

FILED _____ ENTERED _____
 LODGED _____ RECEIVED _____
 DEC 14 2007 LK
 AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 DEPUTY

1 **THE HONORABLE JOHN COUGHENOUR**

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 8 **UNITED STATES DISTRICT COURT**
 9 **WESTERN DISTRICT OF WASHINGTON, SEATTLE**

10 **OMNI INNOVATIONS, LLC, a**
 11 **Washington Limited Liability**
 12 **company; EMILY ABBEY, an**
 13 **individual,**

NO. 06-01284

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**MOTION & DECLARATION TO
STRIKE NAME FROM LAWSUIT**

Plaintiffs,

v.

14 **ASCENTIVE, LLC, a Delaware**
 15 **limited liability company; ADAM**
 16 **SCHRAN, individually and as part of**
 17 **his marital community; JOHN DOES,**
 18 **I-X,**



06-CV-01284-M

Defendants,

19 **TO: COURT**

20 **AND TO: PLAINTIFF**

21 **AND TO: COUNSEL FOR DEFENDANT**

1 **MOTION TO STRIKE NAME FROM COMPLAINT**

1 My name is Emily Abbey. I am filing this motion to have my name stricken from this lawsuit
2 because Mr. Robert J. Siegel added me as a plaintiff to this lawsuit without my prior knowledge
3 or permission. ***EXHIBIT A*** As I understand it, Mr. Robert J. Siegel added me as a plaintiff
4 to the complaint to secure venue in Western Washington. ***EXHIBIT B***

5 When I learned that my name was listed as plaintiff on an unknown number of cases filed by Mr.
6 Siegel, I requested that he withdraw me from those cases. ***EXHIBIT C *** Only recently did Mr.
7 Siegel inform me that my name was still listed as a plaintiff in the Omni v. Ascentive case.

8 ***EXHIBIT D***

9
10 Please note that more than once I asked Mr. Siegel to provide to me a list of the companies
11 involved with my name listed as a plaintiff. To date he has not done so. Also, I asked for
12 documentation showing that my name had indeed been withdrawn as plaintiff from the cases that
13 Mr. Siegel had filed listing me as a plaintiff. To date he has not done so. The only reason I
14 agreed to a fee agreement with Mr. Siegel was to have him represent me in regard to my being
15 named as a third party defendant in the Gordon v. Impulse Marketing Group, Inc. lawsuit.
16

17
18 Defendant is in no way prejudiced by my name being stricken. And there is no apparent adverse
19 effect or cost to Defendant.
20

21
22 I trust that this Court will strike my name "without prejudice" and ensure that I have no liability
23 for fees and costs.
24
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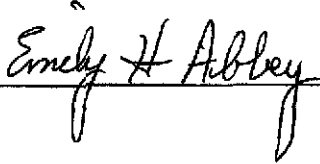
2 MOTION TO STRIKE NAME FROM COMPLAINT

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

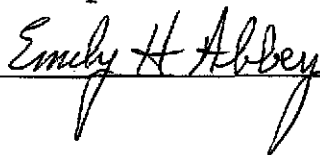
Emily Abbey, Pro Se
1407 2nd Ave West #608
Seattle, WA 98119
206-217-0466

Dated this 14th day of December, 2007



Certificate of Service

I, hereby, certify that on December 14 2007, I filed this motion with the Court. I also mailed a copy to counsel of record for Defendant. I have served Plaintiff by other means.



joelhodgell@gmail.com, 10:22 AM 9/24/2007 -0700, FW: Fee Agreement

EXHIBIT A

To: joelhodgell@gmail.com
From: Jim Gordon <kamau@charter.net>
Subject: FW: Fee Agreement
Cc:
Bcc:
Attached:

Date: Sat, 03 Mar 2007 10:05:35 -0800
To: james@ehahome.com
From: Jim Gordon <kamau@charter.net>
Subject: FW: Fee Agreement

Unless I am mistaken this is called "passing the buck"

Subject: FW: Fee Agreement
Date: Fri, 2 Mar 2007 17:04:09 -0800
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: Fee Agreement
Thread-Index: Acdc/4g6b2Oy9hXuS7SYh4GDSEsSpIqAMBgSw
From: "Bob Siegel" <Bob@iJusticelaw.com>
To: "Jim Gordon" <kamau@charter.net>,
"Douglas E. McKinley, Jr." <doug@mckinleylaw.com>
X-OriginalArrivalTime: 03 Mar 2007 01:04:15.0126 (UTC) FILETIME=[DCB84B60:01C75D2F]
X-ChzIrs: 0

Jim,

I will certainly abide by Emily's requests, but I hope that in the future, you keep your customers better advised, since, after all, you reviewed and approved each complaint we have filed, and I assumed that you had kept Emily in the loop to the extent necessary. It sure feels like you left me hanging out there in the wind on this.

