

Joe Consumer  
[address]

Scum Bag  
Sleaze and Associates, P.C.  
[address]  
date

***RE: Evil Corp. vs. Joe Consumer***

Dear Mr. Bag,

The responses that you initially provided to Defendant's Discovery requests are deficient. Not only are you disregarding the rules of civil procedure, but you seem prepared to rely on evidence never seen by Defendant at trial, the very thing that the civil rules were designed to prevent. Or else, as seems more likely, you have no real evidence and are attempting to hide the fact for improper purposes.

In any event, the standard for requiring the Discovery is very broad:

O.C.G.A. 9-11-26(b)(1) "In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

Your boiler plate objections to the relevancy and burdensomeness are nothing more than a flimsy pretense, and your claims of privilege fall far short of the standards required by rule.

It is well established, that parties asserting "attorney/client privilege", "attorney work-product privilege" and/or "any other doctrines of privilege",

must, according to the Rules of civil practice, "describe the nature of the documents, communications, or tangible things not produced or disclosed- and do so in a manner that, without revealing information itself privileged or protected, will enable the other parties to assess the claim." The most common way to do this is by using privilege log, which identifies:

- (1) Each document withheld;
- (2) Information regarding the nature of the privilege/protection claimed;
- (3) The name of the person making/receiving the communication;
- (4) The date and place of communication, and
- (5) The document's general subject matter.

The party asserting privilege/protection must do so with particularity to each document, or category of documents, for which privilege/protection is claimed. After that, if the requesting party challenges the sufficiency of the assertion of privilege/protection, the asserting party may no longer rest on the privilege log, but bears the burden of establishing an evidentiary basis for each element of each privilege/protection claimed for each document or category of document. A failure to do so warrants a ruling that the documents must be produced because of the failure of asserting party to meet its burden.

You have fallen far short of the standards required to assert any privilege or doctrine, and accordingly any such privilege—not that any was warranted—must be considered waived.

Please be advised that Defendant is in need of clear accounting of this alleged account and balance. For the Defendant to properly prepare a defense, Defendant needs to see a breakdown of all charges and credits, to see if they are in compliance with the contract or card-member agreement. Without a clear accounting of how you arrived at the amount you say Defendant owes, the Defendant is unable to properly prepare a defense. Defendant respectfully requests you reconsider your objections. Defendant's position is that you would have to provide this, as evidence, at any trial and therefore it is relevant and must be produced.

Your arguments are addressed more specifically below.

## Interrogatories

**Interrogatory 1** asked for all persons who answered or were consulted in answering these interrogatories. You referred me to the signature block at the bottom of your response. Your response hardly justifies the dignity of a reply, but since the person or persons conferred in answering the discovery are presumably the persons with knowledge of the facts of your case, you are effectively offering yourself as a witness. Is that your intention? Any person with knowledge of the case is a potential witness, and the identity of such person and all relevant information must be revealed in response to discovery requests.

**Interrogatory 2** requested the identity of the person from whom you allegedly purchased the debt that is the subject of this suit. Your response was, in its entirety: "inc." This is plainly inadequate.

**Interrogatory 3** requests you to identify each document by which plaintiff acquired the debt which is the subject of this suit. You object that this document, presumably created by plaintiff for business dealings with a third party, is "attorney work product." The objection is frivolous and absurd.

**Interrogatory 4** sought the identity of plaintiff's employees who have sought to collect on the debt from defendant. Since it seeks information regarding persons in the employ of plaintiff—its agents for whom plaintiff is legally responsible—your objection of burdensomeness is without merit. Since these same agents may have knowledge about the nature of the debt or possible payments and might be called as witnesses for plaintiff or defendant, their identity is obviously relevant. Further, these employees might have information regarding alleged violations of the FDCPA under defendant's counterclaim – or of any hypothetical efforts of plaintiff or any of its agents to avoid or control violations of the FDCPA, a potential defense to liability under the FDCPA.

**Interrogatory 5** sought information regarding the original creditor's employees. These employees, like those of plaintiff, might have information or testimony, regarding the debt, and you are required to provide their identifying information if you have it.

