SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VIDEOGAME ADDICTION CASES

Case No.: JCCP 5363

~~[TENTATIVE]~~ ORDER GRANTING PETITION FOR COORDINATION

Hearing Date: April 11, 2025
Hearing Time: 1:45 p.m.
Dept.: 7

Plaintiffs and petitioners Yvette Magallanes, as Guardian ad Litem of Vanessa Saenz and of E.S., Saenz's child, a minor (collectively, "Petitioners"), petition the Court to coordinate their case with five other cases and to venue the coordinated proceeding here, in Los Angeles County. The plaintiffs in each of the other five cases support the petition. Most if not all defendants in the six cases oppose the petition — defendants Roblox Corporation; Epic Games, Inc; Sony Interactive Entertainment, LLC; Apple, Inc.; and Google, LLC (collectively, "Defendants").

For the reasons explained below, the Court concludes that coordination is appropriate and GRANTS the petition.

I. Introduction

Petitioners seek to coordinate the following six cases:

(1) Their case, *Saenz v. Roblox Corporation* (Super. Ct. L.A. County, Case No. 24STCV21076, filed Aug. 19, 2024),

(2) *Conant v. Roblox Corporation* (Super. Ct. L.A. County, Case No. 24STCV20942, filed Aug. 16, 2024),

(3) *Jasper v. Roblox Corporation* (Super. Ct. Kern County, Case No. BCV-24-102789, filed Aug. 16, 2024),

(4) *Freeman v. Roblox Corporation* (Super. Ct. L.A. County, Case No. 24STCV20804, filed Aug. 19, 2024),

(5) *Martin v. Roblox Corporation* (Super. Ct. L.A. County, Case No. 24STCV20820, filed Aug. 16, 2024), and

(6) *Jefferson v. Roblox Corporation* (Super. Ct. L.A. County, Case No. 24STCV20810, filed Aug. 16, 2024).[1]

(Declaration of Anya Fuchs in Support (Nov. 14, 2024) ("Fuchs Decl.") ¶ 4, Exh. 1.) Their counsel also represents the plaintiffs in *Conant*, whereas different counsel represents the plaintiffs in the other four cases — *Jasper*, *Freeman*, *Martin*, and *Jefferson*. All but *Jasper*, the case pending in Kern County, have been designated as "complex" cases within the meaning of rule 3.400 of the California Rules of Court.

Petitioner Magallanes is the guardian ad litem of petitioners Saenz and her minor child, E.S. (Complaint (Aug. 18, 2024) ¶ 1.) E.S. was eight years old at the time Petitioners filed their case. (*Id.* at ¶ 95.) They (E.S.)[2] had begun playing video games — specifically Roblox, Fortnite, and Minecraft — at around age three, using various gaming devices, specifically an iPhone and an iPad, having accessed the games via the App Store;

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[1] After the petition was fully briefed, Petitioners filed a document titled "Status Update" identifying additional cases they believe are appropriate to include in the proposed coordinated proceeding. The Court is aware of the filing but does not address it here, given that Defendants have not had the opportunity to address the additional cases that Petitioners propose to include in the coordinated proceeding.

[2] Per Petitioners' complaint, the Court, to protect E.S.'s privacy, refers to E.S. using the pronouns they/them.

PlayStation4 and PlayStation5 gaming consoles; and PlayStation Network. (*Id.* at ¶¶ 97-98.) E.S. allegedly became addicted to the video games, causing, among other things, brain damage and delayed development, depression, rage and aggression, and a compulsive inability to participate in activities besides gaming. (*Id.* at ¶ 99.) E.S. allegedly now plays the video games for five to nine hours daily, on average. (*Id.* at ¶ 104.)

Petitioners have named six defendants in their case, all of whom allegedly designed, manufactured, marketed, or distributed that video games that E.S. played. The defendants are Roblox Corporation; Epic Games, Inc.; Sony Interactive Entertainment LLC; and Apple, Inc., against whom petitioners seek damages, including punitive damages, based on theories of negligence, strict liability, and fraud. (Complaint, ¶¶ 68-91, 338-502.)

