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7
 8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE EASTERN DISTRICT OF WASHINGTON**

10 **JAMES S. GORDON, JR.,**

NO. CV-04-5125-FVS

11 **Plaintiff,**

OBJECTION TO MOTION

12 v.

13
 14 **IMPULSE MARKETING**
 15 **GROUP, INC., ET AL.**

[WITHOUT ORAL
 ARGUMENT]

[HEARING: FEB. 5, 2007]

16 **Defendants**

17 TO: Clerk of the Court

18
 19 AND TO: Floyd E. Ivey, Sean Moynihan, Attorneys for Defendants.

20 Objection is made to Defendant Philip Huston's Motion to Dismiss, dated
 21 and served on Plaintiff January 2, 2007, on the ground that the motion is premature
 22 and substantially duplicative of Defendants' Motion to Dismiss Plaintiff's First
 23 Amended Complaint. Currently pending before the Court are the Plaintiff's
 24 motion for leave of the Court to file the Plaintiff's Second Amended Complaint
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1 and Defendant Impulse Marketing Group Inc.'s (IMG) Motion to Dismiss
2 Plaintiff's First Amended Complaint. Defendant Philip Huston's Motion to
3 Dismiss is premature because until the Court decides the Plaintiff's motion for
4 leave, it is unclear which complaint is operative in the case. Forcing the Court and
5 the Plaintiff to respond to a motion to dismiss a complaint that will likely be
6 inoperative by virtue of a pending motion is a waste of judicial resources.
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8 Defendant Philip Huston's Motion to Dismiss is also duplicative because it simply
9 re-alleges the basis for dismissal set forth in the Defendant Impulse Marketing
10 Group Inc.'s (IMG) Motion to Dismiss Plaintiff's First Amended Complaint.
11 Forcing the Court and the Plaintiff to respond to a motion that is substantially
12 duplicative of a pending motion is also a waste of judicial resources.
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16 For the forgoing reasons, the Plaintiff respectfully requests that the
17 Defendant voluntarily rescind its motion until such time as the Court has ruled on
18 the Plaintiff's motion for leave to file the Plaintiff's Second Amended Complaint
19 and Defendant Impulse Marketing Group Inc.'s (IMG) Motion to Dismiss
20 Plaintiff's First Amended Complaint. Absent such voluntary rescission, the
21 Plaintiff reserves the right to move the Court for sanctions under Fed. R. Civ. Pro.
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1 Dated: January 3, 2007

2 MERKLE, SIEGEL, & FRIEDRICHSEN

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5 BY: /S/ ROBERT J. SIEGEL
6 ROBERT J. SIEGEL, WSBA #17312
7 Attorney for Plaintiff

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10 **Certificate of Service**

11 I, hereby, certify that on January 3, 2007, we filed this pleading with
12 this Court. The Clerk of the Court will provide electronic notification
13 system using the CM/ECF, which will send an electronic copy of this
14 Notice to: Floyd E. Ivey, Sean Moynihan.
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18 /S/ Robert J. Siegel
19 Robert J. Siegel, WSBA #17312
20 Attorneys for Plaintiffs