

1 SEYFARTH SHAW LLP
Joseph A. Escarez (SBN 266644)
2 jescarez@seyfarth.com
Christopher Lee (SBN 274639)
3 chlee@seyfarth.com
2029 Century Park East, Suite 3500
4 Los Angeles, California 90067-3021
Telephone: (310) 277-7200
5 Facsimile: (310) 201-5219

6 Attorneys for Defendants
GAMESTOP CORP.; and GAMESTOP, INC.
7

8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 A. GILEWSKI, an individual, on behalf of
12 himself and of all others similarly situated,

13 Plaintiffs,

14 v.

15 GAMESTOP CORP., d/b/a GameStop
16 Corp., a Delaware corporation;
17 GAMESTOP, INC., a Minnesota
corporation; and DOES 1-50, inclusive,

18 Defendants.
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Case No. 2:19-cv-6258

Los Angeles Superior Court Case No.
19STCV17057

**DEFENDANTS GAMESTOP CORP.
AND GAMESTOP, INC.'S NOTICE
OF REMOVAL**

Trial Date: None Set
Date Action Filed: May 16, 2019

1 **TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL**
2 **DISTRICT OF CALIFORNIA AND TO PLAINTIFF A. GILEWSKI AND HIS**
3 **COUNSEL OF RECORD:**

4 **PLEASE TAKE NOTICE** that Defendants GameStop Corp. and GameStop, Inc.
5 (collectively, “Defendants”) remove this action that was originally commenced in the
6 Superior Court of the State of California for the County of Los Angeles to the United States
7 District Court for the Central District of California under 28 U.S.C. §§ 1332(c), 1332(d)(2),
8 1441(a), 1446, and 1453. This Court has original jurisdiction under 28 U.S.C. §§ 1332(c)
9 and (d)(2) (the Class Action Fairness Act of 2005 (“CAFA”)).

10 **I. BACKGROUND**

11 On May 16, 2019, Plaintiff A. Gilewski commenced a putative class action against
12 Defendants and DOES 1-50 by filing a complaint in the Superior Court of California for
13 the County of Los Angeles, Case No. 19STCV17057, asserting eight causes of action for:
14 (1) Unfair Business Practices, (2) Conversion, (3) Breach of Implied Contract, (4) Breach
15 of Written Contract, (5) Negligence, (6) Accounting and Disgorgement, (7) Unjust
16 Enrichment, and (8) Constructive Trust. Copies of the summons, complaint, and all other
17 documents filed in the state court are attached hereto collectively as **Exhibit A**.

18 By his complaint, Plaintiff alleges that he purchased “several gaming products” from
19 Defendants on April 27, 2017. Compl. ¶ 12. Plaintiff alleges that he purchased the
20 products with his credit card and paid for one-day shipping. *Id.* Plaintiff alleges that
21 Defendants failed to ship him all the products he purchased. *Id.* Consequently, Plaintiff
22 returned the items he received to Defendants in exchange for a refund. *Id.* at ¶13. Plaintiff
23 alleges that, although he returned the items he purchased, Defendants failed to provide a
24 refund. *Id.* Plaintiff defines the putative class as follows:

25 All customers of the Game Stop Defendants who placed orders in California,
26 whether individuals or otherwise, to whom the Game Stop Defendants failed
27 to ship ordered products, and/or failed to issue owed refunds due to return or
28

1 cancellation during the Class Period, and/or failed to timely ship the placed
2 orders within one-day, as the consumers had paid for.

3 *Id.* at ¶ 22.

4 **II. TIMELINESS OF REMOVAL**

5 Notice of removal is timely if it is filed within 30 days after the service of the
6 complaint or summons—“The notice of removal ... shall be filed within 30 days after the
7 receipt by the defendant, through service or otherwise, of a copy of the initial pleading
8 setting forth the claim for relief upon which such action or proceeding is based, or within
9 30 days after the service of summons upon the defendant....” 28 U.S.C. §1446(b)(1).

10 Plaintiff filed the complaint on May 16, 2019 and served it on Defendants on June
11 21, 2019. Defendants’ notice is timely because it is filed on July 19, 2019, which is within
12 30 days of service of the summons and complaint. *See Murphy Bros., Inc. v. Michetti Pipe*
13 *Stringing, Inc.*, 526 U.S. 344, 347-48 (1999) (“We hold that a named defendant’s time to
14 remove is triggered by simultaneous service of the summons and complaint....”).

15 **III. REMOVAL UNDER THE CLASS ACTION FAIRNESS ACT (“CAFA”)**

16 Under CAFA, district courts have original jurisdiction for class actions “if [1] the
17 class has more than 100 members, [2] the parties are minimally diverse, and [3]
18 the amount in controversy exceeds \$5 million.” *Dart Cherokee Basin Operating Co., LLC*
19 *v. Owens*, 135 S. Ct. 547, 552 (2014) (citing 28 U.S.C. § 1332(d)(2), (5)(B)).

20 **A. Plaintiff and Defendants Are Minimally Diverse**

21 Under 28 U.S.C. § 1332(d)(2)(A), CAFA requires only minimal diversity for the
22 purpose of establishing federal jurisdiction—that is, at least one purported class member
23 must be a citizen of a state different than any named defendant. 28 U.S.C. § 1332(d)(2)(A)
24 (“any member of a class of plaintiffs is a citizen of a State different from any defendant”).

25 Here, Plaintiff is a citizen of the State of California. Compl. ¶ 5 (“California
26 consumer who has, at all relevant times, resided in the County of Los Angeles.”); *Kanter*
27 *v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) (a natural person’s state
28 citizenship is determined by that person’s domicile—i.e., “[one’s] permanent home, where

1 [that person] resides with the intention to remain or to which [that person] intends to
2 return.”).

3 On the other hand, GameStop Corp. is a citizen of Delaware and Texas, while
4 GameStop, Inc. is a citizen of Minnesota and Texas. For diversity purposes, the citizenship
5 of a corporation is “every state and foreign state by which it has been incorporated and of
6 the state or foreign state where it has its principal place of business[.]” 28 U.S.C.
7 § 1332(c)(1). GameStop Corp. is incorporated in Delaware, while GameStop, Inc. is
8 incorporated in Minnesota. Both Defendants have their principal place of business in
9 Texas. *Armour Decl.* at ¶ 2; *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 92-93 (2010)
10 (“principal place of business” means the corporate headquarters where a corporation’s high
11 level officers direct, control and coordinate its activities on a day-to-day basis, also known
12 as the corporation’s “nerve center.”).

13 The other defendants named in the Complaint are merely fictitious parties identified
14 as “DOES 1 through 50” whose citizenship shall be disregarded for purposes of this
15 removal. 28 U.S.C. § 1441(b) (for purposes of removal, “the citizenship of defendants
16 sued under fictitious names shall be disregarded”); *see also Soliman v. Philip Morris, Inc.*,
17 311 F. 3d 966, 971 (9th Cir. 2002) (“Citizenship of fictitious defendants is disregarded for
18 removal purposes and becomes relevant only if and when the plaintiff seeks leave to
19 substitute a named defendant.”); *Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690 (9th
20 Cir. 1998) (“For purposes of removal under this chapter, the citizenship of defendants sued
21 under fictitious names shall be disregarded.”).

22 **B. There Are More Than 100 Class Members**

23 A removal under CAFA requires at least 100 members in a proposed class. *See* 28
24 U.S.C. § 1332(d)(5)(B) (providing that CAFA jurisdiction does not apply to any class
25 action in which “the number of members of all proposed plaintiff classes in the aggregate
26 is less than 100”).

27 Here, Plaintiff asserts a class period of May 16, 2015 to May 16, 2019 for the
28 proposed class. During the class period Defendants made over 1.9 million online sales

1 transactions in California for over 3.6 million products, generating in excess of \$145
2 million in revenue. Armour Decl. at ¶ 4. While return rates for traditional retailers average
3 around 8%, online purchases are returned at a rate of 15%-30% depending on the category
4 of merchandise.¹ Even at the low end of 15%, that would mean that approximately 285,000
5 sales may be at issue in this case. It is reasonable to assume that more than 285,000 sales
6 were made to more than 100 individuals.

7 **C. The Amount in Controversy Exceeds the \$5 Million Statutory Minimum**

8 CAFA requires that the amount in controversy exceed \$5,000,000, exclusive of
9 interest and costs. 28 U.S.C. § 1332(d)(2). Under CAFA, the claims of the individual
10 members in a class action are aggregated to determine if the amount in controversy exceeds
11 the sum or value of \$5,000,000. 28 U.S.C. § 1332(d)(6). In addition, Congress intended
12 for federal jurisdiction to be appropriate under CAFA “if the value of the matter in litigation
13 exceeds \$5,000,000 either from the viewpoint of the plaintiff or the viewpoint of the
14 defendant, and regardless of the type of relief sought (*e.g.*, damages, injunctive relief, or
15 declaratory relief).” Senate Judiciary Committee Report, S. Rep. No. 109-14, at 42 (2005),
16 *reprinted in* 2005 U.S.C.C.A.N. 3, 40. The Senate Judiciary Committee’s Report on the
17 final version of CAFA also makes clear that any doubts regarding the maintenance of
18 interstate class actions in state or federal court should be resolved in favor of federal
19 jurisdiction. *Id.* at 42-43 (“If a federal court is uncertain about whether ‘all matters in
20 controversy’ in a proposed class action ‘do not in the aggregate exceed the sum or value of
21 \$5,000,000, the court should err in favor of exercising jurisdiction over the case
22 Overall, new section 1332(d) is intended to expand substantially federal court jurisdiction
23 over class actions. Its provision should be read broadly, with a strong preference that
24 interstate class actions should be heard in a federal court if properly removed by any
25 defendant.”).

