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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

JOHN DOE, a minor, represented by his court-appointed guardian *ad litem*, CHARLES JONAS,

Plaintiff,

v.

ROBLOX CORPORATION; DISCORD INC.; and DOES 1-50, inclusive,

Defendants.

Case No.: 25-CIV-01193

PLAINTIFF'S OPPOSITION TO DEFENDANT ROBLOX CORPORATION'S MOTION TO COMPEL ARBITRATION AND STAY PROCEEEDINGS

Date: May 2, 2025
Time: 9:00 a.m.
Dept.: 24
Judge: Hon. Jeffrey R. Finigan

Action Filed: February 12, 2025

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INTRODUCTION

Defendant Roblox Corporation ("Roblox") markets its gaming platform as a safe online environment for children. The reality is far different—and Roblox knows it. Each year, Roblox quietly tallies up thousands of reports of children being groomed, threatened, sexually exploited, kidnapped, raped, and otherwise assaulted by predators who use Roblox to get easy access to kids.[1] These crimes are horrific and happen on a daily basis.[2] Yet, shockingly, none of this stops Roblox from deploying millions in marketing to lure children to its fast-growing and lucrative platform. Plaintiff John Doe ("John") was one of those children.

On February 12, 2025, as a 13-year-old child, John bravely filed this lawsuit, detailing how the purposeful design and operation of Roblox, together with the company's fraudulent claims of safety, allowed a pedophile to identify, contact, groom, and eventually subject John to criminal sexual exploitation. [3] (Compl. ¶¶ 205-11, 219-31.) In response, Roblox has filed a motion to deprive John of his day in court and instead force him to pursue his claims in a confidential arbitration proceeding. Roblox's motivation is simple: to strip John of his right to a jury trial and keep its abhorrent conduct, which enabled and facilitated John's assault, under wraps.

The purported basis for Roblox's motion is the arbitration provision in the May 2023 Terms of Use ("Terms") in effect when John's father created John's Roblox account. That provision has no application to John's claims and cannot block his case from proceeding.

As Roblox well knows, John himself never expressly assented to the Terms. It was his father who (supposedly) agreed to them. But John's father's agreement cannot make ***John*** a party to the Term's arbitration provision. Under the law, a parent may not bind a child to arbitrate claims that arise under a contract like the one at issue here. Even if the agreement by John's father could make

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[1] According to the National Center for Missing and Exploited Children, reports of suspected child exploitation on Roblox have surged in recent years from 675 reports in 2019 to 13,316 in 2023. (Compl. ¶ 125.)

[2] As one journalist recently reported, Roblox has a "pedophile problem" of its own creation. Olivia Carville, *Roblox's Pedophile Problem*, Bloomberg Businessweek (July 23, 2024), https://www.bloomberg.com/features/2024-roblox-pedophileproblem/.

[3] On February 25, 2025, John moved for trial preference.

John a party to the arbitration agreement, John expressly disaffirmed any agreement to arbitrate before filing this suit. Under these circumstances, the law is clear: John, a minor child who has disaffirmed any supposed agreement to arbitrate, cannot be forced into secret arbitration. That should end the matter.

Rather than accept the clear import of the law, Roblox insists John can be bound as a ***nonparty*** to the arbitration agreement. It claims that because John gained so many "benefits" from using Roblox's platform, he cannot now complain that Roblox is trying to force him to comply with an arbitration provision to which he did not agree. Roblox's argument is astounding—and wrong. For obvious reasons, courts will not close their doors to a person who did not agree to forgo his right to bring suit. And while there are narrow exceptions to that well-established rule, Roblox fails to show that any of them are present here.

This Court is the proper forum for John's claims. The Court should deny Roblox's motion and allow the judicial process to move forward.

