

1 STATE OF MICHIGAN
2 IN THE 47TH JUDICIAL OF THE COUNTY OF OAKLAND

3 _____
4 MIDLAND FUNDING, LLC, As CASE NO.
5 Assignee of CREDIT ONE BANK, 17-H1884
6 N.A.,

7 Plaintiff/Counter-Defendant

8 VS.

9 DARRIN TUCKER,

10 Defendant/Counter-Plaintiff.
11 _____

12 -----
13 -----
14 -----

15 DEPOSITION OF
16 NICOLE HANKE

17 -----
18 -----
19 -----

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21
22
23
24 Taken April 23, 2018 By Brandi Bigalke, RPR, RSA
25

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 2

1 APPEARANCES:
2 On Behalf of the Plaintiff/Counter-Defendant:
3 Joseph N. Tucker
4 DINSMORE & SHOHL, LLP
5 101 South Fifth Street
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7 Louisville, Kentucky 40202
8 502-540-2300
9 joseph.tucker@dinsmore.com
10
11 On Behalf of the Defendant/Counter-Plaintiff:
12 Brian Parker
13 LAW OFFICES OF BRIAN PARKER, P.C.
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16 West Bloomfield, Michigan 48323
17 248-342-9583
18 brianparker@collectionstopper.com
19
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21
22
23
24
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Page 4

1 THE DEPOSITION OF NICOLE HANKE, is taken
2 on this 23rd day of April, 2018, at Dykema
3 Gossett PLLC, 90 South Seventh Street, 4000 Wells
4 Fargo Center, Minneapolis, Minnesota, commencing
5 at 8:52 a.m.
6
7 NICOLE HANKE,
8 Called as a witness and having been first duly
9 sworn, testifies as follows:
10
11 EXAMINATION
12 BY MR. PARKER:
13 Q. All right. Good morning.
14 A. **Morning.**
15 Q. What is your name for the record?
16 A. **Nicole Hanke.**
17 Q. Has that always been your name?
18 A. **My maiden name is Nicole Zirbel.**
19 Q. Zirbel. How do you spell Zirbel?
20 A. **Z-I-R-B-E-L.**
21 MR. TUCKER: I'm just going to go
22 ahead and get my appearance on the record.
23 MR. PARKER: Oh, okay.
24 MR. TUCKER: Joseph Tucker on
25 behalf of Midland Funding.

Page 3

1 INDEX PAGE
2 EXAMINATION BY PAGE
3 Mr. Parker.....4
4
5 INDEX OF EXHIBITS
6 EXHIBIT 1.....29
7 Summons and Complaint w/attachments
8 EXHIBIT 2.....101
9 Credit One Bank Credit Card Statement
10 w/attachments
11
12
13
14
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16
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Page 5

1 MR. PARKER: Are you on behalf of
2 Midland Funding?
3 MR. TUCKER: Midland Funding, LLC,
4 the --
5 MR. PARKER: Counterclaim or the
6 whole thing?
7 MR. TUCKER: Counter-Defendant.
8 MR. PARKER: Counter-Defendant.
9 But not for Midland Funding --
10 MR. TUCKER: I'm here for this
11 case. How is that? And for this deposition.
12 MR. PARKER: But your appearance
13 was very restrictive between you and Mr. --
14 MR. TUCKER: Michael Stillman and
15 Mimi and I are co-counsel on this case.
16 MR. PARKER: On that --
17 MR. TUCKER: Mimi is primarily
18 handling the collection side of it, and I'm
19 primarily handling the counterclaim that
20 Mr. Tucker, no relation, filed against Midland
21 Funding.
22 MR. PARKER: Off the record.
23 (Off the record.)
24 BY MR. PARKER:
25 Q. My name is Brian Parker. I

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 6

1 represent Mr. Tucker the Defendant and
2 Counter-Plaintiff in this case.
3 You received notice for this
4 deposition; is that correct?
5 **A. Correct.**
6 Q. Have you ever given or been part of
7 a deposition before?
8 **A. No.**
9 Q. All right. I'm sure Mr. Tucker has
10 gone over the ground rules. As far as I know
11 them to be, first and foremost, if you don't
12 understand me, which is going to be a lot because
13 I mumble, then please do not respond. Say I
14 don't understand you, Mr. Parker. Please repeat
15 the question. Or if you just don't understand
16 it, which you're going to say that a lot, because
17 otherwise your response I will believe that you
18 understood my question.
19 Does that make sense?
20 **A. Uh-huh.**
21 Q. All right. So don't be afraid to
22 just say yes or no or I don't understand.
23 However -- whatever comes to your head.
24 If you wanted to just -- I always
25 tell my clients just talk to the court reporter.

Page 7

1 I don't want them looking at the attorney because
2 she's the one that's most important as far as
3 getting down what you have to say.
4 And I have to say this deposition,
5 it's in Minnesota, but we're giving it under the
6 auspices of the Michigan Court Rules, Michigan
7 Rules of Evidence.
8 Have you ever been in Michigan?
9 **A. I have not.**
10 Q. Have not. All right.
11 And you are married; is that
12 correct?
13 **A. Yes.**
14 Q. And you have two kids?
15 **A. Yes.**
16 Q. And you work currently where?
17 **A. At Midland Credit Management.**
18 Q. Is that in Minnesota?
19 **A. Yes.**
20 Q. And what do you do there?
21 **A. I am a legal specialist.**
22 Q. A legal specialist.
23 What is a legal specialist?
24 **A. I validate affidavits for law firms**
25 **that request them.**

Page 8

1 Q. Validate affidavits for law firms
2 that request them.
3 Do you validate them before they
4 request them?
5 **A. No.**
6 Q. So are you saying the affidavit is
7 written before the attorney writes it -- requests
8 it?
9 MR. TUCKER: Go ahead.
10 THE WITNESS: We have templates
11 that are written up and gone through our legal
12 department.
13 BY MR. PARKER:
14 Q. All right. And I just noticed
15 something there, and you're not doing anything --
16 you do enough of these depositions, you see all
17 the silly quirks.
18 Your attorney is to your left.
19 He's not to answer for you. If you don't
20 understand my question, you're going to let me
21 know. He's not to assist you other than to place
22 objections on the record.
23 Is that clear with you?
24 **A. Yes.**
25 Q. You said you were in receipt of my

Page 9

1 deposition notice. When did you receive that?
2 **A. I cannot remember the exact date.**
3 Q. Was it this week?
4 **A. No.**
5 Q. Oh, wait. Today is Monday.
6 Was it last week?
7 **A. I don't believe so.**
8 Q. Week before or a couple of weeks
9 before?
10 **A. Probably somewhere around that**
11 **time.**
12 Q. All right. And then who presented
13 that to you?
14 **A. My general manager brought it to my**
15 **attention.**
16 Q. All right. And what did they ask
17 you to do with it?
18 **A. To go through it, read through it.**
19 Q. All right. And you did that?
20 **A. Uh-huh.**
21 **(Clarification by the court**
22 **reporter.)**
23 THE WITNESS: Yes.
24 BY MR. PARKER:
25 Q. I forgot to tell you that. Sorry.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 10

1 Affirmative responses are necessary so she can
2 either hear you say yes or no. That's good,
3 that's a learning experience. Again, I'm going
4 to help you.
5 I always tell my clients take five
6 seconds before you answer because you might blurt
7 out something you wish you hadn't. That's up to
8 you. So think about if it's a yes or no
9 response, and then that's good for the court
10 record.
11 Did you swear her in?
12 (Affirmed by the court reporter.)
13 BY MR. PARKER:
14 Q. Are you a notary?
15 A. **Yes.**
16 Q. How long have you been a notary?
17 A. **I started at Midland it will be two**
18 **years in May, so a year and a half.**
19 Q. As part of your job you became a
20 notary?
21 A. **Yeah.**
22 Q. All right. So do you -- when you
23 say you validate affidavits, do you also notarize
24 them for whoever validates?
25 A. **Yes.**

Page 11

1 Q. Tell me your entire job.
2 A. **I validate affidavits, I do**
3 **notarize from time to time, and I currently**
4 **mentor.**
5 Q. What does that mean?
6 A. **I help onboard new employees.**
7 Q. Are you a training supervisor or
8 training?
9 A. **More just the mentor. I kind of**
10 **help them get access and start teaching them the**
11 **basics.**
12 Q. They're getting you to do the
13 training without paying you?
14 MR. TUCKER: Objection to the form.
15 THE WITNESS: My --
16 BY MR. PARKER:
17 Q. Who asked you to mentor?
18 A. **I volunteered to mentor.**
19 Q. Why would you do that?
20 A. **Because I enjoy it.**
21 Q. Enjoy mentoring or enjoy the work?
22 A. **I enjoy all of it. I like -- I**
23 **find it rewarding to train people in.**
24 Q. All right. You should get paid for
25 that.

