

1 Terrence R. McInnis (#155416)  
 (tmcinnis@rdbl.com)  
 2 Monique M. Fuentes (#205501)  
 (mfuentes@rdbl.com)  
 3 ROSS, DIXON & BELL, LLP  
 4 5 Park Plaza, Suite 1200  
 Irvine, California 92614-8529  
 Telephone: (949) 622-2700  
 5 Facsimile: (949) 622-2739

6 *Attorneys for Defendants*  
*Federal Insurance Company and*  
 7 *Executive Risk Specialty Insurance Company*

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION

11 NETSCAPE COMMUNICATIONS  
 CORPORATION, a Delaware corporation; and  
 12 AMERICA ONLINE, INC., a Delaware  
 corporation,

13 Plaintiffs,

14 v.

15 FEDERAL INSURANCE COMPANY, an  
 16 Indiana corporation; NATIONAL UNION FIRE  
 INSURANCE COMPANY OF PITTSBURGH,  
 17 PA, a Pennsylvania corporation; ST. PAUL  
 MERCURY INSURANCE COMPANY, a  
 18 Minnesota corporation; EXECUTIVE RISK  
 SPECIALTY INSURANCE COMPANY, a  
 19 Connecticut corporation, and DOES 1 through  
 20 50,

21 Defendants.

No. 5:06-cv-00198 JW (PVT)

**[PROPOSED] ORDER GRANTING  
 DEFENDANTS FEDERAL  
 INSURANCE COMPANY AND  
 EXECUTIVE RISK SPECIALTY  
 INSURANCE COMPANY'S MOTION  
 TO DISMISS NINTH CAUSE OF  
 ACTION FOR UNFAIR BUSINESS  
 PRACTICES**

Date: February 27, 2006  
 Time: 9:00 a.m.  
 Courtm: 8

ROSS, DIXON & BELL, LLP  
 5 PARK PLAZA, SUITE 1200  
 IRVINE, CA 92614-8592

1 This matter is before the Court on Defendants Federal Insurance Company (“Federal”)  
2 and Executive Risk Specialty Insurance Company’s (“ERSIC”) Motion to Dismiss Ninth Cause  
3 of Action for Unfair Business Practices.

4 Upon consideration of the pleadings, and the argument of counsel, for good cause shown,  
5 Federal and ERSIC’s Motion to Dismiss Count Nine is hereby GRANTED.

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7 Dated: \_\_\_\_\_, 2006

8 \_\_\_\_\_  
United States District Judge

9 Submitted By:

10 ROSS, DIXON & BELL, LLP

11  
12 //Terrence R. McInnis//  
13 Terrence R. McInnis  
Monique M. Fuentes

14 Attorneys for Defendants  
15 *Federal Insurance Company and*  
16 *Executive Risk Specialty Insurance Company*  
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ROSS, DIXON & BELL, LLP  
5 PARK PLAZA, SUITE 1200  
IRVINE, CA 92614-8592