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19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 SAN JOSE DIVISION

22 ROBERT ANTHONY, individually and on  
behalf of others similarly situated,

23 Plaintiff,

24 vs.

25 YAHOO! INC., a Delaware corporation,

26 Defendant.  
27

No.: C 05 04175 RMW

**CLASS ACTION**

**SETTLEMENT AGREEMENT**

Compl. Filed: March 12, 2007

Honorable Ronald M. Whyte

1 This Conditional Settlement Agreement (“Agreement”) is made and entered into by and  
2 among Plaintiff, Robert Anthony (referred to herein as “Anthony”, “Plaintiff”, or “Class  
3 Representative”), individually and on behalf of the Settlement Class, and Defendant, Yahoo!, Inc.  
4 (referred to herein as “Yahoo!” or “Defendant”).

5 **I. RECITALS**

6 WHEREAS, on October 14, 2005, Plaintiff filed an action in the U.S. District Court for the  
7 Northern District of California, entitled, “Robert Anthony, individually and on behalf of others  
8 similarly situated v. Yahoo!, Inc.”, Case No. C05 04175 RMW (the “Action”), in which Plaintiff  
9 sought to represent a nationwide class challenging certain aspects of Yahoo!’s online dating service  
10 known as Yahoo! Personals. Specifically, Plaintiff asserted claims for Breach of the Implied  
11 Covenant of Good Faith and Fair Dealing (Count I), Fraud (Count II), Negligent Misrepresentation  
12 (Count III) and Deceptive and Unfair Trade Practices Pursuant to Florida Statute §§ 501.204, *et. seq.*  
13 (Count IV);<sup>1</sup> and

14 WHEREAS, Yahoo! has denied and continues to deny all claims and allegations of  
15 wrongdoing asserted in the Action and has substantial factual and legal defenses to all claims alleged  
16 in the Action. Yahoo! has maintained and continues to maintain that it has acted properly and in  
17 accordance with governing law and that the Class Representative (as defined herein) and the Class  
18 Members (as defined herein) have not suffered any damage. Nonetheless, Yahoo! has concluded  
19 that further conduct of the Action would be protracted and expensive, and that it is desirable that the  
20 Action be fully and finally settled in the manner and upon the terms set forth in this Agreement.  
21 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected  
22 with it, nor any act performed or documents executed pursuant hereto, shall be construed as an  
23 admission or concession by Yahoo! of any violation of law. To the contrary, Yahoo! denies each  
24 and every allegation of liability and wrongdoing; and

25 WHEREAS, the parties to the Action have litigated the Action, including extensive  
26 discovery conducted by both sides (as described more fully below), Yahoo!’s Motion to Dismiss,

27 <sup>1</sup> These claims are contained in the Second Amended Complaint.  
28

1 Plaintiff's Motion to Amend the Complaint, Plaintiff's Motion for Class Certification and Yahoo!'s  
2 opposition thereto; and

3 WHEREAS, the parties and their counsel have conducted an extensive investigation and  
4 evaluation of the facts and law, have taken depositions in the Action including the deposition of  
5 Plaintiff and depositions of representatives of Yahoo!, have propounded and responded to substantial  
6 discovery relating to the claims asserted in the Action, and Plaintiff retained experts and consultants  
7 to assist in his evaluation of the case; and

8 WHEREAS, the parties participated in two days of mediation before the Honorable Edward  
9 Infante (Ret.) on November 6, 2006 and again on February 2, 2007 following the briefing on  
10 Plaintiff's motion for class certification; and

11 WHEREAS, in order to avoid protracted litigation and associated costs and attorneys' fees,  
12 and without any admission of liability, the parties have reached a conditional settlement which  
13 resolves the Action. The parties believe that the settlement terms as set forth in this Agreement  
14 represent a fair, reasonable and adequate resolution of the Action; and

15 WHEREAS, the parties desire to compromise and settle all issues and claims that have been  
16 brought, or that could have been brought, in the Action by or on behalf of members of the Settlement  
17 class; and to that end, the parties have entered into this Agreement, all terms of which are  
18 conditioned upon receiving the final approval of the Court and, upon final Court approval, the  
19 dismissal of the Released Claims (as defined below), with prejudice, and permanently enjoining all  
20 members of the Settlement Class from bringing any Released Claim against Defendant; and

21 WHEREAS, the parties agree to undertake their best efforts to effectuate the terms and  
22 purpose of this Agreement, to secure the Court's approval of it, and to oppose any appeals from any  
23 orders of final approval;

24 NOW, THEREFORE, in consideration of the covenants, agreements and releases set forth  
25 herein and for other good and valuable consideration, and subject to the approval of this Court, it is  
26 agreed by and among the undersigned that the Action (as defined below) be settled, compromised,  
27 and dismissed on the merits with prejudice as to Yahoo! on the following terms and conditions:

28 **II. DEFINITIONS**

1 The following definitions are applicable to this Agreement. Definitions contained elsewhere  
2 in this Agreement shall also be effective.

3 1. "Action" means the legal action entitled "Robert Anthony, individually and on behalf  
4 of others similarly situated v. Yahoo!, Inc.", United States District Court, Northern District of  
5 California, Case No. C05 04175 RMW.

6 2. "Agreement" refers to this Settlement Agreement and all exhibits thereto.

7 3. "Authorized Claimant" means any member of the Settlement Class who timely  
8 submits a valid Claim Form, and confirms on that form the information required.

9 4. "Claim Form" refers to the Claim Form substantially in the form attached hereto as  
10 Exhibit "A".

11 5. "Class" or "Class Member" means all paid subscribers in the United States to Yahoo!  
12 Personals (including Yahoo! Personals Premier) between October 1, 2004 and the date of  
13 preliminary approval of this Settlement by the Court who do not timely and properly exclude  
14 themselves from the terms of this Agreement.

15 6. "Class Counsel" means Freidin & Dobrinsky, P.A. and the McNulty Law Firm.

16 7. "Class Counsels' Attorneys' Fees" refers to the amount awarded to Plaintiff's  
17 attorneys by the Court for prosecuting the Action, including all reasonable costs and expenses.

18 8. "Class Representative" or "Plaintiff" means Robert Anthony.

19 9. "Class Representative Incentive Award" means the sums to be paid to Plaintiff as  
20 incentive for his role as Class Representative, and for the risks and work attendant to that role.

21 10. "Defendant" or "Yahoo!" means Yahoo!, Inc.

22 11. "Final Approval Hearing" means the hearing to be conducted by the U.S. District  
23 Court for the Northern District of California on such date as the Court may order to determine  
24 whether to enter the Final Order, Permanent Injunction and Judgment finally approving and  
25 implementing the terms of this Agreement.

26 12. "Final Judgment" refers to the Final Order, Permanent Injunction and Judgment in  
27 substantially the form attached hereto as Exhibit "B".

28 13. "Motion for Preliminary Approval" refers to the motion for preliminary approval of

1 the Settlement and its supporting papers.

2 14. "Notice" refers to the Notice of Pendency of Class Action, Proposed Settlement and  
3 Proposed Hearing Date for Court Approval, substantially in the form attached hereto as Exhibit "C".  
4 "Notice Date" refers to the date upon which the Notice of Pendency of Class Action, Proposed  
5 Settlement and Proposed Hearing Date for Court Approval is sent to Class Members via electronic  
6 mail.

7 15. "Order Granting Preliminary Approval" refers to the order granting preliminary  
8 approval of the Settlement, in substantially the form attached hereto as Exhibit "D".

9 16. "Parties" means Plaintiff and Defendant.

10 17. "Preliminary approval hearing" means the hearing to be conducted by the Northern  
11 District of California U.S. District Court to determine whether to grant the Motion for Preliminary  
12 Approval.

13 18. "Released Claims" are defined in Section 3.F.2.

14 19. "Released Parties" are defined in Section 3.F.1.

15 20. "Request for Exclusion" means a request made by a member of the Settlement Class  
16 to be excluded from the Settlement in substantially the form attached hereto as Exhibit "E".

17 21. "Settlement Amount" refers to \$4,000,000 which is the total amount Defendant shall  
18 be required to pay under this Agreement. The Settlement Amount shall consist of the following  
19 elements: (i) payments to Authorized Claimants made on a claims-made basis not to exceed \$35 per  
20 Authorized Claimant, as further described in this Agreement; (ii) a Class Representative Incentive  
21 Award as ordered and approved by the Court, and as described in this Agreement, in an amount not  
22 to exceed \$20,000; (iii) Class Counsels' Attorney's Fees as ordered by the Court and as described in  
23 this Agreement, in an amount representing 25% of the total Settlement Amount or other amount  
24 approved by the Court; (iv) Class Counsels' reasonable costs and expenses in an amount to be  
25 approved by the Court and as described in this Agreement; (v) a charitable donation to the Council  
26 of Better Business Bureaus, a non-profit organization, representing the balance of any monies  
27 remaining after payments set forth in subsections (i), (ii), (iii), (iv) and (v) have been made; and (vi)  
28 payments, if any, due to the third party administrator (Garden City Group, Inc.) designated by

1 Defendant and appointed by the Court.

2 22. "Settlement Class" means all members of the Class who do not submit a timely and  
3 proper Request for Exclusion.

4 23. "Effective Date" means the date by which this Agreement is fully approved as  
5 provided for herein and by the Court's Final Judgment becomes final. For purposes of this  
6 Agreement, the Court's Final Judgment "becomes final" upon the latter of: (i) the date of final  
7 affirmance of an appeal of the Final Judgment; (ii) the expiration of the time for an appeal to review  
8 the Final Judgment, and, if certiorari be granted, the date of the Final Judgment following review  
9 pursuant to that grant; (iii) the date of final dismissal of any appeals from the Final Judgment or the  
10 final dismissal of any proceeding on certiorari to review the Final Judgment; or (iv) if there are no  
11 appeals to the Final Judgment, the date after expiration of any and all available appeal periods  
12 following entry of the Final Judgment.

13 24. "Settling Parties" means Plaintiff, Defendant and the Settlement Class.

14 25. "Settlement Period" means October 1, 2004 to and including the date of preliminary  
15 approval of this Settlement by the Court.

16 26. "Claims Administrator" means The Garden City Group, Inc., the third party  
17 responsible for administration of the Settlement described herein, including the provision of Notice  
18 to class members and to government officials pursuant to CAFA and the distribution of the  
19 Settlement Fund to eligible class members.

