

1 LESTER L. LEVY (Admitted *Pro Hac Vice*)  
 MICHELE FRIED RAPHAEL (Admitted *Pro Hac Vice*)  
 2 WOLF POPPER LLP  
 845 Third Avenue  
 3 New York, NY 10022  
 Telephone: (212) 759-4600  
 4 Facsimile: (212) 486-2093  
 E-Mail: [levy@wolfpopper.com](mailto:levy@wolfpopper.com)  
 5 E-Mail: [mraphael@wolfpopper.com](mailto:mraphael@wolfpopper.com)

6 MARC M. SELTZER (54534)  
 7 SUSMAN GODFREY L.L.P.  
 1901 Avenue of the Stars, Suite 950  
 8 Los Angeles, CA 90067-6029  
 Telephone: (310) 789-3100  
 9 Facsimile: (310) 789-3150  
 E-Mail: [mseltzer@susmangodfrey.com](mailto:mseltzer@susmangodfrey.com)

10  
 11 Attorneys for Plaintiffs  
 (See Signature Page for Additional  
 12 Plaintiffs' Counsel)

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

16 CLRB HANSON INDUSTRIES, LLC d/b/a  
 17 INDUSTRIAL PRINTING, and HOWARD  
 STERN, on behalf of themselves and all others  
 18 similarly situated,

19 Plaintiffs,

20 vs.

21 GOOGLE, INC.,

22 Defendant.

Case No. C 05-03649 JW PVT

**PLAINTIFFS' MOTION TO SHORTEN  
 TIME FOR HEARING ON PLAINTIFFS'  
 MOTION TO COMPEL OBJECTOR  
 DEPOSITIONS**

Civil Local Rule 6-3

1 Plaintiffs CLRB Hanson Industries, LLC, and Howard Stern respectfully request that the Court  
2 shorten the time for a hearing on Plaintiffs' Motion to Compel Objector Testimony (Docket No. 333),  
3 to allow a hearing on the motion on August 11, 2009. The Court gave preliminary approval to a  
4 settlement agreement between Plaintiffs, on behalf of themselves and the class, and defendant Google,  
5 Inc., on May 12, 2009. Objectors to the settlement Randy R. Lyons, Chase Thompson, Etech Digital  
6 Playroom, Inc., and Universal Pro Audio, LLC, represented by attorney Steve A. Miller, have refused  
7 to attend and testify at duly noticed depositions absent a court order compelling their attendance.  
8 Expedited hearing of this matter is necessary to enable the depositions to be taken in advance of the  
9 settling parties' filing of a motion for final approval of the settlement by August 24, 2009, and the  
10 settlement hearing scheduled for September 14, 2009. (Docket No. 319.)  
11

12 Pursuant to Local Rule 6-3(a), this motion is accompanied by the Declaration of Daniel J. Shih.  
13 Defendant Google, Inc., does not object to this motion to shorten time. (Shih Decl. ¶ 3.) Objectors'  
14 attorney has refused to stipulate to the shortening of time. (*Id.*)  
15

## 16 **I. BACKGROUND**

17 The Court's May 12, 2009 order granting preliminary approval of the settlement in this matter  
18 required any objections to be filed by July 14, 2009. (Docket No. 319, at 13.) Such filing "must  
19 include the name and address of the person and the dates that the person was an AdWords Advertiser."  
20 (*Id.*) Objectors filed an "Objection to Proposed Settlement" dated July 14, 2009. (Docket No. 326.)  
21 The filing failed to include the address of a single one of the supposedly objecting persons (Randy R.  
22 Lyons, Chase Thompson, Etech Digital Playroom, Inc., and Universal Pro Audio, LLC) and failed to  
23 identify the dates that any of them was an AdWords Advertiser. (*Id.*) The filing also contains  
24 numerous conclusory allegations, devoid of substantiation, as supposed grounds for objecting. For  
25 example, the filing claims that "the Proposed Settlement is not fair, adequate or reasonable" without  
26 stating any basis for such alleged actual unfairness, inadequacy, or unreasonableness. (*Id.* ¶ 4.) The  
27  
28

1 filing also objects to “the requested attorneys’ fees as being excessive” and “the requested  
2 representative fee as being excessive,” again without stating any basis for such conclusions. (*Id.* ¶¶ 8,  
3 9.)

