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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

24 KEVIN LOW, on behalf of himself and all others  
25 similarly situated,

26 Plaintiff,

27 vs.

28 LINKEDIN CORPORATION,

Defendant.

Case No. 5:11-cv-01468 LHK

**PRELIMINARY JOINT CASE  
MANAGEMENT STATEMENT  
PURSUANT TO CIVIL LOCAL  
RULE 16-9**

1 Plaintiff Kevin Low (“Plaintiff”) and Defendant LinkedIn Corporation (“Defendant”)  
2 through their respective counsel, submit this Joint Case Management Statement in accordance  
3 with Federal Rule of Civil Procedure 26(f) and Civil Local Rule 16-9.

4 **1. Jurisdiction and Service**

5 The parties agree that this Court currently has federal subject matter jurisdiction under 28  
6 U.S.C. § 1331 because the Complaint alleges a federal cause of action. Plaintiff also contends  
7 that this Court has subject matter jurisdiction over the state law claims pursuant to 28 U.S.C.  
8 §1332(d) because the alleged aggregate claims of the Class exceed the sum or value of  
9 \$5,000,000.00, and there is diversity of citizenship between members of the Plaintiff class, who  
10 are citizens of all fifty states, and Defendant, who is a citizen of California.

11 Plaintiff contends venue is proper in this District pursuant to 28 U.S.C. §1391(b)(1) and  
12 (2) in that Defendant resides within this District and a substantial part of the events or omissions  
13 giving rise to the claims occurred in this District. Defendant does not contest that venue is  
14 proper under 28 U.S.C. § 1391(b)(1), as Defendant resides in this District.

15 No parties remain to be served.

16 **2. Facts**

17 The Complaint alleges that LinkedIn is a web-based social networking site that allows  
18 consumers to share career information about themselves and to “link” to one another via e-mail  
19 and instant messaging services. This is an alleged class action against LinkedIn for allegedly  
20 secretly sharing personal information that Plaintiff and other LinkedIn users have *not* chosen to  
21 share with complete strangers, thereby violating the users’ right to privacy.

22 Defendant denies that it has engaged in any violation of users’ privacy rights..

23 **3. Legal Issues**

24 The following causes of action are alleged in the current Complaint: (1) the Stored  
25 Communications Act, 18 U.S.C. §2701; (2) Article 1, Section 1 of the California Constitution;  
26 (3) California Business and Professions Code § 17200, *et seq.* – Unlawful Business Acts and  
27 Practices; Unfair Business Acts and Practices; and Fraudulent Business Acts and Practices; (4)  
28 California Business and Professions Code § 17500, *et seq.* – Misleading and Deceptive

1 Advertising and Untrue Advertising; (5) California Consumers Legal Remedies Act (“CLRA”) -  
2 Cal. Civ. Code §1750, *et seq.*; (6) Breach of Contract; (7) Breach of the Implied Covenant of  
3 Good Faith and Fair Dealing; (8) Common Law Invasion of Privacy; (9) Conversion; and (10)  
4 Unjust Enrichment.

5 As set out in the pending motion to dismiss, Defendant disputes whether the current  
6 Complaint properly alleges any of these causes of action. Additionally, the parties dispute  
7 whether this lawsuit should be certified as a class action pursuant to Federal Rule of Civil  
8 Procedure Rule 23.

9 **4. Motions**

10 The following are all the prior and pending motions, their current status, and any  
11 anticipated motions:

- 12 • Motion to Dismiss. This Motion is fully briefed and set for hearing on  
13 September 15, 2011.
- 14 • Plaintiff anticipates filing a motion for class certification on March 2, 2012.
- 15 • Defendant anticipates filing a motion for summary judgment if the case proceeds  
16 to that stage.

17 **5. Amendments of Pleadings**

18 No further parties, claims, or defenses are expected to be added or dismissed at this time.  
19 However, to the extent any parties, claims, or defenses are added, Plaintiff proposes November  
20 15, 2011 as the deadline for such amendment. Defendant proposes that the deadline for such  
21 amendment be set for six weeks after Defendant files its Answer to the Complaint or any  
22 amended complaint.

23 **6. Evidence Preservation**

24 Plaintiff has been informed of his obligation to maintain and preserve all documents  
25 relevant to this litigation, including all e-mails and other electronic documents and other  
26 information. LinkedIn has taken steps to preserve evidence in its possession, custody, or control  
27 relevant to this litigation, including all e-mails and other electronic documents and other  
28 information.

1           **7.     Disclosures**

2           The Parties have agreed to exchange initial disclosures on September 13, 2011.

3           **8.     Discovery**

4           The parties have not taken any discovery. However, they have met and conferred as to a  
5 proposed discovery plan pursuant to Fed. R. Civ. P. 26(f), and their positions are set out below in  
6 section 17.

7           **9.     Class Action**

8           Plaintiff's Position:

9           As stated in Plaintiff's Complaint, this action is brought as a nationwide class action  
10 pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who have  
11 signed up for LinkedIn's service during the period March 25, 2007 to present. Plaintiff intends  
12 to move for class certification, pursuant to Federal Civil Procedure Rules 23(b)(2) and (b)(3),  
13 upon the setting of a proper motion schedule.

