

1 Christine Baker
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6 In Pro Per

7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 Christine Baker,
10 Plaintiff,
11 v.
12 Midland Funding LLC, et al.,
13 Defendants.
14

No. CIV 13-08169-PCT-SPL

PLAINTIFF'S FIRST SET OF
DISCOVERY REQUESTS TO
DEFENDANT BARRY BURSEY
AND RESPONSES THERETO

15
16 Pursuant to Rules 33, 34 and 36 of the Federal Rules of Civil Procedures,
17 Plaintiff Christine Baker hereby serves upon Defendant Barry Bursey the following
18 requests for admission, interrogatories and requests for production of documents.

19 **INSTRUCTIONS**

20
21 1. **ALL INFORMATION.** In answering this discovery, please furnish all
22 information and documents which are available to you, including, without limitation,
23 all documents in the possession of your attorneys, accountants, affiliates, auditors,
24 agents, employees, officers, directors, shareholders, contractors, or other personnel,
25 and not merely such documents as is in your own personal possession.

26 2. **DUE DILIGENCE.** If you cannot respond to any of the following requests
27 and interrogatories in full, after exercising due diligence to secure documents and
28 information to do so, please so state, and respond to the extent possible, specifying

1 including all attachments or addenda annexed thereto, in your possession,
2 custody, or control.

3 5. "Person" means any natural person, corporation, partnership, proprietorship,
4 association, organization, team, or group of natural persons.

5 6. "Statute of Limitations" refers to the Arizona law applicable to the account.
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7 **REQUESTS FOR ADMISSION**

8 **ADMISSION NO. 1:**

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10 You admit that Plaintiff Christine Baker is a natural person and is a "consumer" as
11 defined by 15 U.S.C. § 1692a(3).

12 Admit Deny _____

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14 **ADMISSION NO. 2:**

15 You admit that you are a "debt collector" as defined by 15 U.S.C. § 1692a(6).
16

17 Admit _____ Deny *

18
19 **Barry Bursey is presently retired. Prior to retirement he was an attorney**
20 **licensed in Arizona, engaged in debt collections through Bursey & Associates,**
21 **P.C.**

22 **ADMISSION NO. 3:**

23 You admit that the 3-year Arizona statute of limitations for credit cards without written
24 agreements expired prior to your filing of the lawsuit against Plaintiff.

25 Admit _____ Deny

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27 **At all pertinent times, credit cards are governed by a six year statute of**
28 **limitations. For additional explanation see legal arguments, assertions, and**
citations in the Bursey defendants' motion for summary judgment.

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ADMISSION NO. 4:

You admit that you filed the lawsuit against Plaintiff regarding a HSBC account.

Admit _____ Deny XX

On behalf of its client, Midland, Bursey & Associates acted as legal counsel to file a lawsuit against Plaintiff on a delinquent account owed by Plaintiff arising out of her use of an HSBC credit card.

ADMISSION NO. 5:

You admit that you submitted a 2003 generic Household Bank Card Member Agreement to the justice court, claiming it pertained to the HSBC account.

Admit _____ Deny _____

***Objection: this request has no relevance to any of the factual or legal issues in this case. Without waiving any objection, the documents disclosed in the underlying justice court case are a matter of record and speak for themselves, and were pertinent to the account at issue.**

ADMISSION NO. 6:

You admit that this Card Member Agreement did not pertain to the HSBC account.

Admit _____ Deny XX*

***Objection: this request has no relevance to any of the factual or legal issues in this case. Without waiving any objection, Denied. The documents submitted in disclosures in the justice court case were, if not verbatim representations, exemplars of the applicable card member agreement.**

ADMISSION NO. 7:

You admit that this Card Member Agreement was a generic agreement that did not pertain to any account.