The plaintiffs in the other five cases proposed for coordination are all minors who allege they have been harmed by playing either Roblox or Fortnite or both. (Fuchs Decl., ¶ 8(f), Exh. 4.) Their alleged harm is a collection of the same or similar symptoms of what they call "videogame addiction."

II. Legal Standard: Petition for Coordination

Coordination of civil actions sharing a common question of fact or law is appropriate if one judge hearing all of the actions for all purposes in a selected site or sites will promote the ends of justice taking into account whether (a) the common question of fact or law is predominating and significant to the litigation; (b) the convenience of parties, witnesses, and counsel; (c) the relative development of the actions and the work product of counsel; (d) the efficient utilization of judicial facilities and manpower; (e) the calendar of the courts; (f) the disadvantages of duplicative and inconsistent rulings, orders, or judgments; and, (g) the likelihood of settlement of the actions without further litigation should coordination be denied. (Code Civ. Proc., § 404.1.)

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III. Analysis

Petitioners and Defendants dispute whether coordination is appropriate.[3]

A. Common Question "Predominating and Significant"

The first element that ensures a coordinated proceeding will promote the ends of justice is the common question of fact or law "is predominating and significant to the litigation."

As with any coordinated proceeding of products-liability cases, the common question, in general terms, is whether the defendants' product caused the plaintiffs' alleged harm. Defendants here argue this common question is not predominating and significant because three of its terms raise issues specific to each case proposed for coordination — the terms "products," "defendants," and "plaintiffs."

First is the term "products." Petitioners argue the cases proposed for coordination define the term "Products" consistently to mean "certain video games (Roblox and Fortnite, or both, inherently including their patent-protected technologies of addictive design features), as well as the mechanisms, systems, and/or devices through which minors use, access, and consume those games." (Memorandum, 4:14-16.) Defendants, on the other hand, emphasize that "video games vary widely" — "To say that all video games are essentially the same would be like saying that all toys or television shows are essentially the same." (Opposition Brief, 7:21-25.) They do not dispute that the plaintiffs allege exposure to Roblox or Fortnite or both. In their view Roblox, however, cannot be considered a single videogame, but is more accurately a gaming platform "that hosts and enables users to create their own games." (*Id.* at p. 8, fn. 4.) Roblox, according to Defendants, in fact hosts over six million different user-created games. (*Ibid.*)

Defendants further argue there is variation in the plaintiffs' means of exposure to Roblox and Fortnite, that is, the platforms they allegedly used to play the video games.

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[3] Defendants request the Court take judicial notice of two orders by other trial courts that denied petitions for coordination. (Request for Judicial Notice in Opposition (Feb. 19, 2025) Exhs. A-B.) The Court denies Defendants' requests for judicial notice. Orders by other trial courts have no precedential value, and judicial notice cannot be used to circumvent this rule. (*Crab Addison, Inc. v. Superior Court* (2008) 169 Cal.App.4th 958, 963, fn. 3.)

The plaintiffs allege they played Roblox and Fortnite using Sony's PlayStation, the Apple App Store, Google Play, and Microsoft Xbox. Citing the various plaintiffs' allegations, Defendants argue each platform has its own "unique design, controls, restrictions, and user experiences." (Opposition Brief, 9:3-5.)

However, in product-liability cases, variation in the challenged products — both in which products were used and how they were used — does not necessarily render coordination of the cases inappropriate. In *McGhan Medical Corp. v. Superior Court* (1992) 11 Cal.App.4th 804, 814 (*McGhan*), plaintiffs in over 300 separate cases alleged they had been injured by products that were "several and differ[ed] in terms of manufacture, design and content" that were nevertheless "similar in that they relate[d] to breast implant devices." (*Ibid.*) Coordination of the cases was appropriate. The products here, however defined, are similar in that are — or at least relate to — Roblox and Fortnite. Although there might be variations in games the plaintiffs allegedly played on Roblox, for example, or in the gaming platforms they used to access Roblox and Fortnite, the common question is predominating and significant — the question of whether a plaintiff's exposure to and use of Roblox or Fortnite caused his or her alleged injuries.

