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Hon. Judge Zilly

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

OMNI INNOVATIONS LLC et al)
)
) Plaintiffs)
)
) ASCENTIVE, LLC)
) a Delaware Limited Liability Company;)
) ADAM SCHRAN, individually and as part)
) of his marital community; JOHN DOES, I-X)
) Defendants)
)

NO. CV-06-01284-TSZ

**DECLARATION OF FLOYD
E. IVEY IN SUPPORT OF
PETITION FOR STAY**

Floyd E. Ivey now declares that I have appeared for Defendant Ascentive, LLC in the matter of Omni LLC v. Ascentive LLC on October 20, 2006. The damage to Defendants Ascentive LLC and Mr. Schran, by disqualification of counsel Ivey is not limited to the present case of Omni LLC v. Ascentive LLC. I have been the lead counsel representing Ascentive LLC and Mr. Schran in the Eastern District since approximately August 2005. In that matter I have brought a

1 Motion to Dismiss for Lack of Jurisdiction with the matter to be further considered
2 at trial. I have pursued discovery issues in opposing discovery and in seeking
3 responses to discovery from Plaintiff. I have interacted with Ascentive and Mr.
4 Schran on numerous occasions.

5 Additionally, I am a lead counsel in the Eastern District case of Gordon v.
6 Impulse Marketing Group, Inc, CV-04-5125-FVS and have personally drafted and
7 filed the majority of pleadings in that case through approximately March 2006 and
8 Court Rec. 255 in Gordon v. Impulse. Since approximately August 2005 I have
9 been the sole counsel for Defendants Gordon v Ascentive LLC, Eastern District of
10 Washington, CV-05-5079-FVS; since approximately the fall of 2005 I was the sole
11 counsel representing Defendants in Gordon v. Efinancials LLC, Benton County
12 Superior Court, until such time that on my Motion for Change of Venue the case
13 was moved to King County.

14 As Counsel for Defendant in these several cases, in opposition to Mr.
15 Gordon, I have filed dozens of pleadings, have moved to dismiss, have pursued
16 motions to compel and presently have pending, in Gordon v. Ascentive LLC, in the
17 Eastern District, a Motion to Dismiss Plaintiff Gordon's First Amended Complaint.

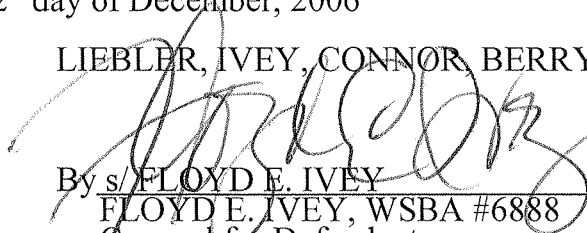
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19 Disqualification in the Western District matter of Omni LLC v. Ascentive
20 has the specific potential to affect Defendant's choice of counsel in the other cases
21 of Gordon v. Impulse and Gordon v. Ascentive in the Eastern District.
22 Specifically, should the disqualification be effected in the Western District what
23 will be the effect of Defendants, other than Ascentive, in their continuing reliance
24 on co-counsel who have labored with counsel Ivey in the matter of Gordon v.
25 Impulse in the Eastern District?

26 It is reasonably considered that another attorney may not gain the same
27 quality of attorney-client relationship and rapport that I have with petitioner
28

1 Defendants. Except for compelling reasons, such as necessary bar admissions,
2 clients should be permitted to have the counsel of their choice. A lost choice of
3 counsel at trial cannot be remedied on direct appeal.

4 DATED this 12th day of December, 2006

5 LIEBLER, IVEY, CONNOR, BERRY & ST. HILAIRE



6
7 By s/ FLOYD E. IVEY
8 FLOYD E. IVEY, WSBA #6888
9 Counsel for Defendant
10 1141 N. Edison, Suite C
11 Kennewick, WA 99336

12 I hereby certify that on December 12, 2006, I electronically filed
13 **Declaration of Floyd E. Ivey Supporting Petition for Stay** with the Clerk of the
14 Court using the CM/ECF System which will send notification of such filing to
15 Plaintiffs' counsel Robert J. Siegel and Douglas McKinley.

16 S/ FLOYD E. IVEY
17 FLOYD E. IVEY

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