

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

CASE NO.: 07-21403-CIV-COHN/SELTZER

ANTONIO HERNANDEZ,  
Individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

IGE U.S. LLC,  
a Delaware corporation,

Defendant.

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VIDEOTAPED DEPOSITION OF ANTONIO HERNANDEZ

VOLUME I

Friday, June 6, 2008  
9:47 a.m. - 5:10 p.m.

420 South Orange Avenue, Suite 1200  
Orlando, Florida 32801-3336

REPORTED BY:  
Joan Comparato, Shorthand Reporter  
Notary Public, State of Florida  
Esquire Deposition Services  
Orlando Office - Job# 937162  
Phone: 407-426-7676

1 A Justin Johnson.

2 Q By the way, we talked a little bit about  
3 Blockbuster Video earlier -- why did you leave  
4 there?

5 A I wanted somewhere to grow more. I felt  
6 stifled.

7 Q You weren't asked to leave?

8 A No.

9 Q Game Stop, eventually you stopped working  
10 there; do you remember when?

11 A In -- in early January.

12 Q January 2007?

13 A No. Actually, approximately 2008. I  
14 believe it was January 7th, was my last day.

15 Q Okay. So this resume says fall 2006 to  
16 2007, but, in fact, it's 2006 to 2008?

17 A Yes.

18 Q And why did you leave Game Stop?

19 A Return to school full-time.

20 Q You weren't asked to leave Game Stop,  
21 right?

22 A No.

23 Q So, as we sit here today, you're a  
24 full-time student?

25 A Yes.

1 Q How many hours -- courses are you taking?

2 A At the moment, twelve.

3 Q Is that a full course load?

4 A Yes.

5 Q Do you commute to school every day?

6 A I'm sorry?

7 Q Do you commute to school every day?

8 A Every day I have class.

9 Q Do you have class Monday through Friday?

10 A Monday through Thursday, at the moment.

11 Q No classes on Friday?

12 A No.

13 Q About how many hours do you spend in class  
14 every day, Monday through Thursday?

15 And you can just ballpark it for me.

16 A About four hours.

17 Q About how many hours do you spend studying  
18 every day?

19 A Maybe a half hour.

20 Q Outside of class?

21 A Yeah.

22 Q So you'd say maybe three hours a week  
23 studying?

24 A Basically.

25 Q But you don't have a job right now; that's

1 right?

2 A No.

3 Q Are you still in contact with any of your  
4 former co-workers, either at Suncoast Video,  
5 Blockbuster or Game Stop, still talk to any of those  
6 people?

7 A No.

8 Q No contact whatsoever?

9 A No, I haven't.

10 Q Did any of your -- former co-workers at  
11 Suncoast Video, Blockbuster or Game Stop play World  
12 of Warcraft?

13 A Yes, I believe so.

14 Q Who?

15 A Justin Johnson.

16 Q And Justin Johnson was with you at  
17 Blockbuster Video, right?

18 A Yes.

19 Q Did you ever talk about the game with  
20 Justin Johnson?

21 A The game? Yes.

22 Q Did you ever play World of Warcraft with  
23 Justin Johnson?

24 A Yes.

25 Q How often did you and Justin Johnson play

1 attend to, and it helps to be a detail-oriented  
2 person; is that right?

3 A It does.

4 In certain facets of my life, I would say  
5 I was detailed.

6 Q Which facets?

7 A Gaming.

8 Q Any other time?

9 A No.

10 Q So you're a -- a detail-oriented World of  
11 Warcraft player; is that accurate?

12 A That's an accurate -- yes.

13 Q Do you consider yourself a strong World of  
14 Warcraft player?

15 A Yes --

16 MR. HAVILAND: Objection to form.

17 Sorry.

18 BY MR. HEYWOOD:

19 Q Would you consider yourself a good World  
20 of Warcraft player?

21 MR. HAVILAND: Objection to form.

22 THE WITNESS: Yes.

23 BY MR. HEYWOOD:

24 Q Would you consider yourself an expert  
25 World of Warcraft player?

1 MR. HAVILAND: Objection to the form.

2 THE WITNESS: Yes.

3 BY MR. HEYWOOD:

4 Q You have to be detail oriented to be good  
5 at World of Warcraft, right?

6 MR. HAVILAND: Objection to form.

7 THE WITNESS: Depends.

8 BY MR. HEYWOOD:

9 Q Depends on what?

10 A Your position.

11 Q Can you be more specific?

12 A Regular gamer, just has to place class,  
13 you just have to do a simple job. Someone who's in  
14 a guild master position or a raid leader position  
15 has to know everything that's going on and be able  
16 to critique that down to the other players.

