

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Cheryll Dougherty, et al. v. Zynga Inc.

Dougherty v. Zynga · No. 25-cv-04051-SI · Decided December 30, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
CHERYLL DOUGHERTY, et al., Case No. 25-cv-04051-SI 8 Plaintiffs, ORDER FOR
SUPPLEMENTAL 9 v. BRIEFING AND VACATING HEARING 10 ZYNGA INC., 11
Defendant. 12 13 Now pending before the Court are multiple motions by defendant Zynga, Inc. in
this 14 proposed class action case alleging violations of California consumer law and the federal
Video 15 Privacy Protection Act.

The Court advises the parties that it is inclined to grant defendant’s motion 16 to transfer venue to
the Southern District of New York, in light of the forum selection clause 17 contained in the Take-
Two Terms of Service applicable to plaintiffs’ claims.

However, the Court 18 finds supplemental briefing from plaintiffs would be helpful. Plaintiffs’
opposition to the motion to 19 compel arbitration or, alternatively, transfer venue focuses almost
entirely on the arbitration 20 agreement and devotes only one page to venue question. See Dkt.
No. 41.

As the ones “seeking to 21 avoid a forum selection clause,” plaintiffs “bear[] a ‘heavy burden’ to
establish a ground upon which 22 [the Court] will conclude the clause is unenforceable.” See Doe
1 v. AOL LLC, 552 F.3d 1077, 1083 23 (9th Cir. 2009) (quoting M/S Bremen v. Zapata Off-Shore
Co., 407 U.S. 1, 17 (1972)).

Accordingly, 24 plaintiffs are ORDERED to file a supplemental brief—not to exceed five pages in
length— 25 addressing whether “extraordinary circumstances unrelated to the convenience of the
parties clearly 26 disfavor a transfer.” See Atl. Marine Const. Co., Inc. v. U.S. Dist. Ct., 571 U.S.
49, 52 (2013)). 27 Plaintiffs’ brief is due no later than January 12, 2026.

1 later date if it determines that oral argument is needed. 2 3 IT IS SO ORDERED. 4 || Dated:
December 30, 2025 Stn Ml ee 5 eee em SUSAN ILLSTON 6 United States District Judge 7 8 9 10
11 12 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28