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 DELL INC.

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

18 CHAD BRAZIL and STEVEN SEICK,
 19 individually and on behalf of all others
 similarly situated,

20 Plaintiffs,

21 vs.

22 DELL INC.,

23 Defendant.

Case No. C07-01700 (RMW)

**APPENDIX OF NON-FEDERAL AND
 UNPUBLISHED FEDERAL AUTHORITIES
 CITED IN DEFENDANT DELL INC.'S
 REPLY IN SUPPORT OF ITS MOTION FOR
 ORDER DISMISSING PLAINTIFFS'
 SECOND AMENDED COMPLAINT WITH
 PREJUDICE AND STRIKING PLAINTIFFS'
 CLASS ACTION ALLEGATIONS**

Date: November 7, 2008
 Time: 9:00 a.m.
 Courtroom: 6

The Honorable Ronald M. Whyte

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UNPUBLISHED FEDERAL CASES

Beauperthuy v. 24 Hour Fitness USA, Inc.,
2006 WL 3422198 (N.D. Cal. Nov. 28, 2006)..... A

Myers v. MedQuist, Inc.,
2006 WL 3751210 (D. N.J. Dec. 20, 2006)..... B

Power v. GMAC Mortgage Corp.,
2007 WL 723509 (N.D. Ill. Mar. 7, 2007)..... C

Rodriguez v. Gates,
2002 WL 1162675 (C.D. Cal. May 30, 2002) D

STATE CASES

Bradford v. Vento,
48 S.W.3d 749 (Tex. 2001) E

Fidelity and Guaranty Life Insurance Co. v. Pina,
165 S.W.3d 416 (Tex. App. 2005)..... F

Gunn Buick, Inc. v. Rosano,
907 S.W.2d 628 (Tex. App. 1995)..... G

Harris v. HSN LP,
2007 WL 61068 (Cal. App. 4th Dist. Jan. 10, 2007) H

Head v. Finley,
2004 WL 1699895 (Tex. App. 2004)..... I

Henry Schein Inc. v. Stromboe,
102 S.W.3d 675 (Tex. 2003)..... J

Hewlett-Packard Co. v. Superior Court,
83 Cal. Rptr. 3d 836 (2008) K

Medraza v. Honda of N. Hollywood,
166 Cal. App. 4th 89 (2008) L

Morgan v. Verlander,
2003 WL 22360942 (Tex. App. 2003)..... M

Mulligan v. QVC Inc.,
2005 WL 5939871 (Ill. Cir. Jun. 6, 2005)..... N

Mulligan v. QVC Inc.,
2006 WL 5061557 (Ill. Cir. Mar. 27, 2006) O

Rinaldini v. Bizzelle,
2002 WL 1022586 (Tex. App. 2002)..... P

Southwestern Bell Telephone Co. v. Marketing on Hold, Inc.,
170 S.W.3d 814 (Tex. App. 2005)..... Q

1 *Wall v. Parkway Chevrolet, Inc.*,
176 S.W.3d 98 (Tex. App. 2004)..... R

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OTHER AUTHORITY

4 *2 Moore’s Federal Practice* (Matthew Bender 3d ed.)
§ 12.34[2] S

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6 *5 Moore’s Federal Practice* (Matthew Bender 3d ed.)
§ 23.21[3][c]..... T

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10 DATED: October 24, 2008.

Respectfully submitted,

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FARELLA BRAUN & MARTEL LLP

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By: _____ /s/
C. Brandon Wisoff

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