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10 Counsel for Plaintiff and the Proposed Class

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 CATS AND DOGS ANIMAL
14 HOSPITAL, INC.; ASTRO
15 APPLIANCE SERVICE; BLEEDING
16 HEART, LLC d/b/a BLEEDING
17 HEART BAKERY; CALIFORNIA
18 FURNISHINGS, INC. d/b/a SOFA
19 OUTLET; CELIBRÉ, INC.; J.L.
20 FERRI ENTERTAINMENT, INC.
21 d/b/a ADULT SOCIALS; LE PETITE
22 RETREAT DAY SPA, LLC; SAN
23 FRANCISCO BAY BOAT CRUISES,
24 LLC d/b/a MERMAIDS CRUISE;
25 WAG MY TAIL, INC.; and ZODIAC
26 RESTAURANT GROUP, INC. d/b/a
27 SCION RESTAURANT, on behalf of
28 themselves and all others similarly
29 situated,

Plaintiff,

v.

YELP! INC.,

Defendant.

Case No.: 2:10-cv-01340 VBF SS
Pleading Type: Class Action

**DECLARATION OF JACK
FITZGERALD IN SUPPORT OF
PLAINTIFFS' EX PARTE MOTION
FOR REASSIGNMENT,
CONSOLIDATION, DESIGNATION
OF LEAD CASE, AND
APPOINTMENT OF INTERIM
LEAD COUNSEL**

Judge: The Hon. Valerie Baker Fairbank

1 I, Jack Fitzgerald, declare:

2 1. My name is Jack Fitzgerald. I am a member in good standing of the
3 state bars of California and New York, of the United States District Courts for the
4 Northern, Central and Southern Districts of California, the Southern and Eastern
5 Districts of New York, and of the United States Court of Appeals for the Ninth
6 Circuit.

7 2. Before joining The Weston Firm, I was associated with the law firms
8 of Baker & Hostetler, LLP, in New York, New York, and Mayer Brown LLP in
9 Palo Alto, California. While at Mayer Brown, I served as defense counsel in the
10 class action *In Re: Openwave Securities Systems, Inc. Securities Litigation*, No. 07-
11 cv-1309 (S.D.N.Y.). While at both Baker & Hostetler and Mayer Brown, my
12 practice has always focused on large-scale, complex litigation including, for
13 example, representing plaintiffs asserting antitrust and false advertising claims
14 against various telephone calling card manufacturers.

15 3. I am a graduate of Cornell University and New York University
16 School of Law, where I was an editor of the New York University Law Review.

17 4. Following our filing on February 23, 2010 of the first Complaint
18 against Yelp, my firm and Beck & Lee Business Trial Lawyers have been
19 contacted by more than 150 other small business owners with stories similar to Dr.
20 Perrault's. The firms continue to receive numerous inquires each day.

21 5. Our firm and Beck & Lee spent substantial time interviewing these
22 small business owners, and preparing the First Amended Class Action Complaint
23 ("Amended Complaint"), which was filed on March 16. The Amended Complaint
24 added a great amount of detail concerning Yelp's unlawful business practices,
25 included several more claims for relief, and named nine additional small business
26 representative plaintiffs.

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6. Since February, when the Proposed Interim Class Counsel filed the First Complaint, counsel have, among other things:

- Filed a detailed 39-page Amended Complaint;
- Conferred with Yelp’s counsel and stipulated to extend Yelp's time to respond;
- Conferred with Yelp’s counsel, including in person in San Francisco on March 18, on case management issues;
- Scheduled a Rule 26(f) discovery conference with Yelp for April 8;
- Conferred with Yelp’s counsel on issues of class certification, proposed injunctive relief, and electronic discovery; and
- Begun drafting Rule 26 disclosures.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed in Santa Clara, California on March 24, 2010.

/s/ Jack Fitzgerald
Jack Fitzgerald

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DATED: March 24, 2010

Respectfully submitted,

s/Gregory S. Weston
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Counsel for *Cats and Dogs* Plaintiffs