

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

ADVANCEME, INC.

Plaintiff,

VS.

RAPIDPAY, LLC, BUSINESS CAPITAL
CORPORATION, FIRST FUNDS LLC,
MERCHANT MONEY TREE, INC.,
REACH FINANCIAL, LLC and
FAST TRANSMAT, INC. d/b/a
SIMPLE CASH

Defendants.

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CAUSE NO. 6:05-CV-424 LED

ADVANCEME, INC.,

Plaintiff,

v.

AMERIMERCHANT, LLC,

Defendant.

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CAUSE NO. 6:06-CV-0082 LED

JURY TRIAL DEMANDED

**ORDER GRANTING DEFENDANTS' STATEMENT OF OBJECTIONS TO AND
MOTION FOR MODIFICATION OF MAGISTRATE JUDGE LOVE'S
MARKMAN MEMORANDUM OPINION AND ORDER**

On this day, the Court considered Defendants' Statement of Objections to and Motion for Modification of Magistrate Judge Love's December 21, 2006 *Markman* Memorandum Opinion and Order. After careful consideration, the Court finds Defendants' objections to be meritorious. Accordingly, Defendants' objections shall be, and are hereby, **GRANTED**.

It is, therefore, **ORDERED** that the *Markman* Memorandum Opinion and Order is modified in the following ways:

1. “Obligation” shall be construed as: “an amount owed by the merchant that is independent of any particular purchase and outside of any of the fees and/or costs normally imposed on the merchant for a typical processing transaction.”
2. “Third Party” shall be construed as: “party other than the merchant.”
3. The Court finds that no structure is disclosed for the claimed functions of “forwarding a portion of the payment to the third party” (Claim 10), “forwarding at least a portion of the accumulated payments to the third party” (Claim 17), “periodically forwarding at least a portion of the payment to the third party” (Claim 18), or “forwarding to the third party an amount that is a percentage of the obligation” (Claim 19).