20 **III. TERMS AND CONDITIONS**

21 **A. CLASS CERTIFICATION**

22 As part of his Motion for Preliminary Approval of the Settlement, Plaintiff seeks certification  
23 of the Class. The Class sought to be certified by Plaintiff shall be certified for settlement purposes  
24 ONLY, and shall be defined as:

25 All paid subscribers in the United States to Yahoo! Personals (including  
26 Yahoo! Personals Premier) between October 1, 2004 and the date of  
27 preliminary approval of this Settlement by the Court.

28 Subject to Court approval, and for settlement purposes only: 1) Plaintiff, Robert Anthony, is

1 appointed Class Representative; and 2) Freidin & Dobrinsky, P.A. and the McNulty Law Firm are  
2 appointed Class Counsel for the Settlement Class.

3 The Settling Parties and their respective counsel agree that Plaintiff shall seek Preliminary  
4 and Final Approval of the Settlement described herein. In applying for entry of the Preliminary  
5 Approval Order, the Representative Plaintiff will apply for conditional certification of a nationwide  
6 Class for purposes of the Settlement only. In moving for final approval of the Settlement and entry  
7 of Judgment, the Representative Plaintiff will also request that certification of said nationwide Class,  
8 for purposes of settlement only, be made final. Defendant agrees, solely for purposes of this  
9 Settlement and conditioned upon the final Court approval of the terms of this Agreement, that the  
10 Action may proceed as a nationwide Class. Defendant's stipulation to the maintenance of this  
11 Action as a class action is for settlement purposes only and such stipulation and conditional  
12 certification shall not constitute, in this or any other proceeding, an admission by Defendant of any  
13 kind or any determination that certification of a class for trial purposes is appropriate. If the  
14 Settlement is not granted final approval, or this Agreement is otherwise terminated or rendered null  
15 and void, the certification of the above-described Class shall be automatically vacated and the  
16 litigation shall proceed from that point as though this Agreement never existed. Under such  
17 circumstances, Defendants reserves all rights to challenge certification of a class for trial purposes in  
18 this Action, or in any other action on all available grounds as if no nationwide Class had been  
19 stipulated in this Action.

20 **B. SETTLEMENT CONSIDERATION**

21 **1. Enhanced Disclosures/Injunctive Changes**

22 In consideration for this Settlement, and to the extent that they are not already in place, no  
23 later than 30 days after the Effective Date, Yahoo! will take the following actions, which shall  
24 remain in force and effect for a period of two (2) years from date of Final Approval of this  
25 Settlement by the Court:

- 26 (a) Yahoo! will maintain the "Report a Complaint" link on the profile detail page.  
27 (b) Profiles that have been inactive for a period of 120 days shall be rendered  
28 unsearchable by Yahoo! and Yahoo! shall include this notification in its Additional

1 Terms of Service relating to Yahoo! Personals.

2 (c) When a user of Yahoo! Personals cancels his or her subscription, a screen will be  
3 presented to the user giving the user the option to delete the profile, render the profile  
4 unsearchable or keep the profile active. If the user makes no selection, the profile  
5 will automatically be deactivated.

6 (d) Yahoo! will update its Additional Terms of Service relating to Yahoo! Personals to  
7 inform its users that they may see profiles or other content which they feel were  
8 created by third parties, contrary to obligations in the applicable terms of services,  
9 guidelines and code of conduct, for purposes other than dating, including spam and  
10 commercial profiles.

11 (e) Yahoo! will maintain mechanisms in place to detect duplicative photographs, abusive  
12 language and the revelation of improper personal information.

13 (f) Yahoo! will modify its Additional Terms of Service relating to Yahoo! Personals to  
14 include disclosures regarding searchable Yahoo!-created test profiles, if any, that may  
15 be used when necessary to ensure service quality. The modifications will disclose  
16 how searchable test profiles, if any, are designated so that they are readily identifiable  
17 to users.

18 The Settling Parties agree that the Defendant may make additional changes to its site content,  
19 site functionality and Terms of Service in its sole discretion that do not substantially lessen the  
20 effectiveness of the changes listed in subparts (a) through (f) of this section within the two-year  
21 period that this provision remains in effect. The Settling Parties further agree that these disclosures  
22 and changes are beneficial to the Settlement Class and have value separate and apart from the  
23 Settlement Amount.

24 **2. Monetary Consideration**

25 Defendant shall create a common fund in the amount of Four Million (\$4,000,000) dollars,  
26 referred to herein as the Settlement Amount and/or Common Fund. The Common Fund shall be  
27 created as of the Effective Date. Should invoices to the Claims Administrator be due and payable  
28 before the Effective Date, however, Yahoo! shall make such payments when due and deduct all such



1 paid amounts from the Common Fund at the time of its creation. Each Authorized Claimant shall be  
2 entitled to his or her proportionate share of the net funds remaining in the Common Fund after  
3 payment of attorneys' fees, costs, a payment to the Class Representative and the costs of notice and  
4 claims administration. Each payment to each Authorized Claimant shall not exceed \$35. If any  
5 funds remain in the common fund after payment of attorneys' fees, costs, a payment to the Class  
6 Representative, costs of notice, costs of claim administration and payments to Authorized Claimants,  
7 then such remaining funds, shall be paid to the Council of Better Business Bureaus, a non-profit  
8 organization dedicated to fostering fair business practices and creating ethical business environments  
9 for the benefit of consumers nationwide. Interest accruing on the Common Fund will revert back to  
10 Yahoo!

11 **C. ADMINISTRATION OF NOTIFICATION PROCESS**

12 **1. Direct Notice**

13 No later than 30 days after the entry by the Court of the Preliminary Approval Order, the  
14 Claims Administrator shall cause a copy of the Notice, attached hereto as Exhibit "C", to be sent to  
15 all Class Members via electronic mail (e-mail), using the primary e-mail address in Defendant's  
16 records associated with the Yahoo! ID of the user. In the event that the Claims Administrator  
17 receives an e-mail delivery failure notification after sending the Notice via electronic mail for any  
18 particular Class Member, then the Claims Administrator shall send a postcard notice to that Class  
19 Member or Class Members via U.S. Mail at the mailing address of that Class Member last known to  
20 Yahoo! The postcard notice shall contain, at a minimum, a general description of the reason for the  
21 Notice and a website address for the Settlement website. If all of the foregoing attempts to provide  
22 Notice via electronic mail and U.S. Mail fail (i.e. in the event the procedures in this paragraph are  
23 followed and the intended recipient of a Notice still does not receive the Notice), the intended  
24 recipient shall be deemed to be a Settlement Class Member.

25 The Claims Administrator shall cause to be created a settlement website to be maintained  
26 that contains the Notice, the Claim Form and all exhibits thereto.

27 The Claim Form shall be in substantially the form of Exhibit "A" to this Agreement, in  
28 which the Class Member acknowledges the final release of claims and outlines the steps that a

1 member of the Settlement Class must take to obtain payment, including all applicable deadlines.  
2 Individual Class Members who do not submit timely and valid Requests for Exclusion shall be  
3 deemed to be a Settlement Class Member but, absent the submission of a timely, valid and  
4 qualifying Claim Form, shall not be eligible to receive any payment.

5 **2. Payment to Authorized Claimants**

6 No later than 30 days after the Effective Date, the Claims Administrator shall forward  
7 payment to each Authorized Claimant in the amount calculated as described in Paragraph III.B.2.  
8 above. The postage costs associated with forwarding payment under this paragraph shall be paid  
9 from the Common Fund established by Defendant.

10 **3. Claims Administration**

11 The Claims Administrator shall be responsible for e-mailing the Notice and mailing the  
12 Notice in appropriate circumstances and providing access to the Claim Form; receiving and  
13 reviewing the Claim Forms submitted by Class Members to determine eligibility for payment as a  
14 Settlement Class Member and the amount of any such payment; and keeping records of Class  
15 Members who opt-out of the Settlement.

16 The Claims Administrator shall provide weekly reports to Class Counsel regarding the  
17 approval and denial of claims. Any claim or demand by a Class Member against Defendant or the  
18 Third Party Administrator designated by Defendant arising out of or in connection with its  
19 performance of this responsibility shall be limited to seeking, as the sole and exclusive remedy, the  
20 specific performance of this responsibility. All costs associated with the Claims Administration,  
21 including but not limited to all costs and fees associated with the Claims Administrator, shall be paid  
22 from the Common Fund created by Defendant. In the event that payments are due and payable to  
23 the Claims Administrator before the creation of the Common Fund, Yahoo! shall pay such invoices  
24 when due and deduct the total amount paid to the Claims Administrator from the Common Fund  
25 when created on the Effective Date.

26 **4. Claim Dispute Process**

27 The decision of the Claims Administrator with respect to the acceptance or denial of a claim  
28 shall be final and binding unless the Class Member timely and properly invokes the dispute process

1 outlined in this paragraph. Settlement Class Members may dispute the denial of his or her claim, but  
2 may not dispute the amount of money he or she claims is due to them pursuant to this Agreement, or  
3 other aspects of the determination of the amount of money to which the Settlement Class Member  
4 may be due, or for any other Settlement Class Member, or for the Class in general.

5 **5. Notice of Claims Dispute**

6 Notice of any dispute permitted in the preceding paragraph must specify the grounds for the  
7 dispute and include any and all supporting documentation and must be mailed to the address  
8 provided in the Notice, no later than the claim deadline date.

9 **6. Resolution of Claim Dispute**

10 Defendant or the Third Party Claims Administrator designated by Defendant shall promptly review  
11 the disputed Claim and supporting documentation, if any, and notify the Settlement Class Member  
12 and Class Counsel of its determination.

13 **D. OBJECTIONS AND REQUESTS FOR EXCLUSION**

14 Any member of the Settlement Class who intends to object to the fairness of the Settlement  
15 must individually file any such objection with the Court no later than 45 days after the Notice Date,  
16 and provide a copy of the objection to Randy Rosenblum, Freidin & Dobrinsky, P.A., One Biscayne  
17 Tower, 2 South Biscayne Boulevard, Suite 3100, Miami, Florida 33131 and to Donald Rubenstein,  
18 Reed Smith, LLP, Two Embarcadero Center, Suite 2000, San Francisco, California 94111-3922.

19 Any objector to the Settlement must provide his or her full name, address, telephone number and  
20 state in writing all objections, the reasons for such objections, and whether the objector intends to  
21 appear at the Final Approval Hearing at such time and date as the Court may order. In addition, in  
22 the objection papers served upon Yahoo!, the objector must include his or her Yahoo! ID. Any  
23 member of the Settlement Class who does not file a timely written objection to the Settlement shall  
24 be foreclosed from appearing at the final approval hearing for the purpose of objecting to the  
25 settlement and from seeking review of the Settlement by appeal or otherwise.

