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 7 ST. PAUL MERCURY INSURANCE COMPANY

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

11 NETSCAPE COMMUNICATIONS CORPORATION, a Delaware corporation; 12 and 13 AMERICAN ONLINE, INC., a Delaware corporation,  14 Plaintiffs,  15 vs. 16 FEDERAL INSURANCE COMPANY, an Indiana corporation; et al.,  17 Defendants.	) CASE NO. 5:06-CV-00198 JW (PVT) ) ) <b>STIPULATION AND [PROPOSED]</b> ) <b>ORDER WITHDRAWING PLAINTIFFS'</b> ) <b>REPLY BRIEF ON AOL'S MOTION TO</b> ) <b>COMPEL</b>  ) ) Complaint Filed: 12/12/05 ) Amended Complaint: 2/24/06
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18  
 19 COMES NOW the parties, by and through their respective counsel, and stipulate  
 20 as follows:

- 21 1. The parties have met and conferred to resolve discovery disputes,  
 22 including those encompassed in plaintiffs' Motion to Compel filed on September 29,  
 23 2006.
- 24 2. In connection with the agreement reached by the parties, plaintiffs have  
 25 agreed to *withdraw* the Reply to St. Paul's Opposition, Declaration of Leslie A. Pereira,  
 26 and Exhibits thereto, filed on October 12, 2006, because St. Paul contends, among  
 27 other things, those documents contain privileged attorney client communications and

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1 arguments based on those communications.

2 3. The parties therefore request that this Court *withdraw* plaintiffs' Reply to  
3 St. Paul's Opposition filed on October 12, 2006.

4 IT IS SO STIPULATED.

5 Dated: October 24<sup>th</sup>, 2006 GORDON & REES LLP

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7 By: Sara Thorpe  
8 SARA M. THORPE  
9 Attorneys for Defendant ST. PAUL  
10 MERCURY INSURANCE COMPANY

11 Dated: October 24<sup>th</sup>, 2006 ABELSON HERRON LP  
12 By: Michael Bruce Abelson  
13 MICHAEL BRUCE ABELSON  
14 LESLIE A. PEREIRA  
15 Attorneys for Plaintiffs NETSCAPE  
16 COMMUNICATIONS CORPORATION,  
17 AMERICA ONLINE, INC.

18 ORDER

19 This Court having considered the parties' stipulation set forth above, and good  
20 cause appearing,

21 IT IS ORDERED THAT plaintiffs' Reply to St. Paul's Opposition and the  
22 Declaration of Leslie A. Pereira with exhibits thereto, all filed on October 12, 2006, shall  
23 hereby be *withdrawn*. The clerk is instructed to withdraw the Reply brief and  
24 Declaration with its exhibits.

25 Dated: \_\_\_\_\_  
26 JAMES WARE  
27 United States District Judge