

1 *{YOUR INFO HERE}*

2
3 *{YOUR NAME HERE}*, In Pro Per

4
5 **Superior Court of California**
6 **for the County of *{YOUR COURT}***

7)	Case No.: <i>{YOUR CASE NUMBER}</i>
8	<i>{JDB NAME HERE}</i> ,)	
9	Plaintiff,)	DEFENDANT'S MOTION TO COMPEL
10	vs.)	FURTHER DOCUMENTS
11	<i>{YOUR NAME HERE}</i> ,)	(Code Civ. Proc. §2031.310(a)(3) <i>et seq.</i>)
12	Defendant)	

13
14 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

15
16 **PLEASE TAKE NOTICE** that on May 15th, at 8:30 a.m. or as soon thereafter as the matter may
17 be heard, in the Superior Court of the County of *{YOUR COURT}*, Defendant *{YOUR NAME*
18 *HERE}*, will and hereby does move this Court for an order compelling Plaintiff Midland Funding
19 to further produce responses to Defendants Request for Production, Set 1. This motion is brought
20 pursuant to Code of Civil Procedure section 2031.310(a)(3), on the grounds that Plaintiff was
21 served with requests for valid and relevant categories of documents as part of Defendant's Request
22 for Production of Documents, Set 1, and Plaintiff has objected to producing certain categories of
23 documents on baseless grounds and has failed to produce documents responsive thereto. A
24 declaration in conformance with Code of Civil Procedure section 2016.040, attesting to efforts to
25 meet and confer on these issues is provided herewith. This motion is based upon this notice, the
26 attached memorandum of points and authorities, the supporting declaration of *{YOUR NAME*
27 *HERE}*, the separate statement of items in dispute concurrently served and filed with this motion,
28 the request for judicial notice filed in support of this motion, upon all papers and pleadings

1 currently on file with the Court, and upon such oral and documentary evidence as may be
2 presented to the Court at the time of the hearing.

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4 **MEMORANDUM OF POINTS AND AUTHORITIES**

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6 **I. INTRODUCTION**

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8 **A. Background**

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10 Plaintiff filed a generic complaint in this matter alleging that defendant owed money to plaintiff's
11 assignor. No evidence of the alleged account was attached to the complaint. The complaint
12 contained so little information that it was difficult to answer. Nonetheless, Defendant filed a
13 general denial and served on the plaintiff with Defendant's Request for Production of Documents
14 No1.

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16 **B. Procedural History of the Discovery Dispute at Issue**

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18 As a preliminary matter, Defendant served only 3 requests on plaintiff. All seek the most basic
19 information in this debt collection case. All seek information that plaintiff should have at the ready
20 in its files to form a good faith basis to sue.

21
22 Nonetheless, Plaintiff objected to each request using boilerplate and general objections. Those
23 objections were raised as bases for non-production (1) that the request called for the production of
24 documents protected by the Attorney-Client privilege and Work Product doctrines, and under
25 general objections (2) that the request was vague, ambiguous, overly broad, burdensome, and
26 oppressive. These objections are wholly without merit. Despite the objection based upon a
27 purported privilege, no privilege log was served with the responses. A discussion of each request
28 follows.

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C. Requests No. 2 Seek ALL DOCUMENTS relating to or constituting ANY assignment to Plaintiff of the account referred to in the complaint.

As to Requests No.2, Defendant is seeking ALL DOCUMENTS relating to or constituting ANY assignment to Plaintiff of the account referred to in the complaint. The Plaintiff objected to the request and provided a generic card member agreement that has no reference to the alleged account in question.

II. LEGAL AUTHORITIES

A. The Documents Sought Are Not Subject to Attorney-Client/Work Product Privileges

The Documents Sought Are Not Subject to Attorney-Client/Work Product Privileges. In addition to not providing a privilege log with initial responses, Plaintiff never identified during the meet-and-confer process how the disputed documents were privileged. The burden of establishing that a particular matter is privileged is on the party asserting the privilege. (See San Diego Prof Ass ‘n v. Superior Court) (Padrewski, Mitchell, Dean & Associates) (1962) 58 Cal.2d 194, 199.) There seem to be no cognizable bases for Plaintiffs’ assertions that the documents sought, or a portion thereof, are protected by the Attorney-Client Privilege and Work Product doctrine. Plaintiff has not attempted to satisfy the burden to establish that a particular responsive document is privileged, and thus, it is likely that Plaintiffs’ objections are instead nuisance objections designed to delay discovery rather than preserve a legitimate privilege. Therefore, to the extent documents within Plaintiffs’ possession are not properly subject to Attorney-Client or Work Product privileges, those documents must be produced. If the documents sought are indeed subject to Attorney-Client or Work Product Privileges, then a privilege log must be provided. It is generally known that a responding party who objects to the demand for inspection of a document based upon a valid claim of privilege, must “(1) identify with particularity [the] document. . . , and (2) set forth clearly

