

STATE OF MICHIGAN

IN THE th DISTRICT OF THE COUNTY OF OAKLAND

MIDLAND FUNDING, LLC,
As Assignee of CREDIT ONE BANK, N.A.

Plaintiff/Counter-Defendant,

Case No. Case No. 17-
HON.

-vs-

Mr. Debtor

Defendant/Counter-Plaintiff.

STILLMAN LAW OFFICE
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DEFENDANT FIRST DISCOVERY REQUESTS

INSTRUCTIONS

Any references to “Plaintiff”, “Plaintiffs”, “Plaintiff’s” or “Plaintiff(s)” shall be treated as referring to each and every Plaintiff named within this lawsuit, individually and collectively, as may be appropriate. As used in these interrogatories and requests, any references indicating the use of masculine or feminine and any references indicating the use of singular or plural, shall be used interchangeably.

Plaintiff is Midland Funding, LLC (Midland)

Defendant is Dave Debtor (Debtor).

“The Account” or “Accounts” refers to the Account that is the subject of this lawsuit

If any objection is made to any of the following interrogatories or discovery requests, the Plaintiff(s) shall make any such objection and state the relevant legal basis for such objection. If any objection is made based upon a claim of privilege as to any response, Plaintiffs shall state the legal basis for the privilege Plaintiffs are invoking and provide a detailed privilege log to support the invocation of such privilege.

Each and every interrogatory and discovery request herein is deemed continuing in nature pursuant to the Michigan Rules of Civil Procedure, and Plaintiffs are obligated to seasonably amend and provide any updated information that renders the responses to one or more of these interrogatories and discovery requests, incomplete or inaccurate, and serve those amended responses upon the undersigned Defendant's counsel.

As used in these interrogatories and discovery requests, the term "document" or "documents" means every writing or recorded material of every type and description, of any kind, that is in the possession, control or custody of Plaintiffs, which Plaintiffs have knowledge, whether originals, copies or facsimiles. Such writings or recordings include, but are not limited to, collection notes, electronic computer collection records, printouts of collection records, sample collection letters, Metro-data tapes, diskettes, computer hard drives, tape backups, Zip-type disks, magnetic media of any kind, CD-ROM, DVD, correspondence, memoranda, stenographic notes, handwritten notes, contracts, documents, rough drafts, inter-office memoranda, memoranda for the files, letters, research materials, logs, diaries, forms, bank statements, tax returns, card files, books of account, journals, ledgers, invoices, diagrams, minutes, manuals, studies, publications, pamphlets, pictures, films, voice recordings, reports, surveys, minutes, statistical compilations, data processing cards, computer records, tapes, print-outs, agreements, communications, state and Michigan governmental hearings, reports, correspondence, telegrams, memoranda, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, diaries, graphs, notebooks, note charts, charts, plans, drawings, sketches, maps, summaries or records of meetings or conferences, summaries or reports of investigations or negotiations, opinions or reports of consultants, photographs, video tape, motion picture film, digital photographs, brochures, advertisements, circular, press releases, drafts, any marginal comments appearing on any document, all other writings, books of all nature and kind whether handwritten, typed, printed, mimeographed, photocopied or otherwise reproduced, all tape recordings (whether for computer, audio, or visual replay) and all other written, printed, and recorded matter or tangible things upon which words, phrases, symbols or information of any kind are recorded, encrypted or otherwise stored.

A request to "identify" a document is a request to state the following, as applicable:

The date of the document;

The type of document;

The names and present addresses of the person or persons who prepared the document and of the signers and addressors of the document;

The name of the employer or principal whom the signers, addressors and preparers were representing;

The present location of the document;

The name and current business and home addresses of the present custodian of the original document, and any copies of it;

A summary of the contents of the document; and

If the original document was destroyed, the date and reason for or circumstances under which it was destroyed.

Defendant requests that the documents be made available for this inspection at the offices of counsel for Defendant or at such office of the Defendant as may be the location of any of the documents requested, during normal business hours, and with the least possible disruption to the ordinary course of Defendants' duties and responsibilities.

Defendant further requests that this inspection be permitted by Plaintiff immediately after Plaintiffs' response to this request has been filed, and that Defendant's attorneys be permitted to remove from Plaintiffs' custody such documents as they may desire to copy, on the understanding that Defendant's attorneys will be responsible for such documents so long as they are in their possession, that copying will be done at Defendant's expense, and that the documents will be promptly returned after copying has been completed.

