Evil Company

vs.

Joe Consumer

**DEFENDANT JOE CONSUMER'S MOTION TO COMPEL PRODUCTION**

 Comes now defendant Joe Consumer and brings this motion to compel answers to interrogatories and requests for production.

 1. Defendant served discovery requests, including Interrogatories and Requests for Production of Documents upon Evil Company on January 1, 20xx. See, Exhibits A and B, attached hereto. [Attach copies of discovery you actually sent]

 2. Pursuant to State's Rules of Civil Procedure, Plaintiff had until February 4, 20xx, to respond to such discovery.

 3. On February 4, plaintiff submitted its “Responses to Defendant's Discovery,” consisting in its entirety of the Affidavit of Leslie Liar, a supposed, but unauthenticated “Bill of Sale” for unidentified accounts, and nine (9) pages of documents purporting to be statements of an account supposedly belonging to defendant. [or whatever they did for you]

 4. In addition to these documents, plaintiff answered three (3) interrogatories with actual information, although not completely or in the form required by the Rules, and a host of boilerplate, often frivolous, objections.

 5. On February 15, 20xx, defendant sent Plaintiff his “good faith” letter in an attempt to resolve discovery disputes. See attached Exhibit \_\_.

 6. Plaintiff did not respond in a timely fashion, and accordingly defendant brings this motion to compel. Plaintiff requests that the Court order plaintiff to produce complete answers to every request within ten days of its ruling. [Or plaintiff still refuses to provide discovery…]

7. Because plaintiff's objections are largely frivolous, and because plaintiff is interposing these objections to hide its complete absence of materials justifying its suit against defendant, defendant requests that the court dismiss plaintiff's suit as a sanction for abuse of the discovery process. Alternatively, defendant requests an order requiring plaintiff to respond fully to defendant’s discovery requests without further delay.

 8. Defendant attaches herewith Defendant's Memorandum in Support of this Motion to Compel and her affidavit of compliance with rules regarding attempts to resolve discovery disputes.

Respectfully

Joe Consumer.

Evil Company

vs.

Joe Consumer

**DEFENDANT'S MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO COMPEL PRODUCTION AND FOR SANCTIONS**

**Introduction**

 Defendant Joe Consumer brings this motion to compel after having submitted discovery to plaintiff and engaged in good faith attempts to resolve the numerous discovery “disputes” occasioned by plaintiff's bad faith, boiler-plate objections. Plaintiff objected, for example, on the basis of “attorney-client privilege” to documents that, if they existed, were created to be sent to some third party (to wit, the person, if any, who was the account-holder with Big Bank, the original creditor from whom Evil Company allegedly purchased this debt). While claiming “attorney-client privilege” for these documents, plaintiff also claimed that the documents were in the possession and control of defendant, a claim diametrically opposed to the assertion of attorney-client privilege. Further, plaintiff failed to provide the information required by rule to support any claim of attorney-client privilege, rendering it impossible to assess the merit, if there were any, of its claims of privilege.

 Plaintiff's use of random, boilerplate objections has caused defendant to spend a great deal of time and effort attempting to resolve the bogus disputes raised by the objections. When defendant submitted his good faith letter attempting to resolve the so-called disputes, plaintiff did not even answer. [Or: did not answer the requests for discovery as required by law].

 Of great significance is plaintiff's repeated claim that “it is a debt buyer and has submitted requests for information to the original creditor and will amend” its responses (when and if the original creditor provides it any information). It is clear that plaintiff lacks any credible basis for its lawsuit against defendant and is stonewalling the discovery process in an attempt to hide this fact. Accordingly, defendant requests that plaintiff be required to provide the sought discovery within ten days of this motion, have its case be dismissed with prejudice, or for an order ruling that plaintiff may not introduce evidence on any of the issues for which discovery was sought and that the jury must regard these facts as proven against plaintiff.

 Defendant addresses the objections submitted by plaintiff in particularity below.

**Interrogatories**

 **Interrogatory 1** stated as follows:

 Is Portfolio Recovery Associates,LLC the direct assignee of an original creditor? Or, is Portfolio Recovery Associates, LLC an assignee of an assignee? If there are additional assignees, identify each assignee, their business address, and telephone number.

 Plaintiff's answer was to object:

Objection- irrelevant, not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, please see the attached Affidavit of Leslie Liar, 1 page, and Bill of Sale, 1 page.

