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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19
 20 BORIS Y. LEVITT, on behalf of himself
 and all others similarly situated,

21 Plaintiff,

22 v.

23 YELP! INC.; and DOES 1 through 100,
 24 inclusive,

25 Defendants.

No. CV 10-01321 MHP

JOINT CASE MANAGEMENT STATEMENT

CMC Date: Monday, July 19, 2010

Time: 2:00 p.m. _

Judge: Hon. Marilyn Hall Patel

1 For the initial case management conference (“CMC”) set for July 19, 2010, plaintiff Boris
2 Y. Levitt (“Plaintiff”) and defendant Yelp! Inc. (“Yelp” and collectively with Plaintiff, the
3 “Parties”) hereby submit this Joint CMC Statement pursuant to Federal Rule of Civil Procedure
4 26(f) and Civil Local Rule 16-9.

5 Pursuant to Federal Rule of Civil Procedure 26(f), the Parties held a telephonic meeting of
6 counsel on Friday, July 9, 2010. David R. Ongaro and Amelia D. Winchester participated for
7 Plaintiff. Matthew D. Brown and Benjamin H. Kleine participated for Yelp.¹

8 **I. JURISDICTION AND SERVICE**

9 The Parties agree that this Court has subject matter jurisdiction under the Class Action
10 Fairness Act, 28 U.S.C. § 1332(d)(2). No issues exist regarding personal jurisdiction or venue
11 and no parties remain to be served.

12 **II. STATEMENT OF CLAIMS AND DEFENSES**

13 **A. Chronology of Facts**

14 **1. Yelp’s Website [Per Yelp]**

15 Yelp operates a popular website, www.yelp.com (the “Yelp Website”), which allows Yelp
16 users (known as “Yelpers”) to write reviews of local businesses and allows anyone to read these
17 reviews. Since 2004, Yelpers have written millions of reviews about every kind of local
18 business—from restaurants and cafes to mechanics and dentists. Yelpers rate these businesses on
19 a scale of one to five stars. In May 2010, the Yelp website received more than 32 million unique
20 visitors, and since inception, Yelpers have written over 11 million local reviews. Over 85% of

21
22 ¹ Pursuant to the “Clerk’s Notice (Scheduling Case Management Conference in Reassigned
23 Case)” dated June 4, 2010 (Docket #12), the Court had vacated all pending hearing dates and
24 scheduled the case management conference in this action for August 23, 2010 at 4:00 p.m. The
25 notice also set the date for the parties’ Joint CMC Statement as 10 days prior to the CMC, namely
26 August 13, 2010.

27 On receipt of the Court’s “Order re CMCs and Discovery” dated July 8, 2010, which indicated
28 that the CMC was scheduled for July 19, 2010 (not August 23), and that this Joint CMC
Statement was due July 12, 2010 (not August 13), the Parties immediately made arrangements to
conduct the required Rule 26(f) conference the following day, to prepare and file this joint
statement, and to make their initial disclosures. Due to the accelerated scheduling of the Rule
26(f) conference, lead counsel for Yelp, Michael G. Rhodes, was unable to participate.

1 these reviews rate a business positively, *i.e.*, three stars or higher. Nationwide, many local
2 businesses benefit from the positive attention they receive from Yelp and recognize Yelp as a
3 useful and unique marketing tool.

4 **2. Yelp’s Automated Review Filter [Per Yelp]**

5 Not all reviews placed on Yelp’s website are trustworthy. For example, some business
6 owners write themselves positive reviews, or write negative reviews of competitors (sometimes
7 opening sham accounts under a pseudonym to do so). Occasionally, disgruntled former
8 employees may attempt to unfairly criticize their former employers. The problem of
9 untrustworthy reviews permeates most online review websites, leading to artificial inflation or
10 deflation of a business’s rating and, as a result, misled consumers. Yelp internally refers to less
11 trustworthy reviews as “spam,” the same term often used to describe unwanted, “junk” email.

12 To combat this spam, Yelp uses proprietary and confidential software it calls the “Review
13 Filter.” The automated Review Filter attempts to identify, and filter out, less trustworthy reviews.
14 Reviews that are filtered out do not appear on a business’s page, and are not used to calculate a
15 business’s overall rating. The Review Filter impacts both positive and negative reviews, and runs
16 on a regular basis. As the circumstances surrounding any particular review change over time
17 (*e.g.*, the Review Filter gleans new information about the review or the reviewer), a review may
18 be designated or undesignated as spam. Therefore, any review may be unfiltered at one point in
19 time, thus appearing on the business’s Yelp page, and filtered at another point in time, thus
20 “disappearing” from the business’s page.² Because a business’s overall Yelp rating is calculated
21 using only unfiltered reviews, this rating may also change as reviews are filtered or unfiltered.

