

EXHIBIT 8

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11 NETSCAPE COMMUNICATIONS
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12

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

15 NETSCAPE COMMUNICATIONS
16 CORPORATION, et al.,

17 Plaintiffs,

18 v.

19 FEDERAL INSURANCE COMPANY, et al.
20

21 Defendants.
22

CASE NO. C-06-00198 JW (PVT)

**PLAINTIFFS' RESPONSES TO ST.
PAUL MERCURY INSURANCE
COMPANY'S REQUESTS FOR
ADMISSIONS, SET NO. ONE**

Action Filed: December 12, 2005
Action Removed: January 11, 2006

23 **PROPOUNDING PARTY: ST. PAUL MERCURY INSURANCE COMPANY**
24 **RESPONDING PARTY: PLAINTIFFS NETSCAPE COMMUNICATIONS**
CORPORATION AND AMERICA ONLINE, INC.
25 **SET NO.: ONE [Nos. 1 - 13]**
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1 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Plaintiffs America Online,
2 Inc. ("AOL") and Netscape Communications Corporation ("Netscape") hereby respond as
3 follows:

4 **PRELIMINARY STATEMENT**

5 On June 5, 2006, the parties submitted a Joint Case Management Statement to the Court
6 ("Joint CMS"). The Joint CMS proposes that the Court adopt a "phased" approach to this
7 litigation. As proposed by St. Paul, Phase One would pertain only to the issue of whether the
8 "personal injury" provision of the St. Paul policy provides coverage for the Underlying Actions;
9 Plaintiffs' position is that Phase One should also include resolution of the exclusions raised by
10 St. Paul including, but not limited to, any issues regarding the policy's reformation. Until this
11 issue is resolved by the Court, the parties have agreed that discovery will proceed only with
12 respect to the more narrow issues presented by St. Paul's Phase One proposal.

13 The responses set forth here are based on information and documents presently available
14 to and known to Plaintiffs. Discovery, further investigation, and legal research and analysis may
15 give rise to additional contentions, facts, documents and witnesses, all of which may lead to
16 substantial additions to, changes in or variations from these responses. Accordingly, Plaintiffs
17 reserve the right to change, modify, supplement, add to or subtract from its responses.

18 By responding to these requests for production, Plaintiffs do not waive, or intend to
19 waive, but rather intend to preserve and are preserving: (1) all objections as to competency,
20 relevancy, materiality and admissibility; (2) all objections on any grounds to the use of any of the
21 responses herein or documents in any subsequent proceedings, including the trial of this or any
22 other action; (3) all objections as to vagueness and ambiguity; and (4) all objections on any
23 grounds.

24 **GENERAL OBJECTIONS**

25 1. Plaintiffs object to the Requests as improper to the extent they seek documents
26 and information beyond the scope of discovery contemplated by the Federal Rules of Civil
27 Procedure.

1 **REQUEST NO. 2:**

2 Admit in the lawsuit titled "America Online, Inc. v. St. Paul Mercury Insurance
3 Company" which AOL filed in the United States District Court for the Eastern District of
4 Virginia, Virginia law was applied to a coverage dispute between AOL and ST. PAUL under the
5 ST. PAUL POLICY.

6 **RESPONSE TO REQUEST NO. 2:**

7 Plaintiffs object to this Request on the ground that it seeks information which is neither
8 relevant nor reasonably calculated to lead to the discovery of admissible evidence. Netscape
9 Communications Corporation, one of the plaintiffs herein, was not a party to that action.
10 Moreover, that action involved different factual circumstances and different legal issues. In
11 addition, that action was brought under a different jurisdiction with different choice of law rules.

12 **REQUEST NO. 3:**

13 Admit that in 1999, Glenn Spencer was the Vice President of Risk Management at AOL.

14 **RESPONSE TO REQUEST NO. 3:**

15 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
16 One. See Preliminary Statement.

17 **REQUEST NO. 4:**

18 Admit that on June 23, 2000, Glenn Spencer was the Vice President of Risk Management
19 at AOL.

20 **RESPONSE TO REQUEST NO. 4:**

21 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
22 One. See Preliminary Statement.

23 **REQUEST NO. 5:**

24 Admit that from 1998 through 2001, MARSH acted on AOL's behalf for purposes of
25 obtaining insurance coverage.
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RESPONSE TO REQUEST NO. 5:

1 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
2 One. See Preliminary Statement.

REQUEST NO. 6:

3 Admit that the document attached hereto includes a true and correct copy of Glenn
4 Spencer's June 23, 2000 email communication from Spencer to MARSH.

RESPONSE TO REQUEST NO. 6:

5 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
6 One. See Preliminary Statement.

REQUEST NO. 7:

7 Admit that it was AOL's intent "all along" to exclude coverage under the St. Paul Policy
8 for personal injury and advertising injury arising out of AOL's online activity.

RESPONSE TO REQUEST NO. 7:

9 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
10 One. See Preliminary Statement.

11 AOL objects to this request on the ground that it is vague and ambiguous as to the phrase
12 "all along" and as to time period. AOL also objects to this request on the ground that it is vague
13 and ambiguous with respect to its use of the phrase "online activities." This term is specially
14 defined in the St. Paul Policy.

