## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

THE RODNEY A. HAMILTON LIVING TRUST and JOHN BECK AMAZING PROFITS, LLC, Individually and on Behalf of All Others Similarly Situated,

Civil Action No. 2:09-cv-00151

Plaintiffs,

v.

- (1) GOOGLE, INC.; AND
- (2) AOL, LLC;

Defendants.

## AGREED MOTION TO MODIFY DOCKET CONTROL ORDER

Plaintiffs The Rodney Hamilton Trust and John Beck Amazing Profits, LLC, and Defendants Google Inc. and AOL Inc. (collectively "Movants") file this Agreed Motion to Modify the Court's Docket Control Order entered in this case on November 6, 2009, and respectfully show as follows:

- 1. The current order is silent on the briefing schedule on Defendants' Daubert Motion, filed September 17, 2010, and the parties desire the following schedule:
  - Plaintiff's Opposition: October 14, 2010
  - Defendants' Reply: October 25, 2010
  - Plaintiff's Sur-reply: November 4, 2010
- 2. The parties also request that Defendants be permitted twenty (20) pages for their brief in response to Plaintiffs' Opposed Motion for Class Certification in this matter.

## **PRAYER**

WHEREFORE PREMISES CONSIDERED, Plaintiffs The Rodney Hamilton Trust and John Beck Amazing Profits, LLC, and Defendants Google Inc. and AOL Inc. request that the Court grant their Agreed Motion to Modify the Court's Docket Control Order and grant them any other relief to which they are entitled.

Dated: October 6, 2010 Respectfully submitted,

By: /s/Marc A. Fenster
Marc A. Fenster, CA SB # 181067
E-mail: mfenster@raklaw.com
RUSS, AUGUST & KABAT
12424 Wilshire Boulevard 12th Floor
Los Angeles, California 90025
Telephone: 310/826-7474
Facsimile: 310/826-6991

Scott M. Kline TX SB # 11573100 LEAD E-mail: scottkline@andrewskurth.com ANDREWS KURTH LLP 1711 Main Street, Suite 3700 Dallas, Texas 75201 Telephone: 214/659-4400

Telephone: 214/659-4400 Facsimile: 214/659-4401

David P. Whittlesey
Email: dwhittlesey@akllp.com
Ronald C. Low
Email: caseylow@andrewskurth.com
ANDREWS KURTH LLP - Austin
111 Congress Ave, Suite 1700
Austin, Texas 78701

Telephone: 512/320-9213 Facsimile: 512/320-9292

David M. Pridham, RI Bar No. 6625 E-mail: david@pridhamiplaw.com LAW OFFICE OF DAVID PRIDHAM 25 Linden Road Barrington, Rhode Island 02806 Telephone: 401/633-7247

Facsimile: 401/633-7247

Andrew W. Spangler, TX SB # 24041960 E-mail: spangler@spanglerlawpc.com SPANGLER LAW P.C. 208 N. Green Street, Suite 300 Longview, Texas 75601 Telephone: 903/753-9300 Facsimile: 903/553-0403

Attorneys for Plaintiffs
THE RODNEY A. HAMILTON LIVING
TRUST and JOHN BECK AMAZING
PROFITS, LLC

**CERTIFICATE OF SERVICE** 

I hereby certify that the counsel of record who are deemed to have consented to

electronic service are being served on October 6, 2010 with a copy of this document via the

Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served

by electronic mail, facsimile transmission and/or first class mail on this same date.

Dated: October 6, 2010

/s/ Marc A. Fenster

Marc A. Fenster

**CERTIFICATE OF CONFERENCE** 

The undersigned counsel for Plaintiff in the above captioned and numbered cause, states that counsel has complied with the meet and confer requirement in Local Rule CV-7(h) and the

foregoing motion is agreed.

Dated: October 6, 2010

/s/ Marc A. Fenster

Marc A. Fenster

4