22 **3. Yelp’s Advertising Offerings [Per Yelp]**

23 Yelp sells advertisements to local businesses, which can appear on the Yelp Website as
24 “Sponsored Results” (clearly labeled as such) in response to certain searches. Previously, as part
25 of its advertising package, Yelp also offered businesses the option to select a single “Favorite
26

27 ² Independent of the automated Review Filter, a review may be manually removed if it violates
28 Yelp’s Terms of Service or Review Guidelines, or if the author of the review removes it. The
content of such reviews ceases to be visible anywhere on the Yelp Website.

1 Review” (again, clearly labeled as such) to display prominently on the business’s review page.
2 Allowing a business to select a “Favorite Review” allowed a business to choose a pre-existing
3 third-party review to be highlighted on their Yelp page. Choosing a “Favorite Review” did not
4 remove any reviews from the business’s Yelp page, add any reviews, or affect a business’s
5 overall Yelp rating. Advertisers have received other benefits at times, such as the ability to add a
6 video to their business page.

7 **4. Plaintiff’s Communications and Interactions with Yelp [Per Plaintiff]**

8 Plaintiff owns a business located in San Francisco, California called Renaissance
9 Furniture Restoration that is reviewed on the Yelp Website. On or about May 13, 2009, Levitt
10 contacted Yelp to inquire about why a positive review of his business had disappeared.
11 Thereafter, Yelp responded to Levitt’s inquiry with several messages regarding its automated
12 review systems, and declined to restore the positive review. In July 2009, Levitt was contacted
13 twice by phone by a female Yelp sales representative who wanted Levitt to purchase advertising
14 from Yelp. During the second telephone conversation, the sales representative told Levitt that his
15 business was doing very well on Yelp because in July alone his business had 261 Yelp page
16 views, but that Levitt’s business would have an even greater number of Yelp page views if Levitt
17 paid Yelp at least \$300.00 a month to advertise. In response, Levitt told the sales representative
18 that he felt that he did not need to advertise on Yelp because there was a high volume of users
19 reviewing his business page, and his business had an overall rating of 4.5 stars. Levitt also asked
20 the sales representative if Yelp could restore the 5-star review that had disappeared during last
21 several months.

22 At the time Levitt was contacted by the sales representative, he had seven 5-star reviews,
23 one 4-star review, and one 1-star review. Two days after declining to purchase advertising, six
24 out of the seven 5-star reviews were removed from his business page leaving Levitt with an
25 overall star-rating of 3.5 stars. As a result, during the month of August, Levitt’s business Yelp
26 page received only 158 page views as opposed to the 261 page views Levitt’s business
27 experienced in July of 2009. Since then Levitt’s business revenues experienced a decline that
28 corresponded almost directly to the decline in page views. In addition, and following Levitt’s

1 decision to decline to purchase Yelp advertising, Yelp removed Levitt's business from the
2 categories of services he had designated on his business account and restricted him to one
3 category. Since Levitt declined to purchase advertising from Yelp, every 5-star review that has
4 been posted on his Yelp business page has been removed 2-3 days after the Yelp user has posted
5 his or her review of Levitt's services. As of the filing of Levitt's Complaint, ten out of eleven of
6 the 5-star reviews have been removed from Levitt's business's Yelp review page.

7 Prior to and since the filing of Levitt's complaint, Plaintiff's counsel has been
8 investigating similar claims of other putative Class members. Plaintiff's investigation
9 demonstrates that a similar pattern exists among businesses who were contacted by Yelp for
10 advertising. For example, for one putative Class member whose business previously held an
11 overall 5-star rating, within 2-3 days of telling Yelp that she did not wish to purchase advertising
12 nine 5-star reviews were removed from her Yelp page leaving her business with an overall star-
13 review of 3.5 stars. Similarly, for another putative Class member, within 2 days of canceling an
14 advertising agreement with Yelp, a two-year old one-star negative review appeared on his
15 business's Yelp review page. Another putative Class member had approximately 56 5-star
16 reviews filtered from business's review page after declining to purchase advertising from Yelp.
17 Her business now maintains an overall star-rating of 1 star as opposed to the 4-star rating her
18 business previously held.

