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20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
21 **COUNTY OF SAN FRANCISCO**

22 ELON MUSK, an individual,  
23 Plaintiff,  
24 vs.  
25 SAMUEL ALTMAN, an individual, GREGORY  
26 BROCKMAN, an individual, OPENAI, INC., a  
27 corporation, OPENAI, L.P., a limited  
28 partnership, OPENAI, L.L.C., a limited liability  
company, OPENAI GP, L.L.C., a limited  
liability company, OPENAI OPCO, LLC, a  
limited liability company, OPENAI GLOBAL,  
LLC, a limited liability company, OAI  
CORPORATION, LLC, a limited liability  
company, OPENAI HOLDINGS, LLC, a limited  
liability company, and DOES 1 through 100,  
inclusive,  
Defendants.

Case No. CGC-24-612746  
**JOINT CASE MANAGEMENT  
STATEMENT**  
Dept: 613  
Judge: Andrew Y.S. Cheng  
Date Filed: February 29, 2024  
Trial Date: None Set

**ELECTRONICALLY  
FILED**  
*Superior Court of California,  
County of San Francisco*  
**06/05/2024**  
**Clerk of the Court**  
BY: WILLIAM TRUPEK  
Deputy Clerk

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18 OPENAI, INC., OPENAI, LP, OPENAI, LLC,  
OPENAI GP, LLC, OPENAI OPCO, LLC, OPENAI GLOBAL, LLC, OAI CORPORATION,  
19 LLC, and OPENAI HOLDINGS, LLC  
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1 Plaintiff Elon Musk (“Plaintiff”) and Defendants Samuel Altman, Gregory Brockman,  
2 OpenAI, Inc., OpenAI, LP, OpenAI, LLC, OpenAI GP, LLC, OpenAI OpCo, LLC, OpenAI Global,  
3 LLC, OAI Corporation, LLC, and OpenAI Holdings, LLC (hereinafter “Defendants”) respectfully  
4 submit this joint statement in advance of the initial Case Management Conference set for June 12,  
5 2024, at 9:30AM in Department 613.

6 **I. STATUS OF PLEADINGS**

7 Plaintiff filed his Complaint on February 29, 2024, in this Court asserting five claims against  
8 each Defendant. Service of the Complaint and summons was effectuated on each Defendant and  
9 filed with the Court by March 22, 2024. On March 27, 2024, Defendants filed a demurrer to each  
10 cause of action in the Complaint, an accompanying Request for Judicial Notice, and a Motion to  
11 Strike several of Plaintiff’s requested remedies in his Prayer for Relief. Plaintiff filed his opposition  
12 briefing to the Demurrer, Request for Judicial Notice, and Motion to Strike on April 10, 2024.  
13 Defendants filed their reply brief in support of their Demurrer, Request for Judicial Notice, and  
14 Motion to Strike on April 17, 2024. A hearing is set for June 12, 2024, at 9:30AM in Department  
15 613 regarding the Demurrer, Request for Judicial Notice, and Motion to Strike.

16 **II. SUMMARY OF CASE**

17 Plaintiff’s Position: Plaintiff Elon Musk alleges that he founded and contributed over \$40  
18 million and other resources to OpenAI in exchange for and in reliance on promises that those assets  
19 were irrevocably dedicated to building AI for public benefit, with only safety as a countervailing  
20 concern. Plaintiff is suing Defendants Samuel Altman, Gregory Brockman, and OpenAI, Inc. and  
21 several related entities for breach of contract, promissory estoppel, breach of fiduciary duty, unfair  
22 business practices, and accounting. Plaintiff is seeking specific performance, declaratory judgment,  
23 injunctive relief, restitution, an accounting of monies donated by Plaintiff, compensatory and  
24 punitive damages, attorneys’ fees, and pre-judgment and post-judgment interest at the maximum  
25 legal rate.

26 Defendants’ Position: Defendants deny Plaintiff’s allegations and deny that Plaintiff is  
27 entitled to any relief in this action. As set forth in Defendants’ pending Demurrer and Motion to  
28 Strike, the complaint fails to state a claim for breach of contract, as Musk cannot allege the existence

1 of any “Founding Agreement.” He attaches no contract by that name to the complaint, and the  
2 documents he does attach contradict his allegations as to the alleged terms of the agreement. Musk’s  
3 claims for promissory estoppel, breach of fiduciary duty, violation of the UCL, and accounting are  
4 likewise insufficiently pleaded, as Defendants explain in their pending Demurrer and Motion to  
5 Strike.

