

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

MIDLAND FUNDING LLC ASSIGNEE)
OF CHASE BANK(USA), N.A.,)

Plaintiff)

v.)

JILL SHERIDAN,)

Defendant)

Civil Action No

10-07271-4

**MOTION TO COMPEL DISCOVERY,
OR IN THE ALTERNATIVE,
MOTION IN LIMINE**

COMES NOW, Jill Sheridan, Defendant, proceeding *pro se* in the above styled action, and moves this Honorable Court, pursuant to § 9-11-37, for an Order to Compel Plaintiff's Discovery Responses. As an alternative to Granting a Motion to Compel, the Defendant has presented this honorable court with a Motion in Limine praying for an Order that precludes Plaintiff from introducing evidence and witnesses at trial not disclosed during discovery.

The Defendant has pursued discovery in a timely manner, however, Plaintiff has provided responses to such discovery that were incomplete and evasive. Plaintiff was made aware of this fact on multiple occasions but has not provided any correction or supplementation to these discovery responses, despite an acknowledgement that they were in possession of non disclosed information that had been requested by Defendant.

Defendant prays that this honorable court compel the Plaintiff to provide such discovery responses, or in the alternative, grant the Motion in Liminie to preclude such non disclosed evidence from introduction at trial to avoid substantial prejudice against the Defendant. Further, the Defendant prays for sanctions and any other relief that this court deem proper and just for the willful concealment of evidence by Plaintiff. Defendant has provided a Memorandum and affidavit in support of these requests and is attached hereto.

Trial date is set for December 9, 2010 in this matter and the discovery period ends December 14, 2010. Defendant regrets the submission of this request at such a close time prior to trial but Defendant has no choice but to do so as Plaintiff has continuously stonewalled in an attempt to further frustrate this process. Introduction of such evidence at trial that that been timely requested but not disclosed by Plaintiff will amount to an unfair and prejudicial trial by ambush.

If a Motion to Compel is Ordered, a period of no more than ten (10) days is necessary for the Defendant to review of such responses.

If the Motion in Limine is Granted, Defendant is ready for trial scheduled for December 9, 2010.

This 6th Day of December, 2010.

Respectfully Submitted,

Jill Sheridan, *pro se*
3266 Stonewall Dr. NW
Kennesaw, GA 30152
(678) 636 – 9306

**MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL, *OR IN THE ALTERNATIVE*, MOTION IN LIMINE**

1. Defendant, proceeding *pro se*, pursued discovery in this case in a diligent manner beginning on July 12, 2010 and has attempted to complete discovery without unnecessary delay.

2. Defendant propounded a Request for Production of Documents upon Plaintiff's counsel and a copy of those requests are attached hereto as Exhibit "A". This request was mailed Certified Mail via United States Postal Service and was received by Plaintiff's counsel on July 16, 2010; a return receipt "green card" was requested and a copy is attached hereto included in Exhibit "A". Defendant requested documents and information pertaining to the purported assignment claimed by plaintiff and underlying documentation regarding the amount claimed.

3. Plaintiff's counsel responded to Defendant's Request for Production of Documents on August 11, 2010 and a copy of those responses are attached hereto as Exhibit "B". Plaintiff's responses were preceded by a preamble of "General objections", obscuring whether or not specific objections applied to all or a part of the documents requested. In addition, claims of privilege were introduced but no privilege log provided and Plaintiff responds with conclusions of law avoiding answering such document requests. Plaintiff refers to documents provided but such documents are not responsive to those specific requests.

4. Defendant then propounded Request for Admissions and Interrogatories upon Plaintiff's counsel and a copy of those requests are attached hereto as Exhibit "C". This request was mailed Certified Mail via United States Postal Service; it was received by Plaintiff's counsel on August 18, 2010; a return receipt "green card" was requested

and a copy is attached hereto included in Exhibit "C". This request served to clarify and narrow the facts of the case.

5. Plaintiff's counsel responded to Defendant's Request for Admissions and Interrogatories on September 15, 2010; a copy is attached hereto as Exhibit "D". No verification was provided with the Plaintiff's responses to interrogatories, these requests also provided a preamble of "General objections", claims of privilege, and no privilege log. Answers provided were evasive, incomplete, or self contradictory.