**Interrogatory 6** inquired into whether you have any document with defendant's signature on it. You object as irrelevant. Since this action was brought under a breach of contract theory, any signature of defendant would be highly relevant, and this objection is, again, frivolous.

**Interrogatory 7** sought information regarding all documents that formed the basis of your complaint or could, in any way, justify it. Your objection that such evidence is irrelevant is simply frivolous. The documents forming the basis of your complaint are centrally relevant to this case.

**Interrogatory 8** inquired about demands for payment. You objected as irrelevant, yet making a demand for payment is part of your prima facie case for breach of contract.

**Interrogatory 9** asked for an itemization of principal and interest of the debt upon which you are collecting. You object as vague and irrelevant. Since it is plaintiff's burden to show all amounts due in a breach of contract action, and since incorrect or improper charges would be a defense, these facts are plainly relevant, and your claim that the interrogatory is "vague" is frivolous.

**Interrogatory 10** asked more specifically about the interest you seek on the debt you allege. You pose the usual, frivolous objections. Since by law you are entitled to collect only amounts specifically authorized by contract, not only are the reasons for interrogatory 9 applicable to this interrogatory, but also the doctrine of unclean hands may come into play.

**Interrogatory 11** sought for a specific breakdown of the debt into principal and interest. See comments about interrogatories 10 and 11.

**Interrogatory 12** sought information regarding late fees assessed. You pose your usual objections, but see comments in response to interrogatories 10 and 11.

**Interrogatory 13** sought information regarding your claim that the alleged debt was in default. Since this is necessary for a claim of breach of contract to be mature, and since the statute of limitations begins to run as of the date of any default, the information is plainly relevant, and proving the

existence and timeliness of your lawsuit can hardly be called “unduly burdensome” for most plaintiffs—where they have legitimate lawsuits.

**Interrogatory 14** asked you to describe the consideration for which you purchased, or were otherwise assigned, the alleged debt in this case. You object as irrelevant, but defendant is entitled to inquire into your right to pursue this action against him, and you have asserted that you acquired the debt by assignment.

**Interrogatory 15** asked for information regarding any independent analysis of the evidence by any agent of plaintiff prior to bringing this suit. Considering that the lawsuit is frivolous, and that any reasonable inquiry would have revealed it to be so, the information is relevant.

**Interrogatory 16** defendant will waive [not if there is a counterclaim for punitive damages, though, as net worth is a factor to be considered in the assessment of punitive damages.]

**Interrogatory 17** sought information regarding the exact amount you claim defendant owes as of the date of your answer to the interrogatories. Since you are seeking an amount of money and would have to show your entitlement to every amount claimed, your objection that the interrogatory is vague or irrelevant are clearly frivolous, as is your claim of attorney work product.

**Interrogatory 18** asks for information regarding amounts you have been paid towards the debt you allege against defendant. Since any such amounts would directly reduce the amount of money you are owed on the debt, your objection as irrelevant and burdensomeness are clearly frivolous.

**Interrogatory 19** sought the same information as 18 regarding all payments towards the amount allegedly due. See comment regarding Interrogatory 18.

**Interrogatory 20** seeks information regarding any written statements you have obtained from any person with knowledge of your claims in this action. You object as irrelevant, vague, overly broad and burdensome. These objections are patently frivolous. Written statements that may be used to

refresh or impeach witnesses are clearly highly relevant. And written statements by witnesses are not "work product" under the attorney work product doctrine.

## **Requests for Production**

You do not raise any cognizable objections to defendant's requests for production. You state, in your "general objections," that you object "to the extent that" the requests seek information beyond that allowed. But you do not make specific objections to any request, nor do you even attempt to delineate any of the imaginary bounds you place on the discovery. Objections not specifically raised are waived by law. Moreover, all the requests are valid and seek permissible information for all the reasons stated in my responses to your objections to the interrogatories.

Please consider this my attempt to confer and resolve the issues raised by your objections to the discovery requests I propounded. Please send requested documents and responses without further objection within 10 days to the address provided below.

Thank you in advance,

---

DEFENDANT

[address]