

Joseph J. Tabacco, Jr. (SBN 75484)
 Christopher T. Heffelfinger (SBN 118058)
 Nicole Lavallee (SBN 165755)
 Victor S. Elias (SBN 262269)

BERMAN DEVALERIO

One California Street, Suite 900
 San Francisco, CA 94111
 Telephone: (415) 433-3200
 Facsimile: (415) 433-6282
 Email: jtabacco@bermandevalerio.com
 cheffelfinger@bermandevalerio.com
 nlavallee@bermandevalerio.com
 velias@bermandevalerio.com

Jeffrey M. Norton (Admitted *Pro Hac Vice*)
 Roy Shimon (Admitted *Pro Hac Vice*)

NEWMAN FERRARA LLP

1250 Broadway, 27th Floor
 New York, NY 10001
 Telephone: (212) 619-5400
 Facsimile: (212) 619-3090
 Email: jnorton@nflp.com
 rshimon@nflp.com

Co-Lead Counsel and Attorneys for
 Lead Plaintiff David Fee and Named Plaintiff Joy Arjoon-Singh

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

IN RE ZYNGA INC. SECURITIES
 LITIGATION

CLASS ACTION

Lead Case No. 12-cv-04007-JSW

Consolidated with Case Nos.
 12-CV-4048-JSW, 12-CV-4059-JSW,
 12-CV-4064-JSW, 12-CV-4066-JSW,
 12-CV-4133-JSW, 12-CV-4250-JSW

This Document Relates To:
 All Actions.

**PLAINTIFFS' REQUEST FOR
 JUDICIAL NOTICE IN SUPPORT OF
 PLAINTIFFS' OPPOSITION TO
 DEFENDANTS' MOTIONS TO
 DISMISS**

Date: August 30, 2013
 Time: 9:00 a.m.
 Courtroom: 11, 19th Floor
 Judge: Hon. Jeffrey S. White

1 Lead Plaintiff David Fee and Named Plaintiff Arjoon-Singh (“Plaintiffs”) hereby
 2 requests that this Court take judicial notice, under Rule 201 of the Federal Rules of Evidence,
 3 of the documents described below and attached as exhibits to the Declaration of
 4 Nicole Lavallee in Support of Plaintiffs’ Opposition to Defendants’ Motions to Dismiss
 5 (“Lavallee Declaration” or “Lavallee Decl.”), filed concurrently herewith, for the reasons set
 6 forth below.

7 **I. LEGAL STANDARDS**

8 While courts ordinarily cannot consider any material beyond the pleadings in ruling on
 9 a Rule 12(b)(6) motion, “[t]here are, . . . two exceptions to the requirement that consideration
 10 of extrinsic evidence converts a 12(b)(6) motion to a summary judgment motion.” *Lee v. City*
 11 *of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001). First, the Court may take judicial notice of
 12 matters of public record to the extent permitted by Fed. R. Evid. 201. *Id.* at 688-89. Rule 201
 13 provides that courts may take judicial notice of documents that are: (a) generally known
 14 within the territorial jurisdiction of the trial court, or (b) capable of accurate and ready
 15 determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R.
 16 Evid. 201(b). Second, courts may consider documents that are either submitted as part of the
 17 complaint or that are relied on in a complaint *and* whose authenticity is not contested. *Lee*,
 18 250 F.3d at 688.

19 **A. The Court May Take Judicial Notice of Publicly-Available Stock Data**

20 Courts may take judicial notice of stock price data that is “can be accurately and readily
 21 determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid.
 22 201(b)(2). *See also S.E.C. v. Mozilo*, 09 U.S. Dist. LEXIS 104689, at *20 n.2 (C.D. Cal. Nov.
 23 3, 2009) (granting request that court take judicial notice of “stock price data”). Plaintiffs
 24 request that the Court take judicial notice of the following data, which is attached as Exhibit 3
 25 to the Lavallee Declaration. Plaintiffs request that judicial notice be taken only of the fact that,
 26 as of the date Plaintiffs have filed their Compendium Memorandum in Opposition to Motions
 27 to Dismiss (“Pls.’ Memo.”), the Company’s stock price has remained below at \$4 share. Pls.’
 28 Memo. 4, 28.

1 **Exhibit 3 to Lavallee Declaration:** Stock price data for the time period December 15,
2 2011 to July 12, 2013 for Zynga, Inc. (“Zynga”), obtained from Bloomberg on the July 12,
3 2013.