26
27 ¹<https://moneyinc.com/the-return-trip-how-returns-impact-online-shopping/>;
28 <https://www.cbre.us/about/media-center/cbre-report-holiday-ecommerce-returns-could-reach-32-billion>

1 Plaintiff attempts to artificially lower the amount in controversy to “less than \$5
2 million,” but as explained by the Ninth Circuit, “the amount-in-controversy inquiry in the
3 removal context is not confined to the face of the complaint.” *Valdez v. Allstate Ins. Co.*,
4 372 F.3d 1115, 1117 (9th Cir. 2004); *see also Rodriguez v. AT&T Mobility Servs. LLC*,
5 728 F.3d 975, 981 (9th Cir. 2013) (holding that the ordinary preponderance of the evidence
6 standard applies even if a complaint is artfully pled to avoid federal jurisdiction);
7 *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 702 (9th Cir. 2007) (holding that even
8 if a plaintiff affirmatively pled damages less than the jurisdictional minimum and did not
9 allege a sufficiently specific total amount in controversy, the removing defendant is still
10 only required to show by a preponderance of evidence that the amount in controversy
11 exceeds the jurisdictional threshold).

12 Because the amount in controversy inquiry is not confined to the face of the
13 complaint, the removing defendant bears the burden of proving by a preponderance of the
14 evidence that the amount in controversy exceeds the statutory minimum. To satisfy this
15 standard, “defendants’ notice of removal need include only a plausible allegation that the
16 amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin*
17 *Operating Co.*, 135 S.Ct. at 554. The burden of establishing the jurisdictional threshold
18 “is not daunting, as courts recognize that under this standard, a removing defendant is not
19 obligated to research, state, and prove the plaintiff’s claims for damages.” *Korn v. Polo*
20 *Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1204-05 (E.D. Cal. 2008) (internal quotations
21 omitted); *see also Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (“the
22 parties need not predict the trier of fact’s eventual award with one hundred percent
23 accuracy”).

24 Here, Defendants made over 1.9 million online sales transactions in California for
25 over 3.6 million products, generating in excess of \$145 million in revenue during the
26 relevant period. If approximately 15% of those sales resulted in returns, then the amount
27 in controversy may be approximated to be at least \$21,750,000. Indeed, only 3.45% of
28

1 total online California sales would need to have been returned and potentially at issue here
2 in order to meet the \$5 million amount in controversy.

3 **1. Punitive Damages**

4 Plaintiff also seeks punitive damages. (Compl., Prayer for Relief ¶ 8.) Using a
5 conservative punitive to compensatory damages ratio of 2:1, the putative class' punitive
6 damages would total at least \$43 million. *See, e.g., Pendergrass v. Time Ins. Co.*, 2010
7 WL 989154, *2 (W.D. Ky. 2010) (finding a contract claim over \$35,000 met the amount
8 in controversy requirement based on the potential of punitive damages and attorney's fees);
9 *Brantley v. Safeco Insurance Company of America*, No. 1:11-CV-00054-R, 2011 WL
10 3360671 (W.D.Ky. 2011) (same).

11 **2. Attorneys' Fees**

12 Plaintiff also seeks attorneys' fees. (Compl., Prayer for Relief ¶ 9.) Requests for
13 attorneys' fees must also be taken into account in ascertaining the amount in controversy.
14 *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (claims for statutory
15 attorneys' fees are to be included in amount in controversy, regardless of whether award is
16 discretionary or mandatory); *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004,
17 1010-11 (N.D. Cal. 2002) ("Where the law entitles the prevailing plaintiff to recover
18 reasonable attorney fees, a reasonable estimate of fees likely to be incurred to resolution is
19 part of the benefit permissibly sought by the plaintiff and thus contributes to the amount in
20 controversy.").

21 A reasonable estimate of fees likely to be recovered may be used in calculating the
22 amount in controversy. *Longmire v. HMS Host USA, Inc.*, 2012 WL 5928485, at *9 (S.D.
23 Cal. Nov. 26, 2012 ("[C]ourts may take into account reasonable estimates of attorneys'
24 fees likely to be incurred when analyzing disputes over the amount in controversy under
25 CAFA.") (citing *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004, 1010-11 (N.D.
26 Cal. 2002)); *Muniz v. Pilot Travel Centers LLC*, 2007 U.S. Dist. LEXIS 31515, at *15 (E.D.
27 Cal. Apr. 30, 2007) (attorneys' fees appropriately included in determining amount in
28 controversy).

1 In the class action context, courts have found that 25% of the aggregate amount in
2 controversy is a benchmark for attorneys' fees award under the "percentage of fund"
3 calculation and courts may depart from this benchmark when warranted. *See Campbell v.*
4 *Vitran Exp., Inc.*, 471 F. App'x 646, 649 (9th Cir. 2012) (attorney's fees appropriately
5 included in determining amount in controversy under CAFA); *Powers v. Eichen*, 229 F.3d
6 1249, 1256-1257 (9th Cir. 2000) ("We have also established twenty-five percent of the
7 recovery as a 'benchmark' for attorneys' fees calculations under the percentage-of-
8 recovery approach"); *Wren v. RGIS Inventory Specialists*, 2011 U.S. Dist. LEXIS 38667
9 at *78-84 (N.D. Cal. Apr. 1, 2011) (finding ample support for adjusting the 25%
10 presumptive benchmark upward and found that plaintiffs' request for attorneys' fees in the
11 amount of 42% of the total settlement payment was appropriate and reasonable in the case);
12 *Cicero v. DirecTV, Inc.*, 2010 U.S. Dist. LEXIS 86920 at *16-18 (C.D. Cal. July 27, 2010)
13 (finding attorneys' fees in the amount of 30% of the total gross settlement amount to be
14 reasonable); *see also In re Quintas Securities Litigation*, 148 F. Supp. 2d 967, 973 (N.D.
15 Cal. 2001) (noting that in the class action settlement context the benchmark for setting
16 attorneys' fees is 25 percent of the common fund).

17 Even under the conservative benchmark of 25% of the total recovery for the
18 applicable claims, attorneys' fees alone would be upward of \$5.4 million in this case.

19 3. Summary

20 Although Defendants deny Plaintiff's allegations that he or the putative class are
21 entitled to any relief, based on Plaintiff's allegations and prayer for relief, and a
22 conservative estimate based on those allegations, the total amount in controversy far
23 exceeds the \$5,000,000 threshold set forth under 28 U.S.C. § 1332(d)(2) for removal
24 jurisdiction.

25 Because minimal diversity of citizenship exists, and the amount in controversy
26 exceeds \$5,000,000, this Court has original jurisdiction of this action pursuant to 28 U.S.C.
27 § 1332(d)(2). This action is therefore a proper one for removal to this Court pursuant to
28 28 U.S.C. § 1441(a).

1 **IV. VENUE**

2 Venue lies in the United States District Court for the Central District of California,
3 pursuant to 28 U.S.C. §§ 1391(a), 1441, and 84(c). This action originally was brought in
4 Los Angeles County Superior Court of the State of California, which is located within the
5 Central District of California. 28 U.S.C. § 84(c). Therefore, venue is proper because it is
6 the “district and division embracing the place where such action is pending.” 28 U.S.C.
7 § 1441(a).

8 A true and correct copy of this Notice of Removal will be promptly served on
9 Plaintiff and filed with the Clerk of the Los Angeles County Superior Court of the State of
10 California as required under 28 U.S.C. § 1446(d).

11 **V. NOTICE TO STATE COURT AND TO PLAINTIFF**

12 Defendants will give prompt notice of the filing of this Notice of Removal to
13 Plaintiff and to the Clerk of the Superior Court of the State of California in the County of
14 Los Angeles. The Notice of Removal is concurrently being served on all parties.

15 **VI. PRAYER FOR REMOVAL**

16 WHEREFORE, Defendants pray that this civil action be removed from Superior
17 Court of the State of California for the County of Los Angeles to the United States District
18 Court for the Central District of California.