 This interrogatory is not objectionable. Plaintiff brought suit on theories of breach of contract and account stated, and a right to collect any debt is an essential part of plaintiff's prima facie case. The affidavit of Leslie Liar does not state how the debt was obtained, if it was, and the Bill of Sale does not identify the debt supposedly acquired by plaintiff.

 **Interrogatory 3** asked as follows: “Identify the person or persons answering these interrogatories. Include their business address, business phone number, and title within the Plaintiff’s Organization.”

 Plaintiff respons was:

Objection --irrelevant, not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, these responses were prepared by counsel for the plaintiff along with an authorized representative of plaintiff. Contact information for this representative can be obtained from counsel for the plaintiff.

 Defendant is entitled to inquire into the knowledge of the person or persons providing information in answer to these interrogatories, as such persons are potential witnesses. Further, an interrogatory requesting identifying information is obviously requesting “contact information,” of the supposedly “authorized” representative, which defendant said could be obtained from counsel but has withheld in bad faith.

 **Interrogatory 4** asked plaintiff to:

Please provide the following information for each person known to the Plaintiff who has knowledge of facts relevant to this case, including but not limited to all persons interviewed by you, by your counsel,or by any person cooperating with you in the this action, giving a brief description thereof, for each person you may call as a witness in this case.

 1. Name, address, and telephone number.

 2. Place of Employment

 3. Relation to the Plaintiff

1. The subjects and substance of the testimony the witness will give; and whether the witness is to be tendered as an expert witness.

Plaintiff's response was to refer to its response to interrogatory 3:

Objection- irrelevant, not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, these responses were prepared by counsel for the plaintiff along with an authorized representative of plaintiff. Contact information for this representative can be obtained from counsel for the plaintiff.

This objection is plainly frivolous. Defendant asked for persons with knowledge about the case, and any such person is obviously a potential witness. Nothing could be more relevant than that. Further, it would appear that has identified counsel as a witness in the matter, which would be improper under legal ethics, and any such knowledge could only be hearsay.

 **Interrogatory 5** requested as follows: Please provide the following information.

 1. Your Full Name

 2. Your Full Business Name

 3. Your Business Purpose (e.g. Creditor, Lender, Collection Agency, etc.)

1. Form of Business Organization (e.g. corporation, partnership, LLC, sole proprietorship, etc.)

Plaintiff's response was: 'Objection-irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, vague, ambiguous, the term “your” is never defined.'

 Plaintiff's corporate name, in addition to being relevant to determining whether any account was actually and legitimately transferred to it, will tend to show whether or not the company is recognized under law and has a right to bring lawsuits in the state of Arizona. The term “your” has an ordinary definition, considering that this is a discovery request directed to a specific, identified party to a lawsuit, and such an objection is patently without merit.

 **Interrogatory 6** asked as follows:

In regards to the contract or agreement alleged in this action, please state the following:

 1. Terms of the Contract or Agreement:

 2. Credit Limit Amount Financed in the Alleged Contract or Agreement:

 3. Date and Monetary value of any valuable consideration received on the contract or agreement:

 4. Date and Monetary value of any payments or credits alleged to be executed on the contract or agreement.

 Plaintiff objected:

Irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, overly broad, attorney-client privilege, confidential and proprietary. For its further objection, upon information and belief, many of the requested items are already in the possession, custody and/or control of the defendant or are equally available to the defendant. Additionally Plaintiff is a debt purchaser and must obtain relevant, responsive documents from the original creditor. Such request has been made and Plaintiff will supplement upon receipt. Without waiving these objections, please see the following documents, attached hereto as Exhibit C: [providing the affidavit of Leslie Liar, supposed bill of sale, and supposed billing statements].

 The contract (and its terms) upon which a breach of contract action is founded is obviously relevant to a claim for breach of contract, ***see, e.g., Chartone, Inc. v. Bernini, 83 P.3d 1103, 1111 (Ariz.Ct. App. 2004*)**, and defendant is entitled to know whether plaintiff has or can even identify them. They are not “equally available” to defendant, as defendant has denied the existence of any such contract. Defendant waived answers to parts 2 and 3 of the interrogatory, so the information requested was obviously not “overly broad” or burdensome.