26 Any member of the Class may request to be excluded from the Settlement Class. Any Class  
27 Member who intends to request exclusion from the Settlement Class must submit a Request for  
28 Exclusion form as set forth in Exhibit "E" no later than 45 days after the Notice Date. Each such

1 Class Member who wishes to request exclusion must personally execute the Request for Exclusion  
2 Form, which shall contain the full name, address, telephone number and the dates of subscription of  
3 the Class Member requesting exclusion, and must be returned by registered or certified mail to the  
4 Claims Administrator and must be postmarked on or before the within Objection/Exclusion Deadline  
5 Date as defined herein to be 45 days after the Notice Date. The date of the postmark on the return  
6 mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion  
7 has been timely submitted. In the event that the postmark is illegible, the Request for Exclusion  
8 shall be deemed untimely unless it is received within five (5) calendar days of the  
9 Objection/Exclusion Deadline. Individual members of the Class who file a timely and valid Request  
10 for Exclusion will not be members of the Settlement Class and will not be bound by the terms of this  
11 Agreement and shall not have the right to object, appeal or comment thereon or to appear at the Final  
12 Approval Hearing. Class Members who fail to submit a valid and timely Request for Exclusion on  
13 or before the Objection/Exclusion Deadline Date shall be bound by all the terms of the settlement  
14 embodied in this Agreement and any Final Judgment entered in this Action if the settlement  
15 embodied in this Agreement is approved by the Court.

16 **E. PRELIMINARY APPROVAL AND FINAL ORDER, PERMANENT**  
17 **INJUNCTION AND JUDGMENT**

18 Plaintiff shall apply to the Court for entry of the Preliminary Approval Order in substantially  
19 the form attached as Exhibit "D". After entry of the Preliminary Approval Order, notice to the  
20 Settlement Class will be provided as set forth herein. If the Court enters the Preliminary Approval  
21 Order, and all other conditions precedent to the Settlement have been satisfied, counsel for Plaintiff  
22 shall move for entry of a Final Judgment in substantially the form attached as Exhibit "B".

23 **F. RELEASES**

24 As of the Effective Date, the members of the Settlement Class, or anyone acting on their  
25 behalf or in their interest, fully, finally forever settle, release and discharge the Released Parties - as  
26 defined below in subparagraph (1) - from the Released Claims - as defined below in subparagraph  
27 (2) - and are forever barred and enjoined from asserting any of the Released Claims in any court or  
28 forum whatsoever. The provisions of any state, federal, municipal, local, or territorial law or statute

1 providing in substance that releases shall not extend to claims, demands, injuries or damages that are  
2 unknown or unsuspected to exist at the time this Agreement is executed and approved by the trial  
3 court, are hereby expressly, knowingly and voluntarily waived by all Settling Parties. In addition, to  
4 the extent applicable, members of the Settlement Class waive the application of Section 1542 of the  
5 California Civil Code (and any similar law of any other state), which provides that: "A GENERAL  
6 RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW  
7 OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
8 RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED  
9 HIS OR HER SETTLEMENT WITH THE DEBTOR."

10 **1. Released Parties**

11 As used in this Agreement, the term "Released Parties" shall mean Yahoo!, and its past or  
12 present directors, officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-  
13 insurers, reinsurers, controlling shareholders, attorneys, any entities involved directly or indirectly in  
14 this Action in which Yahoo! has or has had a controlling interest or that have controlled Yahoo! at  
15 any relevant time, accountants, auditors, banks or investment bankers, advisors, personal or legal  
16 representatives, predecessors, successors, parents, subsidiaries, licensees, divisions, joint ventures,  
17 assigns, associates, and related or affiliated entities.

18 **2. Released Claims**

19 As used in this Agreement, the term "Released Claims" shall mean any and all claims or  
20 causes of action or claims of any nature whatsoever, regardless of legal theory and the type of relief  
21 or damages claimed, including but not limited to any claim for violations of federal, state or other  
22 law (whether in contract, tort or otherwise, including statutory, common law, property, and equitable  
23 claims), and also including "Unknown Claims" (as defined below in subparagraph (3)), that have  
24 been or could have been asserted against the Released Parties in the Action or any other complaint,  
25 action, or litigation in any other court or forum based upon or in any way relating to the online  
26 dating service offered by Yahoo!, including:

- 27 (a) Any such claim for breach or violation of, or for benefits conferred by,  
28 any federal, state, common or other law or statute, regulation or

- 1 ordinance including, without limitation, those concerning consumer or  
2 other transactions, unfair or deceptive business practices, consumer  
3 legal remedies, or private attorney general;
- 4 (b) Any such claim for breach of any duty imposed by law, by contract or  
5 otherwise, including without limitation breach of contract, breach of  
6 the implied covenant of good faith and fair dealing, constructive trust,  
7 restitution or unjust enrichment;
- 8 (c) Any such claim based on principles of tort law, consumer protection,  
9 or other kind of liability including without limitation negligence, fraud  
10 or consumer fraud, negligent or intentional misrepresentation,  
11 conversion or other direct or derivative liability;
- 12 (d) Any such claim for declaratory or injunctive relief, restitution or  
13 disgorgement or other equitable relief; and
- 14 (e) Any such claim for penalties, punitive damages, exemplary damages,  
15 or any other claim for damages based on a multiplication of  
16 compensatory damages.

17 **3. Unknown Claims**

18 As used in this Agreement, the term "Unknown Claims" means any and all Released Claims  
19 that any member of the Settlement Class, or anyone acting on behalf or in their interest, does not  
20 know or even suspect to exist against any of the Released Parties which, if known, might have  
21 affected his or her decision regarding the settlement of this Action. The members of the Settlement  
22 Class shall further acknowledge that they may hereafter discover facts in addition to or different  
23 from those that they now know or believe to be true concerning the subject matter of this release, but  
24 nevertheless fully, finally and forever settle and release and all Released Claims, known or  
25 unknown, suspected or unsuspected, contingent or non-contingent, which now exist, may hereafter  
26 exist, or heretofore have existed based upon actions, conduct, events or transactions occurring on or  
27 before the date of this Agreement, without regard to subsequent discovery or the existence of such  
28 different or additional facts concerning each of the Released Parties.

1                   **4.     Retained Claims by Yahoo!**

2             The Parties specifically understand and agree that Yahoo! does not release and in fact retains  
3 any claim(s) it may have against any Class Member, including but not limited to claims arising from  
4 unpaid amounts or charges due to Yahoo!. However, Yahoo! may not deny or reduce the Settlement  
5 Amounts set forth herein owed to any Class Member under this Agreement by virtue of the existence  
6 of any alleged claim by Yahoo! against that Class Member.

7                   **G.     TERMINATION**

8             If this Agreement is not approved by the Court or fails to become effective in accordance  
9 with the terms of this Agreement, the Settling Parties will be restored to their respective positions in  
10 the Action as of February 2, 2007. In such event, the terms and provisions of this Agreement will  
11 have no further force and effect with respect to the Settling Parties and will not be used in this  
12 Action or in any other proceeding for any purpose, and any Judgment or order entered by the Court  
13 in accordance with the terms of this Agreement will be treated as vacated, *nunc pro tunc*. No order  
14 of the Court or modification or reversal on appeal of any order of the Court concerning any Fee  
15 Award to Class Counsel or Incentive Awards to the Representative Plaintiff will constitute grounds  
16 for cancellation or termination of this Agreement.

17             Furthermore, it is understood and agreed by the Parties that the formula for the distribution  
18 of the Settlement Amount and the procedures for effectuating this Settlement are subject to approval  
19 by the Court. Should the Court, in its discretion, order a different procedure from the one described  
20 in this Agreement, or change the formula or method of distributing the Settlement Amount, this  
21 Agreement shall remain in full force and effect. However, if any Court requires Defendant to: (i)  
22 pay any portion of the Settlement Amount to any person or entity other than an Authorized Claimant  
23 or as provided herein; or (ii) pay more than \$4,000,000; or (iii) diminishes the releases to be  
24 obtained by the Defendant, the Agreement shall be voidable by Defendant by written notice to at  
25 least one of the attorneys of record for Plaintiff served in a manner authorized by Cal. Code of Civil  
26 Procedure, Section 1013, no later than fifteen (15) days after Defendant receives notice of entry of  
27 any such order.  
28

1           **H.    APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND**  
2           **COMPENSATION FOR CLASS REPRESENTATIVE**

3           Defendant will not oppose an application for an award representing 25% of the total  
4 Settlement Amount to cover all attorneys' fees. Defendant will not oppose an application for an  
5 award to Class Counsel for reasonable costs and expenses incurred by Class Counsel incurred in  
6 connection with this litigation. The amount payable to Class Counsel shall cover all work performed  
7 or to be performed by Plaintiff's Counsel in any way related to the Action, including, without  
8 limitation, all work performed in connection with the approval of this Agreement. Additionally,  
9 Defendant will not oppose a Class Representative Incentive Award in an amount not to exceed  
10 \$20,000. All sums referred to in this paragraph shall be paid from the Common Fund created by  
11 Defendant.

12           Plaintiff, any other member of the Settlement Class, Plaintiff's Counsel and Class Counsel  
13 agree not to make any further demand for attorneys' fees, interest, costs, incentive awards or  
14 expenses or any kind.

15           The amount of court-awarded Class Counsel's attorneys' fees, reasonable costs and expenses  
16 and the Class Representative Incentive Award shall be paid from the Common Fund no later than 30  
17 days after the Effective Date.

18           **IV.   MISCELLANEOUS PROVISIONS**

19           **A.    Exhibits**

20           The exhibits to this Agreement are in an integral part of the Settlement and are expressly  
21 incorporated and made a part of the Agreement.

22           **B.    No admissions**

23           This Agreement and every stipulation and term contained herein is conditioned upon final  
24 approval of the Court and is made for settlement purposes only. Neither the act of, nor any provision  
25 contained in this Agreement, nor any action taken hereunder, shall constitute, or be construed as, any  
26 admission of the validity of any claim or any fact alleged in the Action or of any wrongdoing, fault,  
27 violation of law, or liability of any kind on the part of Defendant, or any admission by Defendant of  
28 any claim or allegation made in any action or proceeding by or against Defendant. This Agreement



1 shall not be offered or be admissible in evidence by or against any Settling Party or cited or referred  
2 to in any action or proceeding, except in an action or proceeding brought to enforce its terms.  
3 Information provided by Defendant to Plaintiff and/or Plaintiff's Counsel in connection with  
4 settlement negotiations is for settlement purposes only. Nothing in this paragraph shall preclude  
5 Settling Parties from offering, or any court from admitting in to evidence and considering, this  
6 Agreement in connection with any motion to stay or dismiss any action asserting a Released Claim,  
7 or a motion to enjoin any Class Member from prosecuting such an action.