REQUEST NO. 8:

15 Admit SmartDownLoad is a service designed to assist in downloading files from the
16 Internet.

RESPONSE TO REQUEST NO. 8:

17 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
18 One. See Preliminary Statement.

19 Plaintiffs also object to this Request on the ground that it is vague and ambiguous.

1 **REQUEST NO. 9:**

2 Admit the use of SmartDownload involves online activity.

3 **RESPONSE TO REQUEST NO. 9:**

4 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
5 One. See Preliminary Statement.

6 Plaintiffs also object to this Request on the ground that it is vague and ambiguous with
7 respect to its use of the phrase "online activity." That phrase is specially defined in the St. Paul
8 Policy.

9 **REQUEST NO. 10:**

10 Admit the UNDERLYING COMPLAINTS allege claims that result from online activity.

11 **RESPONSE TO REQUEST NO. 10:**

12 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
13 One. See Preliminary Statement.

14 Plaintiffs object to this Request on the ground that it is vague and ambiguous with respect
15 to its use of the phrase "online activity." That phrase is specially defined in the St. Paul Policy.

16 **REQUEST NO. 11:**

17 Admit the AG INVESTIGATION involved claims or alleged violations that result from
18 online activity.

19 **RESPONSE TO REQUEST NO. 11:**

20 Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase
21 One. See Preliminary Statement.

22 Plaintiffs object to this Request on the ground that it is vague and ambiguous with respect
23 to its use of the phrase "online activity." That phrase is specially defined in the St. Paul Policy.

24 **REQUEST NO. 12:**

25 Admit the UNDERLYING COMPLAINTS do not allege any user information allegedly
26 collected by AOL/Netscape through its SmartDownload program was made known to any
27 person.

RESPONSE TO REQUEST NO. 12:

Denied.

REQUEST NO. 13:

Admit that in September 2000, when AOL, through MARSH, presented ST. PAUL an endorsement with a proposed definition of "online activity," AOL was already aware of claims of invasion of privacy involving the SmartDownload program.

RESPONSE TO REQUEST NO. 13:

Plaintiffs object to this Request on the ground that it seeks information unrelated to Phase One. See Preliminary Statement.

Plaintiffs object to this Request on the ground that it is vague and ambiguous with respect to its use of the phrase "online activity." That phrase is specially defined in the St. Paul Policy.

Dated: June 12, 2006

Respectfully Submitted,
ABELSON | HERRON LLP
Michael Bruce Abelson
Leslie A. Pereira

By 
Leslie A. Pereira

Attorneys for Plaintiffs
NETSCAPE COMMUNICATIONS
CORPORATION; AND
AMERICA ONLINE, INC.

PROOF OF SERVICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

I am over the age of 18 and not a party to the within action; I am employed by Abelson | Herron, LLP in the County of Los Angeles at 333 South Grand Avenue, Suite 650, Los Angeles, California, 90071-1559.

On June 12, 2006, I served the foregoing document(s) described as:


PLAINTIFF’S RESPONSES TO ST. PAUL MERCURY INSURANCE COMPANY’S REQUESTS FOR ADMISSIONS, SET NO. ONE

The document(s) was served by the following means:

- BY PERSONAL SERVICE** I personally delivered the documents to the persons at the addresses listed in the attached service list. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney’s office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party’s residence with some person not less than 18 years of age.
- BY U.S. MAIL** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses in the attached service list and placed the sealed envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the said date, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid.
- BY OVERNIGHT DELIVERY** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in the attached service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE** I enclosed the documents in an envelope or package addressed to the persons in the attached service list and provided them to a professional messenger service for service. *(A declaration by the messenger is contained in the Declaration of Messenger below.)*
- BY FACSIMILE TRANSMISSION** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in the attached service list. Our facsimile activity report indicated that all pages were transmitted successfully. No error was reported by the fax machine that I used.
- BY E-MAIL OR ELECTRONIC TRANSMISSION** Based on the court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on June 12, 2006 at Los Angeles, California.



Soonja Bin

SERVICE LIST

Netscape Communications Corporation, et al. v. Federal Insurance Company, et al.

Case No.: C-06-00198 JW (PVT)

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ST. PAUL MERCURY INSURANCE COMPANY

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EXHIBIT 9

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13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

15 NETSCAPE COMMUNICATIONS
16 CORPORATION, et al.,

17 Plaintiffs,

18 v.

19 FEDERAL INSURANCE COMPANY, et al.

20 Defendants.
21

CASE NO. C-06-00198 JW (PVT)

**PLAINTIFF'S RESPONSES TO ST.
PAUL MERCURY INSURANCE
COMPANY'S FIRST SET OF
INTERROGATORIES**

Action Filed: December 12, 2005
Action Removed: January 11, 2006

22
23 **PROPOUNDING PARTY: ST. PAUL MERCURY INSURANCE COMPANY**

24 **RESPONDING PARTY: PLAINTIFFS AMERICA ONLINE, INC. and NETSCAPE
COMMUNICATIONS CORPORATION**

25 **SET NO.: ONE [Nos. 1 - 10]**
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1 Plaintiffs America Online, Inc. and Netscape Communications Corporations
2 (collectively, "Plaintiffs") respond to Defendant St. Paul Mercury Insurance Company's First Set
3 of Interrogatories ("Interrogatories") as follows:

