

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 20 2006

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

James S. Gordon III, Third-Party

Defendant

Case No.: CV-04-5125-FVS

MOTION TO COMPEL AND FOR  
SANCTIONS & DECLARATION  
RE: DISCOVERY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

## Introduction

1  
2 I am neither Solomon nor an attorney nor a judge. I do not know the  
3 proper procedure for overcoming the impasse in terms of conferring  
4 with Impulse regarding this case as Mr. Ivey informs us that he will not  
5 contact my father, the Plaintiff, in this matter. On the one hand, Mr.  
6 Ivey had an exchange with my mother, Bonnie Gordon, via email and  
7 phone regarding discovery. And, on the other hand, those  
8 "communications" did not alter the outcome of the process, i.e. Impulse  
9 still failed to produce answers to the questions asked or produce  
10 documents that should have accompanied the discovery request.

11  
12 In light of my recently filed answer and counterclaims against Impulse,  
13 all requests Impulse deemed irrelevant are unequivocally relevant and  
14 demand full disclosure under FRCP 37 (a)(2) (3).

15  
16 It is, at best, disingenuous for Impulse to 1) complain that it is not  
17 receiving adequate discovery by Plaintiff who has provided two detailed  
18 WORD (1,989 pages) documents (now Bates stamped) with annotations  
19 denoting errors and omissions to Impulse – I know this process well  
20 because I helped him for months to do the analyses of thousands of  
21 emails 2) invoke a rule regarding conferring with opponent before filing  
22 and then refuse to comply with discovery in any meaningful way – an  
23 attempt to have it both ways – benefiting from an impasse Impulse is a  
24 party to creating 3) threaten sanctions from 3<sup>rd</sup> parties for failing to  
25 obey a rule, which Impulse thwarts by denying me required inputs to  
my self-defense. 4) allege that I along with other 3<sup>rd</sup> parties are

1 propounding questions and production requests as if for my father.  
2 However, I have considered filing a counter suit against Impulse since  
3 its initial false claims against me roughly six months ago. And with my  
4 answer and counterclaims, it appears that my claims mirror those of my  
5 father in many or most ways. Thus my discovery requests are legitimate  
6 and require full disclosure and compliance with applicable rules 5)  
7 squander close to 120 days since the status conference in the Fall of  
8 2005 – requested ostensibly to conduct discovery – with no discovery  
9 propounded by Impulse to 3<sup>rd</sup> parties. The notion that Impulse’s reason  
10 for not propounding discovery during this period of time was due to any  
11 concern for 3<sup>rd</sup> party defendants is ludicrous in light of mean-spirited  
12 direct and indirect attacks on 3<sup>rd</sup> parties.

13 Third Party Defendant moves the Court for Sanctions and to Compel  
14 Third Party Plaintiff’s Responses to Third Party Defendant’s  
15 Interrogatories and Request for Production of Documents. These  
16 documents were placed in US Mail on or about January 23, 2006. I am  
17 the only 3<sup>rd</sup> party defendant to my knowledge who did not automatically  
18 extend a two week deadline for receipt of discovery. That fact did not  
19 change Impulse’s output as it is virtually identical to other 3<sup>rd</sup> parties in  
20 terms of being evasive, incomplete, and non-responsive (including the  
21 untitled, undated, and “author-less” spreadsheet, which is useless).  
22 With the additional time, Impulse still failed to meet its burden under  
23 FRCP 37 (a)(2) (3)(4). Impulse has also failed to make the required Rule  
24 26 disclosures to the undersigned.  
25