Page 12

1 So you're both a validator and a
2 notary; is that correct?
3 A. **Yes.**
4 Q. And did you raise up your right
5 hand when you swore in today?
6 A. **Yes.**
7 Q. Do you know what that means?
8 A. **That I tell the truth.**
9 Q. All right. To whom are you
10 swearing to?
11 A. **I'm not sure.**
12 Q. So you don't know why you're
13 raising your right hand?
14 A. **Well, just for -- no.**
15 Q. You don't. Even though that's your
16 job is to have the person raise their right hand?
17 MR. TUCKER: Objection to the form.
18 THE WITNESS: They're swearing to
19 me that everything that they just validated is
20 accurate and true to their knowledge.
21 BY MR. PARKER:
22 Q. All right. So do you know why you
23 raise your right hand having gone through the
24 training of being a notary and asking someone to
25 raise their right hand?

Page 13

1 MR. TUCKER: Objection to the form
2 of the question.
3 THE WITNESS: I -- can you rephrase
4 that?
5 BY MR. PARKER:
6 Q. Sure. Why do you ask them to raise
7 their hand?
8 MR. TUCKER: Objection to the form
9 of the question.
10 THE WITNESS: It's just part of the
11 process.
12 BY MR. PARKER:
13 Q. All right. For lack of a better
14 way of saying it, you don't know why you ask them
15 to raise their right hand; is that correct?
16 MR. TUCKER: Objection to the form
17 of the question.
18 BY MR. PARKER:
19 Q. Let me repeat.
20 Is that correct what I'm saying,
21 you don't know why?
22 A. **I -- yeah, I guess I'm not sure how**
23 **to respond to this question.**
24 Q. It's either yes or no.
25 Do you know why you ask them to

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 14

1 raise their hand, or do you not know?
2 MR. TUCKER: Objection to the form.
3 Who do you mean by "you"? You mean -- you're
4 looking at the court reporter. Why does the
5 court reporter --
6 MR. PARKER: No. That's her other
7 job as a notary.
8 MR. TUCKER: I don't know that she
9 said she asks people to raise their right hand.
10 BY MR. PARKER:
11 Q. Do you ask people to raise their
12 right hand and swear?
13 **A. Yes, I do.**
14 Q. And why do you ask them to do that?
15 **A. It's just the process of swearing**
16 **them in.**
17 Q. All right. And do you know why you
18 ask them to do that?
19 **A. No.**
20 Q. No. All right.
21 And why would you ask them to do
22 that if you don't know why you're asking them to
23 do that?
24 **A. I -- I don't know.**
25 Q. Fair enough. Simple.

Page 15

1 Very quickly -- oh, no. Joe,
2 excuse me, Mr. Tucker --
3 MR. TUCKER: You know, you can use
4 Joe. It might be easier in this case.
5 MR. PARKER: Okay, maybe I will.
6 MR. TUCKER: Well, we have the
7 consumer who is Mr. Tucker, I'm Mr. Tucker. If
8 you want to use Joe --
9 MR. PARKER: JT?
10 MR. TUCKER: JT, I go by that.
11 BY MR. PARKER:
12 Q. JT is going to interrupt -- it's
13 going to sound like he's interrupting. He's
14 actually doing his job to lay an objection on the
15 record.
16 And I'm sure he's told you just to
17 stop, wait until he puts his objection, and then
18 talk to the attorney; is that fair?
19 **A. Uh-huh.**
20 Q. All right.
21 MR. TUCKER: Don't forget to say
22 yes or no.
23 (Clarification by the court
24 reporter.)
25 BY MR. PARKER:

Page 16

1 Q. That was my next.
2 All right. In your job, do you
3 just do what they tell you without understanding
4 why you're doing it?
5 **A. No.**
6 Q. No.
7 **A. I guess I didn't realize there was**
8 **a technicality to -- I was just -- that's how**
9 **we -- when they're swearing to me that everything**
10 **that they're signing in front of me is valid,**
11 **that's our notary process.**
12 Q. How do you know they're telling the
13 truth?
14 **A. Because I'm swearing them in and**
15 **they're swearing to the affidavits that they**
16 **validated.**
17 Q. They're swearing to -- that makes
18 them tell the truth?
19 I guess what I'm asking you is how
20 when someone swears, you're a notary and how
21 you're here and raising your -- how do I know
22 you're going to be telling the truth?
23 **A. Because it's a -- it's a crime not**
24 **to.**
25 Q. Not to what?

Page 17

1 **A. Tell the truth.**
2 Q. In a deposition it's a crime?
3 **A. I would assume so.**
4 Q. So you don't know that either?
5 Like I said you're assuming?
6 **A. Sure.**
7 Q. All right. Do you have an ID with
8 you that I may see? And I'm not going to copy it
9 or anything. If you want to cover anything up.
10 MR. TUCKER: While we're still on
11 the record, you can look at her ID to make sure
12 that she is who she says she is, but I'd rather
13 you not --
14 MR. PARKER: Not going to copy.
15 MR. TUCKER: Not going to copy it?
16 Not going to write anything down?
17 MR. PARKER: No.
18 MR. TUCKER: Great.
19 MR. PARKER: I mean, I got to do my
20 job, is this who -- I'm going to touch this.
21 THE WITNESS: Yeah.
22 MR. PARKER: Cool. That's a nice
23 picture. All right. Wow. That's pretty close.
24 MR. TUCKER: What's pretty close?
25 MR. PARKER: The signature.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 18

1 it's -- the variation. I do Calgary. I do all
2 over the place.
3 BY MR. PARKER:
4 Q. Thank you, Ma'am.
5 You said at the beginning you went
6 by Zirbel?
7 **A. My maiden name is Zirbel.**
8 Q. I'm not prying, but how long have
9 you gone by Hanke?
10 **A. Almost nine years.**
11 Q. Whoa. All right.
12 And what is your education?
13 **A. I --**
14 Q. That was a horrible question.
15 Did you graduate high school?
16 **A. Yes.**
17 Q. Did you take any college?
18 **A. I did.**
19 Q. Did you graduate from a college?
20 **A. Yes.**
21 Q. And from where did you graduate?
22 **A. Lake Area Technical Institute in**
23 **Watertown, South Dakota.**
24 Q. South Dakota?
25 **A. Uh-huh.**

Page 19

1 Q. Did you live in South Dakota
2 previously?
3 **A. Yes.**
4 Q. And how long have you lived in
5 Minnesota?
6 **A. Since 2007.**
7 Q. In Rice, Minnesota currently?
8 **A. Yes.**
9 Q. And how long have you lived in
10 Rice?
11 **A. Nine years.**
12 Q. And you've worked at Midland Credit
13 Management for two years?
14 **A. It will be two years in May.**
15 Q. Sorry. And then you've had your
16 notary, ability to swear someone in, I'll look at
17 an affidavit for a year and a half; is that
18 correct?
19 **A. Yes.**
20 Q. What made you get your notary
21 certification?
22 **A. It was a requirement.**
23 Q. For the job?
24 **A. Yes.**
25 Q. But you got the job before you

Page 20

1 got -- or have you had another job previous to
2 that?
3 MR. TUCKER: Objection to the form.
4 BY MR. PARKER:
5 Q. So you came in as a legal
6 specialist?
7 **A. Yes.**
8 Q. And it was required to be
9 notarized -- be a notary?
10 **A. Yes.**
11 Q. But you weren't a notary?
12 **A. I was not a notary when I started**
13 **working at Midland.**
14 Q. And then you waited six months to
15 get your notary?
16 **A. Yeah. It was like three to six...**
17 Q. Even though it was a requirement of
18 the job?
19 MR. TUCKER: Objection to the form.
20 THE WITNESS: We had 90 days.
21 BY MR. PARKER:
22 Q. 90 days?
23 **A. To get our notary, I believe.**
24 Q. All right. And I think you told me
25 everything about the job is to validate