The second variable term, Defendants argue, is the term "plaintiffs." Defendants argue the plaintiffs in the cases have a range of personal characteristics that affect their alleged injuries, including when, where, and for how long a plaintiff allegedly played Roblox or Fortnite; a plaintiff's medical history, including a plaintiff's preexisting conditions; and a plaintiff's family characteristics, including decisions of his or her parents regarding, for example, the age-appropriate ratings assigned to a particular video game. Yet Defendants' argument is true of nearly any two product-liability cases; by definition the plaintiffs are likely to have different circumstances, including medical backgrounds. Variation among plaintiffs does not render coordination inappropriate here.

The third and final variable term of the common question, Defendants argue, is the parties named as defendants in the cases proposed for coordination. No two of the cases name exactly the same parties as defendants. Defendant Roblox Corporation is a defendant in all six cases; Epic Games, Inc. is a defendant in two cases; Sony Interactive

Entertainment a defendant in two; Apple, Inc. a defendant in four; and Google, LLC, a defendant in one. (Fuchs Decl., ¶ 8(e), Exh. 3.) Defendants point out additional differences among themselves — Apple, Inc. and Google, LLC, for example, "operate general purpose online marketplaces that allow users to download third-party games to different mobile devices," whereas other defendants, such as Epic Games, Inc., allegedly designed some of the video games at issue. (Opposition Brief, 9:25-27.)

But variation among defendants was also present in *McGhan*. The 300-some plaintiffs in the coordinated cases had named, as defendants, "various manufacturers of the implant devices, producers of implant materials, and physicians who prescribed or administered the implants." (*McGhan*, *supra*, 11 Cal.App.4th at p. 807.) The variation in defendants — both in their identities and their alleged roles — does not mean that coordination of the cases against them is inappropriate.

Defendants further argue that Petitioners have "already admitted the unsuitability of coordinating these cases" in two ways. (Opposition Brief, 6:12.) First, Petitioners argued against a designation of at least some of the cases as "related" within the meaning of rule 3.300 of the California Rules of Court, arguing the cases did not "arise out of the same transaction." (Declaration of Joshua H. Lerner in Opposition (Feb. 19, 2025) ¶ 2, Exh. 1, 10:22-23.) Petitioners reply, essentially, that cases might be coordinated, yet not related within the meaning of rule 3.300.

Petitioners' argument is plausible. Two definitions of "related" cases are cases that "[i]nvolve the same parties and are based on the same or similar claims" or that "[a]rise from the same or substantially identical transactions, incidents, or events, requiring the determination of the same or substantially identical questions of fact." (Cal. Rules of Court, rules 3.300(1)-(2).) No two of the cases proposed for coordination involve exactly the same parties nor, arguably, involve the same transactions, incidents, or events, depending on the definitions of these terms.

The second of Petitioners' purported admissions is their mention of a case that, in their view, should not be included in the proposed coordinated proceeding, a case pending in Alameda County. The case is *Black v. Epic Games, Inc.* (Super. Ct. Alameda

County, Case No. 24CV087673) and, according to Petitioners' counsel, it is not included in their petition because it names three defendants who are not named in any of the six cases proposed for coordination. (Fuchs Decl., ¶ 12.) "There is no reason to permit the coordinated proceeding that is here sought to be unnecessarily complicated by the inclusion of three additional Defendants and, accordingly, Petitioners do not seek to coordinate the *Black* case with their own." (*Ibid.*)

Ultimately, regardless of whether the *Black* case ought to be included in the proposed coordinated proceeding — a question the Court does not address here — the exclusion of the one case from the proceeding does not affect, in the Court's view, the issue of whether the question common to the six cases that are proposed for coordination is a predominating and significant question.