19
20 DATED: July 19, 2019

Respectfully submitted,

SEYFARTH SHAW LLP

23 By: */s/ Christopher Lee*

24 Joseph A. Escarez
25 Christopher Lee
26 Attorneys for Defendants
27 GAMESTOP CORP.; and
28 GAMESTOP, INC.

EXHIBIT A

Page 2 of 50
EJ/11/19
903 PM

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

**GAMESTOP CORP., d/b/a GameStop Corp., a Delaware corporation;
GAMESTOP, INC., a Minnesota corporation; and DOES 1-50, inclusive**

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**A. GILEWSKI, an individual, on behalf of himself and of all others
similarly situated**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

MAY 16 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy
Steven Drew

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

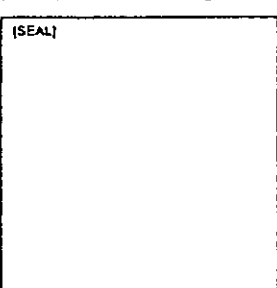
The name and address of the court is:
(El nombre y dirección de la corte es): **Los Angeles Superior Court
600 South Commonwealth Avenue, Los Angeles CA 90005**

CASE NUMBER
(Número de caso) **19STCV17057**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Giacomo Gallai, SBN 227544, Hua Gallai & Gonzalez, 433 N. Camden Dr. 4th Fl., Bev. Hills CA 90210

DATE: **MAY 16 2019** Clerk, by **STEVEN OREW**, Deputy
(Fecha) **Sherri R. Carter, Clerk** (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): **GameStop, Inc., a Minnesota corporation**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

GAMESTOP CORP., d/b/a GameStop Corp., a Delaware corporation;
GAMESTOP, INC., a Minnesota corporation; and DOES I-50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

A. GILEWSKI, an individual, on behalf of himself and of all others
similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**CONFORMED COPY
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Superior Court of California
County of Los Angeles

MAY 16 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

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Hay otros requisitos legales. Es recomendable que llamo a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

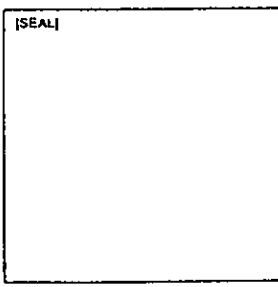
The name and address of the court is:
(El nombre y dirección de la corte es): Los Angeles Superior Court
600 South Commonwealth Avenue, Los Angeles CA 90005

CASE NUMBER
(Número de caso) **19STCV17057**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Giacomo Gallai, SBN 227544, Hua Gallai & Gonzalez, 433 N. Camden Dr. 4th Fl., Bev. Hills CA 90210

DATE: **MAY 16 2019** Clerk, by **STEVEN DREW**, Deputy
(Fecha) **Sherri R. Carter, Clerk** (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): **GameStop Corp., d/b/a GameStop Corp., a Delaware corporation**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):

SSC17

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Giacomo Gallai, 227544 Hua Gallai & Gonzalez, LLP 433 North Camden Drive, 4th Floor Beverly Hills, CA 90210 TELEPHONE NO.: 310-738-4044 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY <p style="text-align: center;">FILED Superior Court of California County of Los Angeles</p> <p style="text-align: center;">JUL 03 2019</p> <p>Sherril R. Carter, Executive Officer/Clerk of Court By <u>Isaac Lova</u> Deputy</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Los Angeles County 111 N. Hill Street Los Angeles, CA 90012-3117	CASE NUMBER: 19STCV17057
PLAINTIFF/PETITIONER: A. Gilewski DEFENDANT/RESPONDENT: Gamestop Corp.	Ref. No. or File No.:
PROOF OF SERVICE OF SUMMONS	

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action. **BY FAX**
2. I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Notice of Case Assignment, Voluntary Efficient Litigation Stipulations, Alternative Dispute Resolution Information Packet, Minute Order, Initial Status Conference Order (Complex Cases and Class Actions)
3. a. Party served: GameStop, Inc., a Minnesota corporation
- b. Person Served: Albert Demonte - CT Corporation System - Person Authorized to Accept Service of Process

4. Address where the party was served: 818 West Seventh Street, Suite 930
 Los Angeles, CA 90017

5. I served the party
 a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 06/21/2019 (2) at (time): 3:00PM

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. on behalf of:

GameStop, Inc., a Minnesota corporation
 under: CCP 416.10 (corporation)

7. **Person who served papers**

- a. Name: Jimmy Lizama
- b. Address: One Legal - 194-Marin
 1400 North McDowell Blvd, Ste 300
 Petaluma, CA 94954

c. Telephone number: 415-491-0606

d. The fee for service was: \$ 80.00

e I am:

- (3) registered California process server.
 - (i) Employee or independent contractor.
 - (ii) Registration No.: 4553
 - (iii) County: Los Angeles

8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

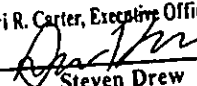
Date: 06/29/2019

Jimmy Lizama

(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Steven C. Gonzalez, SBN 191756 / Giacomo Gallai, SBN 227544 Hua Gallai & Gonzalez, LLP 433 N. Camden Drive, 4th Floor Beverly Hills, CA 90210 TELEPHONE NO.: 310-279-5239 FAX NO.: ATTORNEY FOR (Name): Plaintiff A. Gilewski and similarly situated class members	FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles MAY 16 2019 Sherri R. Carter, Executive Officer/Clerk of Court By  , Deputy Steven Drew
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 600 S. Commonwealth Avenue MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90005 BRANCH NAME: Central Civil West	CASE NO: 198TCV17057 JUDGE: DEPT:
CASE NAME: Gilewski v. Gamestop Corp. et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PII/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PII/PD/W/D (23) Non-PII/PD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PII/PD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input checked="" type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 15, 2019
 Steven C. Gonzalez

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint RICO (27)

Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SHORT TITLE: Gilewski v. Gamestop Corp.	CASE NUMBER: 198TCV17057
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. 2. Permissive filing in central district. 3. Location where cause of action arose. 4. Mandatory personal injury filing in North District. 5. Location where performance required or defendant resides. 6. Location of property or permanently garaged vehicle. | <ol style="list-style-type: none"> 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office. 11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A8070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: Gilewski v. Gamestop Corp.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3	
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
Contract	Breach of Contract/ Warranty (06) (not Insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11	
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8	
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5	
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5	
	<input checked="" type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 4, 8, 9	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
		<input type="checkbox"/> A6032 Quiet Title	2, 6
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: Gilewski v. Gamestop Corp.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above	
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6	
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5	
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2 2	
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8	
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8	
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3	
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8	
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8	
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8	
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8	
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 5, 11 2, 6 2, 9 2, 8 2, 8 2, 8, 9	
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8	
	Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8 2, 8 1, 2, 8 1, 2, 8
		Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
		Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment With Damages <input type="checkbox"/> A6123 Workplace Harassment With Damages <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case With Damages <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition

SHORT TITLE: Gilewski v. Gamestop Corp.	CASE NUMBER
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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input checked="" type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.	ADDRESS: Game Stop Eagle Rock Location 2700 Colorado Blvd			
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; padding: 2px;">CITY: Los Angeles</td> <td style="width:17%; padding: 2px;">STATE: CA</td> <td style="width:50%; padding: 2px;">ZIP CODE: 90041</td> </tr> </table>	CITY: Los Angeles	STATE: CA	ZIP CODE: 90041	
CITY: Los Angeles	STATE: CA	ZIP CODE: 90041		

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central Civil West District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: May 15, 2019



 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

1 Steven C. Gonzalez, Bar No. 191756
2 Steve@hua-gallai.com
3 Giacomo Gallai, Bar No. 227544
4 gg@hua-gallai.com
5 HUA GALLAI & GONZALEZ, LLP
6 433 North Camden Drive, 4th Floor
7 Beverly Hills, CA 90210
8 Phone: (310) 279-5239
9 Facsimile: (480) 393-4433

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAY 16 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By *Steven Drew*, Deputy
Steven Drew

7 Attorneys for Plaintiffs
8 A. GILEWSKI, individually, and on behalf of
9 others similarly situated

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 UNLIMITED JURISDICTION

13 A. GILEWSKI, an individual, on
14 behalf of himself and of all others
15 similarly situated,

16 Plaintiffs,

17 v.

18 GAMESTOP CORP., d/b/a
19 GameStop Corp., a Delaware
20 corporation; GAMESTOP, INC., a
21 Minnesota corporation; and DOES 1-
22 50, inclusive;

23 Defendants.

Case No. **1987CV17057**

CLASS ACTION AND INDIVIDUAL
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, AND OTHER
RELIEF

1. UNFAIR BUSINESS PRACTICES (BUSINESS AND PROFESSIONS CODE SECTIONS 17200 ET SEQ.)
2. CONVERSION
3. BREACH OF IMPLIED CONTRACT
4. BREACH OF WRITTEN CONTRACT
5. NEGLIGENCE
6. ACCOUNTING AND DISGORGEMENT
7. UNJUST ENRICHMENT
8. CONSTRUCTIVE TRUST

JURISDICTIONAL AMOUNT IN EXCESS
OF \$25,000, BUT LESS THAN \$5 MILLION

DEMAND FOR JURY TRIAL

24
25 PLAINTIFF A. GILEWSKI ("Plaintiff" or "Gilewski"), individually and on behalf of all
26 others similarly situated, alleges and complains as follows against Defendants GAMESTOP
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28

1 CORP. d/b/a Game Stop Corp., a Delaware corporation; GAMESTOP, INC., a Minnesota
2 corporation; and DOES 1-50, inclusive, seeking damages and other relief as set forth herein:

3 **NATURE OF THE ACTION**

4 1. Defendants GAMESTOP CORP. d/b/a Game Stop Corp., a Delaware corporation;
5 GAMESTOP, INC., a Minnesota corporation and Does 1-50 (collectively "Game Stop" or "Game
6 Stop Defendants") are in the business of selling video games and other video gaming related
7 products online as well as at their physical stores in California. As alleged herein, the Game Stop
8 Defendants have wrongfully withheld and obtained funds and money from Plaintiff A. Gilewski
9 and all other similarly situated customers through unfair, illegal, and fraudulent acts and
10 practices, including, but not limited to, failing to refund customers for products that were not
11 delivered, promising to refund customers after customers had complained to Game Stop, but still
12 refusing to refund customers their money. Plaintiff and similarly situated consumers are entitled
13 to restitution for Defendants' illegal, unfair, or deceptive actions. Similar to Plaintiff, numerous
14 other consumers have reported online in reviews that the Game Stop Defendants are wrongfully
15 withholding their money and funds due to failing to issue refunds for returned items, failing to
16 deliver products paid for by customers and similar unfair, illegal, and fraudulent practices. Other
17 consumers also reported that they were promised a refund for goods that Game Stop failed to
18 ship, but that Game Stop had not refunded them, had not called them back, and even at least one
19 consumer wrote to Game Stop, Game Stop still did not refund the placed order. Like Gilewski,
20 the similarly class members also paid for one-day shipping with Game Stop, which again, failed
21 to timely ship all of the products.