Page 21

1 affidavits, to swear people in that are signing
2 the affidavit; is that correct?
3 **A. Yes.**
4 Q. You haven't been deposed before?
5 **A. No.**
6 Q. Have you ever been sued before?
7 **A. No.**
8 Q. Have you ever sued someone?
9 **A. No.**
10 Q. Have you ever been a witness?
11 **A. No.**
12 Q. You work for Midland Credit
13 Management the whole two years?
14 **A. Yes.**
15 Q. So this fascinates me. How do I
16 put this.
17 Where is Midland Funding, LLC?
18 MR. TUCKER: Objection to the form.
19 THE WITNESS: I am not sure where
20 they are actually located.
21 BY MR. PARKER:
22 Q. All right. Is there a liaison for
23 Midland Funding that you deal with?
24 **A. I don't know.**
25 Q. Who is the person at Midland that

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 22

1 you normally deal with?
2 **A. What do you mean?**
3 Q. Do you do work with Midland
4 Funding, LLC?
5 **A. Midland Funding is our sister**
6 **company to Midland Credit Management.**
7 Q. What does that mean to you, sister
8 company?
9 **A. That they're affiliated. Midland**
10 **Funding owns the accounts, purchases the**
11 **accounts. We service them. Midland Credit**
12 **Management services them.**
13 Q. All right. Midland Funding buys --
14 did you say purchases?
15 **A. Yes.**
16 Q. Accounts?
17 **A. And they own them. Yes.**
18 Q. How do you know they own them?
19 **A. Because it's the company I work**
20 **for.**
21 Q. You don't work for Midland Funding?
22 **A. No, but Midland Credit Management.**
23 **We're entities of -- they're entities.**
24 Q. All right. They are entities.
25 One is the separate companies?

Page 23

1 **A. Yes.**
2 Q. You think they're affiliated even
3 though they're separate entities. So I'm asking
4 about your affiliation.
5 Have you ever been presented with
6 evidence or proof that they own the debts that
7 Midland services?
8 MR. TUCKER: Objection to the form
9 of the question.
10 THE WITNESS: Can you reword that?
11 BY MR. PARKER:
12 Q. Yeah. You said Midland Funding
13 purchases the accounts and owns them.
14 **A. Uh-huh.**
15 Q. Have you ever been presented with
16 proof that they own them?
17 **A. The affidavits I sign call out that**
18 **they are the plaintiff, we are suing on behalf of**
19 **Midland Funding.**
20 Q. Okay. But you don't question that?
21 **A. I don't.**
22 Q. You don't, okay.
23 **A. Because -- yeah.**
24 Q. It's just your job. You just do
25 what they tell you to do?

Page 24

1 **A. No. When I started with the**
2 **company I went through training, and the training**
3 **involved knowing what my documentation was going**
4 **to look like, why Midland Funding is the**
5 **plaintiff, how we are different. They are the**
6 **owners of the debt. We collect and service the**
7 **accounts.**
8 Q. All right. Do you write the
9 affidavits that you sign, validate, or notarize?
10 **A. I do not.**
11 Q. You do not write them.
12 Do you add anything to the
13 affidavits that you validate, sign, or notarize?
14 **A. No.**
15 Q. Other than your signature?
16 **A. Yes.**
17 Q. All right. So the only thing you
18 add to an affidavit as part of your job as a
19 legal specialist is your signature?
20 **A. And a date stamp.**
21 Q. And a date stamp?
22 **A. If it requires a notary, a notary**
23 **stamp.**
24 Q. All right. So you don't add
25 anything to the information?

Page 25

1 **A. No.**
2 Q. No. All right.
3 You may want to think about that
4 five second rule because you were about to --
5 just give me some space for the court reporter.
6 But you do what you want to do.
7 Do you have any other tasks or
8 responsibilities other than the validating, the
9 signing, and the notary -- the notarizing?
10 **A. I help mentor new hires, but.**
11 Q. You volunteer to do that?
12 **A. Yes.**
13 Q. And you get paid for that, your
14 regular pay an hour?
15 **A. Yes.**
16 Q. And how many times a week do you do
17 that?
18 **A. It varies.**
19 Q. How many of these notaries do you
20 do a day?
21 The affidavits, how many of those
22 do you sign a day?
23 **A. That also varies.**
24 Q. What is the cause of the variation?
25 **A. Whether there are attachments. It**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 26

1 **takes longer to validate those, of course, versus**
2 **ones that don't require any media attachments.**
3 Q. All right. So if I hear you
4 correctly, and please correct me if I'm wrong, if
5 you're validating, it takes longer to validate
6 than it does to notarize?
7 MR. PARKER: Objection to the form.
8 THE WITNESS: It does take longer
9 to validate than it does to sign them, yes.
10 BY MR. PARKER:
11 Q. Because?
12 **A. Because I have to go through the**
13 **entire affidavit and read through every point and**
14 **validate that against our records.**
15 Q. All right. And do you sit at a
16 desk?
17 **A. Yes.**
18 Q. In a cubicle?
19 **A. Yeah.**
20 Q. What decides or who decides whether
21 you're going to validate or notarize?
22 MR. TUCKER: Let me just interject
23 something just to make sure that when you're
24 saying validate, you're talking about the actual
25 process of looking at the document and signing in

Page 28

1 validating?
2 **A. That also varies depending on**
3 **requirements that the firms want for the**
4 **affidavit.**
5 Q. So your job is dependant on how
6 many law firms are contacting you for validation?
7 **A. Yes.**
8 Q. So are there days when you just
9 have nothing to do?
10 **A. No, we always have work.**
11 Q. All right. And then but you
12 believe the majority of your day is validating?
13 **A. Validating and I would say**
14 **mentoring.**
15 Q. Mentoring.
16 So when you are sitting at your
17 desk and it's time to validate, let's say you're
18 going to do one validation that day, take me
19 through completely from beginning to end how that
20 occurs.
21 If you want to use this -- I guess
22 we should do some exhibits so we look like we're
23 doing our job here.
24 You know, you refer to the law
25 firm. So what I'm going to do is make this

Page 27

1 front of a notary, and when you're saying
2 notarize you're meaning where she will actually
3 notarize somebody else's signature on an
4 affidavit?
5 BY MR. PARKER:
6 Q. Is that correct?
7 **A. Yes.**
8 Q. All right.
9 MR. TUCKER: I just want to make
10 sure that you guys are on the same page when
11 you're talking about the two different tasks.
12 MR. PARKER: We're way ahead of
13 you.
14 MR. TUCKER: Good. I'm always
15 behind.
16 BY MR. PARKER:
17 Q. So you're at a point where you're
18 at your desk, you're at a cubicle.
19 And how much of your day is
20 validation and how much of your day is
21 notarizing?
22 **A. There are many days I do not**
23 **notarize. That's probably -- the majority of my**
24 **time is validating.**
25 Q. What do you average a day of

Page 29

1 exhibit -- let's do it the right way.
2 Do you want to go off the record
3 for a second.
4 (Off the record.)
5 (Deposition Exhibit 1 was marked
6 for identification.)
7 BY MR. PARKER:
8 Q. I'm going to represent to you
9 Exhibit 1 is 15 pages of a lawsuit that was
10 served on my client. And if you have any
11 information to say that's not the case, please
12 let me know. While you're doing that, I'm going
13 to add the same numbers to my sheets. I also
14 handed it to your counsel.
15 MR. TUCKER: For the record, I'll
16 note that Exhibit Number 1, page number 1 is a
17 Summons, Midland Funding as assignee of Credit
18 One Bank versus Darrin Tucker. Page number 2 is
19 a four-paragraph Complaint. Page number 3 and 4
20 is the Affidavit of Ms. Hanke. And then page
21 number 5 is -- I can't remember what they call
22 this.
23 THE WITNESS: The cover sheet.
24 MR. TUCKER: The cover sheet. Page
25 number 6 is a May 20 Bill of Sale and Assignment.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 30