Admit _____ Deny XX*

1 ***Objection: this request has no relevance to any of the factual or legal issues in**
2 **this case. Without waiving any objection, Denied. The documents disclosed in**
3 **the justice court case were, if not verbatim representations, exemplars of the**
4 **applicable card member agreement.**

4 ADMISSION NO. 8:

5 You admit that this Card Member Agreement was not authenticated.

6
7 Admit _____ Deny XX*

8 ***Objection: this request has no relevance to any of the factual or legal issues in**
9 **this case. Without waiving any objection, Denied. The documents disclosed in**
10 **the justice court case were, if not verbatim representations, exemplars of the**
11 **applicable card member agreement. No determination was made in justice**
12 **court with respect to whether any evidence was properly authenticated,**
13 **admissible, or otherwise.**

13 ADMISSION NO. 9:

14 You admit that you argued in justice court that this generic Household Bank Card
15 Member Agreement was the written agreement required to invoke the Arizona 6-year
16 statute of limitations for the HSBC account.

17 Admit _____ Deny XX*

18 ***Objection: this request has no relevance to any of the factual or legal issues in**
19 **this case. Without waiving any objection, Denied. Midland's argument in the**
20 **justice court was that a six year statute of limitations applied to credit card debt**
21 **under Arizona law.**

22 ADMISSION NO. 10:

23 You admit that you had no written agreement for the HSBC account.

24 Admit _____ Deny XX*

26 ***Objection: this request has no relevance to any of the factual or legal issues in**
27 **this case. Without waiving the objection, Midland's arguments in the justice**
28 **court were that a six year statute of limitations applied to credit card debt. As**

1 an additional point of fact, credit card users agree in writing to pay charges
2 placed on the credit card account as they are incurred.

3 ADMISSION NO. 11:

4 You admit that you misrepresented the HSBC account as based on a written
5 agreement in justice court.

6 Admit _____ Deny XX*

7
8 ***Objection: this request has no relevance to any of the factual or legal issues in
9 this case. Without waiving any objection, Denied. Midland's arguments in the
10 justice court were that a six year statute of limitations applied to credit card
11 debt and that credit card transactions are contracts in writing.**

12 ADMISSION NO. 12:

13 You admit that in 2012 you were aware of numerous lawsuits and regulatory actions
14 against the Midland Defendants and their parent company Encore Capital Group, Inc.
15 regarding their submissions of false affidavits (robosigning) and other violations of
16 the FDCPA in collection lawsuits against consumers.

17 Admit _____ Deny XX*

18 ***Objection: this request has no relevance to any of the factual or legal issues in
19 this case. Without waiving any objection, Denied.**

20 ADMISSION NO. 13:

21 You admit that you provided supplemental disclosures on 10/18/12 without obtaining
22 leave of court less than 60 days prior to the trial hearing scheduled for 11/26/12 in
23 violation of ARCP Rule 37(c).

24 Admit _____ Deny XX*

25 ***Objection: this request has no relevance to any of the factual or legal issues in
26 this case. Without waiving any objection, Denied.**

27 ADMISSION NO. 14:

1 You admit that you failed to verify Midland's claim and documentation prior to filing
2 suit.

3 Admit _____ Deny XX*

4 ***Objection: this request has no relevance to any of the factual or legal issues in
5 this case. Without waiving any objection, Denied. Midland's claim against
6 Baker for the unpaid debt was properly reviewed and validated before suit was
7 filed.**

8 ADMISSION NO. 15:

9 You admit that none of the Midland Defendants' account documentation was
10 authenticated (admissible evidence).

11 Admit _____ Deny XX*

12 ***Objection: this request has no relevance to any of the factual or legal issues in
13 this case. Without waiving any objection, Denied.**

14 INTERROGATORIES

15 INTERROGATORY NO. 1:

16 Please state your complete legal name, address and telephone number.

17 **Objection to providing personal information for defendant Barry Bursey as it
18 has no relevance to this case, Bursey is represented by counsel, and Plaintiff
19 admittedly posts litigation documents on the internet. If the court deems such
20 personal information must be disclosed, Bursey and the other defendants
21 request a protective order in advance of disclosure.**

22 **Without waiving any objection, Barry Bursey, c/o Victoria Buchinger, attorney,
23 1850 N. Central Avenue, Suite 1400, Phoenix, Arizona, 85004, 602-285-5000.**

24 INTERROGATORY NO. 2:

25 If your responses to the Requests for Admissions above are anything other than
26 unqualified admissions, please state as to each denial the specific facts forming the
27 basis for such denial and identify each witness and document upon which you will
28 rely to support your denial.

