dates between April 13, 2019 and March 2, 2021.¹

4. The Court preliminarily appoints Philip L. Fraietta and Alec M. Leslie of Bursor & Fisher, P.A. as Class Counsel, and Plaintiff Brooke Kingston as Settlement Class Representative.
5. This Court approves, as to form and content, the notice of proposed class action settlement (the "Notice"), in substantially the form attached to the Settlement Agreement as Exhibits B, C and D. The Court approves the procedure for Settlement Class Members to opt out of, or object to, the Settlement as set forth in the Settlement Agreement Notice.

¹ Excluded from the Settlement Class (1) any Judge or Magistrate presiding over this Action and members of their families; (2) Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

6. The Court directs the mailing of the Settlement Class Notice by email and/or First-Class U.S. mail to the Settlement Class Members in accordance with the schedule set forth below. The Court finds the dates selected for the mailing and distribution of the Notice, as set forth below, meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

Event	Proposed Deadline
Settlement Administrator to disseminate class notice pursuant to Settlement Agreement § 4.2	No later than June 17, 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

7. The Court appoints JND Legal Administration as the Settlement Administrator.

8. The Court adopts the following additional dates and deadlines:

- a. The deadline for Settlement Class Members to submit claims shall be November 12, 2024, which is no fewer than fifty-six (56) days following the Final Approval Hearing.
- b. Any Settlement Class Member wishing to be excluded from the Settlement Class shall have until August 1, 2024 to do so, which is no more than 45 days after the

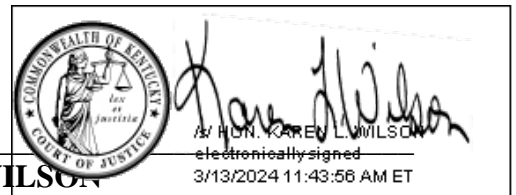
0D548C9D-D907-4138-B227-3CDF3871643E : 000003 of 000005

OO : 000003 of 000005

dissemination of the class notice and claims forms but no sooner than 14 days after Class Counsel submits papers supporting a Fee Award.

- c. Any Settlement Class Member wishing to object to the terms of the Settlement Agreement shall have until August 1, 2024 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. Class Counsel shall file a memorandum of points and authorities in support of their motion for approval of attorneys’ fees, costs, and expenses no later than July 18, 2024 (*suggested date 14 days prior to the Objection/Exclusion Deadline*).
- e. Settlement Class Counsel shall file a memorandum of points and authorities in support of the final approval of the Settlement Agreement no later than August 30, 2024, fourteen (14) prior to the Final Approval Hearing.
- f. A 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 is scheduled for **September 16, 2024 at 9:00 a.m.** local time.

SO ORDERED this _____ day of _____, 2024.



HON. KAREN WILSON
Henderson County Circuit Judge

0D548C9D-D907-4138-B227-3CDF3871643E : 000004 of 000005

OO : 000004 of 000005

TENDERED BY:

/s/ Bartley K. Hagerman
 Philip G. Fairbanks (pgf@austinmehr.com)
 Bartley K. Hagerman (bkh@austinmehr.com)
 Mehr Fairbanks Trial Lawyers, PLLC
 201 West Short Street, Suite 800
 Lexington, KY 40507
 Phone: (859) 225-3731
 Fax: (859) 225-3830
Co-Counsel for Plaintiff

CLERK’S CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was served by standard and/or electronic mail, to the following on this _____ day of _____, 2024:

Philip G. Fairbanks (pgf@austinmehr.com)
 Bartley K. Hagerman (bkh@austinmehr.com)
 Mehr Fairbanks Trial Lawyers, PLLC
 201 West Short Street, Suite 800
 Lexington, KY 40507
Co-Counsel for Plaintiff

Timothy J. Weatherholt (tweatherholt@fisherphillips.com)
 Fisher & Phillips LLP
 220 West Main Street, Suite 1700
 Louisville, KY 40202
Counsel for Defendant

Clerk, Henderson Circuit Court

0D548C9D-D907-4138-B227-3CDF3871643E : 000005 of 000005

OO : 000005 of 000005