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DOUGLAS E. MCKINLEY, JR.
Attorney At Law
P.O. Box 202
Richland, Washington 99352
Phone 628-0809 Fax (509) 628-2307

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

JAMES S. GORDON, JR,
an individual residing in
Benton County, Washington.

Plaintiff,

vs.

IMPULSE MARKETING GROUP,
INC.,
a Nevada Corporation

Defendant.

NO. CV-04-5125-FVS

Declaration of Douglas E.
McKinley, Jr. Request for Relief
Responsive to the Court's Order
of March 25, 2005

Jury Trial Demanded

Douglas E. McKinley, Jr. declares as follows:

- 1) I am the attorney of record for the plaintiff in the above captioned lawsuit.

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- 2) On or about February 22, 2005, I participated in a telephone conversation with Floyd Ivey, Plaintiff's Counsel, and the District Court Administrator concerning the specifics of the Defendant's now pending motion to dismiss.
- 3) During that conversation, I told Mr. Ivey that I would prefer to argue my client's position in person, but that I didn't care if he argued his motion over the telephone.
- 4) At the conclusion of that conversation, I wrote a letter reiterating my preference and faxed it to Mr. Ivey. A copy of that letter is attached herewith.
- 5) Four days later, on February 26, 2005, Mr. Ivey noted his motion for a telephonic hearing. Mr. Ivey made no provision for my appearance in person.
- 6) On or about March 24, 2005, I contacted the Court to inquire about the motion, and was told that the Court would not allow one party to appear in person if the other party was appearing telephonically.

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7) Until this conversation took place on March 24, 2005, I was not aware of the Court's policy of not allowing a party to appear in person if another other party was appearing telephonically.

8) I still would prefer to appear in person, and have no objection to Plaintiff's counsel appearing telephonically while I do so. At the same time, I do not want to reschedule the motion. Therefore, I would make the following request: If the Court is willing to allow me to appear in person and argue the motion on March 31, 2005, I am happy to drive to Spokane and do so, and have no objection to Plaintiff's counsel arguing their position over the telephone. I assume the Court has a speaker phone or similar equipment that will accommodate this arrangement. If the Court is only willing to allow me to argue the motion in person if Plaintiff's counsel is also there in person, *and the Court is willing to Order Plaintiff's counsel to appear in Court on March 31, 2005*, I will also be happy to drive to Spokane to argue the motion. However, if the Court is only willing to allow me to argue the motion in person if Plaintiff's counsel in also there in person, and the Court is not willing to Order Plaintiff's counsel to

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be there on March 31, 2005 and instead wants to reschedule the motion, I waive my request to appear in person, and instead request that the Court simply have all parties argue the motion telephonically on March 31, 2005.

DATED this 28th day of March, 2005

S/ DOUGLAS E. MCKINLEY, JR.
WSBA# 20806
Attorney for Plaintiff
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Fax (509) 628-2307
Email: doug@mckinleylaw.com

Certificate of Service

I hereby certify that on March 28, 2005, 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: Floyd Ivey, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: David O. Klein, Peter J. Glantz, Sean A. Moynihan.

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February 22, 2005

Floyd Ivey
PO Box 6125
Kennewick, WA 99336-0125

VIA FAX ONLY 735-3585

Re: Gordon v. IMG, Inc., United States District Court, Eastern District of Washington
Cause No. CV-04-5125-FVS

Dear Floyd:

Further to our conversation with the Court Clerk earlier today concerning re-noting your motion to dismiss for March 31, 2005 at 10:30 am, please do not note my presence telephonically. I have no objection to your appearance by telephone, however, I would prefer to appear in person.

Sincerely,

Douglas E. McKinley

cc: JGordon