FACTUAL BACKGROUND

In the spring of 2023, John's father created a Roblox account for John so that he could play games on the platform. Around the same time, John asked his parents if he could create an account on Defendant Discord Inc.'s ("Discord") platform so that he could chat with friends. His parents agreed. Within months, John's life was turned upside down. While playing what was supposed to be a children's game on Roblox called Pet Simulator, he was identified and targeted by a repeat-offender child predator. This predator used Roblox then Discord to aggressively groom John and coerce him into sending nude images of himself —offering Roblox's virtual currency "Robux" as payment. The predator then offered John $100 in Robux in exchange for sex. He convinced John to provide his home address, arranged to meet John in person near his house, and threatened John when he failed to show up, reminding John that he knew his address. None of this would have happened had Defendants disclosed the dangers of their platforms and invested in basic safety features to protect against exactly the kind of exploitation that John and thousands of other kids have suffered.

Shortly after, John's parents discovered that John was being sexually exploited and alerted the police. The police executed a search warrant at the predator's home, seizing multiple devices

and discovering Robux gift cards and information for a Discord account. The police learned that the predator was already facing charges in another case for sexually exploiting a minor, and authorities now believe he similarly exploited at least 26 other children.

Terrified that the predator knew where they lived, John and his family uprooted their lives and moved across the country. This meant selling the family home they loved and leaving the school where John was excelling.

Due to the sexual exploitation he experienced on Defendants' platforms, John has suffered, and continues to suffer, life-altering psychological and emotional injuries. He lives with deep humiliation, shame, fear, and a profound loss of trust, safety, and innocence. His new school has referred him to a program that assists students with mental health disorders, including depression, anxiety, and suicidality. John undergoes weekly psychiatric counseling and is prescribed a host of medications. His life will never be the same.

On February 12, 2025, John filed this lawsuit against Roblox and Discord. Before doing so, his counsel sent the company a Notice of Disaffirmance, signed and dated by John, disaffirming on the grounds of his minority "any written contract I may have entered at any time whereby Roblox Corporation sought to bind me to its Terms of Use, which included forced arbitration provisions." (Roblox Ex. A.) John also disaffirmed "any changes to the Roblox Terms of Use that have occurred after any written contract I may have entered with Roblox Corporation." (*Id.*)

STANDARD OF REVIEW

Contrary to Roblox's suggestion, the "federal policy favoring arbitration" is not intended to put a thumb on the scale in favor of arbitration agreements. Rather, the "federal policy is about treating arbitration contracts like all others, not about fostering arbitration." (See *Morgan v. Sundance, Inc.* (2022) 596 U.S. 411, 418; see also *Granite Rock Co. v. Int'l Bhd. of Teamsters* (2010) 561 U.S. 287, 302 (explaining that the FAA is simply meant "to place arbitration agreements on the same footing as other contracts") (citation and internal quotation marks omitted).) The same is true of California's policy concerning arbitration. (See *Young v. Horizon West, Inc.* (2013) 220 Cal.App.4th 1122, 1128 (emphasizing that "the right to arbitration depends on a contract"); *Eng'rs*

& Architects Ass'n v. Comty. Dev. Dep't (1994) 30 Cal.App.4th 644, 653 ("There is no public policy favoring arbitration of disputes which the parties have not agreed to arbitrate.").)

In determining whether a valid agreement to arbitrate exists, it is critical that courts "apply ordinary state-law principles that govern the formation of contracts." *Fleming v. Oliphant Fin., LLC* (2023) 88 Cal.App.5th 13, 21 (citation and internal quotation marks omitted).

Roblox has moved to compel arbitration under Code of Civil Procedure § 1280, et seq. The court must determine whether "an agreement to arbitrate the controversy exists." (CCP § 1281.2.) Because "the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence." (*Theresa D. v. MBK Senior Living LLC* (2021) 73 Cal.App.5th 18, 24 (citation and internal quotation marks omitted). When a party opposing a motion raises a defense to enforcement, "that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to its defense." (*Rosenthal v. Great Western Fin. Sec. Corp.* (1996) 14 Cal.4th 394, 413.)

ARGUMENT

I. John Is Not Bound by the Arbitration Agreement.

A. John Cannot Be Forced to Arbitrate as a Party to the Arbitration Provision.

Roblox's Terms purport to bind any "User," including a minor child. The arbitration provision, in particular, seeks to compel a "User" to arbitrate their claims. Under the agreement's plain terms, John, not his father, is the only possible User here and thus the only possible party to the arbitration agreement. But John never affirmatively assented to any of Roblox's Terms, including its forced arbitration provision. And, to the extent any agreement by John to arbitrate was arguably created, John expressly disaffirmed it. Those undisputed facts, by themselves, resolve Roblox's Motion.