These interrogatories and discovery requests are intended to cover all documents in Plaintiffs' possession, or subject to their custody and control, regardless of location. If there are no such documents, please so state. If there are such documents, please list and mark appended documents responsive to each request. (Michigan Rules of Civil Procedure).

Each interrogatory propounded herein should be answered upon Plaintiffs' entire knowledge from all sources and all information in Plaintiffs' possession or otherwise available to Plaintiff, including information from Plaintiffs' officers, employees, agents, representatives or consultants and information which is known by each of them. An incomplete or evasive answer is deemed a failure to answer.

If any answer is qualified, Plaintiffs shall state specifically the terms of each qualification and the reasons for it. If an interrogatory cannot be answered in full, state the part which can be answered and answer the same in full to the extent possible; state further and specifically the reason(s) why the remainder cannot be answered.

If any interrogatory may be answered fully by a document, the document may be attached in lieu of an answer if the document is marked to refer to the Interrogatory to which it responds.

For purpose of these requests, a statement is (a) a written statement signed or otherwise adopted or approved by the person making it, or (b) stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

PURSUANT TO THE E-DISCOVERY REQUIREMENTS OF THE MICHIGAN RULES OF CIVIL PROCEDURE, DEFENDANT SPECIFICALLY DEMANDS HEREIN THAT ALL DISCOVERY DOCUMENTS THAT CAN BE PRODUCED IN READABLE AND FULLY SEARCHABLE ELECTRONIC FORMAT BE PRODUCED IN THAT FORMAT. "PRINT SCREENS," PRINTOUTS, OR OTHER MANUALLY PRODUCED COPIES OF ELECTRONIC DATA ARE UNACCEPTABLE.

INTERROGATORIES

Pursuant to the rules of the Michigan Rules of Civil Procedure, Defendant requests that Plaintiff(s) answer, under oath, the following interrogatories:

1. Identify each document referred to or consulted by Plaintiff(s) in the preparation of the Answers to these Interrogatories and discovery requests made within this entire document.
2. Identify all persons known to Plaintiff(s) to have personal knowledge of any facts or issues involved in this lawsuit, state the following:
 - a. First, last, and middle legal name;

- b. All DBAs, fake, or alias name(s) used by this person;
 - c. Job title or capacity;
 - d. Business address and telephone number;
 - e. Home address and telephone number;
 - f. Age;
3. Identify and *describe with particularity* the date of every sale of the Debtor debt with the dates and the *complete chain of title of ownership* and assignments (the exact process and identification of purchasers, price and chronology showing every purchaser and owner of the debt from the original creditor to Plaintiff.
4. Date of every Assignment SPECIFIC to the Debtor debt and Account number in the Chain of Title history.

THE FOLLOWING QUESTIONS ARE REGARDING NICOLE HANKE'S AFFIDAVIT AT EXHIBIT 1:

5. Regarding Paragraph #1 of Exhibit 1, please provide proof that an **obligation was sued upon** when Ms. Hanke swore under oath that "Plaintiff is the current owner of, and/or successor to, **the obligation sued upon**, and was assigned all the rights, title and interest to Defendant's Credit One Bank, N.A. account XXXXXXXXXXXX7736 (hereinafter "the account") on September 21, 2017. Obligation was Mr. Christopher Ball and Ms. Crystal Pope were working at MIDLAND on April 12, 2017.
6. Regarding Paragraph #1 of Exhibit 1, please state EVERYTHING that Ms. Hanke reviewed that "Plaintiff is the current owner of, and/or successor to, **the obligation sued upon**, and was assigned all the rights, title and interest to Defendant's Credit One Bank,

N.A. account XXXXXXXXXXXXX7736 (hereinafter “the account”) on September 21, 2017.

7. Regarding Paragraph #1 of **Exhibit 1**, on September 21, 2017 please state specifically, whether Plaintiff was the **current owner** or **successor** to the obligation sued upon, or both the successor and current owner. Which one?
8. Regarding Paragraph #1 of **Exhibit 1**, please state what materials or documents Ms. Hanke reviewed on or prior to September 21, 2017 that evidenced or showed specifically whether Plaintiff was the **current owner** or **successor** to the obligation sued upon, or both the successor and current owner of the obligation?
9. Who wrote or created the Affidavit at **Exhibit 1**?
10. When Ms. Hanke swore under oath that “Plaintiff is the current owner of, and/or successor to, **the obligation sued upon**, and was assigned all the rights, title and interest to Defendant’s Credit One Bank, N.A. account XXXXXXXXXXXXX7736 (hereinafter “the account”) on September 21, 2017, had a lawsuit been signed and/or filed by a law firm or attorney on Midland’s behalf against the Defendant, Mr. Debtor.
11. On September 21, 2017 what proof did Ms. Hanke possess or review that showed that Midland was a Plaintiff and Mr. Debtor was a Defendant in any court in the State of Michigan?
12. Was the statement “the obligation sued upon” a true statement on September 21, 2017? If the Answer to this inquiry is yes, please state in what court the obligation was sued upon.

