



**GRANTED**

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

THOMAS SANDYS, Derivatively on  
Behalf of ZYNGA INC.,

Plaintiff,

v.

MARK J. PINCUS, REGINALD D.  
DAVIS, CADIR B. LEE, JOHN  
SCHAPPERT, DAVID M. WEHNER,  
MARK VRANESH, WILLIAM  
GORDON, REID HOFFMAN,  
JEFFREY KATZENBERG,  
STANLEY J. MERESMAN, SUNIL  
PAUL and OWEN VAN NATTA,

Defendants,

and

ZYNGA INC., a Delaware  
corporation,

Nominal Defendant.

C.A. No. 9512-CB

**[PROPOSED] SCHEDULING ORDER WITH  
RESPECT TO NOTICE AND SETTLEMENT HEARING**

WHEREAS, the Special Litigation Committee (the “SLC” or “Committee”) of the Board of Directors of Zynga Inc. and Defendants to the above-captioned action (the “Action”) have entered into a Stipulation and Agreement of

Compromise, Settlement and Release dated February 27, 2018 (the “Stipulation”),<sup>1</sup> which sets forth the terms and conditions for the proposed settlement and dismissal with prejudice of the Action (the “Settlement”), subject to review and approval by this Court pursuant to Court of Chancery Rule 23.1 and upon notice to the current stockholders of nominal defendant Zynga, Inc. (“Zynga” or the “Company”);

WHEREAS, the Court has read and considered the Stipulation and the accompanying documents.

WHEREAS, the Court has been informed by Plaintiff that, following extensive discovery and internal analysis, Plaintiff has decided to endorse the Settlement as representing a reasonable exercise of business judgment by the Committee.

WHEREAS, the Court has also been informed by the parties to the Stipulation that they have agreed to modify the definition of “Record Date” to be the close of business on October 30, 2018.<sup>2</sup>

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<sup>1</sup> The SLC filed the Stipulation with the Court on March 1, 2018. (Dkt. 104) On March 12, 2018, the SLC filed an Amended Stipulation and Agreement of Compromise, Settlement and Release (Dkt. 120) to correct a typographical error. References to the Stipulation refer to the amended version filed March 12.

<sup>2</sup> Section 5.2 of the Stipulation stated that the parties would give Notice to all record holders of Zynga stock as of the “Record Date.” Section 2.24 of the Stipulation defined “Record Date” to mean the close of business on the date that the Stipulation was filed with the Court. The parties to the Stipulation filed the Stipulation on March 1, 2018. At that time, the parties to the Stipulation contemplated that notice would be sent shortly thereafter. However, given the passage of time, the parties to the Stipulation agree that “Record Date,” as defined

NOW, upon application of the Parties, after review and consideration of the Stipulation filed with the Court and the exhibits annexed thereto,

IT IS HEREBY ORDERED this \_\_\_ day of October, 2018 as follows:

1. For purposes of this Scheduling Order, the Court incorporates by reference the definitions in the Stipulation and all capitalized terms used herein shall have the same meanings as set forth in the Stipulation unless otherwise defined herein.<sup>3</sup>

2. A hearing (the “Settlement Hearing”) shall be held on January 17, 2019, at 1:30 p.m. in the Leonard L. Williams Justice Center, Court of Chancery, 500 North King Street, Wilmington, Delaware 19801, to: (a) determine whether the Settlement, on the terms and conditions provided for in the Stipulation, is fair, reasonable, and adequate and in the best interests of Zynga and its current stockholders; (b) determine whether the Court should finally approve the Stipulation and enter the Order and Final Judgment (the “Judgment”) as provided in the Stipulation, dismissing the Action with prejudice and extinguishing and releasing the Released Claims; (c) hear and determine any objections to the

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in the Stipulation, shall be amended to mean the close of business on October 30, 2018.

<sup>3</sup> The term Party as used in this Scheduling Order shall mean the parties to the Action. This clarification is necessary because Plaintiff is not a party to the Stipulation; thus, use of the term “Parties” (which is a defined term in the Stipulation) could cause confusion without this clarification. Otherwise, all capitalized terms are defined in the Stipulation unless defined herein.

Settlement; (d) hear and determine any application from Plaintiff's counsel for an award of attorneys' fees and expenses or for the grant of an incentive award to Plaintiff; and (e) rule on such other matters as the Court may deem appropriate.

3. The Settlement Hearing may be adjourned by the Court from time to time without further notice to anyone other than the Parties to the Action and any Objectors (as defined herein).

4. The Court reserves the right to approve the Stipulation at or after the Settlement Hearing with such modifications as may be consented to by the Parties and without further notice.

5. The Court approves, in form and content, the Notice of Pendency of Settlement of Action attached to this scheduling Order as Exhibit 1 (the "Notice") in an amended form of the notice filed as Exhibit B to the Stipulation, revised to reflect developments following the filing of the Stipulation. The Court finds that the giving of notice substantially in the form and manner set forth in the Notice meets the requirement of Court of Chancery Rule 23.1 and due process, and is the best notice practicable under the circumstances.

6. Within ten (10) business days after the entry of this Scheduling Order, Zynga shall commence mailing of the Notice to all record holders of Zynga stock as of the Record Date, which is now defined as the close of business on October 30, 2018. In addition, the Company shall use reasonable efforts to give

notice to beneficial owners by: (i) making additional copies of the Notice available to any record holder who, before the Settlement Hearing, requests the same for distribution to beneficial owners, or (ii) mailing additional copies of the Notice to beneficial owners as reasonably requested by record holders who provide names and addresses for such beneficial holders. Zynga shall be responsible for all costs associated with the distribution of the Notice. If additional notice is required by the Court, then the cost and administration of such additional notice will be borne by Zynga.

