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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES**

16 D.D., a minor, individually and on behalf of
17 all others similarly situated,
18 **Plaintiff,**
19 v.
20 NIANTIC, INC.,
21 **Defendant.**

Case No. 23STCV03241

ASSIGNED FOR ALL PURPOSES TO
JUDGE STUART M. RICE, DEPT. 001

**[PROPOSED] FINAL ORDER
APPROVING CLASS ACTION
SETTLEMENT**

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1 The Court has considered the Class Action Settlement Agreement between Plaintiff D.D.
2 (“Plaintiff”) and Defendant Niantic, Inc., (“Defendant” or “Niantic”), dated February 8, 2024, the
3 motion for an order finally approving the Settlement Agreement, the record in this Action, the
4 arguments and recommendations made by counsel, and the requirements of the law. The Court
5 finds and orders as follows:

6 **I. FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

7 1. The Settlement Agreement is approved under California Rules of Court Rule 3.769
8 and Code of Civil Procedure § 382. The Court finds that the Settlement Agreement and the
9 Settlement it incorporates appear fair, reasonable, and adequate, and its terms are within the range
10 of reasonableness. The Settlement Agreement was entered into at arm’s-length by experienced
11 counsel after extensive negotiations spanning months, including with the assistance of a third-
12 party mediator. The Court finds that the Settlement Agreement is not the result of collusion.

13 **II. DEFINED TERMS**

14 2. For the purposes of this Final Approval Order and Final Judgment (“Order”), the
15 Court adopts all defined terms as set forth in the Settlement Agreement.

16 **III. NO ADMISSIONS AND NO EVIDENCE**

17 3. This Order, the Settlement Agreement, the Settlement provided for therein, and
18 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received,
19 or construed as evidence of, a presumption, concession, or an admission by any Party or any of
20 the Released Parties of wrongdoing, to establish a violation of any law or duty, an admission that
21 any of the practices at issue violate any laws or require any disclosures, any liability or non-
22 liability, the certifiability or non-certifiability of a litigation class in this case, or any
23 misrepresentation or omission in any statement or written document approved or made by any
24 Party.

1 **IV. JURISDICTION**

2 4. For the purposes of the Settlement of the Action, the Court finds it has subject
3 matter and personal jurisdiction over the Parties, including all Settlement Class Members, and
4 venue is proper.

5 **V. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

6 5. The Court finds and concludes that, for the purposes of approving this Settlement
7 only, the proposed Settlement Class meets the requirements for certification under California
8 Code of Civil Procedure § 382: (a) the Settlement Class is so numerous that joinder of all
9 members is impracticable; (b) there are questions of law or fact common to the Settlement Class;
10 (c) the claims or defenses of the Settlement Class Representative are typical of the claims or
11 defenses of the Settlement Class; (d) Settlement Class Representative and Class Counsel will
12 fairly and adequately protect the interests of the Settlement Class because Settlement Class
13 Representative have no interests antagonistic to the Settlement Class, and have retained counsel
14 who are experienced and competent to prosecute this matter on behalf of the Settlement Class;
15 and (e) the Defendant has acted on grounds that apply generally to the Settlement Class, so that
16 final injunctive relief is appropriate respecting the Settlement Class as a whole.

17 6. The Settlement Agreement was reached after extensive investigation and motion
18 practice, and was the result of protracted negotiations conducted by the Parties, over the course of
19 several months, including with the assistance of a neutral mediator. Settlement Class
20 Representative and Class Counsel maintain that the Action and the claims asserted therein are
21 meritorious and that Settlement Class Representative and the Class would have prevailed at trial.
22 Defendant denies the material factual allegations and legal claims asserted by Settlement Class
23 Representative in this Action, maintains that a class would not be certifiable under any Rule, and
24 that the Settlement Class Representative and Class Members would not prevail at trial.
25 Notwithstanding the foregoing, the Parties have agreed to settle the Action pursuant to the
26 provisions of the Settlement Agreement, after considering, among other things: (a) the benefits to
27 the Settlement Class Representative and the Settlement Class under the terms of the Settlement
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1 Agreement; (b) the uncertainty of being able to prevail at trial; (c) the uncertainty relating to
2 Defendant's defenses and the expense of additional motion practice in connection therewith;
3 (d) obstacles to establishing entitlement to class-wide relief; (e) the attendant risks of litigation,
4 especially in complex actions such as this, as well as the difficulties and delays inherent in such
5 litigation and appeals; and (f) the desirability of consummating the Settlement promptly in order
6 to provide effective relief to the Settlement Class Representative and the Settlement Class.