6. Defendant, as a first attempt to resolve discovery issues, mailed a Second Request for Production of Documents, Interrogatories, and Request for Admissions; a copy is attached hereto as Exhibit "E". This request was mailed Certified Mail via United States Postal Service and received by Plaintiff's counsel on October 19, 2010; a return receipt "green card" was requested and a copy is attached hereto included in Exhibit "E". Defendant re-propounded all discovery requests providing Plaintiff an additional 30 days for Plaintiff to correct deficiencies.

In this request, the Defendant put plaintiff's counsel on notice that their discovery responses were considered deficient, evasive, and not complete. This request re-propounded the same discovery requests as before, but requested that prior deficient responses be corrected. Defendant requested that a Meet and Confer be scheduled if Plaintiff is unable or unwilling to supplement and cure discovery responses.

7. Defendant, in a second attempt to resolve discovery issues, telephoned Plaintiff's attorneys of record at the number provided with such record, to on November 4, 2010. Defendant attempted to leave a voicemail message but no voicemail boxes exist in the "Spell by Name" directory for either Dennis E. Henry or Daniel A. Greene, the attorneys of record for the Plaintiff. Defendant then spoke to an employee of Frederick

J. Hanna & Associates, P.C., Sheena, and requested to speak to Mr. Dennis Henry or Mr. Daniel Greene. Sheena insisted that *she* would help and began to request personal information including Defendant's social security number. Defendant refused and insisted that it was necessary to discuss Discovery issues and a possible Meet and Confer with the Attorneys of record regarding a pending case. Defendant was repeatedly placed on hold, transferred to different employees and was ultimately told by employees of Frederick J. Hanna & Associates, P.C. that "*Mr. Henry does not take phone calls...*" and that Daniel Greene wasn't there, "*he just signs off on the paperwork...*" Given only the option to leave a message with the "Case Manager", "Laurel" at extension #3106, Defendant did so, but requested that either Mr. Henry or Mr. Greene call the Defendant to discuss the outstanding discovery issues. Therefore, the Defendant is unable to directly communicate with either attorney of record for the Plaintiff and neither attorney of record has responded to Defendant's requests.

8. Defendant, in a third attempt to resolve discovery issues, mailed a letter to the Plaintiff's attorney pursuant to Uniform Superior Court Rule 6.4, which was received by Plaintiff's counsel November 9, 2010; a copy of the letter is attached hereto as Exhibit "F". This request was mailed Certified Mail via United States Postal Service and was received by Plaintiff's counsel on November 9, 2010; a return receipt "green card" was requested and a copy is attached hereto included in Exhibit "F".

9. Defendant, in a fourth attempt to resolve discovery issues, had a telephone conversation with Clay Moseley, an Attorney with Frederick J. Hanna & Associates, P.C., the law firm representing the Plaintiff. Mr. Moseley contacted the Defendant regarding the discovery issues and on November 16, 2010, he agreed that Plaintiff would be providing supplementation to prior deficient discovery response. In addition, Mr.

Moseley referred to documents and witness information in the possession of Plaintiff that has not been disclosed to the Defendant. Mr. Moseley agreed that responses would be received by Defendant no later than November 25, 2010. No such responses were received by Defendant by November 25, 2010. Clay Moseley is not an attorney of record in this instant action. He is however an attorney with Frederick J. Hanna & Associates, P.C. the firm representing the Plaintiff. Mr. Moseley is familiar to the case and Defendant as he represented the Plaintiff in a preceding action for the same claim, which resulted in a dismissal in the Gwinnett County Magistrate Court on March 18, 2010.

10. No attorney of record for the Plaintiff in this case (Mr. Dennis Henry or Mr. Adam Greene) has personally responded to my requests to resolve this discovery dispute.

11. Defendant has not received any supplemented responses or communication from Plaintiff's counsel regarding any delay of these responses.

12. Plaintiff has not moved for a protective order nor has it moved for an extension to answer any concerning information being sought through Defendant's discovery requests.

SPECIFIC ISSUES WITH PLAINTIFF'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS, INTERROGATORIES AND REQUEST FOR ADMISSION

The following exhibits have been attached in support of the following explanation of deficient discovery responses:

EXHIBIT "A" *Defendant's Request for Production of Documents* including proof of receipt July 16, 2010

EXHIBIT "B" Plaintiff's *Response to Defendant's Request for Production of Documents*
Rule 5.2 Certificate August 11, 2010, Daniel A. Greene

EXHIBIT "C" *Defendant's Interrogatories and Request for Admissions* including proof of receipt August 18, 2010

EXHIBIT "D" Plaintiff's *Response to Defendant's Request for Admissions*
Rule 5.2 Certificate September 15, 2010, Daniel A. Greene of Frederick J. Hanna & Associates, P.C.