 **Interrogatory 7** asked the following:

Please provide the following information for each person who has had any involvement in any manner in any efforts on your behalf to collect or attempt to collect any debt (s) purportedly owing by Defendant.

 1. His/Her Position

 2. His/Her work address, telephone numbers

 3. Nature and purpose of his/her involvement.

Plaintiff's response was, “See response to Interrogatory No.3”

 The response to Interrogatory 3 was an objection as to relevance, but a supposed offer to provide “contact information.” Since defendant has a counterclaim for violations of the Fair Debt Collection Practices Act regarding the collection activities of Portfolio Recovery Associates, LLC, the information is clearly relevant, as it inquires into the identities and actions of plaintiff's agents. Plaintiff has failed to provide the information required.

 **Interrogatory 9** asked plaintiff to identify each person who had engaged in any communications regarding the debt allegedly owed in this suit and to state the substance of such communications.

 Plaintiff objected that this was irrelevant and claimed that because the interrogatory commences with “Plaintiff or Attorney” thatit could not answer interrogatories directed to a non-party. Of course any activity by the attorney would be activity as an agent of plaintiff and is clearly discoverable on that basis. To be clear, though, Defendant clarified that it did not request information gleaned by plaintiff's attorney regarding any communications on this debt that were not conducted as an agent of plaintiff. It is overwhelmingly probable that any communications plaintiff's counsel had were on behalf of plaintiff. Defendant does not request an order disclosing communications between plaintiff and its attorney.

 **Interrogatory 11** asked plaintiff to:

Describe Portfolio Recovery Associates,LLC's procedure and policy with respect to the Maintenance, preservation,and destruction of documents, stating in your Answer whether any documents or things relating to any information Requested in these interrogatories, or related in any way to this lawsuit, have ever been destroyed or are no longer in your custody. For each such document, please identify the document,how, when and why each document was destroyed or otherwise left your control, the identity of any person who participated in any way in the destruction and/or action for destroying the document or to transfer it out of your control or custody; and if the document still exists, identify the person now having control or custody of the document.

 Plaintiff objected that this is “irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, confidential and proprietary, attorney client privilege.”

 Since plaintiff has produced almost no records in support of this multi-thousand dollar claim, whether or not it has destroyed or lost any such records will be relevant, and if so, whether that was done according to a prescribed policy that would counter an instruction to the jury that such documents should be considered favorable to defendant. Whether plaintiff routinely destroys records or transfers them is obviously not “proprietary” and cannot be protected by any attorney-client privilege. Nor is there any remotely defensible right of “confidentiality” to a party's treatment of documents that are or may become evidence in a lawsuit that it brings. Moreover, plaintiff has claimed, via the affidavit of Leslie Liar and in its Motion for Summary Judgment, that various documents were kept “in the ordinary course of business.” Defendant is entitled to inquire into what this means.

 **Interrogatory 12** asked plaintiff to identify any written basis for its claim that defendant was indebted to pay anything and to state when any such agreed statement was entered into.

 Plaintiff referred to its response to interrogatory 6, which claimed an attorney client privilege (which obviously cannot apply here), confidential and proprietary information (which equally cannot apply here and are frivolous in view of plaintiff's further objection that “many of the requested items are already in the possession (etc. of defendant). Plaintiff also object on the basis of relevance, but any request for documentary proof of the debt instrument on which plaintiff is suing is obviously centrally relevant in a breach of contract action.

 **Interrogatory 14** asked plaintiff to identify all witnesses with evidence in support of its allegations that defendant entered into a contract with and was indebted to plaintiff.

 Plaintiff refered to its responses to interrogatory 6 and 3, which are assertions of privilege which obviously cannot apply and are frivolous in the current instance, and an objection on the basis of relevance, which is equally frivolous given that it is suing on the terms of an unidentified contract. It's claim is that defendant entered into a contract and breached it. Any witness supporting that fundamental assertion would be very significant to its case, if it had one.

 **Interrogatory 15** asks plaintiff to “State all actions taken to verify the accuracy and completeness of the accounts reported and state your procedures designed to assure the maximum possible accuracy of the information reported by you.”

 Plaintiff objects that this is “ irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, confidential and proprietary, attorney client privilege.”

