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24 **UNITED STATES DISTRICT COURT FOR THE**
 25 **EASTERN DISTRICT OF WASHINGTON**

26 JAMES S. GORDON, JR.,

27 Plaintiff,

28 vs.

IMPULSE MARKETING GROUP,
 INC.,

Defendant

IMPULSE MARKETING GROUP,
 INC.,

Third-Party Plaintiff,

vs.

BONNIE GORDON, et al.,

Third-Party Defendants.

No. CV-04-5125-FVS

DEFENDANT HUSTON'S
 RESPONSE TO PLAINTIFF'S
 MOTION FOR RELIEF FROM
 DEADLINE

Motion Noted without Oral Argument
 for January 8, 2007 at 6:30 p.m.

WITHOUT ORAL ARGUMENT

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Defendant Huston has moved for dismissal. Plaintiff has Objected and seeks Relief from the Deadline for Response to the Motion to Dismiss Huston. Plaintiff contends that the Motion to Dismiss is not timely filed until such time that the Court has decided pending Defendant's Motion to Dismiss Plaintiff's First Amended Complaint and Plaintiff's Motion to Amend to a Second Amended Complaint.

Mr. Huston's motion is not premature. Plaintiff's office served the First Amended Complaint upon Mr. Huston on or about November 2 ,2006, which is approximately two (2) months after Plaintiff's unauthorized filing of a Second Amended Complaint. Pursuant to the mandates of the Federal Rules of Civil Procedure, and consistent with the dates set forth in Plaintiff's Amended Summons, Defendant has responded timely to Plaintiff's First Amended Complaint. Had Defendant Huston not filed his timely response Plaintiff may well have moved for default.

Mr. Huston's Motion to Dismiss is not "duplicative" of any other matter. As a party to the action, Mr. Huston is required to interpose his own response. Of course it is similar to Responses of other Defendants' in that the response is to the same pleading.

1 Defendant Huston requests the Court to Deny Plaintiff's Motion for Relief
2 from the Deadline of responding to the Motion to Dismiss Huston and to retain the
3 said Motion to Dismiss for hearing on February 5, 2007.
4

5 DATED this 8th day of January, 2007.

6 S/FLOYD E. IVEY

7
8 _____
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10 St. Hilaire
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16 Impulse Marketing Group, Inc.

17 S/FLOYD E. IVEY for SEAN MOYNIHAN

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26 I hereby certify that on January 8, 2007, I electronically filed DEFENDANT
27 HUSTON'S RESPONSE TO PLAINTIFF'S MOTION FOR RELIEF FROM
28 DEADLINE with the Clerk of the Court using the CM/ECF System which will
send notification of such filing to Robert J. Siegel, Stacy Woolery 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, Emily Abbey and Jamila Gordon.

29 S/ FLOYD E. IVEY

30 FLOYD E. IVEY