EXHIBIT "E" Plaintiff's *Response to Defendant First Interrogatories*
Rule 5.2 Certificate September 15, 2010, Daniel A. Greene of Frederick J. Hanna & Associates, P.C.

EXHIBIT "F" Defendant's *Second Request for Interrogatories, Request for Admissions and Production of Documents* including proof of receipt October 19, 2010

EXHIBIT "G" Defendant's *Second Request to Resolve Discovery Dispute Letter* including proof of receipt November 9, 2010

I. "GENERAL OBJECTIONS"

The following refers to Exhibits "B", "D" and "E" which are Plaintiff's responses to Defendants discovery requests. Plaintiff's counsel included in each of its responses to discovery, a preamble of "General Objections" in addition to their objections to specific items. The "General Objections" did not reference any specific request and the majority of the objections contained therein were not cited in any specific response. Therefore the applicability of those objections to a specific request is abstract and vague. In addition, one could not ascertain whether or not documentation and/or information is or is not behind withheld due to objection.

"General Objections" made by Plaintiff to each of Defendant's discovery requests included, *"...they assume facts that are inaccurate...they are argumentative, defective in form, overly broad, unduly burdensome, oppressive, not reasonably calculated to lead to the discovery of admissible evidence, impose on it an unreasonable burden of*

inquiry, they seek information that is subject to the attorney-client privilege, work product privilege, or any other privilege or legal protection, they seek information that is of a confidential, proprietary, or trade secret nature, they seek information that was prepared in anticipation of litigation, they are not properly limited as to time, they seek documents not in its possession, custody, or control...” Simply put in the table below, Plaintiff carelessly propounded its objections, some far exceeding the initial requests. Defendant asks that these frivolously propounded objections be waived.

Defendant’s Discovery Request	Defendant’s Number of Requests	Plaintiff’s Number of General Objections to Requests
Request for Production of Documents	13	20
Interrogatories	16	18
Request for Admissions	12	21

II. PLAINTIFF ASSERTS UNSUPPORTED OBJECTIONS AND CLAIMS OF PRIVILEGE BUT HAS NOT PROVIDED PRIVILEGE LOG

The following refers to Exhibits “B” “D” and “E” which are Plaintiff’s responses to Defendants discovery requests. The plaintiff’s counsel included the following objection within its “General Objections” in each responsive discovery request: *“Plaintiff objects generally to the Document Requests to the extent they seek information that is subject to the attorney-client privilege, work product privilege, or any other privilege or legal protection”*This objection was stated as General Objection “L” in both the Request for the Production of Documents and Interrogatories and was stated as General Objection “M” in the Request for Admissions responses. Plaintiff has failed to show its burden of establishing that the requested documents were or are privileged under either the attorney-client or work product privileges. Nor has the Plaintiff moved OCGA § 9-11-26 (c) protective order in response to the Defendants Request.

The Defendant has requested that Plaintiff provide such discovery log, however, it has not been provided. During the November 16, 2010 telephone conversation with Clay Moseley, it was told to Defendant that they would not be providing one. Yet, it was told to Defendant in that same conversation that there were in fact more documents and information withheld. Defendant asks that either a privilege log be provided, or objection be waived.

III. SPECIFIC DEFICIENCIES OF PLAINTIFF'S RESPONSES TO DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS

The following refers to Exhibits "A" and "B". Plaintiff has provided documents that are not responsive to Defendants requests and has referred to case law which it believes satisfies the Defendant's Production of Document request in an effort to avoid producing documents or admitting their existence or non-existence. Defendant asks that Plaintiff be compelled to provide the documents responsive to requests, indicate with specificity if a document does not exist or is being withheld for privilege reasons. If privilege applies to a request, Defendant asks to be provided with a privilege log describing such withheld documents. Or, in the alternative, the Defendant asks that the Plaintiff be precluded from entering into evidence at trial documents not produced as requested in discovery.