22 2. Within the limitations period of Business & Professions Code section 17200 and
23 of the other claims asserted herein, the Game Stop Defendants are still illegally, unfairly, and
24 fraudulently withholding money and funds belonging to Plaintiff and all others similarly situated
25 and still have not refunded money owed to Plaintiff and other similarly situated consumers,
26 including failing to refund their money and failing to pay them interest on the wrongfully
27 withheld sums of money.

1 3. Instead, Defendants did convert and continue to convert Plaintiff's and similarly
2 situated consumers' money for their own gains, and still did not refund consumers.

3 **THE PARTIES**

4 4. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this
5 Complaint as though fully set forth herein.

6 5. Plaintiff A. GILEWSKI ("Plaintiff" or "Gilewski") is a California consumer who
7 has, at all relevant times, resided in the County of Los Angeles.

8 6. Plaintiff is informed and believes that, at all relevant times, Defendant
9 GAMESTOP CORP., d/b/a GameStop Corp. is a Delaware corporation incorporated in
10 September 2002 and its headquarter is located at 625 Westport Parkway, Grapevine, Texas
11 76051, and its agent for service of process is CT Corporation Systems. Plaintiff and all others
12 similarly situated class consumers suffered damages at the hands of GAMESTOP CORP. and are
13 entitled to restitution and other relief as alleged herein. Venue is proper and GAMESTOP CORP.
14 is subject to both specific as well as general jurisdiction in California.

15 7. Plaintiff is informed and believes that, at all relevant times, Defendant
16 GAMESTOP, INC., upon information and belief, is an entity related to GAMESTOP CORP.,
17 although their specific relationship is unknown, and is incorporated under the laws of Minnesota
18 as of May 1996. Its address is located at 625 Westport Parkway, Grapevine, Texas 76051, and its
19 agent for service of process is CT Corporation Systems. Plaintiff and similarly situated class
20 consumers suffered damages at the hands of said Defendant and are owed restitution. Venue is
21 proper and GAMESTOP, INC. is subject to both specific as well as general jurisdiction in
22 California.

23 8. Defendants GAMESTOP CORP. and GAMESTOP, INC. are collectively referred
24 to in this Complaint as "Game Stop." Gamestop and Does 1-50 are collectively still referred to as
25 "Defendants."

26 9. Plaintiff does not know the true names and capacities of defendants DOES 1
27 through 50, inclusive, and therefore sue them by said fictitious names. Plaintiff will amend this
28 complaint to allege their true names and capacities when ascertained. Plaintiff is informed and

1 believes that in addition to Defendants, each of the defendants sued herein as a DOE defendant is
2 also legally responsible for the events that gave rise to Plaintiff's causes of action against
3 Defendants and each of them, and also unlawfully caused injuries and damages to Plaintiff as
4 alleged in this Complaint.

5 10. Plaintiffs are informed and believe, and thereon allege that each defendant was in
6 some way responsible for Plaintiffs' injuries and damages alleged herein, that each defendant
7 contributed to and participated in acts alleged herein and that, in contributing to and participating
8 in such conduct, each defendant was the agent of each other and was acting in the course and
9 scope of such agency and/or each defendant acted with permission, consent, ratification,
10 authorization or notification of the other defendants.

11 COMMON ALLEGATIONS

12 11. Defendants GAMESTOP CORP. d/b/a Game Stop Corp., a Delaware corporation;
13 GAMESTOP, INC., a Minnesota corporation and Does 1-50 (collectively "Game Stop" or
14 "Defendants") are in the business of selling video games and other video gaming-related products
15 online as well as at their physical stores in California.

16 12. On or about April 27, 2017, Plaintiff Gilewski while in Los Angeles County
17 purchased online from Defendants' website several gaming products, including paying additional
18 charges to Defendants for one-day shipping, which Plaintiff paid that same day online by credit
19 card. The games Gilewski purchased were of no use without the console Game Stop also sold
20 him, and Gilewski would not have purchased the games if Game Stop had not also represented it
21 had and would sell and ship him the relevant console. The Game Stop Defendants charged
22 Plaintiff Gilewski's credit card. However, the Game Stop Defendants did not deliver the console,
23 despite charging him tax and shipping for the console. The Game Stop Defendants only delivered
24 some of the products ordered and paid for. Thereafter, not having received all of the items he had
25 ordered and for which he had incurred charges for one-day shipping, and as the games were
26 useless without the gaming console, Plaintiff Gilewski complained to the Game Stop Defendants
27 asking that the entire order be delivered, but to no avail. Although the Game Stop Defendants
28 promised to deliver the entire order, for which Plaintiff paid taxes and shipping, they never did. In

1 addition, the Game Stop Defendants have not refunded Plaintiff for the tax and shipping they
2 collected for the items not delivered, and they refused to refund what he had paid for the useless
3 games, after he returned them, and are still withholding his money.

4 13. Not having received all of the items in his order, Plaintiff Gilewski repeatedly
5 contacted Game Stop's customer service and complained about not having received the products
6 Game Stop agreed to sell him. Repeatedly, he was told that the products would be shipped, which
7 was false because although customer service promised to rectify the problem and ship the
8 products, they never did. He was further informed in writing via e-mail by the Game Stop
9 Defendants on May 6, 2017 that he would get a refund if he returned the products, which was also
10 regardless a term of the contractual relationship between the Game Stop Defendants and Plaintiff
11 and all others similarly situated. Plaintiff reasonably relied on those representations. Therefore,
12 Plaintiff decided to return the useless games he received in exchange for a full refund, which he
13 did on May 18, 2017 via UPS using a return label provided by the Game Stop Defendants.
14 However, he never received the refund. He repeatedly again contacted customer service and again
15 he was falsely told that he would receive the refund, but he never did.

16 14. Upon information and belief, these misrepresentations of the Game Stop
17 Defendants are not the result of inadvertence or innocent mistakes. Rather they are part of a
18 scheme, pattern, and practice engaged in company-wide online and at their stores to cheat
19 customers out of their money and make misrepresentations to customers. Similar to Plaintiff,
20 numerous other consumers have reported online in reviews or complaints that the Game Stop
21 Defendants are wrongfully withholding their money and funds, due to failing to issue refunds for
22 returned items, failing to deliver products paid for by customers and misrepresenting facts and
23 refunds to customers.

24 15. Plaintiff was not willing to acquiesce to such treatment, so after having been
25 misled numerous times by the Game Stop Defendants' customer service via telephone, Plaintiff
26 drove to the Game Stop store in Eagle Rock, California to speak in person with employees in
27 person at Game Stop Defendants on or about June 6, 2017. On June 6, 2017, there, Defendants
28 represented to Plaintiff that he would get his refund after they investigated and looked into it. Yet,

1 still, Defendants never got back to Plaintiff about the results of their investigation and he still has
2 not received a refund.

3 16. Similar to Plaintiff, other consumers have reported online in reviews or complaints
4 that the Game Stop Defendants are wrongfully withholding their money and funds due to failing
5 to issue refunds for returned items, failing to deliver products paid for by customers and other
6 unfair, illegal, and fraudulent practices of such kind.

7 17. On the Consumer Reports website, numerous consumers have lodged complaints
8 stating that, like Plaintiff, they placed orders with Game Stop and have not received their
9 shipments or their whole shipments, Game Stop failed to issue refunds for returned items, and
10 even after complaining to Game Stop, Game Stop did not care, and still wrongfully withheld
11 money owed to consumers for Game Stop's failure to deliver on orders placed by consumers, and
12 failure to refund money.

13 18. It appears Defendants premised their business in part on not refunding to
14 consumers for products that the consumers have ordered but not received, and Defendants
15 pocketed the money, as well as pocketed the money for the one-day shipping additional cost,
16 when the products were not shipped.

17 **CLASS ACTION ALLEGATIONS**

18 19. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this
19 Complaint as though fully set forth herein.

20 20. This action constitutes a Class Action brought pursuant to Code of Civil Procedure
21 section 382 on behalf of Plaintiff and all others similarly situated who are owed refunds and/or
22 credit from the Game Stop Defendants due to the Game Stop Defendants' failure to issue refunds,
23 and/or to deliver products and for which the Game Stop Defendants wrongfully continue to
24 withhold money owed to Plaintiff and similarly situated consumers. The Putative Class is defined
25 more precisely below.

26 21. The "Class Period" is designated as from the date four years prior to the filing of
27 this Complaint, through final judgment, based upon the allegation that Defendants' violations set
28 forth herein have been ongoing since at least that time and are still ongoing.

1 22. The Putative Class is defined as follows:

2 All customers of the Game Stop Defendants who placed orders in
3 California, whether individuals or otherwise, to whom the Game Stop
4 Defendants failed to ship ordered products, and/or failed to issue
5 owed refunds due to return or cancellation during the Class Period,
6 and/or failed to timely ship the placed orders within one-day, as the
7 consumers had paid for.

