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17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION – LOS ANGELES

20 CONSUMER FINANCIAL
21 PROTECTION BUREAU,

22 Plaintiff,

23 v.

24 SOLO FUNDS, INC.,

25 Defendant.

Case No. 2:24-cv-04108-RGK-AJR

**[DISCOVERY MATTER]
DEFENDANT SOLO FUNDS, INC.’S
NOTICE OF MOTION AND MOTION
TO COMPEL PRODUCTION OF
DOCUMENTS AND
INTERROGATORY RESPONSES
FROM PLAINTIFF CONSUMER
FINANCIAL PROTECTION BUREAU**

Date: TBD

Time:

Ctrm: 780 (7th Fl.)

Judge: Hon. A. Joel Richlin

Roybal Federal Building

255 East Temple Street

Los Angeles, CA 90012

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Defendant SOLO FUNDS, INC. will and
3 hereby does move this Court for an order compelling the production of documents
4 and interrogatory responses from Plaintiff CONSUMER FINANCIAL
5 PROTECTION BUREAU.

6 This Motion is based upon the accompanying Memorandum in Support, the
7 Declaration of Levi W. Swank and accompany exhibits.

8 This Motion is made following the conference of counsel pursuant to Local
9 Rule 37-1, which took place on January 24, 2025 and January 27, 2025. Leave of
10 Court has been obtained to file this motion. *See* Dkt. No. 91.

11
12 Respectfully submitted,

13 Dated: February 13, 2025

14 By: /s/ Laura A. Stoll
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system on **February 13, 2025**. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.
Executed on **February 13, 2025**.

Dated: February 13, 2025

/s/ Laura A. Stoll

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20 CONSUMER FINANCIAL
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23 v.

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Case No. 2:24-cv-04108-RGK-AJR

DISCOVERY MATTER

**DEFENDANT SOLO FUNDS, INC.’S
MEMORANDUM IN SUPPORT OF ITS
MOTION TO COMPEL PRODUCTION
OF DOCUMENTS AND
INTERROGATORY RESPONSES
FROM PLAINTIFF CONSUMER
FINANCIAL PROTECTION BUREAU**

Date: TBD

Time:

Ctrm: 780 (7th Fl.)

Magistrate: Hon. A. Joel Richlin
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

Complaint filed: May 17, 2024

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1 Pursuant to Fed. R. Civ. P. 37, defendant SoLo Funds, Inc. (“SoLo”) files this
2 motion to compel production of documents and interrogatory responses by plaintiff
3 Consumer Financial Protection Bureau’s (“Bureau”). The specific orders SoLo seeks
4 as to the specific at-issue requests are set forth at the end of section below, and on
5 the proposed order.

6 In this lawsuit the Bureau alleges numerous violations of consumer credit laws
7 by SoLo – a fintech company that provides an app-based platform through which
8 individuals make short-term small-dollar loans to other individuals who need help
9 with short-term and emergency needs, such as to buy medicine or repair a car. The
10 implications of the suit could be existential for SoLo; the Bureau seeks to shut down
11 SoLo’s platform in more than twenty states and to obtain relief, including civil money
12 penalties, that threaten to cripple SoLo’s entire operation and ability to keep the
13 platform up everywhere else.

14 Despite the importance of the stakes, the Bureau has given SoLo’s written
15 discovery requests the back of its hand. SoLo’s motion to compel focuses on two
16 issues. First, for many requests, the Bureau has failed to conduct even a rudimentary
17 search for responsive information. Second, the Bureau also has improperly asserted
18 privilege over “tens of thousands” of documents, most of which it has not reviewed
19 (or even searched for). Declaration of Levi W. Swank, ¶ 3, Ex. 1, Entry 150
20 (submitted herewith).

21 SoLo has sought discovery from the Bureau so that it can uncover any and all
22 facts that may relate to its defenses, including the products of the government’s nearly
23 four-year investigation of SoLo and its analysis of the relevant consumer loan
24 markets. In response, other than consumer complaints, the Bureau has produced in
25 full only *a few hundred* of its own documents, most of which are publicly available
26 on the Bureau’s website or redacted of all substantive content, and has categorically
27 refused to respond to many interrogatories. The Bureau has refused to even click a
28 button and query its own electronically-stored records for responsive information.

1 Through a deposition conducted on February 12, 2025, the Bureau witness admitted
2 that the first time the Bureau appears to have even attempted a search for non-public
3 documents, at least in response to DRs 5, 26-27, 29, and 40-46 in SoLo's October 15
4 requests that are at issue here, was less than a week ago, on February 7. *Id.* ¶ 8, Ex.
5 9 at 8-9.¹ He admitted that at least some searches he ran returned only a "few dozen
6 [or] less than a hundred" results, even without applying custodian limitations. *Id.*
7 ¶ 8, Ex. 9 at 13. Obviously, in today's world of electronic searching and discovery
8 it takes only minutes – and at the most, hours – to identify potentially-responsive
9 documents. *Id.* ¶ 8, Ex. 9 at 25-26, 36. Instead of lifting a finger, the Bureau for the
10 at-issue requests simply gathered what Bureau attorneys were "already aware of
11 without conducting a search." *Id.* ¶ 11.

12 The Bureau apparently has much more to give, as it has *withheld* "tens of
13 thousands" of documents from SoLo based on privilege assertions. *Id.* ¶ 3, Ex. 1,
14 Entry 150. For its part, SoLo has produced more than *fifty thousand* documents to
15 the Bureau. Swank Decl. ¶ 12. The Bureau asserts that *every one* of its non-public
16 documents and internal communications, *and even many of its communications with*
17 *third-parties*, are privileged. Swank Decl. ¶ 3, Ex. 1; *id.* ¶ 5, Ex. 6. But, as shown
18 below, the privilege assertions that are the subject of this motion have no basis in fact
19 or law.

20 The Bureau's determined efforts to block discovery that is essential to SoLo's
21 defense is actively prejudicing its ability to support the 2+ million individuals who
22 use the SoLo platform and to protect itself against an enforcement action that
23 threatens its very existence as a company. Based on informal discovery conference
24 with Magistrate Richlin, the Bureau's expected responses will be to cry burden, aver
25 that it is well-established it can claim privilege over documents containing facts and
26 matters relevant to cross-examination, and claim that "asymmetric discovery" in a

27
28 ¹ The deposition transcript page numbers referenced herein are to the physical PDF
page number. Relevant testimony cited herein has been highlighted.

1 matter like this is just plain normal. That the Bureau is a large federal agency and
2 has many responsive and not responsive documents in its possession is no excuse for
3 such behavior. The Bureau is no different than many private litigants in that regard.
4 If anything, the Bureau should be held to a higher standard. The Bureau's claim to
5 asymmetric discovery has no basis in the Federal Rules of Civil Procedure and is
6 particularly inappropriate as applied to an agency, like the Bureau, that is part
7 enforcement agency and part think-tank. SoLo has the right under the Rules to
8 defend itself on a level playing field. The Court should grant SoLo's motion to
9 compel and, given the imminent deadline to file for summary judgment on March 19,
10 2025, order the Bureau to fully respond to these requests within seven (7) days.

11 **I. The Court Should Compel the Bureau to Search For Documents**
12 **Concerning the Short-Term Small-Dollar Credit Market and Loan Costs**
13 **(DRs 40-46).**

14 DRs 40-46 seek the production of documents concerning the need and market
15 for short-term small-dollar loans and emergency credit (*i.e.*, the type of credit
16 products that include loans available on the SoLo platform and alternative credit
17 products), the Bureau's efforts and pleas to establish a more vibrant and consumer-
18 friendly market for such loans, comparisons of the features and characteristics of
19 loans available through the SoLo Platform with other credit options (if any), and other
20 documents relevant to potential benefits to consumers and competition. *See* Swank
21 Decl. ¶ 6, Ex. 7 at 49-59. There is an entire division of the Bureau, outside of its
22 Enforcement Division – called Research, Markets, and Regulation – that looks at and
23 reports on precisely these issues. Based on its relevance and proportionality
24 objections, however, the Bureau produced only “certain publicly available
25 information” it was “already aware of without conducting a search.” *See* Swank
26 Decl. ¶ 11.

27 DRs 40-46 seek documents that are crucial to SoLo's defense. The Bureau has
28 urged the short-term small-dollar loan industry to “develop a more vibrant,

competitive market for small consumer loans” (Dkt. No. 35-1 at 18-19), and SoLo has done just that. The SoLo platform, through which consumers can request small-dollar loans *on their own terms* from other consumers, has served as lifeline for hundreds of thousands of low-income and credit-invisible consumers facing an emergency need for credit, many of whom have nowhere else to turn because even a payday loan is out of reach. For a \$100 loan, the average tip offered is \$10.40 and the average donation offered is \$6.20 (Dkt. No. 31 ¶ 75) – collectively, less than half the cost of a bounced check. There are no hidden fees or costly debt traps. And every loan request includes the borrower’s explanation for why another community member should assist them by funding their loan. These requests, examples of which are provided below, speak volumes to the needs that SoLo has met:

asthma nebulizer need ASAP	please help I’m so hungry
Babys medicine & Formula ASAP please	help i really need gas please
Rent coming up, please help!	Medical emergency

Swank Decl. ¶ 10. The SoLo marketplace is more than a platform for peer to peer lending: it is a community where consumers – borrowers and lenders – support each other financially when the need arises.

This is relevant because to prove Count V, the Bureau must show that any consumer harm “is not outweighed by countervailing benefits to consumers or to competition.” 12 U.S.C. §5531(c). The statute requires a “flexible cost benefit” analysis. *See FTC v. Walmart Inc.*, 664 F. Supp. 3d 808, 833 (N.D. Ill. 2023) (describing identically worded language in 15 U.S.C. § 45(n), on which CFPA’s definition of “unfair” is based), *motion to certify appeal granted*, No. 22-3372, 2024 WL 5054916 (N.D. Ill. Oct. 18, 2024). Providing a platform where consumers who have no other humane financing options can obtain small-dollar loans from other

1 consumers to purchase groceries, baby formula, and medicine is a clear
2 countervailing benefit, and documents in the Bureau's possession discussing the need
3 for innovation in the marketplace, the high-cost of traditional short-term small-dollar
4 loans, and the lack of available alternatives will prove that. *See, e.g., FTC v.*
5 *Windward Marketing, Ltd.*, No. 96-615, 1997 U.S. Dist. LEXIS 17114, *30-31 (N.D.
6 Ga. Sept. 16, 2008) (assessing whether "Defendants' business model . . . provide[d]
7 any advantage over other payment options" and whether it had "a positive impact in
8 the marketplace").

9 The Bureau asserts that none of this is relevant to Count V because an
10 unpublished out-of-circuit district court decision observed that "depriv[ing]
11 consumers of money they were not legally obligated to repay" is "a clear financial
12 harm without a possible countervailing benefit." *Consumer Fin. Prot. Bureau v.*
13 *NDG Fin. Corp.*, No. 15-5211, 2016 WL 7188792 (S.D.N.Y. Dec. 2, 2016). But the
14 defendants there "did not even both proffering" a benefit (*id.*), whereas SoLo has.
15 Nor has a finder of fact ruled that shown loans are unenforceable – the Bureau has
16 reached that conclusion on its own and withheld discovery solely on that basis. A
17 party may not object to discovery as to one element of a claim simply because it
18 believes that it can prove the other elements. The Bureau's arguments are appropriate
19 for summary judgment or trial, not as a basis to withhold discovery.

20 The Bureau's similar contention that the countervailing benefits analysis
21 required by the statute may only focus on whether there is a direct countervailing
22 benefit to the specific conduct challenged in the Amended Complaint – namely,
23 collecting on an unenforceable loan – is, likewise, an argument for summary
24 judgment. Even if it were not, precluding SoLo from collecting on platform loans on
25 behalf of the lender would quickly make it financially untenable to maintain the
26 platform that has helped hundreds of thousands of consumers meet dire financial
27 needs. That is a relevant countervailing consideration. *See, e.g., Am. Fin. Servs.*
28 *Ass'n v. FTC*, 767 F.2d 957, 975 (D.C. Cir. 1985) (considering "the potential costs

1 that the proposed remedy would impose on the parties and society in general”); *FTC*
2 *v. J.K. Publications, Inc.*, 99 F. Supp. 2d 1176, 1201 (C.D. Cal. 2000) (noting that
3 “increase in services . . . to consumers” associated with alleged consumer injury
4 constituted a potential countervailing benefit).

5 The requested discovery is also relevant beyond Count V. The Bureau is
6 requesting an award of civil money penalties under 12 U.S.C. § 5565. Under the
7 statute, a variety of factors must be considered by the Court, including “the severity
8 of the risks to or losses of the consumer,” which implicates the dire need and lack of
9 available alternatives and/or costs associated with such alternatives, and “such other
10 matters as justice may require.” SoLo submits that justice does require evaluating
11 SoLo’s good work in creating a more equitable, transparent, and humane market for
12 short-term small-dollar credit – the very work that the Bureau itself has said is so
13 desperately needed. The Bureau may take a different position in the context of this
14 enforcement action, but that is an issue for the Court to decide at summary judgment
15 or trial, not a basis to curtail discovery.

16 The Bureau’s proportionality objection is also misplaced. As an initial matter,
17 and as shown above, the information sought is of exceptional importance, and SoLo
18 has no other means by which it can obtain internal Bureau documents that will
19 substantiate the countervailing benefits of the platform to both consumers and
20 competition. The Bureau is uniquely positioned to have such documents because it
21 claims to be a premier consumer finance research agency and think-tank. In terms
22 of the burden, though it is not SoLo’s obligation to design for the Bureau a reasonable
23 search, SoLo is nonetheless offering certain compromises to address the Bureau’s
24 purported proportionality concerns. To reiterate, SoLo is not seeking documents and
25 communications internal to the Enforcement Division, so those can be set aside.
26 Rather, it is seeking responsive documents and communications with, among, or in
27 the possession of the Division of Research, Markets, and Regulation. The Bureau’s
28 Senior Information Technology Specialist confirmed that the Division has its own

1 document repository (*i.e.*, SharePoint site) that can be searched using keywords and
2 proximity limiters. *See* Swank Decl. ¶ 8, Ex. 9 at 48-49. Likewise, the Bureau's
3 email system can be searched using keywords, proximity limiters, and limited to
4 custodians within Research, Markets, and Regulation. *Id.* at 24, 29. A good place to
5 start would be using keywords from the handful of public pronouncements the
6 Bureau has made on these issues, including those produced by the Bureau and cited
7 in SoLo's pleadings, as well as references to SoLo itself. These searches, within the
8 narrow repositories described above, should substantially address the Bureau's
9 proportionality and privilege concerns (if any).

10 Thus, SoLo is seeking the following order: That the Bureau conduct a
11 reasonably diligent search for information responsive to DRs 40-46 within the
12 SharePoint site of the Division of Research, Markets, and Regulations, and within
13 the emails of custodians employed by the Division of Research, Markets, and
14 Regulation likely to have responsive information, using keywords and proximity
15 limiters (if necessary), and that the Bureau produce or, if it asserts privilege, log the
16 responsive documents.

17 **II. The Court Should Compel the Bureau to Search For and Provide**
18 **Exculpatory Information Concerning SoLo Funds (DR 5; ROG 21).**

19 Document Request 5 seeks documents generated by the Bureau reflecting any
20 favorable statement, commentary, or analysis concerning SoLo Funds, the SoLo
21 platform, or SoLo's founders, including statements reflecting the benefits of the SoLo
22 platform and/or loans available through the platform (Swank Decl. ¶ 5, Ex. 7 at 10-
23 13), and Interrogatory 21 seeks the identity of any Bureau officials or employees who
24 have expressed concerns regarding the impact of this lawsuit or the pre-suit
25 investigation on consumers or the availability of credit (*id.* ¶ 7, Ex. 8 at 33-35). This
26 information, too, is vital to SoLo's defense, including for SoLo to demonstrate that
27 any purported consumer harm is outweighed by benefits to consumers and
28 competition in the marketplace, the calculation of any civil money penalty, and

1 SoLo’s affirmative defenses that it made good-faith efforts to comply with applicable
2 law (Twelfth Defense) and that there are financial or other benefits to consumers that
3 outweigh or offset any purported injury (Fourteenth Defense). *See* Dkt. No. 58
4 (Answer). The Bureau did not move to strike these defenses, so the Bureau cannot
5 now argue that SoLo is precluded from obtaining discovery relevant to them.

6 During the informal discovery conference, Bureau attorneys said that only the
7 Bureau’s official public position (*i.e.*, that SoLo is violating the law) is relevant. That
8 is absurd. SoLo is entitled to understand the informed views of Bureau staff who
9 research markets and competition, just as the Bureau is entitled to hear the views of
10 SoLo employees regardless of what the company’s official position is. Nor does the
11 unpublished non-binding out-of-circuit district court case cited by the Bureau –
12 *CFPB v. Navient*, No. 17-101, Dkt. No. 88 (M.D. Pa. May 4, 2018) – support
13 blocking SoLo’s efforts to discover exculpatory information about itself in the
14 Bureau’s possession. In *Navient*, the defendant sought draft rulemakings and internal
15 documents concerning fourteen rules and regulations to show that agency staff
16 supported its legal arguments about the concerns underlying such rules and
17 competing interpretations. The Court held that those preliminary policy debates were
18 not legally relevant to whether Navient violated the rules and regulations. *Id.* at 10.
19 This case is different. SoLo is not seeking the Bureau’s legal opinions, nor is it
20 seeking internal deliberations that would, for example, cast doubt on the
21 enforceability or meaning of enacted statutes or regulations. Rather, it is seeking
22 purely factual information and observations specific to SoLo and its founders and the
23 good work they do. Nor did Navient raise the argument that there were
24 countervailing benefits to consumers and competition, whereas here that issue is a
25 centerpiece of SoLo’s defense. These requests seek exculpatory information in the
26 Bureau’s possession, which courts have routinely compelled the Bureau to provide.
27 *See Consumer Fin. Prot. Bureau v. Brown*, 69 F.4th 1321, 1325 (11th Cir. 2023)
28 (exculpatory facts “fair game”).

1 The Bureau also appears to assert privilege objections over all or substantially
2 all documents that would be responsive. But, as SoLo has repeatedly clarified, it is
3 not seeking intra-Enforcement Division documents or communications (nor is SoLo
4 even asking the Bureau to log those documents). The more modest search that SoLo
5 is requesting – *i.e.*, documents and communications with, among, or in the possession
6 of personnel outside of the Enforcement Division – should resolve any
7 proportionality concerns that remain. The Bureau could, for example, search the term
8 “SoLo,” “SoLo Funds,” “Travis Holoway,” and “Rodney Williams” across its
9 emails, chat messages, and SharePoint for custodians outside of the Enforcement
10 Division. If even that returned too many results to review, proximity limiters may be
11 employed (*e.g.*, “benefit,” “help,” “consumer,” “need,” “good,” etc.). Given the
12 technical capabilities of SharePoint and the Microsoft 365 environment, as described
13 above, there are any number of ways to readily test different searches to identify a
14 reasonable corpus of documents to review. Simply doing nothing is unacceptable.

15 Thus, SoLo is seeking the following order: That the Bureau (i) conduct a
16 reasonably diligent search using keywords and proximity limiters for information
17 responsive to DR 5 within the emails and chats of personnel outside of the
18 Enforcement Division, and within SharePoint, excluding SharePoints belonging to
19 the Enforcement Division, and that the Bureau produce or, if it asserts privilege, log
20 the responsive documents; and (ii) that the Bureau perform reasonable due diligence
21 including speaking to relevant Bureau staff in the Division of Research, Markets, and
22 Regulation, in order to fully respond to ROG 21, and then provide a response.

23 **III. The Court Should Compel the Bureau to Search for Non-Public**
24 **Documents and Communications Relevant to How Consumers**
25 **Understand the Statements the Bureau Believes Are Misleading (DRs 26,**
26 **27, 29).**

27 Count I alleges that because most loans included a tip or donation, SoLo
28 violated the CFPA by deceptively advertising that consumers could obtain loans on

1 the SoLo marketplace with “no interest,” “0% APR,” or “0% interest.” AC ¶¶117-
2 120. Count II similarly alleges that SoLo violated the CFPA by providing borrowers
3 who offered tips or donations with deceptive loan disclosures that described the “cost
4 of credit,” “finance charge,” and “amounts [] paid to others on the consumer’s behalf”
5 as \$0. *Id.* ¶¶ 122-23.

6 An act or practice is deceptive if “(1) there is a representation, omission, or
7 practice that (2) is likely to mislead consumers acting reasonably under the
8 circumstances, and (3) the representation, omission, or practice is material.” *CFPB*
9 *v. Gordon*, 819 F.3d 1179, 1192-93 (9th Cir. 2016) (citation and quotation marks
10 omitted).

11 Because the Bureau must prove, *inter alia*, that a reasonable consumer would
12 have understood the terms “interest,” “cost of credit,” etc. to encompass “tips” or
13 “donations,” SoLo asked the Bureau for all studies, reports, surveys, commentary,
14 publications, reviews, or analyses that reflect how consumers understand these terms.
15 *See Swank Decl.* ¶ 6, Ex. 7 at 30-36. As noted above, the Bureau is part enforcement
16 agency and part think-tank. Its responsibilities include receiving and studying
17 consumer complaints, promoting financial education, and monitoring financial
18 markets and products for risks to consumers. SoLo is seeking documents in the
19 possession of the two relevant divisions outside of Enforcement: the Division of
20 Consumer Response and Education, and the Division of Research, Markets, and
21 Regulations.

22 Despite lodging several boilerplate objections, the Bureau committed to
23 “conducting a reasonable search” for responsive documents, and did not limit its
24 search to publicly available documents. *See id.* But during the parties’ meet and
25 confer, the Bureau took the position that it had conducted no search except to produce
26 those publicly available documents that it was “immediately aware” of based on its
27 responses to DRs 40-46. *See Swank Decl.* ¶ 11. The Bureau attempts to eschew its
28 obligation to conduct a reasonable diligent search by asserting that such a search

1 would be disproportionate to the needs of the case, and that all non-public Bureau
2 documents are privileged for one reason or another.

3 In terms of proportionality, despite lodging a boilerplate relevance objection
4 (as it did in response to nearly *every* request), the Bureau did not contest at the meet
5 and confer or before this Court that the information sought is irrelevant. Nor could
6 it. Reduced to their essence, DRs 26-27 and 29 ask for the facts in the Bureau's
7 possession concerning how consumers understand the exact words and phrases that
8 the Bureau believes SoLo used misleadingly. The Bureau has also agreed to provide
9 Rule 30(b)(6) testimony on these topics. Part of the Bureau's mission – conducted
10 outside of the Enforcement Division and primarily by non-attorneys – is to research
11 and publish reports and studies concerning how consumers understand and
12 experience consumer financial products and services and how consumer behavior is
13 shaped by them. Because this is an express element of two of the Bureau's unfairness
14 claims, the high relevance of this information cannot be doubted.

15 Though it appears that the Bureau has only made a token effort to look for
16 responsive documents, SoLo has agreed to limit these requests to the two Bureau
17 Divisions (outside of Enforcement) discussed above. As a further compromise, and
18 to address the Bureau's concern that the terms "APR," "interest," "cost of credit,"
19 and the like are ubiquitous, SoLo can agree to to limit these requests to documents
20 related to small-dollar loans – the type of product available on the SoLo platform.

21 Finally, the Bureau's categorical privilege assertion over each and every
22 internal document is astounding. Nor is such a sweeping privilege claim even
23 supported by the declaration provided by Deborah Morris – the official in the
24 Enforcement Division responsible for the day-to-day oversight of the prosecution of
25 SoLo. SoLo is not seeking intra-Enforcement Division documents or analyses – *i.e.*,
26 the "research and decision affecting the investigation of and litigation against SoLo
27 Funds" referenced by Ms. Morris. Swank Decl. ¶ 5, Ex. 6 ¶ 6. Though SoLo
28 acknowledges that certain other documents in the possession of Consumer Response

1 and Education and Research, Markets, and Regulation could conceivably be
2 privileged, the way to handle that issue is by logging the documents, not performing
3 no search at all for non-public documents.

4 Thus, SoLo is seeking the following order: That the Bureau conduct a
5 reasonably diligent search for information responsive to DRs 26-27 and 29 within
6 the SharePoint site of the Division of Research, Markets, and Regulations and
7 Division of Consumer Response and Education, and within the emails of custodians
8 employed by those divisions likely to have responsive information, using keywords
9 and proximity limiters (if necessary), and that the Bureau produce or, if it asserts
10 privilege, log the responsive documents.

11 **IV. The Court Should Compel the Bureau to Provide Discovery Responses**
12 **Concerning What State Officials Told the Bureau About SoLo and Its**
13 **Compliance With State Licensure and/or Usury Laws. (DR 34; ROG 10)**

14 Counts IV-VI are the crux of the Bureau's case. These counts allege that SoLo
15 violated the CFPA because loans available through the SoLo marketplace violated
16 fourteen state licensing and nine state usury laws. Given that state officials are the
17 ones with the expertise and prerogative to interpret state law and decide whether
18 licensing or loan-cost standards are being followed (and if not, what, if anything, to
19 do about it), SoLo asked that the Bureau produce all of its communications with
20 officials in these states that concern SoLo (DR 34) (Swank Decl. ¶ 7, Ex. 7), and
21 describe in detail any such communications not otherwise reflected in writing (ROG
22 10) (*id.* ¶ 7, Ex. 8).

23 The Bureau's "response" (*i.e.*, its privilege log) confirmed what SoLo
24 suspected all along – that the Bureau had few communications with state officials at
25 all until after the Bureau had already made the decision to initiate an enforcement
26 action against SoLo for purported violations of the laws those officials administer
27 and enforce. *Compare* Swank Decl. ¶ 9, *with id.* ¶ 3, Ex. 1. As to many of the states
28 whose laws are at issue, the Bureau has had no communications with relevant state

1 officials. The Bureau’s effort to commandeer state law both violates core principles
2 of federalism and is based entirely on guesswork. Indeed, the Bureau has changed
3 the list of states and/or state laws that SoLo supposedly violated no fewer than four
4 times over the course of the last four years, including after filing this lawsuit.

5 In any event, the Bureau does not appear to contest the relevance of the
6 information sought – indeed, that this information is the *most* relevant information as
7 to whether SoLo has violated the laws that these state officials have the primary
8 responsibility to construe and enforce. Presumably, that is why the Bureau engaged
9 in a (belated) effort to solicit the views of these state officials. Nonetheless, in order
10 to hide a treasure trove of exculpatory evidence, the Bureau has asserted a blizzard
11 of privilege objections and heavily redacted or withheld all 140 or so documents in
12 its possession reflecting communications with relevant state officials about SoLo,
13 and refused to respond entirely to the interrogatory. None of the Bureau’s privilege
14 objections has merit.

15 **A. The Common Interest Privilege Does Not Apply.**

16 As an initial matter, the communications being withheld are with state officials
17 – *i.e.*, third parties. The Bureau asserts that the communications are nonetheless
18 privileged because the Bureau “shares a common interest” with state officials. But
19 the common interest privilege does not apply here, for a multitude of reasons.

20 It is black-letter law that “a shared desire to see the same outcome in a legal
21 matter is insufficient to bring a communication between two parties within this
22 exception.” *In re Pac. Pictures Corp.*, 679 F.3d 1121, 1129 (9th Cir. 2012). Rather,
23 “the parties must make the communication in pursuit of a joint strategy in accordance
24 with some form of agreement—whether written or unwritten.” *Id.*

25 Here, the Bureau has not (and cannot) even show that the states with whom it
26 communicated about SoLo share its desire to prosecute SoLo. But even if it could,
27 there must be an actual agreement with the states “in pursuit of a joint strategy.”
28 There is no such agreement here, either orally or in writing. The Bureau tries to meet

1 this requirement by pointing to a “Memorandum of Understanding . . . on the sharing
2 of information” between the Bureau and state officials, executed some fourteen (14)
3 years ago. *See* Swank Decl. ¶ 3, Ex. 1. (The Bureau declined to produce the MOU
4 to SoLo despite its request, but counsel for SoLo located it online. *See id.* ¶ 13, Ex.
5 10.) But the asserted “common interest in regulating companies . . . and enforcing
6 compliance with state and federal laws” (*id.* ¶ 3, Ex. 1), is far too broad and indefinite
7 to ever be enforced. It is the federal government equivalent to dozens of corporations
8 all entering into common interest agreements on the grounds of their common interest
9 in defending against any and all claims brought by the federal government at any
10 point in the future about anything. No court would ever enforce such an agreement.

11 In any event, the MOU is clearly not a common interest agreement at all;
12 rather, it is an agreement to keep certain narrow categories of information
13 confidential. *See Regents of Univ. of California v. Affymetrix, Inc.*, No. 17-01394,
14 2018 WL 3752752, at *4 (S.D. Cal. Aug. 6, 2018) (“An agreement to keep
15 information confidential is not an agreement to pursue a joint strategy.”). That the
16 MOUs are not common interest agreements is underscored by the Bureau making no
17 effort to invoke or reference the agreement in the communications at issue, as far as
18 SoLo can tell. *See* Swank Decl. ¶ 4, Exs. 2-5. No communications assert the
19 existence of a confidentiality agreement, and for some the Bureau makes a unilateral
20 “request” that the state keep the outreach confidential, which is inconsistent with a
21 prior agreement to do so. *Id.*

22 Though more is not necessary, even if the MOU were a common interest
23 agreement, the only two categories of information that the Bureau agreed to keep
24 confidential – personally identifiable information (“PII”) of consumers and
25 “Confidential Supervisory Information” – are not implicated here. *See* Swank Decl.
26 ¶ 13, Ex. 10. The Bureau does not have supervisory authority over SoLo, a small
27 fintech, nor is SoLo aware of any of the referenced state agencies having conducted
28 a supervisory examination of it. The Bureau has in any event waived any privilege

1 claim based on confidential supervisory information by not asserting the bank
2 examination privilege on its log.

3 **B. The Deliberative Process Does Not Apply and/or Is Overridden by**
4 **SoLo's Substantial Need for This Information.**

5 Even if third-party disclosure did not vitiate the privilege, there is no
6 underlying privilege to assert.² The Bureau asserts that a subset of the
7 communications – those occurring before it filed the Amended Complaint – are
8 subject to the “deliberative process privilege.” But that privilege only protects
9 documents that are “predecisional.” Here, few of the communications with state
10 officials listed on the Bureau’s log are “predecisional” because they predominantly
11 occurred after December 11, 2023 when the Bureau informed SoLo that it had
12 decided to initiate a public enforcement action against it, and after January 25, 2024
13 when it received a draft consent order from the Bureau. *Compare* Swank Decl. ¶ 9,
14 *with id.* ¶ 3, Ex. 1. These communications were thus not “prepared in order to assist
15 an agency decisionmaker in arriving at his decision,” because the decision had
16 already been made. *United States v. City of Los Angeles*, No. 11-00974, 2023 WL
17 6370887, at *7 (C.D. Cal. Aug. 28, 2023) (quoting *Renegotiation Bd. v. Grumman*
18 *Aircraft Eng’g Corp.*, 421 U.S. 168, 184 (1975)). That the Bureau later changed its
19 mind about what specific state laws it believes SoLo violated and, as a result, filed
20 an Amended Complaint does not trigger application of the privilege. After all, a
21 plaintiff can always change their mind, and always seek to amend their complaint.
22 That does not mean the deliberative process privilege applies in perpetuity.

23
24
25 ² SoLo does not address the assertion of attorney-client privilege further because
26 “Under the attorney-client privilege, it is a general rule that attorney-client
27 communications made in the presence of, or shared with, third-parties destroys the
28 confidentiality of the communications and the privilege protection that is dependent
upon that confidentiality.” *Nidec Corp. v. Victor Co. of Japan*, 249 F.R.D. 575, 578
(N.D. Cal. 2007) (quotations omitted). Here, all of the communications and
information sought are with third-party state officials and employees.

1 Even if the deliberative process privilege did apply here, however, the
2 privilege is only a qualified one, and SoLo’s “need for the materials . . . override[s]
3 the government’s interest in non-disclosure.” *United States v. City of Los Angeles*,
4 No. 11-00974, 2023 WL 6370887, at *8 (C.D. Cal. Aug. 28, 2023). All four factors
5 a Court considers in making this determination weigh strongly in favor of overriding
6 the privilege here. *See id.* (discussing factors). The information is of extraordinary
7 relevance, inasmuch as these state officials are responsible for applying and
8 enforcing state law, and information concerning the views of these officials is not
9 otherwise available. The government is a party in this case, which weighs in favor
10 of disclosure. *See Thomas v. Cate*, 715 F. Supp. 2d 1012, 1044 (E.D. Cal. 2010).
11 And disclosure would not “hinder frank and independent discussion regarding
12 contemplated policies and decision.” *City of Los Angeles*, 2023 WL 6370887, at *8.

13 **C. The Law Enforcement Privilege Does Not Apply and/or Is**
14 **Overridden By SoLo’s Substantial Need for This Information.**

15 The Bureau also asserts the so-called law enforcement investigative privilege
16 over this information. “It is unclear [] whether and to what extent the law
17 enforcement investigative privilege is good law within the Ninth Circuit.” *Hereford*
18 *v. City of Hemet*, No. 22-00394, 2023 WL 6813740, at *10 (C.D. Cal. Sept. 14, 2023).
19 Even if the privilege is good law in this Circuit, it protects only “investigative files.”
20 *City of Los Angeles*, 2023 WL 6370887, at *8. The documents and information that
21 SoLo is seeking here, however, are emails and oral communications with third-
22 parties, most of which occurred long after the investigation had closed, not
23 investigative files. Nor are the underlying concerns driving the privilege – which
24 “protects against disclosures that would reveal confidential sources, law enforcement
25 techniques, and the identities of witnesses and law enforcement personnel” –
26 implicated here. *See Novoa v. Geo Grp., Inc.*, No. 17-02514, 2020 WL 6694317, at
27 *5 (C.D. Cal. Oct. 8, 2020). The Bureau has already provided SoLo with the names
28 of these public officials, nor are they confidential witnesses. Requesting that state

1 officials provide their view as to whether SoLo has violated the laws those state
2 officials are responsible for administering is hardly a confidential law enforcement
3 “technique.” It is a basic step that any enforcement agency conducting even
4 rudimentary due diligence would have taken long before it decided to initiate a public
5 enforcement action.

6 The Bureau has submitted the Declaration of Deborah Morris in support of its
7 assertion of law enforcement investigative privilege here. But all the declaration says
8 as to the investigative privilege is that “disclosure of such communications . . .
9 threatens to reveal . . . an important law enforcement and information-gathering
10 technique.” Swank Decl. ¶ 5, Ex. 6 ¶ 20. But the Bureau has already disclosed that
11 obvious so-called “technique” to SoLo. The only other relevant statement contained
12 in the declaration is the assertion that states “may refuse to share [] information with
13 the Bureau in the future, or withdraw from or refuse to enter into new information-
14 sharing agreement,” if confidentiality is not maintained. *Id.* ¶ 21. But, as SoLo has
15 shown above, the Bureau has not shown that any of the information it is seeking is
16 even covered by the MOU, let alone that all of the information it is withholding is.
17 Regardless, nothing would prevent the Bureau and States from entering into actual
18 common interest agreements in connection with particular matters where they have
19 a common interest, which would protect their communications from disclosure in
20 litigation. The Bureau chose not to do that here.