1 Page number 7 is an April 30 Bill of Sale and
2 Assignment from Credit One Bank to MHC
3 Receivables. Page number 8 is a Bill of Sale and
4 Assignment from MHC Receivables to Sherman
5 Originator.
6 Page number 9 and 10 is an
7 Affidavit of Vicki Scott. Page number 11 is a
8 Certificate of Conformity dated July 16 -- excuse
9 me, July 27, 2016. Page number 12 is another
10 May 20, 2016 Bill of Sale and Assignment signed
11 by Jon Mazzoli, M-A-Z-Z-O-L-I.
12 And page 13 and 14 is an affidavit
13 signed by Mr. Mazzoli on May 27, 2016. And page
14 15 is another Certificate of Conformity dated
15 May 27, 2016.
16 BY MR. PARKER:
17 Q. Have you ever seen Exhibit 1
18 before?
19 **A. No.**
20 Q. When you said that you based upon
21 your request -- a law firm's request, they will
22 send you what?
23 **A. They will send over a transactional**
24 **code that will identify the affidavit that they**
25 **want printed and attached to their complaint.**

Page 31

1 Q. All right. Is that reflected
2 anywhere either on -- is it on your affidavit
3 anywhere, that transactional code?
4 **A. Affidavit of record.**
5 Q. All right. So you're just using
6 your nomenclature, but what you're pointing to is
7 A-F-F-R-E-C-O-R-D?
8 **A. Yes.**
9 Q. And above that looks like a
10 barcode?
11 **A. Yes.**
12 Q. And you're saying they will send --
13 "they" meaning a law firm will send that to whom,
14 you?
15 **A. They'll just send it over to our**
16 **system.**
17 Q. System?
18 **A. Our internal system, yes.**
19 Q. All right. And is it all
20 algorithms?
21 MR. TUCKER: Objection to the form.
22 THE WITNESS: Yes.
23 BY MR. PARKER:
24 Q. So someone will send it to the
25 system, and the system will then -- what will the

Page 32

1 system then do?
2 **A. It just disperses them. It's**
3 **not -- they don't send it over directly to me.**
4 **It goes into our system, and then it populates**
5 **out to all of the appeants.**
6 Q. And who decides whether Nicole
7 Hanke takes it?
8 **A. The system.**
9 Q. I mean is it --
10 **A. It's not anything structure -- it's**
11 **not -- I don't just do affidavit of records. I**
12 **do a variety of different affidavits.**
13 Q. All right. So let's get back to
14 Stillman has sent you for this case an AFF Record
15 barcode to the system, sorry. The system them
16 disperses and populates, or populates and
17 disperses, correct?
18 **A. Uh-huh.**
19 MR. TUCKER: Don't forget to say
20 yes or no.
21 THE WITNESS: Yes.
22 BY MR. PARKER:
23 Q. And then on your computer it pops
24 up, or does it fax and then it comes to you, or
25 is it printed and someone hands it to you?

Page 33

1 How do you get it?
2 **A. It gets printed.**
3 Q. It's printed.
4 And then a person walks it over to
5 your cubicle?
6 **A. Yes.**
7 Q. And generally do they just hand you
8 one, or do they hand you a stack?
9 Or how does that work?
10 **A. It's usually a stack of them.**
11 Q. Stack of them.
12 How many, generally?
13 **A. There's a range. It can be**
14 **anywhere from 1 to, you know, 50, 60. It just**
15 **depends.**
16 Q. And have you done all 50 in one
17 day?
18 **A. It depends.**
19 Q. All right. How many hours of the
20 day do you work?
21 **A. Eight.**
22 Q. Eight hours. From when to when?
23 **A. 7:30 to 4:00.**
24 Q. How many can you generally knock
25 out?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 34

1 Do you understand what I mean when
2 I say "knock out"?

3 **A. I do. It still depends on the**
4 **requirements of the affidavit.**

5 Q. Meaning how much is attached --

6 **A. Yes.**

7 Q. -- to the affidavit you've got to
8 validate?

9 **A. Yes.**

10 Q. So now Stillman has sent the
11 algorithm or sent word, and an algorithm is sent
12 out, it's populated, it's dispersed, it is sent
13 to a printer; is that correct?

14 **A. Yes.**

15 Q. And it's printed, and then a human
16 being hands you either the one or a stack,
17 correct?

18 **A. Correct.**

19 Q. And then I did it.
20 Do you handle a certain region?

21 **A. I do not.**

22 Q. So you can -- you get them from all
23 50 states -- sorry 49 -- 50. Yeah, 50 states?
24 There's still 50 states.
25 50 states?

Page 36

1 Q. So what does Stillman request, and
2 how do you know?

3 **A. Based off of our internal database**
4 **that we reference when we -- when I pull this**
5 **affidavit, it's given a firm ID. So I check that**
6 **firm ID with our system and what Stillman wants.**

7 Q. So there's a general need or is
8 he -- Stillman putting per affidavit what he
9 wants?

10 MR. TUCKER: And just as a point of
11 clarification, Stillman is the Stillman law firm.
12 Michael Stillman may not have been the actual one
13 to request it.

14 MR. PARKER: He wasn't. He
15 actually lives in my neighborhood.

16 MR. TUCKER: I've heard that.

17 BY MR. PARKER:

18 Q. Yeah, Michael didn't request this.
19 We'll assume someone at Stillman law firm. And I
20 will go back to my original question.

21 You have a general need of
22 Stillman, or does Stillman have a request per
23 affidavit?

24 Does Stillman always require
25 certain things attached to the affidavit, or with

Page 35

1 **A. Yes.**

2 Q. Including Minnesota?

3 **A. Yes.**

4 Q. All right. And so you now receive
5 the Exhibit 1, page 3 and page 4.
6 Is that the form that it comes in
7 without the signature?

8 **A. Yes.**

9 Q. What's the best thing to call that?
10 Is that called an AFF Record, or
11 what would you call that?

12 **A. I call it an affidavit.**

13 Q. An affidavit. All right. Because
14 you referenced something -- all right.
15 So you call it an affidavit. It's
16 in a stack or it's alone.
17 And then what makes you decide what
18 your next step is with this stack of affidavits?

19 **A. We have an internal system that**
20 **breaks down our firms and what each firm wants**
21 **attached, if they want attachments, and what they**
22 **want validated against or with this affidavit.**

23 Q. It's dependent on the firm
24 requesting what's attached to the affidavit?

25 **A. Yes.**

Page 37

1 each request is there -- they'll say what they
2 want attached to the affidavit?

3 **A. It depends on the affidavit that**
4 **they send over. They could send over a different**
5 **one that's not an affidavit of record that would**
6 **maybe require attachments.**

7 Q. So depending on the affidavit that
8 you receive, that dictates what's going to be
9 attached?

10 **A. Yes.**

11 Q. And who attaches the stuff to the
12 affidavit?

13 **A. I would attach it.**

14 Q. Based upon what?

15 **A. Based upon --**

16 Q. The type of affidavit?

17 **A. Yes.**

18 Q. So what type of affidavit is that?

19 **A. This is --**

20 Q. On page 3, Exhibit 1?

21 **A. What do you mean?**

22 Q. As opposed to -- you said based
23 upon the type of affidavit, so I'm asking you
24 what type of affidavit is that?

25 **A. This is like an affidavit of**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 38

1 record.
2 Q. All right. So an affidavit of
3 record gets a certain type of document?
4 **A. Yes. And in this case there**
5 **wouldn't be any attachments to this affidavit.**
6 Q. Oh, okay. No attachments to this
7 affidavit.
8 Why is that?
9 **A. Because the affidavit doesn't call**
10 **out attachments.**
11 Q. It doesn't say there's any
12 attachments to it?
13 **A. Correct.**
14 Q. So you will know that by reading
15 it, or there's a certain code that you look at?
16 **A. I would know that by reading it and**
17 **referencing our internal database that breaks**
18 **down what each firm wants. So it's kind of a**
19 **double check.**
20 Q. It's like NASA, you have all these
21 redundancies. If this goes wrong so check this,
22 check this, check this.
23 You've done double checking, and
24 Stillman didn't want anything attached to the
25 affidavit; is that correct?