8 The putative class is comprised of the following sub-classes:

- 9 a) All customers of the Game Stop Defendants who placed orders in
10 California, whether individuals or otherwise, to whom the Game
11 Stop Defendants failed to ship ordered products that such
12 customers paid for during the Class Period and for which the
13 Game Stop Defendants did not refund such customers for the
14 products already paid;
- 15 b) All customers of the Game Stop Defendants who placed orders in
16 California, whether individuals or otherwise, to whom the Game
17 Stop Defendants failed to issue owed refunds during the Class
18 Period for the one-day shipping that consumers had paid for, but
19 that Game Stop Defendants failed to timely deliver;
- 20 c) All customers of the Game Stop Defendants who placed orders in
21 California, whether individuals or otherwise, to whom the Game
22 Stop Defendants failed to issue owed refunds due for orders
23 cancelled by such customers during the Class Period.

24 The putative class and the three subclasses above a) through c) are
25 collectively referred to herein as the "Class" or as the "Putative Class."

26 23. Excluded from the Putative Class are Defendants, Defendants' legal
27 representatives, officers, directors, assigns, and successors, or any individual who has, or who at
28 any time during the class period has had, a controlling interest in Defendants; the Judge(s) to
29 whom this case is assigned and any member of the Judge's immediate family; and all persons
30 who will submit timely and otherwise proper request for exclusion from the Putative Class.

31 24. The claims of the representative Plaintiff are typical of the claims of the Putative
32 Class.

33 25. The customers of the Game Stop Defendants who make up the Putative Class are
34 so numerous that joinder of all members is impracticable. Moreover, the representative party

1 Plaintiff Gilewski will fairly and adequately represent and protect the interests of the Putative
2 Class members.

3 26. A class action is superior to other available methods for the fair and efficient
4 adjudication of the controversy – particularly when consumers lack financial resources to
5 vigorously litigate smaller individual sums of money owed to them against large corporations
6 such as the Game Stop Defendants. A class action is a superior method of adjudication since it
7 would obviate the need for duplicative litigation

8 27. There are questions of law and fact common to the Putative Class that predominate
9 over any questions solely affecting individual members, including, but not limited to whether
10 Defendants’ practices violated Business & Professions Code §§ 17200 et seq; whether Plaintiff
11 and the Putative Class members lost money or property as a result of Defendants’ violations of
12 Business & Professions Code §§ 17200 et seq.; whether the Defendants converted the Plaintiff’s
13 and Putative Class’s money among other common questions of fact and law.

14 **FIRST CAUSE OF ACTION FOR UNFAIR BUSINESS PRACTICES**

15 **(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY**
16 **SITUATED AGAINST ALL DEFENDANTS)**

17 28. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this
18 Complaint as though fully set forth herein.

19 29. Business and Professions Code section 17200 et seq. makes it illegal to engage in
20 unlawful, unfair, or fraudulent business acts or practices.

21 30. Through the acts complained of in this Complaint, Defendants engaged in unfair
22 acts, practices, and competition within the meaning of sections 17200 et seq.

23 31. Defendants have committed, and continue to commit, unlawful, unfair, and/or
24 fraudulent business acts or practices, as defined in Business & Professions Code section 17200,
25 by among other things, failing to deliver products ordered and paid for by customers, failing to
26 issue owed refunds due to customers who returned products or cancelled orders, and through the
27 other acts complained of in this Complaint.

28

1 39. Plaintiff and the Putative Class members have ownership and right to possession
2 of the funds and money paid to the Game Stop Defendants and which the Game Stop Defendants
3 have improperly appropriated for themselves by failing to issue refunds for undelivered products,
4 returned and cancelled orders. The Game Stop Defendants converted such money, funds, and
5 property to their own benefit, even though they belonged to the Plaintiff and to the members of
6 the Putative Class, which they did by wrongfully cheating Plaintiff and the members of the
7 Putative Class out of their money and using it for the Game Stop Defendants' own benefit. In
8 short, Defendants failed to provide a refund on orders that Defendants did not deliver to Plaintiff
9 and similarly situated consumers, and failed to reimburse Plaintiff and similarly situated
10 consumers who paid for the one-day shipping, which Defendants did not timely deliver products
11 to consumers.

12 40. As a result of the Game Stop Defendants' conversion, Plaintiff and the members of
13 the Putative Class suffered damages in the measure of the money and funds so improperly
14 converted by the Game Stop Defendants. The Plaintiff and the members of the Putative Class did
15 not consent to such conversion. Accordingly, the Game Stop Defendants are responsible to pay
16 and disgorge such funds to Plaintiff and to the members of the Putative Class.

17 41. The Game Stop Defendants did so intentionally, maliciously, and oppressively,
18 with an evil and malevolent motive to injure Plaintiff and the members of the Putative Class and
19 with a conscious disregard of Plaintiff and the Putative Class members' rights under California
20 law. Based on the outrageous conduct of said Defendants, Plaintiff and the Putative Class
21 members are entitled to punitive and exemplary damages in an amount to be determined
22 according to proof at trial.

23 **THIRD CAUSE OF ACTION FOR BREACH OF IMPLIED IN FACT CONTRACT**
24 **(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY**
25 **SITUATED AGAINST ALL DEFENDANTS)**

26 42. Plaintiff re-alleges and incorporates by reference⁵ all prior paragraphs of this
27 Complaint as though fully set forth herein.

28

1 43. Defendants entered into implied in fact contracts with Plaintiff and the Putative
2 Class members when such customers ordered and purchased the Game Stop Defendants' products
3 at the prices posted and publicized by the Game Stop Defendants. Pursuant to such agreements,
4 the Game Stop Defendants promised to deliver such products in exchange for payment and to
5 refund such payments in case of return or cancellation.

6 44. Defendants breached the contracts by failing to deliver to Plaintiff and other
7 similarly situated consumers the consumer goods that they had paid for, by failing to issue
8 refunds after returns, by failing to issue refunds after order cancellations. Defendants also failed
9 to timely deliver products after consumers paid extra for one-day shipping.

10 45. Defendants further breached the contracts and the covenant of good faith and fair
11 dealing by failing to properly investigate Plaintiff's and similarly situated consumers' claims for
12 reimbursements and engaging in misrepresentations and misleading the customers that they
13 would receive reimbursement when instead the Game Stop Defendants did not want to issue
14 reimbursement(s) and ultimately did not issue such reimbursement(s).

15 46. The Plaintiff and the Putative Class members have performed all terms of such
16 implied in fact contracts and there are no conditions precedent that they must perform.

17 47. As a result of Defendants' breaches of such implied in fact contracts, Plaintiff and
18 the Putative Class members have suffered damages in a sum to be determined at trial.

19 **FOURTH CAUSE OF ACTION FOR BREACH OF WRITTEN CONTRACT**

20 **(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY**
21 **SITUATED AGAINST ALL DEFENDANTS)**

22 48. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this
23 Complaint as though fully set forth herein.

24 49. Defendants entered into written contracts with Plaintiff and the Putative Class
25 members when such customers ordered and purchased the Game Stop Defendants' products
26 online pursuant to the terms chosen by the Game Stop Defendants, which included having to pay
27 for the products at the price posted online in order to receive them. Upon information and belief,
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1 such written contracts also provide that Plaintiff and the Putative Class members are entitled to
2 full refunds for returned products or cancelled orders.

3 50. Defendants breached the contracts by failing to deliver to Plaintiff and other
4 similarly situated consumers the consumer goods that they had paid for, by failing to issue
5 refunds after returns, by failing to issue refunds after order cancellations. Defendants also failed
6 to timely deliver products after consumers paid extra for one-day shipping.

7 51. Defendants further breached the contracts (and the covenant of good faith and fair
8 dealing implied in every contract) by failing to properly investigate Plaintiff's and similarly
9 situated consumers' claims for reimbursements, and engaging in misrepresentations and
10 misleading the customers that they would receive reimbursement, when instead the Game Stop
11 Defendants did not want or intend to issue reimbursement(s) and ultimately did not issue such
12 reimbursement(s).

13 52. The Plaintiff and the Putative Class members have performed all terms of such
14 written contracts and there are no conditions precedent that they must perform.

15 53. As a result of Defendants' breaches of such written contracts, Plaintiff and the
16 Putative Class members have suffered damages in a sum to be determined at trial.

17 **FIFTH CAUSE OF ACTION FOR NEGLIGENCE**

18 **(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY**
19 **SITUATED AGAINST ALL DEFENDANTS)**

20 54. Plaintiff re-alleges and incorporates by reference all prior paragraphs of this
21 Complaint as though fully set forth herein.

22 55. The Game Stop Defendants owed a duty of care to Plaintiff and to the Putative
23 Class members, who are customers of the Game Stop Defendants and provided them with money
24 and funds to properly process their orders, to properly process refunds and properly account for
25 their money and properly fill their orders. Defendants also failed to timely deliver products after
26 consumers paid extra for one-day shipping. The Game Stop Defendants breached their duty of
27 care to Plaintiff and to the Putative Class members by improperly and negligently handling
28 orders, by among other things, improperly and negligently failing to issue refunds for returned

1 and/or cancelled orders, and by improperly handling and processing refund requests, which were
2 all actions below the duty of care.

3 56. As a result of Defendants' breaches of such written contracts, Plaintiff and the
4 Putative Class members have suffered damages in a sum to be determined at trial.