4 **PRELIMINARY STATEMENT**

5 On June 5, 2006, the parties submitted a Joint Case Management Statement to the Court
6 ("Joint CMS"). The Joint CMS proposes that the Court adopt a "phased" approach to this
7 litigation. As proposed by St. Paul, Phase One would pertain only to the issue of whether the
8 "personal injury" provision of the St. Paul policy provides coverage for the Underlying Actions;
9 Plaintiffs' position is that Phase One should also include resolution of the exclusions raised by
10 St. Paul including, but not limited to, any issues regarding the policy's reformation. Until this
11 issue is resolved by the Court, the parties have agreed that discovery will proceed only with
12 respect to the more narrow issues presented by St. Paul's Phase One proposal.

13 The responses set forth here are based on information and documents presently available
14 to and known to Plaintiffs. Discovery, further investigation, and legal research and analysis may
15 give rise to additional contentions, facts, documents and witnesses, all of which may lead to
16 substantial additions to, changes in or variations from these responses. Accordingly, Plaintiffs
17 reserve the right to change, modify, supplement, add to or subtract from its responses.

18 By responding to the Interrogatories, Plaintiffs do not waive, or intend to waive, but
19 rather intend to preserve and are preserving: (1) all objections as to competency, relevancy,
20 materiality and admissibility; (2) all objections on any grounds to the use of any of the responses
21 herein or documents in any subsequent proceedings, including the trial of this or any other
22 action; (3) all objections as to vagueness and ambiguity; and (4) all objections on any grounds.

23 **GENERAL OBJECTIONS**

24 1. Plaintiffs object to the Interrogatories as improper to the extent they seek
25 information beyond the scope of discovery contemplated by the Federal Rules of Civil
26 Procedure.

1 2. Plaintiffs object to the Interrogatories to the extent they seek information or
2 documents protected against disclosure by the attorney-client privilege and/or the attorney work
3 product doctrine.

4 3. Plaintiffs object to the Interrogatories to the extent they seek information that is
5 confidential, proprietary, trade secret, constitutionally protected business information, and/or
6 information that is otherwise protected from discovery. Plaintiffs will work with St. Paul on an
7 appropriate Protective Order to protect such information and materials.

8 4. Plaintiffs object to the Interrogatories to the extent they are overly broad, unduly
9 burdensome, harassing, and impose inappropriate burdens and expenses exceeding the
10 obligations imposed by the Federal Rules of Civil Procedure and case law.

11 5. Plaintiffs object to the Interrogatories to the extent they seek information already
12 in the possession of St. Paul or its agents or is equally available to St. Paul.

13 6. Plaintiffs object to the Interrogatories to the extent they are irrelevant to the
14 subject matter of the pending action and not reasonably calculated to lead to the discovery of
15 admissible evidence.

16 7. Plaintiffs object to the Interrogatories to the extent they are vague and ambiguous.

17 8. Plaintiffs object to the definition of "INSURANCE PROGRAM" in the
18 Interrogatories on the ground that it overbroad and unduly burdensome to the extent that it seeks
19 (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying
20 claims; and (2) information pertaining to policy periods not implicated by the underlying claims.

21 The foregoing Preliminary Statement and General Objections are applicable to and
22 specifically incorporated into each response set forth herein below. The assertion of any General
23 Objection does not preclude the assertion of specific objections.

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RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

IDENTIFY each and every insurance policy in the INSURANCE PROGRAMS, including the company that issued the policy, policy title, policy number, policy period, and type of insurance.

RESPONSE TO INTERROGATORY NO. 1

Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to Phase One. See Preliminary Statement.

Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly burdensome to the extent that it seeks (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy periods not implicated by the underlying claims. At the appropriate time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant issues in this case.

INTERROGATORY NO. 2:

IDENTIFY all PERSONS at AOL involved with the creation, analysis and/or review of the AOL INSURANCE PROGRAM.

RESPONSE TO INTERROGATORY NO. 2

Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to Phase One. See Preliminary Statement.

Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly burdensome to the extent that it seeks (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy periods not implicated by the underlying claims. Plaintiffs further object to this Interrogatory on the ground that it is vague, ambiguous and overbroad with respect to its use of the phrase "creation, analysis and/or review." At the appropriate time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant issues in this case.

1 **INTERROGATORY NO. 3:**

2 As to each insurance policy identified in response to Interrogatory No. 1, IDENTIFY all
3 PERSONS at AOL involved with policy negotiations, modifications, drafts, analysis,
4 calculations, renewal, non-renewal, commutation, and/or cancellation.

5 **RESPONSE TO INTERROGATORY NO. 3**

6 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
7 Phase One. See Preliminary Statement.

8 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
9 burdensome to the extent that it seeks (1) information regarding insurance policies wholly
10 unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy
11 periods not implicated by the underlying claims. Plaintiffs also object to this Interrogatory on
12 that ground that under the phased Discovery Plan proposed by St. Paul, this information is not
13 relevant at this time. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
14 interrogatory which addresses the relevant issues in this case.

15 **INTERROGATORY NO. 4:**

16 Describe in detail the circumstances under which AOL first learned about any claim that
17 the SmartDownload program invaded rights of privacy.