Plaintiff Response #1: The Plaintiff refers to a "Bill of Sale" to satisfy this request. However the "Bill of Sale" and is not responsive to the specific request. The "Bill of Sale" demonstrates little more than it is itself an exhibit to a Master Agreement for the sale of unknown accounts, for unknown consideration, according to the terms of another document.

PLAINTIFF'S RESPONSES FOR #2,3, 4,5,6,8,9,10,13 state the following objection:

Plaintiff objects to this Request to the extent that it presupposes that a written contract need exist, as the card issuer does not always require a signed application or consent to the cardholder agreement, and no such signed document or written contract is required under Georgia Law. See Davis v. Discover Bank, 277 Ga. App. 864.

The reference to *Davis v. Discover Bank, 277 Ga. App. 864.* is not an answer to Defendant's actual requests. Midland Funding LLC is claiming to be an "Assignee of Chase Bank USA NA". In the aforementioned case, Discover Bank is the original creditor collecting a debt owed directly to it, not one acquired through an assignment. In addition, Discover Bank provided multiple facets of documentation including a full and complete set of billing statements, a cardholder agreement, witness testimony, and affidavits in support of their case. In this case, such documentation has not been presented, making the case-law reference to *Davis v. Discover Bank, 277 Ga. App. 864* irrelevant.

PLAINTIFF'S RESPONSES FOR #7, 11, AND 12: Defendant feels these are relevant and necessary due to the fact Defendant has never engaged in a business relationship with Plaintiff and because of that, Defendant could not be in possession of such.

IV. SPECIFIC DEFICIENCIES OF PLAINTIFF'S RESPONSES TO DEFENDANT'S INTERROGATORIES

The following refers to Exhibits "C" and "D". No verification was provided with the Interrogatory answers. Plaintiff's responses were incomplete, evasive, and self-contradictory. Plaintiff did not specify whether an objection applied to all of or part of a question including subparts.

Interrogatory #1. Daniel Adam Greene answered the interrogatories and titled himself “Attorney at law Direct assignee” which clearly is in contradiction of Interrogatory #5 regarding any assignment and identities of assignees.

Interrogatory #6, 7, 8: No responsive answer was provided with Interrogatories 6 and 7. Plaintiff’s objection stated that it would identify a representative of “Washington Mutual” and is wholly self contradictory. Defendant has yet to be provided with any information whatsoever regarding any witnesses.

Interrogatory #9. This should not be objected to and Plaintiff should know what exhibits it proposes to introduce at trial.

Interrogatory #12. Nonsensical objection.

No responsive answer was provided with Interrogatories 3-5, 8, 10-11, 13-16, however, Plaintiff’s attorney specifically objected to these Interrogatories citing the following:

Plaintiff objects to this Interrogatory to the extent that it requires Plaintiff to respond by acquiring or supplying information which would be irrelevant to the subject matter or issues of this action, and not reasonably calculated to lead to the discovery of admissible evidence, on the ground that said request exceeds the permissible scope of discovery under the Georgia Civil Practice Act.

Defendant does not understand why objections have been raised to Interrogatories #3 and #4, since Plaintiff has provided a document in response to Defendant’s Production of Document requests that refer to another entity, “MCM”. Therefore, Plaintiff should answer these questions and without objection.

Interrogatories #5, 10,11,13. Clearly, the issue of assignment of debt and any existing contracts to the alleged debt are relevant, yet these very relevant questions were objected to and left unanswered.

Interrogatories #14, 15, 16. Given the fact the Defendant has not engaged in any business relationship with the Plaintiff whatsoever, it is relevant how Plaintiff located Defendant and whether any credit reporting in connection with this alleged debt has taken place.

Defendant asks that Plaintiff be compelled to provide the answers responsive to Interrogatories and provide verification for such responses. Or, in the alternative, the Defendant asks that the Plaintiff be precluded from entering into evidence at trial information, including witnesses and exhibits, requested but not provided in these Interrogatories.

VI. SPECIFIC DEFICIENCIES OF PLAINTIFF'S RESPONSES TO DEFENDANT'S REQUEST FOR ADMISSIONS AND REQUEST THAT THIS COURT DEEM RESPONSES ADMITTED

The following refers to Exhibits "C" and "D". Plaintiff's response to Defendant's Request for Admissions has served false, self-contradicting and evasive answers and multiple frivolous objections to Defendant's Request for Admissions. Defendant notified Plaintiff of such. Plaintiff has refused, despite multiple opportunities, to correct and/or supplement such answers.