5 **SIXTH CAUSE OF ACTION FOR ACCOUNTING AND DISGORGEMENT**
6 **(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY**
7 **SITUATED AGAINST ALL DEFENDANTS)**

8 67. Plaintiff re-alleges and incorporates by reference all allegations in all preceding
9 paragraphs.

10 68. The Game Stop Defendants and Does 1-50 have received ill-gotten gains and
11 monetary benefits, at the expense of Plaintiff and of the Putative Class as alleged herein,
12 including, but not limited to, taking and converting the Plaintiff's and Putative Class's funds and
13 money, failing to ship products, failing to process returns and refund money while being in a
14 contractual position of trust with Plaintiff and the Putative Class. Yet the Defendants have kept all
15 such money for themselves. Defendants have received ill- gotten benefits and property and have
16 been unjustly enriched at the expense of Plaintiffs such that they are subject to accounting and
17 disgorgement, including also disgorgement of profits. Defendants also failed to timely deliver
18 products after consumers paid extra for one-day shipping.

19 69. It would be unjust and inequitable for said Defendants to retain those benefits and
20 profits at the expense of Plaintiffs, such that they should make restitution of such benefits and
21 money. Thus, it is appropriate to require an accounting and disgorgement.

22 70. The amount of such benefits and money wrongfully withheld by the Game Stop
23 Defendants is unknown, though it is likely millions of dollars, and Plaintiff and the Putative Class
24 seek an accounting and disgorgement from the Defendants of said benefits and profits wrongfully
25 obtained and wrongfully retained.

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SEVENTH CAUSE OF ACTION FOR UNJUST ENRICHMENT
(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED AGAINST ALL DEFENDANTS)

71. Plaintiff re-alleges and incorporates by reference all of the prior paragraphs in this Complaint as though fully set forth herein.

72. The Defendants have received ill-gotten gains and monetary benefits and have been unjustly enriched at the expense of Plaintiffs. It would be unjust and inequitable for said Defendants to retain those benefits, profits, and property at the expense of Plaintiffs, such that they should make restitution of such benefits and property.

EIGHTH CAUSE OF ACTION FOR CONSTRUCTIVE TRUST
(BY PLAINTIFF INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY
SITUATED AGAINST ALL DEFENDANTS)

73. Plaintiff re-alleges and incorporates by reference all of the prior paragraphs in this Complaint as though fully set forth herein.

74. The Game Stop Defendants have received ill-gotten gains and monetary benefits, at the expense of Plaintiff and the Putative Class as alleged herein, including, but not limited to, taking and converting the Plaintiff's and Putative Class's funds and money, failing to ship products, misleading consumers to purchase products, failing to process returns and refund money all while being in a contractual position of trust with Plaintiff and the Putative Class. Defendants have received ill-gotten benefits and property and have been unjustly enriched at the expense of Plaintiffs, such that Defendants are subject to accounting and disgorgement, including also disgorgement of profits. Said Defendants have wrongfully acquired and wrongfully continue to possess the money, property, and funds of Plaintiff and of the Putative Class.

75. The imposition of a constructive trust in favor of Plaintiff and of the Putative Class is necessary to avoid unjust enrichment due to fraud, mistake, undue influence, and violation of trust as alleged herein.

PRAYER FOR RELIEF

1
2 WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated persons,
3 prays for the following relief as against all Defendants GAMESTOP CORP. d/b/a Game Stop
4 Corp.; GAMESTOP, INC. and DOES 1-50:

5 1. That, at the earliest possible time, Plaintiff be allowed to give notice of this class
6 action, or that the Court issue such notice, to all those who are presently, or have at any time
7 during the four years immediately preceding the filing of this suit, up through and including the
8 date of this Court's issuance of court-supervised notice, been members of the Putative Class on
9 the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth causes of action.

10 2. Certification of this case as a class action pursuant to California Code of Civil
11 Procedure section 378 et seq.;

12 3. Designation of Plaintiff as the representative of the Putative Class, and designation
13 of Plaintiff's counsel as Class Counsel;

14 4. That the Court declare that Defendants GameStop Corp. and GameStop, Inc.'s
15 pattern and practice are such that they constitute unfair business practices under Business &
16 Professions Code sections 17200 et seq.

17 5. That the Court enter an order that Defendants GameStop Corp. and GameStop,
18 Inc. be ordered and enjoined to make restitution to Plaintiff and the Putative Class, due to their
19 unfair competition, including specifically the restitutionary disgorgement of all refunds and
20 money owed to Plaintiff and the class members, wrongfully retained by these Defendants,
21 pursuant to California Business and Professions Code section 17203-17204;

22 6. For disgorgement and restitution to the fullest extent provided by law;

23 7. For constructive trust;

24 8. That the Court enter punitive and exemplary damages against Defendants on
25 Plaintiff's Second Cause of Action for Conversion;

26 9. For reasonable attorney's fees, costs, and interest thereon to the fullest extent
27 permitted by law, including, but not limited to, California Code of Civil Procedure section
28 1021.5;

1 10. Pre-judgment interest and post-judgment interest to the fullest extent permitted by
2 law;

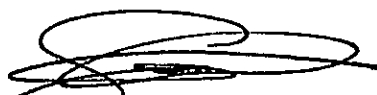
3 11. For general damages in an amount to be determined according to proof at trial as
4 to the Second, Third, Fourth and Fifth causes of action;

5 12. For special damages in an amount to be determined according to proof at trial as to
6 the Second, Third, Fourth and Fifth causes of action;

7 13. For injunctive relief in the form of preliminary and permanent injunctions to the
8 fullest extent permitted by law.

9 16. For such other and further relief as this Court deems just and proper.

10 DATED: May 15, 2019

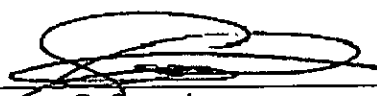
11 By: 
12 Steven C. Gonzalez
13 Giacomo Gallai

14 Attorneys for Plaintiff A. GILEWSKI

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff, individually and on behalf of the members of the Putative Class, hereby demands
17 a jury trial on all issues and claims regarding this Complaint.

18 DATED: May 15, 2019

19 By: 
20 Steven C. Gonzalez
21 Giacomo Gallai

22 Attorneys for Plaintiff A. GILEWSKI

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<p>SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</p>	<p style="font-size: small;">Reserved for Clerk's File Stamp</p> <p>FILED Superior Court of California County of Los Angeles 05/16/2019 Sherri R. Carter, Executive Officer / Clerk of Court By: <u>Steve Drew</u> Deputy</p>
<p>COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012</p>	
<p>NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE</p>	
<p>Your case is assigned for all purposes to the judicial officer indicated below.</p>	<p>CASE NUMBER: 19STCV17057</p>

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
✓	Maren Nelson	17					

Given to the Plaintiff/Cross-Complainant/Attorney of Record Sherri R. Carter, Executive Officer / Clerk of Court
 on 05/16/2019 (Date) By Steve Drew Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

***Provisionally Complex Cases**

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS

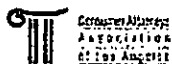


Superior Court of California
County of Los Angeles



Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – EARLY ORGANIZATIONAL MEETING			CASE NUMBER:

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, *to discuss and consider whether there can be agreement on the following:*
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE:	CASE NUMBER:
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lacourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ for the complaint, and _____ for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lacourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
(INSERT DATE) (INSERT DATE)
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR PLAINTIFF)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date: _____	➤	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – DISCOVERY RESOLUTION			CASE NUMBER:

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

SHORT TITLE:	CASE NUMBER:
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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR PLAINTIFF)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR _____)
Date: _____ (TYPE OR PRINT NAME)	v	_____ (ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			CASE NUMBER:

- This document relates to:
 - Request for Informal Discovery Conference
 - Answer to Request for Informal Discovery Conference
- Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).
- Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
- For a Request for Informal Discovery Conference, briefly describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, briefly describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION AND ORDER – MOTIONS IN LIMINE			CASE NUMBER:

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR PLAINTIFF)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)
Date: _____	✓ _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)

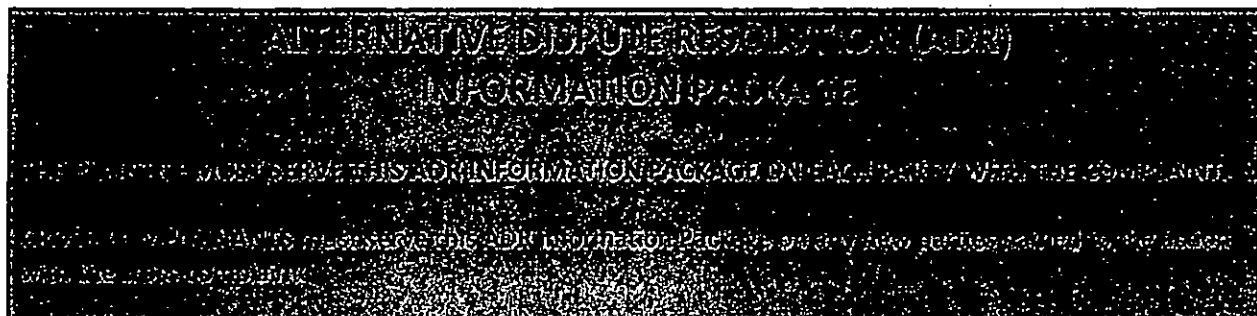
THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER



Superior Court of California, County of Los Angeles



What is ADR?