1 **See Responses immediately following applicable Requests.**

2
3 INTERROGATORY NO. 3:

4 Please state the names and addresses of all witnesses you have contacted in
5 connection with this case including, but not limited to, those that are expected to
6 testify at the trial of this case.

7 **Other than the parties to the lawsuit, the respondent is not aware of other
8 persons with such knowledge. All witnesses have been disclosed.**

9 INTERROGATORY NO. 4:

10 Please provide the date when you received the generic Household Bank Card
11 Member Agreement you submitted to justice court with your motion for summary
12 judgment, identify the person providing the statement and provide their contact
13 information.

14 **Objection: this interrogatory has no relevance to any of the factual or legal
15 issues in this case. Without waiving objection, the date is unknown but is
16 believed to be shortly prior to the date information was produced in a
17 supplemental disclosure statement, and it would have been supplied by Midland
18 personnel, presently unknown as to specific identity, to respondent.**

19 INTERROGATORY NO. 5:

20 Please explain in detail how you determined that the 2003 generic Household Bank
21 Card Member Agreement pertained to Plaintiff's account.

22 **Objection: this interrogatory has no relevance to any of the factual or legal
23 issues in this case. Without waiving objection, data received by Midland was
24 verified by Midland to apply to the account at issue.**

25 INTERROGATORY NO. 6:

26 Please explain why you demanded interest for time prior to Defendant Midland
27 Funding's ownership of the account.

28 **Objection: this request has no relevance to any of the factual or legal issues in
this case. Without waiving objection, the justice court complaint prayed for
relief that was permitted by law and the account agreement.**

1 INTERROGATORY NO. 7:

2 Please describe your participation in case CV 2012-1251, Midland Funding v. Baker,
3 such as document preparation, research, etc.

4 **Objection: this interrogatory is ambiguous and vague and requires details of**
5 **activity that occurred approximately seven years ago. Without waiving any**
6 **objection, Barry Bursey was a practicing attorney and the owner of Bursey &**
7 **Associates, P.C., when the justice court lawsuit was filed. He has no present**
8 **recollection of any specific activities he engaged in with respect to this specific**
9 **collection lawsuit.**

10 INTERROGATORY NO. 8:

11 Please provide the amount of time spent on each task identified in interrogatory 3.

12 **Objection: this interrogatory is ambiguous and vague and requires irrelevant**
13 **details of activity that occurred approximately seven years ago. Without**
14 **waiving any objection, see answer to #7 above.**

15 INTERROGATORY NO. 9:

16 Please identify the affirmative defenses asserted in your answer and state all facts
17 upon which the affirmative defense is based.

18 **See the Bursey Defendants' Motion for Summary Judgment, Statement of Facts,**
19 **and all attachments thereto.**

20 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

21 REQUEST NO. 1:

22 Please provide all documents and other items consulted or identified by you in your
23 responses to the Plaintiff's Interrogatories and Requests for Admissions.

24 **All such documents have been disclosed or are attached hereto.**

25 REQUEST NO. 2:

26 Please provide all documents and other items you intend to use at trial of this matter.
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28

1 All such items have been disclosed or will be timely disclosed in accordance with
2 the Rules of Civil Procedure.

3 REQUEST NO. 3:


4 Please provide any insurance policies covering you for violations of the Fair Debt
5 Collection Practices Act.

6 See Declarations Page attached to the discovery responses of Bursey &
7 Associates, P.C., for applicable policy.

8 DATED this 2nd day of August, 2019.

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10 By: /s/ Christine Baker
11 Plaintiff Pro Per

12 RESPONSE DATED this 3rd day of September, 2019.

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16 Victoria L. Buchinger
17 Attorney for Bursey Defendants
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