1 the extent of, and the specific ground for, the objection.. the particular privilege.. . [and] [i]f an
2 objection is based on a claim that the information sought is protected work product under Section
3 2018, that claim shall be expressly asserted.” (Code Civ. Proc., § 203 1.240, subd. (b); and see
4 Hernandez v. Superior Court (Acheson md.) (2003) 112 Cal.App.4th 285, 292.) Plaintiffs’ claims
5 of privilege appear dubious given that no privilege log was produced concurrently with the
6 responses and objections or in response to meet-and-confer efforts by Petitioners. If the plaintiff
7 legitimately had identified some privileged documents in the five weeks provided to produce
8 responses, then a privilege log would have been generated and produced. No such log was
9 produced because it is unlikely any privileged documents have been identified.

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11 **B. General Objections to Discovery Requests Are Disfavored and No Specific Basis for Their**
12 **Application to These Requests Has Been Provided**

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14 General objections, such as vagueness, ambiguity, overbreadth, burdensomeness, or
15 oppressiveness of the request, with no specific explanation supporting these objections, are
16 disfavored as proper objections to discovery requests. (See Deyo v. Kilbourne (1978) 84
17 Cal.App.3d 771, 783.) Unless the ambiguity renders the request unintelligible, the request should
18 be answered to the extent possible. (See id; see also L.A. Cnty. Sup. Ct. Local R. 3.A., subd.
19 (0(2).) It is entirely unclear what the Plaintiff claims was “vague” or “ambiguous” about each of
20 the requests since the Plaintiff did not identify any allegedly vague or ambiguous term or phrase in
21 response to any of the requests. As to the alleged overbreadth and burdensomeness of the requests,
22 again, no explanation was provided by the Plaintiff as to how a particular request was overbroad
23 or what the alleged burden would be on Respondents in providing the requested documents; no
24 such burden was identified in response to the meet-and-confer letter. If the Plaintiff had identified
25 the sources or number of documents responsive to the disputed requests and contended that
26 compiling the documents from the identified sources or the size of the final production would be
27 burdensome, then the Defendant could have offered to alleviate the Plaintiffs burden. Thus, any
28 claim of burden by the Plaintiff, if genuinely made, is not supported by the historical

1 characterization by the Plaintiff of the availability of the documents to anyone who asks for them,
2 and any alleged burden in the form of copying costs can readily be borne by the Defendant if
3 necessary. But because the Plaintiff is refusing to produce the documents without regard to costs,
4 no discussion of Petitioners bearing such costs has even been raised.

5
6 **III. CONCLUSION**

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8 For the foregoing reasons, the Defendant requests this Court to order the Plaintiff to produce
9 further responses, as well as responsive documents, to Requests No. 2, without further objection.

10
11 Dated May 14th, 2012

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14
15 *{YOUR NAME HERE}*

16 In Pro Per

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19 **DECLARATION OF {YOUR NAME HERE}**

20 I, *{YOUR NAME HERE}*, declare as follows:

21 1. I have personal knowledge of the following facts, and if called as a witness, I could and
22 would competently testify thereto.

23 2. On March 9th, 2021, I served on Midland Funding — a Request for Production of
24 Documents, Set 1. On April 17th, 2012, I received the Plaintiff’s written responses to the Request
25 for Production along with some documents responsive to some of the enumerated requests. As to
26 Requests No. 2, the Plaintiff refused to produce any documents responsive to the requests, and
27 objected to the requests.

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3. On May 4th, 2012, I sent a letter to Stelios A. Harris, counsel for the Plaintiff in this matter, in an attempt to meet and confer regarding the refusal to produce responses to Requests, No. 2. A true and correct copy of that meet-and-confer letter is attached hereto as Exhibit “A”, and is incorporated herein by reference.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this day May 14th, 2012.

{YOUR NAME HERE}

In Pro Per