18 **RESPONSE TO INTERROGATORY NO. 4**

19 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
20 Phase One. See Preliminary Statement.

21 Plaintiffs also object to this Interrogatory on the ground that it is vague and ambiguous
22 with respect to its use of the term "claim." Plaintiffs also object to this Interrogatory on the
23 ground that it is vague and ambiguous with respect to its use of the phrase "invaded rights of
24 privacy." At the appropriate time, Plaintiffs will respond to a reasonably-tailored interrogatory
25 which addresses the relevant issues in this case.
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1 **INTERROGATORY NO. 5:**

2 Describe in detail the circumstances under which AOL first learned about each of the
3 claims set forth in the UNDERLYING COMPLAINTS, including but not limited to the
4 PERSON(S) who first learned about the claim and the date.

5 **RESPONSE TO INTERROGATORY NO. 5**

6 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
7 Phase One. See Preliminary Statement. At the appropriate time, Plaintiffs will respond to a
8 reasonably-tailored interrogatory which addresses the relevant issues in this case.

9 **INTERROGATORY NO. 6:**

10 IDENTIFY all claims tendered under Lloyd's Policy no. 823/FD9804728, and that
11 insurer's response to each of those tenders.

12 **RESPONSE TO INTERROGATORY NO. 6**

13 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
14 Phase One. See Preliminary Statement.

15 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
16 burdensome to the extent it seeks information regarding claims other than those at issue in this
17 lawsuit. Plaintiffs also object to this Interrogatory on the ground that it seeks information that is
18 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

19 Plaintiffs further object to this Interrogatory on the ground that it seeks information that is
20 confidential. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
21 interrogatory which addresses the relevant issues in this case.

22 **INTERROGATORY NO. 7:**

23 IDENTIFY all claims tendered under Executive Risk Insurance Company Policy no. 151-
24 166530-99, and that insurer's response to each of those tenders.

25 **RESPONSE TO INTERROGATORY NO. 7**

26 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
27 Phase One. See Preliminary Statement.

1 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
2 burdensome to the extent it seeks information regarding claims other than those at issue in this
3 lawsuit. Plaintiffs also object to this Interrogatory on the ground that it seeks information that is
4 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
5 Plaintiffs further object to this Interrogatory on the ground that it seeks information that is
6 confidential. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
7 interrogatory which addresses the relevant issues in this case.

8 **INTERROGATORY NO. 8:**

9 As to Lloyd's Policy no. 823/FD9804728, state whether the policy was exhausted or
10 commuted, and whether it was replaced with like coverage.

11 **RESPONSE TO INTERROGATORY NO. 8**

12 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
13 Phase One. See Preliminary Statement.

14 Plaintiffs object to this Interrogatory on the ground that it seeks information that is
15 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
16 Plaintiffs also object to this Interrogatory on the ground that it is vague and ambiguous with
17 respect to its use of the term "commuted" and the phrase "like coverage." At the appropriate
18 time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant
19 issues in this case.

20 **INTERROGATORY NO. 9:**

21 As to each Request in ST. PAUL's Request for Admissions to Plaintiffs, Set. No. 1, that
22 AOL fails to admit without qualification, identify and describe in detail the information upon
23 which AOL relies for its response.

24 **RESPONSE TO INTERROGATORY NO. 9**

25 Subject to and without waiving their general objections, Plaintiffs respond as follows:

26 RFA No. 1: Plaintiffs contend that California law applies to the issues in this coverage
27 action. The primary plaintiff, Netscape Communications Corporation, is a resident of California

1 and St. Paul owed Netscape duties in California. Moreover, the Netscape software product at
2 issue in the Underlying Actions – SmartDownload – was created in California and many
3 witnesses regarding the functionality of the product may still reside in California. In addition,
4 the Underlying Actions were nationwide class actions and, therefore, many of the claimants or
5 potential claimants were likely California residents.

6 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
7 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
8 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to
9 that action. Moreover, that action involved different factual circumstances and different legal
10 issues. In addition, that action was brought under a different jurisdiction with different choice of
11 law rules.

12 RFA No. 12: The Underlying Actions allege that information allegedly collected by
13 Netscape and/or AOL was made known to Netscape and/or AOL. Moreover, the plaintiffs in the
14 Underlying Actions asserted that information allegedly collected by Netscape and/or AOL either
15 was – or was to have been – shared with third parties.

16 **INTERROGATORY NO. 10:**

17 As to each Request in ST. PAUL’s Request for Admissions to Plaintiffs, Set No. 1, that
18 AOL fails to admit without qualification, IDENTIFY the PERSONS with knowledge upon
19 which AOL relies for its response.

20 **RESPONSE TO INTERROGATORY NO. 10:**

21 Subject to and without waiving their general objections, Plaintiffs respond as follows:

22 RFA No. 1: Plaintiffs object to this Interrogatory on the ground that it seeks information
23 which is neither relevant nor reasonable calculated to lead to the discovery of admissible
24 evidence. RFA No. 1 posed a purely legal question.

25 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
26 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
27 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to

1 that action. Moreover, that action involved different factual circumstances and different legal
2 issues. In addition, that action was brought under a different jurisdiction with different choice of
3 law rules.

