To: Those affected by: Video Game Addiction
From: Jeff Smelcer, Northwest Worksite Solutions (NWS)
Re: Potential State of West Virginia Claims Against the Video Game Industry

Background

For over a decade, video game companies have aggressively developed technologies and strategies to maximize youth engagement, leading to widespread addiction and privacy violations. Their pursuit of profits through microtransactions, AI-driven game mechanics, and the exploitation of behavioral psychology has resulted in significant physical, psychological, and financial harm—particularly post-pandemic, as youth screen time soared.

Key Areas of Concern

1. **Addiction & Manipulative Game Design**
   a. Companies use patented methods and AI to encourage compulsive gaming and frequent in-game purchases. Examples include “arranged matches,” dark patterns, and tailored reward systems.
   b. Behavioral psychologists helped design games to trigger endorphin releases and “hook” young players, worsening addictive tendencies.
   c. Experts report irreversible physical and psychological damage, with 3-4% of gamers worldwide meeting the criteria for “gaming disorder” (as recognized by DSM-5 and ICD-11), especially among youth ages 8–18.
2. **Data Privacy Violations**
   a. Video game companies and data brokers collect, use, and sell personal information from minors without consent, violating laws like COPPA and state statutes.
   b. By age 18, companies may hold extensive, saleable profiles on young users (including habits, preferences, and spending).
   c. Notable cases: Epic Games fined $275M in 2022 for COPPA violations and improper default chat in Fortnite.
3. **Gambling & Tax Issues**
   a. Loot boxes and similar features may violate West Virginia’s anti-gambling laws, often resembling unregulated slot machines or fantasy contests.
   b. Game companies potentially owe the state taxes on microtransaction sales (“tangible personal property” and specified digital products).

Legal Strategies & Claims

1. **Unfair/Deceptive Trade Practices (UDTPA)**
   a. Misrepresenting the addictive nature of games.
   b. Failing to notify users/parents about risks.
   c. Improper data use to deepen addiction.
   d. Civil penalties up to $10,000 per knowing violation.
2. **Extortion of Vulnerable Persons**
   a. Exploiting minors/neurodivergent adults for microtransaction revenue via manipulation and undue influence.
   b. Statute allows treble damages for such extortion.
3. **COPPA & Privacy Claims**
   a. Collecting child data under 13 without parental consent.
   b. Failure to notify and obtain “verifiable parental consent” before any data is collected.
4. **Gambling Statutes & Tax Recovery**
   a. Enforcement against loot box sales and unlicensed fantasy contests.
   b. Seeking recovery of unpaid taxes from in-game and microtransaction revenues.

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Case status (as of October 22, 2026)

There is no federal MDL for video game addiction. The Judicial Panel on Multidistrict Litigation denied centralization twice: MDL 3109 on June 5, 2024, and MDL 3168 on December 10, 2025. Cases proceed in California state court (JCCP 5363, Judge Lawrence Riff).