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HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**OMNI INNOVATIONS, LLC, a  
Washington Limited Liability  
company,**

**NO. C06-1469-JCC**

**Plaintiff,**

**COUSEL'S REPLY RE: MOTION  
FOR LEAVE TO WITHDRAW AS  
COUNSEL AND TO FILE  
DECLARATIONS UNDER SEAL**

v.

**NOTE FOR HEARING:  
August 31, 2007**

**IMPULSE MARKETING GROUP,  
INC, a Nevada/Georgia corporation;  
JEFFREY GOLDSTEIN, individually  
and as part of his marital community;  
KENNETH ADAMSON, individually  
and as part of his marital community;  
GREGORY GREENSTEIN,  
individually and as part of his marital  
community; STEVE WADLEY,**

**COUNSEL'S REPLY RE: MOTION FOR LEAVE  
TO WITHDRAW AS COUNSEL AND TO FILE  
DECLARATIONS UNDER SEAL - 1**

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Phone: 206-621-5804  
Fax: 206-624-0717**

OMNI v. IMPULSE

1 individually and as part of his marital  
2 community; JOHN DOES, I-X,  
3 Defendants, and as part of his marital  
4 community; GREGORY  
5 GREENSTEIN, individually and as  
6 part of his marital community;  
7 STEVE WADLEY, individually and  
8 as part of his marital community;  
9 JOHN DOES, I-X,  
10 Defendants,  
11

12 In Mr. Gordon's "Memorandum and Declaration" in opposition to counsel's  
13 motion to withdraw, Mr. Gordon sets forth numerous factual allegations against  
14 Mr. Siegel and Mr. McKinley (hereafter "counsel"). Mr. Gordon apparently  
15 believes these allegations will somehow serve as a basis for the Court to require  
16 counsel to continue to represent Mr. Gordon and/or Omni Innovations, LLC  
17 (hereafter "Gordon"). However, quite the contrary, Gordon's allegations actually  
18 bolster counsel's argument that this Court should grant counsel's motion to  
19 withdraw.  
20

21 The Court need not determine whether Gordon's allegations are true or false  
22 to decide the much more narrow question of whether counsel should be compelled  
23 to continue to represent Gordon in this case. Accordingly, counsel is not going to  
24 provide a detailed response to Gordon's allegations except as follows:  
25

26 Counsel denies that any of Gordon's cases were brought for any reason other  
27 than Gordon's professed desire, and authorization to bring those cases. Gordon's  
28

29 **COUNSEL'S REPLY RE: MOTION FOR LEAVE  
30 TO WITHDRAW AS COUNSEL AND TO FILE  
31 DECLARATIONS UNDER SEAL - 2**

32 OMNI v. IMPULSE

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1 allegations to the contrary are, at a minimum, suspect on their face, as without  
2 Gordon first identifying and producing the offending spam, as well as the party  
3 responsible for sending it, initiating these cases would have been virtually  
4 impossible. Further, Gordon's allegation in this regard is patently belied by that  
5 part of Gordon's complaining that counsel didn't bring MORE of his cases. Prior  
6 to counsel ever becoming involved with Gordon, Gordon had begun initiating  
7 "spam lawsuits" on his own, pro se, and as recently as this month, Gordon has  
8 initiated further pro se proceedings in the Washington State Superior Courts  
9 against parties named in his federal lawsuits. By his words and actions, Gordon  
10 has demonstrated beyond the shadow of any doubt that Gordon himself was the  
11 driving force behind all of his various lawsuits. Gordon's attempt to blame  
12 counsel for Gordon's "litigation factory" is entirely without merit.

13  
14 Counsel further denies the allegation, or any implication that Gordon has  
15 "paid" counsel for representing Gordon in his pending cases. It is simply untrue.  
16 Counsel denies that Gordon has not been provided a complete accounting of all  
17 costs and fees related to counsel's representation of Gordon. Counsel denies that  
18 any of Gordon's funds held in counsel's IOLTA trust fund have been used  
19 improperly. Finally, counsel emphatically and unequivocally denies each and  
20 every one of Gordon's remaining allegations.