### 6 **III. JURY TRIAL**

7 Plaintiff’s Position: Plaintiff Elon Musk is requesting a 10-day jury trial.

8 Defendants’ Position: Defendants have filed a demurrer and motion to strike in this matter.

9 Because the pleadings are not yet settled, Defendants believe discussions regarding trial scheduling  
10 are premature.

### 11 **IV. FACT DISCOVERY**

#### 12 **A. Discovery Schedule**

13 Plaintiff’s Position: Plaintiff presently expects for fact discovery to be completed by October  
14 31, 2025.

15 Defendants’ Position: Defendants have filed a demurrer and motion to strike in this matter.

16 Because the pleadings—and, accordingly, the appropriate scope of any potential discovery—are not  
17 yet settled, Defendants believe discussions regarding a discovery schedule are premature.

#### 18 **B. Summary of Discovery Efforts**

19 Plaintiff’s Position: Plaintiff has served initial written discovery requests on all Defendants,  
20 including form interrogatories, special interrogatories, requests for admission, and requests for  
21 production. In response, Defendants have served blanket objections and have refused to  
22 substantively respond to Plaintiff’s discovery before a ruling on Defendants’ demurrer and motion  
23 to strike.

24 Plaintiff has also served subpoenas for appearance at deposition and production of  
25 documents to two former OpenAI board members: Natassia McCauley and Helen Toner. At  
26 Defendants’ insistence, Plaintiff’s depositions of the non-party former board members have been  
27 postponed until after the Informal Discovery Conference scheduled with the Court on June 12, 2024.  
28

1 Defendants intend to seek the Court’s permission at the Informal Discovery Conference to file a  
2 motion to quash the subpoenas.

3 In addition to the discovery already served, Plaintiff intends to serve additional requests for  
4 production, requests for admission, and interrogatories on Defendants. Plaintiff also intends to take  
5 depositions of each of the Defendants and select current and former employees and/or directors of  
6 Defendants.

7 Defendants’ Position: Defendants timely served objections to the pending discovery on  
8 numerous grounds. As a threshold matter, Defendants objected to Plaintiff’s discovery requests as  
9 premature in light of (1) Defendants’ pending Demurrer that seeks dismissal without leave to amend  
10 of each cause of action contained in Plaintiff’s complaint, and (2) Defendants’ pending Motion to  
11 Strike that seeks to strike various forms of relief sought in the complaint. Resolution of the Demurrer  
12 in Defendants’ favor would result in the dismissal of each cause of action contained in the complaint,  
13 and partial resolution of the Demurrer in Defendants’ favor (or resolution of the Motion to Strike in  
14 Defendants’ favor) could change the scope of the case significantly and, accordingly, alter the scope  
15 of appropriate discovery.

16 In addition to this overarching timing objection, Defendants also provided specific responses  
17 and objections to all of Plaintiff’s pending discovery requests. Defendants committed to provide  
18 certain discovery promptly if the Court determines that Musk’s claims should proceed in whole or  
19 in part, offered to meet and confer as to certain other requests based on the Court’s rulings on the  
20 pending demurrer and motion to strike, and made clear that some of Musk’s requests are  
21 objectionable regardless of the resolution of the demurrer and motion to strike.

22 The parties met and conferred on several occasions and reached an impasse on multiple  
23 discovery issues. These issues will be addressed at an informal discovery conference that is also  
24 scheduled for June 12.

### 25 **C. Protective Order**

26 Defendants have also objected to many of Plaintiff’s discovery requests on the basis that a  
27 Protective Order has not been issued by the Court, and Defendants argue the requests seek  
28 confidential information. In response, Plaintiff circulated a proposed protective order to Defendants

1 on May 7, 2024. Defendants provided comments on the proposed protective order on June 4, 2024.  
2 The parties will continue to meet and confer regarding the proposed protective order and expect to  
3 submit a proposed protective order for the Court's review shortly.

4 **D. Future Discovery Issues**

5 Plaintiff's Position: As noted, Defendants have to date unilaterally refused to provide any  
6 substantive responses to written discovery, and have also refused to produce any responsive  
7 materials whatsoever, pending the Court's ruling on their pending demurrer and motion to strike.  
8 Defendants are also seeking to prevent Plaintiff from obtaining discovery from third-parties before  
9 Defendants agree to participate in discovery. In light of Defendants' discovery positions to date,  
10 Plaintiff anticipates there may be multiple discovery motions.

