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UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

<p>HYPERTOUCH, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>KENNEDY-WESTERN UNIVERSITY,</p> <p style="text-align: center;">Defendant.</p>	<p>CASE NO. C 04 5203 SI</p> <p>PLAINTIFF’S MARCH 7, 2006 CONFERENCE STATEMENT</p>
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Plaintiff has attempted to meet and confer with Defendant’s counsel, but has counsel has not had an opportunity to discuss the current posture of the case. This Court put over the last day for filing a joint pretrial conference statement, but it has not yet ruled on the Defendant’s motion for summary judgment. At this time, Plaintiff and Defendant have marked disputes about the implication of the Court’s taking this time to carefully consider its ruling, and Plaintiff is currently of the belief that trial in the action will proceed to a jury as contemplated.

Defendant KENNEDY-WESTERN UNIVERSITY is responsible for the thousands of misleading email messages sent to Plaintiff, and has consciously avoided knowledge of the commercial acts done on its behalf.

Unless and until this Court rules in favor of Defendant on its motion for summary judgment, Plaintiff and Defendant will have a difficult time filing any joint statement, as the parties cannot agree on the case’s procedural posture. Since the Court has not ruled on the

1 extent to which trial will take place, and which issues will still be in dispute at the time of trial,
2 the parties cannot reasonably provide the information sought in the Court's Order of June 29,
3 2005.

4 Plaintiff's counsel will again seek to meet and confer with Defendant's counsel after
5 entry of the Court's final decision on Defendant's motion for summary judgment.

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7 WALTON & ROESS LLP

8 Date: March 7, 2006 /s/ Timothy J. Walton

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