21 But even if the privilege did apply here, it too is overridden by SoLo’s
22 substantial need for this information, as explained above. *See Al Otro Lado, Inc. v.*
23 *Wolf*, No. 17-2366, 2020 WL 3487823, at *3 (S.D. Cal. June 26, 2020) (holding that
24 if “the potential benefits of disclosure outweigh the potential disadvantages,” the
25 privilege will be “set aside”). State officials are uniquely situated to provide
26 information on the complex state legal and regulatory regimes they administer. That
27 is presumably why the Bureau (mostly belatedly) contacted some of them in the first
28 place. Both SoLo and the Court are entitled to understand what information those

1 state officials have provided. The availability of a platform that serves as a lifeline
2 for its 2+ million users, many of which are low-income and have nowhere else to
3 turn, hangs in the balance. *See Hereford v. City of Hemet*, No. 22-00394, 2023 WL
4 6813740, at *11 (C.D. Cal. Sept. 14, 2023) (granting motion to compel and
5 overriding assertion of law enforcement investigative privilege “in light of the
6 seriousness of Plaintiffs’ allegations and the importance of the desired materials to
7 proving Plaintiffs’ core claims”). The potential benefits to the case and SoLo’s
8 defense far outweigh the minimal (if any) disadvantages to providing this information
9 subject to the stipulated protective order.

10 **D. Communications From Third-Party State Officials Are Not the**
11 **Bureau’s Protected Work Product.**

12 Finally, the Bureau asserts that its communications with third-party state
13 officials are attorney work product. In this Circuit, the work-product doctrine “must
14 be narrowly construed.” *In re New Century*, No. 07-0931, 2009 WL 10691336, at
15 *5 (C.D. Cal. Dec. 7, 2009). “The attorney-work-product doctrine generally does not
16 shield from discovery documents that were not prepared by the attorneys themselves,
17 or their agents, in the course of or in anticipation of litigation.” *Matter of Grand Jury*
18 *Subpoenas Dated Oct. 22, 1991, & Nov. 1, 1991*, 959 F.2d 1158, 1166 (2d Cir. 1992);
19 *Admiral Ins. Co. v. U.S. Dist. Ct. for Dist. of Arizona*, 881 F.2d 1486, 1494 (9th Cir.
20 1989) (“The work-product rule is not a privilege but a qualified immunity protecting
21 from discovery documents and tangible things *prepared by a party or his*
22 *representative* in anticipation of litigation.”) (emphasis added).

23 Here, SoLo is not seeking the Bureau’s “mental impressions, conclusions,
24 opinions, or legal theories” – rather, it seeks (i) any factual information that was
25 provided to state officials by the Bureau; and (ii) what state officials told the Bureau
26 in writing or orally about SoLo, including state officials’ views of whether SoLo was
27 in violation of their licensure and/or usury laws. *See Davis v. Rumsey Hall Sch., Inc.*,
28 No. 20-01822, 2023 WL 4417549, at *12 (D. Conn. July 10, 2023) (communications

1 from third parties in response to attorney letter “do not consist of the type of
2 information the work product doctrine protects or was designed to protect”). SoLo
3 has substantial need for the factual information relayed to state officials in order to
4 understand the basis for their conclusions or statements to the Bureau. *See Admiral*
5 *Ins. Co.*, 881 F.2d at 1494 (“Although the rule affords special protections for work-
6 product that reveals an attorney’s mental impressions and opinions, other work-
7 product materials nonetheless may be ordered produced upon an adverse party’s
8 demonstration of substantial need or inability to obtain the equivalent without undue
9 hardship.”). To the extent the Bureau contends that it revealed certain concrete
10 mental impressions or legal theories in communications with state officials, that
11 information can simply be redacted from the documents and withheld from its
12 interrogatory response.

13 Thus, SoLo is seeking the following order: That the Bureau produce all
14 documents responsive to DR 34 that it withheld on the basis of an asserted privilege,
15 and provide a full and complete response to ROG 10 notwithstanding its privilege
16 objections.

17 **V. The Court Should Compel the Bureau to Provide Information**
18 **Concerning the Basis For Its Contentions That SoLo Violated State Usury**
19 **Limitations and Licensing Requirements (DR 35; ROG 4).**

20 Not only has the Bureau attempted to shield its communications with third-
21 party state officials about the state laws underlying Counts IV-VI, but it also has
22 refused to provide information in its possession – *e.g.*, statutes, regulations, manuals,
23 bulletins, advisory opinions, or other formal or informal guidance – that supports its
24 contentions that SoLo has violated these laws. *See* Swank Decl. ¶ 6, Ex. 7; *id.* ¶ 7,
25 Ex. 8. (DR 35 and ROG 4 are the written discovery equivalents of Rule 30(b)(6)
26 Topic 5, discussed with the Court during the February 7, 2025 informal discovery
27 conference. To the extent the Court grants SoLo’s Motion as to these written
28

1 discovery requests, SoLo will voluntarily withdraw the associated Rule 30(b)(6)
2 topic.)

3 The Bureau responded to DR 35 by stating that it “did not identify any
4 documents related to the allegations in the Amended Complaint responsive to this
5 Request,” but answered DR 35 “[s]ubject to and without waiving [its] objections”
6 based on work product and attorney-client privilege. Likewise, the Bureau responded
7 to ROG 4 by stating that it would not identify any sources of guidance except those
8 cited in the Amended Complaint. Thus, it appears that the Bureau has selectively
9 disclosed some information (cited in the Amended Complaint), but is withholding
10 other information in its possession, custody, or control on privilege grounds. This is
11 improper. *See Chevron Corp. v. Pennzoil Co.*, 974 F.2d 1156, 1162 (9th Cir. 1992)
12 (“The privilege which protects attorney-client communications may not be used both
13 as a sword and shield.”); *Shared Med. Res., LLC V. Histologics, LLC*, No. 12-0612,
14 2012 WL 5570213, at *2 (C.D. Cal. Nov. 14, 2012) (“If a party could use the
15 privilege as both a sword and a shield, then the party could selectively disclose
16 fragments helpful to its cause, entomb other (unhelpful) fragments, and in that way
17 kidnap the truthseeking process.”) (quotations omitted).

18 Again, SoLo is not seeking the Bureau’s internal work product analyzing any
19 of statutes, regulations, manuals, bulletins, advisory opinions, or other formal or
20 informal guidance. Rather, it is simply seeking an identification or copies of these
21 documents. Fundamental principles of due process and fair notice at least require the
22 Bureau to identify all sources of authority it is using to prosecute SoLo for violations
23 of federal law. It may be that no such information exists, other than the statutes cited
24 in the Amended Complaint, and that the Bureau is simply seeking to enforce in this
25 lawsuit its unenlightened view of what state law proscribes. To the extent that is the
26 case, the Bureau should be compelled to state that explicitly, and not “subject to” its
27 privilege objections.

1 Thus, SoLo is seeking the following order: That the Bureau produce all
2 documents in its possession, custody, or control responsive to DR 35, and provide a
3 complete response to ROG 4 listing all sources of authority or guidance for the
4 Bureau's contentions that SoLo has violated state licensure and/or usury laws. If the
5 Bureau has no information in its possession, custody, or control other than the sources
6 specifically identified in its Amended Complaint, the Bureau is required to
7 unequivocally state that in response to ROG 4.

8
9 Respectfully submitted,

10 Dated: February 13, 2025

By: /s/ Laura A. Stoll
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LEVI W. SWANK (admitted *pro hac vice*)
LSwank@goodwinlaw.com
GOODWIN PROCTER LLP

14 Attorneys for Defendant:
15 SOLO FUNDS, INC.
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LOCAL RULE 11-6.1 CERTIFICATION

The undersigned counsel of record for Defendants SOLO FUNDS, INC. certifies that this motion complies with the page and word limits specified in the Court's February 7, 2025 Order (Dkt. No. 91).

/s/ Laura A. Stoll

LAURA A. STOLL

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system on **February 13, 2025**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.
Executed on **February 13, 2025**.

/s/ Laura A. Stoll
LAURA A. STOLL

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15 Attorneys for Defendant
16 SOLO FUNDS, INC.

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION – LOS ANGELES

20 CONSUMER FINANCIAL
21 PROTECTION BUREAU,

22 Plaintiff,

23 v.

24 SOLO FUNDS, INC.,

25 Defendant.

Case No. 2:24-cv-04108-RGK-AJR

**[DISCOVERY MATTER]
DECLARATION OF LEVI W. SWANK
IN SUPPORT OF MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS AND
INTERROGATORY RESPONSES
FROM PLAINTIFF CONSUMER
FINANCIAL PROTECTION BUREAU**

Date: TBD

Time:

Ctrm: 780 (7th Fl.)

Judge: Hon. A. Joel Richlin

Roybal Federal Building

255 East Temple Street

Los Angeles, CA 90012

1 I, Levi W. Swank, declare as follows:

2 1. I am an attorney at the law firm of Goodwin Procter LLP, which is
3 counsel for Defendant SoLo Funds, Inc. (“SoLo”) in the above-captioned matter. I
4 am a member of the bars of the Commonwealth of Virginia and the District of
5 Columbia, and am admitted to practice in this Court *pro hac vice*. I have personal
6 knowledge of the facts set forth in this declaration and, if called as a witness, could
7 and would competently testify to the matters set forth herein.

8 2. I submit this Declaration in support of SoLo’s Motion to Compel
9 Discovery Responses from Plaintiff Consumer Financial Protection Bureau, filed
10 concurrently herewith.

11 3. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiff
12 Consumer Financial Protection Bureau’s (“Bureau’s) amended privilege log, dated
13 January 29, 2025. This document has been filed under seal.

14 4. Attached hereto as Exhibits 2-5 are true and correct copies of emails
15 between the Bureau and third-party state officials, produced to SoLo by the Bureau
16 during the course of discovery in this matter. These documents bear Bates numbers
17 CFPB-SF-0016872.001, CFPB-SF-0016959.001, CFPB-SF-0016929.001, and
18 CFPB-SF-0016921.001. These documents have been filed under seal.

19 5. Attached hereto as Exhibit 6 is a true and correct copy of the Privilege
20 Declaration of Deborah Morris, dated January 29, 2025.

21 6. Attached hereto as Exhibit 7 is a true and correct copy of Plaintiff
22 Consumer Financial Protection Bureau’s Objections and Responses to SoLo Funds,
23 Inc.’s First Requests for Production of Documents, dated November 14, 2024.

24 7. Attached hereto as Exhibit 8 is a true and correct copy of Plaintiff
25 Consumer Financial Protection Bureau’s First Supplemental Objections and Answers
26 to SoLo Funds, Inc.’s First Interrogatories, dated December 20, 2024.

1 8. Attached hereto as Exhibit 9 is a true and correct copy of a rough draft
2 unedited and uncertified transcript of the Deposition of Jeffrey Sutorus, a Senior
3 Information Technologies Specialist of the Bureau. This deposition occurred on
4 February 12, 2025.

5 9. Bureau counsel (Bradley Cohen) met and conferred with me on
6 December 11, 2023. During that meet and confer Bureau counsel stated that the
7 Enforcement Division would be initiating a public enforcement action against the
8 company. Bureau counsel thereafter served a draft consent order and stipulation on
9 SoLo on January 25, 2024.

10 10. Below are a list of request reasons that appear on the data extracts
11 bearing Bates numbers SOLOCFPB00010750-SOLOCFPB00010816.

13 asthma nebulizer need ASAP	please help I'm so hungry
14 Babys medicine & Formula ASAP 15 please	help i really need gas please
16 Rent coming up, please help!	Medical emergency

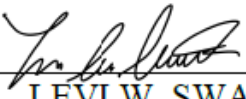
17 11. During the Parties' February 7, 2025 meet and confer, I was told by
18 Bureau counsel Trishanda Treadwell that, for DRs 40-46, the Bureau produced only
19 "certain publicly available information" that it was "already aware of without
20 conducting a search." I was also told, in connection with DRs 26-27 and 29, that the
21 Bureau was not "immediately aware" of responsive information except that produced
22 in response to DRs 40-46, but that no search of non-public information or documents
23 had been conducted.

24 12. To date, SoLo has produced 52,292 documents to the Bureau during the
25 course of this matter.

26 13. Attached as Exhibit 10 is a true and correct copy of a Memorandum of
27 Understanding Between the Consumer Financial Protection Bureau, the Conference
28

1 of State Bank Supervisors, and the Other Signatories Hereto on the Sharing of
2 Information for Consumer Protection Purposes, dated January 4, 2011, and available
3 at https://www.dfs.ny.gov/system/files/documents/2019/07/mou_01042011_cfpb
4 _csbs.pdf.

5 I declare under penalty of perjury under the laws of the United States of
6 America that the foregoing is true and correct. Executed on this 13th day of February,
7 2025, in McLean, Virginia.

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11 LEVI W. SWANK
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system on **February 13, 2025**. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.
Executed on **February 13, 2025**.

/s/ Laura A. Stoll
LAURA A. STOLL

EXHIBIT 1

***PLACE HOLDER OF
DOCUMENT SOUGHT
TO BE SEALED IN ITS
ENTIRETY***

EXHIBIT 2

***PLACE HOLDER OF
DOCUMENT SOUGHT
TO BE SEALED IN ITS
ENTIRETY***

EXHIBIT 3

***PLACE HOLDER OF
DOCUMENT SOUGHT
TO BE SEALED IN ITS
ENTIRETY***

EXHIBIT 4

***PLACE HOLDER OF
DOCUMENT SOUGHT
TO BE SEALED IN ITS
ENTIRETY***

EXHIBIT 5

***PLACE HOLDER OF
DOCUMENT SOUGHT
TO BE SEALED IN ITS
ENTIRETY***

EXHIBIT 6

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

21 CONSUMER FINANCIAL
22 PROTECTION BUREAU,

23 Plaintiff,

24 v.

25 SOLO FUNDS, INC.

26 Defendant.

CASE NO.: 2:24-cv-04108-RJK-AJR

PRIVILEGE DECLARATION OF
DEBORAH MORRIS

DISCOVERY MATTER

PRIVILEGE DECLARATION OF DEBORAH MORRIS

I, DEBORAH MORRIS, declare:

1. I am an attorney licensed to practice law in the State of New York and am employed by the Consumer Financial Protection Bureau (Bureau) as a Deputy Director in the Bureau's Enforcement Division. I am the Deputy Director supervising the trial team for the Bureau in the above-captioned matter. As a Deputy Director in the Enforcement Division, I am authorized to assert, and if necessary, waive, the Bureau's governmental privileges with respect to documents that are within its custody and control.

2. I submit this declaration in support of the Bureau's deliberative process and law-enforcement privilege claims in response to Defendant SoLo Funds, Inc.'s (SoLo Funds) discovery requests and topics identified in the noticed deposition of the Bureau pursuant to Fed. R. Civ. P. 30(b)(6).

3. This declaration is based on my professional experience, personal knowledge of the facts stated below, and information I have received as Deputy Director in the Enforcement Division. If called as a witness, I could and would testify competently to the information contained herein.

4. This declaration addresses the Bureau's assertion of the deliberative process privilege and the law enforcement investigative privilege over the communications the Bureau has had with state regulators and law enforcement agencies in the course of its investigation of, and litigation with, SoLo Funds. The Bureau has collected email communications and has maintained their privilege and confidentiality. I have reviewed these email communications, which are described in Rows 1–127 of the Bureau's amended privilege log served on January 29, 2025 (Amended Privilege Log).

5. This declaration also addresses the Bureau's assertion of the law enforcement investigative privilege over the communications the Bureau has had with the Federal Trade Commission (FTC) during its litigation with SoLo Funds. The Bureau has

1 collected email communications and has maintained their privilege and
2 confidentiality. I have reviewed these email communications, which are described in
3 Rows 128–139 of the Bureau’s Amended Privilege Log.

4 6. Finally, this declaration encompasses the Bureau’s assertion of the deliberative
5 process privilege over the inter-office communications, internal to the Bureau,
6 regarding the Bureau’s research and decisions affecting the investigation of and
7 litigation against SoLo Funds and any internal communications and analysis
8 regarding market impacts, Bureau policy decisions, and deliberations regarding legal
9 theories and interpretations. This category of protected documents is described in
10 Row 150 of the Bureau’s Amended Privilege Log. The Bureau has maintained the
11 privilege and confidentiality of all such internal communications. Such
12 communications among attorneys and other staff at the Bureau are part of the process
13 for developing formal advice and recommendations in support of final Bureau
14 decisions relevant to this action.

15 **Deliberative Process Privilege**

16 7. The records and other communications being withheld pursuant to the
17 deliberative process privilege are all pre-decisional—i.e., antecedent to a final
18 agency decision—and address: (i) the Bureau’s Enforcement Division’s pre-suit
19 investigation of SoLo Funds, culminating in the decision to file suit; (ii) the
20 allegations the Bureau decided to include in its May 17, 2024 Complaint and August
21 20, 2024 Amended Complaint; and (iii) internal deliberations and documents that
22 inform and support agency policies, decisions, or analyses.

23 8. First, the communications between Bureau attorneys and state banking
24 regulators or state law enforcement agencies described in Rows 1–5, 17–32, 35–38,
25 50–51, 62–63, 69–71, 75–80, 87–88, 91, 95–126 of the Bureau’s Amended Privilege
26 Log (which include duplicates and emails within the same email chain) were in
27 service of internal Bureau deliberations regarding whether to bring certain claims,
28 file suit, or amend its complaint. These communications, which are being withheld in

1 part or (in certain limited cases) in their entirety consist of emails and attachments
2 containing or reflecting opinions, analyses, advice, thought processes, strategies, and
3 recommendations generated during the course of the Bureau's consideration of the
4 appropriate course of action, culminating in those final Bureau decisions.

5 9. Specifically, the January 2023 email chain between attorneys from the
6 Bureau's Enforcement Division and the Ohio Department of Commerce described in
7 Rows 111–125 reflect attorney discussions concerning a question of state law
8 relevant to the Bureau's internal deliberations concerning allegations to be included
9 in the Bureau's Complaint.

10 10. Further, the email chains culminating in May 2024 between attorneys from the
11 Bureau's Enforcement Division and the Connecticut Department of Banking
12 described in Rows 24–31, 35–38, 95–96, 102–103, 105–108 of the Bureau's
13 Amended Privilege Log include attorney thoughts and mental impressions, including
14 regarding potential claims or legal strategies relevant to the Bureau's internal
15 deliberations concerning allegations to be included in the Bureau's Complaint.

16 11. Similarly, the May 2024 email chain between attorneys from the Bureau's
17 Enforcement Division and the Maryland Department of Labor Office of Financial
18 Regulation described in Rows 1–5, 32, 50–51, 97–101, 104, 109–110 of the
19 Bureau's Amended Privilege Log reflect attorney discussions concerning a discrete
20 legal question relevant to the Bureau's internal deliberations concerning allegations
21 to be included in the Bureau's Complaint.

22 12. Finally, the July 2024 email and subsequent chain between attorneys from the
23 Bureau's Enforcement Division and the North Carolina Department of Justice
24 Consumer Protection Division described in Rows 17–23, 62–63, 69–71, 75–80, 87–
25 88, 91, 126 include attorney thoughts and mental impressions relevant to the
26 Bureau's internal deliberations concerning allegations in the Bureau's Amended
27 Complaint.

13. With respect to the communications with state regulators, documents withheld or redacted relate to the Bureau's outreach to state agencies with whom the Bureau shares a common interest, as part of its deliberative process of determining the appropriate course of action to take with respect to the above-described investigation, litigation, or resolution of the Bureau's claims. Specifically, these communications occurred at various points prior to an agency decision regarding the filing the Bureau's May 17, 2024 Complaint as well as during the time period prior to an agency decision concerning the filing of the Bureau's August 20, 2024 Amended Complaint.

14. As described above, the withheld communications and attachments in Rows 1-5, 17-32, 35-38, 50-51, 62-63, 69-71, 75-80, 87-88, 91, 95-126 of the Bureau's Amended Privilege Log (as described above in Paragraphs 9-12) include frank discussions and observations concerning the various state laws and specifically with respect to SoLo Funds. These communications reflect "the give and take" of the Bureau's consultative processes, which includes sharing and discussing legal analyses, thought processes, and strategies with necessary state partners. The deliberative information described above reflects what the Bureau considered in deciding whether or not to include certain allegations or pursue certain violations against SoLo Funds in the Bureau's initial Complaint and/or Amended Complaint.

15. Disclosure of these communications and attachments would expose the Bureau's decision-making processes in such a way that it might discourage candid discussion between the Bureau's Enforcement Division and state banking regulators and law enforcement agencies and undermine the ability of the Bureau to perform its statutory duties.

Law Enforcement Investigative Privilege

16. The Bureau shares a common interest with certain state and federal regulators in protecting consumers and enforcing consumer protection statutes. The Bureau's jurisdiction intersects with the jurisdiction of its state and federal partners.

1 Accordingly, the Bureau's investigations and filed actions regularly involve subjects
2 that are also under investigation by its state and federal partners. Entities such as the
3 FTC or state attorneys general may come across information during their
4 investigations that could be the basis for a new Bureau investigation, or that could
5 alert the Bureau to a new consideration for an ongoing Bureau investigation or
6 litigation.

7 17. Thus, the Bureau's ability to cooperate with its partners, including by sharing
8 information and coordinating on investigations and litigation against common
9 subjects, is important to the Bureau's enforcement mission. The Bureau relies on its
10 state and federal partners' willingness to voluntarily share information and candid
11 observations, with the understanding that the Bureau will maintain both privilege and
12 confidentiality.

13 18. As reflected in the communications and attachments described in Rows 1–127
14 of the Bureau's Amended Privilege Log, the Bureau's Enforcement Division has
15 communicated about its investigation of, and litigation against, SoLo Funds with
16 numerous state partners with which it shares a common interest. This includes states
17 that conducted their own investigations or took actions against SoLo Funds during
18 the relevant period.

19 19. Further, as reflected in the October 2024 emails described in Rows 128–139 of
20 the Bureau's Amended Privilege Log, the Bureau also communicated with attorneys
21 at the FTC connection with information-sharing efforts relevant to this ongoing
22 litigation.

23 20. The Bureau is asserting the law enforcement investigative privilege as one of
24 several bases for withholding information contained within the communications and
25 attachments described in these Rows. Requiring the disclosure of such
26 communications and attachments, which the Bureau shared or received in a
27 privileged and confidential manner with its state and federal partners, threatens to
28 reveal—and potentially close—an important law enforcement and information-

1 gathering technique. Disclosing these communications to Defendant pursuant to a
2 protective order will not lessen the harm. If state and federal law enforcement
3 agencies cannot trust that privileged and confidential information they share with the
4 Bureau will remain privileged and confidential, they may refuse to share such
5 information with the Bureau in the future, or withdraw from or refuse to enter into
6 new information-sharing agreements.

7 21. In sum, disclosure of such privileged communications and information, even
8 pursuant to a protective order, could harm the Bureau's ability to cooperate and share
9 privileged and confidential information with its state and federal partners regarding
10 investigations and litigation, including by chilling future communications, and
11 ultimately hinder the Bureau's law enforcement mission.

12
13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.

15
16 DATED: January 29, 2025 CONSUMER FINANCIAL PROTECTION BUREAU

17 By: *Deborah Morris*

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20 ENFORCEMENT DIVISION
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EXHIBIT 7

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

CONSUMER FINANCIAL
PROTECTION BUREAU,

Plaintiff,

v.

SOLO FUNDS, INC.,

Defendant.

Case No. 2:24-cv-04108-RJK-AJR

**CONSUMER FINANCIAL
PROTECTION BUREAU'S
OBJECTIONS AND RESPONSES
TO SOLO FUNDS, INC.'S FIRST
REQUESTS FOR PRODUCTION
OF DOCUMENTS**

Judge: Hon. R. Gary Klausner

1 Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiff
2 Consumer Financial Protection Bureau (the “Bureau”) objects and responds
3 to Defendant SoLo Funds, Inc. (“Defendant” or “SoLo”)’s First Requests for
4 Production of Documents (the “Requests”) as follows:

5 **PRELIMINARY STATEMENTS**

6 1. The Bureau’s discovery and development of all facts and
7 circumstances relating to this case are ongoing. These responses and
8 objections are made without prejudice to, and are not a waiver of, the
9 Bureau’s right to rely on other facts or documents during this case. The
10 Bureau expressly reserves the right to supplement, clarify, revise, or correct
11 any or all of its responses and objections to Defendant’s Requests, and to
12 assert additional objections or provide additional responses at a later date.

13 2. In making the responses below and the accompanying
14 productions, the Bureau does not waive any of its privileges. The Bureau is
15 not producing documents that are protected from disclosure under the
16 attorney-client privilege, deliberative process privilege, attorney work
17 product doctrine, law enforcement investigatory privilege, trial-preparation
18 protection under Federal Rule of Civil Procedure 26(b)(3) and (4), or any
19 other applicable privilege or immunity. The Bureau will produce a categorical
20 privilege log for internal Bureau drafts or communications that it is
21 withholding on the basis of its privilege objections. A request for a more
22 detailed log is unreasonable, unduly burdensome, and disproportional to the
23 needs of the case in light of the deliberative process privilege, attorney-client
24 privilege, attorney work product doctrine, law enforcement investigatory
25 privilege, and other privileges protecting such documents from discovery. In
26 addition, the internal Bureau documents lack relevance to the Bureau’s

1 claims and SoLo's defenses. The Bureau will produce a privilege log after it
2 has completed its production of documents responsive to Defendant's
3 requests.

4 3. Except as otherwise specified in response to a Request below, the
5 Bureau objects to producing the following categories of publicly-available
6 documents: (a) Federal court filings available on PACER that are not under
7 seal; (b) Federal administrative-forum case filings that are not under seal;
8 (c) statutes, regulations, regulatory guidance, and publications in the Federal
9 Register; and (d) documents that are publicly and currently available on the
10 Internet, including on the Bureau's website.

11 4. The Bureau's production of any documents not publicly available
12 is subject to the parties' Stipulated Protective Order [ECF 56].

13 5. By making the responses below and the accompanying
14 productions, the Bureau does not waive, and hereby expressly reserves, its
15 right to assert any and all objections as to the admissibility of such responses
16 and accompanying productions into evidence in this action, or in any other
17 proceedings, on any and all grounds including, but not limited to,
18 competency, relevancy, materiality, and privilege. Further, the Bureau makes
19 the responses below and accompanying productions without in any way
20 implying that it considers the requests, responses, and productions to be
21 relevant or material to any claim or defense in this action.

22 DEFINITIONS

23 1. "SoLo Platform" or "Platform" shall mean the nationwide website
24 and mobile-application based peer-to-peer marketplace through which
25 consumers can obtain small-dollar, short-term loans, as described in
26 paragraph 2 of the Amended Complaint.

2. “Rule” or “Rules” shall mean the Federal Rules of Civil Procedure.
3. “CFPA” shall mean the Consumer Financial Protection Act,
12 U.S.C. § 5531, *et seq.*
4. “Standing Order” shall mean Judge R. Gary Klausner’s Standing
Order Regarding Newly Assigned Cases, dated May 2023.
5. “Scheduling Order” shall mean the Minutes of Scheduling
Conference before Judge R. Gary Klausner [ECF 40].
6. “Local Rules” shall mean the Local Rules of the United States
District Court for the Central District of California.

**Objections and Responses to
Defendant’s First Requests for Documents**

Document Request 1. All Documents You have obtained from third parties
in connection with the Pre-Suit Investigation or Litigation.

Response: The Bureau objects that the phrase “in connection with” is
vague and ambiguous, as it is not clear whether SoLo seeks all documents the
Bureau obtained from third parties *during* the Pre-Suit Investigation or
Litigation, or whether SoLo seeks all documents the Bureau obtained from
third parties *about* the Pre-Suit Investigation or Litigation. Because the
Request is not limited to facts relevant to the Bureau’s claims or Solo’s
defenses under either construction, the Request is also overly broad,
burdensome, and disproportional to the needs of the case. The Bureau
construes this Request to seek documents the Bureau obtained from third
parties during the Pre-Suit Investigation or Litigation that are relevant to the
Bureau’s claims or SoLo’s defenses.

The Bureau further objects to this Request to the extent it seeks the
production of documents protected by the law enforcement investigatory

1 privilege, which protects against the disclosure of investigatory files that
2 could jeopardize law enforcement efforts including open or confidential
3 investigations. As a result, the Bureau is withholding (and will set forth in its
4 privilege log) documents obtained from state or federal regulators in
5 connection with the Bureau's Pre-Suit Investigation of or Litigation against
6 SoLo.

7 The Bureau also objects to this Request to the extent it seeks the
8 production of documents protected by the attorney-client privilege and
9 attorney work product doctrine but not waived due to the common interest
10 exception. As a result, the Bureau is withholding (and will set forth in its
11 privilege log) documents obtained from state or federal regulators in
12 connection with the Bureau's Pre-Suit Investigation of or Litigation against
13 SoLo.

14 Subject to and without waiving these objections, the Bureau has
15 conducted a reasonable search and, subject to the Stipulated Protective Order
16 [ECF 56], will produce documents obtained from third party consumers in
17 connection with the Bureau's Pre-Suit Investigation or Litigation. The Bureau
18 is aware that U.S. Representative Jonathan Jackson authored a letter to the
19 Bureau that SoLo posted on its website, but the Bureau has no record of
20 receiving that letter and, after reasonable search, did not locate a copy in its
21 files. The Bureau is unaware of any additional, responsive documents at this
22 time.

1 **Document Request 2.** All transcripts of, and exhibits to, investigational
2 hearings or interviews taken by the Bureau in connection with the Pre-Suit
Investigation or Litigation.

3 **Response:** The Bureau objects to the extent that this Request seeks
4 the Bureau's protected attorney work product in the form of interview
5 transcripts prepared in anticipation of litigation, but the Bureau is not
6 withholding any documents based on that objection. Subject to and without
7 waiving this objection, the Bureau will produce the transcript and exhibits to
8 the June 23, 2022, investigational hearing of James Seth Metcalf. The Bureau
9 states that it has no additional transcripts of investigational hearings or
10 interviews from the Pre-Suit Investigation or Litigation.

11 **Document Request 3.** All Documents reflecting any Communications
12 among Your officials or employees expressing concerns regarding the factual
13 or legal basis for or existence or impact of the Pre-Suit Investigation, an
enforcement action or potential enforcement action against SoLo, or this
Litigation.

14 **Response:** As a threshold matter, the Bureau construes this Request
15 as seeking internal communications *from* Bureau officials or employees *to*
16 Bureau officials or employees. The Bureau objects to this Request because the
17 phrases "expressing concerns" and "regarding the factual or legal basis for or
18 existence or the impact of the Pre-Suit Investigation, an enforcement action
19 or potential enforcement action against SoLo, or this Litigation" are vague
20 and ambiguous. It is unclear from the Interrogatory whether SoLo is seeking
21 documents expressing concern that the factual or legal basis for the claims
22 against SoLo are lacking or some other concern. The Bureau construes this
23 language to refer to non-attorney Bureau officials and employees who have
24 complained that the investigation into or litigation against SoLo is

1 unwarranted, the claims not viable, or that it would negatively impact
2 consumers or credit availability.

3 The Bureau objects that the Request seeks the production of documents
4 protected by the attorney-client privilege, attorney work product doctrine,
5 law enforcement investigatory privilege, and the deliberative process
6 privilege. The Request expressly seeks documents that would reflect the
7 Bureau's internal deliberations, opinions, analyses, assessments, and
8 recommendations regarding the factual material they reviewed during the
9 Pre-Suit Investigation and Litigation, as well as legal advice, theories, mental
10 impressions, and opinions developed during the Pre-Suit Investigation and
11 Litigation. Such internal documents and communications reflecting Bureau
12 employees' views of the case are also not relevant to the Bureau's claims that
13 SoLo violated the CFPA through its deceptive, abusive, and/or unfair
14 advertising, disclosure, donation, and debt collection practices (Counts I–
15 VII) and failed to follow reasonable procedures to ensure maximum possible
16 accuracy of consumer report information in violation of both the CFPA and
17 FCRA (Counts VIII and IX). Nor are internal documents and
18 communications proportional to the needs of the case, and they are therefore
19 outside the scope of discovery under Rule 26(b)(1). Based on its objections,
20 the Bureau will not search for or produce documents in response to this
21 Request.

1 **Document Request 4.** All Documents reflecting any Communications
2 between You or any of Your officials or employees and any other federal
3 government official, employee, or elected representative regarding the factual
4 or legal basis for or existence or impact of the Pre-Suit Investigation, an
5 enforcement action or potential enforcement action against SoLo, or this
6 Litigation.

7 **Response:** As a threshold matter, the Bureau objects that the phrase
8 “between You or any of Your officials or employees and any other federal
9 government official, employee, or elected representative” is vague and
10 ambiguous in this context, as it is not clear whether the Request encompasses
11 internal Bureau communications. The Bureau construes this Request as
12 seeking communications between Bureau officials or employees on the one
13 hand and non-Bureau federal government officials, employees, or elected
14 representatives on the other hand. The Bureau does not construe this
15 Request as seeking internal communications from Bureau officials or
16 employees to other Bureau officials or employees.

17 The Bureau also objects that the phrase “impact of” is vague and
18 ambiguous in this context, as SoLo does not specify what “impact” it is
19 referring to. The Bureau further objects that documents and communications
20 “regarding the existence or impact of the Pre-Suit Investigation, an
21 enforcement action or potential enforcement action against SoLo, or this
22 Litigation” are not relevant to the Bureau’s claims that SoLo violated the
23 CFPA through its deceptive, abusive, and/or unfair advertising, disclosure,
24 donation, and debt collection practices (Counts I–VII) and failed to follow
25 reasonable procedures to ensure maximum possible accuracy of consumer
26 report information in violation of both the CFPA and FCRA (Counts VIII and
27 IX). Nor are documents and communications “regarding the existence or
28 impact of the Pre-Suit Investigation, an enforcement action or potential

1 enforcement action against SoLo, or this Litigation” proportional to the needs
2 of the case, and they are therefore outside the scope of discovery under Rule
3 26(b)(1). Based on its objection, the Bureau will not search for or produce
4 communications “regarding the existence or impact of the Pre-Suit
5 Investigation, an enforcement action or potential enforcement action against
6 SoLo, or this Litigation.”

7 The Bureau objects to this Request to the extent it seeks the production
8 of documents protected by the law enforcement investigatory privilege, which
9 protects against the disclosure of investigatory files that could jeopardize law
10 enforcement efforts including open or confidential investigations. As a result,
11 the Bureau is withholding (and will set forth in its privilege log) documents
12 obtained from federal regulators in connection with the Bureau’s Pre-Suit
13 Investigation of or Litigation against SoLo.

