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7 Attorneys for Defendant  
 8 ST. PAUL MERCURY INSURANCE COMPANY

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

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12	NETSCAPE COMMUNICATIONS CORPORATION, a Delaware corporation;	)	CASE NO. 5:06-CV-00198 JW (PVT)
13	and	)	DECLARATION OF JUDI A. LAMBLE IN
14	AMERICAN ONLINE, INC., a Delaware corporation,	)	SUPPORT OF DEFENDANT ST. PAUL
15		)	MERCURY INSURANCE COMPANY'S
16	Plaintiffs,	)	OPPOSITION TO PLAINTIFFS' MOTION
17	vs.	)	TO COMPEL PRODUCTION OF
18	FEDERAL INSURANCE COMPANY, an Indiana corporation; et al.,	)	DOCUMENTS AND TESTIMONY
19	Defendants.	)	Date: October 17, 2006
		)	Time: 10:00 a.m.
		)	Dept.: Courtroom 5
		)	Complaint Filed: 12/12/05
		)	Amended Complaint: 2/24/06

20 I, Judi Lamble, declare as follows:

21 1. I am Senior Claim Attorney, Technology Claim, employed by Travelers  
 22 Indemnity Company ("Travelers"), an affiliate of St. Paul Mercury Insurance Company  
 23 ("St. Paul"). I am authorized to and do make this declaration in support of St. Paul's  
 24 Opposition to plaintiffs America Online, Inc.'s and Netscape Communications  
 25 Corporation's ("plaintiffs") Motion to Compel Production of Documents and Testimony.

26 2. The facts stated herein are true of my own personal knowledge. If called  
 27 as a witness, I could and would competently testify to the same.

28 3. I have reviewed plaintiffs' discovery requests that are the subject of

1 plaintiffs' Motion to Compel.

2 4. The underlying claim at issue in this coverage litigation was handled by  
3 Travelers' Technology Claim group, which came into existence in the late 1990s. No  
4 depositions have been taken in any coverage action arising out of any claim handled by  
5 that group in which the "making known . . . right of privacy" "personal injury" and  
6 "advertising injury" offense has been at issue over at least the last six years, with one  
7 exception.

8 5. That exception is the deposition of James Zacharski in the suit styled  
9 *Melrose Hotel Co. v. St. Paul Fire and Marine Ins. Co.* In that case, Mr. Zacharski  
10 testified as claim handler and person most knowledgeable for the company, pursuant to  
11 Fed. R. Civ. P. 30(b)(6), on issues of interpretation of the "making known . . . right of  
12 privacy" offense.

13 6. In this action, St. Paul has already produced for deposition Eric Solberg as  
14 a person most knowledgeable about the "making known . . . right of privacy" offense.  
15 Mr. Solberg was involved first-hand in the drafting of the policy language at issue. St.  
16 Paul has also produced for deposition the individuals who principally handled the  
17 underlying claim in this dispute, Dan Weiss and Dale Evensen.

18 7. To the best of my knowledge, it is not the custom and practice of Travelers  
19 to act as a depository for transcripts of deposition and trial testimony provided in  
20 coverage litigation with its insureds. It is not, and has not been for at least the last six  
21 years, the practice of the Technology Claim group to maintain such transcripts.

22 8. Finding such transcripts, if they exist, would be nearly, if not completely,  
23 impossible. The computer system used by Travelers Claim Services organization,  
24 including those who handle claims against St. Paul policies, has no mechanism by  
25 which to retrieve claims based on what advertising injury or personal injury offense may  
26 be at issue in a claim.

27 9. Extrapolating from data for the period 2001-2005, there have been well  
28 over 605,000 claims tendered against St. Paul commercial general liability ("CGL")

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1 policies since the “making known . . . right of privacy” offense was incorporated in the  
2 company’s CGL form. The most refined search available for those claims would  
3 generate a list of claims against CGL policies coded as “bodily injury/other line of  
4 authority” or “property damage.” There is no separate coding for claims involving  
5 “personal injury” or “advertising injury,” much less coding by specific personal injury or  
6 advertising injury offense.

7 10. To identify coverage suits in CGL claims, in which testimony by company  
8 personnel might have been given, would require manual review of payments issued in  
9 all those claims identified by the computer system as “in suit” to determine in which  
10 ones the “suit” was a coverage action, as opposed to the underlying claim.

11 11. To attempt to locate the transcripts requested by plaintiffs, one would have  
12 to identify manually all the CGL claims “in suit” involving coverage litigation over the last  
13 fifteen years, then retrieve from storage the files for those claims. Many of those files  
14 may no longer exist, as the pertinent document retention requirements imposed by  
15 different states for claim and litigation files have varied since 1989 from 2 to 10 or more  
16 years.

17 12. For those files that existed, once retrieved, they would have to be  
18 manually searched for transcripts generated in the coverage litigation. To the extent  
19 transcripts existed, company personnel would have to read each transcript from each  
20 file to determine if they concerned the “making known . . . right of privacy” offense. If  
21 so, personnel would then have to review the transcripts for confidential and/or privileged  
22 information, information deemed confidential and/or privileged either from the  
23 perspective of the insured, such as financial, corporate, personal, or other data, and  
24 from the perspective of St. Paul, such as testimony relating to settlement discussions  
25 and proprietary information.

26 13. In addition, prior to production of the deposition and trial testimony,  
27 company personnel would need to determine if a protective order was entered in the  
28 coverage litigation in which the testimony arose and whether production of the

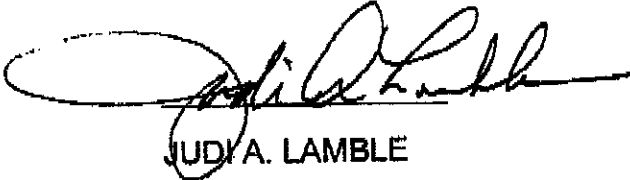
1 testimony would violate the terms of the protective order.

2 14. It is impossible to overstate the magnitude of the task contemplated by  
3 plaintiffs' request for deposition transcripts. Manual identification, retrieval, and review  
4 of claim files to locate responsive transcripts would require the participation of St. Paul  
5 personnel in every location in which tendered claims are handled and would take an  
6 inestimable amount of time.

7 15. I have read plaintiffs' requests for the production of documents. I  
8 personally investigated where to find documents responsive to those requests regarding  
9 drafting history and intent for the 1991 and 1996 St. Paul Technology CGL and standard  
10 CGL forms. I personally reviewed those documents, including reviewing the  
11 Technology underwriting organization's on-line materials. I identified the responsive  
12 documents in those materials and produced all such documents to St. Paul's counsel.

13  
14 I declare under penalty of perjury of the laws of the State of California that the  
15 foregoing is true and correct.

16 Executed this 6<sup>th</sup> day of October, 2006, in Hennepin  
17 County, MN.

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20 JUDI A. LAMBLE

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