7 7. The Court accordingly certifies, for settlement purposes only, a class consisting of
8 all persons in the United States who made a purchase in Pokémon Go while under the age of 18.
9 Excluded from the Settlement Class are (i) all Persons who are directors, officers, and agents of
10 Niantic or its subsidiaries and affiliated companies or are designated by Niantic as employees of
11 Niantic or its subsidiaries and affiliated companies; and (ii) the Court, the Court's immediate
12 family, and Court staff, as well as any appellate court to which this matter is ever assigned, and its
13 immediate family and staff.

14 **VI. NOTICE**

15 8. Within 75 days of the order granting preliminary approval, using records kept in
16 the ordinary course of business, Niantic sent an email, substantially in the form of Exhibit C to
17 the Settlement Agreement, attached to the email addresses of the users' accounts that Niantic has
18 identified through reasonable best efforts may have made a purchase in Pokémon GO while they
19 were under 18 years of age from July 1, 2016 to and through the date of preliminary approval.
20 Niantic sent these emails to the extent that it has an email address associated with the user'
21 accounts, which may be the email address of the user's parent or guardian in some cases. Niantic
22 currently estimates that it has email addresses associated with at least 95% of user accounts.
23 Additionally, Class Notice (Exhibit C to Settlement Agreement) was provided via the following
24 information posted on Class Counsel's website, the Settlement Agreement, Plaintiff's motion for
25 preliminary approval, the order granting preliminary approval, and Plaintiff's motion for
26 attorneys' fees and incentive awards (including any opposition and reply papers). Additionally,
27 Niantic will give Pokémon Go users notice when it revises its Terms of Service after the Effective
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1 Date of the Settlement. The Court finds that this constituted appropriate and adequate notice of
2 the Settlement.

3 **VII. CLAIMS COVERED AND RELEASES**

4 9. This Order constitutes a full, final and binding resolution between the Class
5 Representative's Releasing Parties, on behalf of themselves and the Settlement Class Members,
6 and the Released Parties. This Release shall be applied to the maximum extent permitted by law.

7 10. Upon the Effective Date and by operation of this Order, the Settlement Class
8 Representative's Releasing Parties will fully, finally, and forever release, relinquish, and
9 discharge any and all Settlement Class Representative's Released Claims, including claims for
10 monetary relief and damages, known and unknown, as well as provide a waiver under California
11 Civil Code Section 1542. Settlement Class Representative's Releasing Parties are forever
12 enjoined from taking any action seeking any relief against the Released Parties based on any
13 Settlement Class Representative's Released Claims.

14 11. Upon the Effective Date and by operation of this Order, the Releasing Parties will
15 fully, finally, and forever release, relinquish, and discharge the Settlement Class Members'
16 Released Claims, including any and all claims for injunctive and/or declaratory relief of any kind
17 or character, at law or equity, known or unknown, preliminary or final, under any other federal or
18 state law or rule of procedure, from the Releasing Parties' first interaction with Niantic up until
19 and including the Effective Date, that result from, arise out of, are based on, or relate in any way
20 to the practices and claims that were alleged in the Action, except that, notwithstanding the
21 foregoing, the Releasing Parties do not release claims for monetary relief or damages. The
22 Releasing Parties are forever enjoined from taking any action seeking injunctive and/or
23 declaratory relief against the Released Parties based on any Settlement Class Members' Released
24 Claims.