19 **B. Statement of Principal Factual Issues in Dispute**

20 Plaintiff alleges that Yelp manipulates users' reviews of local businesses in favor of
21 businesses that advertise on Yelp and to the detriment of businesses that do not, in an attempt to
22 coerce businesses into advertising on the Yelp.

23 Yelp denies Plaintiff's factual assertions. Yelp does not manipulate reviews to favor
24 advertisers or to disfavor non-advertisers. Plaintiff's misunderstanding appears to stem from one
25 of the very features of Yelp that has made it the trusted source of reviews for over 30 million
26 people a month—the automated Review Filter. Some business owners leap to the incorrect
27 conclusion that any fluctuations in their reviews are connected to whether they purchase or
28

1 decline to purchase advertising on Yelp. In reality, the automated Review Filter does not
2 consider whether a business is an advertiser or not when it filters a review.

3 Earlier this year, due to continued misunderstandings about the automated Review Filter,
4 Yelp made it possible for anyone to see the reviews that were filtered out, by clicking on a link at
5 the bottom of each business page. Yelp also eliminated the Favorite Review feature—although
6 there was nothing improper about it—in order to prevent any misconception that a business that
7 advertised on Yelp could eliminate a review or add a review to its page.

8 **III. LEGAL ISSUES**

9 **A. Plaintiff's Statement**

10 Plaintiff brings his class action lawsuit for violations of California Business and
11 Professions Code sections 17200 and 17500. He also brings claims for negligent and intentional
12 misrepresentations. He further seeks to certify a class.

13 **B. Yelp's Statement**

14 Yelp disagrees that Plaintiff has stated a claim and intends to file a motion to dismiss the
15 Complaint for failure to state a claim upon which relief can be granted. Yelp previously filed a
16 motion to dismiss the complaint in the related litigation titled *Cats and Dogs Animal Hospital,*
17 *Inc. v. Yelp! Inc.*, Case No. CV 10-02351 MHP (“*Cats and Dogs*”),³ in which Yelp made, *inter*
18 *alia*, the following arguments that would be applicable to Plaintiff in this case:

- 19 • Plaintiffs lack standing under Cal. Bus. and Profs. Code § 17200 since they have not
20 suffered injury in fact. *See Walker v. GEICO Gen. Ins. Co.*, 558 F.3d 1025, 1027 (9th Cir.
21 2009) (§ 17200 standing is “limited . . . to individuals who suffer losses of money or
22 property that are eligible for restitution”). This argument would also apply here to
23 Plaintiff’s § 17500 claim.
- 24 • Plaintiffs fail to satisfy Rule 9(b)’s heightened pleading requirements for claims grounded
25 in misrepresentation or fraud.
- 26 • Plaintiffs’ claim for extortion (or, in this action, Plaintiff’s 17200/17500 claims insofar as
27 those claims are premised on allegations of extortion) fails as a matter of law because,
28 among other reasons, there has been insufficient allegation of “wrongful use of fear” and
of consent that was “coerced and unwilling.”

Since Yelp’s time to move to dismiss the Complaint has not passed, Yelp reserves the

³ This motion to dismiss was never decided and was instead ordered moot by the Central District’s decision to grant Yelp’s motion to transfer *Cats and Dogs* to this Court.

1 right to attack the Complaint or any future consolidated or amended complaint on these or other
2 legal grounds. Yelp also reserves the right to assert all applicable defenses.

3 **IV. MOTIONS**

4 **The following motions have been previously filed in this action:** Yelp filed an
5 Administrative Motion to Consider Whether Cases Should be Related on June 2, 2010, to
6 determine whether this action and the *Cats and Dogs* action should be related. The Court ordered
7 the two cases related on June 4, 2010.

8 **The following motion is currently pending:** Yelp filed a Motion to Consolidate Related
9 Cases for All Purposes and to Set Dates for Consolidated Amended Complaint and Response
10 Thereto (“Motion to Consolidate”) on June 9, 2010. This motion will be heard on July 19, 2010,
11 at the same time the Court is holding the initial CMC.

12 **Possible future motions include the following:** Motions to Dismiss and/or Strike;
13 Motions regarding Class Certification; Motion for Appointment of Class Counsel; Motions for
14 Summary Judgment; and discovery motions if necessary. The Parties reserve the right to file
15 other motions if necessary.

