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

15 MARY MCKINNEY,  
 16 NATHAN NABORS,  
 17 Plaintiffs,  
 18 v.  
 19 GOOGLE INC., et al.,  
 20 Defendants.  
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Case No. C 10-01177-JW  
 Case No. C 10-03897-JW

**DEFENDANTS' SUPPLEMENTAL CASE  
 MANAGEMENT CONFERENCE  
 STATEMENT**

Date: October 25, 2010  
 Time: 10:00 a.m.  
 Dept: 8  
 Judge: Honorable James Ware

1 Pursuant to the Court's October 8, 2010 order relating *Nathan Nabors v. Google, Inc.*,  
2 Case No. 10-cv-038797-HRL ("*Nabors*") to *Mary McKinney v. Google, Inc.*, et al., Case No. 10-  
3 cv-01177-JW ("*McKinney*"), setting a Case Management Conference for October 25, 2010, and  
4 directing the parties to file a Joint Case Management Statement on or before October 15, 2010  
5 addressing whether *Nabors* and *McKinney* should be consolidated, the Defendants in *Nabors* and  
6 *McKinney* hereby submit this Supplemental Case Management Statement.

7 The parties agreed that the Court's October 8, 2010 order required the parties to "address  
8 whether the cases should be consolidated and if so, [to discuss] a schedule for nomination of  
9 Lead Plaintiff and Lead Counsel." In accordance with the Court's order, the parties met and  
10 conferred regarding the consolidation of *Nabors* and *McKinney* and filed a Joint Case  
11 Management Statement focused on that limited issue on October 15, 2010. That Statement set  
12 forth the parties' agreement that consolidation of *Nabors* and *McKinney* is premature. It also set  
13 forth the parties' agreement that, subject to the Court's approval, the October 25, 2010 Case  
14 Management Conference should be postponed until after the Court rules on the pending motions  
15 in *McKinney* and that, in advance of that later Conference, the parties would file a Joint Case  
16 Management Statement addressing the requirements of Fed.R.Civ.P. 26 and Civil L.R. 16-9 and,  
17 if necessary, consolidation of *Nabors* and *McKinney*.

18 On October 19, 2010, Plaintiffs informed Defendants that they intended to file a  
19 Supplemental Case Management Conference Statement addressing the requirements of Rule 26  
20 and Civil L.R. 16-9 the next day. Defendants informed Plaintiffs that this is insufficient time to  
21 engage in a meaningful meet and confer process. Defendants also informed Plaintiffs that,  
22 consistent with the parties' agreement reflected in the Joint Case Management Statement filed on  
23 October 15, 2010, a Rule 26(f) conference is premature in light of pending motions in *McKinney*  
24 set for hearing on November 1, 2010, which are potentially case dispositive. Defendants  
25 respectfully submit that holding a Rule 26(f) conference is now particularly inappropriate in light  
26 of Plaintiffs filing a motion for leave to file a second amended complaint in *McKinney* and their  
27 stated intent to amend the complaint in *Nabors*. Defendants accordingly did not join in

1 Plaintiffs' Supplemental Case Management Statement filed on October 20, 2010 (Docket No.  
2 62), and file this Supplement Case Management Statement to inform the Court of their reasons.

3 Although Defendants are of course willing to address any and all issues the Court is  
4 interested in discussing at the October 25, 2010 Case Management Conference, they respectfully  
5 maintain that the positions in the parties' Joint Case Management Conference Statement (filed  
6 October 15, 2010) are consistent with the parties' understanding of the Court's October 8, 2010  
7 Order.

8  
9 Dated: October 21, 2010.

Respectfully submitted,

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DECHERT LLP

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By: /s/ Matthew L. Larrabee

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