

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**GENEVIEVE MAHONEY, a/k/a
@genmahoney19, an individual,**

Plaintiff,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 21-CV-00607

Hon. William L. Campbell, Jr.

ORAL ARGUMENT REQUESTED

**DEFENDANT FACEBOOK INC.'S MOTION TO TRANSFER CASE
TO THE NORTHERN DISTRICT OF CALIFORNIA**

Defendant Facebook, Inc., by and through counsel, respectfully moves to transfer this case to the Northern District of California pursuant to 28 U.S.C. § 1404(a). The Instagram Terms of Use—which Plaintiff agreed to during registration of her Instagram accounts and again in December of 2020—contain a valid and enforceable forum selection clause. Where a federal court sits in diversity, the enforceability of a forum selection clause is governed by federal law. *Wong v. PartyGaming Ltd.*, 589 F.3d 821, 827 (6th Cir. 2009). Under federal law, “a valid forum-selection clause should be given controlling weight in all but the most exceptional circumstances.” *Atl. Marine Constr. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 134 S. Ct. 568, 581 (2013) (alteration incorporated)). No such circumstances are present here.

For the reasons more fully set forth in the contemporaneously-filed Memorandum of Law, the Declaration of Jennifer Pricer and accompanying exhibits, and the Declaration of Will Camp and accompanying exhibit, Facebook respectfully requests that the Court transfer this case to the Northern District of California under 28 U.S.C. § 1404(a). On August 30, 2021, Plaintiff’s counsel informed Facebook that Plaintiff opposes this Motion.

Dated: August 30, 2021

Respectfully submitted,

/s/ Overton Thompson III

Overton Thompson III (BPR 011163)
BASS, BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
Telephone : (615)-742-7730
Facsimile : (615) 742-2804
othompson@bassberry.com

Archis A. Parasharami
(aparasharami@mayerbrown.com)
Kevin Ranlett (*pro hac vice* to be filed)
(kranlett@mayerbrown.com)
MAYER BROWN LLP
1999 K Street, N.W.
Washington, DC 20006
Telephone: (202) 263-3000
Facsimile: (202) 263-3300

Lauren R. Goldman (*pro hac vice* to be filed)
MAYER BROWN LLP
1221 Avenue of the Americas
New York, NY 10016
Telephone: (212) 506-2500
Facsimile: (212) 849-5589
lrgoldman@mayerbrown.com

Matthew D. Provance (*pro hac vice* to be filed)
MAYER BROWN LLP
71 Wacker Drive
Chicago, IL 60606
Telephone: (312) 701-8598
mprovance@mayerbrown.com

Counsel for Defendant Facebook, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed and served upon the following via the Court's ECF system on this the 30th day of August, 2021:

M. E. Buck Dougherty III
Phillip E. Fleenor
Duncan, Hatcher, Holland & Fleenor, P.C.
1418 McCallie Avenue
Chattanooga, TN 37404
(423) 266-2207
bdougherty@duncanhatcher.com
pfleenor@duncanhatcher.com

/s/ Overton Thompson III
Overton Thompson III (BPR 011163)
BASS, BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
Telephone : (615)-742-7730
Facsimile : (615) 742-2804
othompson@bassberry.com