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25 **COUNSEL'S REPLY RE: MOTION FOR LEAVE  
TO WITHDRAW AS COUNSEL AND TO FILE  
DECLARATIONS UNDER SEAL - 3**

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1 That being said, counsel draws the Court's attention to the inescapable  
2 conclusion that the very fact that Gordon has made these allegations compels the  
3 court to grant counsel's motion to withdraw as counsel.  
4

5 As set forth in his "Memorandum and Declaration," Gordon has filed a Bar  
6 Grievance and a criminal complaint against counsel. As set forth in counsel's  
7 motion to withdraw, Gordon has further threatened to bring a malpractice lawsuit  
8 against counsel. Given Gordon's serious charges and complaints against counsel,  
9 it is simply amazing that Gordon would even want counsel to continue to represent  
10 him. Counsel is at a loss to understand why Gordon would want counsel to  
11 continue to represent him if he truly believed counsel has violated the ethical rules,  
12 committed criminal acts against him, and committed malpractice. Regardless of  
13 the inherent contradictions of Gordon's accusations against counsel and his  
14 professed desire to continue to be represented by counsel, by taking these actions  
15 and making these allegations, Gordon has effectively destroyed the attorney client  
16 relationship to the point where it is impossible for counsel to continue to  
17 simultaneously represent Gordon and comply with the Rules of Professional  
18 Conduct (RPCs).  
19

20 In *WHITING v. LACARA*, 187 F.3d 317; (1999) U.S. App. LEXIS 19952, the  
21 United States Court Of Appeals For The Second Circuit considered a similar  
22 factual circumstance, where, as is the case here, an attorney's advice had been  
23 ignored, the attorney had been threatened with a malpractice suit, and the attorney  
24

25 **COUNSEL'S REPLY RE: MOTION FOR LEAVE  
TO WITHDRAW AS COUNSEL AND TO FILE  
DECLARATIONS UNDER SEAL - 4**

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1 then sought to withdraw. The appeals court ruled that forcing the attorney to  
2 continue in this circumstance was an abuse of discretion, commenting:

3  
4 We have determined that "an attorney who continues to represent a client  
5 despite the inherent conflict of interest in his so doing [due to possible Rule  
6 11 sanctions] risks an ethical violation." *Healey v. Chelsea Resources, Ltd.*,  
7 947 F.2d 611, 623 (2d Cir. 1991) (citing *Calloway v. Marvel Entertainment*  
8 *Group*, 854 F.2d 1452, 1471 (2d Cir. 1988), rev'd on other grounds, 493  
9 U.S. 120, 107 L. Ed. 2d 438, 110 S. Ct. 456 (1989)). In this case, appellee's  
10 belief that he can dictate to Lacara how to handle his case and sue him if  
11 Lacara declines to follow those dictates leaves Lacara in a position  
12 amounting to a functional conflict of interest. If required to continue to  
13 represent Whiting, Lacara will have to choose between exposure to a  
14 malpractice action or to potential Rule 11 or other sanctions. To be sure,  
15 such a malpractice action would have no merit. However, we have no doubt  
16 it would be actively pursued, and even frivolous malpractice claims can have  
17 substantial collateral consequences. *WHITING v. LACARA*, 187 F.3d 317,  
18 323.

19  
20 Counsel has either stayed, or has pending motions seeking a stay, of all of  
21 Gordon's pending lawsuits. As such, Gordon will have plenty of time to insure  
22 that no prejudice results from counsel's withdrawal. In light of Gordon's very  
23 serious accusations against counsel, this Court should immediately grant Mr.  
24 Siegel and Mr. McKinley's motions to withdraw.

25 DATED this 30<sup>th</sup> day of August, 2007.

**i.Justice Law, P.C.**

**COUNSEL'S REPLY RE: MOTION FOR LEAVE  
TO WITHDRAW AS COUNSEL AND TO FILE  
DECLARATIONS UNDER SEAL - 5**

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Douglas E. McKinley, WSBA #20809  
Attorneys for Plaintiffs

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Robert J. Siegel, WSBA #17312  
Attorneys for Plaintiffs

**Certificate of Service**

I, hereby, certify that on August 30, 2007, I filed the subjoined pleading with this Court via approved CMECF electronic filing, that electronically serves Attorneys for Defendants:

I also certify that that on August 30, 2007, I served the subjoined pleading upon plaintiff James S. Gordon, Jr. electronically by email, and by regular US mail, postage prepaid.

/s/ Robert J. Siegel  
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Robert J. Siegel

**COUNSEL’S REPLY RE: MOTION FOR LEAVE  
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OMNI v. IMPULSE

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