14 The Bureau also objects to this Request to the extent it seeks the
15 production of documents protected by the attorney-client privilege and
16 attorney work product doctrine but not waived due to the common interest
17 exception. As a result, the Bureau is withholding (and will set forth in its
18 privilege log) documents reflecting communications between Bureau officials
19 or employees on the one hand and non-Bureau federal government attorneys
20 on the other hand that relate to the Bureau’s Pre-Suit Investigation of or
21 Litigation against SoLo.

22 Subject to and without waiving its objections, the Bureau states that,
23 with respect to SoLo’s request for “Documents reflecting any
24 Communications between You or any of Your officials or employees and any
25 . . . elected representative regarding the factual or legal basis for . . . the Pre-
26 Suit Investigation, an enforcement action or potential enforcement action

1 against SoLo, or this Litigation[,]” the Bureau conducted a reasonable search
2 of its files and, subject to the Stipulated Protective Order [ECF 56], will
3 produce responsive communications between Bureau employees and elected
4 representatives. The Bureau is aware that U.S. Representative Jonathan
5 Jackson authored a letter to the Bureau that SoLo posted on its website, but
6 the Bureau has no record of receiving that letter and, after reasonable search,
7 did not locate a copy in its files.

8 **Document Request 5.** All Documents that reflect or otherwise reference
9 any positive or favorable statement, commentary, or analysis about SoLo, the
10 SoLo marketplace platform, Travis Holoway, Rodney Williams, or any
11 marketplace platform lender, including but not limited to statements
12 concerning:

- 13 i. the benefits of the SoLo marketplace platform and/or marketplace
14 loans;
- 15 ii. the accuracy and/or understandability of SoLo’s advertisements, the
16 loan disclosures provided on behalf of marketplace lenders, and/or
17 the payment reminders and collections notices provided on behalf of
18 marketplace lenders;
- 19 iii. the immateriality of any of SoLo’s representations or omissions,
20 especially any representations or omissions concerning the
21 enforceability of marketplace loans;
- 22 iv. the optionality or voluntary nature of tips and/or donations;
- 23 v. the accuracy of the SoLo Score; and/or
- 24 vi. the costs of a SoLo marketplace loan in comparison to alternative
25 financing.

26 **Response:** The Bureau objects to this Request as vague and
27 ambiguous because it is unclear whether SoLo is requesting Documents
28 generated by the Bureau or general, publicly available information that
discusses SoLo. The Bureau construes this Request to refer to the Bureau’s

1 own documents. The Bureau objects to the extent the Request, including its
2 subparts, seeks documents that are not in the Bureau's custody or control.

3 The Bureau objects to the extent that this Request seeks the production
4 of documents protected by the attorney-client privilege, attorney work
5 product doctrine, law enforcement investigatory privilege, and the
6 deliberative process privilege. The Request expressly seeks documents that
7 would reflect the Bureau's internal deliberations, opinions, analyses,
8 assessments, and recommendations regarding the factual material they
9 reviewed during the Pre-Suit Investigation and Litigation, as well as legal
10 advice, theories, mental impressions, and opinions developed during the Pre-
11 Suit Investigation and Litigation. Internal documents and communications
12 reflecting Bureau employees' views of the case are also not relevant to the
13 Bureau's claims that SoLo violated the CFPA through its deceptive, abusive,
14 and/or unfair advertising, disclosure, donation, and debt collection practices
15 (Counts I–VII) and failed to follow reasonable procedures to ensure
16 maximum possible accuracy of consumer report information in violation of
17 both the CFPA and FCRA (Counts VIII and IX). Nor are internal documents
18 and communications proportional to the needs of the case, and they are
19 therefore outside the scope of discovery under Rule 26(b)(1). Based on these
20 objections, the Bureau will not search for or produce such internal
21 documents in response to this Request.

22 The Bureau also objects that the term “marketplace platform lender” is
23 vague and ambiguous, as it is undefined and does not appear to specifically
24 refer to SoLo. The Bureau will construe the term “marketplace platform
25 lender” to refer to persons who fund loan requests on the SoLo Platform. The
26 Bureau also objects that the terms “marketplace loans” and “marketplace
27

1 loan” are vague and ambiguous, as they are undefined and do not specifically
2 refer to SoLo. The Bureau will construe the terms “marketplace loans” and
3 “marketplace loan” to refer to loan(s) funded through the SoLo Platform. And
4 the Bureau objects that the terms “tips” and “donations” are vague and
5 ambiguous in this context, as they are undefined. The Bureau will construe
6 the term “tips” to refer to the “Lender tip fee” described in the Complaint and
7 will construe the term “donation” to refer to the SoLo donation fee described
8 in the Complaint.

9 The Bureau further objects that the Request for “all Documents”
10 reflecting or referencing “any positive or favorable statement, commentary,
11 or analysis about SoLo, the SoLo marketplace platform, Travis Holoway,
12 Rodney Williams, or any marketplace platform lender” is unduly
13 burdensome, overbroad, and disproportional to the needs of the case and
14 seeks information that is not relevant, because it is not limited to documents
15 related to the Bureau’s allegations in the Amended Complaint that SoLo
16 violated the CFPA through its deceptive, abusive, and/or unfair advertising,
17 disclosure, donation, and debt collection practices (Counts I–VII) and failed
18 to follow reasonable procedures to ensure maximum possible accuracy of
19 consumer report information in violation of both the CFPA and FCRA
20 (Counts VIII and IX).

21 The Bureau objects to subparts (i) and (vi) because documents
22 concerning the benefits of the SoLo marketplace platform, benefits of a SoLo
23 marketplace loan, and the costs of a SoLo marketplace loan in comparison to
24 alternative financing are not relevant to the Bureau’s claims in the Complaint
25 that SoLo violated the CFPA through its deceptive, abusive, and/or unfair
26 advertising, disclosure, donation, and debt collection practices (Counts I–
27

VII) and failed to follow reasonable procedures to ensure maximum possible accuracy of consumer report information in violation of both the CFPB and FCRA (Counts VIII and IX). With respect to the Bureau's allegations that SoLo unfairly collected on loans that consumers were not obligated to repay, causing substantial injuries that are not outweighed by any possible countervailing benefits, the documents sought through this Request are not relevant because "depriv[ing] consumers of money they were not legally obligated to pay [is] a clear financial harm without a possible countervailing benefit." *Consumer Fin. Prot. Bureau v. NDG Fin. Corp.*, No. 15-CV-5211 (CM), 2016 WL 7188792, at *13 (S.D.N.Y. Dec. 2, 2016) (also finding "[l]osing money they are otherwise entitled to keep provides consumers no conceivable benefit").

Subject to and without waiving these objections, the Bureau has conducted a reasonable search and, subject to the Stipulated Protective Order [ECF 56], will produce the documents provided by SoLo during the Pre-Suit Investigation, which may include documents responsive to this Request. The Bureau is unaware of any additional documents responsive to this Request.

Document Request 6. All Documents that concern the impact or potential impact of shutting down SoLo or the SoLo marketplace platform, causing the SoLo marketplace platform to be unavailable in certain states, or of potential litigation or this Litigation on consumers.

Response: The Bureau objects to this Request as vague and ambiguous because it is unclear whether SoLo is requesting Documents generated by the Bureau or general, publicly available information that discusses SoLo. The Bureau construes this Request to refer to the Bureau's own documents. The Bureau objects to the extent the Request, including its subparts, seeks documents that are not in the Bureau's custody or control.

1 The Bureau objects to the extent that this Request seeks the production
2 of documents protected by the attorney-client privilege, attorney work
3 product doctrine, law enforcement investigatory privilege, and the
4 deliberative process privilege. The Request expressly seeks documents that
5 would reflect the Bureau's internal deliberations, opinions, analyses,
6 assessments, and recommendations regarding the factual material they
7 reviewed during the Pre-Suit Investigation and Litigation, as well as legal
8 advice, theories, mental impressions, and opinions developed during the Pre-
9 Suit Investigation and Litigation. Internal documents and communications
10 reflecting Bureau employees' views of the case are also not relevant to the
11 Bureau's claims that SoLo violated the CFPA through its deceptive, abusive,
12 and/or unfair advertising, disclosure, donation, and debt collection practices
13 (Counts I–VII) and failed to follow reasonable procedures to ensure
14 maximum possible accuracy of consumer report information in violation of
15 both the CFPA and FCRA (Counts VIII and IX). Nor are internal documents
16 and communications proportional to the needs of the case, and they are
17 therefore outside the scope of discovery under Rule 26(b)(1). Based on these
18 objections, the Bureau will not search for or produce such internal
19 documents in response to this Request.

20 The Bureau further objects that documents concerning the impact or
21 potential impact of shutting down SoLo or the SoLo Platform, the future
22 availability of the SoLo platform in certain states, this Litigation, or any other
23 potential litigation are not relevant to the Bureau's claims in the Complaint
24 that SoLo violated the CFPA through its deceptive, abusive, and/or unfair
25 advertising, disclosure, donation, and debt collection practices (Counts I–
26 VII) and failed to follow reasonable procedures to ensure maximum possible
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1 accuracy of consumer report information in violation of both the CFPB and
2 FCRA (Counts VIII and IX). With respect to the Bureau's allegations that
3 SoLo unfairly collected on loans that consumers were not obligated to repay,
4 causing substantial injuries that are not outweighed by any possible
5 countervailing benefits, the documents sought through this Request are not
6 relevant because "depriv[ing] consumers of money they were not legally
7 obligated to pay [is] a clear financial harm without a possible countervailing
8 benefit." *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also finding "[l]osing
9 money they are otherwise entitled to keep provides consumers no
10 conceivable benefit"). Further, documents related to the "impact or potential
11 impact of shutting down SoLo or the SoLo [Platform]" are not relevant
12 because the relief sought in the Amended Complaint does not seek the shut
13 down of SoLo or the SoLo Platform. Because the Request is not limited to
14 facts relevant to the Bureau's claims or Solo's defenses, the Request is also
15 overly broad, burdensome, and disproportional to the needs of the case.

16 Based on its objections, the Bureau will not search for or produce
17 documents in response to this Request.

18 **Document Request 7.** Documents sufficient to show the amount of funds
19 transferred from the Federal Reserve System to You on an annual basis since
20 January 1, 2022.

21 **Response:** The Bureau objects that this Request is not relevant to any
22 claim or defense at issue in this action because the Court has already
23 "rejected SoLo's arguments about the Bureau's funding." *See* Order on Mot.
24 to Dismiss, ECF No. 54, at 3. It therefore seeks information that is outside the
25 scope of discovery under Rule 26(b)(1).
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1 Based on its objection, the Bureau will not search for or produce
2 documents in response to this request.

3 **Document Request 8.** Documents sufficient to show your operating
4 expenses on an annual basis since January 1, 2022.

5 **Response:** The Bureau objects that this Request is not relevant to any
6 claim or defense at issue in this action because the Court has already
7 “rejected SoLo’s arguments about the Bureau’s funding.” *See* Order on Mot.
8 to Dismiss, ECF No. 54, at 3. It therefore seeks information that is outside the
9 scope of discovery under Rule 26(b)(1).

10 Based on its objection, the Bureau will not search for or produce
11 documents in response to this request.

12 **Document Request 9.** Documents sufficient to show the amount of any
13 funds You obtained to fund Your operations from any source other than the
14 Federal Reserve System for each year from January 1, 2022 to present.

15 **Response:** The Bureau objects that this Request is not relevant to any
16 claim or defense at issue in this action because the Court has already
17 “rejected SoLo’s arguments about the Bureau’s funding.” *See* Order on Mot.
18 to Dismiss, ECF No. 54, at 3. It therefore seeks information that is outside the
19 scope of discovery under Rule 26(b)(1).

20 Based on its objection, the Bureau will not search for or produce
21 documents in response to this request.

22 **Document Request 10.** Documents sufficient to show the funding source
23 of the salaries and benefits of all of Your attorneys who have entered an
24 appearance in the Litigation.

25 **Response:** The Bureau objects that this Request is not relevant to any
26 claim or defense at issue in this action because the Court has already
27 “rejected SoLo’s arguments about the Bureau’s funding.” *See* Order on Mot.

1 to Dismiss, ECF No. 54, at 3. It therefore seeks information that is outside the
2 scope of discovery under Rule 26(b)(1).

3 Based on its objection, the Bureau will not search for or produce
4 documents in response to this request.

5 **Document Request 11.** Documents sufficient to show the funding source
6 of all of the filing fees You have incurred in connection with the Litigation.

7 **Response:** The Bureau objects that this Request is not relevant to any
8 claim or defense at issue in this action because the Court has already
9 “rejected SoLo’s arguments about the Bureau’s funding.” *See* Order on Mot.
10 to Dismiss, ECF No. 54, at 3. It therefore seeks information that is outside the
11 scope of discovery under Rule 26(b)(1).

12 Notwithstanding its objection, the Bureau responds that it incurred no
13 filing fees in connection with the Litigation, and there are no documents
14 responsive to this Request.

15 **Document Request 12.** All complaints made by consumers to You that
16 concern or otherwise reference SoLo, and any supporting Documents
provided by those consumers.

17 **Response:** The Bureau objects that the term “complaint” is vague and
18 ambiguous in this context, as any statement made by a consumer to a Bureau
19 employee could be construed as a “complaint” and would be unduly
20 burdensome and disproportionate to the needs of the case to search for,
21 identify, or produce. The Bureau construes this Request to seek complaints
22 submitted by consumers to the Bureau through its complaint portal. To the
23 extent this Request seeks complaints other than those submitted by
24 consumers to the Bureau through its complaint portal, the Bureau objects
25 that this Request is overly broad, burdensome, and disproportional to the
26 needs of the case.

1 The Bureau further objects that this Request is overly broad,
2 burdensome, and disproportional to the needs of the case as it is not limited
3 to facts relevant to the Bureau's claims or Solo's defenses but seeks
4 documents relating to SoLo generally and to *all* of its products and services,
5 not those relevant to the Complaint.

6 The Bureau further objects that the Request seeks documents already
7 in the possession of SoLo. SoLo received all relevant consumer complaints
8 about its products and services that were submitted to the Bureau, as well as
9 any attached documentation, as it is the routine practice of the Bureau's
10 Consumer Response unit to provide such complaint information to SoLo
11 after a consumer files a complaint.

12 Subject to and without waiving these objections, the Bureau has
13 conducted a reasonable search of its files for nonprivileged documents
14 responsive to this Request. Subject to the Stipulated Protective Order [ECF
15 56], the Bureau will produce any responsive consumer complaints.

16 **Document Request 13.** Copies of all complaints that concern or otherwise
17 reference SoLo made by a consumer to a third party that are in Your
possession, custody, or control.

18 **Response:** The Bureau objects that this Request is overly broad,
19 burdensome, and disproportional to the needs of the case because it seeks *all*
20 "complaints" made to *anyone* referencing SoLo. The Bureau further objects
21 that this Request is overly broad, burdensome, and disproportional to the
22 needs of the case as it is not limited to facts relevant to the Bureau's claims or
23 Solo's defenses but seeks documents that relate to SoLo generally and *all* of
24 its products and services, not those relevant to the Complaint.
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1 Subject to and without waiving these objections, the Bureau has
2 conducted a reasonable search of its files for nonprivileged documents to this
3 Request. Subject to the Stipulated Protective Order [ECF 56], the Bureau will
4 produce any responsive consumer complaints.

5 **Document Request 14.** All Communications from consumers that concern
6 or otherwise reference SoLo.

7 **Response:** The Bureau objects that this Request is overly broad,
8 burdensome, and disproportional to the needs of the case as: (1) it is not
9 limited to facts relevant to the Bureau's claims or Solo's defenses, but seeks
10 documents and information relating to SoLo generally and to *all* of its
11 products and services, not those relevant to the Complaint; and (2) it broadly
12 seeks *all* "Communications from consumers" and is not limited to
13 communications from consumers to the Bureau. The Bureau further objects
14 to the extent the Request seeks documents that are already in the possession
15 of SoLo or publicly available documents on the ground that those materials
16 are equally available to SoLo. Based on its objections, the Bureau will
17 construe this Request as seeking communications from consumers
18 (excluding state or federal officials, employees, attorneys, or regulators) to
19 the Bureau that reference SoLo and relate to the allegations in the Amended
20 Complaint or to SoLo's asserted defenses.

21 The Bureau further objects that this Request seeks the production of
22 documents protected by the law enforcement investigatory privilege, which
23 protects against the disclosure of investigatory files that could jeopardize law
24 enforcement efforts including open or confidential investigations. The
25 Bureau also objects to this Request to the extent it seeks the production of
26 documents protected by the attorney work product doctrine or deliberative

1 process privilege. As written, responsive documents would include
2 communications between consumers and Bureau attorneys during the Pre-
3 Suit Investigation and Litigation relating to the Bureau's claims or potential
4 claims against SoLo or its litigation strategy. The Bureau will withhold
5 responsive documents that could jeopardize open or confidential
6 investigations or reveal privileged information and will produce a privilege
7 log reflecting any such withheld communications.

8 Subject to and without waiving its objections, the Bureau conducted a
9 reasonable search of its files and, subject to the Stipulated Protective Order
10 [ECF 56], will produce nonprivileged, responsive documents.

11 **Document Request 15.** All statements, declarations, affidavits, and other
12 Documents obtained from consumers concerning SoLo.

13 **Response:** The Bureau objects that this Request is overly broad,
14 burdensome, and disproportional to the needs of the case as it is not limited
15 to facts relevant to the Bureau's claims or Solo's defenses but seeks
16 documents relating to SoLo generally and to *all* of its products and services,
17 not those relevant to the Complaint.

18 The Bureau further objects to the terms "statements" and "other
19 Documents" as vague because these terms could include the same
20 "communications" and "complaints" and "Documents" sought in Requests 12,
21 13, and 14. The Bureau construes the term "statements" and "other
22 Documents," as used in this Request, to refer to formal, signed statements,
23 similar to affidavits or declarations but unsworn. The Bureau also objects to
24 the extent that this Request seeks drafts of any "statements, declarations,
25 affidavits, and other Documents" because such drafts are protected by the
26 attorney work product doctrine, attorney-client privilege, law enforcement

1 investigatory privilege, and the deliberative process privilege. Responsive
2 documents could include affidavits or declarations prepared by consumers at
3 the direction of Bureau attorneys in preparation for litigation or trial. As a
4 result, the Bureau will withhold responsive documents and communications,
5 if any, based on its objections and will produce a privilege log providing
6 information about the withheld documents.

7 Subject to and without waiving its objections, the Bureau is not
8 currently aware of any responsive documents.

9 **Document Request 16.** Any analysis, review, or investigation You
10 conducted related to any complaints from consumers concerning SoLo.

11 **Response:** The Bureau objects that this Request is overly broad,
12 burdensome, and disproportional to the needs of the case as it is not limited
13 to facts relevant to the Bureau's claims or Solo's defenses but seeks
14 documents relating to SoLo generally and to *all* of its products and services,
15 not those relevant to the Complaint.

16 The Bureau further objects that the Request seeks the production of
17 documents protected by the attorney-client privilege, attorney work product
18 doctrine, law enforcement investigatory privilege, and the deliberative
19 process privilege. The Request expressly seeks documents that would reflect
20 the Bureau's internal deliberations, opinions, analyses, assessments, and
21 recommendations regarding the factual material they reviewed during the
22 Pre-Suit Investigation and Litigation, as well as legal advice, theories, mental
23 impressions, and opinions developed during the Pre-Suit Investigation and
24 Litigation. Internal documents and communications reflecting Bureau
25 employees' views of the case are also not relevant to the Bureau's claims that
26 SoLo violated the CFPA through its deceptive, abusive, and/or unfair

1 advertising, disclosure, donation, and debt collection practices (Counts I–
2 VII) and failed to follow reasonable procedures to ensure maximum possible
3 accuracy of consumer report information in violation of both the CFPB and
4 FCRA (Counts VIII and IX). Nor are internal documents and
5 communications proportional to the needs of the case, and they are therefore
6 outside the scope of discovery under Rule 26(b)(1). Based on its objections,
7 the Bureau will not search for or produce documents in response to this
8 Request.

9 **Document Request 17.** Documents sufficient to show all consumers or
10 marketplace lenders with whom You or someone acting on Your behalf has
communicated.

11 **Response:** The Bureau objects that the term “marketplace lender” is
12 vague and ambiguous, as it is undefined and does not specifically refer to
13 SoLo. The Bureau will construe the term “marketplace lender” to refer to
14 persons who fund loan requests on the SoLo Platform.

15 The Bureau also objects that this Request is unduly burdensome,
16 overbroad, disproportional to the needs of the case, and seeks documents
17 that are not relevant to any claim or defense at issue in this case, as it calls for
18 documents showing “all consumers” with whom the Bureau has
19 communicated without limitation as to the topics of such communications.
20 Based on its objection, the Bureau will not search for or produce documents
21 showing consumers with whom the Bureau or someone acting on the
22 Bureau’s behalf has communicated regarding topics unrelated to the Pre-Suit
23 Investigation, Litigation, and/or claims raised in the Complaint.

24 The Bureau objects that the Request seeks the production of documents
25 protected by the attorney-client privilege, attorney work product doctrine,
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1 law enforcement investigatory privilege, and the deliberative process
2 privilege. For example, responsive documents would include
3 communications between consumers and Bureau attorneys during the Pre-
4 Suit Investigation and Litigation relating to the Bureau's claims or potential
5 claims against SoLo. The Bureau will withhold responsive documents and
6 communications, if any, based on its objection and will produce a privilege
7 log providing information about the withheld documents and
8 communications.

9 To the extent this Request seeks documents reflecting communications
10 related to the Bureau's Pre-Suit Investigation or Litigation, the Bureau
11 objects because it is duplicative of Request No. 1.

12 Subject to and without waiving its objections, the Bureau conducted a
13 reasonable search of its files and has not identified any nonprivileged
14 documents responsive to this Request.

15 **Document Request 18.** Documents sufficient to identify any putative
16 whistleblower, and all Documents received from them.

17 **Response:** The Bureau objects that this Request is unduly
18 burdensome, overbroad, disproportional to the needs of the case, and seeks
19 documents that are not relevant to any claim or defense at issue in this case,
20 as it calls for documents identifying "any putative whistleblower" without
21 limitation as to the topics raised by such whistleblowers or to whom such
22 whistleblowers reported information. The Bureau also objects to the extent
23 this Request seeks documents that are not in the Bureau's possession,
24 custody or control. Based on its objections, the Bureau will not search for or
25 produce documents identifying whistleblowers who reported information
26 unrelated to the Pre-Suit Investigation, Litigation, or claims raised in the
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1 Complaint; nor will the Bureau search for or produce documents identifying
2 whistleblowers who reported information to persons or entities other than
3 the Bureau.

4 The Bureau also objects that the Request seeks the production of
5 documents with information protected by the attorney-client privilege,
6 attorney work product doctrine, law enforcement investigatory privilege, and
7 the deliberative process privilege, as well as the government informant's
8 privilege. *See In Re Perez*, 749 F.3d 849 (9th Cir. 2014). Revealing a
9 whistleblower's identity could jeopardize a law enforcement investigation.
10 Moreover, any documents provided by a whistleblower to the Bureau are
11 attorney work product to the extent they were gathered and provided in
12 response to a request from Bureau attorneys and investigators. Furthermore,
13 Bureau documents identifying any whistleblower are likely to contain
14 attorney-client privileged communications, internal deliberations, opinions,
15 recommendations, and analyses.

16 The Bureau further objects to the extent that the Request seeks
17 documents already in the possession of SoLo. SoLo received all relevant
18 consumer complaints about its products and services that were submitted to
19 the Bureau, as well as any attached documentation, as it is the routine
20 practice of the Bureau's Consumer Response unit to provide such complaint
21 information to SoLo immediately after the consumer filed the complaint.

22 Subject to and without waiving its objections, the Bureau conducted a
23 reasonable search of its files and did not identify any documents responsive
24 to this Request.

1 **Document Request 19.** All Documents obtained from any of SoLo's
2 current employees, former employees, independent contractors, agents, or
3 service providers that concern SoLo or any of the allegations in the Amended
4 Complaint.

5 **Response:** The Bureau objects that the request for "[a]ll Documents
6 obtained . . . that concern SoLo" is unduly burdensome, overbroad, and
7 disproportional to the needs of the case, as it calls for documents that are not
8 relevant to the Bureau's claims that SoLo violated the CFPA through its
9 deceptive, abusive, and/or unfair advertising, disclosure, donation, and debt
10 collection practices (Counts I–VII) and failed to follow reasonable procedures
11 to ensure maximum possible accuracy of consumer report information in
12 violation of both the CFPA and FCRA (Counts VIII and IX). The Bureau will
13 not search for or produce documents obtained by the Bureau that are
14 unrelated to the allegations in the Amended Complaint.

15 The Bureau further objects that the Request seeks documents already
16 in the possession of SoLo. First, the Request asks the Bureau to produce back
17 to SoLo its own documents produced during the Pre-Suit Litigation. And
18 second, with respect to consumer complaints in the Bureau's possession,
19 SoLo received all relevant consumer complaints about its products and
20 services that were submitted to the Bureau, as well as any attached
21 documentation, as it is the routine practice of the Bureau's Consumer
22 Response unit to provide such complaint information to SoLo immediately
23 after the consumer filed the complaint.

24 Subject to and without waiving its objections, the Bureau conducted a
25 reasonable search of its files for documents obtained from any of SoLo's
26 current employees, former employees, independent contractors, agents, or
27 service providers that concern the allegations in the Amended Complaint

1 and, subject to the Stipulated Protective Order [ECF 56], will produce
2 responsive documents.

3 **Document Request 20.** All statements, declarations, attestations, or
4 affidavits obtained from any persons you intend to call as witnesses in this
5 case.

6 **Response:** The Bureau objects that this Request is premature, as the
7 Bureau has not yet identified the persons it intends to call as witnesses in this
8 case. The Bureau further objects that the Request is unduly burdensome,
9 overbroad, and disproportional to the needs of the case, as it is not limited to
10 statements, declarations, attestations, or affidavits relevant to the Bureau's
11 claims that SoLo violated the CFPA through its deceptive, abusive, and/or
12 unfair advertising, disclosure, donation, and debt collection practices (Counts
13 I–VII) and failed to follow reasonable procedures to ensure maximum
14 possible accuracy of consumer report information in violation of both the
15 CFPA and FCRA (Counts VIII and IX). The Bureau will not search for or
16 produce statements, declarations, attestations, or affidavits obtained by the
17 Bureau that are unrelated to the allegations in the Amended Complaint. The
18 Bureau further objects that this Request seeks documents that are not in the
19 Bureau's possession, custody, or control.

20 The Bureau objects to the undefined term "statements" as vague. The
21 Bureau construes this Request as seeking signed or sworn statements,
22 declarations, attestations, or affidavits the Bureau obtains from persons it
23 intends to call as witnesses in this case.

24 The Bureau also objects to the extent that this Request seeks drafts of
25 any "statements, declarations, attestations, or affidavits" because such drafts
26 are protected by the attorney work product doctrine, attorney-client
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1 privilege, law enforcement investigatory privilege, and the deliberative
2 process privilege. Responsive documents could include draft affidavits or
3 declarations prepared by consumers at the direction of Bureau attorneys in
4 preparation for litigation or trial. As a result, the Bureau will withhold
5 responsive documents and communications, if any, based on its objections
6 and will produce a privilege log providing information about the withheld
7 documents.

8 The Bureau also objects to this Request as unnecessary and duplicative
9 of Request No. 15.

10 Subject to and without waiving its objections, and subject to the
11 Stipulated Protective Order [ECF 56], the Bureau will produce all sworn
12 statements, declarations, attestations, or affidavits it obtains from intended
13 trial witnesses related to the allegations in the Amended Complaint as
14 required by the Federal Rules, the Local Rules, and the Court's Standing
15 Order and Scheduling Order.

16 **Document Request 21.** All statements, declarations, attestations, or
17 affidavits that You intend to use to support any of the claims in the Amended
18 Complaint.

19 **Response:** The Bureau objects that this Request is premature, as the
20 Bureau has not yet identified what materials it intends to use to support its
21 claims at trial. The Bureau objects to the undefined term "statements" as
22 vague. The Bureau construes this Request as seeking signed or sworn
23 statements, declarations, attestations, or affidavits the Bureau intends to use
24 to support its claims in the Amended Complaint.

25 The Bureau also objects to the extent that this Request seeks drafts of
26 any "statements, declarations, attestations, or affidavits" because such drafts
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1 are protected by the attorney work product doctrine, attorney-client
2 privilege, law enforcement investigatory privilege, and the deliberative
3 process privilege. Responsive documents could include draft affidavits or
4 declarations prepared by consumers at the direction of Bureau attorneys in
5 preparation for litigation or trial. As a result, the Bureau will withhold
6 responsive documents and communications, if any, based on its objections
7 and will produce a privilege log providing information about the withheld
8 documents.

9 The Bureau also objects to this Request as unnecessary and duplicative
10 of Request Nos. 15 and 20.

11 Subject to and without waiving its objections, the Bureau will disclose
12 its trial witnesses and any sworn statements, declarations, attestations, or
13 affidavits it intends to use at trial, if any, as required by the Federal Rules, the
14 Local Rules, and the Court's Standing Order and Scheduling Order.

15 **Document Request 22.** All Documents provided to any expert retained in
16 connection with this Litigation.

17 **Response:** The Bureau objects to the Request to the extent it is
18 premature and because it seeks documents beyond the scope of allowable
19 discovery by requiring production of "all Documents" provided to the
20 Bureau's expert regardless of whether the expert considered those documents
21 in forming his or her opinions, which could include materials protected by
22 Fed. R. Civ. P. 26(b)(4) and other privileged documents. Subject to and
23 notwithstanding its objection, the Bureau will disclose nonprivileged
24 documents provided to and considered by its testifying expert(s), if any, as
25 required by Rule 26, the Local Rules, the Court's Standing Order, and the
26 Scheduling Order.

1 **Document Request 23.** All reports, calculations, notes, or any other
2 Documents reflecting or supporting any fact or opinion about which any
expert retained in connection with this Litigation is expected to testify.

3 **Response:** The Bureau objects to the Request to the extent it is
4 premature and because it seeks documents beyond the scope of allowable
5 discovery by requiring the production of expert materials, including notes,
6 drafts, and communications with counsel, all of which could include
7 materials protected by Rule 26(b)(4).

8 Subject to and without waiving its objection, the Bureau will disclose
9 nonprivileged expert materials, if any, as required by Rule 26, the Local
10 Rules, the Court's Standing Order, and the Scheduling Order.

11 **Document Request 24.** All Documents that have been prepared by any
12 expert retained in connection with this Litigation that summarize or describe
the facts or opinions about which the expert is expected to testify.

13 **Response:** The Bureau objects to the Request to the extent it is
14 premature and because it seeks documents beyond the scope of allowable
15 discovery for instance by requiring the production of expert materials,
16 including notes, drafts, and communications with counsel, all of which could
17 include materials protected by Rule 26(b)(3) and Rule 26(b)(4).

18 Subject to and without waiving its objection, the Bureau will disclose
19 the reports of its expert(s), if any, as required by Rule 26, the Local Rules, the
20 Court's Standing Order, and the Scheduling Order.

21 **Document Request 25.** All Documents that concern SoLo's
22 representations to consumers in advertisements and marketing materials
23 about the costs of a marketplace loan, including all Documents that support
or evidence:

- 24 i. Your allegation in Paragraph 117 of the Amended Complaint that SoLo
25 "represented to consumers that they could obtain loans on SoLo's
26 Platform with 'no interest,' '0% APR,' or '0% interest'";

- ii. Your allegation in Paragraph 118 of the Amended Complaint that “SoLo’s representations gave the misleading overall net impression that the loans obtained on its Platform were fee-free.”
- iii. Your allegation in Paragraph 42 of the Amended Complaint that “SoLo publicly referred to the Lender tip fee as an ‘interest rate’ on the loan.”
- iv. Your allegation in Paragraph 118 of the Amended Complaint that “SoLo’s Platform loans almost uniformly required lender tip fee, a SoLo donation fee, or both to be funded.”
- v. Your allegation in Paragraph 119 of the Amended Complaint that SoLo’s “representations in the advertisements were material and likely to mislead consumers acting reasonably under the circumstances.”

Response: The Bureau objects that the term “marketplace loan” is vague and ambiguous, as it is undefined and does not specifically refer to SoLo. The Bureau will construe the term “marketplace loan” to refer to loan(s) funded through the SoLo Platform. The Bureau further objects to this Request to the extent it seeks documents not in the Bureau’s possession, custody, or control and/or documents that are already in the possession of SoLo.

Subject to and without waiving these objections, the Bureau is conducting a reasonable search of its files and, subject to the Stipulated Protective Order [ECF 56], will produce nonprivileged documents responsive to this Request. Furthermore, discovery is ongoing, and SoLo is likely to produce documents responsive to this Request in response to the Bureau’s First Request for Production of Documents.

Document Request 26. All studies, reports, surveys, commentary, publications, reviews, or analyses that reflect how consumers understand the terms “interest,” “interest rate,” or “APR.”

Response: The Bureau objects that the Request is unduly burdensome, overbroad, and disproportional to the needs of the case, as it is

1 broadly seeks *all* studies, reports, surveys, commentary, publications,
2 reviews, or analyses reflecting how consumers understand the terms
3 “interest,” “interest rate,” or “APR,” and is not limited to documents relevant
4 to the Bureau’s claims that SoLo violated the CFPA through its deceptive,
5 abusive, and/or unfair advertising, disclosure, donation, and debt collection
6 practices (Counts I–VII) and failed to follow reasonable procedures to ensure
7 maximum possible accuracy of consumer report information in violation of
8 both the CFPA and FCRA (Counts VIII and IX). The Bureau also objects that
9 this Request seeks publicly available documents that are equally available to
10 SoLo, as well as documents that are not in the Bureau’s possession, custody,
11 or control.

12 To the extent the Request requires the disclosure of expert opinions or
13 material, the Bureau further objects to the Request as premature. The Bureau
14 will disclose nonprivileged documents and information related to expert
15 testimony, if any, as required by Rule 26, the Local Rules, the Court’s
16 Standing Order, and the Scheduling Order.

17 The Bureau objects to the extent this Request seeks internal documents
18 that are protected by the attorney work product doctrine, attorney-client
19 privilege, or deliberative process privilege. The Bureau also objects to the
20 extent that this Request seeks drafts of otherwise responsive “studies,
21 reports, surveys, commentary, publications, reviews, or analyses” because
22 such drafts are protected by the deliberative process privilege and may be
23 protected by the attorney work product doctrine and attorney-client
24 privilege. As a result, the Bureau will not search for or produce drafts of
25 documents otherwise responsive to this Request.
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1 Subject to and without waiving its objections, the Bureau is conducting
2 a reasonable search of its files and, subject to the Stipulated Protective Order
3 [ECF 56], will produce any nonprivileged, responsive documents related to
4 the allegations in the Amended Complaint. Further, the Bureau has identified
5 and will produce certain publicly available information responsive to this
6 Request.

