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18 **UNITED STATES DISTRICT COURT FOR THE**
 19 **EASTERN DISTRICT OF WASHINGTON**

20 JAMES S. GORDON, JR.,

21 Plaintiff,

22 vs.

23 IMPULSE MARKETING GROUP,
 24 INC.,

25 Defendant

No. CV-04-5125-FVS

DEFENDANT AND THIRD PARTY
 PLAINTIFF'S REPLY AND
 OBJECTION TO THIRD PARTY
 DEFENDANTS' SCHEDULING OF
 MOTION FOR TEMPORARY
 INJUNCTION ON SHORTENED
 TIME

26 IMPULSE MARKETING GROUP,
 27 INC.,

28 Third-Party Plaintiff,

vs.

BONNIE GORDON, et al.,

Third-Party Defendants.

DEFENDANT AND THIRD PARTY PLAINTIFF'S REPLY AND OBJECTION
 TO THIRD PARTY DEFENDANTS' SETTING OF HEARING FOR
 TEMPORARY INJUNCTION ON SHORTENED TIME

1 Third Party Defendants have filed and noted for hearing Motions for
2 Temporary Injunction. The Motions have been filed and noted for hearing as follows:
3

- 4
- 5 1. Emily H. Abbey, filed March 28, 2006 for hearing March 29, 2006;
- 6
- 7 2. Bonnie Gordon, filed March 27, 2006 for hearing March 27, 2006;
- 8
- 9 3. James Gordon III, filed March 27, 2006 with hearing date uncertain.
- 10
- 11 4. Jamila Gordon, filed March 27, 2006 for hearing March 27, 2006;
- 12
- 13 5. Jonathan Gordon, filed March 27, 2006 for hearing March 27, 2006.

14 INTRODUCTION

15 This case was filed by Plaintiff in 2004. Third Party Defendants were joined
16 in 2005. The court has recently denied Third Party Defendants' Motions to Dismiss.
17 The Third Party Defendants, indicated above, have now filed Motions for Temporary
18 Injunction.

19 Fed. R. Civ. P. 65(b) provides for the granting of a temporary restraining
20 order, without oral notice to the adverse party or that party's attorney only if (1) it
21 clearly appears from specific facts shown by affidavit or by the verified complaint
22 that immediate and irreparable injury, loss, or damage will result to the applicant
23 before the adverse party or that party's attorney can be heard in opposition, and (2)
24 the applicant's attorney certifies to the court in writing the efforts, if any, which have
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1 been made to give the notice and the reasons supporting the claim that notice should
2 not be required.
3

4 The Third Party Defendants' have noted Motions for hearing on the same day
5 as the date of noting of the Motions for Temporary Injunctions. This Motion practice
6 is essentially without notice to the opposing party.
7

8 Declarations have been filed by Third Party Defendant Emily H. Abbey,
9 Bonnie Gordon, James Gordon III, Jamila Gordon and Jonathan Gordon. The
10 Declarations appear identical with the exception of reciting email received by each
11 individual Third Party Defendant.
12

13 The Declarations are wholly without substance relative to the requirements of
14 supporting a request for a Temporary Injunction as required by Fed. R. Civ. P. 65(b).
15 None of the Declarations assert elements required by FRCP 65(b) namely "specific
16 facts...[showing]...that immediate and irreparable injury, loss, or damage will result
17 to the applicant before the adverse party or that party's attorney can be heard in
18 opposition, and (2) the applicant's attorney certifies to the court in writing the efforts,
19 if any, which have been made to give the notice and the reasons supporting the claim
20 that notice should not be required. "
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25 The Declarations are replete with statements not meeting evidentiary standards.
26 With the exception of these filings and notice to Defendant and Third Party Plaintiff
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1 being received by ECF, there has been no other attempted communication with
2 counsel for the Defendant.
3

4 Defendant and Third Party Plaintiff hereby Object to the shortened notice and
5 the failure of Third Party Defendants to meet the requirements of Fed. R. Civ. P.
6 65(b) and hereby request the Court to either strike the Third Party Defendant's
7 hearing scheduling or to set these Motions for hearing in accord with the
8 requirements of LR 7.1.
9
10

11 DATED this 30th day of March, 2006.

12
13 LIEBLER, IVEY, CONNOR, BERRY & ST. HILAIRE
14

15 By s/ FLOYD E. IVEY

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I hereby certify that on March 30, 2006, I electronically filed DEFENDANT AND THIRD PARTY PLAINTIFF'S REPLY AND OBJECTION TO THIRD PARTY DEFENDANTS' SCHEDULING OF MOTIONS FOR TEMPORARY INJUNCTION ON SHORTENED TIME with the Clerk of the Court using the CM/ECF System which will send notification of such filing to Robert Siegel, Peter J. Glantz and Sean A. Moynihan. I hereby certify that I have served the foregoing to the following non-CM/ECF participants by other means: Bonnie Gordon, Jonathan Gordon, James S. Gordon, III, Robert Pritchett, Jamila Gordon and Emily Abbey.

S/ FLOYD E. IVEY
FLOYD E. IVEY