

Order Issued
on Submitted Matter

FILED
JAN 23 2013

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
BY WANDA WALDERA DEPUTY

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

CARLA ISON, PhD,
Plaintiff,
v.
GOOGLE, INC., YAHOO, INC.,
Defendants.

Case No. 1-10-CV-163032

ORDER ON MOTION FOR LEAVE TO
FILE FIFTH AMENDED COMPLAINT

Plaintiff's motion for leave to file a fifth amended complaint must be denied. The motion was not timely at this late stage of the litigation and especially in view of the pending trial date. Assuming a brief continuance might have been granted, this motion was still not timely. It should be pointed out that plaintiff has sought prior continuances, including the trial setting conference and the motions for summary judgment, which were granted.

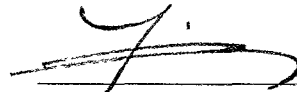
This motion is further denied because there would be major prejudice to the defendants who have expended substantial expense and efforts in their defense. They would be required to virtually re-litigate an essentially new case starting with demurrers, discovery, and motions for summary judgment, as well as re-prepare for trial.

Finally, this motion is denied because there is no legally supportable basis for the new causes of action. The statutes of limitation appear to have run. As plaintiff's counsel acknowledged, there is no federal or state statute that plaintiff can cite to support her new causes of action.

1 Although the procedural defects in this motion are not the only reason for denying this
2 motion, in view of the history and the pending trial date, plaintiff had the responsibility to
3 explain exactly why this motion should be granted. This was not done.

4 The motion for leave to file a fifth amended complaint is denied because it is untimely,
5 prejudicial to the defendants, not legally supported, and procedurally defective.

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7 Dated: January 22, 2013

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10 Kevin E. McKenney
11 Judge of the Superior Court
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