16 **V. AMENDMENT OF PLEADINGS**

17 On April 8, 2010, the Parties stipulated that (1) Plaintiff’s deadline for filing an Amended
18 Complaint shall be on or before April 27, 2010, and (2) Yelp’s deadline to answer, move to
19 dismiss, or otherwise respond to the operative complaint (whether the Initial Complaint or an
20 Amended Complaint) shall be on or before August 18, 2010. Plaintiff contemplates filing an
21 amended complaint, and before any motion for leave to file an amended complaint, the Parties
22 will meet and confer in good faith about stipulating to such a filing.

23 In the event that this case and *Cats and Dogs* are consolidated, the Parties anticipate that a
24 consolidated, amended Complaint will be filed. If this occurs, Yelp will respond to the
25 consolidated, amended Complaint.

26 **VI. EVIDENCE PRESERVATION**

27 The Parties are aware of their obligation to preserve relevant evidence, including
28 electronically stored information, and have taken steps to comply with their obligations.

1 Plaintiff requests that Yelp preserve all modifications made to its Review Filter software
2 during the Class period (and that Yelp to preserve any hardware that is necessary to run previous
3 versions of the Review Filter). Yelp reiterates that it is aware of its obligations and will continue
4 to take steps in conformity with such obligations.

5 **VII. DISCLOSURES**

6 The Parties agree that initial disclosures will be made on or before July 16, 2010.

7 **VIII. DISCOVERY**

8 No discovery has been taken to date.

9 **A. Scope of Discovery**

10 **1. Plaintiff's Position**

11 Plaintiff anticipates that it will seek discovery on the following topics, which include, but
12 are not limited to: information relating to the class list; Yelp's representations regarding its
13 Review Filter; Yelp's database showing changes made to the Review Filter; Yelp's database
14 showing changes that have been made to review pages pursuant to a) the Review Filter, b)
15 violations of the terms of Yelp's Terms of Service or Review Guidelines, and c) if the author of
16 the review removes the review; Yelp's internal guidelines regarding the solicitation of
17 advertising; conduct of Yelp employees who solicited businesses for advertising; Yelp's database
18 showing complaints and responses filed by business owners.

19 **2. Defendant's Position**

20 Yelp's investigation and analysis of Plaintiff's claims are ongoing. Presently, Yelp
21 anticipates that it will seek discovery on subjects including, but not limited to, the following:
22 Plaintiff's communications with Yelp; present and historical reviews on Plaintiff's Yelp page;
23 Plaintiff's Yelp account(s); Plaintiff's purchase of any online advertising services (from Yelp or
24 others); Plaintiff's account information and reviews from any other online business review
25 websites; complaints made by Plaintiff's customers about Plaintiff's business; Plaintiff's sales
26 and/or revenue and/or patronage statistics.

27 **B. Changes to the F.R.C.P. and Local Rule Limits on Discovery**

28 **1. Timing of Discovery**

1 The Parties agree that discovery should not proceed until the legal sufficiency of
2 Plaintiff's claims is determined. Thus, the Parties agree that, except for initial disclosures under
3 Federal Rule of Civil Procedure 26(a), discovery should be deferred until the pleadings have
4 closed (*i.e.*, until after any motions to dismiss are decided and, if necessary, Yelp has filed an
5 Answer in this action).

6 2. Bifurcation of Discovery

7 The Parties agree that discovery should be bifurcated, with discovery on matters not
8 bearing on class certification issues to be conducted only after the Court issues a decision on class
9 certification. Phased discovery of this sort (precertification discovery first, followed later by
10 merits discovery) is contemplated by the MANUAL FOR COMPLEX LITIGATION (*see, e.g.*, §§ 21.11,
11 21.14), which states that allowing full merits discovery before a decision on certification “can
12 create unnecessary and extraordinary expense and burden” (*id.* § 21.14). Class discovery,
13 however, will be broadly construed to include any matter reasonably calculated to lead to the
14 discovery of any matter listed in Rule 23(a) and (b) of the Federal Rules of Civil Procedure. The
15 Parties recognize that the line between merits and class discovery is not always easy to delineate
16 and agree to meet and confer in good faith on disagreements to determine appropriate limits to
17 class discovery.

18 3. Modification to Discovery Rules

19 In light of the number of named plaintiffs in this case combined with the *Cats and Dogs*
20 action (11 total named plaintiffs), the Parties agree that the limit of 10 depositions set forth in
21 Federal Rule of Civil Procedure 30 should be modified for this case. In the event of consolidation
22 or coordination of this case with *Cats and Dogs*, the Parties agree that Defendant Yelp, and the
23 combined plaintiffs in both actions, should be permitted to take a total of 20 depositions per side
24 (excluding expert depositions). This agreement is without prejudice to the Parties mutually
25 agreeing to further modify the number of depositions, and without prejudice to either party
26 seeking leave of the Court to take additional depositions if they believe it is necessary to do so
27 (for example, if more named plaintiffs are added).

