

Hon. Fred Van Sickle

Liebler, Ivey, Conner, Berry & St. Hilaire
By: Floyd E. Ivey
1141 N. Edison, Suite C
P.O. Box 6125
Kennewick, WA 99336
*Local Counsel for Defendants Impulse Marketing
Group, Inc., Jeffrey Goldstein and Kenneth Adamson*

Klein Zelman Rothermel LLP
By: Sean A. Moynihan & Stacy K. Wolery
485 Madison Avenue, 15th Floor
New York, NY 10022
(212) 935-6020
*Attorneys for Defendant Impulse Marketing
Group, Inc., Jeffrey Goldstein and Kenneth Adamson*

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

James S. Gordon, Jr.,

Plaintiff,

v.

Impulse Marketing Group, Inc.,
Jeffrey Goldstein, Phillip Huston,
and Kenneth Adamson,

Defendants.

Case No.: CV-04-5125-FVS

PROPOSED DISCOVERY PLAN,
STATUS CERTIFICATE AND
STATEMENT IDENTIFYING
CORPORATE INFORMATION

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Bonnie F. Gordon, Jamila Gordon,
James Gordon, III, and Jonathan
Gordon,

Third-Party Defendants.

1 Defendants Impulse Marketing Group, Inc. ("Impulse"), Jeffrey Goldstein
2 ("Goldstein"), Phillip Huston ("Huston") and Kenneth Adamson (collectively,
3 "Defendants") hereby submit this Proposed Discovery Plan, Status Certificate and
4 Statement Identifying Corporate Information as required by the Court's May 30, 2007
5 Notice Setting Telephonic Scheduling Conference. (Ct. Rec. 497.)
6

7 PROPOSED DISCOVERY PLAN

8 On or about May 10, 2007, this Court issued an order granting in part and
9 denying in part Plaintiff's Motion to Amend Complaint, permitting Plaintiff to amend
10 only Section 4.3 of the First Amended Complaint to include paragraphs 4.3.3, 4.3.4
11 and 4.3.5 of the proposed Second Amended Complaint. (Ct. Rec. 481.) Subsequently,
12 on or about May 14, 2007, this Court issued an order requiring Plaintiff to file a more
13 definite statement. On or about June 22, 2007, nearly one (1) month late and contrary
14 to the Orders of this Court and the time limits prescribed by Fed. R. Civ. P. 12(e),
15 Plaintiff filed an Amended First Amended Complaint (Ct. Rec. 499) and a separate
16 More Definite Statement (Ct. Rec. 500).¹ The More Definite Statement, *inter alia*, fails
17 to correlate any of Plaintiff's statements to the allegations contained in the Amended
18 First Amended Complaint. Further, the Amended First Amended Complaint and the
19 More Definite are deficient in several respects. Any discovery responses previously
20 exchanged were based upon the Original Complaint, which has been repeatedly
21 superceded by amended pleadings and is now a nullity. If Plaintiff's newly filed
22 pleadings survive motions to dismiss or to strike, discovery must start anew.
23

24 _____
25 ¹In addition, to date, Plaintiff has also failed to pay to Defendants sanctions in the amount
26 of \$1,500.00 as ordered by this Court verbally and in a minute order on or about May 25, 2007 (Ct.
27 Rec. 496) and again on or about June 15, 2007 (Ct. Rec. 498), issued based upon Plaintiff's repeated
28 failure to follow civil rules and orders of this Court.

1 STATUS CERTIFICATE

2 a. There are no issues regarding service of process.

3 b. There are no issues regarding venue. Defendants dispute the exercise of
4 personal jurisdiction over individual defendants Goldstein, Adamson and Huston.

5 c. Defendants anticipate filing a motion to strike or to dismiss. In addition,
6 if necessary, Defendants anticipate filing a motion for summary judgment.

7 d. Discovery must start anew if Plaintiff's Amended First Amended
8 Complaint and More Definite Statement survive motions to dismiss or to strike.
9 Plaintiff's More Definite Statement alleges that approximately 31,000 emails form the
10 basis of the action (Pl.'s More Def. Statement at 5.) As Plaintiff states in his Amended
11 First Amended Complaint, each of the alleged 31,000 emails constitutes a unique
12 cause of action. Defendants are uncertain of the time it will take to complete
13 discovery, but estimate that discovery can be completed approximately 300 days after
14 the issuance of a decision regarding any motion to strike or to dismiss Plaintiff's
15 amended pleading as untimely and in contravention of this Court's orders and Fed. R.
16 Civ. P. 12(e).

17 e. This case has been referred to a Discovery Master for resolution of any
18 discovery disputes.

19 f. No modifications to the standard pretrial procedures are necessary.

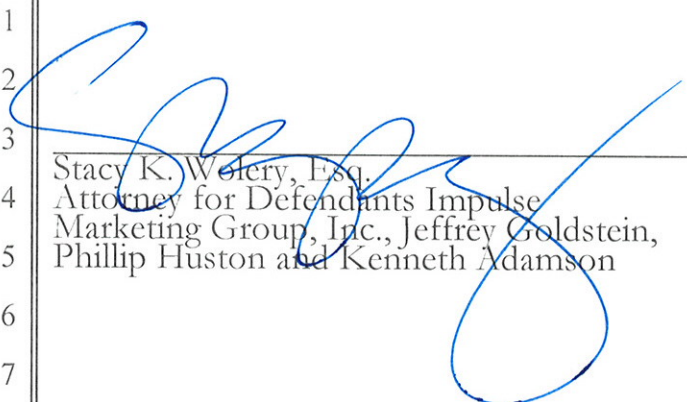
20 g. Bifurcation of this case is unnecessary.

21 h. Settlement is unlikely.

22 i. To date, Plaintiff has failed to pay to Defendants sanctions in the
23 amount of \$1,500.00 as ordered by this Court verbally and in a minute order on or
24 about May 25, 2007 (Ct. Rec. 496) and again on or about June 15, 2007 (Ct. Rec. 498),
25 issued based upon Plaintiff's repeated failure to follow civil rules and orders of this
26 Court.

Certificate of Service

I, hereby, certify that on June 25, 2007, I electronically filed this pleading with this Court. The Clerk of the Court will provide electronic notification using the CM/ECF system, which will send an electronic copy of the Proposed Discovery Plan, Status Certificate and Statement Identifying Corporate Information to: Robert J. Siegel, Floyd E. Ivey and Sean A. Moynihan. I hereby certify that I have served the forgoing to the following non-CM/ECF participants by other means: Bonnie Gordon; Jonathan Gordon; James S. Gordon, III; Robert Pritchett; Jamila Gordon; Emily Abbey and Hon. Harold D. Clarke, Jr.



Stacy K. Wolery, Esq.
Attorney for Defendants Impulse
Marketing Group, Inc., Jeffrey Goldstein,
Phillip Huston and Kenneth Adamson