17 Q You have to be sort of a general; is that  
18 right?

19 A Yes.

20 Q Are you a -- in a guild master position  
21 yourself?

22 A As of the moment, I am a -- I was  
23 currently a raid leader.

24 Q Tell us what a raid leader is.

25 A I led the raids.

1 frustrating. Not to mention the constant chat  
2 logs and general -- just spams -- spam being an  
3 in-game macro or written out summation of what  
4 somebody wants to tell you.

5 And, basically, there are different logs,  
6 like the general chat that I spoke of before,  
7 and the -- there's one where you can just --  
8 like if I wanted to talk to you and not  
9 everybody else, I would what's called "whisper"  
10 you and they would spam me with these go here  
11 and buy this, go here and buy this, and you're  
12 trying to do something, it's distracting. And  
13 it's not what I play the game for.

14 BY MR. HEYWOOD:

15 Q What does it mean to you, Mr. Hernandez,  
16 to be a class representative?

17 A I represent everybody who's playing the  
18 game, who doesn't believe in gold farming, who finds  
19 it wrong, even those who may have partaken in it.

20 And I just want the game to be fair for  
21 everybody.

22 I'm representing their voice here.

23 Q So your testimony is that you represent  
24 everyone who plays the game, even ones who have  
25 bought gold for real money; is that right?



1 A Yes.

2 Q More specifically, you represent everyone  
3 who's purchased the game since November 2004, right?

4 A That would be when I started playing. I  
5 believe that was the date, yeah.

6 Q What's your role in this litigation,  
7 Mr. Hernandez?

8 A I partake in it. I -- I'm knowledgeable  
9 of the situation, what we're doing, and I'm the  
10 class representati- -- class rep- -- blah -- excuse  
11 me -- class rep.

12 Q Do you know the difference between  
13 bringing an individual claim and bringing a class  
14 claim, Mr. Hernandez?

15 A Yes.

16 Q What is that?

17 A Individual claim -- claim would be just  
18 myself; whereas, a class, I am representing a class  
19 of people who share my views and opinions.

20 Q What is your idea to bring a class claim?

21 A Yes, it was.

22 Q Why didn't you bring an individual claim  
23 against IGE U.S.?

24 MR. HAVILAND: Well, again, let me just  
25 caution you, Mr. Hernandez, that if you have to

1 right?

2 A Promote the case, yes.

3 Q What do you mean, promote?

4 A Make the information avail- -- easily  
5 available to everyone who may want it.

6 Q You wanted to let everyone know that the  
7 lawsuit had been filed, right?

8 A Yes.

9 Q And you wanted to let everyone know that  
10 it was a class action, correct?

11 A Yeah.

12 Q And you wanted to let --

13 A Yes.

14 Q And you wanted to let everyone know that  
15 they could be, potentially, a part of the lawsuit,  
16 correct?

17 A Yes.

18 Q World of Warcraft is a role-playing game,  
19 right?

20 A Sorry. Yes.

21 Q What does that mean to you?

22 A To me personally, it's a chance for you to  
23 take on the persona of the avatar you pick, to  
24 immerse yourself in the game and live a life outside  
25 of your own.

1 Q It's an escape, right?

2 A For some, possibly.

3 Q For you?

4 A In many ways, yeah.

5 Q You play World of Warcraft to be  
6 entertained, though, right?

7 A Yes.

8 Q Any other reason you play World of  
9 Warcraft?

10 A I'm a competitive person, and I enjoy the  
11 competition, fair, honest competition.

12 Q Fair to say that you play World of  
13 Warcraft because you think it's fun?

14 A Yes.

15 Q Let's go back to the beginning.  
16 How did you first find out about World of  
17 Warcraft?

18 A Well, it was everywhere.

19 But there was -- actually, at Blockbuster,  
20 there were a couple of people that were customers  
21 and whatnot and just talked about it. I needed  
22 something to do. Picked it up. Played it. Went  
23 from there.