25 12. Upon the Effective Date and by operation of this Order, Niantic will fully, finally,
26 and forever release, relinquish, and discharge any and all Niantic's Released Claims against the
27 Settlement Class Representative's Releasing Parties, from the Settlement Class Representative's
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1 first interaction with Niantic up until and including the Effective Date, that result from, arise out
2 of, are based on, or relate in any way to the practices and claims that were alleged in the Action.
3 Niantic is forever enjoined from taking any action seeking any relief against the Settlement Class
4 Representative's Releasing Parties based on any of Niantic's Released Claims.

5 13. The Settlement Agreement and this Order shall be the exclusive remedy for any
6 and all Released Claims of the Settlement Class Representatives, Settlement Class Members, and
7 Niantic.

8 **VIII. INJUNCTIVE RELIEF**

9 14. Under the terms of the Settlement, within 60 days of the Settlement's Effective
10 Date and for so long as Niantic's current refund policy remains in place, Niantic will agree to
11 include language in substantially the following form in its terms of service applicable to U.S.
12 players ("Terms of Service"): "You agree that all sales by us to you of Virtual Money and Virtual
13 Goods are final and that we will not permit exchanges or refunds for any unused Virtual Money
14 or Virtual Goods once the transaction has been made, unless otherwise required by law." In the
15 event that Niantic substantively modifies its refund policy applicable to U.S. players in the future,
16 its Terms of Service discussing that policy shall incorporate similar language acknowledging that
17 such new policy applies unless otherwise required by law.

18 15. So long as Niantic continues to charge users money for PokéCoins or another
19 equivalent in-game currency for Pokémon GO, in processing any direct requests for refunds,
20 Niantic will:

- 21 i) For Apple and Samsung purchases, for which Niantic is not permitted to and does
22 not process direct refunds, in its standard response redirecting users to Apple or
23 Samsung, add language in substantially the following form: "Please note that app
24 store refund policies may vary based on the location of user and the age of user,
25 including legal minority, at the time of purchase, as may be required by applicable
26 law." Niantic shall not be required to continue to implement this relief in the
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1 future if, in Niantic’s reasonable discretion, this language is no longer applicable
2 to the manner in which Apple or Samsung refund requests are handled.

3 ii) For Google Play Store purchases, for which Niantic is permitted to and does
4 process limited numbers of direct refunds, in its standard response for U.S. users
5 seeking additional information about the purchase, add language to prompt users
6 to indicate whether the purchase of PokéCoins or another equivalent in-game
7 currency for Pokémon GO was made when the user was a minor without parental
8 consent, except as prohibited by local law. Niantic shall not be required to
9 continue to implement this relief in the future if, in Niantic’s reasonable discretion,
10 this provision is no longer applicable to the manner in which Google Play Store
11 refund requests are handled.

12 16. So long as Niantic continues to charge users money for PokéCoins or another
13 equivalent in-game currency for Pokémon GO, in its public-facing Pokémon GO Help Center, for
14 help pages currently referencing assistance with refunds for such purchases, Niantic will:

- 15 i) Add specific links to Apple, Google, and Samsung In-App Purchase refund
16 policies for reference.
- 17 ii) Add language in substantially the following form: “Please note that app store
18 refund policies may vary based on the location of user and the age of user,
19 including legal minority, at the time of purchase, as may be required by applicable
20 law.”
- 21 iii) Niantic will also add these Pokémon GO Help Center changes into the in-app Help
22 sections on the same topics.
- 23 iv) Niantic shall not be required to continue to implement this relief in the future if, in
24 Niantic’s reasonable discretion, these changes are no longer applicable to the
25 manner in which direct requests for refunds are handled.