ADR helps people find solutions to their legal disputes without going to trial. The main types of ADR are negotiation, mediation, arbitration and settlement conferences. When ADR is done by phone or computer, it may be called Online Dispute Resolution (ODR). These "alternatives" to litigation and trial are described below.

Advantages of ADR

- **Saves Time:** ADR is faster than going to trial.
- **Saves Money:** Parties can save on court costs, attorney's fees and witness fees.
- **Keeps Control with the parties:** Parties choose their ADR process and provider for voluntary ADR.
- **Reduces stress/protects privacy:** ADR is done outside the courtroom, in private offices, by phone or online.

Disadvantages of ADR

- **Costs:** If the parties do not resolve their dispute, they may have to pay for ADR and litigation and trial.
- **No Public Trial:** ADR does not provide a public trial or a decision by a judge or jury.

Main Types of ADR:

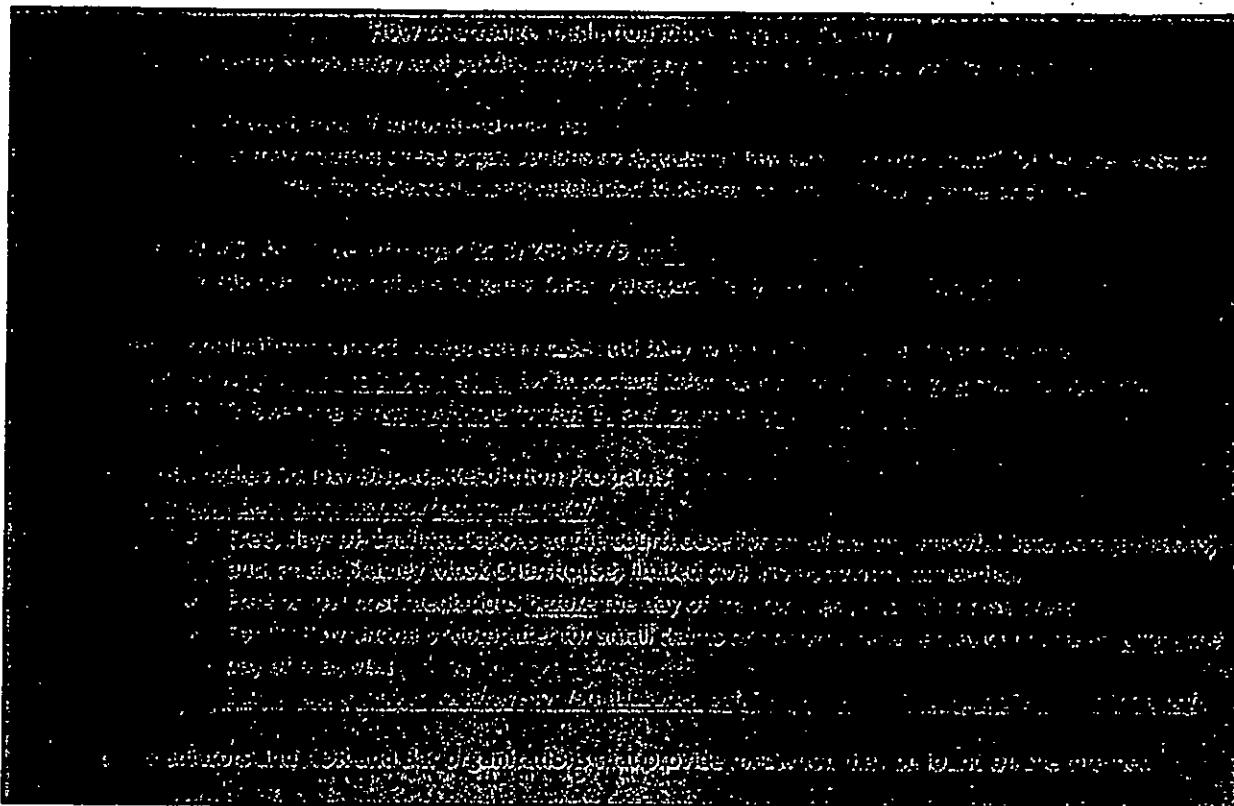
1. **Negotiation:** Parties often talk with each other in person, or by phone or online about resolving their case with a settlement agreement instead of a trial. If the parties have lawyers, they will negotiate for their clients.
2. **Mediation:** In mediation, a neutral "mediator" listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to try to create a settlement agreement that is acceptable to all. Mediators do not decide the outcome. Parties may go to trial if they decide not to settle.

Mediation may be appropriate when the parties

- want to work out a solution but need help from a neutral person.
- have communication problems or strong emotions that interfere with resolution.

Mediation may not be appropriate when the parties

- want a public trial and want a judge or jury to decide the outcome.
- lack equal bargaining power or have a history of physical/emotional abuse.



3. **Arbitration:** Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision. For more information about arbitration, visit <http://www.courts.ca.gov/programs-adr.htm>

4. **Mandatory Settlement Conferences (MSC):** MSCs are ordered by the Court and are often held close to the trial date. The parties and their attorneys meet with a judge or settlement officer who does not make a decision but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For information about the Court's MSC programs for civil cases, visit: www.lacourt.org/division/civil/settlement

Los Angeles Superior Court ADR website: www.lacourt.org/division/civil/settlement
 For general information and videos about ADR, visit <http://www.courts.ca.gov/programs-adr.htm>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 17

19STCV17057

A. GILEWSKI vs GAMESTOP CORP., et al.

June 13, 2019

10:28 AM

Judge: Honorable Maren Nelson

Judicial Assistant: M. Mata

Courtroom Assistant: None

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order

By this order, the Court determines this case to be Complex according to Rule 3.400 of the California Rules of Court. The Clerk's Office has randomly assigned this case to this department for all purposes.

By this order, the Court stays the case, except for service of the Summons and Complaint. The stay continues at least until the Initial Status Conference. Initial Status Conference is set for 08/06/2019 at 09:00 AM in this department. At least 10 days prior to the Initial Status Conference, counsel for all parties must discuss the issues set forth in the Initial Status Conference Order issued this date. The Initial Status Conference Order is to help the Court and the parties manage this complex case by developing an orderly schedule for briefing, discovery, and court hearings. The parties are informally encouraged to exchange documents and information as may be useful for case evaluation.

Responsive pleadings shall not be filed until further Order of the Court. Parties must file a Notice of Appearance in lieu of an Answer or other responsive pleading. The filing of a Notice of Appearance shall not constitute a waiver of any substantive or procedural challenge to the Complaint. Nothing in this order stays the time for filing an Affidavit of Prejudice pursuant to Code of Civil Procedure Section 170.6.

Counsel are directed to access the following link for information on procedures in the Complex litigation Program courtrooms: <http://www.lacourt.org/division/civil/CI0037.aspx>

According to Government Code section 70616 subdivisions (a) and (b), each party shall pay a fee of \$1,000.00 to the Los Angeles Superior Court within 10 calendar days from this date.

The plaintiff must serve a copy of this minute order and the attached Initial Status Conference Order on all parties forthwith and file a Proof of Service in this department within 7 days of

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
Civil Division
Central District, Spring Street Courthouse, Department 17

19STCV17057
A. GILEWSKI vs GAMESTOP CORP., et al.

June 13, 2019
10:28 AM

Judge: Honorable Maren Nelson
Judicial Assistant: M. Mata
Courtroom Assistant: None

CSR: None
ERM: None
Deputy Sheriff: None

service.

Certificate of Mailing is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	FILED Superior Court of California County of Los Angeles 06/13/2019
PLAINTIFF/PETITIONER: A. Gilewski	Sherri R. Carter, Executive Officer / Clerk of Court By: <u>Maribel Mata</u> Deputy
DEFENDANT/RESPONDENT: Gamestop Corp. et al	
CERTIFICATE OF MAILING	CASE NUMBER: 19STCV17057

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order, Initial Status Conference Order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Steven Christopher Gonzalez
Hua Gallai & Gonzalez, LLP
433 N Camden Dr
Fl 4
Beverly Hills, CA 90210

Sherri R. Carter, Executive Officer / Clerk of Court

Dated: 06/13/2019

By: Maribel Mata
Deputy Clerk

CERTIFICATE OF MAILING

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ORIGINAL FILED
Superior Court of California
County of Los Angeles
JUN 13 2019
Sheri R. Carter, Executive Officer/Clerk of Court
By: Maribel Mata, Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

)	Case No.: 19STCV17057
A. GILEWSKI)	INITIAL STATUS CONFERENCE ORDER
Plaintiff,)	(COMPLEX CASES AND CLASS
)	ACTIONS)
vs.)	
)	
)	Dept. SSC-17
GAMESTOP CORP.)	Spring Street Courthouse
)	Hon. Maren E. Nelson
Defendants)	

This case has been assigned, for all purposes, to the Complex Litigation Program, Department SSC-17, Spring Street Courthouse (312 N. Spring Street, Los Angeles, CA 90012), Hon. Maren E. Nelson.

Pending further order, the following is ordered:

//
//

I. Immediate Stay in Proceedings to Facilitate Case Management

1 All proceedings, including motions and discovery, are stayed. The stay
2 precludes defendants from filing answers, demurrers, motions to strike, and motions
3 challenging jurisdiction. It also stays all parties' obligations to respond to any discovery
4 promulgated in the case to date.

5 Future stays imposed in this action for purposes of managing the case, including
6 stays of discovery, do not affect the five year period in which cases shall be brought to
7 trial under Code of Civil Procedure Section 583.310 unless the parties otherwise so
8 stipulate in accordance with Section 583.330.