THE FOLLOWING QUESTIONS REFER TO THE AFFIDAVIT OF SALE OF ACCOUNTS ATTACHED HERE AT EXHIBIT 2.

13. Regarding Paragraph 6 of **Exhibit 2**, please state the exact **LAST** date the “Sold Accounts” were owned immediately prior to the sale to Sherman on May 12, 2016? When did Ms. Hanke become aware of this Last date and what documents did she review to show her the LAST date the “Sold Accounts” were owned prior to the sale to Sherman on May 12, 2016?
14. Regarding **Exhibit 2** what proof or evidence is there that the account that is the subject of this lawsuit was part of the “Sold Accounts” on May 12, 2016. When did Ms. Hanke review to show her the Account that is the subject to of this lawsuit is or was part of the “Sold Accounts” on May 12, 2016?
15. Regarding Paragraph 6 of **Exhibit 2**, please state on **what exact date** Credit One sold the account that is the subject of this lawsuit to MHC Receivables immediately prior to May 12, 2106?

THE FOLLOWING QUESTIONS ARE REGARDING EXHIBIT 3.

16. Regarding Paragraph 5 of **Exhibit 3**, and that Jon Mazzoli swore under oath in front of a Notary Public that “The originating creditor and prior servicer of the Accounts was Credit One Bank, N.A. Prior to the Sale, Sherman Originator III LLC had previously bought the Accounts on May 12, 2016 from Credit One and its affiliates, was Ms. Nicole Hanke aware of this prior to signing her Affidavit at **Exhibit 1**.”
17. Regarding Paragraph 4 of **Exhibit 3**, who had Sherman Originator III LLC bought the Accounts from when it states, “Sherman Originator III, LLC had previously bought the Accounts on May 12, 2016.”

18. When Ms. Hanke signed her Affidavit at **Exhibit 1** on September 21, 2017 was she aware that Jon Mazzoli swore under oath in front of a Notary Public that “Sherman Originator III, LLC had previously bought the Accounts on May 12, 2016.”?
19. Prior to signing the complaint in this case, was Michael Arnhold aware that Jon Mazzoli swore under oath in front of a Notary Public that “The originating creditor and prior servicer of the Accounts was Credit One Bank, N.A. Prior to the Sale, Sherman Originator III LLC had previously bought the Accounts on May 12, 2016 from Credit One and its affiliates.”
20. Prior to signing the complaint in this case, was Michael Arnhold aware that Jon Mazzoli swore under oath in front of a Notary Public that ““Sherman Originator III, LLC had previously bought the Accounts on May 12, 2016”
21. Prior to signing the complaint in this case on or about October 16, 2017, was Michael Arnhold aware that Ms. Hanke had sworn under oath in her Affidavit at **Exhibit 1** that “Plaintiff is the current owner of, and/or successor to, the obligation sued upon, and was assigned all the rights, title and interest to Defendant’s Credit One Bank, N.A. account XXXXXXXXXXXX7736 (hereinafter “the account”)?
22. Please state every document that Mr. Arnold reviewed that **SPECIFICALLY IDENTIFIES** the subject debt and original account number being *transferred, sold or assigned* from Credit One Bank, NA to Midland Funding, LLC.
23. What documents did Ms. Hanke view on a computer screen prior to signing the Affidavit at **Exhibit 1**? What documents did Ms. Hanke view on paper (and not on a computer screen) prior to signing the Affidavit at **Exhibit 1**?

24. Identify the name and location of the person that created the Debtor Complaint and the Hanke Affidavit at **Exhibit 1**?
25. Is Plaintiff in possession of the ORIGINAL signed note or credit card agreement that Mr. Debtor signed?
26. Regarding **Exhibit 1**, what does “the obligation sued upon” mean?