The Court concludes the common question of fact or law is predominating and significant to the litigation.

B. Convenience

The second element that ensures a coordinated proceeding will promote the ends of justice is the convenience of the parties, witnesses, and counsel.

Centralization and coordination of discovery and motion practice "does not require burdensome travel," given "today's technology." (*Ford Motor Warranty Cases (Aguilar)* (2017) 11 Cal.App.5th 626, 643.) The convenience of the parties, witnesses, and counsel favors coordination.

C. Development

The third element that ensures a coordinated proceeding will promote the ends of justice is the relative development of the actions and the work product of counsel.

The six cases proposed for coordination were all filed within days of each other in August 2024. Presumably all are therefore at relatively the same stage of development.

The third element favors coordination.

D. Judicial Efficiency

The fourth element that ensures a coordinated proceeding will promote the ends of justice is the efficient utilization of judicial facilities and manpower.

"[A]ny decision as to results of coordination is a prediction; all predictions are to some extent speculative; all predictions can turn out to be inaccurate; hence all determinations as to whether to coordinate a case are but best estimates." (*McGhan, supra*, 11 Cal.App.4th at p. 813.) The Court predicts (if not speculates) that in these cases, the question of causation is likely to be a significant issue, and one on which both sides will likely offer expert testimony. Judicial efficiency is best served if only one court takes the time to become familiar with the science, so to speak, in order to resolve issues regarding evidence on the issue of causation. The fourth element favors coordination.

E. Court Calendars

The calendar of the courts is the fifth element that ensures a coordinated proceeding will promote the ends of justice. This element favors coordination.

F. Duplicative and Inconsistent Rulings

The sixth element that ensures a coordinated proceeding will promote the ends of justice is "the disadvantages of duplicative and inconsistent rulings, orders, or judgments." This factor almost by definition favors coordination. In particular, the Court predicts significant litigation over questions of causation. Coordination of the cases before one court reduces the likelihood of inconsistent rulings on this important issue.

Defendants, in the context of the first element bearing on coordination, the common question, argue that coordination is not appropriate because they intend to file motions, including motions to compel arbitration and anti-SLAPP motions, that raise issues specific to each case. Defendants are likely right that their proposed motions raise case-specific issues, but this is true of motions brought in cases in nearly every coordinated proceeding. And their argument, in the Court's view, is an argument in favor of coordination, considering the disadvantages of duplicative and inconsistent rulings, orders, or judgments. The likelihood of inconsistencies in rulings on the motions is arguably reduced in a coordinated proceeding before the same court.

The sixth element favors coordination.

G. Likelihood of Settlement Absent Coordination

The seventh and final element that ensures coordination will promote the ends of justice is the likelihood of settlement of the actions without further litigation should coordination be denied. There is no basis to conclude that settlement would be more likely without coordination. (*Ford Motor Warranty Cases*, *supra*, 11 Cal.App.5th at p. 645.) The seventh factor supports coordination.

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One judge hearing all of the actions for all purposes in a selected site or sites will promote the ends of justice. The Court concludes that coordination is appropriate.

IV. Conclusion

The Court GRANTS Petitioners' petition for coordination. The Court recommends that the Superior Court of California for the County of Los Angeles, be the site of the coordination proceedings. (Cal. Rules of Court, rule. 3.530(a).) Given that the actions to be coordinated are within the jurisdiction of more than one reviewing court, the Court selects, as the reviewing court having appellate jurisdiction, the Court of Appeal of the State of California, Second Appellate District. (Code Civ. Proc., § 404.2.)

Dated: 4/11/25

SAMANTHA P. JESSNER
JUDGE OF THE SUPERIOR COURT