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State Bar No. 92559

Attorney for Plaintiff

SUPERIOR COURT, STATE OF CALIFORNIA, LIMITED JURISDICTION
COUNTY OF LOS ANGELES, DISTRICT

ATLANTIC CREDIT & FINANCE INC)
)
Plaintiff,)
)
vs.)
)
DOES 1 TO 10,)
)
Defendants.)

CASE NO. 08C

NOTICE OF AND MOTIONS TO:
(1) DEEM REQUEST FOR
ADMISSIONS ADMITTED AND
(2) FOR MONETARY
SANCTIONS;
MEMORANDUM OF POINTS
AND AUTHORITIES;
DECLARATION OF
GEORGE L. COHN

HEARING:
DATE:
TIME: 8:30 a.m.
DEPT:

WE ARE ACTING AS A "DEBT COLLECTOR" AND ARE ATTEMPTING TO COLLECT
A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

MOTIONS TO DEEM REQUEST FOR ADMISSIONS ADMITTED,
AND FOR MONETARY SANCTIONS

NOTICE OF MOTIONS:

TO DEFENDANT ("Defendant");

PLEASE TAKE NOTICE that on 1009 at 830 a.m. in

Department of the above-entitled court located at h Street California, Plaintiff ATLANTIC CREDIT & FINANCE INC ("Plaintiff") will and hereby makes the within motion to deem the Request for Admissions, Set No. 1, admitted.

At the same time, plaintiff will bring a motion for their reasonable costs, including attorney fees, in the amount of \$915.00 as monetary sanctions pursuant to Code of Civil Procedure §§2023.030, 2023.030(a), 2033.260(b) and 2033.260(c) against the Defendant.

These motions will be and are based upon the within notice, the accompanying declaration of George L. Cohn, the attached Memorandum of Points and Authorities, the pleadings and other documents on file with the Court, and upon such other and further oral and documentary evidence as may be presented at the time of the hearing.

DATED:

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GEORGE L. COHN
Attorney for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION

Plaintiff filed suit herein against defendant
("Defendant") and they filed an answer.

Plaintiff propounded Request for Admissions, but Defendant
has failed and refused to provide any response whatsoever.

(Defendant also failed to answer interrogatories, and
Plaintiff is also bringing an accompanying motion to compel
answers.)

2. PLAINTIFF IS ENTITLED TO AN ORDER DEEMING
THE REQUEST FOR ADMISSIONS ADMITTED

Code of Civil Procedure §2033.280 provides, in pertinent part,
that:

If a party to whom requests for admission are
directed fails to serve a timely response, the following
rules apply:

(a) The party to whom the requests for admission are
directed waives any objection to the requests, including
one based on privilege or on the protection for work
product...

(b) The requesting party may move for an order that
the genuineness of any documents and the truth of any
matters specified in the requests be deemed admitted, as
well as for a monetary sanction under Chapter 7
(commencing with Section 2023.010)."

In this case, Defendant has totally failed to provide any

1 response to the Request for Admissions.

2 Therefore, plaintiff respectfully requests that an order issue
3 deeming each of the Request for Admissions admitted for all
4 purposes.

5
6 3. MONETARY SANCTIONS ARE MANDATORY

7 Defendant has totally failed to respond to the Request for
8 Admissions.

9 Code of Civil Procedure §2023.030(a) provides that a party who
10 does not comply with discovery is liable for monetary sanctions.

11 In fact, monetary sanctions are mandatory. (Code of Civil
12 Procedure §2023.280(c))

13 Plaintiff has clearly set forth in the notice of motion the
14 exact amount of monetary sanctions sought against Defendant and
15 counsel as required by Code of Civil Procedure §2023.040.

16 In addition the following declaration of George L. Cohn sets
17 forth the factual basis for the imposition of monetary sanctions.
18 [Code of Civil Procedure §2023.040]

19
20 4. CONCLUSION

21 Defendant has totally abrogated their responsibility to
22 provide discovery.

23 Plaintiff respectfully requests that orders issue deeming each
24 of the Request for Admissions admitted for all purposes and for
25 imposition of sanctions against the Defendant in the amount of
26 \$915.00.

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MOTIONS TO DEEM REQUEST FOR ADMISSIONS ADMITTED,
AND FOR MONETARY SANCTIONS

DECLARATION OF GEORGE L. CORN

1
2 I, GEORGE L. CORN, declare:

3 1. I am the attorney of record for Plaintiff ATLANTIC CREDIT
4 & FINANCE INC ("Plaintiff") and am a member of the California bar.
5 If called as a witness, I would and could testify to all of the
6 facts set forth herein.