Page 39

1 **A. Correct.**
2 Q. All right. So in this case
3 Stillman didn't want anything attached to the
4 affidavit, right?
5 **A. Yes.**
6 Q. This is going to be a crazy thing
7 to ask you.
8 Do you recognize that affidavit?
9 **A. Do I remember validating this**
10 **particular affidavit, no.**
11 Q. No. All right.
12 Are you becoming familiar with it
13 now that you're looking at it?
14 **A. Yes.**
15 Q. All right. And what are you
16 noticing or remembering -- what's being refreshed
17 from your review?
18 MR. TUCKER: Objection to the form.
19 THE WITNESS: What do you mean?
20 BY MR. PARKER:
21 Q. Does it remind you of anything in
22 reviewing that?
23 MR. TUCKER: Objection to the form.
24 THE WITNESS: It's our processes.
25 I follow the same process with validating all of

Page 40

1 my affidavits.
2 BY MR. PARKER:
3 Q. And this is one that you validated?
4 **A. Yes.**
5 Q. All right. So you've gone and done
6 your redundancies, you've seen and you've
7 checked.
8 What's your next step after that?
9 **A. After I validated this entire**
10 **affidavit?**
11 Q. No. Forgive me. I asked you --
12 Stillman wants it a certain way. You've checked
13 how he wants -- what he wants attached.
14 Then what's your next step?
15 **A. Then I would go into our affidavit**
16 **management system.**
17 Q. Affidavit management system.
18 AMS? Do they call it AMS?
19 **A. Uh-huh.**
20 MR. TUCKER: Say yes or no.
21 THE WITNESS: Yes or no.
22 Yes.
23 BY MR. PARKER:
24 Q. Do you refer to it as AMS?
25 **A. I do.**

Page 41

1 Q. Is that what it's referred to
2 there?
3 **A. Yes.**
4 Q. Go into the AMS. All right. So
5 I'll try to do that.
6 Before we go any further, there's
7 an M -- is it MI133 Stillman Law Office at the
8 bottom? Do you know what that means?
9 **A. That is our firm -- our firm code**
10 **for them.**
11 Q. A code that you give Stillman?
12 **A. I am not sure how that is all**
13 **populated.**
14 Q. All right. If you saw MI133 but
15 you didn't see Stillman Law Office, would you
16 know it was Stillman?
17 **A. No.**
18 Q. All right. So you only know it's
19 Stillman --
20 **A. Well, I would know that based off**
21 **of our system. But just looking at MI 133,**
22 **without that there, I wouldn't. We work with**
23 **several firms.**
24 Q. All right. So I cut you off. You
25 now have checked the system.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 42

1 You said -- what do you do now?
2 **A. I read through my affidavit.**
3 Q. Okay.
4 **A. And check all the points against**
5 **our affidavit management system.**
6 Q. All right. Affidavit management
7 system. You check off the points. I saw you
8 point. Let's say you pointed to the top of
9 page 3, Exhibit 1.
10 What did you mean when you pointed
11 to it?
12 **A. That the first thing I would check**
13 **is to make sure that I am suing in Michigan.**
14 **That the consumer is in Michigan.**
15 MR. TUCKER: Just as a point of a
16 clarification, you don't mean you were suing in
17 Michigan. You mean a lawsuit will be brought in
18 Michigan?
19 THE WITNESS: Yes.
20 MR. PARKER: Well, that would be my
21 question to ask you. You wouldn't tell her how
22 to testify.
23 MR. TUCKER: Okay. Well, you're
24 correct. But I was saying when she says "I."
25 MR. PARKER: Well, all right.

Page 43

1 Again, if I want to correct it.
2 MR. TUCKER: I just don't want the
3 record to be unclear.
4 BY MR. PARKER:
5 Q. Why is there no county designation
6 in what you're pointing at, the top of the
7 affidavit?
8 **A. I don't know.**
9 Q. How about a case number?
10 **A. I don't know.**
11 Q. But you just want to make sure
12 you've got the right state you're suing in you
13 said; is that correct?
14 **A. Yes. That is one of my checks.**
15 Q. All right. So this affidavit is --
16 it's created for purposes of being attached to a
17 lawsuit; is that correct?
18 **A. Correct.**
19 Q. And that's how you've been trained?
20 **A. Yes.**
21 Q. So Stillman is asking for this
22 before he files a lawsuit?
23 **A. Yes. Them requesting the affidavit**
24 **is just the beginning of the litigation process.**
25 Q. Okay. We're going to get to that

Page 44

1 later.
2 So you said, and correct me if I'm
3 wrong, that your next step is to review the
4 affidavit; is that correct?
5 **A. Correct.**
6 Q. And then what you did, and I
7 pointed it out is you go point by point. And you
8 pointed to the top and I say, hey, what do you
9 mean by that? And you say I want to make sure
10 I'm suing in the right state. And then he
11 corrects you because it's not you suing.
12 What's your next step after you
13 look at the State of Michigan, the top of
14 Exhibit 1, page 3?
15 **A. I read through the entire thing. I**
16 **would check that's correct, that it wouldn't say**
17 **Midland Credit Management.**
18 Q. All right. I didn't video this
19 today. You don't care. But when you point, and
20 Joe will -- you've got to say what you're doing.
21 **A. Okay.**
22 Q. It's a horrible way to do things.
23 **A. Okay.**
24 Q. So you pointed.
25 And what you meant to do, and

Page 45

1 correct me if I'm wrong, is you pointed to make
2 sure that it says say Midland Funding, LLC; is
3 that correct?
4 **A. Yes.**
5 Q. And why is that important to you?
6 **A. Because they own the debt.**
7 Q. And at that point have you seen any
8 indication that they do own the debt?
9 **A. It's just -- we're sisters, we're**
10 **entities, and that's their side of it.**
11 Q. All right. If you don't understand
12 my question, let me know. But that point, it's a
13 yes or no question.
14 Have you seen any indication that
15 Midland Funding as you're starting your
16 validation process owns the debt, Mr. Tucker's
17 debt, Mr. Darrin Tucker's debt?
18 **A. No.**
19 Q. No. All right.
20 So why wouldn't it be Midland
21 Credit Management?
22 **A. Because Midland Credit Management**
23 **services the account.**
24 Q. They never sue?
25 **A. No. No.**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 46

1 Q. Have you ever seen a Midland Credit
2 Management in this case on top of the word
3 "plaintiff" before?
4 **A. Not to my knowledge, no.**
5 Q. No. In the two years you've been
6 doing this?
7 **A. Right.**
8 Q. All right. So your job is to just
9 make sure, correct me if I'm wrong, that the
10 words Midland Funding, LLC are on top of the word
11 "plaintiff"; is that correct?
12 **A. Correct.**
13 Q. And you haven't checked to see if
14 it owns the debt at that point?
15 **A. We can check that against our**
16 **system.**
17 Q. But have you?
18 When you do that you pressed your
19 finger to Midland Funding and you said you had
20 seen no indication that they owned the debt at
21 that point?
22 **A. Well, based off of our internal**
23 **records they would be listed as the plaintiff or**
24 **the --**
25 Q. What did you mean when you said

Page 47

1 "no" when I asked that?
2 **A. I misunderstood --**
3 Q. You did?
4 **A. -- what you were talking about.**
5 Q. All right. So you did check to see
6 that they own the debt? Because before you said
7 you did and they didn't, now you're saying you
8 did check at that point.
9 MR. TUCKER: That's confusing to
10 me.
11 BY MR. PARKER:
12 Q. All right. I'm not going to have
13 her re-read what your answer was to my question.
14 **A. No, I understand.**
15 Q. Let me ask it again.
16 You pressed your finger, because
17 you're going to your internal check. The second
18 thing you check -- the first thing is State of
19 Michigan, and we joked around you're suing. And
20 then second you said I want to make sure I've got
21 the right name.
22 At that point, as I asked you
23 before, have you checked to see if they really do
24 own the debt?
25 **A. I apologize. I misunderstood.**

Page 48

1 **So yes, that is a point that would**
2 **be cross-referenced into our system.**
3 Q. You didn't answer the question.
4 Did you at that point check to see
5 if they owned the debt?
6 **A. Yes.**
7 Q. And how do you do that?
8 **A. Against our affidavit management**
9 **system.**
10 Q. Okay. The AMS?
11 **A. Yes.**
12 Q. What is it you do then?
13 You go into the AMS, or is it open
14 the whole time?
15 **A. Yes.**
16 Q. And it's a computer screen?
17 **A. Yes.**
18 Q. So you have the affidavit in front
19 of you in paper form?
20 **A. Yes.**
21 Q. Are you literally with your finger
22 checking the next step and going and checking the
23 AMS?
24 **A. That's how I do it, yes.**
25 Q. All right. That's what we're doing