Seeking to avoid that result, Roblox claims that because John's ***father*** assented to the Terms when he created John's account, John's father is the party to the Terms and thus the arbitration agreement. (See Roblox Mem. 15, citing Roblox Ex. B § 1(a) ("[b]y permitting a Minor User to use the Services, the Guardian of the Minor becomes subject to these User Terms and any other applicable Roblox Terms"). According to Roblox, John is only a beneficiary of his father's

agreement to the Terms. Roblox says that as a beneficiary, John is bound by Terms, including the arbitration provision, and that as a nonparty, he has no power to disaffirm that provision.

Roblox's position makes no sense. The clear intent of Roblox's Terms is to bind "Users" of its services. The Terms are "a legally binding agreement between ***Users*** and Roblox," that apply to the "***User*** and Roblox ***only***." (Roblox Ex. B, Introduction, § 17(a) (emphases added).) The arbitration provision, in particular, creates rights and obligations only for "Users" bringing claims based on their use of Roblox. (See, e.g., Roblox Ex. B § 16 (xiv) ("User and Roblox agree that neither of us will assert a claim against the other as a class action, class arbitration, or in any other similar representative capacity.") John's father is not a User and he is not the one bringing claims against Roblox. John is.[4] And the Terms are ***not*** a legally binding agreement between a "Guardian"—i.e., the "parent or legal guardian of a Minor User," like John's father—and Roblox. (See Roblox Ex. C (defining "Guardian").) Thus, the only possible party to the arbitration provision is John.

Roblox might argue that when establishing John's account, his father agreed to the Terms ***on behalf of*** John. But even if that occurred, John still could not be forced to arbitrate. As explained below, courts do not permit parents to bind children to arbitration other than in contracts that "implicate a parent's fundamental duty to provide for the health and care of the child." (*Berg v. Traylor*, (2007) 148 Cal.App.4th 809.) A contract to play online games clearly does not fit that description. Moreover, as noted, John expressly disaffirmed any agreement to arbitrate he arguably had—something that he, as a minor child, was clearly entitled to do. (See Family Code § 6710 ("Except as otherwise provided by statute, a contract of a minor may be disaffirmed before majority or within a reasonable time afterwards . . . ."); *Berg v. Traylor, supra*, 148 Cal.App.4th, at p. 819

[4] "Users" are "[e]veryone who uses the Services," and "Services" are "all of the various features and services, like websites, applications, forums and the Platform, which Roblox makes available to Users to allow Users to play, create and connect." (Roblox Ex. C.) Users include "Minor Users," as simply a subset of Users. (See Roblox Ex. C (defining "Minor Users" as "[a] User under the age of 18 (or as applicable and to the extent lower, the age of majority in their jurisdiction").)

(holding that minor plaintiff was entitled to disaffirm contract because he was a "principal" to the contract rather than a "third party beneficiary").

B. John Is Not Bound by the Arbitration Agreement as a Nonsignatory.

Roblox knows that if it treats John as a party to the Terms, its motion will fail since John, a minor, expressly disaffirmed any agreement to arbitrate. So Roblox pivots to insist John is a "nonsignatory" to the Terms, who can be bound because his father agreed to arbitration. That argument ignores the clear rule that one who is not a party to an arbitration agreement cannot be forced to comply with it. (*Pillar Project AG v. Payward Ventures* (2021) 64 Cal.App.5th 671, 675.) While that rule has narrow exceptions, Roblox has not come close to showing they apply here.

1. John Is Not a Third-Party Beneficiary.

John is not a third-party beneficiary to the Terms, no matter how Roblox tries to spin it. For John to be a third-party beneficiary to the Terms, he must have the right to enforce the Terms against Roblox. (Code Civ. § 1559 ("A contract, made expressly for the benefit of a third person, may be enforced by him at any time before the parties thereto rescind it.").) But in the Terms, Roblox expressly forecloses John from seeking to enforce them: "Nothing in the Roblox Terms will be deemed to confer any rights or benefits on a third party (other than Apple as noted in the 'Notice Regarding Apple' section)." (Roblox Ex. B § 19(a).) "Nothing" means nothing, and the Terms are clear that the only third-party beneficiary is Apple. (See Roblox Ex. B § 17(a) ("Apple and Apple's subsidiaries are third-party beneficiaries of the Roblox Terms, and when User accepts the Roblox Terms, Apple will have the right . . . to enforce the Terms against Users as a third-party beneficiary.").)