24 (Discussion off the record.)

25 BY MR. HEYWOOD:

1 hour or something like that.

2 Q Okay. So you installed the game on your  
3 roommate's laptop, correct?

4 A Uh-huh.

5 Q And I take it you also installed it on  
6 this computer that was sent to you through the mail  
7 that you mentioned; is that right?

8 A Yes.

9 Q And you've also installed it on your new  
10 laptop?

11 A Yes, I did.

12 Q So three computers?

13 A Yes, that would be correct.

14 Q Before installing the game on a computer,  
15 do you have to agree to any terms or conditions from  
16 Blizzard?

17 A Yeah, there's a URL terms and agreement  
18 that before you even install you have to read  
19 through and accept.

20 Q A URL terms of agreement, is that the  
21 end-user license agreement?

22 A I believe so, yes.

23 Q There's also a terms of use agreement,  
24 correct?

25 A Yes, there is.

1 Q Do you also have to agree to the terms of  
2 that?

3 A Yes, you do.

4 Q What's the difference between the end-user  
5 license agreement and the terms of use agreement?

6 A Being as I don't have them right in front  
7 of me, I couldn't tell you exactly, and it's been a  
8 long time since I've read them.

9 Basically, a rough view is that the  
10 property in game is in game and real money transfer  
11 is not allowed, and there's some other points that I  
12 can't remember as of this moment --

13 Q I -- I don't want you to talk about  
14 specific terms of either of the provisions.

15 Do you know the difference between the  
16 purpose of the end-user license agreement and the  
17 terms of use agreement, or is there a difference?

18 A As I stated, I haven't read it in a long  
19 time. So if I had them in front of me and read them  
20 to you right no- -- read them right now, I could  
21 give you an exact answer.

22 But, to the best of my knowledge, I  
23 couldn't give you a clear, concise answer.

24 Q When you install the software, whether it  
25 be the original game or Burning Crusade, on a

1 computer, is it true that you have to agree to the  
2 terms of use agreement each time?

3 A Each time you install it, yes.

4 Q How do you do that?

5 A When you install the game, it prompts you.  
6 It basically comes up with a box, you have -- you  
7 scroll down reading the information, and the  
8 "accept" doesn't become available for you until you  
9 get to the bottom of the scroll-down page.

10 Q You could decline to agree to the terms,  
11 if you chose to, correct?

12 A Correct, but then you wouldn't be able to  
13 load the game.

14 Q So each time you loaded the game onto a  
15 computer you agreed to the terms of use agreement;  
16 is that right?

17 A Correct.

18 Q You never rejected or declined it, right?

19 A Correct.

20 Q How about the end-user license agreement,  
21 do you have to agree or disagree with that each time  
22 you install the software on your computer?

23 A Yes, and after each and every in-game  
24 patch.

25 Q What's a patch?

1 MR. HEYWOOD: Fine --

2 MR. HAVILAND: -- sure we're clear on the  
3 record.

4 MR. HEYWOOD: -- that -- that's good.

5 BY MR. HEYWOOD:

6 Q So you -- your testimony is that you have  
7 to agree to the end-user license agreement every  
8 time there's a patch; is that correct?

9 A Yes.

10 Q I just want to get some idea of how many  
11 patches you've encountered since playing World of  
12 Warcraft.

13 Is it over 50?

14 A I would say a rough estimate in the past  
15 almost three years that I've played -- I'd say close  
16 to, if not over, 50. I -- I'd say that'd be a  
17 decent range. Like I said, I couldn't give you an  
18 exact.

19 I'm sure you could get that from Blizzard  
20 and they could tell you exactly how many, but I  
21 don't have that information on hand.

22 Q Okay. You -- you agreed to the terms of  
23 the end-user license agreement each and every time  
24 you received a patch, correct?

25 A Yep. Yes, I did.