28

1 In the event that the cases are merely coordinated (and not consolidated), the Parties agree
2 that plaintiffs in both cases should coordinate depositions so that Yelp’s employees are not
3 subject to multiple depositions or duplicative Rule 30(b)(6) topics and questions.

4 **a. Plaintiff’s Position re Scope of Depositions**

5 Plaintiff proposes that a witness deposed in the class-certification phase will be questioned
6 on all topics, including merits-based discovery and will therefore not be re-deposed in the merits
7 phase, except for good cause shown (*e.g.*, if significant new documents related to the witness’s
8 testimony are produced in the merits phase that would justify a new deposition).

9 **b. Defendant’s Position re Scope of Depositions**

10 Defendant proposes that depositions be bifurcated along the class/merits lines as for other
11 discovery. As stated above, the Parties recognize that the line between merits and class discovery
12 is not always easy to delineate and agree to meet and confer in good faith on disagreements to
13 determine appropriate limits to class discovery.

14 **C. Proposed Discovery Plan**

15 See section XVII (“Scheduling”) below.

16 **IX. CLASS ACTIONS**

17 **A. Plaintiff’s Statement**

18 Plaintiff has filed this action as a putative class action. This class action is maintainable
19 under FRCP 23(a) and FRCP 23(b)(3). Plaintiff seeks to represent: all similarly situated
20 businesses and persons in California and nationwide who were contacted by Yelp regarding the
21 option to advertise on Yelp and who were subsequently subject to the manipulation of the reviews
22 of their businesses during the four years prior to the commencement of Levitt’s lawsuit, through
23 the final resolution of this lawsuit.

24 This action may be properly maintained as a class action under FRCP 23(a) because the
25 Class is so numerous and geographically dispersed that joinder of all Class members is
26 impracticable. In addition, commonality exists. Specifically, this action presents questions of
27 law and fact common to the members of the Class which predominate over questions affecting
28 individual members of the Class. Such questions of law or fact include, but are not limited to

1 whether Defendant violated California Business & Professions Code §§ 17200 and 17500 and
2 whether Defendant engaged in intentional and negligent misrepresentations.

3 Further, Plaintiff's claims are typical of the claims of the Class, and Plaintiff has no
4 interests that are adverse or antagonistic to the interests of the other members of the Class. In
5 addition, Plaintiff will fairly and adequately protect the interests of the other members of the
6 Class. Plaintiff is committed to prosecuting this Class Action and has retained competent counsel
7 experienced in litigation of this nature. Finally, a class action is superior to other available means
8 for the fair and efficient adjudication of this controversy. Individual joinder of all Class members
9 is not practicable, and questions of law and fact common to the Class predominate over any
10 questions affecting only individual members of the Class. Each Class member has been damaged
11 and is entitled to recovery by reason of Defendants' unfair business practices, misleading
12 advertisements, and misrepresentations. Class action treatment will allow those similarly situated
13 persons to litigate their claims in the manner that is most efficient and economical and in an
14 appropriate forum.

15 **B. Defendant's Statement**

16 Yelp denies that a class should be certified in this action and will oppose any motion for
17 class certification.

18 **X. RELATED CASES**

19 The Court has ordered this case and *Cats and Dogs* to be related.

20 **XI. RELIEF**

21 Plaintiff seeks the following relief: declaring this action to be a proper class action and
22 certifying Plaintiff as Class Representative; enjoining Defendant from conducting its business
23 through the unlawful acts and practices described in its complaint; requiring Defendant to
24 disgorge its ill-gotten gains, as appropriate; awarding Plaintiff and the Class members restitution,
25 as appropriate; awarding pre- and post-judgment interest; awarding Plaintiff all costs and
26 expenses, including attorneys' fees; and granting such other and further relief as this Court may
27 deem necessary, proper, and/or appropriate.

28

1 Yelp does not currently anticipate any counterclaims but reserves the right to add such
2 counterclaims in the event that facts arise to support them.