Contract law is clear: because John would have no right to enforce the Terms against Roblox, he is not and cannot be treated as a third-party beneficiary. (See *Comer v. Micor* (9th Cir. 2006) 436 F.3d 1098, 1102 (holding that plaintiff was not a third-party beneficiary to contract with arbitration clause because he "cannot be bound to the terms of a contract he didn't sign and is not even entitled to enforce"); *Matthau v. Superior Court* (2007) 151 Cal.App.4th 593, 603 (same).) Had Roblox intended for minor users to be third-party beneficiaries, it could have provided for that in its Terms—as it did with Apple. The fact that Roblox specifically identified just one party—Apple—as a third-

party beneficiary defeats its after-the-fact effort to place John in that category. Put simply, John would have no right to compel Roblox to arbitrate his claims. That being the case, Roblox cannot force arbitration on John.

Even if John were a third-party beneficiary to the Terms (he is not), he still would not be bound by the Terms. It was indisputably John's father who supposedly signed the Terms. A parent cannot bind his child to an arbitration agreement in a contract unless the parent entered the contract as part of his "right and duty to provide for the care of the child." (*Doyle v. Giuliucci* (1965) 62 Cal.2d 606, 609.) The Court should reject Roblox's attempts to extend this principle from *Doyle* to a contract pertaining to internet video games.

While Roblox relies extensively on *Doyle*, the case is plainly distinguishable. In *Doyle*, the Court considered whether a parent had the authority "to bind his child to arbitrate claims arising under a health care contract of which the child is a beneficiary." (*Id.* at 698.) There, a father entered a contract with a medical group to provide care for him and his dependents. After his daughter sued the medical group for malpractice, the group moved to compel the case to arbitration under the contract. Although the daughter had disaffirmed the contract, the court concluded that minor disaffirmance "does not apply to contracts between adults and is therefore not controlling on the question of a parent's power to bind his child to arbitrate by entering into a contract of which the child is a third-party beneficiary." (*Ibid.*) The "crucial question" therefore was "whether the power to enter into a contract for medical care that binds the child to arbitrate any disputes arising thereunder is implicit in a parent's right and duty to provide for the care of his child." (*Ibid.*) Answering yes, the court found "compelling reasons for recognizing that power." (*Ibid.*) Because minors can disaffirm their own contracts for medical services, the Court explained, medical groups are unlikely to contract with them, and so minors "can be assured of the benefits of group medical services only if parents can contract on their behalf." (*Ibid.*) For these reasons, the Court held that, in the context of a parent's contract for medical services for a child, the parent has the authority to bind the child to the arbitration agreement in that contract.

Numerous courts have since confirmed that this decades-old decision is limited to arbitration agreements in contracts that a parent entered pursuant to their "right and duty to provide for the care

of [their] child." (*Ibid.*) For example, in *Berg v. Traylor*, (2007) 148 Cal.App.4th 809, the court denied the defendant's attempt to compel a child actor to arbitration under a contract for personal management services. In doing so, the court found *Doyle* inapplicable for two reasons. First, the minor was not a third-party beneficiary of the contract signed by his mother but was rather a party to the contract because he had also signed the contract. Second, unlike with a contract entered into by a parent for medical services for a child, there were "no compelling reasons justifying binding" the child to the contract because "an agreement for personal management services does not implicate a parent's fundamental duty to provide for the health and care of the child." (*Id.* at 819.)

