

Hon. Fred Van Sickle

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 14 *Attorneys for Defendants Impulse Marketing Group, Inc.,*
 15 *Jeffrey Goldstein, Phillip Huston and Kenneth Adamson*

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

13 James S. Gordon, Jr.,
 14 Plaintiff,
 15 v.
 16 Impulse Marketing Group, Inc.,
 17 Jeffrey Goldstein, Phillip Huston,
 18 and Kenneth Adamson,
 19 Defendants.

Case No.: CV-04-5125-FVS

DECLARATION OF
 STACY K. WOLERY IN SUPPORT
 OF DEFENDANTS' MOTION TO
 DISMISS THE SECOND
 AMENDED FIRST AMENDED
 COMPLAINT

20 Impulse Marketing Group, Inc.,
 21 Third-Party Plaintiff,
 22 v.
 23 Bonnie F. Gordon, Jamila Gordon,
 24 James Gordon, III, and Jonathan
 25 Gordon,
 26 Third-Party Defendants.

27 WOLERY DECLARATION IN SUPPORT OF
 28 DEFENDANTS' MOTION TO DISMISS PLAINTIFFS'
 2ND AMENDED FIRST AMENDED COMPLAINT - 1
 00086063;1

KLEIN ZELMAN ROTHERMEL, LLP
 485 MADISON AVENUE, 15TH FLOOR
 NEW YORK, NEW YORK 10022
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1 STACY K. WOLERY, an attorney and counselor at law duly licensed in the
2 State of New York and admitted *pro hac vice* in this action, now declares:

3 1. I am an associate with the law firm of Klein Zelman Rothermel, LLP,
4 counsel for defendants Impulse Marketing Group, Inc. (“Impulse”), Jeffrey Goldstein
5 (“Goldstein”), Philip Huston (“Huston”) and Kenneth Adamson (“Adamson”)
6 (collectively, “Defendants”) in the above-captioned action. I submit this declaration in
7 support of Defendants’ Motion to Dismiss the Second Amended First Amended
8 Complaint. Except as to matters alleged herein below as being upon information and
9 belief, I am fully and personally familiar with the facts and circumstances set forth
10 herein.

11 2. Nearly three (3) years and five hundred thirty (530) docket entries ago,
12 Plaintiff commenced this action by the filing of a summons and complaint on
13 November 23, 2004 against Impulse (the “Original Complaint”).

14 3. On or about June 13, 2006, Plaintiff filed his First Amended Complaint
15 (the “FAC”), naming three (3) new defendants and adding new causes of action.
16 Despite the Courts’ specific order denying Plaintiff’s request to add new plaintiffs,
17 Plaintiff surreptitiously added the d/b/a “Gordonworks.com” as a plaintiff in the
18 action.

19 4. The Original Complaint and the FAC were, *inter alia*, rife with vague,
20 ambiguous and often conclusory allegations that Impulse (and later, Defendants) had
21 violated “at least one” prohibition of RCW § 19.190, *et seq.* (collectively, “CEMA”).

22 5. Impulse, Goldstein and Adamson moved to dismiss the FAC on or about
23 August 31, 2006. Huston was not served with the FAC until November 2, 2006, and
24 his motion to dismiss the FAC was filed on or about January 2, 2007.

1 6. On or about September 11, 2006, in response to Defendants' motion to
2 dismiss, Plaintiff unilaterally filed an unauthorized Second Amended Complaint (the
3 "SAC") in direct contravention of Fed. R. Civ. P. 15.

4 7. On or about September 13, 2006, Defendants filed an objection to the
5 unauthorized pleading and rejected the SAC.

6 8. On or about October 10, 2006, Plaintiff moved to amend his complaint.

7 9. On or about November 8, 2006, Defendants filed a motion for sanctions
8 against Plaintiff based upon his repeated violations of the Fed. R. Civ. P. and orders of
9 the Court.

10 10. On or about May 14, 2007, the Court granted in part and denied in part
11 Defendants' motion to dismiss, requiring Plaintiff to file a more definite statement.

12 11. On or about May 25, 2007, the Court granted in part and denied in part
13 Defendants' motion for sanctions and sanctioned Plaintiff's counsel, Robert Siegel, in
14 the amount of One Thousand Five Hundred Dollars (\$1,500.00). The Court reiterated
15 its award of sanctions in its June 15, 2007 order.

16 12. To date, Mr. Siegel has failed to pay to Defendants' counsel the sanctions
17 as ordered.

18 13. In response to the Court's May 14, 2007 order, Plaintiff filed his
19 Amended First Amended Complaint (the "AFAC") and More Definite Statement on
20 or about June 22, 2007, nearly one (1) month past the time prescribed by Fed. R. Civ.
21 P. 12(e).

22 14. On or about June 26, 2007, Defendants filed an objection to the
23 offending pleadings and returned same to Plaintiff as rejected.

24 15. During the June 28, 2007 telephonic hearing, and in the Court's
25 subsequent July 9, 2007 order, the Court provided Plaintiff with one final opportunity
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1 to remedy his vague complaint, and ordered Plaintiff to file an amended pleading
2 fulfilling the requirements outlined in the July 9 Order no later than July 29, 2007.

3 16. On or about July 30, 2007, Plaintiff filed the Second Amended First
4 Amended Complaint (the "2nd AFAC"). Plaintiff's 2nd AFACT fails to comply with
5 each of the requirements set forth in the Court's July 9 Order.

6 17. On or about August 23, 2007, Plaintiff's counsel filed a motion for leave
7 to withdraw as counsel. The declarations in support of, and the memorandum and
8 declaration in opposition to, such motion were filed under seal.

9 18. James S. Gordon, Jr. is a professional plaintiff, with no less than eleven
10 (11) similar cases pending in United States District Courts in the State of Washington.
11 Plaintiffs are testing their luck at making their "spam business" extraordinarily lucrative
12 by seeking statutory damages through a strategy of spam collection and serial litigation.

13 DATED this 20th day of September, 2007.

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16 Stacy K. Wolery
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CERTIFICATE OF SERVICE

I, hereby, certify that on September 20, 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 Wolery Declaration in Support of the Motion to Dismiss the Second Amended First Amended Complaint: 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
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Pasco, WA 99301

Jonathan Gordon
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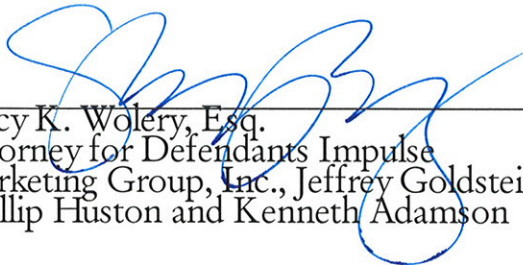
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Marketing Group, Inc., Jeffrey Goldstein,
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