 Since Leslie Liar (in an affidavit submitted in support of plaintiff's motion for summary judgment and in response to these interrogatories and requests) claims to have examined records supposedly inherited from elsewhere, the maintenance of these records is important regarding their admissibility. Since defendant has also counterclaimed under the FDCPA that this suit was brought for amounts not authorized by contract and good faith efforts to ensure accuracy are relevant to the statutory penalty under the FDCPA, this information is obviously relevant. Since the question regards actions taken to verify the accounts, it obviously does not seek any attorney-client privileged information, but just to be clear, defendant clarified that it was not seeking any such information in its letter attempting to confer and resolve. Plaintiff's objections are in bad faith and an attempt to stonewall defendant and the court in any effort to see how meritless plaintiff's case is.

 **Interrogatory 16** asks for the date upon which defendant allegedly defaulted on the original account.

 Plaintiff objects as irrelevant, referring again to its response to interrogatory 6, which includes an attorney-client privilege obviously not relevant to this question. Defendant has stated affirmative defenses of statute of limitations and laches, so the date of any alleged default is clearly relevant.

 **Interrogatory 18** asks “What credit card purchases and/or cash advances were made on this account? When were they made?”

 Plaintiff refers yet again to your response to interrogatory 6, which raises the nonexistent attorney client privilege and also objects on the basis of relevancy. But plaintiff has alleged an “open account, which requires it to furnish proof of every aspect of the account, including purchases and payments, this information is obviously relevant. ***See, e.g., Holt v. Western Farm Services, Inc., 110 Ariz. 276, 517 P.2d 1272, 1274 (AR Banc 1974).*** Thus the information sought is clearly relevant and the objections meritless.

 **Interrogatory 19** asked plaintiff to identify any exhibits you will use in the trial.

 It objected to relevancy and as attorney-client privilege. Obviously any exhibit you will use is centrally relevant to this case and by definition is not confidential, as it is intended to be shared with the court.

 **Interrogatory 20** asked plaintiff to state any defenses in detail and provide their factual basis. Plaintiff object that this is irrelevant, vague, ambiguous, and state that defendants “typically assert defenses.” Defendant requests that the court order that plaintiff be barred from raising any defenses to defendant's counterclaims.

 **Interrogatory 23** asked whether plaintiff has in its your possession the supposed contract between defendant and Big Bank, and whether you have an actual document assigning the contract from Big Bank to plaintiff.

 Plaintiff objected by reference to Response 6, a claim of irrelevance and privilege. Such a claim regarding defendant's alleged liability or plaintiff's right to bring suit makes no sense whatsoever. And there can obviously be no attorney-client privilege in documents of this nature.

**Requests for Production of Documents**

 Plaintiff made a general, sweeping objection to Request for production Number 1 and then incorporated that objection by reference in every other response to the requests except for Nos. 10-13 and 21. This objection includes a claim of attorney-client privilege not in compliance with the rules or the instructions of defendant's discovery, claims of irrelevance, and “confidential and proprietary” information—which is not stating an objection under the rules at all. The objection includes the claim, clearly baseless given that defendant has denied all of the underlying allegations of plaintiff's claims, that “many of the requested items” are in defendant's possession. This objection is too vague to apply to any specific item requested, and it is predicated on an implied assertion defendant has explicitly denied: defendant does not have these documents, doubts they exist or ever have existed, and denies that they ever should have existed. Finally, the “objection” ends with a claim that plaintiff has requested information from the original creditor and will “supplement upon receipt.” Again, this is not an objection or any basis for failing to provide the information sought.

 Given the broad, boilerplate language and the lack of application of most of these objections to the requests to which they are applied, defendant will simply address the requests and why the court should require their production.

 **Request No. 1** asked plaintiff to provide the “actual credit card contract upon which your complaint is based.”

 Plaintiff objects as “irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, overly broad, attorney-client privilege, confidential and proprietary. It further object that the material is already in the possession of defendant or equally available.

 The objection is frivolous. If the materials are or could be within the possession and control of defendant, they obviously could not be protected by confidentiality, proprietary rights of any sort, or the attorney-client privilege. They were designed for disclosure to third parties at arms length from plaintiff. Since defendant, however, has denied being a party to any such agreement, though, it is clear that he does **not** have any of these agreements, and they are clearly relevant to a claim for breach of the contract he is seeking information on.

