

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CHERYL KATER and SUZIE KELLY,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

CHURCHILL DOWNS INCORPORATED, a
Kentucky corporation, and BIG FISH GAMES,
INC., a Washington corporation.

Defendants.

No. 15-cv-00612-RSL

DECLARATION OF TODD LOGAN

MANASA THIMMEGOWDA, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

BIG FISH GAMES, INC., a Washington
corporation; ARISTOCRAT TECHNOLOGIES
INC., a Nevada corporation; ARISTOCRAT
LEISURE LIMITED, an Australian corporation;
and CHURCHILL DOWNS INCORPORATED,
a Kentucky corporation,

Defendants.

No. 19-cv-00199-RSL

DECLARATION OF TODD LOGAN

1 Pursuant to 28 U.S.C. § 1746, I declare and state as follows:

2 1. I am an attorney at Edelson PC.

3 2. This declaration is based upon my personal knowledge unless otherwise
4 indicated. If called upon to testify as to the matters stated herein, I could and would competently
5 do so.

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7 * * *

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9 3. In 2014, Edelson PC began investigating the social casino industry’s business
10 practices as potentially illegal under various state consumer and gambling laws.

11 4. The results of that investigation revealed, in Edelson PC’s view, that social casino
12 companies—who had by then largely been bought out by multinational gambling corporations—
13 were violating a host of state consumer and gambling laws, including laws requiring the return of
14 monies lost at illegal gambling.

15 5. Based on their investigation, in 2015 Edelson PC began filing lawsuits against
16 social casino companies, in courts nationwide, alleging claims under state gambling laws.

17 6. To date, Edelson PC has filed twelve such class action lawsuits, yet—as of the
18 date the settlement was announced in *Kater v. Churchill Downs*—not a single other law firm in
19 the country had filed a similar case. In other words, Edelson PC has for the last five years been
20 the only law firm in the country willing to fight for consumer victims of the social casino
21 industry.

22 7. During that time, Edelson PC has devoted a substantial amount of its relatively
23 limited time, energy, and resources toward the successful prosecution of lawsuits over social
24 casino games.

25 8. Of the time, energy, and resources (the “Efforts”) referenced above, only a
26 relatively modest fraction is reflected within the motion practice and settlement documents in the
27 above-captioned cases.

1 9. Paragraphs 10-20 below describe some of the Efforts Edelson PC has expended,
2 since 2015, that aided the prosecution and settlement in these cases but may not be completely (if
3 at all) reflected on the Court’s docket.

4 10. Two weeks after the Ninth Circuit’s mandate issued in *Kater*, Big Fish dispatched
5 lawyers to the Washington State Gambling Commission’s (“WSGC” or “Commission”) session
6 in Tacoma to present a “Petition for a Declaratory Order” asking the Commission to declare that
7 Big Fish’s games “do[] not constitute gambling within the meaning of the Washington Gambling
8 Act, RCW 9.46.0237.” At each of the three public hearings that followed—in July 2018 (in
9 Tacoma), August 2018 (in Pasco), and October 2018 (in Olympia)—Edelson PC attorneys
10 appeared before the Commission and presented live argument at both the Tacoma and Pasco
11 hearings. Edelson PC supplemented these appearances with a formal letter to the Commission
12 (ahead of the Tacoma hearing) and, on the Commission’s request, with an eighteen-page
13 comment for the Commission’s consideration (between the Tacoma and Pasco hearings). The
14 WSGC ultimately declined to enter a Declaratory Order.

15 11. Even after the initial declaratory order proceedings, Edelson PC continued to
16 represent the interests of the Class in additional flare-ups before the WSGC, including in similar
17 declaratory order proceedings initiated by The Stars Group.

18 12. Starting in early 2019, the International Social Gaming Association (“ISGA”)
19 provided legislators draft legislation that would amend Washington’s gambling statutes with the
20 effect (and specific intent) of gutting these lawsuits.

21 13. In response, Edelson PC engaged the lobbying firm Peggen & Mara Political
22 Consulting LLP—experts in Washington tribal and gambling laws—to help Edelson PC (i) stay
23 on top of all administrative and legislative developments in the Washington gaming industry; (ii)
24 understand the intricacies of Washington’s specific legislative process, including the nuances
25 of—and procedures for—bill drafting; (iii) understand who the relevant lawmakers and
26 stakeholders in Washington’s gaming industry were, what those lawmakers and stakeholders
27 cared about, and how Edelson PC could educate those lawmakers and stakeholders about social

1 casinos; and (iv) work with legislative groups, task forces, and other interested parties in in
2 Washington’s gaming industry, including the Washington Indian Gaming Association
3 (“WIGA”).

4 14. Edelson PC then used this information and expertise to amplify the Class’s
5 interests and concerns. Edelson PC drafted memos and prepared handouts for a variety of
6 stakeholders, including State Senators and Representatives, the WIGA, the Washington Trial
7 Attorneys’ Association, the Public Interest Research Group, and other organizations dedicated to
8 remedying problem gambling.