REQUESTS FOR ADMISSION

Pursuant to the Michigan Rules of Civil Procedure, Defendant demands that Plaintiff (s) either admit or deny the following enumerated Requests for Admission within (30) days of service hereof:

1. **ADMIT THAT:** Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. **ADMIT THAT:** Plaintiff does not own the subject debt it is collecting from Mr. Debtor.
3. **ADMIT THAT:** Sherman Originator III, LLC had previously bought the Accounts on May 12, 2016.
4. **ADMIT THAT:** The principal purpose of MIDLAND is the collection of any debts purchased by MIDLAND.
5. **ADMIT THAT:** MIDLAND has no record of a payment made by Mr. Debtor within the six years leading up to the date of the filing of this complaint against Mr. Debtor.
6. **ADMIT THAT:** “The originating creditor and prior servicer of the Accounts was Credit One Bank, N.A.”
7. **ADMIT THAT:** “Sherman Originator III LLC had previously bought the Accounts on May 12, 2016 from Credit One and its affiliates.”

8. **ADMIT THAT:** On September 21, 2017, Ms Hanke stated under oath that the obligation in this case was sued upon.
9. **ADMIT THAT:** On September 21, 2017, Mr. Debtor was not part of a lawsuit as a Defendant in a court of law where Midland Funding, LLC was the Plaintiff.
10. **ADMIT THAT:** On September 21, 2017, Ms. Nicole Hanke was aware that Mr. Debtor was not part of a lawsuit as a Defendant in a court of law where Midland Funding, LLC was the Plaintiff. Crystal Pope did not write or create the Affidavit at **Exhibit 1**.
11. **ADMIT THAT:** Ms. Nicole Hanke signed the Affidavit at **Exhibit 1** after someone else wrote or created **Exhibit 1**.
12. **ADMIT THAT:** On September 21, 2017 there was no “obligation sued upon” that involved Mr. Debtor.
13. **ADMIT THAT:** Upon the filing of the Midland lawsuit here on or about October 16, 2017, the statement “obligation sued upon” was a true statement.
14. **ADMIT THAT:** The statement “obligation sued upon” is not a true statement until the obligation is sued upon.

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to the Michigan Rules of Civil Procedure, Defendant request that Plaintiff(s) produce within thirty (30) days, the documents described herein and permit Defendant and his attorney to inspect and copy such documents as they may desire:

1. All documents identified in Response to all sets of Plaintiff’s Interrogatories and Request for Admissions.
2. All documents that Ms. Hanke reviewed prior to signing **Exhibit 1**.
3. All purchase documents showing the purchase of the debt from the creditor to the

Plaintiff (the exact process and identification of purchasers, price, ACCOUNT NUMBER OF THIS DEBT and chronology showing every purchaser and owner of the SPECIFIC debt from the original creditor to Plaintiff).

4. Every affidavit signed by a seller or purchaser of the DEBTOR debt in the chain of title from the original creditor to the Plaintiff.
5. Please provide a copy of the of everything that made Mr. Debtor a Defendant on September 21, 2017 at **Exhibit 1**.
6. ALL Documents showing every purchaser and seller of this debt prior to Plaintiff purchasing the debt and THE EXACT DATE OF PURCHASE AND SALE OF THE SPECIFIC DEBT OF MR. DEBTOR in the chain of title.
7. Please produce the Purchase and Sale Agreement between Sherman Originator III, LLC and Midland Funding, LLC and sworn proof the SPECIFIC debt of Mr. Debtor was part of the purchase between the two parties.
8. Please provide the specific sale document showing the debt of Mr. Debtor being sold from Credit One Bank, NA to MHC Receivables LLC and the exact date of the sale.
9. Please provide the specific ASSIGNMENT showing the debt of Mr. Debtor being ASSIGNED from Credit One Bank, NA to MHC Receivables LLC that Ms. Hanke reviewed prior to September 21, 2017.
10. Please produce EVERY document on a computer and in paper that Ms. Hanke reviewed prior to signing the Affidavit at **Exhibit 1** on September 21, 2017.
11. Please provide all the SPECIFIC Assignments SPECIFIC only to the Debtor debt that Mr. Arnhold reviewed prior to signing the lawsuit in this subject case.

12. Please provide all and EVERY document Mr. Arnhold reviewed regarding the subject debt, prior to signing the lawsuit in this subject case.

PROOF OF SERVICE

Defendant's Interrogatories, Request to Admit and Request to Produce were served on Plaintiff's Attorney Michael Arnhold and Mimi Kalish by mail and email on February 17, 2018

Respectfully Submitted,

Brian P. Parker (P48617)
Attorney for Defendant