4 RFA No. 12: Plaintiffs object to this Interrogatory on the ground that it seeks
5 information which is neither relevant nor reasonable calculated to lead to the discovery of
6 admissible evidence. RFA No. 12 merely makes an inappropriate request for an interpretation of
7 the complaints in the Underlying Actions – something which is a legal conclusion and can be
8 done by any person.

9 **INTERROGATORY NO. 11:**

10 As to each Request in ST. PAUL’s Request for Admissions to Plaintiffs, Set No. 1, that
11 AOL fails to admit without qualification, IDENTIFY the DOCUMENTS upon which AOL relies
12 for its response.

13 **RESPONSE TO INTERROGATORY NO. 11:**

14 Subject to and without waiving their general objections, Plaintiffs respond as follows:

15 RFA No. 1: Plaintiffs’ complaints in this action; technical documents re:
16 SmartDownload produced in Underlying Actions; complaints in Underlying Actions.

17 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
18 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
19 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to
20 that action. Moreover, that action involved different factual circumstances and different legal
21 issues. In addition, that action was brought under a different jurisdiction with different choice of
22 law rules.

23 RFA No. 12: Complaints in Underlying Actions.
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1 Dated: June 12, 2006

Respectfully Submitted,
ABELSON | HERRON LLP
Michael Bruce Abelson
Leslie A. Pereira

4 By 

5 Leslie A. Pereira
6 Attorneys for Plaintiff s
7 AMERICA ONLINE, INC.

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PROOF OF SERVICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

I am over the age of 18 and not a party to the within action; I am employed by Abelson | Herron, LLP in the County of Los Angeles at 333 South Grand Avenue, Suite 650, Los Angeles, California, 90071-1559.

On June 12, 2006, I served the foregoing document(s) described as:

PLAINTIFF'S RESPONSES TO ST. PAUL MERCURY INSURANCE COMPANY'S FIRST SET OF INTERROGATORIES

The document(s) was served by the following means:

- BY PERSONAL SERVICE** I personally delivered the documents to the persons at the addresses listed in the attached service list. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age.
- BY U.S. MAIL** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses in the attached service list and placed the sealed envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the said date, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid.
- BY OVERNIGHT DELIVERY** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in the attached service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE** I enclosed the documents in an envelope or package addressed to the persons in the attached service list and provided them to a professional messenger service for service. *(A declaration by the messenger is contained in the Declaration of Messenger below.)*
- BY FACSIMILE TRANSMISSION** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in the attached service list. Our facsimile activity report indicated that all pages were transmitted successfully. No error was reported by the fax machine that I used.
- BY E-MAIL OR ELECTRONIC TRANSMISSION** Based on the court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on June 12, 2006 at Los Angeles, California.



Soonja Bin

SERVICE LIST

Netscape Communications Corporation, et al. v. Federal Insurance Company, et al.

Case No.: C-06-00198 JW (PVT)

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EXHIBIT 10

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10 Attorneys for Plaintiffs
11 NETSCAPE COMMUNICATIONS
CORPORATION and AMERICA ONLINE, INC.

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

15 NETSCAPE COMMUNICATIONS
16 CORPORATION, et al.,
17 Plaintiffs,
18 v.
19 FEDERAL INSURANCE COMPANY, et al.
20 Defendants.
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CASE NO. C-06-00198 JW (PVT)
**PLAINTIFF'S SUPPLEMENTAL
RESPONSES TO ST. PAUL MERCURY
INSURANCE COMPANY'S FIRST SET
OF INTERROGATORIES**

Action Filed: December 12, 2005
Action Removed: January 11, 2006

23 **PROPOUNDING PARTY: ST. PAUL MERCURY INSURANCE COMPANY**
24 **RESPONDING PARTY: PLAINTIFFS AMERICA ONLINE, INC. and NETSCAPE
COMMUNICATIONS CORPORATION**
25 **SET NO.: ONE [Nos. 1 - 10]**
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1 Plaintiffs America Online, Inc. and Netscape Communications Corporation (collectively,
2 "Plaintiffs") provide a supplemental response to Defendant St. Paul Mercury Insurance
3 Company's First Set of Interrogatories ("Interrogatories") as follows:

4 **PRELIMINARY STATEMENT**

5 At the June 19, 2006 Case Management Conference in this matter, the Court accepted the
6 parties' proposal that the litigation be "phased." Specifically, the Court determined that the
7 parties would proceed with a "Phase One" which would permit discovery and motions on issues
8 pertaining to St. Paul's duty to defend under the terms of the St. Paul Policy. Discovery
9 unrelated to Phase One will be reserved until after completion of Phase One.

10 The responses set forth here are based on information and documents presently available
11 to and known to Plaintiffs. Discovery, further investigation, and legal research and analysis may
12 give rise to additional contentions, facts, documents and witnesses, all of which may lead to
13 substantial additions to, changes in or variations from these responses. Accordingly, Plaintiffs
14 reserve the right to change, modify, supplement, add to or subtract from its responses.

15 By responding to the Interrogatories, Plaintiffs do not waive, or intend to waive, but
16 rather intend to preserve and are preserving: (1) all objections as to competency, relevancy,
17 materiality and admissibility; (2) all objections on any grounds to the use of any of the responses
18 herein or documents in any subsequent proceedings, including the trial of this or any other
19 action; (3) all objections as to vagueness and ambiguity; and (4) all objections on any grounds.