Plaintiff denied Request for Admissions #5, which stated, "*CHASE BANK (USA), N.A. has no direct knowledge of the litigation initiated by Midland Funding LLC on the account that is in dispute, and that no employee or agent of CHASE BANK (USA), N.A. directly requested any employee or agent of Midland Funding LLC to initiate any legal action against Defendant*" but has not provided to Defendant the identify of any Chase Bank USA NA employee or agent, or any witness, custodian of record, or an individual with knowledge of the case or identity of witnesses being called at trial whatsoever, as

requested in Interrogatories #6,7,8. In addition, Plaintiff's objections to Interrogatories #6, 7, 9 refer to a witness that will be called from Washington Mutual Bank.

Plaintiff denied Request for Admissions #6, which stated, "*You do not have the original or a copy of an assignment between you and CHASE BANK (USA), N.A.*" but has not provided such documents relevant to assignment as requested in Interrogatories #11, 13.

Plaintiff denied Request for Admissions #7, which stated, "*There is no written agreement between Midland Funding LLC and the Defendant.*" but has not provided such document as requested in Defendant's Request for Production of Documents.

Plaintiff denied Request for Admissions #11, which stated, "*You are unable to provide a complete accounting for the amount you are claiming*" but has not provided Defendant with such as requested in Request for Production of Documents. Plaintiff has provided documents that clearly do not provide for a total and complete accounting of the amount claimed.

Request for Admissions #2 stated, "*You voluntarily dismissed Case Number 09-M-39244 after the Defendant requested proof that you were the legal owner of the alleged debt and you could not provide such evidence*". Mr. Moseley acknowledged remembering this case from Magistrate Court and was made aware of Plaintiff's answer to this question during the phone call with the Defendant on November 16, 2010 therefore knowingly did not this correct this answer.

Because O.C.G.A Section 9-11-37 (3) states "*...an evasive or incomplete answer is to be treated as a failure to answer,*" Defendant moves this honorable court to find them as such and deem Defendant's Request for Admissions 1,2,3,4,5,6,7,8,9,10, 11 and 12 to be Admitted.

CITATIONS AND AUTHORITY

Defendant pursued discovery in accordance with O.C.G.A. § 9-11-26 and requested relevant information regarding the Plaintiff's acquisition of such account, a complete accounting of balance claimed, witnesses and exhibits to be used a trial, and documents and information regarding the assignment which gives Plaintiff grounds to sue in this case.

Plaintiff is under a duty pursuant to O.C.G.A. § 9-11-26(e)(2)(A) to amend prior responses because Plaintiff was notified on four occasions by Defendant that the responses were incorrect when made.

Clay Moseley acknowledged that Plaintiff had in its possession documents and witness information not disclosed to Defendant, although requested by Defendant, that were intended to be introduced at trial. Mr. Moseley referred to at least one document, a "Boarding Packet" and spoke of, but did not clearly identify, a witness planned to be called a trial. The acknowledgement of undisclosed evidence and witness information came about not as an attempt to provide Defendant with an amended discovery response for which Plaintiff has a duty to do so, but came about during the explanation of how the Plaintiff intended on winning the case in court. This is a knowing concealment pursuant to O.C.G.A. § 9-11-26 (e)(2).

Where the Plaintiff provided responses that may have been true at time of response, upon receipt of this information, Plaintiff was under a duty pursuant to O.C.G.A. § 9-11-26 (e)(2)(B) to amend their prior responses, knowing that those responses were no longer true.

Mr. Moseley agreed during the telephone discussion with Defendant on November 16, 2010 that Plaintiff would (1.) Correct the prior evasive and incomplete discovery responses (2.) Amend incomplete responses to include prior undisclosed but requested information (3.) Provide Verification for Interrogatories (4.) Provide this before November 25, 2010 so that Defendant may have time to review responses. Therefore, this was an explicit agreement made between parties creating a duty for the Plaintiff to supplement its discovery responses pursuant to O.C.G.A. § 9-11-26 (e)(3).

If Plaintiff's counsel had in fact read its responses to discovery pursuant to O.C.G.A. § 9-11-11, Plaintiff would have clearly been able to identify errors in responses including answers that were self-contradictive, nonsensical, were inappropriately objected, or that a verification was missing for the Interrogatories. § 9-11-33(a)(2).