Page 49

1 here.
2 So what's the next thing you put
3 your finger on?
4 **A. The Defendant's name.**
5 Q. Which is Darrin Tucker.
6 And then you check AMS to make sure
7 it's the right name?
8 **A. Yes.**
9 Q. All right. And I also noticed
10 under the word "Midland Funding" is the word
11 "plaintiff."
12 What does that mean?
13 **A. That means they are the ones that**
14 **own the debt and they are the ones suing.**
15 Q. They're the ones suing. Okay.
16 Plaintiff means you're suing, okay.
17 And when is that lawsuit filed?
18 **A. This particular lawsuit?**
19 Q. Yes, Ma'am.
20 **A. It was October 16th, I believe.**
21 Q. It should be on page 1.
22 October 16. You were correct. To your left.
23 Bottom under your fingers there.
24 **A. Okay. Yeah. October 16th.**
25 Q. And you signed this?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 50

1 **A. September 21st.**
2 Q. So there was no lawsuit at that
3 point?
4 MR. TUCKER: At what point?
5 BY MR. PARKER:
6 Q. That you signed this?
7 **A. There was not. But the purpose of**
8 **this affidavit is to be attached to the**
9 **complaint.**
10 Q. To a lawsuit?
11 **A. Correct.**
12 Q. So the purpose is litigation?
13 **A. Yes.**
14 Q. All right. But at that point
15 Midland Funding is not a plaintiff. And I asked
16 you had you been sued before.
17 So I can educate you, but they're
18 not a plaintiff until the lawsuit is filed; is
19 that correct?
20 MR. TUCKER: Objection to the form.
21 BY MR. PARKER:
22 Q. If you know. Yes or no.
23 **A. Can you reword that again?**
24 Q. Sure. They're not a plaintiff
25 until there's an actual lawsuit be filed, and you

Page 51

1 agreed that when you signed it there was not a
2 lawsuit.
3 So they're not a plaintiff at that
4 point; is that correct?
5 **A. By the time the consumer would**
6 **receive this affidavit, the account would have**
7 **been sued on.**
8 Q. I agree.
9 **A. It would be attached to the**
10 **complaint.**
11 Q. That could be true. But at the
12 point you sign it, they're not a plaintiff; isn't
13 that correct?
14 You seem to know what a plaintiff
15 is; is that correct?
16 **A. Yes.**
17 Q. But when you sign it, they're not a
18 plaintiff; is that correct?
19 It's a simple question. Either
20 they are or they aren't?
21 **A. At the time that this was signed,**
22 **the complaint had not been filed.**
23 Q. Right. And they weren't a
24 plaintiff, correct?
25 MR. TUCKER: Objection to the form.

Page 52

1 You can go ahead and answer.
2 THE WITNESS: Correct.
3 BY MR. PARKER:
4 Q. Correct.
5 And Mr. Tucker wasn't a defendant
6 at the time that you signed this; is that
7 correct?
8 MR. TUCKER: Objection to the form.
9 THE WITNESS: Correct.
10 BY MR. PARKER:
11 Q. All right. So you agree that
12 they're not plaintiffs and not defendant at that
13 point because it hasn't been served or even
14 filed.
15 If you would, could you go to the
16 page 4. And above your name, what does it say?
17 **A. "I certify under penalty of perjury**
18 **that the foregoing statements are true and**
19 **correct."**
20 Q. Attorneys always yell at me because
21 I ask people about raising their hand. But
22 there's a reason I ask a notary that.
23 That means you've got to tell the
24 truth, correct?
25 **A. Correct.**

Page 53

1 Q. Does it mean that the information
2 you're signing your name to has to be true?
3 **A. Yes.**
4 Q. All right. So far we haven't got
5 down to the information yet, and so far we've
6 discovered that Midland isn't a plaintiff, and
7 Darrin Tucker isn't a defendant at that point; is
8 that correct?
9 **A. Correct.**
10 Q. All right. So let's go back to
11 page 3.
12 And what's your next point that
13 you're checking?
14 **A. My name is spelled correctly.**
15 Q. All right. And do you have a
16 middle initial?
17 **A. I do.**
18 Q. And what's that?
19 **A. J.**
20 Q. For?
21 **A. Jean.**
22 Q. And you don't go by that, so it's
23 never in your signature?
24 **A. No.**
25 Q. All right. And it says your

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 54

1 business address is 16 McLeland Road, Suite 101?
2 **A. Yeah.**
3 Q. Is that where you are, at Suite
4 101?
5 **A. Yes.**
6 Q. How long have you been at Suite
7 101?
8 **A. Almost two years.**
9 Q. Two years.
10 All right. And it's 16 McLeland
11 Road?
12 **A. Yes.**
13 Q. Okay. St. Cloud?
14 **A. Yes.**
15 Q. And it's saying you certify all of
16 this; is that correct?
17 Do you know what that means?
18 **A. That I certified that I validated**
19 **this.**
20 Q. Well, it doesn't say validate. It
21 just says certifies.
22 **A. I interpret it as I'm certifying**
23 **that everything here is true and accurate.**
24 Q. Okay. And so far we've discovered
25 that everything isn't true and accurate.

Page 55

1 Or are you saying everything below
2 that is true and accurate?
3 MR. TUCKER: Objection to the form
4 of the question.
5 THE WITNESS: What do you mean?
6 BY MR. PARKER:
7 Q. All right. So we discovered that
8 Midland is not a plaintiff and Tucker is not a
9 defendant. That's not true and accurate.
10 Are you saying when you certify
11 only the stuff below Nicole Hanke whose business
12 address, et cetera --
13 MR. TUCKER: Same objection.
14 BY MR. PARKER:
15 Q. -- is true and accurate?
16 MR. TUCKER: Same objection to the
17 form of the question.
18 THE WITNESS: The purpose of this
19 affidavit is to be attached to a complaint. By
20 the time the consumer would receive this
21 complaint, it would have been sued on. You can
22 change the wording and say the obligation to be
23 sued upon, and it could have been --
24 BY MR. PARKER:
25 Q. Can I stop you a second. That's

Page 56

1 what he wants you to say. But I haven't got to
2 that yet, if you really want to jump to that.
3 **A. Okay.**
4 Q. Do you want to jump to that now?
5 **A. We can.**
6 Q. All right. We can do that. You're
7 a good listener.
8 So it says you're employed as a
9 legal specialist; is that correct?
10 **A. That is correct.**
11 Q. When your finger runs down the
12 affidavit, is that the next point that you check?
13 **A. Yes.**
14 Q. You already know you're a legal
15 specialist; is that correct?
16 **A. Yes.**
17 Q. Now I've got to jump ahead.
18 You've repeated something a couple
19 of times, twice, that when the consumer you say,
20 but we're talking about Mr. Tucker receives this,
21 then he is a defendant.
22 Do you recall saying something like
23 that?
24 **A. By the time he would receive the**
25 **affidavit and the complaint, yes.**

Page 57

1 Q. Is that something, the way you're
2 saying it, that you believed at the time you were
3 signing this? And remember you're under oath.
4 **A. Yes.**
5 Q. That's exactly how you believed --
6 **A. That this has -- this is the**
7 **purpose of being served with the complaint and**
8 **that the defendant would be the defendant in that**
9 **case, yes.**
10 Q. For the purposes of litigation
11 that's what this affidavit is?
12 **A. Yes.**
13 Q. All right. Okay. You've already
14 testified that you wrote none of this affidavit;
15 is that correct?
16 **A. That is correct.**
17 Q. Okay. All right. So your next
18 finger point is, and correct me if I'm moving too
19 fast, it says, "I am employed as a legal
20 specialist and have access to pertinent account
21 records for Midland Credit, Inc., MCM servicer of
22 this account on behalf of plaintiff."
23 Is that what it says?
24 **A. Yes.**
25 MR. TUCKER: Objection to the form.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 58

1 BY MR. PARKER:
2 Q. You told me what a legal specialist
3 is as far as you're concerned.
4 You're a validator, a notary, and
5 on the side you do mentoring; is that correct,
6 that's your job?
7 **A. That is correct.**
8 Q. Okay. On what date did MCM become
9 a servicer for Midland on this debt?
10 **A. We received this on 5/20/2016.**
11 Q. How do you know that?
12 **A. Based off of the chain of title**
13 **information. And this is information I would**
14 **have validated against our internal database.**
15 Q. All right. Is that another finger
16 where you look and see what date you became a
17 servicer on the AMS?
18 **A. Yes.**
19 Q. And it says that on the screen,
20 same screen, or you've got to move to another
21 screen?
22 **A. No.**
23 Q. It will say --
24 **A. It's on the AMS screen.**
25 Q. And it will say date we became the