20 **GENERAL OBJECTIONS**

21 1. Plaintiffs object to the Interrogatories as improper to the extent they seek
22 information beyond the scope of discovery contemplated by the Federal Rules of Civil
23 Procedure.

24 2. Plaintiffs object to the Interrogatories to the extent they seek information or
25 documents protected against disclosure by the attorney-client privilege and/or the attorney work
26 product doctrine.

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1 3. Plaintiffs object to the Interrogatories to the extent they seek information that is
2 confidential, proprietary, trade secret, constitutionally protected business information, and/or
3 information that is otherwise protected from discovery.

4 4. Plaintiffs object to the Interrogatories to the extent they are overly broad, unduly
5 burdensome, harassing, and impose inappropriate burdens and expenses exceeding the
6 obligations imposed by the Federal Rules of Civil Procedure and case law.

7 5. Plaintiffs object to the Interrogatories to the extent they seek information already
8 in the possession of St. Paul or its agents or is equally available to St. Paul.

9 6. Plaintiffs object to the Interrogatories to the extent they are irrelevant to the
10 subject matter of the pending action and not reasonably calculated to lead to the discovery of
11 admissible evidence.

12 7. Plaintiffs object to the Interrogatories to the extent they are vague and ambiguous.

13 8. Plaintiffs object to the definition of "INSURANCE PROGRAM" in the
14 Interrogatories on the ground that it overbroad and unduly burdensome to the extent that it seeks
15 (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying
16 claims; and (2) information pertaining to policy periods not implicated by the underlying claims.

17 The foregoing Preliminary Statement and General Objections are applicable to and
18 specifically incorporated into each response set forth herein below. The assertion of any General
19 Objection does not preclude the assertion of specific objections.

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SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

IDENTIFY each and every insurance policy in the INSURANCE PROGRAMS, including the company that issued the policy, policy title, policy number, policy period, and type of insurance.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1

Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to Phase One. See Preliminary Statement.

Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly burdensome to the extent that it seeks (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy periods not implicated by the underlying claims. At the appropriate time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant issues in this case.

INTERROGATORY NO. 2:

IDENTIFY all PERSONS at AOL involved with the creation, analysis and/or review of the AOL INSURANCE PROGRAM.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2

Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to Phase One. See Preliminary Statement.

Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly burdensome to the extent that it seeks (1) information regarding insurance policies wholly unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy periods not implicated by the underlying claims. Plaintiffs further object to this Interrogatory on the ground that it is vague, ambiguous and overbroad with respect to its use of the phrase "creation, analysis and/or review." At the appropriate time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant issues in this case.

1 **INTERROGATORY NO. 3:**

2 As to each insurance policy identified in response to Interrogatory No. 1, IDENTIFY all
3 PERSONS at AOL involved with policy negotiations, modifications, drafts, analysis,
4 calculations, renewal, non-renewal, commutation, and/or cancellation.

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3**

6 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
7 Phase One. See Preliminary Statement.

8 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
9 burdensome to the extent that it seeks (1) information regarding insurance policies wholly
10 unrelated and inapplicable to the underlying claims; and (2) information pertaining to policy
11 periods not implicated by the underlying claims. Plaintiffs also object to this Interrogatory on
12 that ground that under the phased Discovery Plan proposed by St. Paul, this information is not
13 relevant at this time. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
14 interrogatory which addresses the relevant issues in this case.

15 **INTERROGATORY NO. 4:**

16 Describe in detail the circumstances under which AOL first learned about any claim that
17 the SmartDownload program invaded rights of privacy.

18 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4**

19 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
20 Phase One. See Preliminary Statement.

21 Plaintiffs also object to this Interrogatory on the ground that it is vague and ambiguous
22 with respect to its use of the term "claim." Plaintiffs also object to this Interrogatory on the
23 ground that it is vague and ambiguous with respect to its use of the phrase "invaded rights of
24 privacy." Subject to and without waiving their objections, Plaintiffs respond as follows:
25 Plaintiffs believe they first learned about claims that the SmartDownload program invaded
26 rights of privacy when they were served with copies of the underlying actions.

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1 **INTERROGATORY NO. 5:**

2 Describe in detail the circumstances under which AOL first learned about each of the
3 claims set forth in the UNDERLYING COMPLAINTS, including but not limited to the
4 PERSON(S) who first learned about the claim and the date.

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5**

6 Subject to and without waiving their objections, Plaintiffs respond as follows: Lawsuits
7 filed against Netscape and/or AOL in 2000 were directed to AOL's Office of the General
8 Counsel whereupon they were then assigned to a particular attorney for handling. Shortly after
9 receipt by Netscape and AOL, the SmartDownload complaints were assigned to attorney Charles
10 Curran.

11 **INTERROGATORY NO. 6:**

12 IDENTIFY all claims tendered under Lloyd's Policy no. 823/FD9804728, and that
13 insurer's response to each of those tenders.

14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6**

15 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
16 Phase One. See Preliminary Statement.