Plaintiff's counsel would not agree to (1.) omit the "General Objections" in each of their discovery responses and instead provide objections actually specific and responsive to each request; and (2.) Provide a privilege log, as had been requested, detailing the information withheld pursuant to their claim of privilege.

Defendant asks this Honorable court pursuant to § 9-11-37 for any and all sanctions this court deems just.

CONCLUSION

The Plaintiff's counsel has not given any reason for its incomplete, evasive and self-contradictory discovery responses whatsoever. Even after being told multiple times of the errors in their responses and being given ample opportunity prior to the close of discovery to fix them, they have not taken advantage of the opportunity to do so. In fact, the attorneys of record Mr. Dennis Henry and Mr. Adam Greene have not responded to the Defendant's requests whatsoever. Mr. Clayton Moseley interjected himself into the

case on behalf of Plaintiff's counsel and has promised correction and supplementation of responses but has not delivered.

Not only did Plaintiff provide deficient, evasive, and incomplete discovery responses, but knowingly concealed additional information and evidence requested by Defendant which is known to exist and in Plaintiff's possession. Their willful abuse of discovery has unnecessarily expanded the proceedings, as it has forced the Defendant to file this motion.

The Plaintiff and their counsel are not abiding by the Civil Rules of Procedure, nor are they deterred by the possibility of sanctions. Where monetary sanctions are the best deterrent for these flagrant discovery abuses, the Plaintiff is completely aware of the Defendant's *pro se* status, thereby no monetary sanction such as attorney's fees will occur for Plaintiff's discovery abuses and unnecessary expansion of the litigation.

Defendant would be unfairly prejudiced by the introduction of such undisclosed evidence and/or witnesses at trial and moves this honorable court to recognize Plaintiff's willful concealment of such evidence and/or witness(es) and disregard for Defendant's requested discovery and for the Georgia Rules of Civil Procedure.

WHEREFORE, Defendant prays for an Order, pursuant to O.C.G.A. § 9-11-37, et seq., for the following relief:

A. An Order compelling the Plaintiff to answer the aforesaid discovery attached hereto;

B. That the aforementioned Order prohibit the Plaintiff from making any objections to the discovery;

C. That this court deems Plaintiff's evasive and incomplete responses to Defendant's Request for Admissions as "Admitted";

D. Or in the alternative Grant Defendant's Motion in Limine to preclude Plaintiff from introducing evidence and/or witnesses not already disclosed in discovery;

E. Any and all sanctions that the Court deems reasonable and just and further relief as the Court may deem necessary and appropriate.

This 6th Day of December, 2010.

Respectfully Submitted,

By: _____
Jill Sheridan, *pro se*
3266 Stonewall Dr. NW
Kennesaw, GA 30152
(678) 636 – 9306

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

MIDLAND FUNDING LLC ASSIGNEE)
OF CHASE BANK(USA), N.A.,)

Plaintiff)

v.)

JILL SHERIDAN,)

Defendant)

Civil Action No

10-07271-4

CERTIFICATE OF SERVICE

I hereby certify that I served the **MOTION TO COMPEL DISCOVERY, OR IN THE ALTERNATIVE, MOTION IN LIMINE and Memorandum, Affidavit, and Exhibits in support thereof** by hand to the office of following attorneys of record in this matter:

Dennis E. Henry, Daniel A. Greene,
Attorneys for Plaintiff
Frederick J. Hanna & Associates, P.C.
1427 Roswell Road
Marietta, Georgia 30062

This 6th day of December, 2010.

Respectfully submitted,

By: _____
Jill Sheridan, *pro se*
3266 Stonewall Dr.
Kennesaw, GA 30152
(678) 636-9306

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

MIDLAND FUNDING LLC ASSIGNEE)
OF CHASE BANK(USA), N.A.,)

Plaintiff)

v.)