7 **Document Request 27.** All studies, reports, surveys, commentary,
8 publications, reviews, or analyses that reflect how consumers understand the
9 terms “tip” or “donation.”

10 **Response:** The Bureau objects that the Request is unduly
11 burdensome, overbroad, and disproportional to the needs of the case, as it is
12 seeks *all* “studies, reports, surveys, commentary, publications, reviews, or
13 analyses” reflecting broadly “how consumers understand the terms ‘tip’ or
14 ‘donation’” and is not limited to documents relevant to the Bureau’s claims
15 that SoLo violated the CFPA through its deceptive, abusive, and/or unfair
16 advertising, disclosure, donation, and debt collection practices (Counts I–
17 VII) and failed to follow reasonable procedures to ensure maximum possible
18 accuracy of consumer report information in violation of both the CFPA and
19 FCRA (Counts VIII and IX). The Bureau also objects that this Request seeks
20 publicly available documents that are equally available to SoLo, as well as
21 documents that are not in the Bureau’s possession, custody, or control.

22 To the extent the Request requires the disclosure of expert opinions or
23 materials, the Bureau further objects to the Request as premature. The
24 Bureau will disclose nonprivileged documents and information related to
25 expert testimony, if any, as required by Rule 26, the Local Rules, the Court’s
26 Standing Order, and the Scheduling Order.

1 The Bureau objects to the extent this Request seeks internal documents
2 that are protected by the attorney work product doctrine, attorney-client
3 privilege, or deliberative process privilege. The Bureau also objects to the
4 extent that this Request seeks drafts of otherwise responsive “studies,
5 reports, surveys, commentary, publications, reviews, or analyses” because
6 such drafts are protected by the deliberative process privilege and may be
7 protected by the attorney work product doctrine and attorney-client
8 privilege. As a result, the Bureau will not search for or produce drafts of
9 documents otherwise responsive to this Request.

10 Subject to and without waiving its objections, the Bureau is conducting
11 a reasonable search of its files and, subject to the Stipulated Protective Order
12 [ECF 56], will produce any nonprivileged, responsive documents related to
13 the allegations in the Amended Complaint. Further, the Bureau has identified
14 and will produce certain publicly available information responsive to this
15 Request.

16 **Document Request 28.** All Documents that concern SoLo’s
17 representations to consumers in loan disclosure documents provided on
18 behalf of marketplace lenders about the costs of a marketplace loans,
including all Documents that support or evidence:

- 19 i. Your allegation in Paragraph 123 of the Amended Complaint that SoLo
20 made “inaccurate statements regarding the costs associated with a
SoLo loan.”
- 21 ii. Your allegation in Paragraph 123 of the Amended Complaint that
22 SoLo’s statements “regarding the costs associated with a SoLo loan are
23 material and likely to mislead consumers acting reasonably.”
- 24 iii. Your allegation in Paragraph 124 of the Amended Complaint that
25 SoLo’s representations were “likely to mislead consumers acting
26 reasonably under the circumstances and likely to affect consumers’
decisions to select one consumer financial product over another when
comparing the disclosed APRs, cost of credit, or finance charges.”

1 iv. Your allegation in Paragraph 124 of the Amended Complaint that
2 SoLo's representations were "material."

3 **Response:** The Bureau objects that the term "marketplace lender" is
4 vague and ambiguous, as it is undefined and does not specifically refer to
5 SoLo. The Bureau will construe the term "marketplace lender" to refer to
6 consumers who serve as individual lenders to fund loan requests on the SoLo
7 Platform. The Bureau also objects that the term "marketplace loan" is vague
8 and ambiguous, as it is undefined and does not specifically refer to SoLo. The
9 Bureau will construe the term "marketplace loan" to refer to loan(s) funded
10 through the SoLo Platform. The Bureau further objects to this Request to the
11 extent it seeks documents not in the Bureau's possession, custody or control
12 and/or documents that are already in the possession of SoLo.

13 To the extent this Request is asking the Bureau to disclose its legal
14 research, the Bureau objects that this Request is an improper attempt to
15 obtain the Bureau's attorney work product, legal research, legal theories,
16 analysis, considerations, strategy, thoughts, and impressions, which are
17 protected from disclosure by the attorney work product doctrine and
18 deliberative process privilege. The Bureau will not search for or identify its
19 case-specific attorney work product and legal research in response to this
20 Request.

21 Subject to and without waiving these objections, the Bureau is
22 conducting a reasonable search of its files and, subject to the Stipulated
23 Protective Order [ECF 56], will produce nonprivileged documents responsive
24 to this Request. Furthermore, discovery is ongoing, and SoLo is likely to
25 produce documents responsive to this Request in response to the Bureau's
26 First Request for Production of Documents.

1 **Document Request 29.** All studies, reports, surveys, commentary,
2 publications, reviews, or analyses that reflect or concern how consumers
3 understand the terms “cost of credit,” “finance charge,” “total of payments,”
4 or “amounts paid to others on your behalf.”

5 **Response:** The Bureau objects that the Request is unduly
6 burdensome, overbroad, and disproportional to the needs of the case, as it is
7 seeks *all* “studies, reports, surveys, commentary, publications, reviews, and
8 analyses” about how consumers broadly “understand the terms ‘cost of
9 credit,’ ‘finance charge,’ ‘total of payments,’ or ‘amounts paid to others on
10 your behalf’” and is not limited to documents relevant to the Bureau’s claims
11 that SoLo violated the CFPA through its deceptive, abusive, and/or unfair
12 advertising, disclosure, donation, and debt collection practices (Counts I–
13 VII) and failed to follow reasonable procedures to ensure maximum possible
14 accuracy of consumer report information in violation of both the CFPA and
15 FCRA (Counts VIII and IX). The Bureau also objects that this Request seeks
16 publicly available documents that are equally available to SoLo, as well as
17 documents that are not in the Bureau’s possession, custody, or control.

18 To the extent the Request requires the disclosure of expert opinions or
19 material, the Bureau further objects to the Request as premature. The Bureau
20 will disclose nonprivileged documents and information related to expert
21 testimony, if any, as required by Rule 26, the Local Rules, the Court’s
22 Standing Order, and the Scheduling Order.

23 The Bureau objects to the extent this Request seeks internal documents
24 that are protected by the attorney work product doctrine, attorney-client
25 privilege, or deliberative process privilege. The Bureau also objects to the
26 extent that this Request seeks drafts of otherwise responsive “studies,
27 reports, surveys, commentary, publications, reviews, or analyses” because

1 such drafts are protected by the deliberative process privilege and may be
2 protected by the attorney work product doctrine and attorney-client
3 privilege. As a result, the Bureau will not search for or produce drafts of
4 documents otherwise responsive to this Request.

5 Subject to and without waiving its objections, the Bureau is conducting
6 a reasonable search of its files and, subject to the Stipulated Protective Order
7 [ECF 56], will produce any nonprivileged, responsive documents related to
8 the allegations in the Amended Complaint. Further, the Bureau has identified
9 and will produce certain publicly available information responsive to this
10 Request.

11 **Document Request 30.** All statutes, regulations, manuals, guides,
12 bulletins, supervisory highlights, advisory opinions, or other formal or
13 informal guidance that concern whether or the circumstances under which
14 tips, donations, or other optional fees or charges are interest, part of an APR,
a finance charge, or the cost of credit.

15 **Response:** The Bureau objects that the Request is unduly
16 burdensome, overbroad, and disproportional to the needs of the case, as it is
17 seeks *all* “statutes, regulations, manuals, guides, bulletins, supervisory
18 highlights, advisory opinions, or other formal or informal guidance” that
19 broadly concern “whether or the circumstances under which tips, donations,
20 or other optional fees or charges are interest, part of an APR, a finance
21 charge, or the cost of credit” and is not limited to documents relevant to the
22 Bureau’s claims that SoLo violated the CFPA through its deceptive, abusive,
23 and/or unfair advertising, disclosure, donation, and debt collection practices
24 (Counts I–VII) and failed to follow reasonable procedures to ensure
25 maximum possible accuracy of consumer report information in violation of
26 both the CFPA and FCRA (Counts VIII and IX). The Bureau will not search

1 for or produce documents obtained by the Bureau that are unrelated to the
2 allegations in the Amended Complaint. The Bureau also objects that this
3 Request seeks publicly available documents that are equally available to
4 SoLo, as well as documents that are not in the Bureau's possession, custody,
5 or control.

6 The Bureau objects that the phrase "other optional fees" is vague and
7 ambiguous, because, as set forth in the Amended Complaint, the tips and
8 donations that consumers paid for loans originated on the SoLo Platform are
9 not "optional fees."

10 The Bureau further objects that by asking the Bureau to disclose its
11 legal research, this Request is an improper attempt to obtain the Bureau's
12 attorney work product, legal research, legal theories, analysis, considerations,
13 strategy, thoughts, and impressions, which are protected from disclosure by
14 the attorney work product doctrine and deliberative process privilege. The
15 Bureau will not search for or identify its case-specific attorney work product
16 and legal research in response to this Request. Moreover, the Bureau objects
17 to the extent that this Request seeks the Bureau's drafts of otherwise
18 responsive "statutes, regulations, manuals, guides, bulletins, supervisory
19 highlights, advisory opinions, or other formal or informal guidance," because
20 such drafts are protected by the deliberative process privilege and may be
21 protected by the attorney work product doctrine and attorney-client
22 privilege. As a result, the Bureau will not search for or produce drafts of
23 documents otherwise responsive to this Request.

24 To the extent the Request requires the disclosure of expert opinions or
25 materials, the Bureau also objects to the Request as premature. The Bureau
26 will disclose nonprivileged documents and information related to expert
27

1 testimony, if any, as required by Rule 26, the Local Rules, the Court's
2 Standing Order, and the Scheduling Order.

3 Subject to and without waiving these objections, the Bureau is
4 conducting a reasonable search of its files and, subject to the Stipulated
5 Protective Order [ECF 56], will produce any nonprivileged, responsive
6 documents related to the allegations in the Amended Complaint. Further, the
7 Bureau has identified and will produce certain publicly available information
8 responsive to this Request.

9 **Document Request 31.** All Documents, including Communications among
10 Your officials or employees, that concern whether or the circumstances under
11 which tips, donations, or other optional fees or charges are interest, part of
an APR, a finance charge, or the cost of credit.

12 **Response:** The Bureau objects that the phrase "other optional fees" is
13 vague and ambiguous, because, as set forth in the Amended Complaint, the
14 tips and donations that consumers paid for loans originated on the SoLo
15 Platform are not "optional fees."

16 The Bureau objects that this Request is unduly burdensome, overbroad,
17 and disproportional to the needs of the case and seeks information that is not
18 relevant, because it is not limited to documents related to the Bureau's
19 allegations in the Amended Complaint that SoLo violated the CFPA through
20 its deceptive, abusive, and/or unfair advertising, disclosure, donation, and
21 debt collection practices (Counts I–VII) and failed to follow reasonable
22 procedures to ensure maximum possible accuracy of consumer report
23 information in violation of both the CFPA and FCRA (Counts VIII and IX).
24 The Bureau will not search for or produce documents obtained by the Bureau
25 that are unrelated to the allegations in the Amended Complaint.

1 The Bureau further objects that the Request seeks the production of
2 documents protected by the deliberative process privilege, attorney-client
3 privilege, attorney work product doctrine, and law enforcement investigatory
4 privilege. Responsive documents would include documents reflecting
5 internal deliberations, opinions, analyses, assessments, and
6 recommendations, as well as legal advice, theories, and opinions developed
7 during the Pre-Suit Investigation and Litigation. Internal documents and
8 communications reflecting Bureau employees' views of the case are also not
9 relevant to the Bureau's claims that SoLo violated the CFPA through its
10 deceptive, abusive, and/or unfair advertising, disclosure, donation, and debt
11 collection practices (Counts I–VII) and failed to follow reasonable procedures
12 to ensure maximum possible accuracy of consumer report information in
13 violation of both the CFPA and FCRA (Counts VIII and IX). Nor are internal
14 documents and communications proportional to the needs of the case, and
15 they are therefore outside the scope of discovery under Rule 26(b)(1). The
16 Bureau will withhold responsive documents based on these objections.

17 The Bureau further objects to this Request to the extent it seeks
18 documents not in the Bureau's possession, custody or control; publicly
19 available documents that are equally available to SoLo; or documents that are
20 already in the possession of SoLo.

21 Subject to and without waiving these objections, the Bureau is
22 conducting a reasonable search of its files and, subject to the Stipulated
23 Protective Order [ECF 56], will produce any nonprivileged, responsive
24 documents related to the allegations in the Amended Complaint. Further, the
25 Bureau has identified and will produce certain publicly available information
26 responsive to this Request.

Document Request 32. All Documents concerning the presentation of the SoLo donation option in connection with the marketplace loan request process, including all Documents that support or evidence:

- i. Your allegation in Paragraph 128 of the Amended Complaint that the loan request process “required borrowers to choose one of those three options to request a loan.”
- ii. Your allegation in Paragraph 128 of the Amended Complaint that the loan request process “obscured whether and how borrowers can select ‘no donation.’”
- iii. Your allegation in Paragraph 129 of the Amended Complaint that “SoLo’s loan request process materially interfered with consumers’ ability to understand that the donation fee term or condition on each loan.”

Response: The Bureau objects that the term “marketplace loan” is vague and ambiguous, as it is undefined and does not specifically refer to SoLo. The Bureau will construe the term “marketplace loan” to refer to loan(s) funded through the SoLo Platform. The Bureau further objects to this Request to the extent it seeks documents not in the Bureau’s possession, custody or control and/or documents that are already in the possession of SoLo.

To the extent this Request is asking the Bureau to disclose its legal research, the Bureau objects that this Request is an improper attempt to obtain the Bureau’s attorney work product, legal research, legal theories, analysis, considerations, strategy, thoughts, and impressions, which are protected from disclosure by the attorney work product doctrine and deliberative process privilege. The Bureau will not search for or identify its case-specific attorney work product and legal research in response to this Request.

Subject to and without waiving its objections, the Bureau is conducting a reasonable search of its files and, subject to the Stipulated Protective Order

[ECF 56], will produce nonprivileged documents responsive to this Request. Furthermore, discovery is ongoing, and SoLo is likely to produce documents responsive to this Request in response to the Bureau's First Request for Production of Documents.

Document Request 33. All Documents concerning SoLo's compliance with state usury limitations and licensing requirements, including all Documents that support or evidence:

- i. Your allegation in Paragraph 106 of the Amended Complaint that "SoLo advertised, offered, brokered, arranged, facilitated, serviced, solicited, procured, received fees in connection with, collected on loans, and otherwise engaged in the business of lending or making small loans."
- ii. Your allegation in Paragraph 98 of the Amended Complaint that "[b]ased on the definitions of interest or annual rate used in the law of each State listed in subparagraphs 100(a) through 100(i) [of the Amended Complaint], the Lender tip fee and SoLo donation fee would be included in each state's calculation of interest or annual percentage rate for loans made to borrowers in that State."
- iii. Your allegation in Paragraph 132 of the Amended Complaint that SoLo "represented expressly in loan documents . . . that consumers had an obligation to repay loan amounts when that obligation did not exist."
- iv. Your allegation in Paragraph 132 of the Amended Complaint that SoLo "represented . . . by implication through its servicing practices that consumers had an obligation to repay loan amounts when that obligation did not exist."
- v. Your allegation in Paragraph 133 of the Amended Complaint that SoLo "reinforced the misrepresentations that consumers were obligated to pay debts that were void . . . by actions such as sending collection emails and texts demanding payment from consumers; debiting money from consumers' bank accounts through ACH transactions; and threatening to report nonpayment to the credit bureaus."
- vi. Your allegation in Paragraph 136 of the Amended Complaint that SoLo's "misrepresentations are material and likely to mislead consumers acting reasonably under the circumstances."
- vii. Your allegation in Paragraph 139 of the Amended Complaint that "Defendant caused or is likely to cause consumers substantial injury by

1 demanding and obtaining payments from consumers . . . on void or
2 otherwise uncollectible loans, in whole or in part.”

3 viii. Your allegation in Paragraph 140 of the Amended Complaint that
4 “substantial injuries were not reasonably avoidable by borrowers who
5 were unlikely to know that the usury or licensing requirements in their
6 respective Subject States rendered the loans obtained through the SoLo
7 Platform void or uncollectible in whole or in part.”

8 ix. Your allegation in Paragraph 141 of the Amended Complaint that the
9 “substantial injuries caused by [SoLo’s] collection of debts that
10 consumers were not obligated to repay are not outweighed by . . .
11 countervailing benefits to consumers or competition.”

12 x. Your allegation in Paragraph 145 of the Amended Complaint that
13 “[c]onsumers residing in Subject States likely were unaware that SoLo
14 lacked the legal authority to collect because the loans violated their own
15 State’s usury or licensing requirements.”

16 **Response:** The Bureau objects that this Request seeks documents
17 protected by the attorney-client privilege, attorney work product doctrine,
18 law enforcement investigatory privilege, and deliberative process privilege.
19 Responsive documents would include communications between Bureau
20 attorneys and state attorneys general and state banking regulators (with
21 whom the Bureau shares a common interest) revealing their deliberations,
22 opinions, and analyses of factual material they reviewed during the
23 investigation of SoLo’s loan products, as well as their deliberations, opinions,
24 and analyses relating to factual material, potential claims, and legal strategy.
25 The Bureau will withhold responsive documents and communications, if any,
26 based on its objection and will produce a privilege log providing information
27 about any withheld documents.

28 The Bureau further objects to this Request to the extent it seeks
documents not in the Bureau’s possession, custody, or control, or documents
that are already in the possession of SoLo.

1 Subject to and without waiving its objection, the Bureau is conducting a
2 reasonable search of its files and, subject to the Stipulated Protective Order
3 [ECF 56], will produce nonprivileged documents responsive to this Request.
4 Furthermore, discovery is ongoing, and SoLo is likely to produce documents
5 responsive to this Request in response to the Bureau's First Request for
6 Production of Documents.

7 **Document Request 34.** All Communications between You or any of Your
8 officials or employees and any state government official, employee, agency,
9 regulator, or administrative body concerning SoLo's compliance with state
usury limitations or licensing requirements in Relevant States.

10 **Response:** The Bureau objects that this Request is unduly
11 burdensome, overbroad, disproportional to the needs of the case, and seeks
12 documents that are not relevant to any claim or defense at issue in this case,
13 as it seeks communications between the Bureau and *any* "state government
14 official, employee, agency, regulator, or administrative body" and is not
15 limited to communications with state government officials, employees,
16 agencies, regulators, or administrative body in the Relevant States. Based on
17 this objection, the Bureau is withholding information concerning
18 communications with state government officials, employees, agencies,
19 regulators, or administrative bodies of non-Relevant States.

20 The Bureau objects that this Request seeks documents protected by the
21 attorney-client privilege, attorney work product doctrine, law enforcement
22 investigatory privilege, and the deliberative process privilege. Responsive
23 documents would include communications between the Bureau and state
24 attorneys general and state banking regulators (with whom the Bureau
25 shares a common interest) revealing their deliberations, opinions, and
26 analyses of factual material they reviewed during the investigation of SoLo's
27

1 loan products, as well as their deliberations, opinions, and analyses relating
2 to factual material, potential claims, and legal strategy. This Request is also
3 an impermissible effort to invade the attorney work product and law
4 enforcement privilege of the state regulators who had or have pending
5 investigations, administrative proceedings, or litigation against SoLo. The
6 Bureau will withhold responsive documents and communications, if any,
7 based on its objection and will produce a privilege log providing information
8 about the withheld documents.

9 **Document Request 35.** All statutes, regulations, manuals, guides,
10 bulletins, supervisory highlights, advisory opinions, caselaw, or other formal
11 or informal guidance that support Your contention that SoLo has violated
state usury limitations and licensing requirements in Relevant States.

12 **Response:** The Bureau objects that this Request seeks documents not
13 in the Bureau's possession, custody or control, publicly available documents
14 that are equally available to SoLo, and/or documents that are already in the
15 possession of SoLo.

16 The Bureau further objects that by asking the Bureau to identify
17 relevant statutes, regulations, and caselaw, this Request is an improper
18 attempt to obtain the Bureau's work product, legal research, and legal
19 theories, analysis, considerations, strategy, thoughts, and impressions, which
20 are protected from disclosure by the attorney work product doctrine and
21 attorney-client privilege. The Bureau will not search for or identify its case-
22 specific attorney work product and legal research in response to this Request.

23 Subject to and without waiving these objections, the Bureau conducted
24 a reasonable search of its files and did not identify any documents related to
25 the allegations in the Amended Complaint responsive to this Request.
26 However, the Bureau has identified and will produce certain publicly
27

1 available information responsive to this Request. Furthermore, discovery is
2 ongoing, and SoLo is likely to produce documents responsive to this Request
3 in response to the Bureau's First Request for Production of Documents.

4 **Document Request 36.** All Documents reflecting any Communications
5 among any of Your officials or employees concerning the meaning, scope, or
6 application of the state usury and licensing statutes and regulations cited in
the Complaint and/or Amended Complaint.

7 **Response:** The Bureau objects that the phrase "among Your officials
8 or employees" is vague and ambiguous in this context, as it is not clear
9 whether the Request is limited to internal Bureau communications. The
10 Bureau will construe this Request as seeking internal communications from
11 Bureau officials or employees to other Bureau officials or employees.

12 The Bureau objects that the Request seeks the production of documents
13 protected by the attorney-client privilege, attorney work product doctrine,
14 law enforcement investigatory privilege, and deliberative process privilege.
15 Responsive documents would include documents reflecting Bureau internal
16 deliberations, opinions, analyses, assessments, and recommendations
17 regarding the factual material they reviewed during the Pre-Suit
18 Investigation and Litigation, as well as legal advice, theories, and opinions
19 developed during the Pre-Suit Investigation and Litigation. Internal
20 documents and communications reflecting Bureau employees' views of the
21 case are also not relevant to the Bureau's claims that SoLo violated the CFPA
22 through its deceptive, abusive, and/or unfair advertising, disclosure,
23 donation, and debt collection practices (Counts I–VII) and failed to follow
24 reasonable procedures to ensure maximum possible accuracy of consumer
25 report information in violation of both the CFPA and FCRA (Counts VIII and
26 IX). Nor are internal documents and communications proportional to the

1 needs of the case, and they are therefore outside the scope of discovery under
2 Rule 26(b)(1). The Bureau will withhold responsive documents based on
3 these objections.

4 The Bureau further objects that this Request is unduly burdensome,
5 overbroad, and disproportional to the needs of the case and seeks
6 information that is not relevant, because internal documents and
7 communications reflecting Bureau employees' views of the case are also not
8 relevant to the Bureau's allegations in the Amended Complaint that SoLo
9 violated the CFPA through its deceptive, abusive, and/or unfair advertising,
10 disclosure, donation, and debt collection practices (Counts I–VII) and failed
11 to follow reasonable procedures to ensure maximum possible accuracy of
12 consumer report information in violation of both the CFPA and FCRA
13 (Counts VIII and IX). The Bureau will not search for or produce documents
14 that are unrelated to the allegations in the Amended Complaint.

15 **Document Request 37.** All Documents that concern SoLo's
16 representations to consumers in payment reminders and collection notices
and emails, including all Documents that support or evidence:

- 17 i. Your allegation in Paragraph 149 of the Amended Complaint that SoLo
18 "has repeatedly misled consumers that it would report their failure to
19 repay loans originated on SoLo's Platform to 'credit bureaus' which
might affect the consumers' credit scores."
- 20 ii. Your allegation in Paragraph 150 of the Amended Complaint that SoLo
21 made "express misrepresentations . . . that it will furnish negative
22 information to the credit bureaus unless the consumer makes a
payment."
- 23 iii. Your allegation in Paragraph 150 of the Amended Complaint that
24 "[SoLo] misleadingly implies that it will furnish negative information to
the credit bureaus unless the consumer makes a payment."
- 25
26
27

iv. Your allegation in Paragraph 152 of the Amended Complaint that SoLo's "misrepresentations were material" and "were likely to mislead consumers acting reasonably under the circumstances."

Response: The Bureau objects that this Request is unduly burdensome, overbroad, and disproportional to the needs of the case and seeks information that is not relevant, because it is not limited to documents related to the Bureau's allegations in the Amended Complaint that SoLo violated the CFPB through its deceptive, abusive, and/or unfair advertising, disclosure, donation, and debt collection practices (Counts I–VII) and failed to follow reasonable procedures to ensure maximum possible accuracy of consumer report information in violation of both the CFPB and FCRA (Counts VIII and IX). The Bureau will not search for or produce documents obtained by the Bureau that are unrelated to the allegations in the Amended Complaint. The Bureau further objects to this Request to the extent it seeks documents not in the Bureau's possession, custody, or control or documents that are already in the possession of SoLo.

Subject to and without waiving these objections, the Bureau is conducting a reasonable search of its files and, subject to the Stipulated Protective Order [ECF 56], will produce any nonprivileged, responsive documents related to the allegations in the Amended Complaint. Furthermore, discovery is ongoing, and SoLo is likely to produce documents responsive to this Request in response to the Bureau's First Request for Production of Documents.

Document Request 38. All Documents that concern the SoLo Score, including all Documents that support or evidence:

i. Your allegation in Paragraph 155 of the Amended Complaint that SoLo "is a consumer reporting agency under FCRA."

- 1 ii. Your allegation in Paragraph 157 of the Amended Complaint that SoLo
2 “has failed to follow reasonable procedures to assure maximum
3 possible accuracy of its consumer reports.”

4 **Response:** The Bureau objects that this Request is unduly
5 burdensome, overbroad, and disproportional to the needs of the case and
6 seeks information that is not relevant because it is not limited to documents
7 related to the Bureau’s allegations in the Amended Complaint that SoLo
8 violated the CFPB through its deceptive, abusive, and/or unfair advertising,
9 disclosure, donation, and debt collection practices (Counts I–VII) and failed
10 to follow reasonable procedures to ensure maximum possible accuracy of
11 consumer report information in violation of both the CFPB and FCRA
12 (Counts VIII and IX). The Bureau will not search for or produce documents
13 obtained by the Bureau that are unrelated to the allegations in the Amended
14 Complaint. The Bureau further objects to this Request to the extent it seeks
15 documents not in the Bureau’s possession, custody or control and/or
16 documents that are already in the possession of SoLo.

17 Subject to and without waiving these objections, the Bureau is
18 conducting a reasonable search of its files and, subject to the Stipulated
19 Protective Order [ECF 56], will produce any nonprivileged, responsive
20 documents related to the allegations in the Amended Complaint.
21 Furthermore, discovery is ongoing, and SoLo is likely to produce documents
22 responsive to this Request in response to the Bureau’s First Request for
23 Production of Documents.

24 **Document Request 39.** Any analysis, review, or investigation You
25 conducted related to the accuracy of consumers’ SoLo Scores.

26 **Response:** The Bureau objects that this Request seeks the production
27 of documents protected by the attorney work product doctrine, attorney-

1 client privilege, law enforcement investigatory privilege, and deliberative
2 process privilege. Responsive documents would include Bureau internal
3 deliberations, opinions, analyses, assessments, and recommendations, as
4 well as legal advice, theories, and opinions developed during the Pre-Suit
5 Investigation and Litigation. Such documents are also not relevant to the
6 Bureau's claims or Solo's defenses.

7 The Bureau also objects to the extent that this Request seeks drafts of
8 any "analysis, review, or investigation" because such drafts are protected by
9 the attorney work product doctrine, attorney-client privilege, law
10 enforcement investigatory privilege, and the deliberative process privilege.

11 Based on its objection, the Bureau will not search for or produce
12 documents in response to this Request.

13 To the extent the Request requires the disclosure of expert opinions or
14 materials, the Bureau also objects to the Request as premature. The Bureau
15 will disclose responsive, nonprivileged documents and information related to
16 expert testimony, if any, as required by Rule 26, the Local Rules, the Court's
17 Standing Order, and the Scheduling Order.

18 **Document Request 40.** All studies, reports, surveys, commentary,
19 publications, reviews, or analyses that reflect consumers' financial well-being
20 and/or need for access to emergency credit.

21 **Response:** The Bureau objects that documents generally reflecting
22 "consumers' financial well-being and/or need for access to emergency credit"
23 are not relevant to the Bureau's claims in the Amended Complaint that SoLo
24 violated the CFPB through its deceptive, abusive, and/or unfair advertising,
25 disclosure, donation, and debt collection practices (Counts I–VII) and failed
26 to follow reasonable procedures to ensure maximum possible accuracy of

1 consumer report information in violation of both the CFPB and FCRA
2 (Counts VIII and IX). With respect to the Bureau's allegations that SoLo
3 unfairly collected on loans that consumers were not obligated to repay
4 causing substantial injuries that are not outweighed by any possible
5 countervailing benefits, the documents sought through this Request are not
6 relevant because "depriv[ing] consumers of money they were not legally
7 obligated to pay [is] a clear financial harm without a possible countervailing
8 benefit." *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also finding "[l]osing
9 money they are otherwise entitled to keep provides consumers no
10 conceivable benefit"). Because the Request is not limited to facts relevant to
11 the Bureau's claims or Solo's defenses, the Request is also overly broad,
12 burdensome, and disproportional to the needs of the case.

13 The Bureau further objects to the extent that this Request seeks
14 documents that are not within the Bureau's possession, custody, or control.
15 And to the extent this Request seeks publicly available documents, the
16 Bureau also objects to this Request on the ground that those materials are
17 equally available to SoLo.

18 To the extent the Request requires the disclosure of expert opinions or
19 materials, the Bureau further objects to the Request as premature. The
20 Bureau will disclose nonprivileged documents and information related to
21 expert testimony, if any, as required by Rule 26, the Local Rules, the Court's
22 Standing Order, and the Scheduling Order.

23 The Bureau objects to the extent this Request seeks internal documents
24 that are protected by the attorney work product doctrine, attorney-client
25 privilege, or deliberative process privilege. The Bureau also objects to the
26 extent that this Request seeks drafts of otherwise responsive "studies,

1 reports, surveys, commentary, publications, reviews, or analyses” because
2 such drafts are protected by the deliberative process privilege and may be
3 protected by the attorney work product doctrine and attorney-client
4 privilege. As a result, the Bureau will not search for or produce drafts of
5 documents otherwise responsive to this Request.

6 Based on its objections, the Bureau will not search for documents to
7 produce in response to this Request. Notwithstanding its objections, the
8 Bureau has identified and will produce certain publicly available information
9 responsive to this Request.

10 **Document Request 41.** All studies, reports, surveys, commentary,
11 publications, reviews, or analyses that reflect the difficulties or challenges
12 faced by consumers with low income or no credit or seriously impaired credit
in obtaining a short-term small-dollar loan or emergency credit.

13 **Response:** The Bureau objects that documents reflecting “the
14 difficulties or challenges faced by consumers with low income or no credit or
15 seriously impaired credit in obtaining a short-term small-dollar loan or
16 emergency credit” are not relevant to the Bureau’s claims in the Amended
17 Complaint that SoLo violated the CFPA through its deceptive, abusive,
18 and/or unfair advertising, disclosure, donation, and debt collection practices
19 (Counts I–VII) and failed to follow reasonable procedures to ensure
20 maximum possible accuracy of consumer report information in violation of
21 both the CFPA and FCRA (Counts VIII and IX). With respect to the Bureau’s
22 allegations that SoLo unfairly collected on loans that consumers were not
23 obligated to repay causing substantial injuries that are not outweighed by any
24 possible countervailing benefits, the documents sought through this Request
25 are not relevant because “depriv[ing] consumers of money they were not
26 legally obligated to pay [is] a clear financial harm without a possible

1 countervailing benefit.” *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also
2 finding “[l]osing money they are otherwise entitled to keep provides
3 consumers no conceivable benefit”). Because the Request is not limited to
4 facts relevant to the Bureau’s claims or Solo’s defenses, the Request is also
5 overly broad, burdensome, and disproportional to the needs of the case.

6 The Bureau further objects to the extent that this Request seeks
7 documents that are not within the Bureau’s possession, custody, or control.
8 And to the extent this Request seeks publicly available documents, the
9 Bureau also objects to this Request on the ground that those materials are
10 equally available to SoLo.

11 To the extent the Request requires the disclosure of expert opinions or
12 materials, the Bureau further objects to the Request as premature. The
13 Bureau will disclose nonprivileged documents and information related to
14 expert testimony, if any, as required by Rule 26, the Local Rules, the Court’s
15 Standing Order, and the Scheduling Order.

16 The Bureau objects to the extent this Request seeks internal documents
17 that are protected by the attorney work product doctrine, attorney-client
18 privilege, or deliberative process privilege. The Bureau also objects to the
19 extent that this Request seeks drafts of otherwise responsive “studies,
20 reports, surveys, commentary, publications, reviews, or analyses” because
21 such drafts are protected by the deliberative process privilege and may be
22 protected by the attorney work product doctrine and attorney-client
23 privilege. As a result, the Bureau will not search for or produce drafts of
24 documents otherwise responsive to this Request.

25 Based on its objections, the Bureau will not search for documents to
26 produce in response to this Request. Notwithstanding its objections, the
27

1 Bureau has identified and will produce certain publicly available information
2 responsive to this Request.

3 **Document Request 42.** All studies, reports, surveys, commentary,
4 publications, reviews, or analyses that compare the costs across financial
5 services providers of short-term small-dollar loans or emergency credit.

6 **Response:** The Bureau objects that documents comparing “the costs
7 across financial services providers of short-term small-dollar loans or
8 emergency credit” are not relevant to the Bureau’s claims in the Amended
9 Complaint that SoLo violated the CFPA through its deceptive, abusive,
10 and/or unfair advertising, disclosure, donation, and debt collection practices
11 (Counts I–VII) and failed to follow reasonable procedures to ensure
12 maximum possible accuracy of consumer report information in violation of
13 both the CFPA and FCRA (Counts VIII and IX). With respect to the Bureau’s
14 allegations that SoLo unfairly collected on loans that consumers were not
15 obligated to repay causing substantial injuries that are not outweighed by any
16 possible countervailing benefits, the documents sought through this Request
17 are not relevant because “depriv[ing] consumers of money they were not
18 legally obligated to pay [is] a clear financial harm without a possible
19 countervailing benefit.” *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also
20 finding “[l]osing money they are otherwise entitled to keep provides
21 consumers no conceivable benefit”). Because the Request is not limited to
22 facts relevant to the Bureau’s claims or Solo’s defenses, the Request is also
23 overly broad, burdensome, and disproportional to the needs of the case.

24 The Bureau further objects to the extent that this Request seeks
25 documents that are not within the Bureau’s possession, custody, or control.
26 And to the extent this Request seeks publicly available documents, the
27

1 Bureau also objects to this Request on the ground that those materials are
2 equally available to SoLo.

3 To the extent the Request requires the disclosure of expert opinions or
4 materials, the Bureau further objects to the Request as premature. The
5 Bureau will disclose nonprivileged documents and information related to
6 expert testimony, if any, as required by Rule 26, the Local Rules, the Court's
7 Standing Order, and the Scheduling Order.

