

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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
and BIG FISH GAMES, INC.,

Defendants.

Cause No. C15-0612RSL

ORDER

This matter comes before the Court on third-party Jeffrey E. Fleming’s motion to quash a subpoena seeking information regarding his Google account (Dkt. # 229) and motion for an order directing plaintiffs and their attorneys to cease all efforts to contact him regarding the above-captioned lawsuit (Dkt. # 228). In response to Mr. Fleming’s motions, plaintiffs have taken steps to ensure that his information will not be included in Google’s production in response to the subpoena and will make best reasonable efforts to ensure that he is not included in the class lists used by the Claims Administrator. Plaintiffs oppose entry of a cease and desist order as unnecessary, however, and argue that quashing the subpoena served on Google will upend the class action settlement procedures.

ORDER - 1

1 Having reviewed the submissions of Mr. Fleming and plaintiffs, the Court interprets Mr.
2 Fleming's objections to the production of his Google account information as an indication that
3 he does not want to be part of the settlement class in the above-captioned matter. The Court
4 therefore finds that he has opted out of the settlement process and will not participate in any
5 allocation of the settlement funds.
6

7 With regards to the specific relief requested by Mr. Fleming, the Court is satisfied that his
8 information was not (or will not be) included in Google's data production. If, however, his
9 information has been produced to plaintiffs, they shall delete the information from their files,
10 refrain from making any attempt to contact him regarding this litigation in the future, and ensure
11 that the Claims Administrator does not contact him.
12

13 Dated this 14th day of October, 2020.

14 

15 _____
16 Robert S. Lasnik
17 United States District Judge
18
19
20
21
22
23
24
25
26
27