JILL SHERIDAN,)

Defendant)

Civil Action No

10-07271-4

DEFENDANT'S RULE 6.4 CERTIFICATION

COMES NOW, Jill Sheridan, Defendant, *pro se*, and files this certification, under Rule 6.4 of the Uniform Superior Court Rules showing the Court as follows: I have conferred with Plaintiff's counsel in good faith to resolve the matters included in Defendant's Motion to Compel Discovery. Included in such effort were: (1.) Re-mailing Discovery to Plaintiff's Counsel on October 16, 2010 with notification of prior deficiencies in their response (2.) Calling Plaintiff's counsel on November 4, 2010 (2) Mailing a letter to Plaintiff's counsel on November 9, 2010. (3) Speaking with Clay Moseley, Attorney with Frederick J. Hanna & Associates, P.C., law firm representing Plaintiff on November 16, 2010.

Despite these efforts, Plaintiff has not cooperated. As such, all of my efforts have failed to resolve the issues brought forth in Defendant's Motion to Compel Discovery. Accordingly, Defendant has been forced to file Defendant's Motion to Compel Discovery.

This 6th Day of December, 2010.

Respectfully Submitted,

Jill Sheridan, *pro se*
3266 Stonewall Dr. NW
Kennesaw, GA 30152
(678) 636 – 9306

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

MIDLAND FUNDING LLC ASSIGNEE)
OF CHASE BANK(USA), N.A.,)

Plaintiff)

v.)

JILL SHERIDAN,)

Defendant)

Civil Action No

10-07271-4

**AFFIDAVIT OF JILL SHERIDAN IN SUPPORT OF RULE 6.4
CERTIFICATION OF GOOD FAITH EFFORT TO RESOLVE DISCOVERY
DISPUTE**

STATE OF GEORGIA
COUNTY OF GWINNETT

PERSONALLY APPEARED, before me an officer duly authorized by law to administer oaths, Jill Sheridan, who after first being duly sworn, states:

1.

My name is Jill Sheridan, and I am competent in all respects to testify regarding the matters set forth herein. I am the Defendant, and I give this Affidavit voluntarily in support of my Motion to Compel. I have personal knowledge of the facts stated in this affidavit and know them to be true.

2.

I have conferred with Plaintiff's counsel in good faith to resolve the matters included in Defendant's Motion to Compel Discovery. Included in such effort were: (1.) Re-mailing Discovery to Plaintiff's Counsel on October 16, 2010 with notification of prior deficiencies in their response (2.) Calling Plaintiff's counsel on November 4, 2010 (2) Mailing a letter to Plaintiff's counsel on November 9, 2010. (3) Speaking with Clay Moseley, Attorney with Frederick J. Hanna & Associates, P.C., law firm representing Plaintiff on November 16, 2010.

3.

Mr. Moseley contacted me on behalf of Midland Funding LLC in the above styled case and I spoke with him for almost one hour on November 16, 2010. He

acknowledged that Plaintiff did possess further information not disclosed in discovery, planned to be introduced at trial. Mr. Moseley was provided in great detail the discrepancies in which the Plaintiff's previous discovery responses were deficient, including their use of "General objections", no verification provided with interrogatory responses, claims of privilege but no privilege log provided, and references to documents in responses to interrogatories that was not responsive to the actual request. Mr. Moseley agreed that Plaintiff would supplement its discovery responses by the agreed date of November 25, 2010. No such supplementation or correction of discovery responses has occurred.

4.

Mr. Dennis Henry and Mr. Adam Greene, attorneys of record in the above styled case have not personally responded to my requests whatsoever and cannot be reached by telephone.

5.

The deadline for Plaintiff's response to the discovery requests re-sent to them is October 16, 2010, which has passed. The agreed date of November 25, 2010 for supplemented and corrected discovery responses has also come and gone. To this date, Plaintiff has not provided corrections for prior discovery responses which were deficient. Nor has the Plaintiff supplemented its discovery responses, despite acknowledging the possession of further information in which Plaintiff plans to use against Defendant at Trial.

6.

Defendant has come to the conclusion that Plaintiff will not correct nor supplement its prior evasive and deficient discovery responses without the intervention of this court despite being given multiple opportunities by Defendant to do so. All of my efforts have failed to resolve these issues have failed.

7.

Defendant requires adequate discovery responses from Plaintiff to prepare defense in the above styled action. Defendant will be unjustly prejudiced by the willful and purposeful withholding of information by Plaintiff that may be presented at trial without prior disclosure.

FURTHER AFFIANT SAYETH NOT.

This 6th day of December, 2010

Jill Sheridan, *pro se*
3266 Stonewall Dr. NW
Kennesaw, GA 30152
(678) 636 – 9306