

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

OMNI INNOVATIONS, LLC., a Washington
Limited Liability company; EMILY ABBEY,
an individual,

Plaintiffs,

v.

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, individually
and as part of his marital community; JOHN
DOES, I-X,

Defendants.

NO. C06-1469-JCC

DECLARATION OF STACY K.
WOLERY IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS
FOR FAILURE TO COMPLY WITH
COURT ORDER

Noted for Consideration: October 5, 2007

STACY K. WOLERY, an attorney and counselor at law duly licensed in the State of New
York and admitted *pro hac vice* in this action, declares:

1. I am an associate with the law firm of Klein Zelman Rothermel LLP, counsel for
Defendants Impulse Marketing Group, Inc. ("Impulse") and Jeffrey Goldstein ("Goldstein")
(collectively, "Defendants") in the above-captioned action. I submit this declaration in support of
Defendants' Motion to Dismiss For Failure to Comply with Court Order. Except as to matters

DECLARATION OF STACY K. WOLERY IN SUPPORT
OF DEFENDANTS' MOTION TO DISMISS - 1

C:\NrPortbl\iManage\HRG1412574

JACKSON & WALLACE LLP
Washington Mutual Tower
1201 Third Avenue, Suite 3080
Seattle, WA 98101
(206) 386-0214

1 alleged below as being upon information and belief, I am fully and personally familiar with the
2 facts and circumstances set forth herein.

3 2. This action was commenced by Plaintiffs on or about October 10, 2006.

4 3. Plaintiffs served Impulse and Goldstein on or about February 5, 2007 but failed to
5 serve the remaining named defendants within the 120-day deadline prescribed by Fed. R. Civ. P.
6 4(m).

7 4. On or about March 1, 2007, the Court issued an Order to Show Cause why the
8 matter should not be dismissed as to the remaining named defendants.

9 5. On or about April 11, 2007, the Court issued an order dismissing the remaining
10 defendants from the action.

11 6. On or about May 4, 2007, Defendants filed a motion to dismiss or, in the
12 alternative, for a more definite statement.

13 7. On or about May 14, 2007, Plaintiffs filed their purported initial disclosures
14 pursuant to Fed. R. Civ. P. 26. Such disclosures failed to include the referenced CD containing
15 copies of allegedly offending emails. To date, nearly four (4) months later and after numerous
16 inquiries, Defendants have yet to receive such CD.

17 8. On or about July 18, 2007, the Court granted in part Defendants' motion to
18 dismiss, and ordered Plaintiffs to file an amended complaint within thirty (30) days of the date of
19 such order. Plaintiffs' amended complaint was due on or about August 17, 2007. To date, nearly
20 one (1) month after such pleading was due, Plaintiffs have failed to file an amended complaint as
21 ordered.

22 9. On or about August 22, 2007, several days after Plaintiffs' amended complaint
23 was due, Plaintiffs' counsel moved to withdraw as counsel.
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

10. Several days later, on or about August 27, 2007, Plaintiffs filed a motion for a stay.

11. As a result of Plaintiffs' pattern of misconduct, Defendants' have been forced to expend substantial sums on their legal defense.

DATED this 13th day of September, 2007.

/s/ Stacy K. Wolery, Esq.
Stacy K. Wolery, Esq

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below I electronically filed the document entitled Declaration of Stacy K. Wolery in Support of Defendants' Motion to Dismiss in accordance with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

Robert J. Siegel, WSBA #17312
i.Justice Law P.C.
1325 Fourth Avenue, Suite 940
Seattle, WA 98101
Bob@iJusticelaw.com

Douglas E McKinley
LAW OFFICE OF DOUGLAS E MCKINLEY JR
PO BOX 202
RICHLAND, WA 99352
doug@mckinleylaw.com

DATED this 13th day of September, 2007.

JACKSON & WALLACE LLP

/s/ Matthew R. Wojcik
Matthew R. Wojcik, WSBA No.27918
JACKSON & WALLACE LLP
1201 Third Avenue
Seattle, WA 98101
Telephone: (206) 386-0214
Fax: (206) 386-0216
Email: mwojcik@jacksonwallace.com
Attorneys for Defendants Impulse and Goldstein