Page 60

1 **who we got it from.**
2 Q. And what is it you look at that
3 shows you that?
4 **A. My AMS screen.**
5 Q. I know that. But is it a word, a
6 nomenclature? What tells you when they purchased
7 the debt and became the new owner, as you say?
8 **A. I don't know what to -- my**
9 **affidavit management system.**
10 Q. Yes.
11 **A. It's in there.**
12 Q. But you're looking at it, right?
13 **A. Yes.**
14 Q. It says date we became new owner?
15 **A. No, it lists the -- in this case it**
16 **would have listed Credit One, MHC, Sherman, and**
17 **then Midland, and then the dates of each of those**
18 **transfers or sales.**
19 Q. Specifically what would it say?
20 **A. It would say exactly what I just**
21 **said.**
22 Q. It would say the actual date that
23 they became owners?
24 **A. Yes.**
25 Q. In other words, the date that they

Page 59

1 servicer?
2 **A. No.**
3 Q. Okay. What will it say?
4 **A. It will list out the issuer, you**
5 **know, whatever the chain of title, if the debt**
6 **was sold more than once, which --**
7 Q. All right.
8 **A. -- in this case it was.**
9 Q. You're explaining to me with your
10 fingers. So --
11 MR. TUCKER: Let her.
12 BY MR. PARKER:
13 Q. -- could you be more specific,
14 because I don't understand that.
15 MR. TUCKER: And just as a point.
16 MR. PARKER: I cut her off.
17 MR. TUCKER: Try and let her finish
18 the answer before you start to --
19 BY MR. PARKER:
20 Q. Explain this -- he's right.
21 Explain this to me so I understand
22 what you look at that says they're the servicer
23 for Midland on Darrin Tucker's account.
24 **A. I can see when we became the new**
25 **owners of the account. I can see the date and**

Page 61

1 purchased the debt?
2 **A. Yes.**
3 Q. It would say it, but would it show
4 any documents to prove that?
5 **A. Not on that screen.**
6 Q. All right. So the AMS screen is
7 what you look at?
8 **A. Yes.**
9 Q. To find out whether -- what date
10 the debt was purchased?
11 **A. Yes.**
12 Q. Is that what you did in this case?
13 **A. Yes.**
14 Q. And it had a date next to each
15 entity that purchased the debt?
16 **A. Yes.**
17 Q. All right. And so it doesn't say
18 when Midland Credit Management became the
19 servicer.
20 It's your assumption that Midland
21 Credit Management became the servicer; is that
22 correct?
23 MR. TUCKER: Objection to the form.
24 THE WITNESS: We are sister
25 companies and we do two different things. So

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 62

1 they own it, we still service them.
2 BY MR. PARKER:
3 Q. All right. You've said three times
4 now you're sister companies.
5 Is this another case of you saying
6 something and not really knowing what you're
7 saying, or what does sister company mean to you?
8 MR. TUCKER: Objection to the form.
9 You can answer.
10 THE WITNESS: That we're entities
11 of one another. We each play a part when it
12 comes to these accounts.
13 BY MR. PARKER:
14 Q. All right. You're not sister
15 companies. You're separate entities.
16 **A. Okay.**
17 Q. Are you aware of that?
18 Unless you think they are and you
19 can correct me, but you're separate businesses?
20 Are you trying to tell me we work
21 together?
22 **A. Yes.**
23 Q. All right. And I'm not jousting
24 with you or -- but it kind of means something.
25 Your justification for doing things

Page 64

1 MR. TUCKER: Objection to the form.
2 THE WITNESS: No.
3 BY MR. PARKER:
4 Q. Have you ever visited Midland
5 Funding, LLC?
6 **A. No.**
7 Q. It's going to sound like a wacky
8 thing.
9 How do you know they exist?
10 **A. Because of -- because -- because of**
11 **who I work for. This is just through training,**
12 **it's what I've learned.**
13 Q. Correct me if I'm wrong, your
14 interaction with Midland Funding is all through a
15 computer screen; is that correct?
16 **A. Correct.**
17 Q. Have you ever met anybody from
18 Midland Funding?
19 **A. I have not.**
20 Q. All right. Is it just a computer
21 that buys debts?
22 **A. I am not sure.**
23 Q. Have you ever asked?
24 **A. I have not.**
25 Q. It never occurred to you who is

Page 63

1 is that you work for both companies?
2 MR. TUCKER: Objection to the form.
3 BY MR. PARKER:
4 Q. Do you work for both companies?
5 **A. I do not.**
6 Q. All right. So you recognize
7 they're separate entities?
8 **A. Yes.**
9 Q. Right.
10 And your assumption is because
11 you're sister companies that when Midland Funding
12 buys something, you automatically are the
13 servicer.
14 Is that your assumption?
15 **A. Yes.**
16 Q. And that's based upon what, other
17 than being sister companies?
18 **A. It's based upon being with the**
19 **company and going through the training of the**
20 **company.**
21 Q. All right. So you don't ever talk
22 to Midland Funding; is that correct?
23 **A. Correct.**
24 Q. And have you ever spoken with
25 Midland Funding, LLC?

Page 65

1 this sister company buying these debts?
2 You've never spoken to anybody; is
3 that correct?
4 **A. That's correct.**
5 Q. That's a kind of bad question.
6 Sorry.
7 You've never spoken to anybody at
8 Midland. You've never been to Midland Funding?
9 **A. Correct. I guess I don't know how**
10 **else to explain the relationship.**
11 Q. It's not part of your job really
12 frankly to care who Midland Funding is, your job
13 is to do the affidavits; is that correct?
14 **A. That is correct.**
15 Q. All right. So you have no evidence
16 that Midland Funding exists?
17 MR. TUCKER: Objection to the form
18 of the question.
19 THE WITNESS: I guess in that
20 sense...
21 BY MR. PARKER:
22 Q. Has anybody ever explained to you
23 the process of buying debts and servicing debts?
24 **A. No.**
25 Q. No.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 66

1 **A. Not necessary --**
2 Q. It's going to blow your mind now
3 every time you do one of these things.
4 **A. I'm trying to rethink your question**
5 **before. Can you reword it?**
6 Q. No, if -- do you not understand it?
7 **A. Just --**
8 Q. All right. Sorry. I didn't mean
9 speak rude about the "no." Because now I'm
10 thinking about something.
11 You're working for two people. And
12 correct me if I'm wrong, you're working for
13 Midland Credit Management doing the best job you
14 can, and you're even doing mentoring. You're
15 doing a great job there. You're a good worker
16 for them.
17 Is it true you also work for the
18 law firms that are asking you to do work? Yes or
19 no.
20 MR. TUCKER: Objection to the form.
21 THE WITNESS: Yes. In a sense,
22 yes.
23 BY MR. PARKER:
24 Q. But you're not working for Midland
25 Funding?

Page 67

1 **A. No.**
2 Q. All right. Have you seen any
3 paperwork that says from Midland Funding, hey,
4 Nicole, do this affidavit for us?
5 **A. No.**
6 Q. Have you seen any paperwork from
7 Midland Funding to your bosses or to Midland
8 Credit Management saying go service this account?
9 **A. No.**
10 Q. No authority whatsoever has come
11 from Midland Funding as far as you can tell?
12 **A. Correct.**
13 Q. All right. Again, we talked about
14 the importance of two fingers. One is the finger
15 that you're pointing -- are you right or
16 left-handed?
17 **A. Right.**
18 Q. So you're using your left hand
19 maybe to go down the different sections and
20 paragraphs of the affidavit, and then are you
21 clicking on a mouse to go down the AMS, or is it
22 all on the screen?
23 **A. Yes, I use my left hand to go down**
24 **my affidavit, and then yes, to scroll through my**
25 **screen.**

Page 68

1 Q. All right. Your right finger, your
2 right hand to scroll.
3 Okay. So it's not all there on the
4 screen, you have to go down?
5 **A. Correct.**
6 Q. All right. Have you ever been in a
7 situation where you're doing your job and you're
8 doing it well, and the power goes out?
9 **A. No.**
10 Q. Have you ever been in a situation
11 where your monitor turned off or your computer
12 turned off while you're doing your job?
13 **A. No, not that I know of, no.**
14 Q. If it did, could you go back into
15 the same AMS screen that you were working on?
16 **A. Yes.**
17 Q. Can you print that AMS screen?
18 **A. I've never tried.**
19 Q. All right. Can you get copies of
20 that screen?
21 **A. I honestly don't know.**
22 Q. All right. Have you upgraded or
23 used the same AMS system since you worked there?
24 **A. Yes.**
25 Q. Hasn't changed?