 The information you provide, to wit, the affidavit of Leslie Liar, the Bill of Sale, and the supposedly “itemized” billing statements do not relate to this request at all.

 **Request 2, 3, and 4** seek documents related to plaintiff's alleged right to collect this supposed debt. Plaintiff repeats its objections as made in response to request 1 with just as little merit. Its right to collect this debt is critical to any right to bring suit on it.

 **Request 5 and 6** seek documents related to the supposed right that plaintiff supposedly purchased from Big Bank. These are relevant as pertaining to the fundamental right to collection—by anyone—against defendant.

 **Request 7** seeks documents related to the supposed purchase by plaintiff of an alleged right to sue defendant. Considering the vagueness of plaintiff's claims, defendant is entitled to inquire regarding the supposed transaction.

 **Request 10** seeks copies of all documents related to communications between plaintiff and Big Bank regarding purchased debt. Defendant is entitled to inquire into these communications because they relate to the status of the debt allegedly sold, the availability of documents or other evidence of the debt, and other issues regarding whether plaintiff is pursuing this debt against defendant in good faith or (as alleged in the counterclaim) in violation of the FDCPA. Plaintiff objects as irrelevant, and on the basis of attorney-client privilege, and as confidential and proprietary. Since the documents relate to communications between plaintiff and an unrelated third party, none of these objections regarding privilege or confidentiality can apply, and since this request would, among other things, include plaintiff's claim to have requested information relevant to discovery as well as information regarding the legitimacy of the debt in general, the information sought is clearly relevant.

 **Requests 13, 14 and 20** seek any documents related to notices sent to defendant regarding plaintiff's right to collect the amount supposedly due under the alleged contract. Since defendant does not have a right to collect any such debts until it proves the debt, and notification might tend to have shown the right, and since defendant can hardly be faulted for failing to pay a debt alleged to be owed someone else without notice of that debt, this information is obviously relevant.

 **Request 15** seeks copies of all statements generated on this account. Since plaintiff brings its claim under a theory of open account, and pursuant to that theory must prove every transaction of the account, this request obviously seeks relevant information.

 **Request 16 and 17** seek information on all interest sought as part of this action. It is plaintiff's obligation to prove every amount sought, and defendant has counterclaimed under the FDCPA that plaintiff has sought unauthorized amounts. Defendant is clearly entitled to test the validity of all interest charges, and the matter is of central relevance.

 **Request 19** asks plaintiff to provide the original dunning letter sent to defendant. Since defendant has counterclaimed that plaintiff did not provide him the rights regarding verification under the FDCPA, this request is obviously relevant. No privilege attaches to a communication desiged, by its very nature, to be sent to defendant.

 **Request 21** seeks the contract between plaintiff and its attorney regarding pursuit of this lawsuit. Since plaintiff has already revealed some of the details of its contract in its bogus request for fees, it has waived any privilege that might have applied to the contract. But no privilege would have applied in any event because plaintiff is seeking attorneys fees, and defendant is entitled to question into the basis for determining those fees, especially consider the very questionable nature of plaintiff's attorneys fees request.

**SANCTIONS**

 As has been shown, plaintiff has engaged in a blatant attempt to hide any evidence—if it has any evidence—in support of its claims against defendant. As the court in ***Solimeno v. Yonan, No. 1 CA-CV 09-0139 (Ariz. App. 2010)*** held, and the concurrent opinion stated,

Rule 26.1 was altruistically designed to move civil litigation one step further away from the concept of “litigation by ambush,” to allow a litigant to efficiently understand the facts and legal theories of an opponent's case, to discover the nature and identity of any documents or other exhibits which were relevant to the claim or defense, and to understand and fairly meet the anticipated testimony of the opponent's fact and expert witnesses.   It was presumed that, if the disclosure rules were followed in good faith, much of the mind-numbing effort and cost associated with creating and answering non-uniform interrogatories would be eliminated.

This analysis is equally applicable to the case at bar, where defendant seeks documents that are, if they exist at all, in plaintiff's possession. But plaintiff has not provided any of the information sought in its Rule 26 disclosures or in its answers here. It has created a discovery gauntlet designed to delay and obfuscate, and it is plainly attempting to proceed by “litigation by ambush.”

