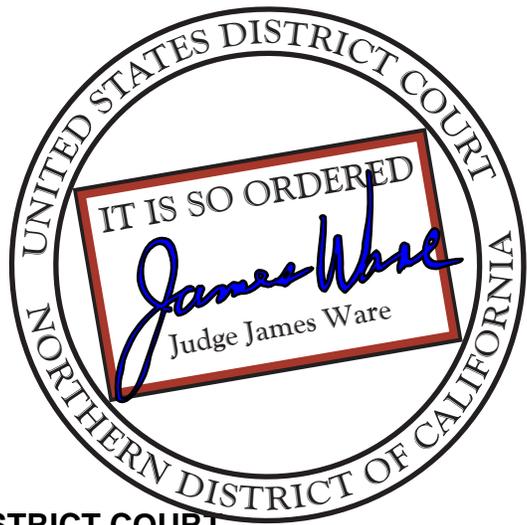


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Gordon & Rees LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111



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

NETSCAPE COMMUNICATIONS CORPORATION, a Delaware corporation;)	CASE NO. 5:06-CV-00198 JW (PVT)
and)	ORDER VACATING CASE
AMERICAN ONLINE, INC., a Delaware corporation,)	MANAGEMENT CONFERENCE;
)	ADMINISTRATIVELY CLOSING
)	CASE
Plaintiffs,)	
vs.)	
FEDERAL INSURANCE COMPANY, an Indiana corporation; et al.,)	
)	
Defendants.)	

This case is set for a Case Management Conference on October 5, 2009 at 10:00 a.m. However, the United States Court of Appeals for the Ninth Circuit has not yet issued a mandate and still has jurisdiction over this matter. On August 27, 2009, the Court of Appeal issued a Memorandum Order and Disposition but not a mandate. As reflected by Docket Entry No. 178 (Order of USCA), Defendant and Appellant St. Paul Mercury Insurance Company filed a Petition for Panel and En Banc Rehearing on September 10, 2009 which petition is still under review. A mandate will not issue until after that petition has been determined by the Court of Appeal. (See Fed. R. App. P. 41(b) and (d)(1).)

1 The parties respectfully submit that the August 28 and September 18, 2009
2 letters of the Clerk stating the mandate has been filed by the Ninth Circuit are incorrect
3 and this Court does not currently have jurisdiction. The parties therefore request that
4 the above-referenced Case Management Conference be taken off-calendar.

5 Respectfully submitted,

6 Dated: September __, 2009

GORDON & REES LLP

7
8 By: /s/

9 SARA M. THORPE
10 LESLIE K. CRARY
11 Attorneys for Defendant ST. PAUL MERCURY
INSURANCE COMPANY

12 Dated: September , 2009

13 ABELSON HERRON LLP

14 By: /s/

15 MICHAEL BRUCE ABELSON
16 LESLIE A. PEREIRA
17 Attorneys for Plaintiffs NETSCAPE
COMMUNICATIONS CORPORATION,
AMERICA ONLINE, INC.

18 *** ORDER ***

19
20 In light of the parties' representation, the Court finds good cause to VACATE the October
21 5, 2009 Case Management Conference. The Court further orders the Clerk of Court to
22 administratively close this case. Within ten (10) days from the date of a final mandate, any
23 party may move the Court to reopen the case and to set a Status Conference.
24

25 Dated: October 1, 2009

26 
JAMES WARE
27 United States District Judge