

LAW OFFICES OF JOHN L. FALLAT  
JOHN L. FALLAT (State Bar No. 114842)  
EDWIN B. McLEAN (State Bar No. 144261)  
523 Fourth Street, Suite 210  
San Rafael, CA 94901-3349  
Telephone: (415) 457-3773  
Facsimile: (415) 457-2667

Attorneys for Plaintiff Hypertouch, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HYPERTOUCH, INC., a California  
corporation,

Plaintiff,

vs.

KENNEDY-WESTERN UNIVERSITY,

Defendant.

Case No. C 045203 SI

**DECLARATION OF JOHN L. FALLAT  
IN SUPPORT OF RESPONSE AND  
OPPOSITION TO MOTION FOR  
PROTECTIVE ORDER**

**Date: August 12, 2005  
Time: 9:00 a.m.  
Dept. 10**

I, John L. Fallat, declare:

1. I am an attorney at law, licensed to practice before all courts of the State of California, and am counsel of record for Plaintiff. I make this Declaration from my own personal knowledge, except as to matters stated on information and belief and as to those matters I believe to be true. If called upon as a witness, I would competently testify as to the truth of the matters herein stated.

2. Together with my associate, Brian J. Triplett, Esq., I have been actively negotiating with defendant's counsel to try to reach agreement on a form of protective order.

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1 3. To date, such negotiations have been productive and the parties appear to be near to an accord.

2 4. Within days of the last exchange of proposed drafts defendant filed a motion for protective  
3 order.

4 5. Since filing this motion defendant has not reentered into negotiations.

5 6. It is my opinion, based upon involvement in these events, that there is no need for a Court  
6 ordered protective order as long as the parties are willing to participate in good faith negotiations.

7 Executed July\_\_\_\_, 2005, at San Rafael, California. I declare under penalty of perjury under the  
8 laws of the State of California that the foregoing is true and correct.  
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JOHN L. FALLAT

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27 **DECLARATION OF JOHN L. FALLAT**  
28 **IN SUPPORT OF RESPONSE AND**  
**OPPOSITION TO MOTION FOR**  
**PROTECTIVE ORDER**

**PROOF OF SERVICE BY MAIL**  
[CCP §1013(a)]

I, JENNIFER M. BEARD, declare that I am not a party to this action, am over the age of 18 years, maintain a business address at 523 Fourth Street, Suite 210, San Rafael, California 94901-3349, and that on the date shown below, I served the documents listed herein on the persons listed herein by placing true copies of said documents in sealed envelopes and depositing said envelopes in the United States mail at San Rafael, California, with postage prepaid, directed to said persons at the addresses below.

**DOCUMENTS SERVED:**

- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RESPONSE AND OPPOSITION TO MOTION FOR ORDERS OVERRULING OBJECTIONS TO DOCUMENT REQUEST**
- **ORDER DENYING MOTION FOR ORDERS OVERRULING OBJECTIONS TO DOCUMENT REQUEST**
- **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RESPONSE AND OPPOSITION TO MOTION FOR ORDERS OVERRULING OBJECTIONS TO INTERROGATORIES**
- **ORDER DENYING MOTION FOR ORDERS OVERRULING OBJECTIONS TO INTERROGATORIES**

**SERVED UPON:**

Cynthia Woollacott, Esq.  
Woollacott Jannor LLP  
10350 Santa Monica Boulevard  
Suite 350  
Los Angeles, CA 90025-5075

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this proof of service was executed on the date below at San Rafael, California.

Dated:

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JENNIFER M. BEARD