9 15. Edelson PC attorneys also flew to Washington multiple times and personally met
10 with lawmakers in the Washington Senate and House, met with officials in the Executive branch,
11 and provided in-person testimony to the Washington Legislature.

12 16. For example, in January 2019—after Edelson PC got wind that Defendants and
13 the ISGA were planning to gut Washington’s gambling statutes (in what would become the
14 failed H.B. 2041 and S.B. 5886)—Edelson PC attorneys met in-person with Representative
15 Shelley Kloba, then-Representative (and now Senator) Derek Stanford, Lieutenant Governor
16 Cyrus Habib, and several other government officials.

17 17. On January 28, 2020, Edelson PC attorneys met with Senator Stanford at the State
18 Capital—following Edelson PC’s written and in-person testimony before the House Civil Rights
19 & Judiciary Committee in (successful) opposition to H.B. 2720.

20 18. On March 21, 2019, Class Counsel sent formal correspondence to Senator Mark
21 Mullet ahead of a planned work session before the Senate and Financial Institutions, Economic
22 and Trade Committee about social casinos—in which Defendants Aristocrat and Big Fish Games
23 had been invited, but Class Counsel had not.

24 19. In August 2019, Edelson PC attorneys traveled to Anacortes—on Swinomish
25 Tribe land—to speak at a monthly WIGA meeting, in opposition to the ISGA-backed bills.

1 20. And in early 2020, Edelson PC coordinated the submission of more than 200
2 letters to Washington State Representatives from Big Fish Casino players across the country and
3 spoke with local press about the ISGA’s renewed efforts to gut these lawsuits.

4
5 * * *
6

7 21. Based on my experience personally interacting with dozens (if not hundreds) of
8 “VIP” players of Big Fish Casino and Jackpot Magic Slots, Big Fish has substantially altered its
9 VIP program as a result of this lawsuit and is no longer using VIP hosts to prey on gambling
10 addicts.

11 22. I have personal knowledge of the identity of the individual who used the
12 pseudonym “Byron Scott” for purposes of serving as a “VIP Host” in Big Fish Casino. That
13 individual left Big Fish Casino sometime in 2018; my present understanding is that he did so
14 shortly after the Ninth Circuit issued the *Kater* opinion.

15 23. I have personal knowledge of the prior leadership structure of Big Fish’s VIP
16 program, including the identity of the head of the program (who served as Byron Scott’s
17 manager). That individual left Big Fish Games sometime after December 2019.

18 24. Public records indicate that Jeff Karp, who previously served as Big Fish Games’
19 Managing Director & President, left Big Fish Casino in June 2020.

20 25. Based on my experience personally interacting with hundreds of class members
21 across various social casino cases, I have personal knowledge that there is substantial overlap
22 between the classes in all of the social casino cases proceeding before the Court.

23
24 * * *
25

26 26. In this case, Edelson PC worked entirely on contingency, advancing its time as
27 well as more than \$1.75 million in required costs and expenses.

1 of all such expenses and stand ready to submit them for the Court's review, preferably *in*
2 *camera*, should the Court choose to review them.

3 37. The largest expense incurred Edelson PC has been the costs of the Court-
4 approved notice program, in the amount of \$1,549,031.00. Edelson PC previously advanced
5 \$954,118.00 of those costs (constituting the costs of all media and postage associated with the
6 notice program) and will be paying the remaining \$594,913.00 as that portion becomes due and
7 owing over the coming months.

8 38. The next largest category of expense advanced by Edelson PC was lobbying fees,
9 in the amount of \$110,827. That amount reflects the sum of all invoices Edelson PC paid to
10 Peggen & Mara Political Consulting LLP through October 7, 2020.

11 39. The next largest category of expense advanced by Edelson PC was advertising
12 costs, in the amount of \$84,425.27. That amount reflects monies paid primarily to Facebook (and
13 secondarily to other internet vendors, including GoDaddy) flowing from Class Counsel's internet
14 campaigns related to identifying and engaging with Class Members and conducting the website-
15 based "opt-out" campaign that began in January 2020.

16 40. Edelson PC also paid Phillips ADR \$17,500 as its portion of the mediation fee for
17 the successful mediation before the Hon. Layn R. Phillips (Ret.).

18 41. The remaining \$24,159 in expenses Edelson PC incurred are the sorts of routine
19 litigation expenses incurred over five years of litigating a complex class action lawsuit, including
20 court filing fees, work-related transportation, lodging, and meal costs, and postage fees.

21
22 * * *

23 42. Over the years, I have personally spoken with dozens of consumers with six-
24 figure losses to social casino games.

25 43. Of that group, Suzie Kelly is the only qualified individual who was willing to step
26 forward in this case by sharing her story and serving as a Class Representative.

