

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

ADVANCEME, INC.

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Plaintiff,

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v.

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CAUSE NO. 6:05-CV-424 (LED)

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

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Defendants.

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ADVANCEME, INC.,

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Plaintiff,

§

CAUSE NO. 6:06-CV-082 (LED)

v.

§

AMERIMERCHANT, LLC,

§

§

Defendant.

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Declaration of Joseph D. Gray in Support of Defendants' Motion to Compel

I, Joseph D. Gray, hereby declare:

1. I am over the age of 18 and capable of testifying to the facts set forth herein.
2. I am a licensed attorney in the State of Texas.
3. Vinson & Elkins L.L.P. is counsel of record for Defendants First Funds, LLC, Merchant Money Tree, Inc., Reach Financial, LLC, and AmeriMerchant, LLC (“Defendants”) in the above-styled actions. I am an associate in the Austin, Texas office of Vinson & Elkins L.L.P. and serve as counsel for Defendants.

4. I aver to the matters set forth herein based upon personal knowledge and information.
5. I respectfully submit this Declaration in support of Defendants' Motion to Compel.
6. Attached as Exhibit A to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a July 5, 2006 letter from Joseph Gray to Ronald Lemieux.
7. Attached as Exhibit B to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an August 25, 2006 letter from Hilary Preston to Robert Matz.
8. Attached as Exhibit C to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an August 31, 2006 letter from Robert Matz to Hilary Preston.
9. Attached as Exhibit D to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a September 5, 2006 letter from Hilary Preston to Robert Matz.
10. Attached as Exhibit E to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a September 30, 2006 letter from Robert Matz to Willem Schuurman, Joseph Gray and Hilary Preston.
11. Attached as Exhibit F to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an October 9, 2006 letter from Joseph Gray to Ronald Lemieux.

12. Attached as Exhibit G to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an October 10, 2006 letter from Michael Edelman to Joseph Gray.
13. Attached as Exhibit H to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of Defendants' Amended First Set of Interrogatories to Plaintiff AdvanceMe, Inc.
14. Attached as Exhibit I to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 1, 2006 e-mail from Christina Henderson to Defendants' counsel.
15. Attached as Exhibit J to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of Plaintiff AdvanceMe, Inc.'s Objections and Response to Defendants' Amended First Set of Interrogatories to Plaintiff AdvanceMe, Inc.
16. Attached as Exhibit K to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of Defendants' Second Amended Invalidity Contentions (excluding Exhibits 2, 4 and 5).
17. Attached as Exhibit L to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of the Notice of Deposition of AdvanceMe, Inc.
18. Attached as Exhibit M to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an October 31, 2006 letter from Joseph Gray to Michael Edelman.
19. Attached as Exhibit N to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of AdvanceMe, Inc.'s Privilege Log provided on September 30, 2006.

20. Attached as Exhibit O to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an October 4, 2006 letter from Robert Matz to Hilary Preston,
21. Attached as Exhibit P to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 7, 2006 letter from Michael Edelman to Joseph Gray.
22. Attached as Exhibit Q to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 3, 2006 letter from Joseph Gray to Michael Edelman regarding document production.
23. Attached as Exhibit R to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 3, 2006 letter from Joseph Gray to Michael Edelman regarding interrogatory responses.
24. Attached as Exhibit S to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 10, 2006 letter from Robert Matz to Joseph Gray.
25. Attached as Exhibit T to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of a November 10, 2006 e-mail from Joseph Gray to Robert Matz and Michael Edelman
26. Attached as Exhibit U to Defendants' Motion to Compel filed November 13, 2006 is a true and correct copy of an October 30, 2006 letter from Hilary Preston to Michael Edelman.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and information.

SIGNED the 14th day of November, 2006.

/s/ Joseph Gray

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*Counsel for Defendants First Funds LLC,
Merchant Money Tree, Inc., Reach
Financial, LLC, and AmeriMerchant, LLC*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service and are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 14th day of November, 2006. Any other counsel of record will be served by first class mail on this same date.

/s/ Joseph Gray
Joseph Gray

Austin 765122v.1