

H.1 Plaintiff's Interrogatories and Request for Production of Documents in ECOA Notice Case

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

[plaintiff][*Consumer*]

Plaintiff

[vs]

[defendant]Greater Mid-Atlantic Finance Co., Inc.

[defendant]and

[defendant]Fairfax Hyundai, Inc.

Defendants.

[action]Civil No. [rule;5]

PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS

Pursuant to the Federal Rules of Civil Procedure, and the Local Rules for the Eastern District of Virginia, Plaintiff, by counsel, propounds the following Interrogatories and Request for Production of Documents to Defendants, Greater Mid-Atlantic Finance Co., Inc. and Fairfax Hyundai, Inc., to be answered under oath within the time prescribed by the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Eastern District of Virginia.

I. DEFINITIONS

As used in these Interrogatories, the words and terms set forth below are defined as follows:

A. "Describe", "specify" and/or "state" shall mean to set forth fully and unambiguously, using technical terms or words of art, if necessary, each and every fact relevant to the answer called for by the Interrogatory of which the defendant or its agents, employees or representatives

have knowledge.

B. "Person" shall mean any and all: natural persons; business associates; corporations; partnerships; limited partnerships; joint ventures; estates; trusts; banks savings associations; governmental agencies, departments, commissions, boards or committees.

C. "Agreement" means any common understanding reached by two or more people or entities, whether written or oral, formal or informal.

D. "You" or "your" means the party separately answering these Interrogatories, together with its wholly or partly owned subsidiaries, and its affiliates or parent companies, and each and every other legal entity within its direct or indirect control or in which it holds any equity or other interests, as well as its merged or acquired predecessors in interest (if any), its present and former officers, directors, employees, agents, representatives, and any other persons or corporations acting in a consulting or advisory capacity or acting or purporting to act on behalf of any of the foregoing.

E. Whenever relevant, words in singular shall include the plural thereof. Whenever relevant, use of the words "his", "him" or "he" shall include her, hers and she.

F. "Document" means any written, printed, typed or other graphic material of any kind or nature, and all mechanical, electronic or sound recordings in the defendant's possession or control, or known by it to exist. It shall also mean all drafts nonidentical copies of documents by whatever means made.

G. "Communicate" or "communication" means every manner or means of disclosure or transfer or exchange of information of any kind whether oral or by document or whether face-to-face, by telephone, mail, personal or any other means of delivery.

H.(i) "Identify" or "identity" when used with respect to a natural person means to state his full name, present or last known address, present or last known position or business affiliation, all positions or business affiliations during the time period of these Interrogatories, and a general description of the business in which he is or was engaged in each such position.

(ii) "Identify" or "Identity" when used with respect to any other entity means to state its full name, the address of its principal place of business and the name of its officers.

(iii) "Identify" or "Identity" when used with respect to a document means to state the name and title of the document, the type of document (e.g., letter, memorandum, telegram, chart, etc.), its date, the person who wrote it, the person who signed it, the person to whom it was addressed, the person to whom it was sent, its present location, and its present custodian. If any such document was, but is no longer in the defendant's possession or subject to its control, state what disposition was made of it and explain the circumstances surrounding, and the authorization for, such disposition, and state the date or approximate date thereof. Documents prepared prior to the period covered by these Interrogatories but which relate or refer thereto are to be included.

(iv) “Identify” or “identity” when used with respect to any non-written communication means to state the identity of the natural person making and receiving the communication, their respective principals or employers at the time of the communication, the date, manner and place of the communication, and the substance of the communication.

(v) “Identify” or “identity” when used with respect to a meeting means to state the nature of the meeting (formal gathering, conversation, telephone call, etc.) to identify all persons participating, to provide the date, duration, location(s) and to state the substance of the discussion.

I. The words, “and” and “or” shall each include “and/or”.

J. The word “Automobile” when used shall mean the 2000 Dodge Stratus which is the subject of this lawsuit.

K. The word “complaint”, unless otherwise noted, means the original and any amended complaint served by the plaintiff in this action.

L. The word “Plaintiff” means [*Consumer*].

II. INSTRUCTIONS

A. The information requested is for all information known to the defendant, its officers, directors, employees and available at the time of answering, including information in the possession of its agents.

B. To the extent any information called for by these Interrogatories is unknown, so state, and set forth such remaining information as is known. If any estimate or general description can reasonably be made in place of unknown information, set forth the best estimate or general description, clearly designating the answer as such, in place of unknown information, and the basis upon which the estimate or general description is made.

