

COOLEY LLP
 MICHAEL G. RHODES (116127) (rhodesmg@cooley.com)
 MATTHEW D. BROWN (196972) (brownmd@cooley.com)
 BENJAMIN H. KLEINE (257225) (bkleine@cooley.com)
 101 California Street, 5th Floor
 San Francisco, CA 94111-5800
 Telephone: (415) 693-2000
 Fax: (415) 693-2222

Attorneys for Defendant
 YELP! INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CATS AND DOGS ANIMAL
 HOSPITAL, INC., et al., on behalf of
 itself and all others similarly situated,

Plaintiffs,

v.

YELP! INC.,

Defendant.

No. CV 10-02351 MHP

**DECLARATION OF MATTHEW D. BROWN IN
 SUPPORT OF DEFENDANT YELP! INC.'S
 OPPOSITION TO PLAINTIFFS' MOTION TO
 SHORTEN TIME**

Judge: Honorable Marilyn Hall Patel
 Trial Date: None Set

I, Matthew D. Brown, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and am a partner with the firm of Cooley LLP, counsel of record for Defendant Yelp! Inc. ("Yelp") in the above-entitled action. I have personal knowledge of the facts set forth herein, except where otherwise stated, and, if called as a witness, I could and would competently testify thereto.

2. Yelp served Plaintiffs' counsel with formal objections to their 30(b)(6) deposition notice by email on June 15 at 6:57 p.m. PST. On June 16 at 1:19 a.m. PST (though I did not read it until much later), Plaintiffs' counsel, Jared Beck, emailed me and threatened to move for sanctions against Yelp if Yelp did not agree to the proposed June 21 deposition date. (Declaration of Jared Beck ("Beck Decl.") Ex. F.) Without waiting for a response, a different Plaintiffs' counsel, Jack Fitzgerald, emailed me at 4:25 p.m. PST that same day, stating Plaintiffs'

1 intent to file a motion to compel and giving me two hours in which to take a position on
2 stipulating to shortened time for the hearing of the motion. Plaintiffs' counsel did not offer any
3 response to Yelp's grounds for why the deposition is premature, nor did they offer to discuss any
4 of the underlying objections on individual topics. Attached as **Exhibit A** is a true and correct
5 copy of the email sent from Jack Fitzgerald to me on June 16 at 4:25 p.m. PST.

6 **3.** I replied to Plaintiffs' first email at 4:27 p.m. PST, well within standard business
7 hours in California, where Yelp's counsel and this action are located. In my reply email, I
8 reiterated my concerns with holding the deposition prior to the hearing on consolidation, and,
9 again, offered to meet and confer. (Beck Decl. Ex. G.) To date, Plaintiffs' counsel has not
10 responded to this email.

11 **4.** Yelp never agreed to the June 21 date, which was unilaterally set by Plaintiffs'
12 deposition notice without any prior meet and confer.

13 **5.** In the parties' calls and correspondence over the last month, Plaintiffs themselves
14 never once raised the issue of the deposition, the topics to be covered, the number of witnesses to
15 be deposed, how many days of depositions would be required, or the date or dates on which they
16 might proceed.

17 **6.** In this action, no motion to dismiss has been heard nor have documents yet been
18 produced by either side.

19 **7.** Attached as **Exhibit B** is a true and correct copy of a Help Page printed on June 17
20 from JetBlue's website entitled, "Changes, Cancellations, and Standby Guidelines," which
21 explains that "JetBlue Nonrefundable Fares, changes or cancellations may be made prior to
22 scheduled departure for a fee of \$100 per person plus any applicable difference in airfare."

23 **8.** Attached as **Exhibit C** is a true and correct copy of the Docket Report from a case
24 currently in the Northern District of California, before Judge Ware, entitled *Red v. Unilever*
25 *United States, Inc.*, Case No. 10 CV 00387 JW ("*Red*"), which lists Plaintiffs' counsel, and shows
26 Judge Ware's May 21 order setting the motion to dismiss hearing date for June 21, 2010, at 9:00
27 a.m. (See Ex. C, Docket No. 62.)
28

9. Attached as **Exhibit D** is a true and correct copy of the Civil Minutes entered by the Court in the *Red* action after the hearing held June 21, 2010 at 9:00 a.m., which states that Elizabeth Beck appeared on behalf of Plaintiffs.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 21st day of June 2010 at San Francisco, California.

/s/ Matthew D. Brown
Matthew D. Brown