Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JOHN HENRY BROWNE and ALAN J. WENOKUR, individually and on behalf of others similarly situated,

JOIN

Plaintiffs,

JOINT STATUS REPORT AND DISCOVERY PLAN

No. CV 07 920 RSL

v.

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AVVO, INC., MARK BRITTON and JOHN DOES 1-25,

Defendants.

Pursuant to the Court's July 3, 2007 Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement, the parties submit the following Joint Status Report, and Discovery Plan.

A. Nature and Complexity of Case

1. Plaintiffs' Position

Plaintiffs John Henry Browne and Alan J. Wenokur bring this putative class action against defendants Avvo, Inc. ("Avvo") and Mark Britton on behalf of a nationwide class of all persons who are licensed to practice law in the United States and who are listed on the Avvo website and given a numerical rating. On behalf of the proposed class, Plaintiffs allege that Avvo's actions violate the Washington Consumer Protection Act, RCW 19.86.010 et seq.

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("Consumer Protection Act"), because those actions constitute unfair and/or deceptive conduct in the conduct of commerce. Mr. Browne also alleges that Avvo's actions violate the Washington Consumer Protection Act.

2. Defendant's Position

Avvo denies all allegations in Plaintiffs' complaint. Avvo asserts that its conduct does not violate the Washington Consumer Protection Act.

B. Statement of Whether ADR Should Be Attempted Before Determining Class Certification

The parties agree that it would not be productive to attempt ADR before a ruling on the defendants' pending Fed. R. Civ. P. 12(c) motion and Plaintiffs' anticipated class certification motion.

C. Proposed Deadline for Joining Additional Parties

The parties propose that additional parties, if any, be joined on or before January 15, 2008.

D. Dispositive Motions

Defendants' motion for judgment on the pleadings is pending. The parties each reserve the right to file a dispositive motion within the next three months.

E. Proposed Deadline for Filing Motion for Class Certification

The parties propose that Plaintiffs' motion for class certification be filed on or before March 15, 2008, and that it be noted before the Court on April 25, 2008. The parties propose that any brief in opposition to the motion be filed on or before April 11, 2008, and any reply brief be filed on or before April 25, 2008. These deadlines are beyond the time period set forth in Local Rule CR 23(f)(3). The parties conferred regarding the extension of the schedule and have agreed that the extension of time beyond the one hundred eight days after the filing of the complaint is warranted here because of the pendency of the defendants' motion, the interest of

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the parties in obtaining discovery prior to briefing class certification issues and the schedules of the lawyers.

F. Proposed Discovery Plan

- 1. The parties held a conference pursuant to Fed. R. Civ. P. 26(f) on September 7, 2007. The parties have also conferred on other occasions since the case was filed regarding the topics identified for discussion in Fed. R. Civ. P. 26. Those discussions are ongoing.
- 2. The parties exchanged initial disclosures pursuant to Fed. R. Civ. P. 26(a) on September 14, 2007.
- 3. The parties have discussed electronic discovery as required by Fed. R. Civ. P. 26(f)(3). Discussions as to the form or forms in which the discovery shall be produced are ongoing. Both parties have represented that they have taken appropriate steps to preserve potentially relevant electronic data and other evidence.
- 4. The parties have discussed issues related to claims of privilege as required by Fed. R. Civ. P. 26(f)(4). No such issues were identified. The parties agree to follow the procedures outlined in Fed. R. Civ. P. 26(b)(5) should any issues related to claims of privilege arise.
- 5. The parties have discussed changes that should be made in the limitations on discovery imposed under the Federal Rules and have no modifications to propose at this time. The parties reserve their rights to propose changes at a later time, subject to Court approval.

G. Discovery Related to Class Certification

The parties have discussed whether discovery should be bifurcated into class certification discovery and discovery on the merits of plaintiffs' claims. Plaintiffs do not favor bifurcating discovery. Defendant favors bifurcating discovery. Counsel have discussed the parties' respective positions. They cannot agree. Therefore, the parties will seek court intervention

Whether or not discovery is bifurcated, if discovery responses are provided timely and no significant discovery disputes arise, the parties anticipate that discovery necessary for class

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1	certification can be completed by March 15, 2008 and that all discovery can be completed by			
2	November 15, 2008.			
3	н.	Magistrate Judge		
4		The parties do not agree to referral of the case to a Magistrate Judge.		
5	I.	Other Suggestions for Shortening or Simplifying the Case		
6		At this time, the parties have no other suggestions for shortening or simplifying the case.		
7	J.	J. Trial Dates		
8		The parties have conferred and agree that if a class is not certified, the case will be ready		
9	for trial by December 2008. The parties agree if a class is certified, the case should be ready for			
10	trial by June 2009.			
11	K.	Jury Versus Non-Jury		
12		Plaintiffs have not made a jury demand.		
13	L.	Length of Trial		
14		The parties anticipate if a class is not certified, the trial of this case will take 3 trial days.		
15	Depending on what claims remain at the time of trial, the parties anticipate that if a class is			
16	certified, 10 trial days will be required.			
17	М.	Trial Counsel		
18		A. For Plaintiffs:		
19		Steve W. Berman, WSBA # 12536		
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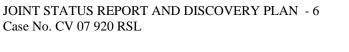
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1	B. For Defendant:	
2	Bruce E. H. Johnson, W.S Stephen M. Rummage, V	
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4	Davis Wright Tremaine I 1201 Third Avenue; Suit	
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6	Facsimile: (206) 757-70	69
7	DATED: September 21, 2007.	
8		HAGENS BERMAN SOBOL SHAPIRO LLP
9		
10		By /s/ Steve W. Berman
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25		ambikadoran@dwt.com
26		Attorneys for Defendants Avvo, Inc. and Mark Britton

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1	CERTIFICATE OF SERVICE		
2	I hereby certify that on September 21, 2007, I electronically filed the foregoing with the		
3	Clerk of the Court using the CM/ECF system which will send notification of such filing to the		
4	following:		
5	Bruce E.H. Johnson – brucejohnson@dwt.com		
6	Stephen M. Rummage – steverummage@dwt.com		
7	DATED: September 21, 2007		
8	HAGENS BERMAN SOBOL SHAPIRO LLP		
9			
10	By/s/ Steve W. Berman		
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15	<u>steve@hbsslaw.com</u> <u>jeniphr@hbsslaw.com</u>		
16	Attorneys for Plaintiffs		
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