8 The Bureau objects to the extent this Request seeks internal documents
9 that are protected by the attorney work product doctrine, attorney-client
10 privilege, or deliberative process privilege. The Bureau also objects to the
11 extent that this Request seeks drafts of otherwise responsive "studies,
12 reports, surveys, commentary, publications, reviews, or analyses" because
13 such drafts are protected by the deliberative process privilege and may be
14 protected by the attorney work product doctrine and attorney-client
15 privilege. As a result, the Bureau will not search for or produce drafts of
16 documents otherwise responsive to this Request.

17 Based on its objections, the Bureau will not search for documents to
18 produce in response to this Request. Notwithstanding its objections, the
19 Bureau has identified and will produce certain publicly available information
20 responsive to this Request.

21 **Document Request 43.** All studies, reports, surveys, commentary,
22 publications, reviews, or analyses that compare the costs of a SoLo
23 marketplace loan with the costs of other short-term small-dollar loans or
emergency credit.

24 **Response:** The Bureau objects that the undefined term "marketplace
25 loan" is vague and ambiguous. The Bureau will construe the term
26 "marketplace loan" to refer to loan(s) funded through the SoLo Platform.

1 The Bureau further objects that documents comparing “the costs of a
2 SoLo marketplace loan with the costs of other short-term small-dollar loans
3 or emergency credit” are not relevant to the Bureau’s claims in the Amended
4 Complaint that SoLo violated the CFPA through its deceptive, abusive,
5 and/or unfair advertising, disclosure, donation, and debt collection practices
6 (Counts I–VII) and failed to follow reasonable procedures to ensure
7 maximum possible accuracy of consumer report information in violation of
8 both the CFPA and FCRA (Counts VIII and IX). With respect to the Bureau’s
9 allegations that SoLo unfairly collected on loans that consumers were not
10 obligated to repay causing substantial injuries that are not outweighed by any
11 possible countervailing benefits, the documents sought through this Request
12 are not relevant because “depriv[ing] consumers of money they were not
13 legally obligated to pay [is] a clear financial harm without a possible
14 countervailing benefit.” *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also
15 finding “[l]osing money they are otherwise entitled to keep provides
16 consumers no conceivable benefit”). Because the Request is not limited to
17 facts relevant to the Bureau’s claims or Solo’s defenses, the Request is also
18 overly broad, burdensome, and disproportional to the needs of the case.

19 The Bureau further objects to the extent that this Request seeks
20 documents that are not within the Bureau’s possession, custody, or control.
21 And to the extent this Request seeks publicly available documents, the
22 Bureau also objects to this Request on the ground that those materials are
23 equally available to SoLo.

24 To the extent the Request requires the disclosure of expert materials or
25 opinions, the Bureau further objects to the Request as premature. The
26 Bureau will disclose nonprivileged documents and information related to
27

1 expert testimony, if any, as required by Rule 26, the Local Rules, the Court's
2 Standing Order, and the Scheduling Order.

3 The Bureau objects to the extent this Request seeks internal documents
4 that are protected by the attorney work product doctrine, attorney-client
5 privilege, or deliberative process privilege. The Bureau also objects to the
6 extent that this Request seeks drafts of otherwise responsive "studies,
7 reports, surveys, commentary, publications, reviews, or analyses" because
8 such drafts are protected by the deliberative process privilege and may be
9 protected by the attorney work product doctrine and attorney-client
10 privilege. As a result, the Bureau will not search for or produce drafts of
11 documents otherwise responsive to this Request.

12 Based on its objections, the Bureau will not search for documents to
13 produce in response to this Request.

14 **Document Request 44.** All studies, reports, surveys, commentary,
15 publications, reviews, or analyses that reflect the frequency of and/or costs
16 associated with consumers rolling over, renewing, or refinancing their short-
term small-dollar loans.

17 **Response:** The Bureau further objects that documents reflecting "the
18 frequency of and/or costs associated with consumers rolling over, renewing,
19 or refinancing their short-term small-dollar loans" are not relevant to the
20 Bureau's claims in the Amended Complaint that SoLo violated the CFPA
21 through its deceptive, abusive, and/or unfair advertising, disclosure,
22 donation, and debt collection practices (Counts I–VII) and failed to follow
23 reasonable procedures to ensure maximum possible accuracy of consumer
24 report information in violation of both the CFPA and FCRA (Counts VIII and
25 IX). With respect to the Bureau's allegations that SoLo unfairly collected on
26 loans that consumers were not obligated to repay causing substantial injuries

1 that are not outweighed by any possible countervailing benefits, the
2 documents sought through this Request are not relevant because “depriv[ing]
3 consumers of money they were not legally obligated to pay [is] a clear
4 financial harm without a possible countervailing benefit.” *NDG Fin. Corp.*,
5 2016 WL 7188792, at *13 (also finding “[l]osing money they are otherwise
6 entitled to keep provides consumers no conceivable benefit”). Because the
7 Request is not limited to facts relevant to the Bureau’s claims or Solo’s
8 defenses, the Request is also overly broad, burdensome, and disproportional
9 to the needs of the case.

10 The Bureau further objects to the extent that this Request seeks
11 documents that are not within the Bureau’s possession, custody, or control.
12 And to the extent this Request seeks publicly available documents, the
13 Bureau also objects to this Request on the ground that those materials are
14 equally available to SoLo.

15 To the extent the Request requires the disclosure of expert opinions or
16 materials, the Bureau further objects to the Request as premature. The
17 Bureau will disclose nonprivileged documents and information related to
18 expert testimony, if any, as required by Rule 26, the Local Rules, the Court’s
19 Standing Order, and the Scheduling Order.

20 The Bureau objects to the extent this Request seeks internal documents
21 that are protected by the attorney work product doctrine, attorney-client
22 privilege, or deliberative process privilege. The Bureau also objects to the
23 extent that this Request seeks drafts of otherwise responsive “studies,
24 reports, surveys, commentary, publications, reviews, or analyses” because
25 such drafts are protected by the deliberative process privilege and may be
26 protected by the attorney work product doctrine and attorney-client

1 privilege. As a result, the Bureau will not search for or produce drafts of
2 documents otherwise responsive to this Request.

3 Based on its objections, the Bureau will not search for documents to
4 produce in response to this Request. Notwithstanding its objections, the
5 Bureau has identified and will produce certain publicly available information
6 responsive to this Request.

7 **Document Request 45.** All Documents that reflect or otherwise reference
8 statements by You or any of Your officials or employees concerning the need
9 to develop and/or support a more vibrant, competitive market for short-term
small-dollar loans.

10 **Response:** The Bureau objects that this Request seeks the production
11 of documents protected by the deliberative process privilege, attorney-client
12 privilege, attorney work product doctrine, law enforcement investigatory
13 privilege. For example, responsive documents would include documents
14 reflecting Bureau internal deliberations, opinions, analyses, assessments, and
15 recommendations about the small-dollar loan market.

16 The Bureau further objects that documents reflecting or referencing
17 statements by Bureau officials or employees concerning “the need to develop
18 and/or support a more vibrant, competitive market for short-term small-
19 dollar loans” are not relevant to the Bureau’s claims in the Amended
20 Complaint that SoLo violated the CFPA through its deceptive, abusive,
21 and/or unfair advertising, disclosure, donation, and debt collection practices
22 (Counts I–VII) and failed to follow reasonable procedures to ensure
23 maximum possible accuracy of consumer report information in violation of
24 both the CFPA and FCRA (Counts VIII and IX). With respect to the Bureau’s
25 allegations that SoLo unfairly collected on loans that consumers were not
26 obligated to repay causing substantial injuries that are not outweighed by any

possible countervailing benefits, the documents sought through this Request are not relevant because “depriv[ing] consumers of money they were not legally obligated to pay [is] a clear financial harm without a possible countervailing benefit.” *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also finding “[l]osing money they are otherwise entitled to keep provides consumers no conceivable benefit”). Because the Request is not limited to facts relevant to the Bureau’s claims or Solo’s defenses, the Request is also overly broad, burdensome, and disproportional to the needs of the case.

The Bureau further objects to the extent that this Request seeks documents that are not within the Bureau’s possession, custody, or control. And to the extent this Request seeks publicly available documents, the Bureau also objects to this Request on the ground that those materials are equally available to SoLo.

Based on its objections, the Bureau will not search for documents to produce in response to this Request. Notwithstanding its objections, the Bureau has identified and will produce certain publicly available information responsive to this Request.

Document Request 46. All Documents that concern any efforts by You to develop and/or support a more vibrant, competitive market for short-term small-dollar loans.

Response: The Bureau objects that this Request seeks the production of documents protected by the deliberative process privilege, attorney-client privilege, attorney work product doctrine, law enforcement investigatory privilege, Trial-Preparation Protection, and common interest privilege. For example, responsive documents would include internal Bureau documents and communications reflecting Bureau attorneys’ deliberations, opinions,

1 analyses, assessments, and recommendations regarding the small dollar loan
2 market.

3 The Bureau further objects that documents concerning the Bureau's
4 efforts "to develop and/or support a more vibrant, competitive market for
5 short-term small-dollar loans" are not relevant to the Bureau's claims in the
6 Amended Complaint that SoLo violated the CFPB through its deceptive,
7 abusive, and/or unfair advertising, disclosure, donation, and debt collection
8 practices (Counts I–VII) and failed to follow reasonable procedures to ensure
9 maximum possible accuracy of consumer report information in violation of
10 both the CFPB and FCRA (Counts VIII and IX). With respect to the Bureau's
11 allegations that SoLo unfairly collected on loans that consumers were not
12 obligated to repay causing substantial injuries that are not outweighed by any
13 possible countervailing benefits, the documents sought through this Request
14 are not relevant because "depriv[ing] consumers of money they were not
15 legally obligated to pay [is] a clear financial harm without a possible
16 countervailing benefit." *NDG Fin. Corp.*, 2016 WL 7188792, at *13 (also
17 finding "[l]osing money they are otherwise entitled to keep provides
18 consumers no conceivable benefit"). Because the Request is not limited to
19 facts relevant to the Bureau's claims or Solo's defenses, the Request is also
20 overly broad, burdensome, and disproportional to the needs of the case.

21 Based on its objections, the Bureau will not search for documents to
22 produce in response to this Request. Notwithstanding its objections, the
23 Bureau has identified and will produce certain publicly available information
24 responsive to this Request.

1 **Document Request 47.** All Documents that support or evidence Your
claim that injunctive relief is appropriate in this case.

2 **Response:** The Bureau objects that by asking the Bureau to disclose
3 its legal research, this Request is an improper attempt to obtain the Bureau's
4 attorney work product, legal research, legal theories, analysis, considerations,
5 strategy, thoughts, and impressions, which are protected from disclosure by
6 the attorney work product doctrine and deliberative process privilege. The
7 Bureau will not search for or identify its case-specific attorney work product
8 and legal research in response to this Request.

9 Subject to and without waiving this objection, the CFPA provides for
10 injunctive relief as a remedy. *See* 12 U.S. Code § 5565. Furthermore, the loan-
11 level data, advertisements, and loan documents and disclosures provided by
12 SoLo demonstrate and support the Bureau's entitlement to injunctive relief.

13 **Document Request 48.** All Documents that support or evidence Your
14 claim that monetary relief, including but not limited to damages, restitution,
or disgorgement, is appropriate in this case.

15 **Response:** The Bureau objects that by asking the Bureau to disclose
16 its legal research, this Request is an improper attempt to obtain the Bureau's
17 attorney work product, legal research, legal theories, analysis, considerations,
18 strategy, thoughts, and impressions, which are protected from disclosure by
19 the attorney work product doctrine and deliberative process privilege. The
20 Bureau will not search for or identify its case-specific attorney work product
21 and legal research in response to this Request.

22 Subject to and without waiving this objection, the CFPA provides for
23 damages, disgorgement, restitution, and other monetary relief as a remedy.
24 *See* 12 U.S. Code § 5565.
25
26
27

1 **Document Request 49.** All Documents that support or evidence Your
claim that civil money penalties are appropriate in this case.

2 **Response:** The Bureau objects that by asking the Bureau to disclose
3 its legal research, this Request is an improper attempt to obtain the Bureau's
4 attorney work product, legal research, legal theories, analysis, considerations,
5 strategy, thoughts, and impressions, which are protected from disclosure by
6 the attorney work product doctrine and deliberative process privilege. The
7 Bureau will not search for or identify its case-specific attorney work product
8 and legal research in response to this Request.

9 Subject to and without waiving this objection, the CFPA provides for
10 civil money penalties as a remedy. *See* 12 U.S. Code § 5565. Furthermore, the
11 loan-level data, advertisements, and loan documents and disclosures
12 provided by SoLo demonstrate and support the Bureau's entitlement to civil
13 money penalties.

14 **Document Request 50.** Documents sufficient to show the amount of
15 monetary relief and/or civil money penalties You intend to seek in this case.

16 **Response:** The Bureau objects that this Request is premature, as the
17 amount of monetary relief and/or civil money penalties the Bureau seeks will
18 depend on evidence that has not yet been produced by SoLo. The Bureau
19 further objects that this Request seeks the production of documents
20 protected by the attorney-client privilege, attorney work product doctrine,
21 and Trial-Preparation Protection. For example, responsive documents would
22 include internal Bureau documents and communications reflecting Bureau
23 attorneys' deliberations, opinions, analyses, assessments, and
24 recommendations regarding the amount of monetary relief and civil penalties
25 it intends to seek. The Bureau will not search for or produce internal
26 documents in response to this Request.

1 Subject to and without waiving these objections, the Bureau will
2 provide non-privileged information responsive to this Request as required by
3 Rule 26, the Local Rules, the Court's Standing Order, and the Scheduling
4 Order.

5 **Document Request 51.** All Documents reflecting, concerning, or
6 supporting any methodology or calculations You or any experts intend to use
7 to support the amount of monetary relief and/or civil money penalties You
intend to seek in this case.

8 **Response:** The Bureau objects to the Request to the extent it is
9 premature and because it seeks documents beyond the scope of allowable
10 discovery, for instance by requiring production of expert notes, drafts, and
11 communications with counsel, which include materials protected by Rule
12 26(b)(4). The Bureau also objects to the extent this Request seeks documents
13 protected by the attorney-client privilege and attorney work product
14 doctrine.

15 Subject to and without waiving these objections, the Bureau will
16 disclose nonprivileged documents and information related to expert
17 testimony, if any, as required by Rule 26, the Local Rules, the Court's
18 Standing Order, and the Scheduling Order. In further response, the Bureau
19 refers SoLo to the Bureau's answers to Interrogatory No. 17 and to the CFPA,
20 12 U.S. Code § 5565.

21 **Document Request 52.** All Documents that concern the injuries You
22 contend were suffered by consumers as a result of any of the conduct alleged
in the Amended Complaint.

23 **Response:** The Bureau objects that this Request is overly broad,
24 burdensome, and disproportional to the needs of the case because it seeks *all*
25 documents that "concern" the injuries consumers suffered as a result of
26 SoLo's conduct, as alleged in the Amended Complaint. The Bureau also
27

1 objects to the extent this Request seeks documents protected by the attorney-
2 client privilege and attorney work product doctrine.

3 Subject to and without waiving these objections, and subject to the
4 Stipulated Protective Order [ECF 56], the Bureau will produce nonprivileged
5 documents responsive to this Request.

6 **Document Request 53.** All Documents You referenced or relied on in
7 responding to any interrogatories propounded by SoLo.

8 **Response:** The Bureau objects that by requesting documents the
9 Bureau “relied on” in responding to SoLo’s interrogatories, this Request
10 seeks the production of documents protected by the attorney-client privilege
11 and attorney work product doctrine. For example, responsive documents
12 would include internal Bureau documents and communications reflecting
13 Bureau attorneys’ deliberations, opinions, analyses, assessments, and
14 recommendations regarding the Bureau’s responses to SoLo’s
15 interrogatories. Responsive documents would also include documents
16 Bureau attorneys referenced or referred to in responding to SoLo’s
17 interrogatories, the disclosure of which would reveal attorney mental
18 impressions. The Bureau will not search for or produce internal documents
19 or documents the Bureau “relied on” in responding to SoLo’s interrogatories
20 in response to this Request.

21 Subject to and without waiving these objections, and subject to the
22 Stipulated Protective Order [ECF 56], the Bureau will produce nonprivileged
23 documents referenced in its interrogatory responses.

24
25 Dated: November 14, 2024

Respectfully submitted,

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Enforcement Director
Deborah Morris
Deputy Enforcement Director
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CERTIFICATE OF SERVICE

Undersigned counsel certifies that the CONSUMER FINANCIAL PROTECTION BUREAU'S OBJECTIONS AND RESPONSES TO SOLO FUNDS, INC.'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS was served via email upon the following counsel of record on November 14, 2024:

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EXHIBIT 8

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

CONSUMER FINANCIAL
PROTECTION BUREAU,

Plaintiff,

v.

SOLO FUNDS, INC.,

Defendant.

Case No. 2:24-cv-04108-RJK-AJR

**CONSUMER FINANCIAL
PROTECTION BUREAU'S FIRST
SUPPLEMENTAL OBJECTIONS
AND ANSWERS TO SOLO
FUNDS, INC.'S FIRST
INTERROGATORIES**

Judge: Hon. R. Gary Klausner

Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiff Consumer Financial Protection Bureau (the “Bureau”) hereby supplements and amends its response to Defendant SoLo Funds, Inc. (“Defendant” or “SoLo”)’s First Interrogatories. As detailed below, the Bureau supplements and amends its previous response to SoLo Funds, Inc.’s First Interrogatories dated November 14, 2024.

PRELIMINARY STATEMENTS

1. The Bureau’s discovery and development of all facts and circumstances relating to this case are ongoing. These answers and objections are made without prejudice to, and are not a waiver of, the Bureau’s right to rely on other facts during this case. The Bureau expressly reserves the right to supplement, clarify, revise, or correct any or all of its answers and objections to Defendant’s interrogatories, and to assert additional objections or provide supplemental answers at a later date.

2. In answering below, the Bureau does not waive any of its privileges. The Bureau is not providing information that is protected from disclosure under the attorney-client privilege, deliberative process privilege, attorney work product doctrine, law enforcement investigatory privilege, trial-preparation protection under Federal Rule of Civil Procedure 26(b)(3) and (4), or any other applicable privilege or immunity.

3. Except as otherwise specified in an answer to an Interrogatory below, the Bureau is not producing the following categories of publicly-available documents: (a) Federal court filings available on PACER that are not under seal; (b) Federal administrative-forum case filings that are not under seal; (c) statutes, regulations, regulatory guidance, and publications in the Federal

1 Register; and (d) documents that are publicly and currently available on the
2 Internet, including on the Bureau's website.

3 4. The Bureau's production of any documents not publicly available is
4 subject to the parties' Stipulated Protective Order [ECF 56].

5 5. By making the answers below, the Bureau does not waive, and hereby
6 expressly reserves, its right to assert any and all objections as to the
7 admissibility of such answers into evidence in this action, or in any other
8 proceedings, on any and all grounds including, but not limited to,
9 competency, relevancy, materiality, and privilege. Further, the Bureau makes
10 the answers below without in any way implying that it considers the requests
11 and answers to be relevant or material to any claim or defense in this action.

12 **DEFINITIONS**

13 1. "SoLo Platform" or "Platform" shall mean the nationwide website
14 and mobile-application based peer-to-peer marketplace through which
15 consumers can obtain small-dollar, short-term loans, as described in
16 paragraph 2 of the Amended Complaint.

17 2. "Rule" or "Rules" shall mean the Federal Rules of Civil Procedure.

18 3. "CFPA" shall mean the Consumer Financial Protection Act, 12 U.S.C.
19 § 5531, *et seq.*

20 4. "Standing Order" shall mean Judge R. Gary Klausner's Standing
21 Order Regarding Newly Assigned Cases, dated May 2023.

22 5. "Scheduling Order" shall mean the Minutes of Scheduling
23 Conference before Judge R. Gary Klausner [ECF 40].

24 6. "SoLo Defenses" shall mean Defendant SoLo's Affirmative Defenses
25 filed October 31, 2024 [ECF 58].
26
27

1 7. “Subject States” shall mean the list of States in Paragraphs 100 and
2 105 of the Amended Complaint filed August 20, 2024 [ECF 31].

3 **Objections and Answers to**
4 **Defendant’s First Interrogatories**

5 **Interrogatory 1.** Identify by Bates number each advertisement,
6 representation, or statement made by SoLo that you allege was false,
misleading, or deceptive.

7 **Answer:** The Bureau objects to this Interrogatory to the extent that it
8 seeks information not in the possession, custody, or control of the Bureau. A
9 complete answer to this Interrogatory depends on discovery from SoLo and
10 third parties, and discovery is ongoing. The Bureau will supplement its
11 answer as appropriate. Notwithstanding and without waiving these
12 objections, and based on its review so far, the Bureau answers as follows:

13 The Bureau alleges in Count I that SoLo advertised that consumers
14 could obtain loans on SoLo’s Platform with “no interest,” “0% APR,” or “0%
15 interest.” SoLo’s advertisements alleged to be false, misleading, or deceptive
16 include documents listed in Attachment A, Tab - Count I. The Bureau alleges
17 in Count II that SoLo provides the borrower with a promissory note and a
18 “Truth in Lending Disclosures” document, both of which purport to describe
19 the specific terms of the transaction, including the cost of credit. SoLo made
20 representations and statements in those documents listed in Attachment A,
21 Tab - Count II, that the Bureau alleges to be false, misleading, or deceptive.
22 The Bureau alleges in Count IV that SoLo represented expressly in loan
23 documents or by implication through its servicing practices that consumers
24 had an obligation to repay loan amounts when that obligation did not exist.
25 SoLo’s representations and statements alleged to be false, misleading, or
26

1 deceptive include documents listed in Attachment A, Tab – Count IV. The
2 Bureau alleges in Count VII that SoLo repeatedly misled consumers that
3 SoLo would report their failure to repay loans originated on SoLo’s Platform
4 to credit bureaus which might affect the consumers’ credit scores. These
5 representations and statements alleged to be false, misleading, or deceptive
6 include documents listed in Attachment A, Tab – Count VII.

7 **Interrogatory 2.** Identify all statutes, regulations, manuals, guides,
8 bulletins, supervisory highlights, advisory opinions, or other formal or
9 informal guidance that concern whether or the circumstances under which
10 tips, donations, or other optional fees or charges constitute the “cost of
11 credit,” “interest,” a “finance charge,” part of an “APR” calculation, or
“amounts paid to others on the consumer’s behalf,” as alleged in the Second
Amended Complaint.

12 **Answer:** The Bureau objects that the phrase “other optional fees” is
13 vague and ambiguous, because, as set forth in the Amended Complaint, the
14 tips and donations that consumers paid for loans originated on the SoLo
15 Platform are not “optional fees.”

16 The Bureau objects to Interrogatory No. 2 because it asks the Bureau to
17 disclose its legal research and is thus an improper attempt to obtain the
18 Bureau’s attorney work product, legal research, legal theories, analysis,
19 considerations, strategy, thoughts, and impressions, which are protected
20 from disclosure by the attorney work product doctrine and deliberative
21 process privilege. Moreover, the Bureau objects to the extent that this
22 Interrogatory seeks identification of the Bureau’s drafts of otherwise
23 responsive “statutes, regulations, manuals, guides, bulletins, supervisory
24 highlights, advisory opinions, or other formal or informal guidance,” because
25 such drafts are protected by the deliberative process privilege and may be
26 protected by the attorney work product doctrine and attorney-client

1 privilege. The Bureau will not search for or identify its case-specific attorney
2 work product and legal research in response to this Interrogatory—other than
3 what already has been cited in the Amended Complaint and the Bureau’s
4 briefing in this case, specifically the Bureau’s Opposition to Defendant’s
5 Motion to Dismiss.

6 The Bureau also objects to this Interrogatory as vague because it is
7 unclear whether SoLo is seeking information about “statutes, regulations,
8 manuals, guides, bulletins, supervisory highlights, advisory opinions, or
9 other formal or informal guidance” that the Bureau drafted or published, that
10 the Bureau enforces, or on which the Bureau is relying for its claims in the
11 Amended Complaint. The Bureau construes this Interrogatory as asking it to
12 identify all state and federal statutes, regulations, manuals, guides, bulletins,
13 supervisory highlights, advisory opinions, or other formal or informal
14 guidance, of which it is aware, that address whether costs characterized as
15 “tips” and “donations” are “finance charges,” part of the “cost of credit,” or
16 “amounts paid to others on the consumer’s behalf.” As a result, the Bureau
17 objects that this Interrogatory is unduly burdensome and seeks information
18 disproportional to the needs of the case. The Bureau specifically objects to
19 the identification of “all” of the requested materials because any responsive
20 information is publicly available and equally available to SoLo. The Bureau
21 also objects that the use of the term “Second Amended Complaint” is vague,
22 ambiguous, and confusing. The Bureau construes this term as referring to the
23 Bureau’s Amended Complaint.

24 Notwithstanding and without waiving these objections, and based on
25 its review so far, the Bureau answers as follows:
26
27

1 With respect to SoLo's request for legal authorities that may concern, in
2 part, the circumstances under which certain fees or charges constitute the
3 "cost of credit," "interest," a "finance charge," part of an "APR" calculation, or
4 "amounts paid to others on the consumer's behalf," the Bureau identifies the
5 following statute and regulation, including 15 U.S.C. § 1605(a) (defining
6 finance charge), 12 C.F.R. § 1026.22(a)(1) (determining APR, a measure of
7 the cost of credit) and 12 C.F.R. § 1026.4(a) (defining finance charge). In
8 addition, the Bureau has published the following:

9 November 2020 Earned Wage Access opinion--

10 [https://files.consumerfinance.gov/f/documents/cfpb advisory](https://files.consumerfinance.gov/f/documents/cfpb_advisory)
11 [-opinion earned-wage-access 2020-11.pdf](https://files.consumerfinance.gov/f/documents/cfpb_advisory)

12 [CFPB-SF-0014845-0014858]

13 2024 Paycheck Advance Marketplace - Proposed Interpretive
14 Rule--

15 [https://files.consumerfinance.gov/f/documents/cfpb paycheck](https://files.consumerfinance.gov/f/documents/cfpb_paycheck)
16 [-advance-marketplace proposed-interpretive-rule 2024-](https://files.consumerfinance.gov/f/documents/cfpb_paycheck)
17 [07.pdf](https://files.consumerfinance.gov/f/documents/cfpb_paycheck) [CFPB-SF-0014895-0014914]

18
19 **Interrogatory 3.** Identify, separately for each, all facts that support or
20 evidence that SoLo "advertised," "offered," "brokered," "arranged,"
21 "facilitated," "serviced," "solicited," "procured," "received fees in connection
22 with," "collected on loans," and/or otherwise engaged in the "business of
lending" or "making small loans," as alleged in Paragraph 106 of the
Amended Complaint.

23 **Answer:** The Bureau objects to this request to the extent that it seeks
24 information not in the possession, custody, or control of the Bureau. A
25 complete answer to this Interrogatory depends on discovery from SoLo and
26 third parties, and discovery is ongoing.

1 Notwithstanding and without waiving these objections, and based on
2 its review so far, the Bureau answers as follows:

3 “Advertised” “Offered” “Solicited”

4 SoLo advertises, offers, or solicits consumers through advertisements,
5 including advertisements for short-term, small dollar loans that can be
6 applied for by downloading SoLo’s application. During the pre-suit
7 investigation, SoLo produced a number of these advertisements to the
8 Bureau (which are being re-produced to SoLo in response to Request for
9 Production of Documents No. 25). SoLo advertises through the following
10 media: Apple, Bing, Facebook-Instagram, Google, and Twitter, among other
11 outlets. SoLo also offers loans through its mobile application through which
12 it encourages users to apply for loans through its interface.

13 “Brokered” “Arranged” “Facilitated” “Procured”

14 SoLo brokers, arranges, facilitates, or procures loans by creating and
15 maintaining the SoLo Platform that allows borrowers to request loans; by
16 allowing lenders to review potential loans to fund; by bringing borrowers and
17 lenders together to the SoLo Platform; by obtaining borrower identification
18 information and third-party bank account information; by assigning the
19 borrower a SoLo Score, which is provided to potential lenders to consider
20 loan requests; by instructing borrowers to increase tip amounts, accept
21 lender counteroffer proposals, and make additional loan requests with higher
22 tip amounts when initial loan requests are not funded; and by encouraging
23 lenders to make tip counteroffers for loans they are willing to fund.

24 “Serviced” “Collected on loans” “Received fees in connection with”

25 SoLo services loans by debiting borrower accounts electronically on the
26 due date. In addition, SoLo communicates with borrowers about payment
27

1 obligations, maintains the SoLo website and mobile app through which the
2 borrower can access information about their account and loan payment,
3 assesses late fees if a borrower does not make their loan payment, and refers
4 the loan to a third-party collection agency if the loan is in default.

5 SoLo receives or has received fees, either directly or indirectly, in
6 connection with loans made on the SoLo Platform, including SoLo donation
7 fees, late fees, recovery fees, and SoLo lender protection fees.

8 “Business of Lending” “Making Loans”

9 SoLo is in the business of lending or making loans because it offers
10 borrowers opportunities to apply for short-term, small-dollar loans whose
11 terms are only available on SoLo’s platform (including all of the activities
12 discussed above). SoLo represents that the loans are originated on its mobile
13 application. SoLo endorses or furnishes a guarantee of loans, takes
14 assignment of loans, and provides SoLo lender credits to fund loans, *see* Am.
15 Compl. ¶72. SoLo also receives the payment of principal, tips, and donations
16 for the loans that are assigned to it. *Id.* ¶72d.

17 **Interrogatory 4.** Separately for each type of alleged conduct listed in
18 Interrogatory 3 above, identify by state all statutes, regulations, manuals,
19 guides, bulletins, advisory opinions, caselaw, or other formal or informal
20 guidance, that supports Your contention that SoLo was required to be
licensed in the state.

21 **Answer:** The Bureau objects to Interrogatory No. 4 because it asks the
22 Bureau to disclose its legal research and is thus an improper attempt to
23 obtain the Bureau’s attorney work product, legal research, legal theories,
24 analysis, considerations, strategy, thoughts, and impressions, which are
25 protected from disclosure by the attorney work product doctrine and
26 deliberative process privilege. The Bureau will not search for or identify its

1 case-specific attorney work product and legal research in response to this
2 Interrogatory—other than what already has been cited in the Amended
3 Complaint and the Bureau’s briefing in this case, specifically the Bureau’s
4 Opposition to Defendant’s Motion to Dismiss.

5 The Bureau also objects to this Interrogatory as vague because it is
6 unclear whether SoLo is seeking information about “statutes, regulations,
7 manuals, guides, bulletins, advisory opinions, caselaw, or other formal or
8 informal guidance” that is from each state, that the Bureau enforces, or on
9 which the Bureau is relying for its claims in the Amended Complaint. The
10 Bureau construes this Interrogatory as asking it to identify all state statutes,
11 regulations, manuals, guides, bulletins, supervisory highlights, advisory
12 opinions, or other formal or informal guidance, of which it is aware, that
13 address the conduct listed in Interrogatory 3 above. As a result, the Bureau
14 objects that this Interrogatory is unduly burdensome and seeks information
15 disproportional to the needs of the case. The Bureau specifically objects to
16 the identification of “all” of the requested materials because any responsive
17 information is publicly available and equally available to SoLo.

18 The Bureau will not search for or identify its case-specific attorney
19 work product and legal research in response to this Interrogatory—other than
20 what already has been cited in the Amended Complaint (*see* ¶¶105(a)-(n) and
21 the Bureau’s briefing in this case, specifically the Bureau’s Opposition to
22 Defendant’s Motion to Dismiss (*see* pp. 13-16).

23
24 **Interrogatory 5.** Identify all facts that support or evidence Your contention
25 that SoLo has sought to evade state licensing requirements through a “device,
26 artifice, or pretense.”
27

1 **Answer:** The Bureau objects to Interrogatory No. 5 as unduly
2 burdensome insofar as it is a premature contention Interrogatory not
3 appropriate for this early stage of discovery. The Bureau objects to this
4 request to the extent that it seeks information not in the possession, custody,
5 or control of the Bureau. A complete answer to this Interrogatory depends on
6 discovery from SoLo and third parties, and discovery is ongoing.

7
8 Notwithstanding and without waiving these objections, and based on
9 its review so far, the Bureau answers as follows:

10 SoLo's business structure attempts to sever SoLo from the lenders and
11 their obligations, even though SoLo solicits the lenders and the borrowers,
12 encourages larger tips, creates the loan documents, makes disclosures to
13 borrowers, and collects the payments owed. SoLo also incentivizes high-
14 volume lenders, including so-called "power lenders," by providing credits to
15 those lenders on the SoLo Platform to fund future loans; fails to inform high-
16 volume lenders of relevant state licensing and usury requirements applicable
17 to loans originated on the SoLo Platform; and insures lenders from losses
18 through the SoLo Lender Protection Program and by directly taking
19 assignment of those loans.

20 **Interrogatory 6.** Identify all consumers that You contend have been
21 engaged in the business of lending or making small-dollar loans.

22 **Answer:** The Bureau objects to Interrogatory No. 6 because it is vague
23 and ambiguous, unduly burdensome, and disproportionate to the needs of
24 the case. The Interrogatory is not limited by time or topic or even limited to
25 information about consumers related to SoLo, SoLo's Platform, or the
26

1 allegations of the Amended Complaint. The Bureau construes Interrogatory
2 No. 6 as seeking a list of persons that have funded loan requests on the SoLo
3 Platform frequently enough to be considered “in the business of lending or
4 making small-dollar loans.”

5 The Bureau further objects to the extent that Interrogatory No. 6 seeks
6 information not in the possession, custody, or control of the Bureau. A
7 complete answer to this Interrogatory depends on discovery from SoLo, and
8 discovery is ongoing. Notwithstanding and without waiving these objections,
9 and based on its review so far, the Bureau answers as follows:

10 Through examination of six Written Reports containing loan data
11 submitted by SoLo to the Bureau on March 24, 2023, CFPB-SF-0003109-
12 3114, the Bureau has identified an initial set of lenders engaged in the
13 business of lending or making small-dollar loans—based on the laws in their
14 respective states. Those written reports contain SoLo Platform loan data from
15 March 2018 through December 2022. Attachment B to this Interrogatory
16 contains a list of lenders who made 25 or more loans, in at least one calendar
17 year between March 2018 and December 2022, to borrowers in Alabama,
18 Arizona, New Jersey, New York, North Carolina, and Ohio.

19 **Interrogatory 7.** Identify all constitutional provisions, statutes,
20 regulations, manuals, guides, bulletins, advisory opinions, caselaw, or other
21 formal or informal guidance, that support Your allegation that SoLo
marketplace loans violated usury limitations.