From: Emily Abbey [mailto:joyful@ehahome.com]
Sent: Monday, February 26, 2007 12:12 PM
To: Bob Siegel
Cc: kamau@charter.net
Subject: Re: Apologies

Bob,

While I appreciate the apology, I am perplexed by the assumptions. Even if I agreed to have you represent me, I would never assume you would do so without informing me first. Since I have misplaced our agreement, please send me a copy so I can understand how what we agreed to led to my name being highlighted as a plaintiff without my knowledge. Thank you.

Emily

joelhodgell@gmail.com, 10:22 AM 9/24/2007 -0700, FW: Fee Agreement

At 10:47 AM 2/26/2007 -0800, you wrote:

Emily,

I apologize for any misunderstandings, or presumptuousness on my part in including you into any spam suits without your knowledge. I was assuming that you wished to be included per our prior representation agreement, and that you and Jim were in communication about most of this, and that if you had any questions you would have spoken up. My error for assuming.

We have included you in several other complaints as well.

I will send you copies of those for your records.

Sincerely,

Bob Siegel

Jim Gordon
9804 Buckingham Drive
Pasco, WA 99301

509-210-1069 (home)
509-845-1870 (cell)
jim@gordonworks.com

"Get What You Want By Giving Others What They Want"
Drs. Tony Alessandra & Michael J. O'Connor...from "The Platinum Rule"

EXHIBIT B

From: "Bob Siegel" <bob@msfseattle.com>
To: "Jim Gordon" <Kamau@charter.net>
Subject: RE: Virtumundo

that's fine, but if needed, could we show that your network received emails either in King County, or which were routed to or through King County?

From: Jim Gordon [mailto:Kamau@charter.net]
Sent: Thursday, January 26, 2006 11:05 AM
To: bob@msfseattle.com
Subject: Re: Virtumundo

Bob, I have one client presently in King County and she is not prepared to initiate an action at this time, Jim

At 02:56 PM 1/25/2006 -0800, you wrote:

Jim,

Sizing up options re where best to file this action:

do you and/or your network have any routing through King County?, customers here?, or other involvement with any locations in Western Washington?

If not, we may want to file this in the Federal Eastern District Court, and include Can-Spam allegations, which is fine, but I just wanted to assess

options.

bob

Jim Gordon
9804 Buckingham Drive
Pasco, WA 99301

509-210-1069 (home)
509-845-1870 (cell)
jim@gordonworks.com

"Get What You Want By Giving Others What They Want"
Dr. Tony Alessandra & Michael J. O'Connor...from "The Platinum Rule"

joyful@ehahome.com, 04:56 PM 9/12/2007 -0700, Fwd: RE: Request to withdraw

To: joyful@ehahome.com
From: Jim Gordon <kamau@charter.net>
Subject: Fwd: RE: Request to withdraw
Cc:
Bcc:
Attached:

Date: Wed, 12 Sep 2007 16:55:49 -0700
To: james@ehahome.com
From: Jim Gordon <kamau@charter.net>
Subject: Fwd: RE: Request to withdraw

X-Mailer: QUALCOMM Windows Eudora Version 7.1.0.9
Date: Wed, 23 May 2007 08:19:15 -0700
To: Jim Gordon <kamau@charter.net>
From: Emily Abbey <ehabbey@ehahome.com>
Subject: Fwd: RE: Request to withdraw
X-Chzlr: 0

FYI

Date: Wed, 23 May 2007 08:18:25 -0700
To: "Bob Siegel" <Bob@iJusticeLaw.com>
From: Emily Abbey <ehabbey@ehahome.com>
Subject: RE: Request to withdraw

Bob,

Thank you. Please let me know when my name has been officially dismissed and include a list of the companies/entities involved.

Emily

At 05:34 PM 5/21/2007 -0700, you wrote:
Emily,

I will certainly dismiss you from any and all cases in which you have been named as a plaintiff. As for being dismissed as a defendant in the Impulse case, I had no involvement whatsoever in causing that to occur, and having you dismissed is neither within the purview of my legal representation, nor otherwise within my power at this time.