Similarly, in *In re Ring LLC Privacy Litigation* (C.D.Cal. June 24, 2021) No. 19-10899, 2021 U.S. Dist. LEXIS 118461, the court rejected the defendant's argument that parents had the authority to bind their children to an arbitration agreement in a contract for home security devices. The defendant invoked *Doyle* (as well other cases relied on by Roblox) to try to force arbitration, but the court found that these "cases are inapposite because they involve a parent or spouse's ability to enter a contract on behalf of her child or spouse for medical care or school activities." (*Id.* at *29.) The court was "unconvinced that the authority to contract for goods beyond necessities like education or medical care is implicit in a parent or guardian's duty to provide for the care of her child or dependent." (*Ibid.*)

John thus cannot be bound by the arbitration agreement as a third-party beneficiary because his father had no authority to bind him to the Terms. The Terms do not implicate John's father's "fundamental duty to provide for the health and care of the child"—far from it. (*Berg v. Traylor*, *supra*, 148 Cal.App.4th at 819.) Roblox is a kids' gaming platform. Roblox does not provide medical services or anything even remotely similar. Indeed, Roblox has not cited a single California state court case outside of the medical services context in which a court held that a parent had the authority to bind his child to an arbitration agreement. (See Roblox Mem. 15.) *Doyle* does not apply to the circumstances here.

2. Equitable Estoppel Does Not Apply.

Roblox also attempts to invoke equitable estoppel to bind John to the arbitration agreement. Roblox badly misconstrues this doctrine, which has no place here. The "general rule" for equitable

estoppel is that "[w]hen a plaintiff brings a claim ***which relies on contract terms*** against a defendant, the plaintiff may be equitably estopped from repudiating the arbitration clause contained in that agreement." (*Theresa D. v. MBK Senior Living LLC* (2021) 73 Cal.App.5th 18 (quoting *JSM Tuscany, LLC v. Superior Court* (2011) 193 Cal.App.4th 1222, 1239 (emphasis in original)); see also *Pillar Project*, *supra*, 64 Cal.App.5th, at p. 678 (explaining that "the plaintiff's actual dependence on the underlying contract" is "always the sine qua non of an appropriate situation for applying equitable estoppel" (citation and internal quotations omitted)).) That makes sense because "[f]airness compels an estoppel when one sues on an agreement but attempts to avoid certain of its terms—such as an arbitration clause." (*Crowley Maritime Corp. v. Boston Old Colony Ins. Co.* (2008) 158 Cal.App.4th 1061, 1072.)

Here, John's claims against Roblox in no way "rely on contract terms." Tellingly, Roblox does not even attempt to assert that John's claims seek to enforce the Terms or depend on them in any way. Nor could it. John brings claims for fraudulent concealment and misrepresentation and for negligent misrepresentation. The specific misrepresentations that underly these claims come not from the Terms but from the statements that Roblox made in various public statements, including parts of its website, falsely assuring parents that its platform is safe for their children. (See Compl. ¶¶ 237(a)-(h), 258(a)-(h).) John also asserts numerous claims sounding in negligence and strict liability, which all allege that Roblox violated its duty to John in developing, designing, and operating its platform. (See *id.* ¶¶ 268-406.) Equitable estoppel is inapplicable because John's "allegations reveal no duty, no claim of any violation of any duty, obligation, or term or condition imposed by" the Terms. (*Goldman v. KPMG, LLP* (2009) 173 Cal.App.4th 209, 230.) Simply put, John's claims are "fully viable without reference" to the Terms. (*Id.*)

Notwithstanding all this, Roblox claims that equitable estoppel applies because "Plaintiff knowingly sought the benefits made possible by the 2023 Terms: access to and use of the Roblox platform." (Roblox Mem. 17.) Roblox's argument is effectively this: even though John's legal claims do not rely or depend on the Terms in any way, John should be compelled to arbitration because he may have enjoyed some good times on Roblox until things turned bad.