22 **Answer:** The Bureau objects to Interrogatory No. 7 because it asks the
23 Bureau to disclose its legal research and is thus an improper attempt to
24 obtain the Bureau’s attorney work product, legal research, legal theories,
25 analysis, considerations, strategy, thoughts, and impressions, which are
26

1 protected from disclosure by the attorney work product doctrine and
2 deliberative process privilege. The Bureau will not search for or identify its
3 case-specific attorney work product and legal research in response to this
4 Interrogatory—other than what already has been cited in the Amended
5 Complaint (see ¶¶100(a)-(i)) and the Bureau’s briefing in this case,
6 specifically the Bureau’s Opposition to Defendant’s Motion to Dismiss (see
7 pp. 15-16).

8 **Interrogatory 8.** Describe in detail the “definitions of interest or annual
9 rate used in the law of each State” referenced in Paragraph 98 of the
10 Amended Complaint that You contend render marketplace loans in violation
11 of state usury limitations, including any statutes, regulations, manuals,
guides, bulletins, advisory opinions, caselaw, or other formal or informal
guidance that supports the definition.

12 **Answer:** The Bureau objects to Interrogatory No. 8 because it asks
13 the Bureau to disclose its legal research and is thus an improper attempt to
14 obtain the Bureau’s attorney work product, legal research, legal theories,
15 analysis, considerations, strategy, thoughts, and impressions, which are
16 protected from disclosure by the attorney work product doctrine and
17 deliberative process privilege. The Bureau will not search for or identify its
18 case-specific attorney work product and legal research in response to this
19 Interrogatory—other than what already has been cited in the Amended
20 Complaint and the Bureau’s briefing in this case, specifically the Bureau’s
21 Opposition to Defendant’s Motion to Dismiss.
22

23 Notwithstanding and without waiving these objections, and based on
24 its review so far, the Bureau identifies the following state statutes that define
25 interest or “annual percentage rate”: Conn. Gen. Stat. Ann. § 36a-555(2);
26 Minn. Stat. Ann. § 47.60, subd. 1(c); N.H. Rev. Stat. Ann. § 399-A:1(II); N.M.

Stat. § 58-15-17(J); N.Y. Gen. Oblig. Law §§ 5-501, 5-511; N.C. Gen. Stat. § 53-165; S.D. Codified Laws § 54-4-44; Va. Code Ann. § 6.2-1800. In addition, the Arkansas Supreme Court has interpreted what constitutes “interest” under the Arkansas Constitution.” *See, e.g., Ark. Savings & Loan Assoc. v. Mack Trucks of Ark., Inc.*, 263 Ark. 264, 267-68 (Ark. 1978).

Interrogatory 9. Identify any state official or employee with whom You have communicated concerning SoLo’s compliance with state usury limitations and/or licensing requirements.

Answer: The Bureau objects to Interrogatory No. 9 because it is unduly burdensome, overbroad, disproportional to the needs of the case, and seeks documents that are not relevant to any claim or defense at issue in this case, as it requests the identification of contacts with *any* state, including those whose laws are not the subject of any of the claims or defenses in this case. Based on these objections, the Bureau is withholding information identifying state officials or employees of non-Subject States. Notwithstanding and without waiving these objections, and based on its review so far, the Bureau answers as follows:

IL	Illinois Department of Financial and Professional Regulation	Deputy General Counsel, Division of Financial Institutions	David Berland
CT	Connecticut Department of Banking	Director, Consumer Credit Division	Carmine Costa
CT	Connecticut Department of Banking	Staff attorney	Stacey Serrano
MD	Maryland Department of	Director of Enforcement	Dana Allen

	Labor, Office of Financial Regulation		
MD	Maryland Department of Labor, Office of Financial Regulation	Assistant Commissioner	Stephen Clampett
MD	Maryland Department of Labor, Office of Financial Regulation	Deputy Commissioner of Financial Services & Consumer Protection	Kathleen P. Hyland
MD	Maryland Department of Labor, Office of Financial Regulation	Assistant Commissioner of Consumer and External Affairs	Meredith Merchant
MD	Maryland Office of the Attorney General	Assistant Attorney General	Wilson Meeks
MN	Minnesota Department of Commerce	Director of Audit and Enforcement	Michael Carter
MN	Minnesota Department of Commerce	Director of Non- Depository Financial Institutions	Mark Hastie
MN	Minnesota Office of Attorney General	Assistant Attorney General	Adam Welle
AZ	Arizona Department of Financial Institutions	Division Manager, Credit Union Division	Marie Corral

AZ	Arizona Department of Financial Institutions	Division Manager, Bank and Trust Division	Gregory Dunn
AZ	Arizona Department of Financial Institutions	Division Manager, Mortgage Lending	Gabriela Macias
AZ	Arizona Department of Financial Institutions	Chief Deputy Director of Finance	Deian Ousounov
AZ	Arizona Department of Financial Institutions	Assistant Director, Financial Enterprises Division	Tammy Seto
AZ	Arizona Department of Financial Institutions	Financial Enterprises Examiner	Tawnya Webel
NJ	New Jersey Office of Attorney General	Deputy Attorney General, Banking and Insurance Section	Garen Gazaryan
NJ	New Jersey Office of Attorney General	Deputy Attorney General, Section Chief	Jesse Sierant
MA	Massachusetts Division of Banks	Chief Director of Enforcement and Investigations	Amanda Loring
NC	North Carolina Office of Attorney General	Senior Deputy Attorney General and Director, Consumer Protection Division	Jasmine McGhee
NC	North Carolina Office of	Special Deputy Attorney General,	Lynne Weaver

	Attorney General	Consumer Protection Division	
NC	North Carolina Office of Attorney General	Special Deputy Attorney General, Consumer Protection Division	Phillip Woods
NY	New York Department of Financial Services	Deputy Superintendent	Peter Dean
NY	New York Department of Financial Services	Deputy General Counsel, Office of General Counsel	Meredith Weill

Bureau attorneys also presented a summary of the claims the Bureau has asserted against SoLo in the Amended Complaint at a monthly small dollar lending call with a group of representatives from the National Association of Attorneys General on June 4, 2024. The content of the presentation was limited to describing the allegations set forth in the Complaint. Pursuant to Rule 33(d), the Bureau will produce the emailed meeting invitation or a privilege log that identifies the individuals invited to that call.

First Supplemental Answer: The Bureau objects to Interrogatory No. 9 because it is unduly burdensome, overbroad, disproportional to the needs of the case, and seeks documents that are not relevant to any claim or defense at issue in this case, as it requests the identification of contacts with *any* state, including those whose laws are not the subject of any of the claims or defenses in this case. Based on these objections, the Bureau is withholding information identifying state officials or employees of non-Subject States.

Notwithstanding and without waiving these objections, and based on its review so far, the Bureau supplements its previous answers as follows:

IL	Illinois Department of Financial and Professional Regulation	Deputy General Counsel, Division of Financial Institutions	David Berland
CT	Connecticut Department of Banking	Director, Consumer Credit Division	Carmine Costa
CT	Connecticut Department of Banking	Staff attorney	Stacey Serrano
MD	Maryland Department of Labor, Office of Financial Regulation	Director of Enforcement	Dana Allen
MD	Maryland Department of Labor, Office of Financial Regulation	Assistant Commissioner	Stephen Clampett
MD	Maryland Department of Labor, Office of Financial Regulation	Deputy Commissioner of Financial Services & Consumer Protection	Kathleen P. Hyland
MD	Maryland Department of Labor, Office of Financial Regulation	Assistant Commissioner of Consumer and External Affairs	Meredith Merchant
MD	Maryland Office of the Attorney General	Assistant Attorney General	Wilson Meeks

1	MN	Minnesota Department of Commerce	Director of Audit and Enforcement	Michael Carter
2				
3	MN	Minnesota Department of Commerce	Director of Non- Depository Financial Institutions	Mark Hastie
4				
5	MN	Minnesota Office of Attorney General	Assistant Attorney General	Adam Welle
6				
7				
8	AZ	Arizona Department of Financial Institutions	Division Manager, Credit Union Division	Marie Corral
9				
10				
11	AZ	Arizona Department of Financial Institutions	Division Manager, Bank and Trust Division	Gregory Dunn
12				
13				
14	AZ	Arizona Department of Financial Institutions	Division Manager, Mortgage Lending	Gabriela Macias
15				
16	AZ	Arizona Department of Financial Institutions	Chief Deputy Director of Finance	Deian Ousounov
17				
18				
19	AZ	Arizona Department of Financial Institutions	Assistant Director, Financial Enterprises Division	Tammy Seto
20				
21				
22	AZ	Arizona Department of Financial Institutions	Financial Enterprises Examiner	Tawnya Webel
23				
24	NJ	New Jersey Office of Attorney General	Deputy Attorney General, Banking and Insurance Section	Garen Gazaryan
25				
26				

NJ	New Jersey Office of Attorney General	Deputy Attorney General, Section Chief	Jesse Sierant
MA	Massachusetts Division of Banks	Chief Director of Enforcement and Investigations	Amanda Loring
NC	North Carolina Office of Attorney General	Senior Deputy Attorney General and Director, Consumer Protection Division	Jasmine McGhee
NC	North Carolina Office of Attorney General	Special Deputy Attorney General, Consumer Protection Division	Lynne Weaver
NC	North Carolina Office of Attorney General	Special Deputy Attorney General, Consumer Protection Division	Phillip Woods
NY	New York Department of Financial Services	Deputy Superintendent	Peter Dean
NY	New York Department of Financial Services	Deputy General Counsel, Office of General Counsel	Meredith Weill
OH	Ohio Department of Commerce	Deputy Superintendent, Consumer Finance	Pamela J. Prude-Smithers
OH	Ohio Department of Commerce	Chief Examiner	Jeff Angell
OH	Ohio Department of Commerce	Licensing Manager	Traci Washington

1 Bureau attorneys also presented a summary of the claims the Bureau
2 has asserted against SoLo in the Amended Complaint at a monthly small
3 dollar lending call with a group of representatives from the National
4 Association of Attorneys General on June 4, 2024. The content of the
5 presentation was limited to describing the allegations set forth in the
6 Complaint. Pursuant to Rule 33(d), the Bureau will produce the emailed
7 meeting invitation or a privilege log that identifies the individuals invited to
8 that call.

9 **Interrogatory 10.** For each state official or employee identified in response
10 to Interrogatory 9, describe in detail the substance of the communication,
11 including when the communication occurred, all statements made, and by
whom.

12 **Answer:** The Bureau objects that Interrogatory No. 10 is unduly
13 burdensome, overbroad, disproportional to the needs of the case, and seeks
14 information that is not relevant to any claim or defense at issue in this case,
15 as it seeks information regarding communications between the Bureau and
16 *any* “state government official, employee, agency, regulator, or
17 administrative body” and is not limited to communications with state
18 government officials, employees, agencies, regulators, or administrative body
19 in the Subject States.

20 The Bureau further objects that this Interrogatory seeks information
21 protected by the attorney-client privilege, attorney work product doctrine,
22 law enforcement investigatory privilege, and the deliberative process
23 privilege. An answer would include communications between the Bureau and
24 state attorneys general and state banking regulators (with whom the Bureau
25 shares a common interest) revealing their deliberations, opinions, and
26

1 analyses of factual material they reviewed during the investigation of SoLo's
2 loan products, as well as their deliberations, opinions, and analyses relating
3 to factual material, potential claims, and legal strategy. This Interrogatory is
4 also an impermissible effort to invade the attorney work product and law
5 enforcement privilege of the state regulators who had or have pending
6 investigations, administrative proceedings, or litigation against SoLo.

7 The Bureau will withhold responsive information, if any, based on its
8 objection.
9

10 **Interrogatory 11.** Identify any federal government official, employee, or
11 elected representative who has expressed concerns to You regarding the
12 factual or legal basis for or existence or impact of the Pre-Suit Investigation,
an enforcement action or potential enforcement action against SoLo, and/or
this Litigation.

13 **Answer:** The Bureau objects that Interrogatory No. 11 is vague and
14 ambiguous as it is not clear whether "federal government official" or
15 "employee" is intended to include Bureau officials and employees. The
16 Bureau will construe this Interrogatory as seeking the identification of non-
17 Bureau federal government officials and employees. To the extent this
18 Interrogatory seeks the identification of Bureau officials and employees, the
19 Bureau further objects that this Interrogatory seeks information protected by
20 the attorney-client privilege, attorney work product doctrine, law
21 enforcement investigatory privilege, and the deliberative process privilege.
22 The Bureau does not intend to search for or produce information identifying
23 communications among Bureau officials and employees regarding the factual
24 or legal basis for or existence or impact of the Pre-Suit Investigation,
25
26
27

1 enforcement action or potential enforcement action against SoLo, and/or this
2 Litigation.

3 The Bureau further objects that information “regarding the existence or
4 impact of the Pre-Suit Investigation, an enforcement action or potential
5 enforcement action against SoLo, or this Litigation” are not relevant to the
6 Bureau’s claims that SoLo violated the CFPA through its deceptive, abusive,
7 and/or unfair advertising, disclosure, donation, and debt collection practices
8 (Counts I–VII) and failed to follow reasonable procedures to ensure
9 maximum possible accuracy of consumer report information in violation of
10 both the CFPA and FCRA (Counts VIII and IX). Nor are communications
11 “regarding the existence or impact of the Pre-Suit Investigation, an
12 enforcement action or potential enforcement action against SoLo, or this
13 Litigation” proportional to the needs of the case, and they are therefore
14 outside the scope of discovery under Rule 26(b)(1).

15 The Bureau also objects to this Interrogatory because the phrases “who
16 has expressed concerns” and “regarding the factual or legal basis for or
17 existence or impact of the Pre-Suit Investigation, an enforcement action or
18 potential enforcement action against SoLo, or this Litigation” are vague and
19 ambiguous. It is unclear from the Interrogatory whether SoLo is seeking the
20 identity of people who have expressed concern that the factual or legal basis
21 for the claims against SoLo are lacking or some other concern. The Bureau
22 construes this language to mean to identify federal officials, employees, or
23 elected representatives who have contacted the Bureau to complain that its
24 investigation into and litigation against SoLo is unwarranted and the claims
25 not viable.

1 Notwithstanding and without waiving these objections, and based on
2 its review so far, the Bureau is aware of the following elected representatives
3 who have communicated, or attempted to communicate, with the Bureau
4 regarding the existence or impact of this enforcement action, including:

5 U.S. Representative Jonathan Jackson (CA)
6

7 U.S. Representative Emmanuel Cleaver II (MO) (through Deputy Chief
8 of Staff, Alex Ndikum)

9 U.S. Representative Matt Cartwright (PA) (through Legislative Director
10 and Appropriations Associate, Kaylee Robinson).
11

12 **Interrogatory 12.** For each official, employee, or elected representative
13 identified in response to Interrogatory 11, describe in detail the substance of
14 Your communication with them, including when the communication
occurred, all statements made, and by whom.

15 **Answer:** The Bureau objects that Interrogatory No. 12 is unduly
16 burdensome, overbroad, disproportional to the needs of the case, and seeks
17 information that is not relevant to any claim or defense at issue in this case,
18 as it seeks Bureau communications “regarding the existence or impact of the
19 Pre-Suit Investigation, an enforcement action or potential enforcement
20 action against SoLo, or this Litigation,” which are not relevant to the Bureau’s
21 claims that SoLo violated the CFPA through its deceptive, abusive, and/or
22 unfair advertising, disclosure, donation, and debt collection practices (Counts
23 I–VII) and failed to follow reasonable procedures to ensure maximum
24 possible accuracy of consumer report information in violation of both the
25 CFPA and FCRA (Counts VIII and IX). Nor are the communications
26 “regarding the existence or impact of the Pre-Suit Investigation, an
27

1 enforcement action or potential enforcement action against SoLo, or this
2 Litigation” proportional to the needs of the case, and they are therefore
3 outside the scope of discovery under Rule 26(b)(1).

4 The Bureau further objects that this Interrogatory seeks information
5 protected by the attorney-client privilege, attorney work product doctrine,
6 law enforcement investigatory privilege, and the deliberative process
7 privilege. An answer would include communications between the Bureau and
8 other federal agencies (with whom the Bureau shares a common interest)
9 revealing their deliberations, opinions, and analyses of factual material they
10 reviewed during the investigation of SoLo’s loan products, as well as their
11 deliberations, opinions, and analyses relating to factual material, potential
12 claims, and legal strategy. This Interrogatory is also an impermissible effort
13 to invade the attorney work product and law enforcement privilege of federal
14 regulators that may have pending investigations, administrative proceedings,
15 or litigation against SoLo.

16 The Bureau also objects to this Interrogatory because the phrases “who
17 has expressed concerns” and “regarding the factual or legal basis for or
18 existence or impact of the Pre-Suit Investigation, an enforcement action or
19 potential enforcement action against SoLo, or this Litigation” as used in
20 Interrogatory 11 are vague and ambiguous. It is unclear from the
21 Interrogatory whether SoLo is seeking the identity of people who have
22 expressed concern that the factual or legal basis for the claims against SoLo
23 are lacking or some other concern. The Bureau construes this language to
24 mean to identify federal officials, employees, or elected representatives who
25
26
27

1 have contacted the Bureau to complain that its investigation into and
2 litigation against SoLo is unwarranted and the claims not viable.

3 Notwithstanding and without waiving these objections, and based on
4 its review so far, the Bureau states as follows:
5

6 On or around May 1, 2024, Bureau staff, Edward (Ted) Lovett
7 (“Lovett”), a Senior Congressional Liaison in the Office of Legislative Affairs,
8 spoke by telephone with Alex Ndikum (“Ndikum”), Deputy Chief of Staff to
9 U.S. Representative Emmanuel Cleaver II (MO). Ndikum inquired about
10 what was happening with SoLo Funds, Inc., to which Lovett responded that
11 there was no information concerning SoLo Funds that he could disclose. The
12 Bureau is aware of email correspondence that either did not contain any
13 substantive information or whose contents serve as the best record of the
14 substance of the communication. CFPB-SF-0017111-0017114. Lovett also
15 communicated with Legislative Director and Appropriations Associate,
16 Kaylee Robinson (“Robinson”), of the Office of U.S. Representative Matt
17 Cartwright (PA) in which he provided a link to the press release, the
18 complaint, and a synopsis of the Bureau’s enforcement action against SoLo
19 Funds. Those emails have been produced. CFPB-SF-0004986-0004987. The
20 Bureau is also aware that U.S. Representative Jonathan Jackson signed a
21 letter to Director Rohit Chopra dated September 5, 2024 that SoLo has
22 posted on its website, but the Bureau did not locate a copy of the letter in its
23 files. The content of the letter is almost identical to the content of a draft
24 letter that Lovett received from Ndikum.

25 **Interrogatory 13.** Identify by loan number or other unique identifier all
26 loans that You contend are void or otherwise unenforceable.

1 **Answer:** The Bureau objects to Interrogatory No. 13 to the extent that
2 it seeks information not in the possession, custody, or control of the Bureau.
3 A complete answer to this Interrogatory depends on discovery from SoLo,
4 and discovery is ongoing. Notwithstanding and without waiving these
5 objections, and based on its review so far, the Bureau has identified an initial
6 set of loans that it contends are void and uncollectible (*see* Attachment C)
7 based on its review of six Written Reports from SoLo containing loan data.
8 CFPB-SF-0003109-3114. SoLo represented that those written reports
9 contained SoLo Platform loan data from March 2018 through December
10 2022

11 **Interrogatory 14.** Identify the rate of interest for each loan that You
12 contend violates state usury limitations.

13 **Answer:** The Bureau objects to Interrogatory No. 14 to the extent that
14 it seeks information not in the possession, custody, or control of the Bureau.
15 A complete answer to this Interrogatory depends on discovery from SoLo,
16 and discovery is ongoing. Notwithstanding and without waiving these
17 objections, and based on its review so far, the Bureau has identified an initial
18 set of loans that it contends are void and uncollectible (*see* Attachment C)
19 based on its review of six Written Reports from SoLo containing loan data.
20 CFPB-SF-0003109-3114. SoLo represented that those written reports
21 contained SoLo Platform loan data from March 2018 through December
22 2022. Column H of Attachment C identifies the interest rate for each
23 identified loan. Discovery remains ongoing regarding the amounts paid on
24 each loan and whether any additional amounts beyond the principal
25 constitute a finance charge or impact the APR.
26
27

1 **Interrogatory 15.** Describe in detail the methodology, formulation, or
2 computation used to calculate the rate of interest for each loan that You
contend violates state usury limitations.

3 **Answer:** The Bureau objects to Interrogatory No. 15 as unduly
4 burdensome insofar as it seeks a response “in detail” for “each loan” through
5 a loan-by-loan description. The Bureau also objects to the extent that this
6 Interrogatory seeks a description of any underlying work papers prepared by
7 the Bureau, including work prepared by Bureau staff at the direction of
8 counsel, which is protected by the attorney work product doctrine.
9 Notwithstanding and without waiving these objections, and based on its
10 review so far, the Bureau answers as follows:

11
12 The Bureau identified all loans that have a date assigned for repayment
13 of the loan (E_DATE_LOAN_REPAID) and reviewed the following fields:

14 M_TIP_PAID_BY_BORROWER
15 Q_DONATION_PAID_BY_BORROWER
16 G_AMOUNT_DISBURSED_TO_BORROWER
H_LOAN_TERM_IN_DAYS

17 The initial formula (subject to adjustment based on more or better data
18 that SoLo may produce in response to discovery) used to calculate the
19 interest per annum or annual rate was $((M+Q)/G/H * 365)$. Under this
20 formula, the finance charge was calculated as the
21 $TIP_PAID_BY_BORROWER + DONATION_PAID_BY_BORROWER$. The
22 finance charge was then divided by the loan amount and then divided by the
23 loan term (in number of days) to calculate the daily interest. The daily
24 interest rate was then multiplied by 365 days to generate interest per annum
25 or annual rate.
26

1 **Interrogatory 16.** Identify all facts that support or evidence Your
2 contention that SoLo is a “consumer reporting agency.”

3 **Answer:** The Bureau objects to Interrogatory No. 16 as unduly
4 burdensome insofar as it is a premature contention Interrogatory not
5 appropriate for this early stage of discovery. The Bureau objects to this
6 request to the extent that it seeks information not in the possession, custody,
7 or control of the Bureau. A complete answer to this Interrogatory depends on
8 discovery from SoLo and third parties, and discovery is ongoing.
9 Notwithstanding and without waiving these objections, and based on its
10 review so far, the Bureau answers as follows:

11 SoLo assembles consumer credit information about consumers. SoLo
12 requests, receives, and retains consumer credit information from Plaid,
13 including information about consumers’ bank accounts and deposit history.
14 SoLo also requests, receives, and retains consumer credit information from
15 Apple and Google. SoLo uses its collected consumer credit information, along
16 with a consumer’s SoLo Platform loan history, to compile a proprietary “SoLo
17 Score.”

18 SoLo evaluates consumer credit information. This evaluation results in
19 the proprietary SoLo Score. To calculate the SoLo Score, SoLo applies
20 analytics to selected consumer information, data points, and factors. After
21 this evaluation, SoLo assigns a borrower or prospective borrower a SoLo
22 Score between 1 and 100. SoLo says the SoLo Score is an “in app credit score”
23 or a “social credit score.” SoLo expects lenders to use the SoLo Scores to
24 assess a borrower’s eligibility for credit, creditworthiness, and to “assist in
25
26
27

1 the making of a credit decision” for personal, family, or household purpose
2 loans.

3 SoLo communicates borrower and prospective borrower information
4 bearing on the individual’s credit worthiness, credit standing, credit capacity,
5 character, general reputation, personal characteristics, or mode of living to
6 the prospective lenders.

7
8 SoLo promotes its platform as a service for obtaining loans for
9 personal, family, and household purposes. Thus, borrowers and prospective
10 borrowers on the SoLo Platform seek loans primarily for personal, family, or
11 household purposes. SoLo records the stated reasons for prospective
12 borrower loan applications.

13 SoLo collects donation fees to compensate it for the services it provides
14 on the SoLo Platform, including supplying the “SoLo Score” and related
15 information. Based on the borrower-designated donation amount, lenders
16 first pay the donation amount to SoLo when paying the principal to the
17 borrower. The borrower then repays the donation amount to the lender on
18 the due date. SoLo retains the donation fee regardless of whether the
19 borrower repays the loan.

20
21 In addition, SoLo facilitates the exchange of loan repayment and other
22 consumer information to and from lenders. SoLo provides the history of
23 whether the borrower has repaid loans on the SoLo Platform (as reflected in
24 both the SoLo Score and number of loans repaid), which is then associated
25 with an individual borrower’s loan request. And SoLo supplies this
26 information by obtaining the agreement of lenders and borrowers to share

1 information with SoLo in order to participate in the SoLo Platform. Although
2 SoLo does not operate as a nonprofit entity, SoLo has publicly represented
3 that it makes no profits from the loans and is a Certified B Corporation.

4 **Interrogatory 17.** Describe in detail each item of monetary relief or
5 damages that You claim in this Litigation, including how you calculated the
6 amount of each item of monetary relief or damages.

7 **Answer:** The Bureau objects on the grounds that Interrogatory No. 17
8 is unduly burdensome insofar as it is premature. A complete answer to this
9 Interrogatory depends on additional discovery, which remains ongoing. The
10 Bureau also objects to the extent that SoLo's request for "how you calculated
11 the amount of each item" includes Bureau internal assessments protected by
12 the attorney work product doctrine. Notwithstanding and without waiving
13 these objections, the Bureau answers as follows:

14 The Bureau seeks remedies in the form of restitution, disgorgement,
15 damages, and civil money penalties. The Bureau is working to quantify the
16 principal, interest, and fees that SoLo collected on loans in the Subject States
17 that were void or otherwise uncollectible under state law. The Bureau is also
18 working to quantify the fees paid by borrowers that were harmed by any of
19 the other alleged deceptive or abusive acts or practices, including false
20 advertising, deceptive transaction documents, abusive donation process, and
21 deceptive collections threats. The Bureau is also engaged in discovery
22 necessary to calculate a civil money penalty according to the statutory factors
23 set forth in 12 U.S.C. § 5565(c).

24
25 The Bureau reserves its right to supplement its Answer to this
26 Interrogatory consistent with Rule 26(e).

1 **Interrogatory 18.** Identify each expert witness whom You expect to call to
2 testify at trial, or whose testimony or opinions you expect to introduce in
support of or in opposition to any dispositive motion.

3 **Answer:** The Bureau objects to Interrogatory No. 18 to the extent that
4 it seeks information or disclosures in a manner inconsistent with Rule
5 26(a)(2) of the Federal Rules of Civil Procedure or the Court's Scheduling
6 Conference Order [ECF 40] (setting May 27, 2025 as trial date). Specifically,
7 Rule 26(a)(2)(D) provides expert disclosures must be made "at least 90 days
8 before the date set for trial or for the case to be ready for trial." In this case,
9 expert disclosures are due on February 26, 2025.

10
11 Consistent with the requirements of Rule 26(a)(2) and the Court's
12 Scheduling Order, the Bureau will identify each expert that it intends to call
13 or testify at trial, or whose testimony or opinions it expects to introduce in
14 support of in opposition to any dispositive motion, on or before February 26,
15 2025.

16 **Interrogatory 19.** For each expert witness identified in response to
17 Interrogatory 18, state the substances of all facts and opinions about which
the expert witness is expected to testify or opine.

18 **Answer:** The Bureau objects to Interrogatory No. 19 to the extent that
19 it seeks information or disclosures in a manner inconsistent with Rule
20 26(a)(2) of the Federal Rules of Civil Procedure or the Court's Scheduling
21 Conference Order [ECF 40] (setting May 27, 2025 as trial date). Specifically,
22 Rule 26(a)(2)(D) provides expert disclosures must be made "at least 90 days
23 before the date set for trial or for the case to be ready for trial." In this case,
24 expert disclosures are due on February 26, 2025. The Bureau also objects to
25 this Interrogatory as premature given that fact discovery has just begun,
26

1 which will inform the facts and opinions about which the expert witness will
2 testify or opine.

3 Consistent with the requirements of Rule 26(a)(2) and the Court's
4 Scheduling Order, the Bureau will state the substance of all facts and
5 opinions about which the expert witness is expected to testify or opine on or
6 before February 26, 2025.

7
8 **Interrogatory 20.** Identify all persons not identified in response to
9 Interrogatory 18 whom you expect to call or rely upon as witnesses at trial or
10 for testimony in any form in connection with any dispositive motion, and, for
each person, specific the topic or topics about which You expect them to
testify.

11 **Answer:** The Bureau objects on the grounds that Interrogatory No. 20
12 is unduly burdensome insofar as it is premature at this early stage of
13 discovery. A complete list of witnesses for trial or dispositive motions and the
14 topics about which they will testify depends on discovery, which remains
15 ongoing. The Bureau also objects to this Interrogatory to the extent that it
16 seeks information or disclosures in a manner inconsistent with Local Rule
17 16.2-4 of the Central District of California, the Court's Standing Order, or the
18 Court's Scheduling Conference Order [ECF 40] (setting May 27, 2025 as trial
19 date). Specifically, witness designations must be shared with counsel on or by
20 April 2, 2025.

21
22 Consistent with the requirements of L.R. 16.2-4, the Court's Standing
23 Order, the Court's Scheduling Order, the Bureau will identify witnesses it
24 intends to call or testify at trial on or before April 2, 2025.

25 **Interrogatory 21.** Identify any of Your officials or employees (other than
26 attorneys) who has expressed concerns regarding the impact of the Pre-Suit

1 Investigation, an enforcement action or potential enforcement action against
2 SoLo, or this Litigation on consumers or on the availability of credit.

3 **Answer:** The Bureau objects to Interrogatory No. 21 because the
4 phrases “who has expressed concerns” and “regarding the impact of the Pre-
5 Suit Investigation, an enforcement action or potential enforcement action
6 against SoLo, or this Litigation” are vague and ambiguous. It is unclear from
7 the Interrogatory whether SoLo is seeking the identity of people who have
8 expressed concern that the factual or legal basis for the claims against SoLo
9 are lacking or some other concern. The Bureau construes this language to
10 mean to identify non-attorney Bureau officials and employees who have
11 complained that the investigation into or litigation against SoLo is
12 unwarranted, the claims not viable, or that it would negatively impact
13 consumers or credit availability.

14 The Bureau also objects that this Interrogatory is unduly burdensome,
15 overbroad, and disproportional to the needs of the case as it calls for
16 information that is not relevant to any claim or defense at issue in this case
17 and is beyond the scope of allowable discovery. The identity of Bureau
18 officials or employees who may or may not have expressed “concern”
19 regarding the investigation into or litigation against SoLo is not relevant to
20 the Bureau’s claims that SoLo violated the CFPA through its deceptive,
21 abusive, and/or unfair advertising, disclosure, donation, and debt collection
22 practices (Counts I–VII) and failed to follow reasonable procedures to ensure
23 maximum possible accuracy of consumer report information in violation of
24 both the CFPA and FCRA (Counts VIII and IX). Nor is such information
25 proportional to the needs of the case, and it is therefore outside the scope of
26 discovery under Rule 26(b)(1).

1 Based on its objections, the Bureau will not search for or produce
2 information identifying Bureau officials or employees with “concerns.”

3 **Interrogatory 22.** Identify each person (other than attorneys) who
4 participated in answering any interrogatory propounded to the Bureau in this
5 Litigation and, for each person, specify the interrogatory or interrogatories
6 the person participated in answering or contributed information used in
7 answering.

8 **Answer:** The Bureau objects to Interrogatory No. 22 on the grounds
9 that it seeks information that is not relevant to any party’s claims or defenses
10 and calls for information that is protected by the work product doctrine,
11 attorney client privilege, and the law enforcement privilege.

12 Notwithstanding and without waiving these objections, the Bureau
13 responds that counsel for the Bureau prepared the answers to interrogatories
14 with assistance from paralegals and other staff working at the attorneys’
15 direction.

16
17 Dated: December 20, 2024

Respectfully submitted,

18 Eric Halperin
19 *Enforcement Director*
20 Deborah Morris
21 *Deputy Enforcement Director*
22 Trishanda L. Treadwell
23 *Assistant Litigation Deputy*

24 /s/Bradley H. Cohen
25 Bradley H. Cohen (*pro hac vice*)
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*Attorneys for the Consumer
Financial Protection Bureau*

VERIFICATION

I, Bradley H. Cohen, am an Enforcement Attorney for the Consumer Financial Protection Bureau and am authorized to make this verification on behalf of Plaintiff Consumer Financial Protection Bureau. I have reviewed CONSUMER FINANCIAL PROTECTION BUREAU'S FIRST SUPPLEMENTAL OBJECTIONS AND ANSWERS TO SOLO FUNDS, INC.'S FIRST INTERROGATORIES, and I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 20, 2024.

By: 
BRADLEY H. COHEN (*pro hac vice*)
Attorney for Plaintiff
Consumer Financial Protection Bureau

CERTIFICATE OF SERVICE

Undersigned counsel certifies that the CONSUMER FINANCIAL PROTECTION BUREAU'S FIRST SUPPLEMENTAL OBJECTIONS AND ANSWERS TO SOLO FUNDS, INC.'S FIRST INTERROGATORIES was served via email upon the following counsel of record on December 20, 2024:

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7 Dated: December 20, 2024

8 */s/Bradley H. Cohen*

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10 Attorney for the Consumer Financial
11 Protection Bureau
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EXHIBIT 9



****ROUGH**ROUGH**ROUGH****

1 This transcript is a ROUGH DRAFT, UNEDITED,
2 UNCERTIFIED TRANSCRIPT ONLY. It contains the raw output
3 from the court reporter's stenotype machine, translated
4 into English by the court reporter's computer, without
5 the benefit of proofreading. It will contain
6 untranslated steno strokes, mistranslations (wrong
7 words), and misspellings. These and any other errors
8 will be corrected in the final transcript. Since this
9 rough draft transcript has not been proofread, the court
10 reporter cannot assume responsibility for any errors.
11 This rough draft transcript is intended to assist
12 attorneys in their case preparation and is not to be
13 construed as the final transcript. It is not to be read
14 by the witness or quoted in any pleading or for any
15 other purpose and may not be filed with any court.

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08:00:02AM

1

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ROUGHROUGH**ROUGH**

1

BY MR. SWANK:

08:00:02AM

2

Q. My name is Levi Swank I represent the defendant

08:00:02AM

3

SoLo Funds Inc. in the matter captioned CFPB vs. SoLo

08:00:06AM

4

Funds pending in the central district of California.

08:00:12AM

5

Would you please state your name for the record?

08:00:14AM

6

A. Jeffrey Sutorus.

08:00:17AM

7

Q. Sutorus?

08:00:19AM

8

A. Yes.

08:00:20AM

9

Q. Thank you, Mr. Sutorus. You are currently

08:00:20AM

10

employed by the CFPB; is that correct?

