

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MIKE HARRIS and JEFF DUNSTAN,  
individually and on behalf of a class of  
similarly situated individuals,

Plaintiffs,

v.

COMSCORE, INC., a Delaware corporation,

Defendant.

Case No. 1:11-cv-5807

Hon. James F. Holderman

Magistrate Judge Young B. Kim

**DECLARATION OF RAFEY S. BALABANIAN IN SUPPORT OF  
PLAINTIFFS' MOTIONS TO MODIFY SCHEDULING ORDER**

I, Rafey S. Balabanian, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Partner at the law firm of Edelson LLC, which has been retained to represent Plaintiffs Mike Harris and Jeff Dunstan (collectively, "Plaintiffs") in this matter. I am an adult over the age of 18 and I am fully competent to make this Declaration. I have personal knowledge of all matters set forth herein. If called upon to testify as to the matters stated herein, I could and would competently do so.

2. Presently, the Parties are engaged in the merits phase of discovery in this case and are concurrently working through issues relating to the provision of notice to the certified Class and Subclass—in fact, Plaintiffs are scheduled to take the deposition of a comScore Rule 30(b)(6) designee on notice-related issues on October 3, 2013 in Chicago, Illinois.

3. On July 31, 2013, Plaintiffs propounded their first merits-based discovery requests on Defendant comScore, Inc. ("Defendant" or "comScore")—which included both interrogatories and requests for the production of documents.

4. comScore served its written responses to those requests a month later, on August

30, 2013. At that point, though, comScore only promised to “produce copies of located, responsive, relevant, non-privileged documents to the extent that such documents exist and are in comScore's custody or control that have not already been produced by comScore,” rather than producing any documents outright.

5. comScore produced documents in response to Plaintiffs’ requests on September 17, 2013, which were contained on a hard drive and bates labeled “CS0016909-CS0096420.”

6. comScore stated that it produced documents on September 9, 2013 (*i.e.*, the production deadline set by this Court), but due to some sort of apparent mix up with the delivery of the hard drive by FedEx, Plaintiffs’ counsel—despite thoroughly searching both their offices and the lobby of their building for the hard drive (at comScore’s request)—could not locate the hard drive and doesn’t believe it was delivered on that date. Moreover, the staff member who FedEx claimed signed for the hard drive had no recollection of doing so.

7. comScore then promised to have a replacement hard drive delivered by September 16, 2013, but that too was delayed for some reason. As noted above, it wasn’t until September 17, 2013, that Plaintiffs received comScore’s document production by way of the replacement hard drive.

8. The Parties’ filed a joint status report on September 16, 2013 wherein Plaintiffs identified certain deficiencies with comScore’s written discovery responses. (Dkt. 212.) That report was filed before Plaintiffs knew how many pages of documents would eventually be produced by comScore, or knew anything about the substance of comScore’s promised document production. At that point, Plaintiffs then expected to receive documents totaling roughly 80,000 pages.

9. Upon receipt of the hard drive, Plaintiffs’ counsel quickly learned that it

contained approximately 80,000 individually Bates-numbered files, which collectively spanned over 1.5 million printed pages. And while much of that production appears to be relevant to the merits of this litigation, parts of it plainly are not. For example, the production includes the contract for the purchase of (what appears to be) comScore's Rule 30(b)(6) designee's personal residence, dozens of spam emails received by various comScore employees, and invoices from comScore's own counsel relating to the defense of this case.

10. Plaintiffs also note that part of comScore's production appears to be records of payment of attorneys' fees to comScore's counsel by an insurance carrier. This is troubling inasmuch as comScore never disclosed—either in its initial disclosures or otherwise—that there is any insurance covering the claims alleged in this case. Plaintiffs have not fully analyzed these documents, so they take no position at this point as to whether comScore willfully withheld information related to its insurance coverage for this matter, but to the extent it has any such coverage and failed to disclose it in accordance with the Federal Rules, Plaintiffs intend to bring that issue to the Court's attention, as in their view it would constitute a serious violation of comScore's obligations in discovery.

11. Given that production, attorneys at my firm have been working (and continue to work) through comScore's produced documents to (i) identify and separate potentially relevant portions of the production from those portions that have no bearing on this matter at all, (ii) figure out which portions of the 1.5 million pages match up to their different document requests, (iii) determine whether additional written requests are necessary based on new information learned through this latest round of discovery, and then (iv) identify areas where comScore *promised* to produce documents but failed to do so, for the purposes of timely filing required motions to compel with this Court.

12. Most recently, on September 26, 2013, the Parties met and conferred telephonically regarding identified discovery issues, and on September 30, 2013, Plaintiffs followed up with a letter memorializing the details discussed during that call. The very first point addressed in that letter was Plaintiffs' current position that an extension to the present discovery deadlines (*i.e.*, those addressed through the accompanying Motion) would be necessary so as to allow Plaintiffs sufficient time to review and analyze comScore's massive document production.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of October 2013 at Highlands Ranch, Colorado.

s/ Rafey S. Balabanian