 The court has very broad authority to prohibit and punish such an abuse of the discovery process. In ***Solimeno***, the court awarded $125,000 in sanctions caused by abuses leading to a mistrial. It is well within this court's authority to sanction plaintiff by the dismissal of its action. See,  ***Norwest Bank (Minn.), N.A. v. Symington, 197 Ariz. 181, 185-86, ¶ 17, 3 P.3d 1101, 1105-06 (App.2000)*** (“[A]t the outset of a case the parties must make a full disclosure of all relevant information․ No longer will it be advantageous to play games of semantics (‘If he'd have just asked the right question, I would gladly have disclosed the material’).”). ***And see, Rivers v. Solley, 217 Ariz. 528, 177 P.3d 270 (App. 2008)*** (upholding trial court’s dismissal of personal injury case, after an evidentiary hearing, based on plaintiff’s failure to disclose a prior accident that defendant discovered shortly before trial).

 In the cases cited above, the sanctions occurred in a trial situation. Defendant notes that, in the context of addressing appropriate sanctions for violations of procedural rules for civil litigation, the Arizona supreme court has encouraged trial courts to apply those rules so as “to maximize the likelihood of a decision on the merits.” **Allstate Ins. Co. v. O’Toole, 182 Ariz. 284, 287, 896 P.2d 254, 257 (1995).**  That often militates against dismissal as a sanction for discovery abuses. Plaintiff's abuses here, however, are directed towards its litigation with a pro se defendant, and the hurdles it has recklessly and abusively added to the discovery process are plainly designed to prevent defendant from any sort of a fair process. Plaintiff has created an obstacle course of frivolous and boilerplate objections in its attempts to prevent defendant from having a trial on the merits; since it is aware that defendant is pro se (and attorney fees will not be allowed as a sanction for its abuse), it believes itself able to abuse the rules with impunity. Under the circumstances, such abuse can and should be curtailed by stern sanctions.

 Accordingly, defendant requests that the court dismiss plaintiff's claims against it. In the alternative, plaintiff requests an order that plaintiff be required to furnish answers to all discovery without any further objection within ten days from the date of the court's order.

Respectfully,

Joe Consumer

[Under Georgia law, see:  “Trial judges have broad discretion in controlling discovery, including imposition of sanctions, and appellate courts will not reverse a trial court's decision on such matters unless there has been a clear abuse of discretion.”  (Punctuation omitted.)   Amaechi, supra, 259 Ga.App. at 347, 577 S.E.2d 48.   See Motani, supra, 251 Ga.App. at 385(1), 554 S.E.2d 539.

**Affidavit of Joe Consumer**

 Comes now Joe Consumer, being over 18 years old and a resident of X County, Y State, and states under oath the following:

* + 1. **Exhibit A** is a true and correct copy of Interrogatories and Requests for Production which I served upon plaintiff in this matter on day, month, year. According to the rules of civil procedure, responses were due on day, month, year.
		2. **Exhibit B** is a true and correct copy of Plaintiff's Responses to Interrogatories and Requests for Production which I received on day, month, year. [Or, I received no answers after the time for response had expired.]
		3. Plaintiff's responses were inadequate, and as part of a good faith effort to resolve discovery disputes as required by the rules, I telephoned counsel for plaintiff on \_\_ to discuss our differences. [Describe briefly what happened – could not reach, had a conversation that did not resolve… whatever]. Attached as Exhibit \_\_ is my email, which I sent on the date indicated, to plaintiff’s counsel confirming my/our phone call.
		4. After discussion by phone, I sent plaintiff’s counsel a good faith letter further attempting to resolve our differences. See Exhibit \_\_, attached, a true and correct copy of that letter, which I sent both by email and U.S. First class mail, postage prepaid, on the date indicated.
		5. Plaintiff did not timely respond to Exhibit C – [or **Exhibit D** is a copy of plaintiff's response to Exhibit C. Believing that no further negotiations were likely to produce acceptable results, I now bring my Motion to Compel – or provide copies of other of your communications and swear they’re what they are].
		6. Since no further informal negotiations appear likely to be fruitful, defendant now brings this motion to compel seeking the relief requested.

Joe Consumer, having been duly identified to me, swore and affirmed the truth of the foregoing document on this \_\_ day of \_\_\_\_\_\_\_\_, 20xx.

**Notary Public**

Sworn before me, a notary public, on this \_\_ day of \_\_\_\_\_\_, 20\_\_.

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