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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CHRISTOPHER CARR, ROXANNE CLAYTON, )  
and BRIAN BENNETT, )  
Plaintiffs, )  
vs. )  
INTERNATIONAL GAME TECHNOLOGY, et )  
al., )  
Defendants. )

3:09-cv-00584-ECR-WGC  
(Base Case)

Order

RANDOLPH K. JORDAN and KIMBERLY J. )  
JORDAN, )  
Plaintiffs, )  
vs. )  
INTERNATIONAL GAME TECHNOLOGY, et )  
al., )  
Defendants. )

3:09-cv-00585-ECR-WGC  
(Member Case)

Plaintiffs are former employee participants in Defendant International Game Technology's ("IGT") profit-sharing plan (the "Plan") who have brought a class action suit pursuant to Federal Rule of Civil Procedure ("FRCP") 23 to allege breach of fiduciary duty claims under Section 502(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(2). Now pending before the

1 Court is Plaintiff's Motion to Dismiss and Quash Document Request  
2 (#105). The motion is ripe, and we now rule on it.

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**I. Background**

5 As the parties are familiar with the factual and procedural  
6 background of the case up to this point, we need only reiterate the  
7 following relevant background.

8 Plaintiffs filed the amended complaint (#36) on March 10, 2010.  
9 On February 8, 2010, this Court issued an order (#33) appointing  
10 Plaintiffs Randolph K. Jordan, Kimberly J. Jordan, Christopher Carr,  
11 Roxanne Clayton, and Brian Bennet as interim lead plaintiffs and  
12 consolidating 3:09-cv-00585-ECR-RAM (member case) under 3:09-cv-  
13 00584-ECR-RAM (base case).

14 On March 16, 2011, we issued an order (#80) in which we granted  
15 in part and denied in part Defendants' motion to dismiss (#40) and  
16 denied Defendants' motion for summary judgment (#44) and Defendant  
17 IGT Profit Sharing Committee's alternative motion for summary  
18 judgment (#46). We dismissed the following claims: failure to avoid  
19 conflicts of interest against all Defendants; breach of prudence and  
20 loyalty with respect to the imprudent investment of Plan assets  
21 against all Defendants; breach of prudence and loyalty with respect  
22 to failure to disclose material facts regarding the Plan against  
23 Defendants Siciliano and the Director Defendants; co-fiduciary  
24 liability against all Defendants under 29 U.S.C. § 1105(a)(1) and  
25 (a)(3) and against Defendant Siciliano under § 1105(a)(2).

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1 On April 6, 2011, Defendants filed their answer (#87) to the  
2 amended complaint (#36).

3 On May 16, 2011, the Magistrate Judge entered the scheduling  
4 order (#100), setting the discovery deadline for May 31, 2012.

5 On June 14, 2011, Plaintiffs filed a motion (#105) seeking to  
6 voluntarily dismiss Plaintiff Roxanne Clayton ("Ms. Clayton") as a  
7 plaintiff from this litigation and to quash Defendants' document  
8 request to her. Defendants responded (#108) on June 29, 2011.  
9 Plaintiffs filed their reply (#115) on July 11, 2011.

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## II. Discussion

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### **A. Plaintiff Roxanne Clayton's Voluntary Dismissal**

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1 be prejudiced by her withdrawal, as there remain four similarly-  
2 situated named Plaintiffs who claims do not differ from Ms.  
3 Clayton's. Finally, the Court is satisfied that Ms. Clayton does  
4 not seek to dismiss her claims for the improper purpose of evading  
5 discovery, (see McKenna Decl. (#116) at ¶¶ 4-5), and will therefore  
6 not inquire into her personal reasons for withdrawal. For the  
7 foregoing reasons, Plaintiffs' motion to withdraw Ms. Clayton as a  
8 named Plaintiff will therefore be granted.

9 **B. Plaintiffs' Motion to Quash Defendants' Document Request**

10 Plaintiffs seek an order of the Court "quashing" Defendant  
11 IGT's First Request for Production of Documents to Plaintiff Roxanne  
12 Clayton, served upon them on May 24, 2011, as she wishes to withdraw  
13 as a plaintiff in this case. Defendants claim that Plaintiffs'  
14 request should be denied because Plaintiffs in essence seek a  
15 protective order for which they have not made the adequate showing.

16 It is important to again note that the Court finds that Ms.  
17 Clayton is not seeking to withdraw in an attempt to evade discovery,  
18 a factor that distinguishes cases cited by Defendants where courts  
19 have compelled withdrawing plaintiffs to submit to discovery  
20 requests. Further, Ms. Clayton has no claims separate from the  
21 other class members, is not in defiance of any prior court orders  
22 compelling her to respond to discovery requests, and seeks to  
23 withdraw at an early stage in the discovery process - all of which  
24 are further factors that distinguish this case from others where a  
25 court compelled a withdrawing party to answer discovery requests.

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1           **IT IS, THEREFORE, HEREBY ORDERED** that Plaintiffs' Motion for an  
2 Order Dismissing, Without Prejudice, Roxanne Clayton as a Plaintiff  
3 (#105) is **GRANTED**.

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5           **IT IS FURTHER ORDERED** that Plaintiff's Motion for an Order  
6 Quashing Defendants' Document Request (#105) is **DENIED**.

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13 DATED: February 22, 2012.

  
UNITED STATES DISTRICT JUDGE