Sincerely,
Bob Siegel

-----Original Message-----
From: Emily Abbey [mailto:ehabbey@ehahome.com]

joyful@ehahome.com, 04:56 PM 9/12/2007 -0700, Fwd: RE: Request to withdraw

Sent: Monday, May 21, 2007 4:47 PM
To: Bob Siegel
Subject: Request to withdraw

Bob,

As you know from earlier conversations, I was shocked to find out that you had listed me as a plaintiff in several legal actions without my knowledge or approval. After due consideration, I am now asking that you take appropriate action to remove my name as plaintiff in any legal actions you know of against companies/entities accused of sending spam email to any of my email addresses at ehahome.com.

Also, if possible I would appreciate being dismissed as a third party defendant in the IMG case.

Let me know as soon as my name is no longer listed as a plaintiff and send me a list of all of the companies/entities that have ever had my name as a plaintiff. I trust that there will be no charge to me for your fulfilling my request.

Thank you.

Emily Abbey

Jim Gordon
9804 Buckingham Drive
Pasco, WA 99301

509-210-1069 (home)
509-845-1870 (cell)
jim@gordonworks.com

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jim@gordonworks.com

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EXHIBIT D

From: Emily Abbey <ehabbey@ehahome.com>
To: Bob Siegel <bob@ijusticelaw.com>
Subject: Re: FW: Request to withdraw

Bob,

I am still considering my options. Would it help to let Ascentive know that it is your fault that my name is on the case at all?

In the meantime, I want you to provide me a written statement that you are and will be responsible for any and all fees laid on me as a result of actions by any parties involved in cases where my name was put on as a plaintiff by you without permission.

Emily

Bob Siegel wrote:

Emily,

Please confirm that you received the message below sent on October 17th, or this one today.

Thank you.

Sincerely,
Bob

From: Bob Siegel [mailto:bob@ijusticelaw.com]
Sent: Wednesday, October 17, 2007 11:52 AM
To: emilyabbey@comcast.net
Cc: 'Bob Siegel'; 'Doug McKinley'
Subject: RE: Request to withdraw

Emily,

By way of further update to the exchange below. Counsel for Ascentive advises that they will not agree to a voluntary dismissal with prejudice, and without fees. It seems their client is just too upset at Jim to be willing to grant any favors, or to make our job any easier. They would insist on reserving their right to move for fees against you. So, there are essentially two options.

The first is to bring a motion now to dismiss you with prejudice and without fees since only a deminimis amount of fees, if anything at all could even be attributed to defending against your claims. That would force their hand now, rather than waiting, and we would have a quick result, and likely have you dismissed.

The other is for you to remain in the action and prosecute your claims against this defendant.

Doug and I would advise option 1. If you agree, please advise, and we will prepare and file the motion, at no cost to you of course. If you choose to remain in the action and prosecute your claims, then please forward copies of the email messages you received from or on behalf of Ascentive, i.e., advertising Ascentive software products.

We await your advice.

Sincerely,
Bob Siegel

From: Bob Siegel [mailto:bob@ijusticelaw.com]
Sent: Thursday, September 13, 2007 12:34 PM
To: emilyabbey@comcast.net
Cc: 'Bob Siegel'
Subject: RE: Request to withdraw

Emily,

Received your phone message.
You have now been removed from every case except Omni v Ascentive.

In that case, I have requested that the other side agree to a voluntary dismissal, without costs or fees, and am awaiting their reply. I will advise once that is taken care of.

Confirming your message, I agree that once you are removed from the Ascentive case, our fee agreement is no longer effective, and that I am not representing you further on any cases.

Sincerely,
Bob Siegel

From: Emily Abbey [mailto:ehabbey@ehahome.com]
Sent: Wednesday, May 23, 2007 8:18 AM
To: Bob Siegel
Subject: RE: Request to withdraw

Bob,

Thank you. Please let me know when my name has been officially dismissed and include a list of the companies/entities involved.

Emily

At 05:34 PM 5/21/2007 -0700, you wrote:

Emily,

I will certainly dismiss you from any and all cases in which you have been named as a plaintiff. As for being dismissed as a defendant in the Impulse case, I had no involvement whatsoever in causing that to occur, and having you dismissed is neither within the purview of my legal representation, nor otherwise within my power at this time.

Sincerely,
Bob Siegel

-----Original Message-----

From: Emily Abbey [mailto:ehabbey@ehahome.com]
Sent: Monday, May 21, 2007 4:47 PM
To: Bob Siegel
Subject: Request to withdraw

Bob,

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Let me know as soon as my name is no longer listed as a plaintiff and send me a list of all of the companies/entities that have ever had my name as a plaintiff. I trust that there will be no charge to me for your fulfilling my request.

Thank you.

Emily Abbey