14           Defendant's Position:

15           Defendant disputes that class certification is proper in this action, but Defendant suggests  
16 that the propriety of class certification should be determined relatively early in the case.  
17 Accordingly, Defendant proposes that Plaintiff's motion for class certification be filed no later  
18 than three months after the initiation of discovery (not near the close of discovery, as Plaintiff  
19 proposes above). The briefing schedule for the motion should allow Defendant time to depose  
20 Plaintiff prior to the filing of the opposition.

21           **10.    Related Cases**

22           There are no related cases.

23           **11.    Relief**

24           Plaintiff seeks injunctive and monetary relief. With respect to injunctive relief, Plaintiff  
25 seeks to enjoin Defendants from secretly sharing his and other class member's personal  
26 information. With respect to monetary relief, Plaintiff seeks on his behalf and on behalf of the  
27 class payment of the money they have paid to Defendant for its service as well as any money  
28 that Defendant has made as a result of the misconduct alleged in the Complaint.

1       **12.     Settlement and ADR**

2           The Parties have not engaged in settlement discussions. Both Parties have filed ADR  
3       certifications stating that they have reviewed the ADR possibilities available. Pursuant to ADR  
4       Local Rule 3-4(b), the Parties agree to the use of a private mediator.

5       **13.     Consent to Magistrate Judge For All Purposes**

6           The parties do not consent to have a magistrate judge conduct all further proceedings  
7       including trial and entry of judgment.

8       **14.     Other References**

9           The Parties do not find it suitable to refer the case to binding arbitration, a special master,  
10       or the Judicial Panel on Multidistrict Litigation.

11       **15.     Narrowing of Issues**

12           The Parties will meet and confer to see if it appears that settlement may be aided at this  
13       juncture by initial focusing on specific discovery regarding Defendant's practices or regarding  
14       Plaintiff's alleged injury. If the case proceeds closer to trial, the Parties will meet and confer in  
15       an attempt to agree on stipulated uncontested facts.

16       **16.     Expedited Schedule**

17           The Parties do not believe that this matter can be litigated on expedited basis with  
18       streamlined procedures.

19       **17.     Scheduling**

20           Plaintiff's Position:

21           Plaintiff proposes the following dates for designation of experts, discovery cutoff,  
22       hearing of dispositive motions, pretrial conference and trial:

23           Non Expert Discovery Cut-off:	April 20, 2012
24           Designation of Experts and Expert Reports:	April 27, 2012
25           Designation of Rebuttal Experts and Rebuttal Expert Reports:	May 25, 2012
26           Completion of Expert Discovery:	June 25, 2012
27           Hearing of Dispositive Motions:	August 16, 2012 at 1:30 p.m.
28           Pretrial Conference:	August 29, 2012 at 2:00 p.m.

Trial:

September 10, 2012 at 9:00 a.m.

Defendant's Position:

1. Defendant proposes that any discovery be deferred until immediately after the pleadings are closed. Defendant believes that the pending motion to dismiss will eliminate many if not all of the causes of action alleged in the Complaint, and that any discovery should proceed only when the Court has determined which, if any, causes of action have been properly pled.

2. Accordingly, Defendant proposes that any discovery proceed on the following schedule:<sup>1</sup>

Opening of Discovery:	Date Defendant's Answer filed
Completion of Non Expert Discovery:	Eight months after Answer is filed
Designation of Experts:	Four weeks later
Designation of Rebuttal Experts:	Four weeks later
Completion of Expert Discovery:	Four weeks later
Hearing of Dispositive Motions:	Eight weeks later
Pretrial Conference:	Two weeks later
Trial:	Two weeks later

**18. Trial**

Plaintiff has demanded a trial to a jury. The Parties currently anticipate that trial will take no more than five (5) trial days.

**19. Disclosure of Non-party Interested Entities or Persons**

Defendant has provided the proper corporate disclosure statement that LinkedIn has no parent company and that the only persons or entities that own more than 10% of LinkedIn Corporation's outstanding common stock are Reid Hoffman and Michelle Yee (as Trustees of the Reid Hoffman and Michelle Yee Living Trust dated October 27, 2009), entities affiliated

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<sup>1</sup> For purposes of clarity, Defendant notes that, in the event the Court concludes that discovery should proceed forthwith (before the pleadings are closed), Defendant respectfully suggests that the Court set a schedule approximately one month *later* than the dates proposed by Plaintiff above, so that four weeks (to ensure that all dates fall on weekdays) be *added* to each of the dates suggested by Plaintiff above.

1 with Greylock Partners, and entities affiliated with Sequoia Capital. The provision does not  
2 apply to Plaintiff as he is a non-corporate entity.

3  
4 Dated: September 8, 2011

Respectfully submitted,

5 By: /s/ Michael R. Reese

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20 KEVIN LOW AND THE  
21 PROPOSED CLASS

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28 Dated: September 8, 2011

Respectfully submitted,

By: /s/ Simon J. Frankel

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