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

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

14 NETSCAPE COMMUNICATIONS  
 15 CORPORATION, et al.,  
 16 Plaintiffs,  
 17 v.  
 18 FEDERAL INSURANCE COMPANY, et al.,  
 19 Defendants.  
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CASE NO. C-06-00198 JW (PVT)  
 [PROPOSED] ORDER AND JOINT  
 STIPULATION TO SET STATUS  
 CONFERENCE FOLLOWING  
 REVERSAL AND REMAND BY THE  
 UNITED STATES COURT OF APPEALS  
 FOR THE NINTH CIRCUIT

No Hearing Required

23 COMES NOW Plaintiffs Netscape Communications Corporation and America Online,  
 24 Inc. and Defendant St. Paul Mercury Insurance Company, by and through their respective  
 25 counsel of record, who stipulate and agree as follows:

26 WHEREAS, this above-referenced action has been the subject of an appeal before the  
 27 United States Court of Appeals for the Ninth Circuit; and  
 28

1           WHEREAS, this Court's *Order Vacating Case Management Conference*;  
2 *Administratively Closing Case*, Docket Instrument ("DI") No. 180 effectively: (a) closed this  
3 action's case file pending issuance of a final mandate from the Ninth Circuit; and (b) authorized  
4 the parties to move to re-open the case and set a status conference within ten (10) days from the  
5 Ninth Circuit's issuance of a final mandate with respect to the pending appeal; and

6           WHEREAS, the Ninth Circuit did, in fact, issue a final mandate on October 27, 2009 (see  
7 DI# 182), which mandate was spread by way of an October 28, 2009 letter from this Court's  
8 clerk (see DI # 183); and

9           WHEREAS, less than ten (10) days have passed since the issuance of the Ninth Circuit's  
10 final mandate;

11           NOW THEREFORE, and subject to the approval of the Court, the parties through their  
12 counsel hereto, stipulate and agree as follows:

- 13           1. The Court re-open the instant case;
- 14           2. A status conference be set for Monday, November 23, 2009 at 10:00 a.m. (or as soon  
15 thereafter as is practicable) in Courtroom 8 of the above-captioned Court ; and

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1           3. Ten (10) days prior to the established status conference date, the parties jointly file a  
2 Joint Case Management Statement. The Statement shall include, among other things, the parties'  
3 position(s) with respect to the next stage of the litigation in light of the Ninth Circuit's remand,  
4 and a proposed schedule to advance the case.

5           IT IS SO STIPULATED.

6  
7 Dated: October 29, 2009

ABELSON | HERRON, LLP  
Michael Bruce Abelson  
Vincent H. Herron  
Leslie A. Pereira

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10  
11 By /s/ Michael Bruce Abelson  
Michael Bruce Abelson  
12 Attorneys for Plaintiffs  
13 Netscape Communications Corporation and  
America Online, Inc.

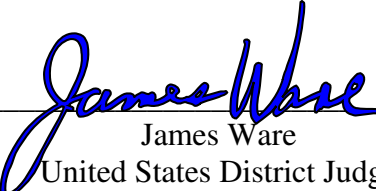
14  
15 Dated: October 29, 2009

GORDON & REES LLP

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18 By /s/ Sara M. Thorpe  
Sara M. Thorpe  
19 Attorneys for Defendant  
St. Paul Mercury Insurance Company

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21 **ORDER**

22 IT IS SO ORDERED this 6 day of November 2009

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26 \_\_\_\_\_  
James Ware  
United States District Judge

1 **PROOF OF SERVICE**

2 **UNITED STATES DISTRICT COURT**  
3 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

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

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

6 I am over the age of 18 and not a party to the within action; I am employed by  
7 Abelson | Herron, LLP in the County of Los Angeles at 333 South Grand Avenue, Suite 1550,  
8 Los Angeles, California, 90071-1559.

9 On October 29, 2009, I served the document below described as:

10 **[PROPOSED] ORDER AND JOINT STIPULATION TO SET STATUS**  
11 **CONFERENCE FOLLOWING REVERSAL AND REMAND BY THE UNITED**  
12 **STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

13 The document was served by the following means:

- 14 **×** **BY ELECTRONIC TRANSMISSION VIA NEF** Pursuant to the Court's General  
15 Order 45.VI.C., I electronically filed the foregoing document through the Court's  
16 CM/ECF system, which sent Notification of Electronic Filing to the persons at the e-mail  
17 addresses listed immediately below.

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and AMERICAN ONLINE, INC.

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Attorneys for Defendant  
ST. PAUL MERCURY INSURANCE  
COMPANY

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

Executed on October 29, 2009 at Los Angeles, California.

/s/ Michael Bruce Abelson  
Michael Bruce Abelson

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***Proof of Service cont.***

× **BY U.S. MAIL** I enclosed the document in a sealed envelope addressed to the person at the address listed below and placed the sealed envelope 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 with postage fully prepaid.

Charles E. Spevacek, Esq. MEAGHER & GEER P.L.L.P 33 South Sixth Street, Suite 4400 Minneapolis, Minnesota 55402-3788	Attorneys for Defendant ST. PAUL MERCURY INSURANCE COMPANY
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I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on October 29, 2009 at Los Angeles, California.

  
\_\_\_\_\_  
Soonja Bin