

Honorable Robert S. Lasnik

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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,

Plaintiffs,

v.

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

Defendants.

No. CV 07 920 RSL

JOINT STATUS REPORT AND  
DISCOVERY PLAN

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.

JOINT STATUS REPORT AND DISCOVERY PLAN - 1  
Case No. CV 07 920 RSL



HAGENS BERMAN  
SOBOL SHAPIRO LLP

1301 FIFTH AVENUE, SUITE 2900 • SEATTLE, WA 98101  
TELEPHONE (206) 623-7292 • FACSIMILE (206) 623-0594

1 (“Consumer Protection Act”), because those actions constitute unfair and/or deceptive conduct in  
2 the conduct of commerce. Mr. Browne also alleges that Avvo’s actions violate the Washington  
3 Consumer Protection Act.

4 **2. Defendant’s Position**

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

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

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

12 **C. Proposed Deadline for Joining Additional Parties**

13 The parties propose that additional parties, if any, be joined on or before January 15,  
14 2008.

15 **D. Dispositive Motions**

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

18 **E. Proposed Deadline for Filing Motion for Class Certification**

19 The parties propose that Plaintiffs’ motion for class certification be filed on or before  
20 March 15, 2008, and that it be noted before the Court on April 25, 2008. The parties propose  
21 that any brief in opposition to the motion be filed on or before April 11, 2008, and any reply  
22 brief be filed on or before April 25, 2008. These deadlines are beyond the time period set forth  
23 in Local Rule CR 23(f)(3). The parties conferred regarding the extension of the schedule and  
24 have agreed that the extension of time beyond the one hundred eight days after the filing of the  
25 complaint is warranted here because of the pendency of the defendants’ motion, the interest of  
26



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

3 **F. Proposed Discovery Plan**

4 1. The parties held a conference pursuant to Fed. R. Civ. P. 26(f) on September 7,  
5 2007. The parties have also conferred on other occasions since the case was filed regarding the  
6 topics identified for discussion in Fed. R. Civ. P. 26. Those discussions are ongoing.

7 2. The parties exchanged initial disclosures pursuant to Fed. R. Civ. P. 26(a) on  
8 September 14, 2007.

9 3. The parties have discussed electronic discovery as required by Fed. R. Civ. P.  
10 26(f)(3). Discussions as to the form or forms in which the discovery shall be produced are  
11 ongoing. Both parties have represented that they have taken appropriate steps to preserve  
12 potentially relevant electronic data and other evidence.

13 4. The parties have discussed issues related to claims of privilege as required by Fed.  
14 R. Civ. P. 26(f)(4). No such issues were identified. The parties agree to follow the procedures  
15 outlined in Fed. R. Civ. P. 26(b)(5) should any issues related to claims of privilege arise.

16 5. The parties have discussed changes that should be made in the limitations on  
17 discovery imposed under the Federal Rules and have no modifications to propose at this time.  
18 The parties reserve their rights to propose changes at a later time, subject to Court approval.

19 **G. Discovery Related to Class Certification**

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

24 Whether or not discovery is bifurcated, if discovery responses are provided timely and no  
25 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 **H. 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. 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 **M. Trial Counsel**

18 A. *For Plaintiffs:*

19 Steve W. Berman, WSBA # 12536  
20 Jeniphr Breckenridge, WSBA #21410  
21 Hagens Berman Sobol Shapiro LLP  
22 1301 Fifth Avenue, Suite 2900  
23 Seattle, WA 98101  
24 Telephone: (206) 623-7292  
25 Facsimile: (206) 623-0594  
26

1 B. *For Defendant:*

2 Bruce E. H. Johnson, WSBA # 7667  
3 Stephen M. Rummage, WSBA # 11168  
4 Ambika K. Doran, WSBA # 38237  
5 Davis Wright Tremaine LLP  
6 1201 Third Avenue; Suite 2200  
7 Seattle, WA 98101  
8 Telephone: (206) 757-8069  
9 Facsimile: (206) 757-7069

10 DATED: September 21, 2007.

11 HAGENS BERMAN SOBOL SHAPIRO LLP

12 By /s/ Steve W. Berman

13 Steve W. Berman, WSBA # 12536  
14 Jeniphr Breckenridge, WSBA #21410  
15 1301 Fifth Avenue, Suite 2900  
16 Seattle, Washington 98101  
17 Telephone: (206) 623-7292  
18 Facsimile: (206) 623-0594  
19 steve@hbsslaw.com  
20 jeniphr@hbsslaw.com

21 Attorneys for Plaintiffs

22 DAVIS WRIGHT TREMAINE LLP

23 By /s/ Bruce E. H. Johnson

24 Bruce E. H. Johnson, WSBA # 7667  
25 Stephen M. Rummage, WSBA # 11168  
26 Ambika K. Doran, WSBA # 38237  
1201 Third Avenue, Suite 2200  
Seattle, Washington 98101-3045  
Telephone: (206) 757-8069  
Fax: (206) 757-7069  
brucejohnson@dwt.com  
steverummage@dwt.com  
ambikadoran@dwt.com

Attorneys for Defendants Avvo, Inc. and  
Mark Britton



**CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Bruce E.H. Johnson – brucejohnson@dwt.com

Stephen M. Rummage – steverummage@dwt.com

DATED: September 21, 2007

HAGENS BERMAN SOBOL SHAPIRO LLP

By           /s/ Steve W. Berman          

Steve W. Berman, WSBA #12536  
Jeniphr A.E. Breckenridge, WSBA #21410  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594  
[steve@hbsslaw.com](mailto:steve@hbsslaw.com)  
[jeniphr@hbsslaw.com](mailto:jeniphr@hbsslaw.com)

Attorneys for Plaintiffs