This position finds no support in California law. Instead, as Roblox's own cited authority confirms, to invoke estoppel and compel John to arbitrate, Roblox would have to show that John's legal claims rely or depend on the Terms. Take *Philadelphia Indemnity Insurance Co. v. SMG Holdings, Inc.* (2019) 44 Cal.App.5th 834, on which Roblox principally relies. In that insurance coverage dispute, Future Farmers of America licensed the use of a convention center for its annual convention from property manager, SMG Holdings. As part of the license, Future Farmers obtained an insurance policy from Philadelphia Insurance for itself that also covered SMG. An attendee was injured at the event and sued Future Farmers and SMG. SMG tendered its defense to Philadelphia Insurance, which rejected the claim and moved to compel arbitration of the dispute under the insurance policy that it issued Future Farmers. The court granted the motion based on equitable estoppel because SMG ***sought to enforce the policy*** that itself contained the arbitration provision. The court explained that "it defies logic to require a named insured demanding coverage to submit coverage disputes to arbitration, while freeing from that obligation an unnamed insured demanding the same coverage." (*Id.* at 842-843.) This case is a textbook application of equitable estoppel in which a nonsignatory brought a claim based on some of a contract's terms but sought to avoid the arbitration clause contained in the same contract.

The same is true of Roblox's other cases. In *Verge Media Co. v. MacCini* (C.D.Cal. 2011), No. 11-05520 2011 U.S. Dist. LEXIS 169602, at *44, the court held that equitable estoppel applied because the nonsignatory plaintiffs were suing the signatory defendant "based at least in part on [the] agreement" and were therefore "seeking to enforce and benefit from the rights the agreement confers." As a result, the court explained, "they must also be held to the concomitant obligations the agreement imposes, and be required to arbitrate with defendants." (*Id.*) In *Teel v. Aaron's, Inc.* (M.D. Fla. Mar. 24, 2015) No. 14-640, 2015 U.S. Dist. LEXIS 37140, at *19-20, the court compelled arbitration of all the plaintiffs' claims, including those of the minor plaintiffs who were nonsignatories to a lease purchase agreement, because each of the plaintiffs' six counts—including the counts brought by the minor plaintiffs—"rely on the unsigned lease purchase agreements." And likewise in *Hofer v. Emley* (N.D.Cal. Sept. 20, 2019) No. 19-02205, 2019 U.S. Dist. LEXIS 161377, at *19, where the court held that equitable estoppel applied because the nonsignatory plaintiff

"knowingly received a direct benefit from the Agreement and seeks to exploit the benefits of the Agreement by alleging breach of a duty that arose from that Agreement." Far from supporting Roblox's position, these cases confirm that equitable estoppel does not apply here.

3. Roblox's Preexisting Relationship Argument Fails.

Lastly, Roblox claims that John is bound to the Terms because of his "preexisting relationship" with his father. (Roblox Mem. 17-18.) But John cannot be bound to the Terms based ***solely*** on a parent-child relationship. His father must have had the authority to bind him to the Terms—which he did not, as explained above.[5] (*Cf. Matthau v. Superior Court* (2007) 151 Cal.App.4th 593, 600 (explaining that "[a] child is bound by a parent's contract to arbitrate medical malpractice claims" with a healthcare provider because the "preexisting relationship . . . supports the implied authority of the party to bind the nonsignatory").

Roblox's cases are not to the contrary. They all simply illustrate the inapplicable *Doyle* rule. In *County of Contra Costa v. Kaiser Foundation Health Plan, Inc.* (1996) 47 Cal.App.4th 237, the court denied the defendant's motion to compel arbitration because there was no preexisting relationship that established the implied authority of the signatory to bind the nonsignatory to the arbitration agreement. In doing so, the court highlighted examples of preexisting relationships where such implied authority exists, including when "[m]inors are bound by a parent's agreement to arbitrate ***medical malpractice claims*** filed against a healthcare provider." (*Id.* at 242 (emphasis added).) It emphasized that "[a]ll nonsignatory arbitration cases are grounded in the authority of the signatory to contract for ***medical services*** on behalf of the nonsignatory—to bind the nonsignatory in some manner." (*Id.* at 244 (emphasis added).) In *Crowley Maritime Corp., supra*, 158 Cal.App.4th, at p. 1070, the court cited *Contra Costra* in noting the "parent-child relationship" as a preexisting relationship that "gives the party to the agreement authority to bind the nonsignatory."

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[5] At least one court has concluded that a preexisting relationship is just another way of showing that the nonsignatory plaintiff is "***suing on a contract***" because the preexisting relationship simply shows that the plaintiff "can state a valid claim based on the contract" because of "a legal relationship with a signatory of the contract." (See *JSM Tuscany v. Superior Court*, *supra*, 193 Cal.App.4th at 1239-40 & n.20 (emphasis in original).)