17 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
18 burdensome to the extent it seeks information regarding claims other than those at issue in this
19 lawsuit. Plaintiffs also object to this Interrogatory on the ground that it seeks information that is
20 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
21 Plaintiffs further object to this Interrogatory on the ground that it seeks information that is
22 confidential. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
23 interrogatory which addresses the relevant issues in this case.

24 **INTERROGATORY NO. 7:**

25 IDENTIFY all claims tendered under Executive Risk Insurance Company Policy no. 151-
26 166530-99, and that insurer's response to each of those tenders.

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1 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7**

2 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
3 Phase One. See Preliminary Statement.

4 Plaintiffs also object to this Interrogatory on the ground that it is overbroad and unduly
5 burdensome to the extent it seeks information regarding claims other than those at issue in this
6 lawsuit. Plaintiffs also object to this Interrogatory on the ground that it seeks information that is
7 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
8 Plaintiffs further object to this Interrogatory on the ground that it seeks information that is
9 confidential. At the appropriate time, Plaintiffs will respond to a reasonably-tailored
10 interrogatory which addresses the relevant issues in this case.

11 **INTERROGATORY NO. 8:**

12 As to Lloyd's Policy no. 823/FD9804728, state whether the policy was exhausted or
13 commuted, and whether it was replaced with like coverage.

14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8**

15 Plaintiffs object to this Interrogatory on the ground that it seeks information unrelated to
16 Phase One. See Preliminary Statement.

17 Plaintiffs object to this Interrogatory on the ground that it seeks information that is
18 neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
19 Plaintiffs also object to this Interrogatory on the ground that it is vague and ambiguous with
20 respect to its use of the term "commuted" and the phrase "like coverage." At the appropriate
21 time, Plaintiffs will respond to a reasonably-tailored interrogatory which addresses the relevant
22 issues in this case.

23 **INTERROGATORY NO. 9:**

24 As to each Request in ST. PAUL's Request for Admissions to Plaintiffs, Set. No. 1, that
25 AOL fails to admit without qualification, identify and describe in detail the information upon
26 which AOL relies for its response.

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1 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9

2 Subject to and without waiving their general objections, Plaintiffs respond as follows:

3 RFA No. 1: Plaintiffs contend that California law applies to the issues in this coverage
4 action. The primary plaintiff, Netscape Communications Corporation, is a resident of California
5 and St. Paul owed Netscape duties in California. Moreover, the Netscape software product at
6 issue in the Underlying Actions – SmartDownload – was created in California and many
7 witnesses regarding the functionality of the product may still reside in California. In addition,
8 the Underlying Actions were nationwide class actions and, therefore, many of the claimants or
9 potential claimants were likely California residents.

10 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
11 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
12 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to
13 that action. Moreover, that action involved different factual circumstances and different legal
14 issues. In addition, that action was brought under a different jurisdiction with different choice of
15 law rules.

16 RFA No. 3: Glenn Spencer was AOL’s Vice President – Risk Strategies from February
17 2000 to February 2001.

18 RFA No. 4: While employed at AOL, Glenn Spencer’s title was Vice President – Risk
19 Strategies.

20 RFA No. 5: Beginning in early 1997, and continuing through 2001, MARSH brokers
21 assisted AOL in placing some lines of insurance. MARSH’s agency status regarding its
22 particular acts and functions is a legal question which varies in time, scope and nature.

23 RFA No. 7: Plaintiffs objected to RFA No. 7 on the ground that it was vague and
24 ambiguous with respect to its use of the phrases “all along” and “online activities.” Plaintiffs
25 cannot properly respond to the Request as written inasmuch as that particular term, along with its
26 meaning and application, are the subject of St. Paul’s pending Counter-Claim for Reformation.

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1 RFA No. 9: The parties' insurance contract defines "online activities" as the following:
2 "providing e-mail services, instant messaging services, 3rd party advertising, supplying 3rd party
3 content and providing internet access to 3rd parties." The use of SmartDownload does not
4 implicate any such "online activities" as defined. Furthermore, the term "online activities," as
5 well as its meaning and application, are the subject of St. Paul's pending Counter-Claim for
6 Reformation.

7 RFA No. 10: The parties' insurance contract defines "online activities" as the following:
8 "providing e-mail services, instant messaging services, 3rd party advertising, supplying 3rd party
9 content and providing internet access to 3rd parties." The underlying complaints do not allege
10 claims that result from any of these activities.

11 RFA No. 11: The parties' insurance contract defines "online activities" as the following:
12 "providing e-mail services, instant messaging services, 3rd party advertising, supplying 3rd party
13 content and providing internet access to 3rd parties." The AG Investigation did not involve
14 claims or alleged violations resulting from any of these activities.

15 RFA No. 12: The Underlying Actions allege that information allegedly collected by
16 Netscape and/or AOL was made known to Netscape and/or AOL. Moreover, the plaintiffs in the
17 Underlying Actions asserted that information allegedly collected by Netscape and/or AOL either
18 was – or was to have been – shared with third parties.

19 **INTERROGATORY NO. 10:**

20 As to each Request in ST. PAUL's Request for Admissions to Plaintiffs, Set No. 1, that
21 AOL fails to admit without qualification, IDENTIFY the PERSONS with knowledge upon
22 which AOL relies for its response.

