

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
COLLIER COUNTY FLORIDA**

File No.: 22-CP-3062

IN RE:

ESTATE OF LYNN E. BAKER

MCPA'S MOTION TO COMPEL DISCOVERY RESPONSE
BY PERSONAL REPRESENTATIVE

Market Central Private Assets, LLC, by and through its Manager, Andrew Zicklin (“MCPA”), moves the Court to compel discovery responses for discovery directed at the Personal Representative of the Estate as follows:

1. On July 17, 2023, MCPA served on the Personal Representative, Lynne Marley Baker, a discovery request, titled First Request for Production to Personal Representative by Market Central Private Assets, LLC [D.E. 173].
2. The Personal Representative’s production response and objections were due on August 16, 2023. See Fla. R. Civ. P. 1.350 and, Fla. R. Jud. Admin. 2.514.
3. As of the filing of this motion, the Personal Representative has failed to produce, respond, or object.
4. The Personal Representative has not requested an extension of time from Movant or from this Court for additional time within which to respond.
5. A party who fails to serve objections in response to a discovery request within 30 days as provided in the Rule, without taking any collateral action to preserve its right to object, waives the right to do so. See Fla. R. Civ. P. 1.380(d)(3) (stating that the failure to respond “may not be excused on the ground that the discovery sought is objectionable”); see also, *Am. Funding v. Hill*, 402 So. 2d 1369, 1370-71 (Fla. 1st DCA 1981); *Don Mott Agency v. Pullum*, 352 So. 2d

107 (Fla. 2d DCA 1977) (as to a waiver of the following objections: “annoyance, embarrassment, oppression, or undue burden or expense”).

6. Pursuant to Florida Rule of Civil Procedure 1.140(b) and (d), it is expressly required that a party file a *timely* motion to quash, or for a protective order, or written objections, in order to limit discovery of documents and materials otherwise within the scope of discovery. *Ins. Co. of N. Am. v. Noya*, 298 So. 2d 836 (Fla. 5th DCA 1981).

7. Defendant has not responded to the production request and should be compelled to do so. Defendant’s failure to timely respond and state objections waives objections.

Good Faith Certification

8. The Movant’s undersigned counsel, Jeffrey Skatoff, hereby certifies that he has attempted to confer with the attorney for the Personal Representative in an attempt to obtain a response to the production request at issue. Those efforts were: (i) a telephone call to the Personal Representative’s attorney on the morning of August 22, 2023, including the leaving of a voice mail message asking for a return call and explaining the purpose of the call, (ii) an email to the Personal Representative on August 22, 2023 at 10:42 a.m. confirming the voice mail message, asking when a response to the production request would be received, and alerting him that the email was an attempt to confer to resolve the issue, and (iii) an email to the Personal Representative on August 23, 2023 at 7:18 a.m. asking when the production would be received, and indicating that the email was another attempt to confer to avoid court action on the lack of a response. No response of any kind was received from the attorney for the Personal Representative as of the filing of this Motion.

WHEREFORE, the Movant requests that this Motion be granted, that the Personal Representative shall be compelled to respond to the production requests, and that Movant be

awarded its fees from the Personal Representative or her attorney personally for the expense incurred in bring this Motion and seeking the relief requested herein.

/s/ Jeffrey Howard Skatoff, Esq. /s/
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day, a true and correct copy of the foregoing has been served via the Florida Courts E-Filing Portal on all persons so appearing.

/s/ Jeffrey Howard Skatoff, Esq. /s/
JEFFREY H. SKATOFF, ESQ.
Florida Bar No. 695211