4 **B. The Court May Take Judicial Notice of SEC Filings**

5 Additionally, courts may take judicial notice of the fact that certain statements appeared
6 in documents filed with the Securities and Exchange Commission (“SEC”), but not for the truth
7 of a document’s contents. *See Batwin v. Occam Networks, Inc.*, 2008 U.S. Dist. LEXIS 52365,
8 at *5 n.3 (C.D. Cal. July 1, 2008) (“The Court takes judicial notice of the content of all SEC
9 filings provided to the Court However, the Court does not take judicial notice of the truth
10 of the content of these filings.”); *see also Kramer v. Time Warner, Inc.*, 937 F.2d 767, 774 (2d
11 Cir. 1999) (“[A] district court may take judicial notice of the contents of relevant public
12 disclosure documents required to be filed with the SEC as facts capable of accurate and ready
13 determination by resort to sources whose accuracy cannot reasonably be questioned.” (quoting
14 Fed. R. Evid. 201(b)(2)) (internal quotation marks omitted)).

15 Accordingly, Plaintiffs request the Court take judicial notice of the following
16 documents, filed with the SEC, not for the truth of the matters asserted but simply to show that
17 Zynga made certain statements.

18 With respect to Exhibit 1 and 2, Plaintiffs request that judicial notice be taken only of
19 the discreet facts that (1) Zynga has stated that it has made a massive series of lay-offs, and (2)
20 that Zynga announced that Mark Pincus will step down as Chief Executive Officer of the
21 Company. *See* Pls.’ Memo. 4.

22 With respect to Exhibits 4 and 5, Plaintiffs request that the Court take such notice only
23 of the discreet fact that Zynga represented that its games *Farmville*, *Cityville*, and *Zynga Poker*
24 were its top revenue-generating games. Pls.’ Memo. 6. Finally, regarding Exhibit 6, Plaintiffs
25 request that notice be take only of the fact that Zynga represented that the Secondary Offering
26 allowed only select executives and insiders to sell before the Company’s other employees,
27 whose shares remained locked-up, were able to. *Id.* at 18.

1 **Exhibit 1 to Lavallee Declaration:** Zynga's June 3, 2013 Current Report on Form 8-
2 K, with attached June 3, 2013 press release issued by Zynga, filed with the SEC on June 4,
3 2013, reporting on a Zynga press release indicating workforce reductions of approximately 520
4 employees.

5 **Exhibit 2 to Lavallee Declaration:** Zynga's June 27, 2013 Current Report on Form 8-
6 K, filed with the SEC on July 3, 2013, reporting that Zynga's Board of Directors appointed
7 Don A. Matrick to serve as Chief Executive Officer of the Company, and that Mark Pincus
8 would no longer serve as CEO of the Company.

9 **Exhibit 4 to Lavallee Declaration:** Relevant excerpts of Zynga's Annual Report for
10 the fiscal year ended December 31, 2011 on Form 10-K, filed with the SEC on February 28,
11 2012.

12 **Exhibit 5 to Lavallee Declaration:** Relevant excerpts of Zynga's Annual Report for
13 the fiscal year ended December 31, 2012 on Form 10-K, filed with the SEC on February 25,
14 2013.

15 **Exhibit 6 to Lavallee Declaration:** Relevant excerpts of Zynga's Prospectus on Form
16 424B4, filed with the SEC on March 29, 2012, which is cited in the Consolidated Complaint.
17 *See, e.g., ¶¶3, 17.*

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1 **II. CONCLUSION**

2 Under the foregoing authorities, Plaintiffs respectfully request that this Court take
3 judicial notice pursuant to Rule 201 of the Federal Rules of Evidence of the documents
4 attached to the concurrently-filed Lavallee Declaration for the limited purposes set forth herein.

5
6 DATED: July 12, 2013

BERMAN DEVALERIO

7 By: /s/ Nicole Lavallee
8 Nicole Lavallee

9 Joseph J. Tabacco, Jr.
Nicole Lavallee
Christopher T. Heffelfinger
One California Street, Suite 900
10 San Francisco, CA 94111
Telephone: (415) 433-3200
11 Facsimile: (415) 433-6282
Email: jtabacco@bermandevalario.com
12 cheffelfinger@bermandevalario.com
13 nlavallee@bermandevalario.com
14 velias@bermandevalario.com

15 Jeffrey M. Norton (Admitted *Pro Hac Vice*)
Roy Shimon (Admitted *Pro Hac Vice*)
16 **NEWMAN FERRARA LLP**
1250 Broadway, 27th Floor
17 New York, NY 10001
Telephone: (212) 619-5400
18 Facsimile: (212) 619-3090
Email: jnorton@nflp.com
19 rshimon@nflp.com

20 *Co-Lead Counsel and Attorneys for Lead Plaintiff David*
21 *Fee and Named Plaintiff Joy Arjoon-Singh*
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27
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