23 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**

24 Subject to and without waiving their general objections, Plaintiffs respond as follows:

25 RFA No. 1: Plaintiffs object to this Interrogatory on the ground that it seeks information
26 which is neither relevant nor reasonable calculated to lead to the discovery of admissible
27 evidence. RFA No. 1 posed a purely legal question.

1 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
2 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
3 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to
4 that action. Moreover, that action involved different factual circumstances and different legal
5 issues. In addition, that action was brought under a different jurisdiction with different choice of
6 law rules.

7 RFA No. 3: Custodian of Records, AOL Human Resources.

8 RFA No. 4: Custodian of Records, AOL Human Resources.

9 RFA No. 5: Agency objections are legal objections.

10 RFA No. 7: Plaintiffs objected to RFA No. 7 on the ground that it is vague and
11 ambiguous. The objection to the Request is a legal one.

12 RFA No. 9: Plaintiffs object to this Interrogatory on the ground that it seeks information
13 which is neither relevant nor reasonable calculated to lead to the discovery of admissible
14 evidence. RFA No. 9 merely makes an inappropriate request for a legal conclusion and can be
15 done by any person. The objection to the Request is a legal one.

16 RFA No. 10: Plaintiffs object to this Interrogatory on the ground that it seeks
17 information which is neither relevant nor reasonable calculated to lead to the discovery of
18 admissible evidence. The objection to the Request is a legal one.

19 RFA No. 11: Plaintiffs object to this Interrogatory on the ground that it seeks
20 information which is neither relevant nor reasonable calculated to lead to the discovery of
21 admissible evidence. The objection to the Request is a legal one.

22 RFA No. 12: Plaintiffs object to this Interrogatory on the ground that it seeks
23 information which is neither relevant nor reasonable calculated to lead to the discovery of
24 admissible evidence. RFA No. 12 merely makes an inappropriate request for an interpretation of
25 the complaints in the Underlying Actions – something which is a legal conclusion and can be
26 done by any person.

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1 **INTERROGATORY NO. 11:**

2 As to each Request in ST. PAUL's Request for Admissions to Plaintiffs, Set No. 1, that
3 AOL fails to admit without qualification, IDENTIFY the DOCUMENTS upon which AOL relies
4 for its response.

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

6 Subject to and without waiving their general objections, Plaintiffs respond as follows:

7 RFA No. 1: Plaintiffs' complaints in this action; technical documents re:
8 SmartDownload produced in Underlying Actions; complaints in Underlying Actions.

9 RFA No. 2: Plaintiffs objected to RFA No. 2 on the ground that it seeks information
10 which is neither relevant nor reasonably calculated to lead to the discovery of admissible
11 evidence. Netscape Communications Corporation, one of the plaintiffs herein, was not a party to
12 that action. Moreover, that action involved different factual circumstances and different legal
13 issues. In addition, that action was brought under a different jurisdiction with different choice of
14 law rules.

15 RFA No. 3: Employment records.

16 RFA No. 4: Employment records.

17 RFA No. 5: None, a legally-based objection regarding agency issues is interposed.

18 RFA No. 7: None; Plaintiffs objected to RFA No. 7.

19 RFA No. 9: St. Paul policy, technical documents in underlying actions.

20 RFA No. 10: Complaints in Underlying Actions, St. Paul policy.

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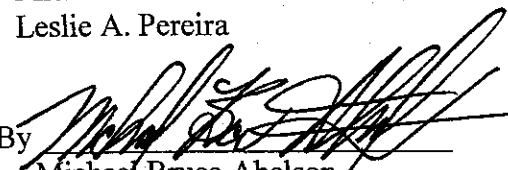
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RFA No. 11: AG Investigation, St. Paul policy.

RFA No. 12: Complaints in Underlying Actions.

Dated: June 23, 2006

Respectfully Submitted,
ABELSON | HERRON LLP
Michael Bruce Abelson
Leslie A. Pereira

By 
Michael Bruce Abelson
Attorneys for Plaintiff s
AMERICA ONLINE, INC.

PROOF OF SERVICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

I am over the age of 18 and not a party to the within action; I am employed by Abelson | Herron, LLP in the County of Los Angeles at 333 South Grand Avenue, Suite 650, Los Angeles, California, 90071-1559.

On June 23, 2006, I served the foregoing document(s) described as:

PLAINTIFFS' SUPPLEMENTAL RESPONSES TO ST. PAUL MERCURY INSURANCE COMPANY'S FIRST SET OF INTERROGATORIES

The document(s) was served by the following means:

- BY PERSONAL SERVICE** I personally delivered the documents to the persons at the addresses listed in the attached service list. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age.
- BY U.S. MAIL** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses in the attached service list and placed the sealed envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the said date, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid.
- BY MESSENGER SERVICE** I enclosed the documents in an envelope or package addressed to the persons in the attached service list and provided them to a professional messenger service for service. *(A declaration by the messenger is contained in the Declaration of Messenger below.)*
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- BY E-MAIL OR ELECTRONIC TRANSMISSION** Based on the court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on June 23, 2006 at Los Angeles, California.


Lynelle R. Kotrba

SERVICE LIST

Netscape Communications Corporation, et al. v. Federal Insurance Company, et al.

USDC Case No.: C-06-00198 JW (PVT)

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