9 This stay is issued to assist in managing this "complex" case and to reduce
10 litigation costs through the development of an orderly schedule for briefing and hearings
11 on procedural and substantive challenges to the complaint and other issues that may
12 assist in the orderly management of this case. This stay shall not preclude the parties
13 from continuing to informally exchange documents that may assist in their initial
14 evaluation of the issues presented in this case; however, all outstanding discovery
15 requests are stayed.

16
17 **II. Initial Status Conference**

18 Counsel for all parties shall appear in Department SSC-17 **in person** for an Initial
19 Status Conference ("ISC") on August 6, 2019 at 9:00 a.m. Counsel attending the ISC or
20 any other status conference should be familiar with the facts as then understood and be
21 able to make binding agreements respecting case management.

22 Parties presently engaged in mediation or who have a secured a date with a
23 mediator for mediation may stipulate to one continuance of the ISC, provided they also
24 agree upon an e-service provider, as set forth in Item 5, below, and include the name of
25 the provider in their Stipulation for Continuance.

1 At the ISC, the Court will discuss case management and invite the parties to
2 propose procedures to enhance efficiency and avoid duplicative or unnecessary
3 expenditures of time. The Court is particularly interested in making early decisions on
4 any threshold or potentially dispositive issues as a means of enhancing the parties'
5 ability to assess the case.

6 At least 15 days prior to the ISC, all counsel shall meet together, in person, to
7 discuss case management.¹ Plaintiff's counsel shall take the lead in preparing a joint
8 ISC Statement and ensuring that it is filed at least **five COURT** days prior to the ISC.
9 To the extent the parties are unable to agree on a joint submission, each party may
10 separately present a brief statement of its position.

11 The ISC Statement shall contain the following:

- 12
- 13 1. A succinct description of key factual and legal issues in the case to
14 alert the Court to likely proceedings and disputes, e.g., important contractual
15 provisions, statutes, regulations, and affirmative defenses, and pending appellate
16 cases that may impact the action. This discussion should include any issues of
17 jurisdiction, venue, contractual arbitration/judicial reference that any party intends
18 to raise and the meet and confer efforts to date on these issues. In class
19 actions, counsel should address issues such as an agreement to share the cost
20 of class notice/opt out procedures, the adequacy of class representatives,
21 conflicts of interest among class representatives, and contractual arbitration
22 provisions affecting jurisdiction.
- 23

24

25 ¹ If the travel time for an in-person meeting exceeds 90 minutes, counsel may participate by telephone provided that they use technology allowing face-to-face communication.

- 1 2. Whether the action incorrectly identifies the name of any party and whether any
2 party intends to add parties by way of amendment, cross-complaint, or the like.
- 3 3. The names, addresses, telephone, email, and facsimile numbers of all counsel
4 and the parties they represent.
- 5 4. Any basis for the Court's recusal or disqualification.
- 6 5. A joint recommendation for an e-service provider for inclusion in the Court's
7 order for initiation of e-service. The parties must employ an agreed e-service
8 provider. The parties shall identify the appointed e-service provider in the
9 caption of each filing.
- 10 6. A brief description of any related cases pending in other courts or anticipated for
11 future filing.
- 12 7. Whether or not there is insurance coverage for this dispute and the extent of
13 coverage for liability and/or defense costs, as well as the names of the carriers.
- 14 8. A plan to preserve evidence, to deploy a uniform system for identification of
15 documents, and to protect confidentiality by, for example, executing a protective
16 order.
- 17 9. A discovery plan reflecting the parties' consideration of phased discovery, e.g.,
18 limiting initial discovery to a significant or dispositive issue as a predicate to an
19 important early ruling or meaningful participation in an early mediation. In class
20 actions, the parties should address whether discovery should initially be limited to
21 class certification issues.
- 22 10. Where appropriate, the parties should outline a process for managing discovery
23 of electronically stored information (ESI) by, for example, scheduling a meeting
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among counsel and the parties' information technology consultants in order to address (1) the information management systems employed by the parties; (2) the location and custodian(s) of information likely to be subject to production (including the identification of network and email servers and hard drives maintained by target custodians); (3) the format in which electronically stored information will be produced; (4) the type of ESI that will be produced, i.e., data files, emails, etc.; and (5) appropriate search criteria for focused requests.

11. All discovery disputes shall be resolved by reference to the Code of Civil Procedure, unless otherwise stipulated. Counsel shall advise whether they wish to enter into stipulations to resolve discovery disputes such as:

- i. Agreeing to meet and confer in person (after exchanging correspondence articulating each side's position) in an effort to narrow the issues in dispute;
- ii. Extending deadlines for filing motions to compel in favor of jointly scheduling an informal discovery conference in an effort to achieve a mediated solution;
- iii. Structuring discovery motions as joint statements presenting each side's position on jointly identified issues.

12. Any proposed mechanism and the timing of mediation and/or mandatory settlement conferences to assist in resolution of the case.

13. Any issues regarding publicity which the Court should consider.

1 14. Recommended dates and times for trial, filing of motions for class certification,
2 alternative dispute resolution, and deadlines (and proposed briefing schedules)
3 for filing other anticipated motions.

4 15. A recommended date for the next Status Conference.

5 16. Counsel for plaintiff shall specifically address the role of Los Angeles County
6 Credit Union in this case (See complaint, paragraph 6,7).

7 **III. Reminders And Other Information**

8 (1) Counsel may secure date for motions by calling the calendar clerk at 213-
9 310-7017.

10 (2) Counsel may appear by CourtCall for status conferences other than the ISC.
11 Please use this device in a quiet place and note that a party speaking on CourtCall may
12 not hear simultaneous speech in the courtroom. Please speak slowly and pause
13 frequently.

14 (3) Court reporters are not provided for hearings or trials. The parties should
15 make their own arrangements in this regard for any hearing where a transcript is
16 desired.

17 (4) It is the responsibility of all counsel to notify the Court promptly of any related
18 case and to secure a ruling thereon. See Cal. Rules of Court, Rule 3.300 et. seq. This
19 responsibility is on-going.

20 (5) In the ordinary course discovery motions will not be heard without an Informal
21 Discovery Conference pursuant to Cal. Code of Civ. Pro. § 2016.080. Counsel may
22 arrange for an IDC by filing LACIV094.

23 (6) Posting documents to the e-service provider does not constitute filing a
24 document. The parties must physically deliver a copy to be filed at the filing window,
25

1 courtroom, or file by facsimile. All filings shall be at the Mosk Courthouse, 111 N. Hill
2 Street, Los Angeles CA. Counsel must deliver a courtesy copy to the courtroom at
3 Spring Street on the day of filing. Filings will not be received at the Spring Street
4 Courthouse except for same day ex parte applications and documents filed for trials in
5 progress. Further details are available on the Court's website at:

6 <http://www.lacourt.org/newsmedia/notices/attorneynotice>.

7 (7) If the e-service provider maintains a message board any message for the
8 Court should be joint and neutral in tone.

9 (8) Counsel desiring a protective order should consult the model on the court's
10 website and provide a redlined copy if deviations are made from same.

11 (9) The dismissal of a class action requires court approval. Cal. Rules of Court,
12 Rule 3.770(a). Counsel must submit a declaration setting forth, among other things,
13 the reasons why a party seeks a dismissal in a class action and any and all
14 consideration given in exchange for the dismissal.

15 (10) Settlement of claims filed under the Private Attorney General Act (PAGA)
16 (whether or not filed as part of a class action) require notice to the Labor and Workforce
17 Development Agency. Labor Code § 2699 (l)(2). Department SSC-17 requires a
18 noticed hearing, with proof of service to LWDA and a proposed Order, to secure
19 approval of the settlement of a PAGA claim. If properly noticed and no timely opposition
20 is filed, the matter ordinarily will be treated as an unopposed motion which will be
21 reviewed in chambers and without the need for an appearance at the hearing by
22 counsel. If the matter is opposed, or counsel are otherwise notified by the Clerk, an
23 appearance is required.

24 (11) To obtain approval of a class action settlement, the parties should adhere to
25 the Guidelines for Motions for Preliminary and Final Approval posted on the court's

1 website under Tools for Litigators. The Court requires counsel to address any fee
2 splitting arrangement(s) and to demonstrate compliance with California Rules of Court,
3 Rule 3.769 and the Rules of Professional Conduct 2-200(a). *Mark v. Spencer* (2008)
4 166 Cal.App.4th 219.

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6 **IV. Notice of the ISC Order**

7 Plaintiff's counsel shall serve this Initial Status Conference Order on all defense
8 counsel, or if counsel is not known, on each defendant within five (5) days of the date of
9 this Order. If the Complaint has not been served as of the date of this Order, plaintiff(s)
10 must serve the Complaint, along with a copy of this Order, within five (5) days of the
11 date of this Order.

12 Each as yet non-appearing defendant shall file a Notice of Appearance
13 (identifying counsel by name, firm name, address, email address, telephone number
14 and fax number). The filing of a Notice of Appearance is without prejudice to (a) any
15 jurisdictional, substantive or procedural challenge to the Complaint, (b) any affirmative
16 defense, and (c) the filing of any cross-complaint in this action.

17 Date: ~~5/7/19~~ 6/13/19

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Maren E. Nelson
21 Judge of the Superior Court
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23
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [GameStop Hit with Class Action Over Alleged Failure to Provide Refunds on Undelivered, Returned Items](#)