To the extent any Interrogatory is objected to, set forth all reasons therefor. If any claim of privilege is asserted as a ground for not answering any Interrogatory, whether in whole or in part, describe the factual basis for such claim in sufficient detail so as to permit the court to adjudicate the validity of the claim.

C. These Interrogatories shall be deemed continuing, so as to require additional answers if further information is obtained between the time answers are served and the time of trial. Such additional answers shall be served from time to time, but not later than thirty (30) days after such additional information is received.

III. INTERROGATORIES

1. For each interrogatory below identify the person or persons supplying the information upon which the particular response is based. Identify all such persons here. (When these

interrogatories are answered under oath, by any person, including an attorney, the plaintiff reserve the right to take the oral deposition of such person and to call that person as a witness at trial.)

2. Identify all persons known to you who have knowledge of facts relevant to this case, and state the subject of testimony, giving a brief description thereof, for each person you may call as a witness in this case. If you intend to qualify any of these witness as experts, please so indicate, giving their areas of expertise and their credentials as experts.

3. Identify any exhibits which you intend to offer into evidence in this proceeding.

ANSWER:

4. Identify each document which you may introduce into evidence in this case.

ANSWER:

5. Identify all documents which contain information concerning the transaction, loan and course of dealing at issue, and all documents which contain information concerning each occasion on which you have acquired or sold or obtained a security interest on the automobile. State which, if any, of the documents were furnished to Plaintiff, where and when each such document was furnished to Plaintiff, and all persons who you know or believe could testify that such document(s) was or were furnished to the Plaintiff.

ANSWER:

6. Did the defendant ever receive any written or non-written communication from the plaintiff? If so, specifically list and identify each such communication. For non-written communication, state the content of each such communication. For written communications, document in your answer to *this* interrogatory identify the document and the date of receipt for each document so identified.

ANSWER:

7. Did the defendant ever receive any written or non-written communication from any other person pertaining to the plaintiff? If so, specifically list and identify each such communication. For non-written communication, state the content of each such communication. For written communications, document in your answer to *this* interrogatory identify the document and the date of receipt for each document so identified.

ANSWER:

8. Describe your procedure and policy with respect to the maintenance, preservation and destruction of documents, including whether any documents 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 state the identity of 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.

ANSWER:

9. State how and when you again obtained possession of the automobile after it had been initially delivered to the Plaintiff.

ANSWER:

10. If you contend that a notice of adverse action was sent to the Plaintiff in compliance with the Equal Credit Opportunity Act (ECOA), identify the notice(s) sent, the party which sent such notice, the date the notice was sent, the method of delivery of such notice, and all persons with knowledge of when and how such notice was sent, and describe your method of recording or documenting if, when and how such notice was sent to the plaintiff.

ANSWER:

11. State and identify the name and address of every person the defendant intends to call as a witness at trial.

ANSWER:

12. Identify and describe all books, documents, photographs or other tangible things which the defendant will rely on in defense of the claims in the complaint and as to each, state: a) description; b) nature; c) name and address of the person who has custody; d) its location; and e) its condition.

ANSWER:

13. Identify all documents prepared by or on behalf of the defendant used in connection with the training or instruction of any of your employees identified in your responses to these interrogatories.

ANSWER:

14. Does the defendant issue an annual report containing, *inter alia*, gross and net profit and loss, gross sales, assets and liabilities? If the answer is "yes", identify any such annual report issued for either the fiscal or calendar years 1999 up to and including the most recent such report issued.

ANSWER:

15. State your net worth, gross revenue, and net revenue for fiscal and/or calendar years

1999, 2000 and 2001.

ANSWER:

16. State the factual basis of any and all defenses which you have asserted to the Plaintiff's Complaint.

ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

PLEASE TAKE NOTICE, that pursuant to F.R.C.P. 34, the plaintiff, by counsel, requests that you produce in ORIGINAL form for the purposes of inspection, copying and/or testing, the documents described below. Such documents are to be produced at the offices of plaintiff's counsel within the time prescribed by the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of Virginia.

1. The original file(s), including all original documents placed therein, maintained by the defendant, pertaining to the plaintiff.
2. All documents regarding any of defendant's answers to the interrogatories propounded by the plaintiff or identified therein.
3. All documents regarding the plaintiff(s).
4. Your annual report and financial statements for fiscal and/or calendar years 1999 and 2000.
5. All documents you intend to introduce at trial.

[Consumer],

By counsel,
[Attorney for Plaintiff]