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Hon. Fred Van Sickle

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 14 *Group, Inc., Jeffrey Goldstein and Kenneth Adamson*

15 **IN THE UNITED STATES DISTRICT COURT**
 16 **FOR THE EASTERN DISTRICT OF WASHINGTON**
 17 **AT RICHLAND**

18 James S. Gordon, Jr.,
 19 Plaintiff,
 20 v.
 21 Impulse Marketing Group, Inc.,
 22 Jeffrey Goldstein, Phillip Huston,
 23 and Kenneth Adamson,
 24 Defendants.

Case No.: CV-04-5125-FVS

DECLARATION OF
 STACY K. WOLERY, ESQ. IN
 SUPPORT OF DEFENDANTS'
 MOTION FOR SANCTIONS

25 Impulse Marketing Group, Inc.,
 26 Third-Party Plaintiff,
 27 v.
 28 Bonnie F. Gordon, Jamila Gordon,
 James Gordon, III, and Jonathan
 Gordon,
 Third-Party Defendants.

Stacy K. Wolery, an attorney and counselor at law duly licensed in the State of
 New York, now declares:

1. I am an associate with the law firm of Klein Zelman Rothermel LLP,
 counsel for Defendants Impulse Marketing Group, Inc. ("Impulse"), Jeffrey Goldstein

1 (“Goldstein”) and Kenneth Adamson (“Adamson”) (collectively, “Defendants”) in the
2 above-captioned action. I submit this reply declaration in support of Defendants’
3 Motion for Sanctions. Except as to matters alleged below as being upon information
4 and belief, I am fully and personally familiar with the facts and circumstances set forth
5 herein.

6 2. On or about March 29, 2006, Plaintiff filed a motion seeking leave to file
7 a first amended complaint.

8 3. On or about May 2, 2006, this Court granted in part and denied in part
9 Plaintiff’s motion to amend his original complaint. In particular, the order denied
10 Plaintiff’s request to add new plaintiffs to the action.

11 4. On or about June 13, 2006, Plaintiff filed his First Amended Complaint,
12 and, in direct contradiction to the Court’s Order, counsel surreptitiously added “dba
13 Gordonworks.com” as a plaintiff in the action.

14 5. On or about August 31, 2006, Defendants moved to dismiss Plaintiff’s
15 First Amended Complaint on several grounds including, but not limited to, the
16 unauthorized amendment of the original complaint, lack of jurisdiction and failure to
17 state a claim upon which relief could be granted. In addition, Defendants concurrently
18 moved in the alternative for a more definite statement.

19 6. On or about September 11, 2006, Plaintiff filed a memorandum in
20 response to Defendants’ motion to dismiss the First Amended Complaint.
21 Simultaneously, therewith, and again without leave of Court, Plaintiff filed an
22 unauthorized Second Amended Complaint. The Second Amended Complaint
23 changed the caption yet again and made substantial material revisions to Plaintiff’s
24 factual allegations and causes of action.

25 7. On or about September 13, 2006, Defendants filed an objection to the
26 unauthorized Second Amended Complaint and returned the rejected pleading to
27 Plaintiff’s counsel.

1 8. The motion for sanctions and supporting papers were served on Robert J.
2 Siegel, Esq. on October 4, 2006

3 9. On or about October 11, 2006, Plaintiff filed a motion to amend the First
4 Amended Complaint in an attempt to, *inter alia*, remedy his second willful violation of
5 the Federal Rules.

6 10. Defendants filed their opposition to Plaintiff's motion on or about
7 October 23, 2006.

8 11. On or about November 7, 2006, Defendants again wrote to Plaintiff's
9 counsel demanding that the unauthorized pleading be withdrawn from the record.

10 12. As the Court noted in its May 10, 2007 Order Granting in Part and
11 Denying in Part Plaintiff's Motion to Amend, at least twice "[t]he Plaintiff has
12 disregarded both an order of this Court and Rule 15 of the Federal Rules of Civil
13 Procedure."

14 13. As a result of the filing of this unauthorized pleading and Plaintiff's
15 pattern of misconduct, Defendants have incurred legal expenses in excess of
16 \$14,778.00. I billed Defendants approximately 31.8 hours (at a rate of \$225 per hour)
17 in objecting to the unauthorized pleading, preparing Defendants' motion for sanctions
18 and supporting documentation, and opposing Plaintiff's improper motion to amend
19 and file the unauthorized pleading. Redacted copies of legal invoices are attached to
20 the Moynihan Declaration in Support of Defendants' Sanctions Motion as Exhibit A,
21 and filed contemporaneously herewith. Where a billing entry included time spent on
22 unrelated matters, I calculated a reasonable approximation of the amount of time spent
23 on the matter described on the invoice. The hours listed in the invoice are the original
24 amounts billed and are higher than the amount requested herein.

25 DATED this 24th day of May, 2007.

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Stacy K. Wolery

Certificate of Service

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3 I, hereby, certify that on May 25, 2007, I electronically filed this pleading with this
4 Court. The Clerk of the Court will provide electronic notification using the CM/ECF
5 system, which will send an electronic copy of the Declaration of Stacy K. Wolery, Esq.
6 in Support of Defendants' Motion for Sanctions to: Robert J. Siegel and Sean A.
7 Moynihan. I hereby certify that I have served the forgoing to the following non-
8 CM/ECF participants by other means: Bonnie Gordon; Jonathan Gordon; James S.
9 Gordon, III; Robert Pritchett; Jamila Gordon; Emily Abbey and Hon. Harold D.
10 Clarke, Jr.

11
12
13 _____
14 Floyd Ivey, Esq.
15 Attorney for Defendants Impulse
Marketing Group, Inc., Jeffrey Goldstein
and Kenneth Adamson