Additionally, in *Yeh v. Tesla, Inc.* (N.D.Cal. Oct. 12, 2023), No. 23-01704, 2023 U.S. Dist. LEXIS 184083, consistent with *Doyle*'s narrow holding that a parent can bind a child to an arbitration agreement in a contract the parent entered for the care of a child, the court found that the father's "purchase was, at least in part, to benefit and provide care for his child."[6]

In short, Roblox cannot establish that John is bound by the Terms as a nonsignatory.

C. The Arbitration Agreement Cannot Be Enforced Because It is Unconscionable.

Even if John were bound to the Terms (he is not), the arbitration provision cannot be enforced because it is unconscionable. Roblox calls the arbitration agreement "Consumer Friendly," but nothing could be further from the truth. The agreement imposes terms that are unfair, one-sided, and designed to give Roblox an unfair advantage and to deter users, particular children, from pursuing claims.

Under the Federal Arbitration Act and California law, an agreement to arbitrate is valid, enforceable, and irrevocable "save upon such grounds as exist at law or in equity for the revocation of any contract." (9 U.S.C. § 2; see also Code Civ. Proc., § 1281.) Such grounds include unconscionability. (*Ramirez v. Charter Commc'ns, Inc.* (2024) 16 Cal.5th 478, 529.) A contract is unconscionable if "one of the parties lacked a meaningful choice in deciding whether to agree and the contract contains terms that are unreasonably favorable to the other party." (*Oto, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 125.)

Unconscionability has both a procedural and substantive element. Procedural unconscionability "addresses the circumstances of contract negotiation and formation, focusing on oppression or surprise due to unequal bargaining power," whereas substantive unconscionability "pertains to the fairness of an agreement's actual terms and to assessment of whether they are overly harsh or one-sided." (*Pinnacle Museum Tower Ass'n v. Pinnacle Market Dev. (US), LLC* (2012) 55

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[6] Roblox also relies on *Chan v. Charter Commc'ns Holding Co.* (C.D.Cal. Aug. 16, 2015), No. 15-0886, 2015 U.S. Dist. LEXIS 199825, but the court's cursory analysis should be not given any weight. In fact, the court in *In re Ring LLC Privacy Litigation*, *supra*, 2021 U.S. Dist. LEXIS 118461, at *27, rejected *Chan* because it failed to "address[] the distinction between contracts for medical services and adhesion contracts for consumer goods."

Cal.4th 223, 246.) Both elements must be present, though not "to the same degree," and are evaluated on a "sliding scale" under which "the more substantively oppressive [a] term, the less evidence of procedural unconscionability is required, and vice versa." (*Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 493 (citation and internal quotation marks omitted).)

The arbitration agreement in the Terms is procedurally unconscionable. It is part of a contract of adhesion—i.e., "a standardized contract offered by a party with superior bargaining power on a take-it-or-leave-it basis." (*Oto, L.L.C. v. Kho*, *supra*, 8 Cal.5th, at p. 126 (citation and internal quotation marks omitted).) Although "adhesion alone generally indicates only a low degree of procedural unconscionability," (*Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 492), the significant substantive unconscionability of the agreement renders it unconscionable.

First, the arbitration agreement drastically shortens the statute-of-limitations for John to bring his claims. Because John is a minor, the statutes-of-limitations on his claims are tolled until he turns 18 years old. (See, e.g., N.J. Stat. § 2A:14-21 (tolling statute of limitations until minors reach the age of majority); Code Civ., § 352(a) (same).) Under the Terms, however, John must bring any cause of action "WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ARISES OR IT IS PERMANENTLY BARRED." (Roblox Ex. B § 19(a).) The one-year limitations period in the Terms precludes countless Minor Users from pursuing claims against Roblox in the only forum that the Terms purport is available to them: arbitration. The one-year period imposed by the Terms is thus substantively unconscionable because it is "so unreasonable" as to "show imposition or undue advantage." (*Jackson v. S.A.W. Entm't, Ltd.* (N.D.Cal. 2009) 629 F.Supp.2d 1018, 1028 (quoting *Moreno v. Sanchez* (2003) Cal.App.4th 1415, 1430).) Courts regularly hold that contractual limitations periods far less unreasonable are substantively unconscionable. (See, e.g., *Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 500-02 (finding one-year contractual limitations period unreasonable because plaintiff could have had as many as three years to file a lawsuit); *Pandolfi v. Aviagames, Inc.*, *supra*, 2024 U.S. Dist. LEXIS 159007, at *37 (finding provision with one-year limitations period substantively unconscionable because plaintiff's claims had statutory limitations periods of three to four years); *Longboy v. Pinnacle Prop. Mgmt. Servs., LLC* (N.D.Cal. 2024) 718 F. Supp. 3d 1004, 1018 (same).)