7. Within ten (10) business days after the entry of this Scheduling Order, Zynga shall post copies of the Stipulation, its exhibits (including the Notice), and the public version of the text of the SLC Report on a website accessible via hyperlink on Zynga's website and shall maintain such postings through the date of the Settlement Hearing.

8. By November 19, 2018, counsel for the SLC shall file with the Court its brief in support of the Settlement. Should any Defendant wish to file papers in support of the Settlement, those papers also shall be filed with the Court by November 19, 2018.

9. As reflected in the Recitals, Plaintiff is not a party to the Settlement. But following the conclusion of discovery that Plaintiff conducted after the Stipulation was filed with the Court, Plaintiff notified the SLC that he

will endorse the Settlement as representing a reasonable exercise of the SLC's judgment. By December 3, 2018, Plaintiff may file with the Court any statement he may elect to make concerning the Settlement and Plaintiff's position with respect to the Settlement. Also by December 3, 2018, Plaintiff shall file any application for a Fee and Expense Award.<sup>4</sup>

10. As set forth in the Notice, any record holder or beneficial owner of Zynga stock who objects to the Settlement, the proposed Judgment to be entered, any application for a Fee and Expense Award that may be filed, and/or who otherwise wishes to be heard (an "Objector"), may appear in person or by his, her, or its attorney at the Settlement Hearing and present any evidence or argument that may be proper and relevant; *provided, however*, that no Objector shall be heard or entitled to contest the approval of the terms and conditions of the Settlement, or, if approved, the Judgment to be entered thereon, or of any application for a Fee and Expense Award, unless he, she, or it has, no later than December 17, 2018 (unless the Court in its discretion shall thereafter otherwise direct, upon application of such person and for good cause shown), filed with the Register in Chancery, Leonard L. Williams Justice Center, Court of Chancery, 500 North King Street, Wilmington, Delaware 19801, and served (by hand or by overnight mail) on the SLC's Counsel and Defendants' counsel, at the addresses

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<sup>4</sup> For purposes of this Order, "Fee and Expense Award," as defined in the Stipulation, includes any request for an incentive award for Plaintiff.

below, the following: (i) proof of current ownership of Zynga stock; (ii) a written notice of the Objector's intention to appear; (iii) a detailed statement of the objections to any matter before the Court; and (iv) a detailed statement of all of the grounds thereon and the reasons for the Objector's desire to appear and to be heard, as well as all documents or writings which the Objector desires the Court to consider. In addition to the aforementioned Court address, the addresses to which such information should be sent (by hand delivery or by overnight mail) are as follows:

Kevin R. Shannon  
POTTER ANDERSON & CORROON LLP  
1313 N. Market Street  
Hercules Plaza, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 984-6000

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Norman M. Monhait  
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P.A.  
919 N. Market Street, Suite 1401  
P.O. Box 1070  
Wilmington, DE 19899  
(302) 656-4433

*Attorneys for Zynga, Inc.*

*Attorneys for Plaintiff*

11. Any person or entity who fails to object in the manner prescribed above shall be deemed to have waived such objection (including the right to appeal), unless the Court in its discretion allows such objection to be heard at the Settlement Hearing, and shall forever be barred from raising such objection in the Action or any other action or proceeding or otherwise contesting the Settlement, and will otherwise be bound by the Judgment to be entered and the releases to be given.

12. No later than ten (10) business days before the Settlement Hearing, Zynga's counsel shall serve on counsel in the Action and file with the

Court an appropriate affidavit with respect to the preparation and mailing of the Notice and posting of the Notice and Stipulation.

13. On or before January 8, 2019, any Party may serve and file with the Court its reply brief in support of the Settlement and in response to any objections made by an Objector pursuant to Paragraph 10, above (whether such objection is to the Settlement or to any application by Plaintiff for a Fee and Expense Award).

14. The Court will consider whether to approve the Settlement and enter the Judgment separately from its consideration of any application for a Fee and Expense Award that may be filed.

15. In the event that the Stipulation is not approved by the Court, the Settlement and any actions taken in connection therewith shall become null and void for all purposes, and all negotiations, transactions, and proceedings connected with it: (i) shall be without prejudice to the rights of any party to the Stipulation; (ii) shall not be deemed to be construed as evidence of, or an admission by any party to the Stipulation of any fact, matter, or thing; and (iii) shall not be admissible in evidence or be used for any purpose in any subsequent proceedings in the Action or any other action or proceeding. The Parties shall be deemed to have reverted to their respective status in the Action as of the date and time

immediately before the execution of the Stipulation, and the Parties shall proceed in all respects as if the Stipulation and any related orders had not been entered.

16. All proceedings in this Action (except proceedings as may be necessary to carry out the terms and conditions of the Settlement) are hereby stayed and suspended until further order of the Court.

17. The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further notice to anyone other than the parties to the Action and any Objectors.

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Chancellor Andre G. Bouchard

This document constitutes a ruling of the court and should be treated as such.

**Court:** DE Court of Chancery Civil Action

**Judge:** Andre G Bouchard

**File & Serve**

**Transaction ID:** 62609472

**Current Date:** Oct 30, 2018

**Case Number:** 9512-CB

**Case Name:** STAYED - CONF ORD ON DISC - Sandys, Thomas vs Mark J Pincus

**Court Authorizer:** Bouchard, Andre G

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/s/ **Judge Bouchard, Andre G**