

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE YAHOO! INC. SECURITIES
LITIGATION

Case No. 17-CV-00373-LHK

**ORDER DENYING MOTION TO
DISMISS AND MOTION FOR JOINDER
AS MOOT**

Re: Dkt. Nos. 46, 48

At the April 26, 2017 initial Case Management Conference, the Court scheduled the hearing on the motion to dismiss for September 7, 2017. ECF No. 24.

On June 22, 2017, the parties filed a Joint Unopposed Motion to Modify Case Management Order and Coordinate Briefing Schedule, asking the Court to continue the motion to dismiss hearing to September 28, 2017. ECF No. 37. On June 26, 2017, the Court granted the parties’ motion and rescheduled the motion to dismiss hearing for October 12, 2017. ECF No. 38.

On June 30, 2017, Plaintiffs filed an unopposed motion to reschedule the motion to dismiss hearing to November 2 or 9, 2017. ECF No. 39. On July 6, 2017, the Court continued the motion to dismiss hearing to October 19, 2017. ECF No. 40. The Court noted that the request was “the parties’ second request to postpone the hearing” and that “[r]equests to further postpone the

1 hearing will be strongly disfavored.” *Id.* at 1.

2 On October 13, 2017, the parties filed a Joint Unopposed Motion to Continue Motion to
3 Dismiss Hearing to a date on or after November 20, 2017. ECF No. 59. The parties represented
4 that they had made “sufficient progress” at a mediation session with the Honorable Daniel
5 Weinstein of JAMS and that continuing the motion to dismiss hearing “would benefit the
6 mediation process and increase the likelihood that a settlement can be reached.” *Id.* at 2. Judge
7 Weinstein agreed that continuing the motion to dismiss hearing “would benefit the mediation
8 process.” *Id.* On October 13, 2017, the Court continued the motion to dismiss hearing from
9 October 19, 2017 to November 30, 2017. ECF No. 60.

10 On November 1, 2017, the parties filed a joint case management statement. ECF No. 61.
11 The parties stated that “settlement discussions [we]re continuing” and that the parties and the
12 mediator “believe[d] that further discussions may result in a settlement.” *Id.* at 2. The parties
13 requested that the Court continue the November 8, 2017 further case management conference to
14 any date after November 30, 2017. *Id.* On November 2, 2017, the Court continued the further
15 case management conference to December 13, 2017. ECF No. 62.

16 On November 20, 2017, the Court ordered the parties to file a joint settlement status
17 update. ECF No. 63. On November 21, 2017, the parties filed their joint settlement status update.
18 ECF No. 64. After recounting the history above, the parties represent that they have continued to
19 negotiate and have made “substantial further progress.” *Id.* at 2. The parties state that they are
20 “optimistic that a settlement can be achieved with additional time and effort.” *Id.* The parties
21 therefore ask that the motion to dismiss hearing be continued to a date on or after December 18,
22 2017. *Id.*

23 The Court will not continue the motion to dismiss hearing indefinitely. On October 3,
24 2017, Yahoo disclosed that the 2013 data breach affected an additional two billion Yahoo user
25 accounts. The Court finds that there are sufficiently changed circumstances to warrant granting
26 Plaintiffs leave to amend their First Amended Class Action Complaint, which was filed on June 7,
27 2017, for the possible addition or amendment of factual allegations and/or causes of action, if

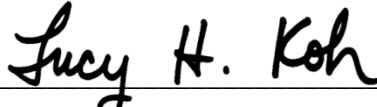
1 appropriate. The Court similarly granted leave to amend in *In re Yahoo! Customer Data Security*
 2 *Breach Litigation*, No. 16-MD-02752-LHK. Allowing such an amendment advances the mandate
 3 of the Federal Rules of Civil Procedure that courts “should freely give leave when justice so
 4 requires.” Fed. R. Civ. P. 15(a)(2). In light of this ruling, the Court DENIES WITHOUT
 5 PREJUDICE AS MOOT Defendants’ Motion to Dismiss Plaintiffs’ First Amended Class Action
 6 Complaint, ECF No. 46, and Motion for Joinder, ECF No. 48.

7 The modified case schedule is set forth below:

Scheduled Event	Date
Deadline to File Second Amended Class Action Complaint	February 2, 2018
Motion to Dismiss Second Amended Class Action Complaint	Motion: March 2, 2018 Opposition: March 30, 2018 Reply: April 16, 2018
Hearing on Motion to Dismiss	May 3, 2018, at 1:30 p.m.
Further Case Management Conference	May 9, 2018, at 2:00 p.m.

16 **IT IS SO ORDERED.**

17 Dated: November 22, 2017

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 20 LUCY H. KOH
 21 United States District Judge