Second, the arbitration agreement lacks mutuality. Mutuality is "the paramount consideration" in assessing substantive unconscionability because when it is absent the arbitration agreement may "be described as unfairly one-sided." (*Pinela v. Neiman Marcus Grp., Inc.* (2015) 238 Cal.App.4th 227, 241 (citations and internal quotation marks omitted).) Here, the arbitration agreement lacks mutuality because "it compels arbitration of the claims more likely to be brought by [John], the weaker party, but exempts from arbitration the types of claims more likely to be brought by [Roblox], the stronger party." (*Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 497 (citation and internal quotation marks omitted).) While the arbitration agreement broadly covers "any dispute arising under or relating to the Roblox Terms or the Services" it then carves out the claims most likely to be brought by Roblox and allows the company to bring those claims in court. (Roblox Ex. B § 16(a), (xii).) Specifically, the agreement exempts from arbitration "claims for infringement of patent, copyright, trademark, or trade secret rights," which are claims most likely to be asserted by Roblox. (*Cf. Ramirez*, at p. 498 (holding that exclusion of claims related to intellectual property rights was "more likely to be employer-initiated"). The agreement also carves out "actions seeking only injunctive relief and no award of attorneys' fees or costs." (Roblox Ex. B § 16(xii). As a large company with deep pockets and extensive resources, Roblox is far more likely than Users to bring an action in court for injunctive relief that does not seek attorneys' fees or costs. In short, the arbitration agreement is unconscionable because Roblox has sought, "through a contract of adhesion" to "impose the arbitration forum on the weaker party without accepting that forum for itself." (*Armendariz v. Foundation Health Psychcare Servs., Inc.* (2000) 24 Cal.App.4th 83, 89.)

Third, the substantive unconscionability of Roblox's arbitration agreement is amplified by the fact that it applies mostly to children. (See *Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 495 ("The ultimate issue in every case is whether the terms of the contract are sufficiently unfair, in view of all relevant circumstances, that a court should withhold enforcement.") The majority of Roblox users are children under 18 years old because Roblox has designed its platform for children. (See Compl. ¶¶ 17, 19.) With its arbitration agreement, Roblox seeks to force children to give up rights that are specific to minors and bestowed on them to protect their interests. These rights include extended statutes of limitations and the ability to move for trial preference to

obtain an expedited trial date. (See CPP § 36(b).) Indeed, here, Roblox seeks to deprive John of his right to trial preference by moving to compel his claims to arbitration.

Given the procedural unconscionability and significant substantive unconscionability of Roblox's arbitration agreement, the Court should deem the arbitration agreement unenforceable rather than sever the unconscionable provisions. That is because the "central purpose of the agreement is tainted with illegality" in that the agreement is intended and designed to deprive children of their rights and to force them into an inferior forum to pursue their claims. (*Ramirez v. Charter Commc'ns, Inc.*, *supra*, 16 Cal.5th, at p. 515.) This unconscionable agreement thus "operate[s] to chill [children] from even pursuing rights." (See *Pandolfi v. Aviagames, Inc.*, *supra*, 2024 U.S. Dist. LEXIS 159007, at *42.). The agreement should not be enforced.

II. A Stay Pending Arbitration Is Unnecessary.

John is not bound by the arbitration agreement in the Terms and the agreement is unenforceable in any event. Roblox's request to stay pending arbitration is moot.

CONCLUSION

For the foregoing reasons, John respectfully requests that this Court deny Roblox's motion to compel arbitration and to stay proceedings.

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