08:00:26AM

11

A. Yes.

08:00:28AM

12

Q. How long have you been employed by the CFPB?

08:00:29AM

13

A. About 8 and a half years.

08:00:35AM

14 Q. And during those 8 and a half years have you held
08:00:38AM

15 the same position at the bureau?
08:00:42AM

16 A. I was promoted about a year ago to a senior level
08:00:44AM

17 of the existing position.
08:00:49AM

18 Q. Okay and what position did you hold before you
08:00:53AM

19 were promoted?
08:00:56AM

20 A. Information technologies specialist.
08:00:57AM

21 Q. And about a year ago you were promoted to what
08:00:59AM

22 position?
08:01:04AM

23 A. Senior information technology specialist.
08:01:05AM

24 Q. In connection with that promotion did your job
08:01:08AM

25 responsibilities change at all?
08:01:17AM

2

↑

ROUGHROUGH**ROUGH**

1 A. A little bit. I became more responsible for
08:01:19AM

2 strategy.
08:01:24AM

08:01:26AM 3 Q. What does that mean?

08:01:28AM 4 A. I made strategic decisions for some of the tools

08:01:35AM 5 that we use and internal work flows policies internals

08:01:42AM 6 of our team.

08:01:44AM 7 Q. By tools you use do you mean the information

08:01:49AM 8 technology systems?

08:01:50AM 9 A. Yes.

08:01:51AM 10 Q. And that would be things like email or chat or or

08:01:57AM 11 other systems?

08:01:58AM 12 A. Kind of. I focus more on compliance and legal

08:02:06AM 13 tools.

08:02:07AM 14 Q. And what compliance and legal tools does the

08:02:14AM 15 bureau use within the kind of scope of what you're

08:02:17AM 16 referring to your responsibilities?

08:02:19AM 17 A. Within my responsibilities I admin the Microsoft

08:02:27AM 18 purview portal that's the compliance center for E

19 discovery and on the legal tool side that wide range of

08:02:35AM

20 tools for record review and analysis stuff like
08:02:42AM

21 relativity.
08:02:49AM

22 Q. Understood. So I asked you how your position
08:02:53AM

23 changed when you were promoted about a year ago but I
08:03:01AM

24 forgot to ask you before the promotion when you were
08:03:04AM

25 less responsible than you are currently for strategy
08:03:10AM

3

↑

ROUGHROUGH**ROUGH**

1 what were your primary responsibilities as an
08:03:13AM

2 information technology specialist?
08:03:16AM

3 A. So I would help develop work flows but I wouldn't
08:03:18AM

4 be the approver I developed managed and maintained some
08:03:24AM

5 of these systems by developed it would it's more of a
08:03:31AM

6 develop the implementation but I really develop our own
08:03:39AM

7 in house tools for this whether it's engineering work.
08:03:47AM

8 Q. So by developing or maintaining a system do you
08:03:51AM

08:03:54AM 9 mean adapting that system to the needs of the bureau or

08:03:58AM 10 are are you referring to something else?

08:03:59AM 11 A. No that's that's accurate.

08:04:02AM 12 Q. You also have mentioned a couple of times a

08:04:06AM 13 concept that I'm not really familiar with as a lawyer

08:04:11AM 14 work flows could you explain what what work flows means

08:04:14AM 15 to you in connection with your day to day

08:04:18AM 16 responsibilities?

08:04:19AM 17 A. Work flows for me involve developing a set of

08:04:25AM 18 processes to reach a specific goal it could be a work

08:04:31AM 19 flow for the collection of data from the Microsoft 365

08:04:37AM 20 that the bureau utilizes it could be a processing work

08:04:42AM 21 flow for taking that data through our processing engines

08:04:48AM 22 to make the data ready for review stuff like that.

08:04:51AM 23 Q. Have you ever testified in a deposition before?

08:05:06AM 24 A. No.

25 Q. You are aware that this deposition is taking

08:05:07AM

4

↑

ROUGHROUGH**ROUGH**

08:05:18AM 1 place in in a lawsuit that the bureau has filed the

08:05:23AM 2 Consumer Financial Protection Bureau vs. SoLo Funds; is

08:05:26AM 3 that right?

08:05:26AM 4 A. I am aware.

08:05:30AM 5 Q. Have you had any responsibilities pertaining to

08:05:35AM 6 this matter specifically within the course of your role

08:05:39AM 7 as an information technology specialist?

08:05:43AM 8 A. The only thing I've done on this particular

08:05:48AM 9 matter was attempt to run a set of queries related to

08:05:56AM 10 this matter that's against bureau data.

08:06:04AM 11 Q. Do you have an understanding of what the purpose

08:06:06AM 12 of those queries was?

08:06:08AM 13 A. No.

08:06:08AM 14 Q. Do you recall what those queries were?

08:06:11AM 15 A. Most of them involved the term SoLo but I don't
08:06:21AM 16 recall all of them.
08:06:22AM 17 Q. Do you remember approximately how many queries
08:06:27AM 18 there were?
08:06:29AM 19 A. Maybe a dozen.
08:06:31AM 20 Q. And when did you run these queries?
08:06:39AM 21 A. I started running them Friday yeah this past
08:06:46AM 22 Friday so less than a week ago.
08:06:50AM 23 Q. Friday February 7?
08:06:57AM 24 A. I can verify that. Yes.
08:07:03AM 25 Q. Do you know where whether anyone else at the

5

↑

ROUGHROUGH**ROUGH**

08:07:09AM 1 bureau would have run this type of query before you did?
08:07:14AM 2 A. I'm not aware of anyone else running this query.
08:07:18AM 3 Q. Do you think you would know if someone else had

08:07:22AM 4 run this query before you did?

08:07:23AM 5 A. No not necessarily.

08:07:25AM 6 Q. I'd like to talk a minute about your how you know

08:07:48AM 7 your position kind of fits within the the broader bureau

08:07:55AM 8 organizational structure and I'll just clarify that I'm

08:07:58AM 9 using the terms CFPB and bureau interchangeably I I

08:08:04AM 10 assume you know that those two two I'm using those two

08:08:08AM 11 words interchangeably.

08:08:09AM 12 A. Understood.

08:08:10AM 13 Q. How many other information technology specialists

08:08:17AM 14 or senior information technology specialists are there

08:08:21AM 15 at the bureau?

08:08:22AM 16 A. I don't know if there are any others that would

08:08:30AM 17 hold the same title as for information technology

08:08:36AM 18 specialists I believe there are two other positions that

08:08:40AM 19 qualify in the same type of role I held now that same

08:08:45AM 20 title may be used in other teams but I'm not aware of

21 what their duties may be.
08:08:50AM

22 Q. And what division or department is you know your
08:08:55AM

23 position located in at the bureau?
08:09:04AM

24 A. Well I am under legal technology support team
08:09:07AM

25 which is under enterprise platforms under operations.
08:09:16AM

6

↑

ROUGHROUGH**ROUGH**

1 Q. And how many how many people would you estimate
08:09:28AM

2 are within the legal technology support team?
08:09:34AM

3 A. There are only four federal employees and then
08:09:39AM

4 maybe over a dozen contractors I don't have an exact
08:09:46AM

5 count.
08:09:53AM

6 Q. And if queries had been run related to this
08:09:53AM

7 matter prior to you running them last Friday would you
08:09:56AM

8 suspect that one of the other three federal employees
08:10:01AM

9 employed in the legal technology and support team
08:10:05AM

10 would've run those queries?
08:10:08AM

11 A. No it likely had been one of the contractors.
08:10:10AM

12 Q. Can you name the other federal employee the three
08:10:15AM
13 other federal employees within legal technology support?
08:10:27AM

14 A. Paul Izzett, Shalon Satoris (phonetic) and John
08:10:30AM
15 Mancini.
08:10:41AM

16 Q. And I'm sorry you may have mentioned it mentioned
08:10:41AM
17 it about how many contractors does the bureau have
08:10:50AM
18 working with legal technology and support?
08:10:53AM

19 A. I think it's over a dozen but I don't have the
08:10:56AM
20 exact count.
08:11:00AM

21 Q. What is the name of that contractor?
08:11:00AM

22 A. The primary contractor is info trend.
08:11:04AM

23 Q. Are there other contractors?
08:11:11AM

24 A. I think there are subcontractors under info trend
08:11:15AM
25 but I do not know which subcontractors they are.
08:11:19AM

↑

ROUGHROUGH**ROUGH**

08:11:22AM 1 Q. Okay. Do you have did you develop an

08:11:34AM 2 understanding of the results of the query that you ran

08:11:38AM 3 last Friday pertaining to this matter?

08:11:40AM 4 A. Vaguely.

08:11:44AM 5 Q. Could you tell me everything you know about the

08:11:47AM 6 results?

08:11:47AM 7 A. So the preliminary results were run against well

08:11:54AM 8 the query was run against the entire bureau tenant so

08:11:58AM 9 it's every potential custodian they were very voluminous

08:12:05AM 10 for most of the hits some of them exceeded a million

08:12:09AM 11 records a few of them were in the hundred thousand range

08:12:14AM 12 and then there were a few that were more localized to

08:12:19AM 13 few dozen less than a hundred but I don't recall all the

08:12:26AM 14 details of that my preliminary analysis was the queries

08:12:33AM 15 would need to be edited for them to be useful.

16 Q. And this search or this query that you're
08:12:39AM

17 describing was it simply across an email system or was
08:12:43AM

18 it across other different repositories of records?
08:12:47AM

19 A. This particular set of queries was run across
08:12:51AM

20 just the Microsoft exchange system which includes email
08:12:54AM

21 and teams messages.
08:13:01AM

22 Q. And are email and teams messages are those the
08:13:05AM

23 primary ways that bureau personnel communicate in
08:13:09AM

24 writing?
08:13:14AM

25 A. I couldn't comment on that.
08:13:15AM

8

↑

ROUGHROUGH**ROUGH**

1 Q. Are you involved in the the search for documents
08:13:20AM

2 in connection with other bureau litigation matters?
08:13:26AM

3 A. It depends. Sometimes but generally not.
08:13:31AM

4 Q. In those connections in those instances where
08:13:39AM

5 where you have been involved?

08:13:43AM

6 A. Mm-hmm.

08:13:45AM

7 Q. Have the searches primarily been run across the

08:13:45AM

8 Microsoft exchange server including emails and teams or

08:13:49AM

9 have have searches been run across other repositories of

08:13:54AM

10 documents?

08:13:58AM

11 A. The exchange systems the primary source of

08:13:59AM

12 information generally it depends on the context of the

08:14:02AM

13 matter but share point sites may be included.

08:14:05AM

14 Q. Would it be helpful for me to understand the

08:14:09AM

15 different types of repositories of of documents or

08:14:25AM

16 communications or the systems so we've talked about

08:14:29AM

17 Microsoft exchange and that includes email and teams

08:14:32AM

18 messages you've just mentioned share point are there any

08:14:36AM

19 other systems in systems in which or through which

08:14:40AM

20 documents or communications are are kept or stored at

08:14:47AM

21 the bureau?

08:14:51AM

08:14:52AM 22 A. I do not believe inter bureau communications

08:15:04AM 23 exist outside of that sphere. I think it's really just

08:15:12AM 24 those two points.

08:15:17AM 25 Q. The bureau does not use for example Skype?

9

↑

ROUGHROUGH**ROUGH**

08:15:21AM 1 A. No.

08:15:22AM 2 Q. And I I also assume that the bureau doesn't use T

08:15:32AM 3 chat or Google hang outs?

08:15:34AM 4 A. No not as far as I'm aware no.

08:15:37AM 5 Q. Are there any other messaging systems that that

08:15:41AM 6 you're aware of the bureau bureau personnel using in the

08:15:45AM 7 course of their job responsibilities?

08:15:48AM 8 A. No.

08:15:49AM 9 Q. And you mentioned that email and teams was the

08:15:55AM 10 you know the way or primary way that internal

11 communications at the bureau take place. Are there

08:15:58AM

12 different ways that external communications take place
08:16:03AM

13 communications between bureau personnel and third
08:16:05AM

14 parties not employed by the bureau?
08:16:08AM

15 A. Are you asking if there's any other source or
08:16:11AM

16 primary source.
08:16:16AM

17 Q. I I'll start with primary source. Is there any
08:16:17AM

18 other primary way that those communications take place
08:16:23AM

19 and I'm specifically referring to in writing I know
08:16:27AM

20 there may be oral communications?
08:16:30AM

21 A. When it comes to primary sources I can't really
08:16:33AM

22 comment because I'm not the one doing that work so I
08:16:38AM

23 don't know in that case.
08:16:42AM

24 Q. Have you developed either in connection with this
08:16:43AM

25 matter or just your job responsibilities over the last 8
08:16:46AM

10

↑

ROUGHROUGH**ROUGH**

08:16:51AM 1 years have you developed an understanding of instances

08:16:55AM 2 where bureau personnel use other communications systems

08:17:00AM 3 to communicate with third parties beyond beyond the the

08:17:05AM 4 email and teams within Microsoft?

08:17:10AM 5 A. There's only one other system that I believe can

08:17:14AM 6 be used for that purpose and it's new so it hasn't

08:17:19AM 7 really been used.

08:17:20AM 8 Q. What system is that?

08:17:21AM 9 A. Kite works.

08:17:23AM 10 Q. Kite works?

08:17:24AM 11 A. Kite yeah kite works they're together. It allows

08:17:29AM 12 for secured communications.

08:17:36AM 13 Q. And you said it it it's new and hasn't been used

08:17:45AM 14 you know when when did the bureau when did the bureau

08:17:51AM 15 begin using kite works if if it has used it at all?

08:17:56AM 16 A. Kite works went online I believe about a year ago

17 but it was only authorized for use by one team.

08:18:02AM

18 Q. And and what team was that?

08:18:06AM

19 A. Office of civil rights.

08:18:10AM

20 Q. And is it still only authorized for use by one

08:18:14AM

21 team?

08:18:18AM

22 A. No.

08:18:19AM

23 Q. Is kite works now more going to be used by any

08:18:24AM

24 bureau personnel?

08:18:33AM

25 A. No.

08:18:34AM

11

↑

ROUGHROUGH**ROUGH**

1 Q. Could it be used by any bureau personnel within

08:18:35AM

2 the office of supervision enforcement and fair lending?

08:18:38AM

3 A. No.

08:18:42AM

4 Q. Do you know if it can be used by bureau

08:18:43AM

5 enforcement division attorneys?

08:18:48AM

6 A. Not at this time it cannot.

08:18:51AM

08:18:57AM 7 Q. You also mentioned share point. What type of

08:19:08AM 8 records are kept or maintained on share point?

08:19:12AM 9 A. Share point is the bureaus primary document

08:19:22AM 10 repository so the records that can be found on the share

08:19:28AM 11 point online sites could range from legal documents to

08:19:32AM 12 design documents for information technology teams.

08:19:36AM 13 Q. Speaking with share point is that also the way

08:19:59AM 14 that documents would be kept in the ordinary course of

08:20:05AM 15 business in connection with, you know, say this

08:20:08AM 16 litigation matter they would be kept on share point or

08:20:12AM 17 would they be kept would there be other document

08:20:16AM 18 repositories that might exist that would have

08:20:20AM 19 information relevant to this matter for instance?

08:20:23AM 20 A. The records would be stored as a normal course of

08:20:31AM 21 business in share point online.

08:20:36AM 22 Q. Do you know if that would include things like

23 attorney work product IE a draft of a document to be

08:20:39AM

24 submitted to a court would that be kept in share point
08:20:45AM

25 or would a draft of a document that attorneys are
08:20:48AM

12

↑

ROUGHROUGH**ROUGH**

1 working on be kept on some other system?
08:20:52AM

2 A. I do not know.
08:20:54AM

3 Q. Do you know who might know that that information?
08:21:05AM

4 A. The attorneys.
08:21:09AM

5 Q. Maybe I'll ask them. Other than share point are
08:21:15AM

6 there are there other systems or tools that the bureau
08:21:34AM

7 uses to store documents?
08:21:41AM

8 A. For just the storage of documents no. There
08:21:56AM

9 would be at least to my knowledge at least one other
08:22:13AM

10 source of documents but it's not bureau records it's
08:22:18AM

11 consumer compliance.
08:22:21AM

12 Q. Are those stored in the consumer complaints
08:22:24AM

13 database?
08:22:27AM

14 A. Yes.
08:22:28AM

15 Q. Does the bureau have an internal shared drive?
08:22:28AM

16 A. Not any more that's now share point online.
08:23:07AM

17 Q. When did the transition from an internal share
08:23:11AM
18 drive to to share point online when did that take place?
08:23:19AM

19 A. The initial migrations for some teams completed
08:23:22AM
20 in 2019.
08:23:29AM

21 Q. Are the migrations for all teams at the bureau
08:23:36AM
22 now complete or are they still in progress?
08:23:40AM

23 A. As far as I'm aware they are complete.
08:23:42AM

24 Q. Do you know whether well I'll I'll back up.
08:23:45AM

25 You're you're familiar or know that the bureau has
08:23:59AM

13

↑

ROUGHROUGH**ROUGH**

1 different divisions, right, it has there's a supervision
08:24:02AM

08:24:08AM 2 enforcement and fair lending division, there's

08:24:13AM 3 operations which I think is where where you sit there's

08:24:18AM 4 also research monitoring and regulations and there's

08:24:24AM 5 consumer response and education I believe. You're

08:24:30AM 6 familiar with those different divisions that I just

08:24:33AM 7 named?

08:24:33AM 8 A. Generally yes.

08:24:35AM 9 Q. Do you know whether those divisions have

08:24:42AM 10 different document systems or applications that they use

08:24:47AM 11 to either communicate with each other or third parties

08:24:53AM 12 or store documents? I'm trying to understand whether I

08:24:59AM 13 need to ask all the questions I just asked you for each

08:25:01AM 14 of those divisions or whether your answer is generally

08:25:05AM 15 the same.

08:25:06AM 16 A. I'm not aware of any other storage systems that

08:25:09AM 17 they may use.

08:25:11AM 18 Q. Let's talk a little bit about Microsoft exchange.

19 Do you know the the version of Microsoft exchange that
08:25:30AM

20 the bureau uses?
08:25:33AM

21 A. The bureau subscribes to Microsoft 365 so the
08:25:35AM

22 version of exchange online there is exchange online
08:25:39AM

23 there's not a particular version number associated with
08:25:45AM

24 that that I know of I'm sure there is one but it's a
08:25:49AM

25 cloud platform so it's updated and maintained by
08:25:56AM

14

↑

ROUGHROUGH**ROUGH**

1 Microsoft.
08:26:02AM

2 Q. Got it. And within that environment is it
08:26:04AM

3 possible to search using key words?
08:26:14AM

4 A. Yes.
08:26:18AM

5 Q. Is it also possible to search using proximity
08:26:18AM

6 limiters?
08:26:26AM

7 A. Yes.
08:26:26AM

08:26:26AM 8 Q. And if I gave you a key word let's take SoLo for

08:26:39AM 9 example how long would it take you to just run that

08:26:41AM 10 search I'm not not asking you to review the documents or

08:26:47AM 11 export them or collect them just to purely run the

08:26:50AM 12 search and get hit results?

08:26:52AM 13 A. From start to finish when actually creating the

08:26:58AM 14 search and obtaining the results can vary depending on

08:26:58AM 15 the scope of the search so it was a search for just SoLo

08:27:04AM 16 across the entire tenant it could take several hours for

08:27:06AM 17 it to complete and that's only to give you the count the

08:27:15AM 18 approximated count of results not an export nothing to

08:27:21AM 19 actually review.

08:27:22AM 20 Q. But searches that were narrower would take less

08:27:27AM 21 time?

08:27:27AM 22 A. Yes.

08:27:27AM 23 Q. Have you run searches before in the course of

08:27:41AM 24 your responsibilities that take a few minutes to return

25 hit results?
08:27:44AM

15

↑

ROUGHROUGH**ROUGH**

1 A. Yes.
08:27:46AM

2 Q. Have you run searches in the course of your
08:27:46AM

3 responsibilities that take a few seconds to run to
08:27:48AM

4 return hit results?
08:27:52AM

5 A. Yes.
08:27:54AM

6 Q. I forgot to mention or ask before I forgot to get
08:27:58AM

7 a better understanding of the role that you play in
08:28:17AM

8 running searches or collecting documents so I'll do that
08:28:21AM

9 now. It sounds like one of your day to day
08:28:25AM

10 responsibilities is assisting with the running of
08:28:28AM

11 searches across the bureaus information technology
08:28:34AM

12 systems is that accurate?
08:28:37AM

13 A. No.
08:28:38AM

14 Q. No, okay. Is it accurate to say that you you
08:28:40AM

15 don't assist with running them you actually run the
08:28:46AM

16 searches?
08:28:49AM

17 A. I wouldn't say that it's my day to day
08:28:50AM

18 responsibility but sometimes I would assist and run
08:28:54AM

19 them.
08:28:57AM

20 Q. And do you have the knowledge or experience in
08:28:58AM

21 order to do that?
08:29:07AM

22 A. Yes.
08:29:08AM

23 Q. Is there anyone at the bureau whose whose day to
08:29:09AM

24 day responsibilities would involve running searches
08:29:16AM

25 across the bureaus information technology systems?
08:29:19AM

16

↑

ROUGHROUGH**ROUGH**

1 A. Yes.
08:29:24AM

2 Q. Who would that be?
08:29:25AM

3 A. One of the contractors under DLTST.

08:29:26AM

4 Q. Do you I'll start that over again. Have you ever
08:29:41AM

5 played a role in suggesting changes to searches to make
08:29:46AM

6 them return fewer hits?
08:29:52AM

7 A. Yes.
08:29:55AM

8 Q. Have you done that in connection with the search
08:29:55AM

9 of the queries that you ran last Friday regarding this
08:30:04AM

10 matter?
08:30:07AM

11 A. No.
08:30:08AM

12 Q. And and going back to those queries you had
08:30:09AM

13 mentioned that one of the terms was SoLo. Do you recall
08:30:15AM

14 any of the other terms that were run?
08:30:17AM

15 A. I believe SoLo phones was run something to do
08:30:20AM

16 with small dollar and I don't recall the others but
08:30:29AM

17 there were combinations of SoLo and other terms as well.
08:30:33AM

18 Q. Do you recall if the name Travis Holloway
08:30:38AM

19 (phonetic) was run?
08:30:43AM

20 A. I did not run any names.
08:30:45AM

21 Q. So you don't recall so the name Travis Holloway
08:30:46AM

22 was not run through the query that you performed?
08:30:54AM

23 A. As far as I recall that name was not run.
08:30:58AM

24 Q. And the name Rodney Williams was also not run?
08:31:01AM

25 A. Correct.
08:31:05AM

17

↑

ROUGHROUGH**ROUGH**

1 Q. I have some additional questions regarding
08:31:05AM

2 searching through Microsoft exchange so searching email
08:31:36AM

3 and teams messages. Is it possible to search to run a
08:31:42AM

4 search that's limited to a specific set of custodians?
08:31:49AM

5 A. Yes.
08:31:57AM

6 Q. And would a search that's limited to a specific
08:31:57AM

7 set of custodians would that take less time to run than
08:32:05AM

8 a search that's run across the entire bureau system?
08:32:09AM

9 A. Yes.

08:32:12AM

10 Q. Is it also possible to run a search limited to

08:32:12AM

11 custodians within a particular team or division at the

08:32:37AM

12 bureau so I'll give you an example if I wanted to just

08:32:41AM

13 run a search that only included personnel located within

08:32:44AM

14 the the division called research monitoring and

08:32:52AM

15 regulations could you run a search that's just limited

08:32:55AM

16 to custodians within the division of research monitoring

08:33:00AM

17 and regulations?

08:33:05AM

18 A. I would need each custodian explicitly defined I

08:33:06AM

19 cannot search by just office alone.

08:33:10AM

20 Q. Is that information available to you do you have

08:33:15AM

21 a roster of employees and which divisions they're

08:33:21AM

22 located in?

08:33:26AM

23 A. It is not available to me directly.

08:33:27AM

24 Q. But that's something that you could obtain?

08:33:31AM

25 A. Through the cloud office team yes.

08:33:35AM

↑

ROUGHROUGH**ROUGH**

08:33:38AM 1 Q. And to to run a search that's limited to specific

08:33:50AM 2 custodians would you have to type their names each of

08:33:55AM 3 their names into some search box or would there be a way

08:34:00AM 4 to more systematically upload a list of names that you

08:34:06AM 5 received and run a search across that list without

08:34:09AM 6 having to type in each name individually?

08:34:14AM 7 A. With the existing work flows we would need to

08:34:18AM 8 likely copy and paste each email or name into an entry

08:34:25AM 9 box.

08:34:25AM 10 Q. And you would have to copy and paste them each

08:34:28AM 11 individually?

08:34:29AM 12 A. Yes. As far as I'm aware.

08:34:43AM 13 Q. Do you also have any responsibilities related to

08:34:56AM 14 actually collecting the documents that are returned as a

15 result of a search across the bureaus systems?

08:35:04AM

16 A. Could you repeat that.

08:35:08AM

17 Q. Do you have any responsibilities relating to the

08:35:11AM

18 actual collection of the documents that are returned as

08:35:16AM

19 a result of a search that's been run?

08:35:21AM

20 A. Sometimes.

08:35:24AM

21 Q. And what does that process entail?

08:35:26AM

22 A. It depends on the source within 365. Generally

08:35:30AM

23 it would be to download the records via a Microsoft

08:35:41AM

24 application that utilizes a unique key that corresponds

08:35:50AM

25 to the search query that was run.

08:35:56AM

19

↑

ROUGHROUGH**ROUGH**

1 Q. And once those records are downloaded what is

08:35:58AM

2 what is the bureau's process for migrating those

08:36:10AM

3 documents to a platform that can then be capable of

08:36:18AM

4 reviewing the documents?

08:36:23AM

08:36:25AM 5 A. Once downloaded if the end goal is to review the
08:36:31AM 6 documents within the bureau they would route through the
08:36:35AM 7 team monitor called TST we would process them in our
08:36:40AM 8 processing engine software in accordance to the
08:36:46AM 9 requirements of the requesters generally just whatever
08:36:49AM 10 team needed the records and then they'd be copied to the
08:36:55AM 11 relative platform and be hosted there.

08:36:57AM 12 Q. Once the documents are on relativity do you have
08:37:13AM 13 any have you had any further role with regard to
08:37:17AM 14 reviewing documents or or generating a production of
08:37:21AM 15 documents from relativity?

08:37:24AM 16 A. I do not review but I have assisted in
08:37:30AM 17 productions.

08:37:30AM 18 Q. So let's go back to to the beginning of the
08:37:49AM 19 process let's say you run a search that search may take
08:37:54AM 20 different lengths of time to run depending on how broad
21 the search is and how many documents are returned; is

08:38:00AM

22 that correct?

08:38:03AM

23 A. Yes.

08:38:03AM

24 Q. What is the shortest amount of time that you can

08:38:04AM

25 recall a search taking to run?

08:38:09AM

20

↑

ROUGHROUGH**ROUGH**

1 A. Approximately 30 seconds.

08:38:12AM

2 Q. And then if the doc if you wanted to then

08:38:29AM

3 facilitate review of those documents in a relativity

08:38:33AM

4 platform you would download the documents through the

08:38:37AM

5 process that you mentioned a moment ago; is that

08:38:41AM

6 correct?

08:38:44AM

7 A. Correct.

08:38:44AM

8 Q. And what is the in your experience doing this

08:38:46AM

9 what is the shortest amount of time that it has taken to

08:38:53AM

10 download documents that have returned as a result of a

08:38:58AM

11 query you've run?
08:39:01AM

12 A. To go through all the steps maybe five, ten
08:39:03AM

13 minutes.
08:39:16AM

14 Q. And going back to actually running the search do
08:39:23AM

15 you have a sense of how long the average search would
08:39:33AM

16 take to return hits I know it's going to vary quite a
08:39:36AM

17 lot on the spectrum but I don't know if there's if
08:39:40AM

18 you've kind of developed a sense of what the average
08:39:44AM

19 amount of time it might take to run the search that
08:39:47AM

20 you're typically requested to run or have had
08:39:50AM

21 involvement in running?
08:39:55AM

22 A. It's highly dependent on the source. To run a
08:39:56AM

23 search and it only take 30 seconds that would be me
08:40:02AM

24 against a very small share point site with a small set
08:40:06AM

25 of terms.
08:40:09AM

ROUGHROUGH**ROUGH**

08:40:12AM 1 Q. Would it also take 30 seconds to run a search

08:40:19AM 2 across the email or sorry Microsoft exchange for two or

08:40:26AM 3 three custodians?

08:40:27AM 4 A. Not unless they were very new employees that had

08:40:31AM 5 very little data.

08:40:37AM 6 Q. But you would you would peg the range of the time

08:40:40AM 7 it would take to search from between 30 seconds on the

08:40:45AM 8 low end to several hours on the top end?

08:40:49AM 9 A. In general yeah.

08:40:53AM 10 Q. And now returning to the process by which you

08:40:59AM 11 actually download the documents in order to export them

08:41:05AM 12 to a relativity platform you said on the low end that

08:41:09AM 13 process could take five to ten minutes how long would

08:41:11AM 14 that process take on average?

08:41:15AM 15 A. For just a download of the documents I don't know

08:41:21AM 16 for the average. It's highly dependent on a wide range

17 of variables including the network quality that day.
08:41:27AM

18 Q. Do you have an understanding of how much time it
08:41:32AM

19 might take on the high end if there were a large volume
08:41:37AM

20 of hits that were returned how long it would take to
08:41:40AM

21 download the results?
08:41:44AM

22 A. No. The high end could mean too many things.
08:41:47AM

23 Q. Would it would it I guess let's go back to your
08:41:51AM

24 experience doing this has it ever taken a week to
08:42:01AM

25 download search results that as a result of queries that
08:42:05AM

22

↑

ROUGHROUGH**ROUGH**

1 you've been asked to run or have knowledge were run?
08:42:12AM

2 A. I believe there have been scenarios where it has
08:42:17AM

3 taken at least a week to download the results.
08:42:25AM

4 Q. Are those typical scenarios or outliers?
08:42:30AM

5 A. I would call them outliers.
08:42:34AM

08:42:36AM 6 Q. Is the more typical scenario that it would take a

08:42:42AM 7 few hours to download the results or a few days?

08:42:45AM 8 A. Since it's not my daily role I couldn't really

08:42:53AM 9 say.

08:42:55AM 10 Q. Is that something I'd have to ask the contractors

08:42:59AM 11 about?

08:42:59AM 12 A. Likely.

08:43:00AM 13 Q. Is there anyone else in actually employed by the

08:43:06AM 14 bureau who might have a better understanding of of that

08:43:09AM 15 issue?

08:43:09AM 16 A. I do not believe there's any other team in the

08:43:18AM 17 bureau that regularly runs queries for litigation.

08:43:25AM 18 Q. I meant that's good to know but I meant anyone

08:43:31AM 19 else kind of on your team or within your team who would

08:43:36AM 20 have a better understanding of that you know one of the

08:43:39AM 21 three other people who you mentioned that?

08:43:44AM 22 A. Not for litigation no.

23 Q. Okay. You you mentioned for not for litigation
08:43:46AM

24 other what are the other contacts that you're aware of
08:43:57AM

25 in which searches are being run in the bureau systems?
08:44:00AM

23

↑

ROUGHROUGH**ROUGH**

1 A. FOIA.
08:44:05AM

2 Q. I've experienced that. Based on well I'll I'll
08:44:07AM

3 ask another question about kind of searching within
08:44:26AM

4 sender groups or particular senders. Is there a way to
08:44:31AM

5 to limit a search of of email to emails from someone at
08:44:41AM

6 the bureau to someone outside of the bureau so external
08:44:52AM

7 communications if I wanted to just search external
08:44:56AM

8 communications is that can that be done?
08:45:00AM

9 A. If provided the external domain.
08:45:04AM

10 Q. Okay.
08:45:11AM

11 A. Yes.
08:45:13AM

12 Q. So there isn't a kind of a way through key words
08:45:13AM

13 or you know searching the term external for instance
08:45:19AM

14 that would return that would reliably return external
08:45:24AM

15 communications but not internal communications?
08:45:29AM

16 A. Not in this context.
08:45:32AM

17 Q. What what do you mean in this context?
08:45:34AM

18 A. You could search for external and you'd return
08:45:40AM

19 some results that would have come from external parties.
08:45:43AM

20 Q. Is when there's an external email is are there
08:45:49AM

21 any terms in the subject line or on the email that
08:45:57AM

22 indicate that the email is with an external source?
08:46:01AM

23 A. For incoming emails the system sometimes will
08:46:05AM

24 flag it as an external communication in bound only. I
08:46:12AM

25 do not know the full conditions of how that is flagged.
08:46:22AM

24

↑

ROUGHROUGH**ROUGH**

1 Q. And do you know if if an email from someone at

08:46:28AM

2 the bureau sent to an external source that that the
08:46:38AM

3 external source then replies to would that be also
08:46:42AM

4 designated as as an external email?
08:46:46AM

5 A. I do not know.
08:46:50AM

6 Q. Do you recall ever having been asked to try to
08:46:51AM
7 identify through search parameters external emails only
08:47:07AM

8 as opposed to internal emails?
08:47:11AM

9 A. Yes.
08:47:13AM

10 Q. And how did you go about assessing the
08:47:15AM
11 practicality of of doing that?
08:47:25AM

12 A. Based on knowledge of the domains that were
08:47:26AM
13 associated.
08:47:34AM

14 Q. Would it be possible to run run a search that
08:47:35AM
15 that looked for communications between the CFPBs domain
08:47:50AM
16 and any domain that is not the CFPBs domain like rather
08:47:57AM
17 than rather than providing a full list of every
08:48:03AM

18 potential domain whether you could run it kind of in a
08:48:05AM

19 negative fashion such as that?
08:48:08AM

20 A. It may be possible but that I'd have to run
08:48:10AM

21 research.
08:48:16AM

22 Q. That isn't something you've tried before?
08:48:17AM

23 A. I do not recall.
08:48:21AM

24 Q. Are there any other ways other than what we've
08:48:22AM

25 already talked about that you can think of how you might
08:48:26AM

25

↑

ROUGHROUGH**ROUGH**

1 identify external communications with the bureau only?
08:48:31AM

2 A. It's been completed within relativity post
08:48:35AM

3 collection via domain parcel.
08:48:42AM

4 Q. When emails are sent internally at the bureau is
08:48:47AM

5 it possible to link to the share point?
08:49:14AM

6 A. Could you elaborate.
08:49:19AM

7 Q. Yeah. I'm trying to understand if if when the

08:49:23AM

8 bureau if when bureau staff are attempting to share
08:49:31AM

9 information you know what what one would normally attach
08:49:34AM

10 to an email if instead you know as you may have seen in
08:49:39AM

11 Google docs or some other kind of systems you know
08:49:44AM

12 there's a URL in the document that then you can click on
08:49:48AM

13 but only internal people can actually access. Is that
08:49:53AM

14 is a link like that something that is can be input into
08:49:58AM

15 an email a link a link a link to the share point?
08:50:05AM

16 A. A link to a record or document on share point can
08:50:08AM

17 be attached to an email as a cloud attachment cloud
08:50:15AM

18 attachment being Microsoft terminology for that process.
08:50:18AM

19 Q. And if for a cloud attachment would you have to
08:50:23AM

20 have bureau access to the cloud in order to open the
08:50:29AM

21 attachment or would if the document was just produced
08:50:33AM

22 kind of as it exists would a third-party be able to open
08:50:38AM

23 that attachment?
08:50:42AM

24 A. It depends on how the document is produced.
08:50:43AM

25 Q. So in other words in based on collection or in
08:50:53AM

26

↑

ROUGHROUGH**ROUGH**

1 relativity there are ways to to there are ways through
08:50:57AM

2 the collection process to actually obtain the document
08:51:07AM

3 that's attached through the cloud?
08:51:10AM

4 A. Yes.
08:51:13AM

5 Q. Does does the bureau use list serves or email
08:51:13AM

6 distributions for any purpose?
08:51:41AM

7 A. Yes.
08:51:44AM

8 Q. What's your understanding of when those are used?
08:51:44AM

9 A. Practically any team can request a distribution
08:51:49AM

10 list for a valid reason could be just for team
08:51:59AM

11 communications.
08:52:03AM

12 Q. So it's possible that in connection with a
08:52:06AM

13 particular matter and enforcement there may be a

08:52:12AM

14 distribution list or list serve that's specific to that
08:52:15AM

15 particular matter?
08:52:18AM

16 A. It's technically feasible and I don't know if
08:52:20AM

17 it's in use at that matter though in that way.
08:52:27AM

18 Q. Do you know if one is in use for for this matter
08:52:31AM

19 the CFPB vs. SoLo matter?
08:52:34AM

20 A. I do not.
08:52:39AM

21 Q. Do you have an understanding of how frequently
08:52:40AM

22 distribution lists or list serves are are used at the
08:52:49AM

23 bureau?
08:52:55AM

24 A. Daily.
08:52:55AM

25 Q. And a distribution list for list serve that that
08:52:56AM

27

↑

ROUGHROUGH**ROUGH**

1 could be that could be separately searched would that
08:53:07AM

2 well I'll begin again. Would it be easier to would you
08:53:12AM

08:53:21AM 3 be able to I'll start it over again. Is a is a list

08:53:27AM 4 serve or distribution list is that kind of one email

08:53:32AM 5 domain that that could be searched or to identify

08:53:37AM 6 communications involving the distribution list or list

08:53:42AM 7 serve would you still have to input every member you

08:53:47AM 8 know or at least one of the members emails specific

08:53:49AM 9 email addresses in order to identify documents that have

08:53:52AM 10 been communicating communicated using the list serve?