26 17. So long as Niantic continues to charge users money for PokéCoins or another
27 equivalent in-game currency for Pokémon GO, for all refund requests processed by Niantic,
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1 which currently includes purchases from the Google Play Store, Niantic will implement a
2 dedicated process to address refund requests, subject to confirmation of minority. *Id.*, § IV.39.d.
3 The personnel staffing this dedicated process will receive further training, on an as-needed basis,
4 regarding how to analyze and process such refund requests in accordance with applicable law. *Id.*
5 Niantic shall not be required to continue to implement this relief in the future if, in Niantic's
6 reasonable discretion, this dedicated process is no longer applicable to the manner in which direct
7 requests for refunds are handled.

8 18. Niantic will agree that its refund policies and practices with respect to U.S. minors
9 will comply with the California Family Code.

10 **IX. ATTORNEYS' FEES AND EXPENSES AND INCENTIVE AWARDS**

11 19. The Court has also considered Plaintiff's Motion for Attorneys' Fees, Costs,
12 Expenses, and Incentive Award, as well as the supporting declarations, and adjudges that the
13 payment of attorneys' fees, costs, and expenses in the amount of \$875,000 is reasonable under
14 California law. *In re Consumer Privacy Cases*, 175 Cal.App.4th 545, 551 (2009); *Wershba v.*
15 *Apple Computer*, 91 Cal.App.4th 224, 254-255 (2001); *Lealao v. Benefit Cal.*, 82 Cal.App.4th 19,
16 26-34 (2000); *Serrano v. Priest*, 20 Cal.3d 25, 34-48 (1977). This award includes Class
17 Counsel's unreimbursed litigation expenses. Such payment shall be made pursuant to and in the
18 manner provided by the terms of the Settlement Agreement.

19 20. The Court has also considered Plaintiff's Motion and supporting declarations for
20 an incentive award to the Class Representative, D.D. The Court adjudges that the payment of an
21 incentive award in the amount of \$1,500 to D.D. to compensate him for his efforts and
22 commitment on behalf of the Settlement Class, is fair, reasonable, and justified under the
23 circumstances of this case. Such payment shall be made pursuant to and in the manner provided
24 by the terms of the Settlement Agreement.

1 **X. AUTHORIZATION TO PARTIES TO IMPLEMENT AGREEMENT AND**
2 **MODIFICATIONS OF AGREEMENT**

3 21. By this Order, the Parties are hereby authorized to implement the terms of the
4 Settlement Agreement. After the date of entry of this Order, the Parties may by written
5 agreement effect such amendments, modifications, or expansions of the Settlement Agreement
6 and its implementing documents (including all exhibits thereto) without further approval by the
7 Court if such changes are consistent with terms of this Order and do not materially alter, reduce,
8 or limit the rights of Settlement Class Members under the Settlement Agreement.

9 **XI. TERMINATION**

10 22. In the event that the Settlement Agreement is terminated pursuant to the terms of
11 the Settlement Agreement, (a) the Settlement Agreement and this Order shall become void, shall
12 have no further force or effect, and shall not be used in any action or other proceedings for any
13 purpose other than as may be necessary to enforce the terms of the Settlement Agreement that
14 survive termination; (b) this matter will revert to the status that existed before execution of the
15 Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the
16 Parties' settlement discussions, negotiations, or documentation (including any briefs filed in
17 support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence
18 for any purpose in any action or other proceeding other than as may be necessary to enforce the
19 terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or
20 concession by any Party regarding the validity of any Released Claim or the propriety of
21 certifying any class against Niantic, or (iii) be deemed an admission or concession by any Party
22 regarding the truth or falsity of any facts alleged in the Action or the availability or lack of
23 availability of any defense to the Released Claims.

24 **XII. RETENTION OF JURISDICTION**

25 23. The Court shall retain jurisdiction over any claim relating to the Settlement
26 Agreement (including all claims for enforcement of the Settlement Agreement and/or all claims
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arising out of a breach of the Settlement Agreement) as well as any future claims by any Settlement Class Member relating in any way to the Released Claims.

IT IS SO ORDERED.

DATED: _____

Honorable Stuart M. Rice
Judge of the Los Angeles Superior Court