3 **XII. SETTLEMENT AND ADR**

4 Pursuant to ADR Local Rule 3-5(b), Plaintiff and Yelp filed ADR Certifications by
5 Parties and Counsel on June 28, 2010 and June 30, 2010, respectively. (*See* Docket #19 and #20.)
6 The Parties have agreed to submit to non-judicial private mediation, with such mediation to be
7 held within 45 days of a decision on a class certification motion. (*See* Docket #22.)

8 **XIII. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

9 The Parties do not consent to proceed before a Magistrate Judge for all purposes.

10 **XIV. OTHER REFERENCES**

11 The Parties do not believe, at this time, that this case is suitable for reference to binding
12 arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

13 **XV. NARROWING OF ISSUES**

14 At this stage in the proceedings, the Parties are unaware of any issues that can be
15 narrowed by agreement or motion, other than the anticipated motions set forth above.

16 **XVI. EXPEDITED SCHEDULE**

17 The Parties agree that the case is not appropriate for expedited or streamlined procedure.

18 **XVII. SCHEDULING**

19 The following is the Parties' proposed schedule for class certification discovery and
20 briefing, followed by proceedings after the class certification ruling:

Event	Deadline
Opening of Initial Phase of Fact Discovery	Discovery should be bifurcated into class certification and merits discovery. Class certification discovery would commence after the pleadings have closed (<i>i.e.</i> , after any motions to dismiss have been decided and, if necessary, Yelp has filed an Answer).
Completion of Class Certification Fact Discovery	Six months from commencement of class certification discovery

Event	Deadline
Completion of Class Certification Expert Discovery (If Any)	Two months after completion of class certification fact discovery. During this period, the following will occur on a schedule to be worked out by the parties: disclosure of experts, service of initial expert reports, rebuttal reports, and depositions.
Deadline to File Any Motion for or to Deny Class Certification	If expert discovery takes place, then two months and two weeks after completion of class certification fact discovery. If there is no expert discovery, then two weeks after completion of class certification fact discovery or two weeks after the Parties have confirmed that there will be no expert discovery, whichever is later.
Deadline to File Any Opposition to Motion for Class Certification	Two months and eight weeks after completion of class certification fact discovery
Deadline to File Any Reply on Motion for Class Certification	Twenty-one days after filing of opposition to motion for class certification
Class Certification Hearing	At the Court's convenience
Completion of Fact Discovery	Six months after order on motion for class certification
Completion of Expert Discovery	Three months after completion of fact discovery. Includes disclosure of experts, service of initial expert reports and rebuttal reports, and depositions on dates to be agreed upon by the Parties.
Deadline for Dispositive Motions (Including <i>Daubert</i> Motions)	Two months from completion of expert discovery
Hearing on Dispositive Motions	At the Court's convenience
Pre-Trial Conference	One month after Court's ruling on dispositive motions, or as soon as possible based on the Court's schedule
Trial	Two weeks after Pre-Trial Conference

XVIII. TRIAL

The Parties anticipate that trial is likely to last approximately 10 court days.

XIX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

Plaintiff is not aware of any other entities that have a financial interest in the subject matter in controversy or any other kind of interest that could be substantially affected by the outcome of the proceeding.

Pursuant to Civil Local Rule 3-16, Yelp filed its Certificate of Interested Entities or Persons on March 29, 2009. The following listed persons, firms, partnerships, corporations (including parent corporations) or other entities have either (i) a financial interest in the subject matter or controversy; or (ii) any other kind of interest that could be substantially affected by the

1 outcome of the proceeding: Jeremy Stoppelman (co-founder and Chief Executive Officer of
2 Yelp), Russel Simmons (co-founder and [now former] Chief Technology Officer of Yelp), Geoff
3 Donaker (Chief Operation Officer of Yelp), Max Levchin (Investor), Bessemer Venture Partners
4 (Investor), DAG Ventures (Investor), Elevation Partners LP (Investor), and Admiral Insurance
5 Company (Insurance Carrier).

6 **XX. OTHER MATTERS**

7 There are no other matters that need to be addressed at this time.

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Respectfully Submitted,

Dated: July 12, 2010

COOLEY LLP

/s/ Matthew D. Brown
Matthew D. Brown (196972)
Attorneys for Defendant YELP! INC.

Dated: July 12, 2010

ONGARO BURTT LLP

/s/ David Ongaro
David Ongaro (154698)
Attorneys for Plaintiff BORIS Y. LEVITT

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ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Matthew D. Brown, attest that concurrence in the filing of this Joint Case Management Statement has been obtained from each of the other signatories.

/s/ Matthew D. Brown
Matthew D. Brown