8 **C. No Solicitation**

9 The parties agree that neither they nor their counsel will solicit or otherwise encourage  
10 directly or indirectly Class Members to request exclusion from the Class, object to the Settlement, or  
11 appeal the Final Judgment.

12 **D. Entire Agreement**

13 No representations, warranties, or inducements have been made to any of the Settling Parties  
14 other than those representations, warranties and covenants contained in this Agreement. This  
15 Agreement and its exhibits shall constitute the entire agreement of the Settling Parties and may not  
16 be modified or amended, nor may any of its provisions be waived, except by a writing signed by all  
17 parties to this Agreement or their successors-in-interest.

18 **E. Materiality**

19 The Settling Parties have negotiated all of the terms and conditions of this Agreement at  
20 arms-length. All terms, conditions and exhibits are material and necessary to this Agreement and  
21 have been relied upon by the Settling Parties in entering into this Agreement.

22 **F. Application of California Law**

23 All terms to this Agreement and its exhibits shall be governed by and interpreted according  
24 to the laws of the State of California, without giving effect to any conflict of law principles or choice  
25 of law principles.

26 **G. Continuing Jurisdiction**

27 The Court shall retain continuing and exclusive jurisdiction over the parties to this  
28 Agreement, including all members of the Settlement Class, and over the administration and

1 enforcement of this Agreement. In the event of a breach of this Agreement by a member of the  
2 Settlement Class, by Plaintiff, or by Defendant, the Court may exercise all equitable powers over the  
3 breaching party or parties to enforce this Agreement and the Final Judgment without regard to the  
4 availability or adequacy of any remedy at law. Such powers include, without limitation, the powers  
5 of specific performance, contempt and injunctive relief.

6 **H. Binding on Successors**

7 This Agreement shall be binding upon and inure to the benefit of the Settling Parties and their  
8 representatives, heirs, successors and assigns.

9 **I. Severability**

10 In the event any one or more of the provisions contained in this Agreement shall for any  
11 reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or  
12 unenforceability shall not affect the other provisions of this Agreement should the attorneys for the  
13 Settling Parties jointly elect to proceed as if such invalid, illegal or unenforceable provision had  
14 never been included in this Agreement.

15 **J. Extensions**

16 The Settling Parties may agree upon a reasonable extension of time for deadlines and dates  
17 reflected in this Agreement, without further notice (subject to Court approval as to court dates).

18 **K. Counterparts**

19 This Agreement may be executed in one or more counterparts. All executed counterparts  
20 and each of them shall be deemed to be one and the same instrument provided that counsel for the  
21 parties to this Agreement shall exchange among themselves original signed counterparts. Facsimile  
22 signatures will be accepted if the original signature is provided within ten (10) days. Any executed  
23 counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

24 **L. No representations**

25 This Agreement represents the entire agreement and understanding among the Settling  
26 Parties and supersedes all prior proposals, negotiations, agreements and understandings relating to  
27 the subject matter of this Agreement. The Settling Parties acknowledge, stipulate and agree that no  
28 covenant, obligation, condition, representation, warranty, inducement, negotiation or undertaking

1 concerning any part or all of the subject matter of this Agreement has been made or relied on except  
2 as expressly set forth in this Agreement.

3 **M. Modification in Writing Only**

4 This Agreement, and any and all parts of it, may be amended, modified, changed or waived  
5 only by an express instrument signed by all Parties or their successors-in-interest.

6 **N. Compromise**

7 This Agreement and the settlement it evidences is made in compromise of disputed claims.  
8 Because this is a class action, this Agreement must receive preliminary and final approval by the  
9 Court. Accordingly, Plaintiff and Defendant enter into this Agreement on a conditional basis. In the  
10 event that the Court does not execute the Final Judgment, or in the event that such Final Judgment  
11 does not become final for any reason, or is modified in any material respect, or in the event that the  
12 Effective Date, as defined herein, does not occur, this Agreement shall be deemed null and void *ab*  
13 *initio* and shall be of no force of effect whatsoever, and shall not be referred to or utilized for any  
14 purpose whatsoever. Defendant denies all of Plaintiff's claims as to liability and damages as well as  
15 Plaintiff's class allegations, and does not waive, but rather expressly reserves all rights to challenge  
16 all such claims and allegations upon all procedural and factual grounds including the assertion of any  
17 and all defenses, in the event the Final Judgment does not become final for any reason, or in the  
18 event that the Effective Date does not occur.

19 **O. Authorization**

20 Class Counsel warrant and represent that they are authorized by Plaintiff, and the attorneys  
21 of record for Defendant warrant and represent that they are authorized by Defendant, to take all  
22 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to  
23 effectuate its terms, and to execute any other documents required to effectuate the terms of this  
24 Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to  
25 effect the implementation of the Settlement. In the event the Parties are unable to reach agreement  
26 on the form or content of any document needed to implement the Agreement, or on any  
27 supplemental provisions that may become necessary to effectuate the terms of this Agreement, the  
28 parties agree to seek the assistance of the Court or the Honorable Edward Infante (Ret.) and in all

1 cases all such documents, supplemental provisions and assistance of the Court shall be consistent  
2 with this Agreement.

3 **P. Drafting of Agreement**

4 The Parties have cooperated in the drafting and preparation of this Agreement. This  
5 Agreement shall not be construed against any party on the basis that the party was the drafter or  
6 participated in the drafting.

7 **Q. Court**

8 Except where the context indicates otherwise, references to the Court shall also include any  
9 other courts that take jurisdiction of the Action.

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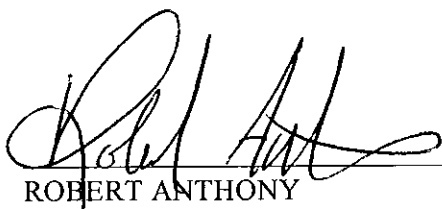
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Execution by all Parties:

Dated: 6/18/07

  
ROBERT ANTHONY


Dated: \_\_\_\_\_

ANNA ZORNOSA, on behalf of  
YAHOO!, INC.

Approved as to form:

Dated: 6/18/07

FREIDIN & DOBRINSKY, P.A

By:   
RANDY ROSENBLUM

One Biscayne Tower, Suite 3100  
2 South Biscayne Boulevard  
Miami, Florida 33131

MCNULTY LAW FIRM  
827 Moraga Drive  
Bel Air, California 90049

Attorneys for Plaintiff

Dated: \_\_\_\_\_

REED SMITH, LLP

By: \_\_\_\_\_  
DONALD P. RUBENSTEIN

Two Embarcadero Center, Suite 2000  
San Francisco, California 94120-3922

Attorneys for Defendant

1 Execution by all Parties:

2

3 Dated: \_\_\_\_\_

ROBERT ANTHONY

4

5 Dated: 6/18/2007



ANNA ZORNOSA, on behalf of  
YAHOO!, INC.

6

7

8 Approved as to form:

9

Dated:

FREIDIN & DOBRINSKY, P.A.

10

11

By: \_\_\_\_\_  
RANDY ROSENBLUM

12

13

One Biscayne Tower, Suite 3100  
2 South Biscayne Boulevard  
Miami, Florida 33131

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MCNULTY LAW FIRM  
827 Moraga Drive  
Bel Air, California 90049

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Attorneys for Plaintiff

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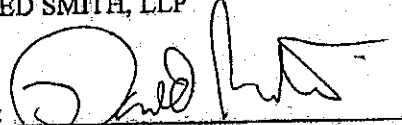
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Dated: 6/18/2007

REED SMITH, LLP

21

22

By:   
DONALD P. RUBENSTEIN

23

24

Two Embarcadero Center, Suite 2000  
San Francisco, California 94120-3922

25

26

Attorneys for Defendant

27

28

**EXHIBIT "A"**

**Must be  
Postmarked No  
Later Than  
\_\_\_\_\_, 2007**

Anthony v. Yahoo!, Inc.  
Claims Administrator  
P.O. Box 9148  
Dublin, OH 43017-4148  
Toll-Free: (888) 298-6319



### CLAIM FORM

**Anthony v. Yahoo!, Inc., United States District Court  
Northern District of California  
Case No. C-05-04175**

**IN ORDER FOR YOUR CLAIM TO BE VALID, YOU MUST COMPLETE, SIGN AND  
RETURN THIS FORM, WHICH MUST BE POSTMARKED NO LATER THAN \_\_\_\_\_,  
2007. PLEASE MAIL YOUR COMPLETED FORM TO:**

**Anthony v. Yahoo!, Inc.  
Claims Administrator  
P.O. Box 9148  
Dublin, OH 43017-4148**

1) Name:

2) Yahoo! ID:

*Your Yahoo! ID is the first portion of your Yahoo! email address.  
For instance, if your Yahoo! E-mail address is johnsmith@yahoo.com, then your Yahoo! ID is "johnsmith."*

3) Street Address:

City, State, Zip Code and Country:

4) Please state the length and/or the approximate date(s) of your paid subscription to Yahoo! Personals:

Months:  AND/OR From:  To:   
(mm/dd/yyyy) (mm/dd/yyyy)

I hereby certify in connection with this federal action, that during my subscription period I viewed a profile that I believe was posted for reasons other than dating.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Claimant



**EXHIBIT "B"**

1 Scott D. Baker (SBN 84923)  
2 Donald P. Rubenstein (SBN 121034)  
3 Michele Floyd (SBN 163031)  
4 Kirsten J. Daru (SBN 215346)  
5 REED SMITH LLP  
6 Two Embarcadero Center, Suite 2000  
7 San Francisco, CA 94111-3922

5 **Mailing Address:**  
6 P.O. Box 7936  
7 San Francisco, CA 94120-7936

7 Telephone: 415.543.8700  
8 Facsimile: 415.391.8269

8 Attorneys for Defendant  
9 Yahoo! Inc.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ROBERT ANTHONY, individually and on  
13 behalf of others similarly situated,

13 Plaintiff,

14 vs.