4 In light of the deficiencies in Objectors’ filing, Plaintiffs sought to depose Objectors to  
5 ascertain their reasons for objecting and to understand the basis for their claim to have standing to  
6 object as members of the class. After Plaintiffs duly served notice of these depositions, Objectors’  
7 attorney, by letter dated July 30, 2009, stated his refused to present Objectors for any depositions  
8 without a court order authorizing such discovery. (Docket No. 333-7.<sup>1</sup>) He failed to identify any  
9 authority suggesting why a court order should be necessary to obligate Objectors to attend duly  
10 noticed depositions. (*Id.*) By email on August 3, 2009, Objectors’ attorney reiterated Objectors’  
11 refusal to attend the depositions. (Docket No. 333-8.) Accordingly, Plaintiffs withdrew the notices  
12 and now seek the assistance of the Court. (*Id.*)

## 13 **II. ARGUMENT**

14  
15  
16 “A party may, by oral questions, depose any person, including a party, without leave of court,”  
17 except in certain circumstances not at issue here. FED. R. CIV. P. 30(a)(1) (emphasis added). The  
18 parties to a class action settlement often seek discovery from objectors when useful to understand why  
19 the objectors are objecting. *See, e.g., Warren v. City of Tampa*, 693 F. Supp. 1051, 1060 (M.D. Fla.  
20 1988) (noting that depositions of objectors had occurred “to determine the basis of the objections”).

21  
22 Although Objectors state no authority for their refusal, and Plaintiffs are aware of none,  
23 Objectors have refused to attend duly noticed depositions absent a court order compelling their  
24 attendance. Expedited hearing of this matter is necessary to enable Objectors’ depositions to be taken  
25 before the settling parties’ filing of a motion for final approval of the settlement by August 24, 2009,  
26

---

27 <sup>1</sup> Plaintiffs disagree with Mr. Miller’s statements and description of events in the letter.  
28

1 and the settlement hearing scheduled for September 14, 2009. (Docket No. 319.) If Plaintiffs are to  
2 properly address Objectors' concerns, Objectors' depositions must occur substantially in advance of  
3 those dates.

4 Plaintiffs therefore respectfully ask the Court to shorten the time for hearing of Plaintiff's  
5 motion to August 11, 2009. This would allow the Court to rule upon the motion sufficiently early to  
6 enable Plaintiffs to take Objectors' depositions prior to the deadlines applicable to the settlement.  
7

8 Plaintiffs further request that counsel be permitted to attend the hearing on August 11, 2009,  
9 telephonically and that Objectors be directed to file any responsive briefing by August 10, 2009, at  
10 3:00 p.m.

11 Dated: August 5, 2009.

Respectfully submitted,

12 LESTER L. LEVY (Admitted *Pro Hac Vice*)  
13 MICHELE FRIED RAPHAEL (Admitted *Pro Hac Vice*)  
14 WOLF POPPER LLP

15 MARC M. SELTZER  
16 SUSMAN GODFREY L.L.P.

17 STEPHEN D. SUSMAN (Admitted *Pro Hac Vice*)  
18 SUSMAN GODFREY L.L.P.  
19 1000 Louisiana Street, Suite 5100  
Houston, TX 77002  
Telephone: (713) 651-9366  
Facsimile: (713) 654-6666  
E-Mail: [ssusman@susmangodfrey.com](mailto:ssusman@susmangodfrey.com)

20 RACHEL S. BLACK (Admitted *Pro Hac Vice*)  
21 DANIEL J. SHIH (Admitted *Pro Hac Vice*)  
22 SUSMAN GODFREY L.L.P.  
23 1201 Third Avenue, Suite 3800  
Seattle, WA 98101  
Telephone: (206) 516-3880  
Facsimile: (206) 516-3883  
E-Mail: [rblack@susmangodfrey.com](mailto:rblack@susmangodfrey.com)  
E-Mail: [dshih@susmangodfrey.com](mailto:dshih@susmangodfrey.com)

24 WILLIAM M. AUDET (117456)  
25 AUDET & PARTNERS, LLP  
26 221 Main Street, Suite 1460  
San Francisco, CA 94105-1938  
27 Telephone: (415) 568-2555  
Facsimile: (415) 568-2556  
28 E-Mail: [waudet@audetlaw.com](mailto:waudet@audetlaw.com)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By /s/ Daniel J. Shih  
Daniel J. Shih

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that, on the date written above, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The Court or the CM/ECF system will send notification of such filings to all CM/ECF participants.

I further certify that a true and correct copy of this document was sent via U.S. first-class mail, postage pre-paid, to all non-CM/ECF participants.

/s/ Daniel J. Shih  
Daniel J. Shih