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11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN JOSE DIVISION

15 ZYNGA GAME NETWORK INC., a Delaware  
 Corporation,  
 16  
 17 Plaintiff,  
 18 v.  
 19 JASON WILLIAMS, an individual, LUNA  
 MARTINI, an individual, WAN-WEN KUO, an  
 20 individual, and JOHN DOES 4-5 D/B/A MW  
 GROUP  
 21 Defendants.

**CASE NO. CV-10:01022 JF (PSGx)**  
  
**PLAINTIFF’S FIFTH MOTION TO  
 CONTINUE CASE MANAGEMENT  
 CONFERENCE; AND**  
  
**MEMORANDUM OF POINTS AND  
 AUTHORITIES**  
  
**No Hearing Date Requested**

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**MOTION**

Plaintiff Zynga Inc.<sup>1</sup> (“Zynga”) hereby moves the Court pursuant to Civil Local Rule 7-11 for an order continuing the Case Management Conference in this matter. This motion is based on the Motion, the declaration of David K. Caplan, the [Proposed] Order, all pleadings on file in this action, and any other matter that may be submitted in support of the motion.

**ISSUE TO BE DECIDED**

Whether the Case Management Conference currently scheduled for April 15, 2011 shall be continued.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Zynga respectfully requests that the Court continue the Case Management Conference currently scheduled for May 15, 2011 for four (4) weeks.

On September 7, 2010, Zynga filed its First Amended Complaint. (Dkt. No. 22.)

On October 8, 2010, Zynga filed its motion for leave to serve the Defendants in this case by electronic mail (“e-mail”). (Dkt. No. 26.) On March 25, 2011, the Court granted Zynga’s motion authorizing Zynga to serve the Defendants by e-mail. (Dkt. No. 35.) On March 28, 2011, Zynga served the Defendants with the Summons, First Amended Complaint and documents required by Civil Local Rule 4-2 by e-mail. (See Dkt. No. 36.) Based on this date, the Defendants are required to respond to Zynga’s First Amended Complaint on or before April 18, 2011.

On January 6, 2011, the Court continued the Case Management Conference until April 15, 2011, and continued all related dates accordingly. (Dkt. No. 34.) The deadline to file the Federal Rule of Civil Procedure (“Federal Rule”) 26(f) report is Friday, April 8, 2011.

On March 30, 2011, counsel for Zynga sent the Defendants an e-mail reminding them of the Case Management Conference scheduled for April 15, 2011 and requirement to meet and confer and file the Rule 26(f) Report. Counsel for Zynga requested that the Defendants contact Zynga’s counsel

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<sup>1</sup> Zynga Game Network Inc. formally changed its corporate name to Zynga Inc. on November 17, 2010.

1 no later than April 4, 2011 to schedule a time to meet and confer and prepare the joint Rule 26(f)  
2 Report. To date, counsel for Zynga has not received a response from the Defendants.

### 3 III. ARGUMENT

4 There is good cause to continue the Case Management Conference in this case. For the  
5 reasons set forth in Zynga's motion for leave to serve the defendants by electronic mail and the  
6 supporting declaration of David K. Caplan, Zynga had been unable to serve the defendants with  
7 process until March 28, 2011. (See Dkt. Nos. 26-27.) As a result, while Zynga has been diligently  
8 pursuing the necessary discovery in this case, Zynga has been unable to conduct the conference  
9 required by Federal Rule 26(f)(1), and will not be able to timely file the joint statement required by  
10 Federal Rule 26(f)(2) and Civil Local Rule 16-9. (Declaration of David K. Caplan in Support of  
11 Zynga's Fifth Motion to Continue Case Management Conference ("Caplan Decl."), ¶ 2.)  
12 Accordingly, it will be impractical for the Case Management Conference to proceed as scheduled on  
13 April 15, 2011, and there is good cause for the Court to continue the Case Management Conference.<sup>2</sup>

14 Assuming the Defendants respond to Zynga's First Amended Complaint on or before April  
15 18, 2011,<sup>3</sup> and allowing sufficient time for the parties to fulfill their obligations under the Federal  
16 Rules and the Civil Local Rules, Zynga respectfully requests that the Court continue the Case  
17 Management Conference for four (4) weeks until May 13, 2011, or another date that is convenient  
18 for the Court.

### 19 IV. CONCLUSION

20 For the foregoing reasons, Zynga respectfully requests that the Court issue an order  
21 continuing the Case Management Conference and all related dates in this matter until May 13, 2011,  
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24 <sup>2</sup> The fact that Zynga recently served the Defendants on March 28, 2011, and Defendants have not  
25 yet responded to Zynga's request to conduct the conference required by Federal Rule 26(f)(1) and  
26 prepare the joint statement required by Federal Rule 26(f)(2) and Civil Local Rule 16-9, Zynga is  
unable to submit this motion as a stipulation. (Caplan Decl. ¶ 4.)

27 <sup>3</sup> If the Defendants do not respond to Zynga's First Amended Complaint on or before April 18, 2011,  
Zynga will request that the clerk enter the Defendants' default.

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or another date that is convenient for the Court. Zynga is prepared to provide any additional information the Court may request regarding this Motion.

Dated: April 5, 2011

By: \_\_\_\_\_ /s/

David K. Caplan  
Keats McFarland & Wilson LLP  
Attorneys for Plaintiff  
ZYNGA INC.