7 2. In my capacity as counsel for Plaintiff, I have care and
8 custody of certain records and documents, specifically those
9 regarding the within lawsuit as they relate to Defendant
10 ("Defendant") and as they are more particularly
11 described below.

12 3. I make this Declaration based upon my personal knowledge
13 and upon the information contained in said records and documents
14 which I have personally reviewed and which information I find such
15 records and documents reflect. In my capacity as counsel for the
16 plaintiff, I state that these writings constitute writings made
17 and/or received in the ordinary course of business of this law firm
18 at or near the time of the act, condition, or event to which the
19 same relate. I further state from my own knowledge that any such
20 record or document referred to herein was prepared in the ordinary
21 course of the business of this law firm by a person employed by me
22 who had personal knowledge of the event being recorded and who had
23 a business duty to so record the act, condition, or event.

24 4. Attached hereto as Exhibit "A", and incorporated herein
25 is a copy of the Request for Admissions, Set No. 1, mailed to
26 the Defendant.

27 5. I received no response whatsoever to the Request for
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1 Admissions.

2 6. Therefore, I wrote to the Defendant and reminded them
3 that no response to the Request for Admissions had been received.
4 Attached as Exhibit "B" is a copy of my letter.

5 7. I have still received no responses to the Request for
6 Admissions.

7 8. Following is the basis for awarding monetary sanctions
8 for the research, preparation and appearance at the hearing on
9 these motions.

10 9. I have been an attorney actively involved in litigation
11 since I first became a member of the California bar in 1980.

12 10. I am a sole practitioner.

13 11. My practice is almost exclusively litigation, and I
14 represent numerous institutional and "Fortune 500" clients in
15 business, commercial, banking, real estate and bankruptcy
16 litigation.

17 12. My clients include numerous banks, credit unions and
18 other financial institutions. I also have substantial experience
19 in real estate and broker litigation as well as litigation in
20 contract, fraud and real estate disputes in State, Federal and
21 Bankruptcy Courts.

22 13. I had been retained as outside counsel and have
23 successfully defended several state agencies of the State of
24 California (Franchise Tax Board, California Student Aid Commission
25 and Sdfund) in certain matters where they were sued in adversary
26 actions in the United States Bankruptcy Court. In addition, I also
27 have been retained to defend the State of California in certain
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1 matters pending in California State Courts.

2 14. I have also lectured and given seminars on student loan
3 collection and litigation.

4 15. I graduated from Southwestern University School of Law
5 in December, 1979 after 2 1/2 years in the full time program. I
6 took the bar exam, and have been an attorney since May, 1980. I
7 also worked for the Small Business Administration as an extern
8 during law school and also assisted their attorneys and the U.S.
9 Attorney's office on fraud cases involving the SBA. I also clerked
10 part time in a local law firm during law school.

11 16. Since becoming an attorney, I have tried hundreds of
12 contested trials. I also have substantial experience with law and
13 motion and discovery matters. I have also tried a substantial
14 number of both non-binding arbitrations as part of State Court
15 litigation, and also binding arbitrations before the American
16 Arbitration Association.

17 17. I have done pro bono work throughout my legal career. I
18 have worked on several cases with an attorney who works as a senior
19 litigator for the State Department of Corporations on various pro
20 bono matters. One was an automobile fraud case; she and I were
21 successful in having Department of Motor Vehicles pull the license
22 for the dealership and its principal, and also obtained full
23 recovery for the Plaintiff from the finance company.

24 18. I have sat as a judge pro tem in Beverly Hills Municipal
25 Court, and have judged Law School Moot Court competitions at
26 Whittier Law School in Los Angeles. I am 55 years old.

27 19. I charge an hourly rate of \$350.00 to my clients. In
28

1 addition, I also represent clients on a contingent fee basis and
2 also on both an hourly, flat rate and contingent basis.

3 20. I have been handling this case for the Plaintiff on a
4 fee basis which is contingent upon collection.

5 21. Since I was able to use in these motions portions of
6 prior motions to deem and to for sanctions from another unrelated
7 matter in my office, I spent a total of .5 hours in preparation of
8 the letter in an unsuccessful attempt to obtain counsel and
9 defendant's voluntary compliance, and in preparation of these
10 motions. An appearance will take another 2.0 hours.

11 22. Therefore, I request monetary sanctions be imposed
12 against Defendant in the amount of \$875.00 (2.5 hours @ \$350.00 per
13 hour), plus the \$40.00 motion fee, in the total amount of \$915.00.

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15 I declare under penalty of perjury that the foregoing is true
16 and correct and executed on _____ 2009 under the laws of
17 the State of California.

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19 _____
20 GEORGE L. COE
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