15 YAHOO! INC., a Delaware corporation,

16 Defendant.

No.: C05 04175 RMW

**FINAL ORDER APPROVING  
SETTLEMENT AND JUDGMENT OF  
DISMISSAL WITH PREJUDICE**

Date:  
Time:  
Place:  
Compl. Filed: October 13, 2005  
Trial Date:  
Disc. Cut-Off:  
Attached Documents:

Honorable Ronald M. Whyte

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

20  
21 A hearing having been held before this Court (the "Court") on \_\_\_\_\_, pursuant to the  
22 Court's Preliminary Approval Order of \_\_\_\_\_, upon a Stipulation and Agreement of  
23 Settlement dated \_\_\_\_\_ (the "Settlement Agreement"), of the above-captioned action (the  
24 "Action"), which Preliminary Approval Order and Settlement Agreement are incorporated herein by  
25 reference; it appearing that due notice of said hearing was given in accordance with the  
26 aforementioned Preliminary Approval Order and that said notice was adequate and sufficient; and  
27 that in compliance with Section 1715 of the Class Action Fairness Act of 2005, 28 U.S.C. §1715,  
28 notice of the Settlement was served upon the Attorney General of the United States and upon the

No.: C05 04175 RMW

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1 Attorney Generals of the fifty States and the District of Columbia, and all such notices were timely  
2 and complete, and the parties having appeared by their attorneys of record; and the attorneys for the  
3 respective parties having been heard in support of the Settlement of the Action, and an opportunity  
4 to be heard having been given to all other persons desiring to be heard as provided in the notice; and  
5 the entire matter of the Settlement having been considered by the Court,

6 Based on the foregoing, IT IS HEREBY ORDERED THAT:

7 1. This Court has jurisdiction over the claims of the Settlement Class Members asserted  
8 in this proceeding and over all parties to the Action.

9 2. This Court finds the applicable requirements of Federal Rule of Civil Procedure 23  
10 have been satisfied and the Action has been properly maintained according to the provisions of  
11 Rules 23(a) and 23(b)(3). Specifically, this Court finds that (a) the Class, as defined below, is so  
12 numerous that joinder of all members is impracticable; (b) there are questions of law and fact  
13 common to the Class; (c) the claims of Plaintiffs are typical of the claims of the Class; (d) Plaintiffs  
14 and their counsel have fairly and adequately protected the interests of the Class; (e) the questions of  
15 law and fact common to the members of the Class predominate over any questions affecting only  
16 individual members of the Class; and (f) a class action is superior to other available methods for the  
17 fair and efficient adjudication of the controversy.

18 3. The Action is hereby finally certified as a class action, pursuant to Fed. R. Civ.  
19 P. 23(a) and 23(b)(3), on behalf of a class (the "Class") composed of all paid subscribers in the  
20 United States of Yahoo! Personals (including Yahoo! Personals Premier) between October 1, 2004  
21 and \_\_\_\_\_, 2007.

22 4. The notice given to the Attorney General of the United States, the Federal Trade  
23 Commission and the Attorney Generals of the fifty States and the District of Columbia satisfied the  
24 notice requirements of 28 U.S.C. § 1715(b). The notice given to the Class Members fully and  
25 accurately informed the Class Members of all material elements of the proposed settlement and of  
26 their opportunity to object or comment thereon; was the best notice practicable under the  
27 circumstances; was valid, due and sufficient notice to all Class Members; and complied fully with  
28 the laws of the State of California, Federal Rules of Civil Procedure, the United States Constitution,

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1 due process, and other applicable law. All other forms of notice fairly and adequately described the  
2 Settlement and provided Class Members adequate instructions and a variety of means to obtain  
3 additional information. A full opportunity has been afforded to the Settlement Class Members to  
4 participate in this hearing, and all Settlement Class Members and other persons wishing to be heard  
5 have been heard. Accordingly, the Court determines that all Settlement Class Members who did not  
6 timely and properly execute and submit a Request for Exclusion are bound by this Order and  
7 Judgment, and no Class Member may refuse, pursuant to 28 U.S.C. § 1715(e)(1), to comply with or  
8 be bound by this Order and Judgment.

9 5. In accordance with Federal Rule of Civil Procedure 23(e), the Court finds that the  
10 Settlement has been entered into in good faith and is approved as fair, reasonable, and adequate, and  
11 in the best interests of the Settlement Class and hereby grants final approval to the Settlement. The  
12 Court has considered and denied all objections filed in this action. Accordingly, the Court hereby  
13 directs that the Settlement shall be effected in accordance with the terms of the Agreement (all of  
14 which terms are adopted and incorporated herein by reference).

15 6. With this final approval of the Settlement, it is hereby ordered that the Releases shall  
16 have full force and effect. Consequently, upon entry of this Order and Judgment, each Settlement  
17 Class Member and the successors and assigns of any of them shall be deemed to have fully released,  
18 waived, relinquished, and discharged, to the fullest extent permitted by law, all Released Claims and  
19 Unknown Claims that the Settlement Class Members may have against the Released Parties, of any  
20 of them, subject to the modifications and clarifications set forth in the Court's orders approving the  
21 Stipulations.

22 7. This Action (and any and all claims asserted herein at any time) is dismissed in its  
23 entirety, on the merits, with prejudice and without leave to amend, with each party to bear his/her/its  
24 own costs and attorneys' fees (except as otherwise expressly provided herein), and all members of  
25 the Settlement Class and the successors and assigns of any of them who did not timely and properly  
26 execute and submit a Request for Exclusion shall be forever barred and permanently enjoined from  
27 starting, continuing, or participating in, litigating, or receiving any benefits or other relief from any  
28 other lawsuit, arbitration, or administrative or regulatory proceeding or order based on or relating to

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1 the claims, facts, or circumstances in this Action and/or the Released Claims except claims relating  
2 to the enforcement of the Settlement of the Action (the "Settled Claims"). The Settled Claims are  
3 hereby compromised, settled, released, discharged and dismissed as against Defendants on the merits  
4 and with prejudice by virtue of the proceedings herein and this Order and Final Judgment. In  
5 addition, to the extent applicable, members of the Settlement Class waive the application of Section  
6 1542 of the California Civil Code (and any similar law of any other state), which provides that: "A  
7 GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES  
8 NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
9 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE  
10 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

11 8. Within 30 days after the filing of this Final Order, any and all documentation  
12 provided by Yahoo! to Plaintiff, Class Counsel, all other counsel of record in the Action for Plaintiff,  
13 Class Counsel's experts, or anyone else employed by Class Counsel and/or Plaintiff, and all copies  
14 thereof, shall be promptly returned to Yahoo! upon written demand by Yahoo!.

15 9. The Settlement and all Orders issued in connection with its approval, as well as any  
16 act performed or document executed pursuant to the Settlement shall not be considered admissions  
17 of liability or fault by Yahoo! or a finding of the validity of any claims in the Action or of any  
18 wrongdoing or violation of law by Yahoo!. The Agreement and Settlement are not any concession  
19 by the parties and, to the extent permitted by law, neither this Final Order nor the Agreement or  
20 Settlement shall be used as evidence of any admission of any fault or omission by Yahoo! or any  
21 other person. Neither this Final Order nor the Agreement, nor the terms and provisions of the  
22 Settlement, nor any of the negotiations or proceedings connected with it, shall be offered or received  
23 in evidence in any pending or future arbitration, civil, criminal, or administrative action or  
24 proceeding, other than such proceedings which may be necessary to consummate or enforce the  
25 Agreement; however, Yahoo! may use the Agreement or the exhibits thereto, and/or any related  
26 document, in any action that may be brought against it in order to support a defense or counterclaim  
27 based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar  
28 or reduction, or any other theory of claim preclusion or issue preclusion.

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A limited liability partnership formed in the State of Delaware

10. The Court finds that all Parties and their counsel have complied with Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

11. Class Counsel is hereby awarded attorneys' fees in the amount of \$1,000,000, which sum the Court finds to be fair and reasonable, and are awarded the reimbursement of expenses in the amount of \$\_\_\_\_\_, and which sums shall be paid to Class Counsel in accordance with the terms of the Settlement Agreement.

12. The Plaintiff is authorized to receive \$20,000 to compensate him for his contributions to the case, the risks he took and time and effort he expended in initiating and prosecuting these actions, and which sum shall be paid to Plaintiff in accordance with the terms of the Settlement Agreement.

13. Without affecting the finality of this Judgment, this Court shall retain exclusive and continuing jurisdiction over this action and the parties, including all Settlement Class Members, for purposes of supervising, administering, implementing, enforcing, and interpreting the Settlement, and the claims process thereunder, including hearing and determining any application by any party to the Agreement for a settlement bar order.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

Honorable Ronald M. Whyte  
UNITED STATES DISTRICT COURT JUDGE

**EXHIBIT "C"**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ROBERT ANTHONY, individually and on  
behalf of others similarly situated,

Plaintiff,

vs.

YAHOO! INC., a Delaware corporation,

Defendant.

Case No.: C05 04175 RMW

NOTICE OF PENDENCY OF CLASS  
ACTION, PROPOSED SETTLEMENT AND  
PROPOSED HEARING DATE FOR COURT  
APPROVAL

**THIS NOTICE MAY AFFECT YOUR RIGHTS**  
**PLEASE READ ALL OF IT CAREFULLY**

**ATTENTION: ALL PERSONS IN THE UNITED STATES WHO WERE PAID SUBSCRIBERS  
TO YAHOO! PERSONALS BETWEEN OCTOBER 1, 2004 AND  
[insert date of preliminary approval]**

Dear Yahoo!, Inc. Customer,

This notice (the "Notice") informs you of a proposed settlement of class action claims against Yahoo!, Inc. For the sake of brevity and clarity, Yahoo!, Inc. will be referred to for the remainder of this Notice simply as Yahoo! This Notice describes the proposed settlement and informs you of your potential rights as a settlement Class Member. You are being sent this Notice because you have been identified as a Yahoo! customer who paid to subscribe to Yahoo! Personals between October 1, 2004 and [insert date of preliminary approval]. Yahoo! has agreed, under the terms of the Settlement, to provide you with the opportunity to submit a valid and timely Claim Form through which you may be eligible to receive monetary compensation as discussed below in Section 5.A.2.

**READ THIS FIRST**

**1. WHY SHOULD I READ THIS?**

This Notice, given pursuant to an Order of the Court dated \_\_\_\_\_, describes a proposed settlement of a class action against Yahoo!, and you have been identified as a potential Class Member.

**2. WHY DID I RECEIVE THIS NOTICE?**

You received this Notice because a search of Yahoo!'s computer records indicates that you were a subscriber of Yahoo! Personals at some point between October 1, 2004 and \_\_\_\_\_. This Notice provides a summary of the terms of the proposed settlement. It also explains the lawsuit, your potential legal rights under the settlement, what benefits may be available to you under the settlement, and how to get them.

**3. WHAT IS A CLASS ACTION?**

In a class action, one or more individuals or businesses, called Class Representatives (in this case, Robert Anthony) sue on behalf of others that have similar claims. All of these other individuals are members of the "class." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. United States District Court Judge Ronald M. Whyte is in charge of this class action.



