

**EXHIBIT A**  
**LETTER DATED DECEMBER 20, 2006 TO**  
**PLAINTIFFS' COUNSEL FROM**  
**DEFENDANTS' COUNSEL**



505 Fifth Avenue South  
Suite 610  
Seattle, Washington  
98104

phone 206.274.2800  
fax 206.274.2801

www.newmanlaw.com  
info@newmanlaw.com

**SENT VIA EMAIL**

December 20, 2006

Robert J. Siegel  
Merkle Siegel & Friedrichsen, P.C.  
1325 Fourth Avenue, Suite 940  
Seattle, WA 98101

**Re: Gordon v. Virtumundo, Inc., United States District Court, W.  
Dist. Wa., Case No. CV06-0204JCC**

Dear Bob:

We are in receipt of your motion for Partial Summary Judgment (Dkt. # 53) in the above-referenced matter. In that motion, you rely on the testimony of several third party witnesses which had not been previously disclosed. Namely, you submitted the declarations of Anthony Potts (Dkt. # 56), Bonnie Gordon (Dkt. # 57), Emily Abbey (Dkt. # 58), Jamila Gordon (Dkt. # 59), Jay Gordon (Dkt. # 60), Jonathan Gordon (Dkt. # 61), and Russell Flye (Dkt. # 62). Your reliance on these seven (7) witnesses is improper and prejudicial to Defendants.

In your Fed. R. Civ. P. 26 initial disclosures (Dkt. # 25), you disclosed only Plaintiff James S. Gordon Jr. and Defendants as witnesses in this case. You have not supplemented your initial disclosures. Accordingly, it is unreasonable and unfair for you to advance new witnesses *after the December 15, 2006 discovery cutoff*. Defendants have incurred substantial prejudice as a result of your failure to timely disclose these witnesses.

We are hopeful that you will realize the improper nature of relying on witnesses in support of your case-in-chief and will voluntarily agree to make the seven new witnesses available for depositions prior to January 15, 2006. Should you deny our request to depose these witnesses, please provide us the legal and factual support for your contention not later than Friday, December 22 at noon.

As always, please do not hesitate to contact me with any additional questions or comments.

Regards,

**NEWMAN & NEWMAN,  
ATTORNEYS AT LAW, LLP**

A handwritten signature in cursive script, appearing to read "Roger M. Townsend".

Roger M. Townsend