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 GOOGLE INC. AND MARISSA MAYER

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 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION
 13

14 ROBERT A. BROWN, an individual,
 15 Plaintiff,
 16 v.
 17 GOOGLE, INC.; PAYROLLING.COM;
 18 MARISSA MAYER; and DOES 1 through
 19 20,
 20 Defendants.

Case No. C 05 01779 PVT

**[PROPOSED] ORDER IN SUPPORT OF
 DEFENDANTS GOOGLE INC. AND
 MARISSA MAYER'S MOTION TO
 DISMISS PURSUANT TO FEDERAL
 RULE OF PROCEDURE 12(b)(6)**

Date: June 14, 2005
 Time: 10:00 a.m.
 Judge: Hon. Patricia V. Trumbull

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 22 Having considered the Motion to Dismiss of Defendants Google Inc. and Marissa Mayer,
 23 pursuant to the Federal Rule of Civil Procedure 12(b)(6), and for good cause appearing, the Court

24 **GRANTS** Defendants' Motion as follows:

25 (1) Plaintiff's Eighth Cause of Action for medical, dental and 401(k) benefits is hereby
 26 **DISMISSED** for failure to exhaust administrative remedies;

1 (2) Plaintiff's Eighth Cause of Action for employee stock options is hereby DISMISSED for
2 failure to state a cause of action upon which relief may be granted because Plaintiff cannot imply a
3 contract contrary to the terms of the applicable stock option plans;

4 (3) Plaintiff's Eighth Cause of Action for punitive damages is hereby DISMISSED for failure
5 to state a cause of action upon which relief may be granted because any claim for punitive damages is
6 precluded by ERISA and state contract law; and

7 (4) Plaintiff's Tenth Cause of Action for waiting time penalties is hereby DISMISSED in its
8 entirety for failure to state a cause of action upon which relief may be granted because it is wholly
9 duplicative of Plaintiff's Second, Third, and Fourth Causes of Action.

10 IT IS SO ORDERED.

11 Dated: May 6, 2005

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Hon. Patricia V. Trumbull
14 U.S. District Court Chief Magistrate Judge
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: 580 California Street, Suite 1500, San Francisco, CA 94104. On May 6, 2005, I served the foregoing document(s) described as: [PROPOSED] ORDER IN SUPPORT OF DEFENDANTS GOOGLE INC. AND MARISSA MAYER'S MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF PROCEDURE 12(b)(6) on the interested party(ies) below, using the following means:

Gregory M. Sheffer
The Sheffer Law Firm
160 Sansome Street, 2nd Floor
San Francisco, CA 94104

Ronald H. Blumberg
Aniko M. Felsen
Blumberg Lorber Nelson LLP
137 N. Acacia Avenue
Solana Beach, CA 92075

BY PERSONAL SERVICE I delivered such envelope(s) by hand to the offices of the addressee(s).

BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at San Francisco, California.

BY OVERNIGHT DELIVERY I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY MESSENGER SERVICE I served the documents by placing them in an envelope or package addressed to the respective address(es) of the party(ies) stated above and providing them to a professional messenger service for service.

BY FAX Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the respective fax number(s) of the party(ies) as stated above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission(s), which I printed out, is attached.

BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 6, 2005, at San Francisco, California.

Marva Seaton
[Print Name of Person Executing Proof]


[Signature]