**4. WHAT ARE THE CRITICAL DATES?**

| Event   | Date |
|---|------|
| The last date that your Claim Form must be postmarked if you wish to be eligible to possibly receive a payment under the terms of the settlement.                             |      |
| The last date to submit your written request to be excluded from the settlement if you are not willing to be bound by it and do not want to be eligible to receive a payment. |      |
| The last date to submit any written objection to the settlement.  |      |
| The hearing on any objections and to give final approval to the settlement.   |      |

**5. WHAT IS THIS CASE ABOUT?**

On October 12, 2005, Robert Anthony (“plaintiff”) filed suit against Yahoo!, Inc. (“Yahoo!”) in the United States District Court, Northern District of California. Plaintiff alleged various claims against Yahoo! (specifically, breach of the implied covenant of good faith and fair dealing, Florida statute §501.204 *et seq.*, fraud, and negligent misrepresentation), by virtue of his allegation that profiles posted for purposes other than dating appeared on the Yahoo! Personals website. Plaintiff brought suit on his own behalf and on behalf of all Yahoo! Personals paid subscribers in the United States since October 1, 2004. Plaintiff sought recovery of damages, various forms of equitable relief and attorneys’ fees and costs. Yahoo! has denied, and continues to deny any and all claims and allegations of wrongdoing asserted in the case and has substantial factual and legal defenses to all claims alleged in the case. Yahoo! has maintained and continues to maintain that it has acted in accordance with governing law. Nonetheless, the parties have concluded that further participation in the case would be protracted and expensive, and that it is desirable that the case be fully and finally settled in the manner and upon the terms set forth in this Notice and in the Parties’ Settlement Agreement.

**A. The Proposed Settlement**

Since filing the action, Plaintiff, through Class Counsel, has conducted an investigation of the facts and has analyzed the relevant legal and factual issues. Class Counsel obtained substantial information about the nature and extent of Yahoo!’s challenged practices through this process.

Although Yahoo! does not believe it has done anything wrong and continues to deny all claims and allegations of wrongdoing asserted in the case, Plaintiff and Yahoo! agreed to enter into a settlement agreement after an extensive exchange of information and vigorous arms-length negotiation. If approved by the Court, the settlement agreement will result in dismissal of this case and final resolution of all claims raised. Such dismissal will release Yahoo! from future liability for the acts and practices complained of. The settlement terms are described in full in a document known as the Settlement

Agreement (hereinafter "Agreement")<sup>1</sup>. The Agreement is available for your inspection at the clerk's office of the United States District Court, Northern District of California. The terms of the settlement, in summary form, are as follows:

1. To the extent that they are not already in place, no later than 30 days after Final Approval of the Settlement, Yahoo! will take the following actions, which shall remain in force and effect for a period of two (2) years from the date of Final Approval of this settlement by the Court:

- (a) Yahoo! will maintain the "Report a Complaint" link on the profile detail pages appearing on the Yahoo! Personals website.
- (b) Profiles that have been inactive for a period of 120 days shall be rendered unsearchable by Yahoo! and Yahoo! shall include this notification in its Additional Terms of Service relating to Yahoo! Personals.
- (c) When a user of Yahoo! Personals cancels his or her subscription, a screen will be presented to the user giving the user the option to delete the profile, render the profile unsearchable or keep the profile active. If the user makes no selection, the profile will automatically be deactivated.
- (d) Yahoo! will maintain mechanisms in place to detect duplicative photographs, abusive language and the revelation of improper personal information.
- (e) Yahoo! will update its Additional Terms of Service relating to Yahoo! Personals to inform its users that that they may see profiles or other content which they feel were created by third parties, contrary to obligations in the applicable terms of services, guidelines and code of conduct, for purposes other than dating, including spam and commercial profiles.
- (f) Yahoo! will modify its Additional Terms of Service relating to Yahoo! Personals to include disclosures regarding searchable Yahoo!-created test profiles, if any, that may be used when necessary to ensure service quality. The modifications will disclose how searchable test profiles, if any, are designated so that they are readily identifiable to users.
- (g) Yahoo! may make additional changes to its site content, site functionality and Terms of Service in its sole discretion that do not substantially lessen the effectiveness of the changes listed above within the two-year period that this provision remains in effect.

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<sup>1</sup> The capitalized terms as used in this Notice have the same meaning as the terms set forth in the Agreement.

2. Under the Settlement, an eligible Class Member who was a paid subscriber to Yahoo! Personals between October 1, 2004 and \_\_\_\_\_, and who viewed a profile during his or her subscription period that he or she believes was posted for purposes other than dating, is eligible to receive a one-time payment of up to \$35.00. If you are an eligible Class Member and wish to receive this benefit, you must timely submit a Claim Form to the Settlement Administrator as described above.

**B. Attorneys' Fees and Class Representative Compensation**

Counsel for the Settlement Class have pursued the Action on a contingent basis and have paid all costs of the Action. These attorneys have not yet been paid or recovered any of their expenses associated with the Action. As part of the Settlement, Class Counsel will request that the Court award them attorneys' fees and expenses. They intend to request \$1,000,000 in attorneys' fees plus reasonable costs. Class Counsel's petition for fees and expenses will be filed with the court no later than \_\_\_\_\_, and may be reviewed by any interested party. The Court will determine a reasonable fee and expense award at the Fairness Hearing based on Settlement Class Counsel's Fee and Expense Application and responses thereto. Class Counsel will also ask the Court to approve a \$20,000 Incentive Award to the class representative plaintiff in this case (Robert Anthony). Any money the Court awards Settlement Class Counsel and the plaintiff will be paid out of a settlement fund created by Yahoo!

**6. DO I HAVE TO DO ANYTHING?**

If you are an eligible Class Member and you wish to receive a one-time payment of up to \$35.00 under this Settlement, you need to complete and submit a certified and authenticated Claim Form in a timely manner. This form is necessary to ensure that Yahoo! and Settlement Class Members' privacy rights are protected and to ensure that only eligible Class Members receive a monetary benefit. The Claim Form is available at the Settlement Website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com).

The fully completed, certified and authenticated Claim Form must be submitted via U.S. Mail to the Settlement Administrator at Yahoo! Personals, P.O. Box 9148, Dublin, OH 43017-4148. The deadline for submission of the Claim Form is [\_\_\_\_\_]. Accordingly, to be valid, Claim Forms must be postmarked not later than [\_\_\_\_\_] and addressed to the Settlement Administrator at Yahoo! Personals, P.O. Box 9148, Dublin, OH 43017-4148. You may attend the court hearing described below if you wish, but your attendance or non-attendance will not affect your eligibility to submit the Claim Form. You do not need to appear in court, and you do not need to hire an attorney in this case. You may object to the proposed settlement if you so desire.

**7. WHAT AM I GIVING UP IF I PARTICIPATE IN THE SETTLEMENT?**

The settlement provides that once the Court enters an order finding the proposed settlement fair, adequate, and reasonable and all appeals have been resolved or all appeals periods have expired, those Class Members who have not timely requested exclusion from this Action shall be deemed to have and by operation of the Final Judgment shall have fully, finally and forever released, relinquished, and discharged all Released Claims as set forth below.

Specifically, the settlement is intended to settle any and all known and unknown claims from October 1, 2004 through \_\_\_\_\_ against Yahoo! that Class Members have asserted or could have asserted based upon or in any way relating to, referring to, or arising out of profiles appearing on Yahoo! Personals that were posted for purposes other than dating (the "Released Claims").

The release will extend to Yahoo! and its past or present directors, officers, employees, partners, principals, agents, predecessors, successors, assigns, parents, affiliated and sister corporations, subsidiaries, licensees, divisions, and related or affiliated entities.

If the settlement is approved by the Court and not otherwise terminated, the Court will dismiss the Action with prejudice, and bar and permanently enjoin the named Plaintiff and each Class Member from prosecuting the Released Claims. As a result, once the judgment of the Court in accordance with this settlement has become final, each of the Class Members and their legal successors-in-interest shall be deemed to have forever given up any Released Claims against Yahoo! and the other Released Parties. If you were a paid subscriber of Yahoo! Personals between October 1, 2004 and \_\_\_\_\_, and do not elect to exclude yourself from the Class, you will be deemed to have entered into this release and to have released the above-described claims. If the settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

**8. WHY ARE CLASS COUNSEL RECOMMENDING THIS SETTLEMENT?**

Relative to the risks and costs of continuing the litigation, Class Counsel believe this settlement provides a favorable recovery which is in the best interest of the Class. Class Counsel's collective evaluation in this regard is based on the extensive investigation and discovery they have undertaken, and upon their experience prosecuting similar cases. Absent settlement, Plaintiff would have to secure class certification on the claims set forth in the Action over the opposition of Yahoo! Additionally, at trial, Plaintiff would have the burden of proof to establish liability and the amount of damages. The case involves many unresolved factual and legal issues, some of which could be decided against Plaintiff at or before trial, and which would jeopardize Plaintiff's ability to certify a class or to obtain a favorable judgment and preserve it on appeal.

In addition, settling the case now has the further advantage of avoiding the very substantial additional costs and delay that further litigation would involve. Given Yahoo!'s defenses to this case and both parties' right to appeal under appropriate circumstances, absent settlement, it could be years before the litigation ends and Class Members receive benefits, if any are ultimately awarded. Given the costs involved in further litigation and the time-value of money, even if a favorable judgment were obtained at trial, it could well produce less net recovery to the Class Members than the present settlement.

**9. WHAT IF I DO NOT WISH TO PARTICIPATE IN THE SETTLEMENT?**

**A. Your Right to Exclude Yourself from the Settlement**

If you are a Class Member, you may elect to exclude yourself from the class settlement. If you wish to be excluded from the settlement class, you must send a completed Request for Exclusion Form to the Settlement Administrator via U.S. Mail at Yahoo! Personals, P.O. Box 9148, Dublin, OH 43017-4148 in a timely manner. The Request for Exclusion Form must be postmarked on or before \_\_\_\_\_ to be effective. Exclusions can only be filed individually—not on behalf of a group or class. If you exclude yourself from the Class and the proposed settlement with Yahoo! is finally approved, you will not be entitled to receive any benefits of the settlement and will remain free to pursue any legal rights you may have against Yahoo! at your own expense, but the representative plaintiff and their lawyers will not represent you as to any claims against Yahoo!