11 Defendants' Position: As discussed above, the Court has scheduled an informal discovery  
12 conference to address, amongst other issues, Defendants' anticipated motion for a protective order  
13 and motions to quash third-party subpoenas served on former members of OpenAI's board of  
14 directors pending resolution of Defendants' Demurrer and Motion to Strike.

15 **V. EXPERT DISCOVERY**

16 Plaintiff's Position: Plaintiff expects for there to be expert discovery in this case. Plaintiff  
17 requests that the Court set the following schedule for expert discovery:

- 18 • 6 weeks following the close of fact discovery: Deadline for service of opening expert  
19 reports on issues for which the party carries the burden of proof;
- 20 • 12 weeks following the close of fact discovery: Deadline for service of rebuttal expert  
21 reports on issues for which the party does not carry the burden of proof;
- 22 • 16 weeks following the close of fact discovery: Deadline for service of reply expert  
23 reports on issues for which the party carries the burden of proof;
- 24 • 20 weeks following the close of fact discovery: Last day to take depositions of expert  
25 witnesses.

26 Defendants' Position: Defendants have filed a demurrer and motion to strike in this matter.  
27 Because the pleadings—and, accordingly, the appropriate scope of any potential discovery—are not  
28 yet settled, Defendants believe discussions regarding a discovery schedule are premature.

1 **VI. ADDITIONAL PARTIES**

2 Plaintiff's Position: Plaintiff does not currently intend to add additional parties, although he  
3 reserves the right to do so at a later stage of the case as discovery progresses, and requests that absent  
4 a motion to the Court to add an additional party, the deadline to add new parties be set for three  
5 months prior to the close of fact discovery.

6 Defendants' Position: Defendants do not currently intend to add additional parties to this  
7 action and believe that any deadlines for amendments of pleadings and adding additional parties  
8 should be governed by the Code of Civil Procedure.

9 **VII. RELATED ACTIONS**

10 There are no other actions pending in this Court or another state or federal court related to  
11 this case.

12 **VIII. MEDIATION AND SETTLEMENT CONFERENCE**

13 Plaintiff's Position: Plaintiff is open to discussing mediation and a settlement conference  
14 following the Court's ruling on Defendants' Demurrer and Motion to Strike.

15 Defendants' Position: Defendants are open to productive discussions to resolve this matter  
16 at any later appropriate juncture.

17 **IX. TRIAL REPRESENTATION**

18 Plaintiff Elon Musk will be represented at trial by:

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Defendants will be represented at trial by:

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**X. ANY OTHER MATTER COUNSEL WISHES TO RAISE**

The parties have no further matters to raise with the Court at this time.





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Date: June 5, 2024

By:         /s/ David J. Wiener          
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<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO</b> STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: 400 McAllister St. CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse	CASE NUMBER: CGC-24-612746
PLAINTIFF/PETITIONER: Elon Musk DEFENDANT/RESPONDENT: Samuel Altman, et al.	JUDICIAL OFFICER: Hon. Andrew Y.S. Cheng
<b>PROOF OF ELECTRONIC SERVICE</b>	DEPARTMENT: 613

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2. I electronically served the following documents (exact titles):  
 JOINT CASE MANAGEMENT STATEMENT

The documents served are listed in an attachment. (Form POS-050(D)/EF5-050(D) may be used for this purpose.)

3. I electronically served the documents listed in 2 as follows:


- a. Name of person served:  
 On behalf of (name or names of parties represented, if person served is an attorney):
- b. Electronic service address of person served :
- c. On (date): 6/5/2024

The documents listed in item 2 were served electronically on the persons and in the manner described in an attachment.  
 (Form POS-050(P)/EF5-050(P) may be used for this purpose.)

Date: 6/5/2024

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Abigail Sellers  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT)

  
 \_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

SHORT TITLE: Elon Musk v. Samuel Altman, et al.	CASE NUMBER: CGC-24-612746
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**ATTACHMENT TO PROOF OF ELECTRONIC SERVICE (PERSONS SERVED)**

*(This attachment is for use with form POS-050/EFS-050.)*

**NAMES, ADDRESSES, AND OTHER APPLICABLE INFORMATION ABOUT PERSONS SERVED:**

<u>Name of Person Served</u>	<u>Electronic Service Address</u>	<u>Date of Electronic Service</u>
<i>(If the person served is an attorney, the party or parties represented should also be stated.)</i>		
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