# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

ADVANCEME, INC.,	§	
	§	
Plaintiff,	§	
	§	
<b>v.</b>	§	
	§	
RAPIDPAY LLC, BUSINESS CAPITAL	§	CASE NO. 6:05-CV-424 LED
CORPORATION, FIRST FUNDS, LLC,	§	
MERCHANT MONEY TREE, INC.,	§	
REACH FINANCIAL, LLC, and FAST	§	
TRANSACT, INC. d/b/a SIMPLE CASH,	§	
	§	
Defendants.	§	

#### JOINT MOTION TO AMEND DOCKET CONTROL ORDER

### TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Plaintiff ADVANCEME, INC. (hereinafter "Plaintiff" or "AdvanceMe") and Defendants FIRST FUNDS, LLC, MERCHANT MONEY TREE, INC. and REACH FINANCIAL, LLC (hereinafter collectively referred to herein as "Defendants") herein make this their Motion to amend the Amended Docket Control Order entered by this Court on June 2, 2006.

CURRENT	REQUESTED	ACTION
DEADLINE	DEADLINE	
January 8, 2007	January 29, 2007	All Parties designate Expert Witnesses (non-
		construction issues); Expert witness reports due; Refer
		to local rules for required information
January 18, 2007	February 8, 2007	Parties May Designate Rebuttal Expert Witnesses (non-
		construction issues). Rebuttal Expert witness reports
		due. Refer to Local Rules for required information.
February 15, 2007	March 5, 2007	Discovery deadline.

This extension is requested not for purposes of delay, but to allow Plaintiff's and Defendants' experts adequate time and opportunity to review the damages information, form

their opinions, and prepare their reports. The parties intend to file a Joint Motion for Continuance and should the Court grant the Continuance, an agreed amended scheduling order will be filed for approval by the Court. However, some of the deadlines will expire next week and the parties need an extension of time to provide expert reports and complete discovery.

Dated: January 4, 2007 Respectfully submitted,

By: /s/ Douglas R. McSwane, Jr.

Willem G. Schuurman Texas State Bar No. 17855200 Joseph D. Gray Texas State Bar No. 24045970 VINSON & ELKINS L.L.P.

2801 Via Fortuna, Suite 100

Austin, Texas 78746 Phone: (512) 542-8400 – Fax: (512) 236-3476

E-mail: <u>bschuurman@velaw.com</u> JGray@velaw.com

-and-

Douglas R. McSwane, Jr. Texas State Bar No. 13861300 **POTTER MINTON, P.C.** 110 North College 500 Plaza Tower Tyler, Texas 75702

Phone: (903) 597-8311 Fax: (903) 593-0846

ATTORNEYS FOR DEFENDANTS MERCHANT MONEY TREE, INC. FIRST FUNDS, LLC REACH FINANCIAL, LLC By: /s/ Deborah Race\_

Otis W Carroll, Jr

Texas State Bar No. 03895700

Deborah Race

Texas State Bar No. 16448700

IRELAND CARROLL & KELLEY, PC

6101 S Broadway

Suite 500

Tyler, TX 75703

903-561-1600

E-Mail: drace@icklaw.com

## Of Counsel:

Ronald S. Lemieux

PAUL HASTINGS JANOFSKY & WALKER LLP

Five Palo Alto Square

Sixth Floor

Palo Alto, CA 94306-2155

650/320-1821

Fax: 650/320-1900

Email: ronaldlemieux@paulhastings.com

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this  $4^{th}$  day of January, 2007.

/s/ Douglas R. McSwane, Jr.

Douglas R. McSwane, Jr.