**B. Your Right to Appear and Object to the Proposed Settlement**

Any Class Member may appear at the Final Approval Hearing (also known as the "Fairness Hearing") in person or by a duly appointed authorized attorney and show cause, if any, why the settlement should not be approved; provided that (except by special permission of the court) no Class Member shall be heard unless, on or before, \_\_\_\_\_, the Class Member files with the court a written "Notice of Intent to Appear" to the clerk's address set out below, setting forth all of the Class Member's objections to the settlement, and mails copies of all such papers to Plaintiff's and Yahoo!'s counsel at the addresses specified below. Any objection must contain: (a) a heading which refers to the Action; (b) the objector's name, address, and telephone number; (c) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying

counsel by name, address, and phone number; (d) a statement of the grounds supporting the claim; (e) a list of all persons who will be called to testify in support of the objection; (f) a list of other cases in which you or your counsel have appeared either as settlement objectors or as counsel for objectors during the preceding five (5) years; (g) copies of any papers, briefs, or other documents upon which the objection is based; and (h) your signature, even if you are also represented by counsel. The objection served upon Yahoo! must also include the objector's Yahoo! ID.<sup>2</sup>

| <u>Office of the Clerk</u>       | <u>Plaintiff's Counsel</u>         | <u>Yahoo's Counsel</u>      |
|----------------------------------|------------------------------------|-----------------------------|
| United States District Court     | Peter J. McNulty                   | Donald P. Rubenstein        |
| Northern District of California  | McNulty Law Firm                   | Kirsten J. Daru             |
| San Jose Division                | 827 Moraga Drive                   | Reed Smith LLP              |
| Clerk's Office                   | Bel Air, California 90049          | 2 Embarcadero Center, Suite |
| 280 South 1 <sup>st</sup> Street |                                    | 2000                        |
| San Jose, CA 95113               | AND                                | San Francisco, CA 94111     |
|                                  | Randy Rosenblum                    |                             |
|                                  | Freidin & Dobrinsky, P.A.          |                             |
|                                  | One Biscayne Boulevard, Suite 3100 |                             |
|                                  | Miami, Florida 33131               |                             |

### **C. The Final Approval Hearing**

The court will conduct a hearing (the "Final Approval Hearing") at the United States District Court, Northern District of California, in the courtroom of the Honorable Ronald M. Whyte on \_\_\_\_\_ at \_\_\_\_\_ a.m. (or at the dates and times to which the court may, without further notice, reschedule the hearing). The purpose of the Final Approval Hearing will be to determine whether the proposed settlement is fair, adequate, and proper; and whether the courts should enter judgments approving the settlement, awarding attorneys' fees and expenses, and dismissing the class action. You have the right, but are not required to attend. Attendance or non-attendance will not affect any benefit to which you may be entitled under the settlement.

### **10. HOW DO I GET MORE INFORMATION?**

#### **A. Availability of the Pleadings, the Agreement, and Other Papers in this Action**

The Agreement, with its exhibits and all other papers filed with the court relating to this action, are available for inspection in the offices of the clerk of the court identified above.

#### **B. Additional Information Regarding The Terms Of This Settlement**

Additional information may be obtained at the Settlement Website at [www.AnthonySettlement.com](http://www.AnthonySettlement.com). You may also contact Class Counsel, whose contact information is also available at [www.AnthonySettlement.com](http://www.AnthonySettlement.com).

PLEASE DO NOT TELEPHONE THE COURT OR THE CLERK OF THE COURT.

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<sup>2</sup> Your Yahoo! ID is the first portion of your Yahoo! email address. For instance, if your Yahoo! email address is johnsmith@yahoo.com, then your Yahoo! ID is "johnsmith".

**EXHIBIT "D"**

1 Scott D. Baker (SBN 84923)  
Donald P. Rubenstein (SBN 121034)  
2 Michele Floyd (SBN 163031)  
Kirsten J. Daru (SBN 215346)  
3 REED SMITH LLP  
Two Embarcadero Center, Suite 2000  
4 San Francisco, CA 94111-3922

5 **Mailing Address:**  
P.O. Box 7936  
6 San Francisco, CA 94120-7936

7 Telephone: 415.543.8700  
8 Facsimile: 415.391.8269

9 Attorneys for Defendant  
Yahoo! Inc.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 ROBERT ANTHONY, individually and on  
behalf of others similarly situated,

13 Plaintiff,

14 vs.

15 YAHOO! INC., a Delaware corporation,

16 Defendant.

No.: C05 04175 RMW

**ORDER RE: PRELIMINARY APPROVAL  
OF STIPULATION OF SETTLEMENT  
AND APPROVAL OF NOTICE OF  
PENDENCY OF SETTLEMENT OF CLASS  
ACTION TO CLASS MEMBERS**

Date:  
Time:  
Place:  
Compl. Filed: October 13, 2005  
Trial Date:  
Disc. Cut-Off:  
Attached Documents:

Honorable Ronald M. Whyte

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23 Plaintiff's Motion for Preliminary Approval of Class Action Settlement (the "Motion") came  
24 before the Court on \_\_\_\_\_, 2007. Having considered the Motion, the Stipulation and  
25 Settlement Agreement, including the Exhibits attached thereto (collectively, the "Agreement"), and  
26 all other matters submitted concerning the Motion, the Court hereby preliminarily finds as follows:

27 1. On October 12, 2005., the initial complaint in this action was filed. The action is  
28 entitled *Anthony v. Yahoo!, Inc.* Case No. C-05-04175, United District Court for the Northern

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1 District of California, San Jose Division, Case No, C 05-04175 (the "Action").

2 2. In the Action, Robert Anthony ("Plaintiff") sought to represent a nationwide class  
3 challenging certain aspects of Yahoo!, Inc.'s (Yahoo!'s) online dating service known as Yahoo!  
4 Personals. Specifically, Plaintiff asserted claims for Breach of the Implied Covenant of Good Faith  
5 and Fair Dealing (Count I), Fraud (Count II), Negligent Misrepresentation (Count III) and  
6 Deceptive and Unfair Trade Practices Pursuant to Florida Statute §501.204, *et. seq.* (Count IV). The  
7 specific actions challenged are described in more detail in Plaintiff's Second Amended Complaint.

8 3. Yahoo! has denied and continues to deny all claims and allegations of wrongdoing  
9 asserted in the Action and has substantial factual and legal defenses to all claims alleged in the  
10 Action. Yahoo! has maintained and continues to maintain that it has acted properly and in  
11 accordance with governing law and that Plaintiff and the Class Members have not suffered any  
12 damage. Nonetheless, Yahoo! has concluded that further conduct of the Action would be protracted  
13 and expensive, and that it is desirable that the Action be fully and finally settled in the manner and  
14 upon the terms set forth in the Agreement. Neither the Agreement, nor any of its terms or  
15 provisions, nor any of the negotiations connected with it, nor any act performed or documents  
16 executed pursuant hereto, shall be construed as an admission or concession by Yahoo! of any  
17 violation of law. To the contrary, Yahoo! has denied and continues to deny each and every  
18 allegation of liability and wrongdoing.

19 4. After conducting a significant investigation into the facts and law, including  
20 reviewing extensive information, interviewing and retaining an independent consultant, interviewing  
21 and deposing witnesses and engaging in extensive settlement discussions with Yahoo!, supervised  
22 by the Honorable Edward Infante (Ret), the Class Representative and Class Counsel (as defined in  
23 the Agreement) have concluded that a settlement according to the terms and conditions set forth in  
24 the Agreement is adequate and reasonable, and in the best interest of the Class Representative and  
25 the Class (as defined in the Agreement).

26 5. This Court has jurisdiction over the subject matter herein and personal jurisdiction  
27 over Plaintiff and Yahoo! Pending resolution of the settlement proceedings, this Court hereby  
28 asserts jurisdiction over all Class Members as defined in Paragraph 11 of this Order for purposes of

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1 effecting this settlement and releasing and barring litigation of their claims against Yahoo!

2 6. The proposed settlement embodied in the Agreement appears to have been negotiated  
3 at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best  
4 interest of the Class for settlement purposes. The proposed settlement was negotiated over the  
5 course of multiple mediation sessions.

6 7. The proposed settlement embodied in the Agreement is sufficient to warrant:  
7 (a) notice thereof to the members of the Class and (b) a full hearing on the settlement.

8 8. The Class Notice set forth in Paragraph 14 below complies fully with the  
9 requirements of Federal Rule of Civil Procedure 23 and due process, constitutes the best notice  
10 practicable under the circumstances, and is due and sufficient notice to all Class Persons entitled to  
11 notice of the proposed settlement of the Action.

12 9. Preliminary Approval of Settlement. The settlement as set forth in the Agreement is  
13 preliminarily determined to be fair, reasonable and adequate, and is preliminarily approved as in the  
14 best interest of the Class. However, the Court's preliminary approval of the settlement is not to be  
15 deemed an admission of liability or fault by Yahoo! or by any other Person, or a finding of the  
16 validity of any claims asserted in this litigation, or of any wrongdoing or of any violation of law by  
17 Yahoo!. The proposed settlement is not a concession and shall not be used as an admission of any  
18 fault or omission by Yahoo! or any other Person or entity. Further, the proposed settlement is not a  
19 concession and shall not be used as an admission of any a lack of merit in the claims by Plaintiff or  
20 any Class Member. Neither the terms of the settlement nor any related document shall be offered or  
21 received as evidence in any civil, criminal, or administrative action or proceeding, other than such  
22 proceedings which may be necessary to consummate or enforce the terms of the Agreement, except  
23 that Yahoo! may file this Order in any action that may be brought against it in order to support a  
24 defense or counterclaim based on principles or *res judicata*, collateral estoppel, release, good faith  
25 settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or  
26 similar defense or counterclaim.

27 10. Stay. It is hereby ordered that all proceedings in the Action shall be stayed, except  
28 such actions as may be necessary to implement the Agreement and this Order, pending further

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1 proceedings in connection with the effectuation of the proposed settlement.

2 11. Preliminary Certification of the Class. The following class (the “Class” or “Class  
3 Members”) is conditionally certified for settlement purposes only: all paid subscribers in the United  
4 States to Yahoo! Personals (including Yahoo! Personals Premier) between October 1, 2004 and the  
5 date of preliminary approval of this Settlement by the Court who do not timely and properly exclude  
6 themselves from the terms of the Agreement.

7 12. Designation of Class Counsel. The following law firms are appointed jointly as Class  
8 Counsel: (i) Freidin & Dobrinsky, P.A., and (ii) the McNulty Law Firm.