08:53:57AM 11 A. I could search a distribution list email address.

08:54:04AM 12 Q. Okay. And that would that would return

08:54:09AM 13 communications involving the distribution list?

08:54:15AM 14 A. Correct.

08:54:16AM 15 Q. I'd like to talk and learn a little bit more

08:54:41AM 16 about share point. Can share point be searched using

08:54:48AM 17 key words?

08:54:49AM 18 A. Yes.

19 Q. Can share point be searched using proximity

08:54:50AM

20 limiters?

08:54:58AM

21 A. Yes.

08:54:59AM

22 Q. How is share port how is share point organized

08:55:00AM

23 for example is there a folder structure within a share

08:55:12AM

24 point system?

08:55:19AM

25 A. It depends on the team and the site.

08:55:19AM

28

↑

ROUGHROUGH**ROUGH**

1 Q. Did you say it depends on the team in the site or

08:55:26AM

2 and the site?

08:55:37AM

3 A. And.

08:55:38AM

4 Q. So if someone at the bureau wanted to access the

08:55:46AM

5 share point how would they go about doing that?

08:55:49AM

6 A. If they wanted to access share point they would

08:55:52AM

7 launch a browser and navigate to the share point app or

08:56:04AM

8 directly to a share point site via the URL.

08:56:12AM

08:56:17AM 9 Q. And if someone was navigating to the just the
08:56:31AM 10 share point application not to a specific share point
08:56:36AM 11 site would the share point application then have some
08:56:40AM 12 type of index or search tool that would allow someone to
08:56:45AM 13 further navigate within the share point?

08:56:49AM 14 A. Both. You'd have the option to search and
08:56:52AM 15 there's a directory.

08:56:54AM 16 Q. And what how is the directory at a at a high
08:57:02AM 17 level how is the directory broken down for example if I
08:57:06AM 18 if I wanted to identify documents within you know within
08:57:13AM 19 enforcement would there be an enforcement you know tab
08:57:18AM 20 that I could navigate to or is it not broken down by
08:57:24AM 21 bureau division or team in that way?

08:57:27AM 22 A. It is broken down by division and teams within
08:57:31AM 23 the divisions or offices within the divisions you may
08:57:36AM 24 not have access though it just depends on the user.

25 Q. So you could run a search that's for example

08:57:39AM

29

↑

ROUGHROUGH**ROUGH**

08:57:44AM 1 specific to share point documents within the division of

08:57:50AM 2 research monitoring and regulations?

08:57:52AM 3 A. If you had access to that site and you navigated

08:57:56AM 4 to that site before you ran the search yes.

08:57:59AM 5 Q. And is the same true is the same true on the back

08:58:07AM 6 end IE you're not you know Brad Cohen looking for

08:58:14AM 7 documents you're actually running a search to try

08:58:19AM 8 identify you know documents for purposes of you know

08:58:21AM 9 understanding the number of hits and potentially

08:58:23AM 10 collecting the documents can you go through the same

08:58:27AM 11 process in other words limiting you know limiting your

08:58:32AM 12 search of the share point to particular bureau

08:58:34AM 13 divisions?

08:58:35AM 14 A. Yes.

15 Q. Are there further are there further I guess
08:58:36AM

16 segmentation or foldering on the share point within the
08:58:49AM

17 the different bureau division categories?
08:58:55AM

18 A. A site can be organized with folders or it could
08:58:59AM

19 just be a list of documents an item list.
08:59:10AM

20 Q. Would the different divisions be the ones
08:59:15AM

21 responsible for determining how their documents or or
08:59:23AM

22 how their share point site is organized?
08:59:25AM

23 A. As far as I'm aware.
08:59:28AM

24 Q. Would you expect that a particular litigation or
08:59:31AM

25 enforcement matter would have its own share point site
08:59:40AM

30

↑

ROUGHROUGH**ROUGH**

1 within the supervision enforcement and fair lending
08:59:44AM

2 division share point?
08:59:49AM

3 A. It's own site?
08:59:49AM

08:59:52AM 4 Q. Yes.

08:59:53AM 5 A. No.

08:59:53AM 6 Q. Would it have its own folder?

08:59:56AM 7 A. Potentially.

08:59:57AM 8 Q. And let's I was thinking of those things as

09:00:03AM 9 interchangeably interchangeable in my head what is what

09:00:09AM 10 is your understanding of the difference between a folder

09:00:13AM 11 and a share point site?

09:00:15AM 12 A. Share point site is a specific URL to an

09:00:21AM 13 overarching repository within that repository it can be

09:00:27AM 14 organized by folders.

09:00:28AM 15 Q. Okay. And would it be possible to run key word

09:00:36AM 16 searches and proximity limiter searches within specific

09:00:39AM 17 folders?

09:00:40AM 18 A. Yes.

09:00:42AM 19 Q. And is it also possible to generate within a

09:00:53AM 20 particular share point site is it possible to generate

21 an index of all of the folders within the site?
09:00:56AM

22 A. Yes it should be possible.
09:01:00AM

23 Q. Can we take a five minute break and go off the
09:01:04AM

24 record?
09:01:26AM

25 MR. COHEN: That'd be fine.
09:01:33AM

31

↑

ROUGHROUGH**ROUGH**

1 THE COURT REPORTER: We're now off the
09:01:35AM

2 record.
09:01:37AM

3 (A short recess was taken.)
09:08:42AM

4 THE COURT REPORTER: We're now back on the
09:08:42AM

5 record.
09:08:43AM

6 BY MR. SWANK:
09:08:44AM

7 Q. Mr. Sutorus, I have a few additional questions.
09:08:44AM

8 I'd like to go back to the process that we were talking
09:08:49AM

9 about earlier that we did not complete discussing really
09:08:52AM

09:08:58AM 10 the start to finish process in terms of identifying

09:09:03AM 11 documents through searches all the way up through

09:09:07AM 12 actually generating a production of those documents and

09:09:12AM 13 I believe we left off after discussing the process by

09:09:17AM 14 which documents that are returned as a result of a

09:09:21AM 15 search would be downloaded and discussing the different

09:09:25AM 16 time periods it might take to download documents. Am I

09:09:30AM 17 -- am I correct that the next step if -- if the bureau

09:09:34AM 18 were to want to review the results of a search that had

09:09:39AM 19 been run and review those results in a relativity

09:09:43AM 20 environment the next step after downloading the

09:09:46AM 21 documents would be to migrate those documents to the

09:09:49AM 22 relativity platform; is that correct?

09:09:51AM 23 A. No there's a step in between.

09:09:57AM 24 Q. Okay. What is the step in between?

09:09:59AM 25 A. The documents would be copied to a file share

↑

ROUGHROUGH**ROUGH**

09:10:05AM 1 accessible by the processing engine my team uses to

09:10:09AM 2 process documents.

09:10:11AM 3 Q. And how long does it take generally to copy the

09:10:17AM 4 documents to the file share?

09:10:19AM 5 A. It's highly dependent on the volume.

09:10:22AM 6 Q. Can it take minutes?

09:10:26AM 7 A. If it's a small enough set yes.

09:10:31AM 8 Q. Can it take days?

09:10:32AM 9 A. Yes.

09:10:33AM 10 Q. In your experience do you have a recollection as

09:10:39AM 11 to the longest time period it has taken to upload

09:10:44AM 12 documents to file share in connection with attempting to

09:10:52AM 13 transfer documents returned as a result of a search to

09:10:55AM 14 relativity?

09:10:56AM 15 A. I do not recall the longest time it would've

16 been.
09:11:03AM

17 Q. And once the documents are uploaded to file share
09:11:04AM

18 is is the next step then processing those documents into
09:11:11AM

19 a relativity platform?
09:11:14AM

20 A. It's processing it by the processing engine to
09:11:17AM

21 prep it for relativity.
09:11:20AM

22 Q. And how long does the the processing that you
09:11:22AM

23 just referred to how long does that take?
09:11:27AM

24 A. It's dependent on the volume of the data.
09:11:29AM

25 Q. Can it take minutes?
09:11:32AM

33

↑

ROUGHROUGH**ROUGH**

1 A. For a small enough set yes.
09:11:36AM

2 Q. Can it take days?
09:11:39AM

3 A. It could take weeks.
09:11:40AM

4 Q. Do you have an understanding of the average time
09:11:42AM

5 it takes based on your experience?

09:11:49AM

6 A. It's not my day to day so I do not have an
09:11:53AM

7 estimate of the average.
09:11:58AM

8 Q. Wouldn't taking weeks to process the documents
09:12:00AM

9 would based on your experience which I know is not your
09:12:07AM

10 day to day responsibilities but based on your experience
09:12:11AM

11 would that be an outlier?
09:12:14AM

12 A. Not necessarily.
09:12:16AM

13 Q. Once the documents are processed is there is that
09:12:24AM

14 the same thing as the documents then being visible in
09:12:36AM

15 relativity or is there an additional step between
09:12:39AM

16 processing them to get the documents to relativity?
09:12:42AM

17 A. There's another step.
09:12:46AM

18 Q. Okay. What -- what is that other step?
09:12:49AM

19 A. Once the documents are processed they're exported
09:12:52AM

20 from the processing utility migrated to relativity
09:12:55AM

21 hosting server and then they have to be loaded into
09:13:01AM

22 relativity.
09:13:08AM

23 Q. And how long -- how long does that process take?
09:13:08AM

24 A. It depends on the volume.
09:13:15AM

25 Q. Can it take minutes?
09:13:19AM

34

↑

ROUGHROUGH**ROUGH**

1 A. I would say for getting documents from the
09:13:20AM

2 processing side and hosting relativity minutes would be
09:13:38AM

3 unlikely.
09:13:47AM

4 Q. Is a few hours a better estimate on the the lower
09:13:48AM

5 end of how long it would take?
09:13:54AM

6 A. Given the steps of the process yes.
09:13:56AM

7 Q. And you -- do you have an understanding as to
09:13:59AM

8 what the average time would be?
09:14:04AM

9 A. No.
09:14:07AM

10 Q. And then do you have an understanding of how long
09:14:08AM

11 it would take to actually generate a production from the

09:14:15AM

12 relativity environment once a set of documents was

09:14:18AM

13 identified for production by the bureau?

09:14:21AM

14 A. It depends on the volume.

09:14:24AM

15 Q. Can it take hours?

09:14:26AM

16 A. Yes.

09:14:29AM

17 Q. Could it take minutes?

09:14:30AM

18 A. Unlikely given the process.

09:14:33AM

19 Q. Can it take days?

09:14:37AM

20 A. Yes.

09:14:39AM

21 Q. Can -- in your experience has it ever taken weeks

09:14:40AM

22 to generate a production from relativity?

09:14:45AM

23 A. Yes.

09:14:48AM

24 Q. And how large would the production have to be in

09:14:48AM

25 order for it to take weeks?

09:14:53AM

09:14:55AM 1 A. From my experience several hundred thousands

09:15:05AM 2 records or more.

09:15:07AM 3 Q. And if there were a few thousand records how long

09:15:13AM 4 would you estimate it would take to generate a

09:15:16AM 5 production from relativity?

09:15:17AM 6 A. It depends on the nature of the records.

09:15:20AM 7 Q. Let's say the production size was one gigabyte do

09:15:31AM 8 you have an estimate as to how long it would take to

09:15:34AM 9 generate that type of production from relativity?

09:15:36AM 10 A. If there aren't any issues in that normal

09:15:45AM 11 abnormal circumstances regarding the records within that

09:15:50AM 12 production a couple hours would be sufficient.

09:15:52AM 13 Q. And going back to the the processing step if

09:15:59AM 14 there were one gigabyte of documents that were you know

09:16:04AM 15 the volume of documents was one gigabyte that you

09:16:07AM 16 identify through the queries that were run and that you

17 were attempting to host on the relativity platform how

09:16:10AM

18 long would it take to how long would it take from the
09:16:13AM

19 search process to getting those documents onto the
09:16:19AM

20 relativity platform if it was one gigabyte?
09:16:22AM

21 A. If there weren't any issues if it's more of a
09:16:26AM

22 standard record we're talking into record maybe a few
09:16:33AM

23 megabytes or less in size each then the whole process
09:16:37AM

24 may be accomplished within a day maybe two days.
09:16:45AM

25 Q. And what if what if a hundred gigabytes had been
09:16:50AM

36

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****ROUGH**ROUGH**ROUGH****

1 iden- -- of of let's just say emails a hundred gigabytes
09:17:02AM

2 of emails had been identified through the query that you
09:17:05AM

3 had run how long would it take to get those hundred
09:17:10AM

4 gigabytes from, you know, looking at the results on your
09:17:16AM

5 screen of the search to a relativity environment?
09:17:20AM

6 A. Depends on the nature of the records.
09:17:23AM

09:17:27AM 7 Q. Would you expect a hundred gigabytes to take

09:17:34AM 8 several days to get to the relativity environment?

09:17:37AM 9 A. I would expect it to take several weeks.

09:17:49AM 10 Q. Are you -- are you familiar with the fact that

09:18:02AM 11 the bureau publishes reports and studies on various

09:18:06AM 12 issues?

09:18:07AM 13 A. Generally, yes.

09:18:12AM 14 Q. And, you know, let's say that the bureau was

09:18:17AM 15 conducting a study on a particular issue on the

09:18:20AM 16 SharePoint would -- would it be standard in your

09:18:23AM 17 experience for there to be a folder that's specific to

09:18:26AM 18 that study that has all of the documents or information

09:18:30AM 19 related to it?

09:18:31AM 20 A. I have no knowledge of that.

09:18:33AM 21 Q. Other than SharePoint and -- and email and

09:18:41AM 22 instant messages are you aware of any other and -- and

23 the compliants database are you aware of any other

09:18:44AM

24 repository of -- of documents or system that might have
09:18:48AM

25 information pertaining to a bureau report or study?
09:18:52AM

37

↑

ROUGHROUGH**ROUGH**

1 A. The part of custodians prior to 2019 have
09:18:55AM

2 information stored on an on prem exchange server that is
09:19:11AM

3 in an active decommissioning process.
09:19:19AM

4 Q. Does that only impact -- does that only impact
09:19:27AM

5 communications for departed custodians or does it impact
09:19:38AM

6 documents for nondeparted custodians as well?
09:19:48AM

7 A. Only for custodians that were departed prior to
09:19:55AM

8 2019.
09:19:59AM

9 Q. To your knowledge is there any segregation either
09:20:03AM

10 through Microsoft exchange or on the SharePoint between
09:20:18AM

11 information that's privileged and information that is
09:20:22AM

12 not privileged?
09:20:24AM

13 A. I'm not aware.
09:20:25AM

14 Q. And going back to the SharePoint organization are
09:20:40AM

15 -- are you aware if there's any kind of foldering
09:20:51AM

16 structure or organization that differentiates between
09:20:57AM

17 different products or services that the bureau that the
09:21:03AM

18 bureau regulates so for example a SharePoint site or a
09:21:06AM

19 folder that's specific to pay day lending as opposed to
09:21:11AM

20 mortgage lending?
09:21:16AM

21 A. I'm not aware.
09:21:17AM

22 Q. Would that be something I have to ask the bureau
09:21:20AM

23 people within, you know, the relevant divisions as to
09:21:32AM

24 how they organize their material or would somebody
09:21:37AM

25 within your team know the answer to that?
09:21:41AM

38

↑

ROUGHROUGH**ROUGH**

1 A. My team would not know the answer to that.
09:21:45AM

09:21:47AM 2 Q. Mr. Sutorus, what -- what did you do to prepare

09:22:00AM 3 for todays deposition?

09:22:02AM 4 A. I reviewed some of the latest exchanges to

09:22:11AM 5 Microsoft purview in the compliance folder.

09:22:13AM 6 Q. And when did you do that?

09:22:15AM 7 A. Last night and this morning.

09:22:19AM 8 Q. Other than your conversations if any with

09:22:27AM 9 Mr. Cohen and Mr. Mothander have you had conversations

09:22:32AM 10 with anyone else at the bureau about your testimony

09:22:34AM 11 today?

09:22:35AM 12 A. No.

09:22:35AM 13 Q. When did you first learn that you would be

09:22:44AM 14 providing testimony today?

09:22:45AM 15 A. I was made aware that I may be providing

09:22:51AM 16 testimony I believe Friday. I'd have to double check if

09:22:58AM 17 it was Friday or Thursday but I wasn't made aware that I

09:23:04AM 18 would actually be providing testimony until last night.

19 Q. And did anyone at the bureau authorize your
09:23:08AM
20 appearance today to provide testimony on this matter?
09:23:17AM
21 A. Yes.
09:23:20AM
22 Q. Who was that?
09:23:20AM
23 A. I was told via I don't recall if it was Brad or
09:23:23AM
24 Trish. I -- I don't recall her full name.
09:23:34AM
25 Q. Do you have an understanding of who so your
09:23:39AM

39

↑

ROUGHROUGH**ROUGH**

1 testimony is that Brad or Trish authorized you to appear
09:23:47AM
2 for this deposition today?
09:23:51AM
3 A. Brad or Trish told me we were authorized for the
09:23:54AM
4 deposition today. The authorization would've come from
09:23:59AM
5 someone else.
09:24:02AM
6 Q. Do you know who the authorization would've come
09:24:03AM
7 from?
09:24:06AM

09:24:06AM 8 A. As far as I'm aware all approvals had to go

09:24:10AM 9 through email to I believe it was general counsel I do

09:24:27AM 10 not have their name in front of me now I do not recall

09:24:30AM 11 explicitly who it was.

09:24:32AM 12 Q. And do you have any -- were you told that the --

09:24:37AM 13 the general counsel authorized for your appearance

09:24:40AM 14 today?

09:24:40AM 15 A. It was assumed.

09:24:50AM 16 Q. So you have no personal knowledge of whether the

09:24:53AM 17 general counsel or anyone else at the bureau authorized

09:24:56AM 18 your appearance today?

09:24:57AM 19 A. No.

09:24:58AM 20 Q. Nonetheless I thank you for providing testimony

09:25:20AM 21 today. I know that the bureau is under at least a

09:25:24AM 22 partial stop work order so appreciate your willingness

09:25:28AM 23 to provide this testimony I think it was very helpful.

09:25:34AM 24 Brad and Eric I've concluded the questioning of the

09:25:38AM 25 witness but I -- I do need to develop an understanding

40

↑

ROUGHROUGH**ROUGH**

09:25:42AM 1 as to, you know, who authorized Mr. Sutorus to appear

09:25:48AM 2 and also to develop an understanding if the bureaus

09:25:51AM 3 going to move forward on Friday with the 30(B)(6)

09:25:54AM 4 deposition as I'm sure you can appreciate that requires

09:25:58AM 5 a little bit more preparation than maybe this -- this

09:26:03AM 6 deposition does and I can't be in the position where I

09:26:07AM 7 find out, you know, 7:57 the night before that we're

09:26:13AM 8 moving forward given -- given that I know it will take a

09:26:17AM 9 witness an extensive amount of time to prepare and --

09:26:20AM 10 and me as well so would you be willing to -- would you

09:26:25AM 11 be willing to answer those questions?

09:26:28AM 12 MR. COHEN: We're -- we're willing to -- to

09:26:32AM 13 follow up with you on those -- on those questions

14 afterwards. Obviously we all need to plan for -- for
09:26:38AM

15 the next couple days.
09:26:42AM

16 MR. SWANK: Yeah so I think the record needs
09:26:44AM

17 to reflect that I asked those questions of the bureau
09:26:46AM

18 and the bureau declined to answer them. I do know that
09:26:51AM

19 I am preparing for Fridays deposition and if ultimately
09:26:56AM

20 it, you know, I will need to know today before 5 p.m.
09:27:03AM

21 whether that deposition will go forward or not. If
09:27:10AM

22 ultimately I'm told that it will go forward and I
09:27:13AM

23 prepare for the deposition and it does not go forward I
09:27:16AM

24 will be seeking reimbursement for my attorneys fees in
09:27:19AM

25 connection with preparing for that deposition and we
09:27:23AM

41

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ROUGHROUGH**ROUGH**

1 obviously reserve all rights with the court in the event
09:27:29AM

2 the deposition does not go forward because for the
09:27:34AM

3 reason specified in my letter for Monday that will cause

09:27:38AM

4 prejudice to SoLo Funds. Anything you would like to say
09:27:43AM

5 for the record, Brad.
09:27:47AM

6 MR. COHEN: I -- I -- I will just confirm
09:27:49AM

7 that Mr. Sutorus was authorized to -- to be here today
09:27:52AM

8 and to provide testimony from the -- the general counsel
09:27:58AM

9 or chief legal officer responsible for that decision.
09:28:02AM

10 MR. SWANK: Thank you. I think we can go
09:28:06AM

11 off the record if no one has anything else to say.
09:28:14AM

12 MR. COHEN: Nothing else from the bureau.
09:28:16AM

13 THE COURT REPORTER: And Counsel before we
09:28:22AM

14 go off the record could you please state your transcript
09:28:22AM

15 orders.
09:28:24AM

16 MR. SWANK: May I have a rush of the -- of
09:28:24AM

17 the draft to -- to get that the draft sometime today
09:28:28AM

18 otherwise just standard delivery.
09:28:32AM

19 MR. COHEN: And we'll -- we'll take the rush
09:28:35AM

20 as well.
09:28:40AM

21 THE COURT REPORTER: And standard delivery
09:28:45AM

22 for you as well.
09:28:47AM

23 MR. COHEN: Standard delivery, yes. Thank
09:28:49AM

24 you.
09:28:54AM

25 THE COURT REPORTER: Thank you. We're now
09:28:54AM

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ROUGHROUGH**ROUGH**

1 off the record.
09:28:59AM

2 (Whereupon, the deposition was concluded at
09:28:59AM

3 9:28 a.m.)
09:28:59AM

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EXHIBIT 10

Memorandum of Understanding

Between

the Consumer Financial Protection Bureau,

the Conference of State Bank Supervisors,

and the Other Signatories Hereto

On the Sharing of Information for Consumer Protection Purposes

I. Parties

The Consumer Financial Protection Bureau ("CFPB"), established by the Consumer Financial Protection Act ("CFP Act") (Pub. L. No. 111-203, 12 U.S.C. § 5301 et seq.), is an independent bureau with authority to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws as set forth in the CFP Act.

The Conference of State Bank Supervisors ("CSBS") represents various State authorities (each a "State Regulator") that supervise institutions and other persons engaged in the offering and provision of consumer financial products and services.

II. Purpose

The CFPB and the CSBS and the other signatories hereto (collectively, "the parties") enter into this memorandum of understanding ("MOU") to establish the framework for the parties, consistent with law, to establish and enhance the cooperative relationship between the CFPB and State Regulators contemplated by the CFP Act and to preserve the confidential nature of the information the parties share by and among themselves. This MOU may be referred to as the "Information-Sharing MOU."

III. Definitions

For purposes of this MOU:

"Confidential Supervisory Information" means any information collected or maintained and owned by a party to this MOU which relates to the supervision of, or any enforcement action involving, an institution or other person engaged in the offering or provision of consumer financial products or services. Confidential Supervisory Information includes without limitation any information so designated by the Provider (as hereafter defined), regardless of whether the information had been generated or disclosed by another person.

"MMC" means the Multi-State Mortgage Committee of the CSBS and the American Association of Residential Mortgage Regulators.

“Nonpublic Information” means Confidential Supervisory Information or Personal Information (as hereafter defined), or both.

“Personal Information” means the name, address, or other personally identifiable information relating to any consumer, including without limitation any information so designated by the Provider (as hereafter defined) of the information.

“Provider” or “Recipient” means any party to this MOU that provides or receives Nonpublic Information, as applicable.

IV. Cooperation.

To the extent permitted by applicable law, including but not limited to the Privacy Act (5 U.S.C. 552a) and the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.):

A. Examination Procedures and Related Information. The CFPB and the CSBS will consult with respect to the practices used by the State Regulators in examining providers of consumer financial products and services. For this purpose, the CSBS will endeavor to provide to the CFPB information furnished to it by the State Regulators, the MMC, and/or other relevant multi-state bodies in a mutually agreeable format, regarding the development and implementation of examination processes, including examination manuals, standardized information requests, and onsite and offsite examination procedures (including, but not limited to, procedures for “horizontal” examinations of multiple persons engaged in a similar line of business, procedures used to assess the risks of multi-state mortgage-related entities, the use of compliance examination software, and planned examination schedules).

B. Supervision and Enforcement Cooperation. The parties will work together, to the greatest possible extent, in order to—

- (i) promote consistent standards for compliance examinations;
- (ii) efficiently use resources of the CFPB and the State Regulators, including through the development of a framework for coordinating supervisory activities;
- (iii) promote efficient information sharing between the CFPB and the State Regulators;
- (iv) effectively enforce Federal consumer financial laws and State consumer protection laws; and
- (v) minimize the regulatory burden on providers of consumer financial products and services operating in multiple States.

C. Training. The parties will consult on, exchange information relating to, and/or jointly develop training programs provided to examiners with respect to the standards, procedures, and practices used by the CFPB and State Regulators, respectively, to conduct compliance examinations. In carrying out this paragraph (C), the CFPB and the CSBS shall meet, no less frequently than annually, to discuss developments in training programs for examiners.

D. Confidential Supervisory Information and Personal Information. The parties may exchange Confidential Supervisory Information and Personal Information, including information derived from Confidential Supervisory Information or from consumer complaints. In this regard, the parties will work together as necessary to develop any additional policies and processes for sharing such information to enable them to carry out their respective duties under applicable law, to the extent permitted under applicable law or agreement and in a manner consistent with the purposes described in paragraph B. of this section.

V. Confidentiality.

The Parties agree that all Nonpublic Information obtained by a Recipient from a Provider shall be treated as confidential or proprietary information of, or relating to, a person and shall be protected against unauthorized use or disclosure as follows:

A. Recipient of Nonpublic Information will use such information only for purposes directly related to the planning or exercise of its regulatory, supervisory, or enforcement authority. Except as otherwise permitted under this MOU, a Recipient may not disclose any Nonpublic Information without the prior written approval of the Provider, which shall not be unreasonably denied.

B. Each party agrees to establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the Nonpublic Information provided pursuant to this MOU. These safeguards include:

- (i) restricting access to the Nonpublic Information obtained pursuant to this MOU to only those of its officers, employees, and agents who have a *bona fide* need for such information in planning or carrying out the regulatory, supervisory, or enforcement responsibilities of the party;
- (ii) informing those persons who are provided access to such Nonpublic Information of their responsibilities under this MOU;
- (iii) establishing appropriate physical safeguards for maintaining the confidentiality of the Nonpublic Information; and
- (iv) to the extent that the Nonpublic Information is Personal Information or is information subject to the Privacy Act of 1974, 5 U.S.C. § 552a, taking appropriate steps to protect the Nonpublic Information as required by the Privacy Act and the applicable information security standards.

C. Each party agrees to assert any appropriate legal exemption or privilege available under applicable law to protect Nonpublic Information from public disclosure.

D. Nothing in this MOU shall prevent a party from complying with a legally valid and enforceable order of a State court or a court of the United States or, if compliance is deemed compulsory, a request or demand from a duly authorized committee or one of the established entities of the

United States Senate or House of Representatives, or disclosing Nonpublic Information to the extent required by law.

E. Unless otherwise provided in this MOU, the Recipient shall:

- (i) promptly notify the Provider in writing of any legally enforceable demand or request for Nonpublic Information of the Provider (including, but not limited to, a subpoena, court order, oral question, interrogatory, request pursuant to the Freedom of Information Act or State freedom of information law, or request by the U.S. Government Accountability Office); provide the Provider a reasonable opportunity to respond to the demand or request prior to complying with the demand or request; and assert such appropriate legal exemptions or privileges on behalf of the Provider as the Provider may reasonably request be asserted; and
- (ii) consent to application by the Provider to intervene in any related action for the purpose of asserting and preserving any claims of confidentiality with respect to the Provider's Nonpublic Information.

F. The parties agree that sharing of Nonpublic Information pursuant to this MOU will not constitute public disclosure and in no way constitutes a waiver of confidentiality or of any applicable privileges, including the examination privilege, or waives or alters any provisions of any applicable laws relating to non-public information. The parties expressly reserve all evidentiary privileges and immunities applicable to the information shared under this MOU.

G. Nothing in this agreement is intended to supersede or abrogate any other information sharing and/or confidentiality agreement entered into between any two or more States.

VI. Effect of this MOU.

No provision of this MOU is intended to, and no provision of the MOU shall be construed to, limit or otherwise affect the authority of a party to administer, implement, or enforce any provision of Federal consumer financial law or State consumer protection law.

VII. Term.

This MOU is effective as to any State upon signature by CFPB, CSBS and the applicable State, and will remain in effect until superseded by the signed, mutual agreement of the parties. Any party may withdraw from or otherwise terminate its participation in this agreement not earlier than 30 days after written notice provided to the other parties. Notwithstanding termination of this MOU, Nonpublic Information shared under this MOU shall continue to be treated in accordance with the terms of this MOU and shall not be shared outside the terms of this MOU, except as required by applicable law, or as mutually agreed upon by the parties.

VIII. Amendments.

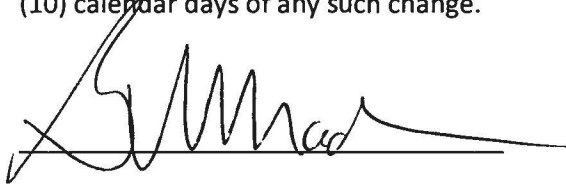
The parties to the MOU may from time to time amend this MOU in writing and such amendment, when executed by the CFPB, the CSBS and the applicable State, shall be applicable to such parties.

IX. Contacts.

As soon as practicable after execution of this MOU, each party will advise the other of the name, title, and contact information, including addresses and telephone and fax numbers, for the appropriate official(s) to contact for purposes of notices and exchanges of information. This contact information will be updated as appropriate.

X. Authority.

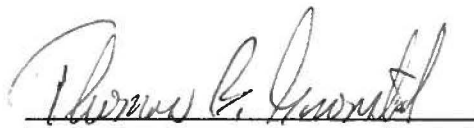
Each party to this MOU has requisite legal authority to enter into this MOU. In the event of any material change to its authority, a party will provide written notification to the other parties within ten (10) calendar days of any such change.



The Department of the Treasury,
acting on behalf of
The Consumer Financial Protection Bureau

1/4/2011

Date



Conference of State Bank Supervisors

1/4/2011

Date

Other Signatories

(State Banking Commissioners or

Other Appropriate State Officials)

Separately Attached

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15 Attorneys for Defendant
16 SOLO FUNDS, INC.

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION – LOS ANGELES

20 CONSUMER FINANCIAL
21 PROTECTION BUREAU,

22 Plaintiff,

23 v.

24 SOLO FUNDS, INC.,

25 Defendant.

Case No. 2:24-cv-04108-RGK-AJR

**[PROPOSED] ORDER GRANTING
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS
AND INTERROGATORY
RESPONSES FROM PLAINTIFF
CONSUMER FINANCIAL
PROTECTION BUREAU**

Date: TBD

Time:

Ctrm: 780 (7th Fl.)

Judge: Hon. A. Joel Richlin

Roybal Federal Building

255 East Temple Street

Los Angeles, CA 90012

[PROPOSED] ORDER

Defendant SoLo Funds, Inc.'s Motion to Compel Production of Document Requests and Interrogatory Responses from Plaintiff Consumer Financial Protection Bureau IS HEREBY GRANTED. Plaintiff is HEREBY ORDERED to do the following, within seven (7) days of this order:

1. That the Bureau conduct a reasonably diligent search for information responsive to DRs 40-46 within the SharePoint site of the Division of Research, Markets, and Regulations, and within the emails of custodians employed by the Division of Research, Markets, and Regulation likely to have responsive information, using keywords and proximity limiters (if necessary), and that the Bureau produce or, if it asserts privilege, log the responsive documents.

2. That the Bureau (i) conduct a reasonably diligent search using keywords and proximity limiters for information responsive to DR 5 within the emails and chats of personnel outside of the Enforcement Division, and within SharePoint, excluding SharePoints belonging to the Enforcement Division, and that the Bureau produce or, if it asserts privilege, log the responsive documents; and (ii) that the Bureau perform reasonable due diligence including speaking to relevant Bureau staff in the Division of Research, Markets, and Regulation, in order to fully respond to ROG 21, and then provide a response.

3. That the Bureau conduct a reasonably diligent search for information responsive to DRs 26-27 and 29 within the SharePoint site of the Division of Research, Markets, and Regulations and Division of Consumer Response and Education, and within the emails of custodians employed by those divisions likely to have responsive information, using keywords and proximity limiters (if necessary), and that the Bureau produce or, if it asserts privilege, log the responsive documents.

4. That the Bureau produce all documents responsive to DR 34 that it withheld on the basis of a purported privilege, and provide a full and complete responsive to ROG 10 notwithstanding its privilege objections.