9 13. Final Approval Hearing. A final approval hearing (the “Final Approval Hearing”)  
10 will be held on \_\_\_\_\_ at \_\_\_\_\_ before this Court, in the Courtroom of the  
11 Honorable Ronald M. Whyte of the United States District Court, located at 280 South 1<sup>st</sup> Street, San  
12 Jose, California 95113 to determine: (1) whether the Class shall be certified as a class for settlement  
13 purposes; (2) whether the proposed settlement, as set forth in the Agreement on file with the Court,  
14 should be approved as fair, reasonable, adequate and in the best interests of Class Members;  
15 (3) whether a final order and judgment should be entered approving the Agreement, dismissing the  
16 Action with prejudice and on the merits; (4) whether Class Members should be bound by the releases  
17 set forth in the Agreement; (5) whether Class Members should be subject to a permanent injunction  
18 which, among other things, bars Class Members from filing, commencing, prosecuting, intervening  
19 in, or participating as class members in, any lawsuits in any jurisdiction based on or relating to the  
20 claims and causes of action, or the facts and circumstances related thereto, in this Action and/or the  
21 Released Claims (as defined in the Agreement); and (6) whether the Court should approve the  
22 application of Class Counsel for payment of attorneys’ fees, costs and expenses.

23 14. Notice. The Claims Administrator (The Garden City Group, Inc. as defined in the  
24 Agreement) is hereby appointed by the Court as the party responsible for administration of this  
25 settlement. The Claims Administrator, among other things, shall be responsible for preparing and  
26 sending via electronic mail (“e-mail”) the Notice of Pendency of Class Action, Proposed Settlement  
27 and Proposed Hearing Date for Court Approval (hereinafter “Notice”) in the form attached to the  
28 Agreement as Exhibit D; in the event that the Claims Administrator receives e-mail delivery failure

1 notifications after sending the Notice to primary e-mail address of Class Members known to Yahoo!,  
 2 the Claims Administrator is to send a postcard notice to those Class Members via U.S. Mail at the  
 3 mailing address of those Class Members last known to Yahoo!; keeping records of Class Members  
 4 who opt out of the settlement; distributing the Settlement Fund as set forth herein, and such other  
 5 tasks as the parties mutually agree that the Claims Administrator should perform. Any claim or  
 6 demand by Class Members against Yahoo! or the Claims Administrator arising out of or in  
 7 connection with its or their performance of these responsibilities shall be limited to seeking, as the  
 8 sole and exclusive remedy, the specific performance of these responsibilities. On or before thirty  
 9 (30) days after the date of this Order, the Claims Administrator shall cause a copy of the Notice to be  
 10 sent to all Class Members via electronic mail (e-mail), using the most current, primary e-mail  
 11 address in Defendant's records. In the event the Claims Administrator receives an e-mail delivery  
 12 failure notification after sending the Notice to class members' primary e-mail address known to  
 13 Yahoo! for any particular Class Member, the Claims Administrator is to cause a postcard  
 14 notification to be sent to that Class Member or Class Members via U.S. Mail at the mailing address  
 15 of that Class Member or Class Members last known to Yahoo! The date on which the Claims  
 16 Administrator first sends the Notice is referred to as the Notice Date. In the event the procedures in  
 17 this paragraph are followed and the intended recipient of a Notice still does not receive the Notice,  
 18 the intended recipient shall be deemed to be a Settlement Class Member but, absent the submission  
 19 of a timely and valid Claim Form (as defined in the Agreement), shall not be eligible to receive  
 20 monetary compensation. In addition, the Claims Administrator shall maintain a web site, which  
 21 shall provide Class Persons with current information regarding the status of the approval process and  
 22 a downloadable copy of the Notice.

23 15. Objections and Appearances. Only Class Members may object to the settlement as  
 24 embodied in the Agreement. Class Members who wish to object to the settlement must file with the  
 25 Court and serve on counsel for the Parties a written statement objecting to the settlement. Such  
 26 written statement must be filed with the Court and served on counsel for the Parties by no later than  
 27 forty-five (45) days after the Notice Date (the "Objection/Exclusion Deadline Date").

28 No Class Member shall be entitled to be heard at the Final Approval Hearing (whether

1 individually or through separate counsel) unless written notice of the Class Member's intention to  
2 appear at the Final Approval Hearing shall have been filed with the Court and served on counsel for  
3 the Parties on or before the Objection/Exclusion Deadline Date.

4 Any objection must contain (a) a heading which refers to the Action; (b) the objector's name,  
5 address and telephone number; (c) a statement indicating whether the objector intends to appear at  
6 the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying  
7 counsel by name, address, and phone number; (d) a statement of the grounds supporting the claim;  
8 (e) a list of all persons who will be called to testify in support of the objection; (f) a list of other  
9 cases in which the objector or his or her counsel have appeared either as settlement objectors or as  
10 counsel for objectors during the preceding five (5) years; (g) copies of any papers, briefs, or other  
11 documents upon which the objection is based; and (h) the objector's signature, even if he or she is  
12 also represented by counsel. In the objection served upon Yahoo!, the objector must also include his  
13 or her Yahoo! ID.

14 The date of the postmark on the return mailing envelope shall be the exclusive means used to  
15 determine whether an objection and/or intention to appear has been timely submitted. In the event  
16 that the postmark is illegible, the objection and/or intention to appear shall be deemed untimely  
17 unless it is received within five (5) days of the Objection/Exclusion Deadline Date. Class Members  
18 who fail to file and serve timely written objections in the manner specified above shall be deemed to  
19 have waived any objections and shall be forever barred from making any objection to the Agreement  
20 and the proposed settlement by appearing at the Final Approval Hearing, appeal, collateral attack, or  
21 otherwise.

22 16. Exclusion from Class. Class Persons who wish to exclude themselves from the Class  
23 must submit a written statement requesting exclusion ("Request for Exclusion") from the Class on or  
24 before the Objection/Exclusion Deadline Date. Such Request for Exclusion must be personally  
25 executed by the Class Person, contain the full name, address and telephone number of the Class  
26 Person requesting exclusion along with the approximate dates and length of his or her paid  
27 subscription to Yahoo! Personals, must be returned by registered or certified mail to the Claims  
28 Administrator at the address specified in Exhibit D to the Agreement, and must be postmarked on or

1 before the Objection/Exclusion Deadline Date. The date of the postmark on the return mailing  
 2 envelope shall be the exclusive means used to determine whether a Request for Exclusion has been  
 3 timely submitted. In the event that the postmark is illegible, the Request for Exclusion shall be  
 4 deemed untimely unless it is received within five (5) days of the Objection/Exclusion Deadline  
 5 Date. Any Class Person who properly opts out will not be bound by the settlement and shall not  
 6 have any right to object, appeal or comment thereon or to appear at the Final Approval Hearing. All  
 7 Class Members who do not request exclusion in the manner set forth in this Order and the Notice  
 8 shall be bound by any Final Judgment (as defined in the Agreement) entered pursuant to the  
 9 Agreement, shall be barred and enjoined, now and in the future, from asserting any and all of the  
 10 Released Claims against the Released Parties (as defined in the Agreement), and any such Class  
 11 Member shall be conclusively deemed to have released any and all such Released Claims.

12 17. Class Counsel Authorization. Class Counsel are authorized to act on behalf of Class  
 13 Members in such actions with respect to all acts or consents required by, or which may be given  
 14 pursuant to, the Agreement or such other acts as are reasonable and necessary to consummate the  
 15 proposed settlement through these approval proceedings.

16 18. Service of Papers: Yahoo! Counsel (as defined in the Agreement) and Class Counsel  
 17 shall serve on each other and on all other parties who have filed notices of appearance, at or before  
 18 the Final Fairness Hearing, any further documents in support of the proposed settlement, including  
 19 responses to any papers filed by Class Members.

20 19. Termination of Settlement. This Order shall become null and void, and shall be  
 21 without prejudice to the rights of the Parties, all of whom shall be restored to their respective  
 22 positions existing immediately as of February 2, 2007 if (i) the proposed settlement as set forth in the  
 23 Agreement is not finally approved by the Court, or if the Final Judgment (as defined in the  
 24 Agreement) does not become final pursuant to the terms of the Agreement; or (ii) the proposed  
 25 settlement as set forth in the Agreement is terminated in accordance with the Agreement or does not  
 26 become effective as required by the terms of the Agreement for any other reason. In such event, and  
 27 except as provided therein, the proposed settlement and Agreement shall become null and void and  
 28 be of no further force and effect, and neither the Agreement nor the Court's orders, including this

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Order, shall be used or referred to for any purpose whatsoever.

20. Use of Order. If the settlement as set forth in the Agreement becomes final, then Yahoo! may file this Order in any action that may be brought against it in order to support a defense or counterclaim based on principles or *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. This Order shall be of no force and effect if the proposed settlement as set forth in the Agreement does not become final and shall not be construed as a finding, determination or declaration of (i) any fault, wrongdoing or breach of duty on the part of Yahoo!, (ii) a lack of merit in the claims by Plaintiff or any Class Member, (iii) the propriety or impropriety of any relief requested in the complaints filed in the Action, (iv) a waiver or other relinquishment by any party of any claim or defense, or (v) the certifiability or non-certifiability of the class alleged in the operative complaints filed in the Action.

21. Weekends and Holidays. If any deadline set forth in this Order falls on a Saturday, Sunday or federal holiday, then such deadline shall extend to the next business day.

22. Continuance of Hearing and Approval With Modifications. The Court reserves the right to continue the Final Approval Hearing without further written notice to the Class. The Court also reserves the right to approve the Settlement Agreement with such modifications as may be agreed to by counsel for the Parties without requiring further notice to Class Members.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

**EXHIBIT "E"**

Must be  
Postmarked No  
Later Than  
\_\_\_\_\_, 2007

Anthony v. Yahoo!, Inc.  
Claims Administrator  
P.O. Box 9148  
Dublin, OH 43017-4148  
Toll-Free: (888) 298-6319

YAH



### REQUEST FOR EXCLUSION FORM

*Anthony v. Yahoo!, Inc.*, United States District Court  
Northern District of California  
Case No. C-05-04175

I HAVE RECEIVED AND/OR REVIEWED NOTICE OF A PROPOSED SETTLEMENT IN THE CASE OF ANTHONY V. YAHOO, INC., UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA CASE NO. C-05-04715. IT IS MY DECISION **NOT** TO PARTICIPATE IN THE CLASS ACTION SETTLEMENT REFERRED TO IN THE NOTICE, AND **NOT** TO BE INCLUDED IN THE CLASS OF PLAINTIFFS IN THAT CLASS ACTION. I confirm that I have received notice of the proposed settlement in this action, I have decided to be excluded from the Class, and I have decided **not** to participate in the proposed settlement. I understand that, by excluding myself from the settlement, I am not entitled to receive any payment from the settlement fund, to the extent that I am otherwise eligible.

1) Name:

2) Street Address:

City, State, Zip Code and Country:

3) Telephone Number: (  ) -

4) Please state the length and/or the approximate date(s) of your paid subscription to Yahoo! Personals:  
Months:  AND/OR From:  /  /  To:  /  /   
(mm/dd/yyyy) (mm/dd/yyyy)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Claimant