Page 69

1 **A. No.**
2 Q. All right. Your next line -- and
3 I'm sure you're not using your finger the whole
4 time, but it says, "I'm a competent person over
5 18 years of age" on page 3, Exhibit 1. And you
6 make the statements, "Herein based upon personal
7 knowledge of these account records," oh, boy,
8 "maintained on plaintiff's behalf."
9 Is that correct?
10 **A. Correct.**
11 Q. Do you understand what that
12 statement means?
13 **A. That I reviewed the information on**
14 **this account.**
15 Q. What -- who puts together the
16 records for Midland Funding?
17 **A. I am not sure.**
18 Q. You said -- because you say
19 knowledge of those accounts maintained on -- who
20 is maintaining those records on plaintiff's
21 behalf?
22 **A. We are servicing the account.**
23 Q. All right. Are you sure?
24 MR. TUCKER: Just as a point of
25 clarification and for the record, by "we" what

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 70

1 did you mean?
2 MR. PARKER: MCM.
3 THE WITNESS: Yeah.
4 MR. TUCKER: Midland Credit
5 Management.
6 THE WITNESS: Yeah.
7 MR. TUCKER: Okay.
8 BY MR. PARKER:
9 Q. Do you prefer I say MCM or Midland
10 Credit Management?
11 **A. MCM.**
12 Q. MCM, okay.
13 So your personal knowledge of the
14 account records maintained on plaintiff's behalf,
15 who maintains the records on plaintiff's behalf?
16 **A. MCM.**
17 Q. MCM does?
18 **A. Yes.**
19 Q. So your personal knowledge of the
20 records that are maintained by MCM is what it
21 should say?
22 MR. TUCKER: Objection to the form.
23 THE WITNESS: Reword that for me,
24 please.
25 BY MR. PARKER:

Page 71

1 Q. All right. So you have personal
2 knowledge of the account records maintained on
3 plaintiff's behalf?
4 **A. Yes. Because I reviewed those**
5 **records when I validated this affidavit.**
6 Q. And how long had plaintiff had
7 those records when you did that?
8 MR. TUCKER: Objection to the form
9 of the question.
10 THE WITNESS: I'd say since we
11 bought it May 20, 2016.
12 BY MR. PARKER:
13 Q. All right. What records were
14 created by plaintiff?
15 MR. TUCKER: Objection to the form
16 of the question.
17 THE WITNESS: It could have been --
18 BY MR. PARKER:
19 Q. I didn't ask you to --
20 MR. TUCKER: Hold on. Hold on.
21 She was in the middle of a response.
22 MR. PARKER: I apologize. I
23 apologize.
24 THE WITNESS: Records regarding
25 this account would be phone calls made, letters

Page 72

1 sent, those sorts of things.
2 BY MR. PARKER:
3 Q. By MCM on behalf of Midland
4 Funding?
5 **A. Correct.**
6 Q. All right. Do you put those
7 together or create those, or are they already
8 done by somebody?
9 **A. They're done by somebody.**
10 Q. And do you know who?
11 **A. I do not.**
12 Q. Have you ever seen these records
13 put together or maintained or letters sent out?
14 **A. I can see when they've been sent**
15 **out.**
16 Q. But you've never seen the
17 accumulation or compilation or creation of these
18 records?
19 MR. TUCKER: Objection to the form.
20 THE WITNESS: Aside from what our
21 system shows me, no.
22 BY MR. PARKER:
23 Q. That's not your job?
24 **A. Correct.**
25 Q. All right. This affidavit doesn't

Page 73

1 really talk about what your job -- what your
2 duties are as a legal specialist, does it?
3 **A. No. Aside from just me**
4 **reviewing --**
5 Q. Doesn't say that --
6 **A. -- and validating. It says I have**
7 **personal knowledge.**
8 Q. All right. Obviously you're over
9 18, correct?
10 **A. Correct.**
11 Q. So are there records kept on
12 Midland Funding's behalf, and are there records
13 kept on MCM's behalf?
14 **A. I can't say for a fact.**
15 Q. Okay. And the thing you're ready
16 for me for is the next line is, "Plaintiff is the
17 current owner of and/or successor for the
18 obligation sued upon, and was assigned all the
19 rights, title, and interest to Defendant's Credit
20 One Bank account," and then "XXXX77736 here and
21 after the account."
22 Is that what that says?
23 **A. Yes.**
24 MR. TUCKER: Objection to the form.
25 MR. PARKER: What's wrong with it?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 74

1 MR. TUCKER: You misquoted one
2 word.
3 MR. PARKER: Which word?
4 MR. TUCKER: But it's not material.
5 MR. PARKER: But you objected
6 anyway.
7 MR. TUCKER: Well, you said on the
8 line there that starts plaintiff is the current
9 owner of and/or successor, I believe you didn't
10 say the word "to."
11 MR. PARKER: Oh, all right. You're
12 helping me out. To, okay.
13 MR. TUCKER: For.
14 MR. PARKER: Damn, I didn't even
15 know --
16 MR. TUCKER: Regardless. It's not
17 material.
18 BY MR. PARKER:
19 Q. So when you review this, your
20 finger is going down to plaintiff is the current
21 owner. You've already told us that you saw, at
22 least according to the AMS, that plaintiff is the
23 current owner; is that correct?
24 **A. That is correct.**
25 Q. And then and/or successor to, what

Page 75

1 does that mean?
2 **A. That we are the owner of the debt.**
3 Q. What does and/or successor to mean?
4 **A. That we own the debt. That we**
5 **are --**
6 Q. Why not just say we're the owner of
7 and the successor to? Why and/or?
8 **A. I don't know.**
9 Q. All right. But you signed it
10 anyway?
11 **A. To me that means the same thing.**
12 Q. Okay. How were you trained?
13 **A. What do you mean how was I trained?**
14 Q. Did you ask about that during your
15 training, or were you trained about that, why the
16 and/or?
17 **A. I guess it wasn't something that**
18 **I -- like I said, to me it's stating that we are**
19 **the owners of the account.**
20 Q. At the time that you signed this on
21 October -- September 21, 2017, the next line is
22 the obligation sued upon?
23 **A. Correct.**
24 Q. Do you see that?
25 **A. Yeah.**

Page 76

1 Q. What did you mean in September 21st
2 before you met Mr. Tucker?
3 **A. The obligation sued upon is the**
4 **account that's going to be sued upon.**
5 Q. Going to be sued upon?
6 **A. Sued upon.**
7 Q. All right.
8 **A. The -- go ahead.**
9 Q. That is what you were thinking when
10 you were reading that in September 21st?
11 **A. The account being sued upon?**
12 Q. Yeah. Meaning you're under oath,
13 right?
14 **A. Yes.**
15 Q. So you're telling the truth?
16 **A. Yes.**
17 Q. So when you review that on
18 September 21st, what were you thinking about what
19 that meant on September 21st under oath?
20 **A. That this account is sued upon.**
21 Q. Sued upon.
22 Okay. That's -- even though it
23 wasn't sued upon at that point; is that correct?
24 **A. The purpose of this affidavit is to**
25 **be attached to a complaint.**

Page 77

1 Q. Right, Ma'am.
2 But at that point it was not sued
3 upon; is that correct?
4 **A. That is correct.**
5 Q. All right. But it says obligation
6 sued upon.
7 And your belief September 21st was
8 it's going to be sued upon?
9 **A. My belief is that it was sued upon.**
10 Q. It was already sued upon?
11 **A. Well, my belief is that this**
12 **affidavit is printed and given to me to be**
13 **validated with the intent of being attached to a**
14 **complaint.**
15 Q. All right.
16 **A. So by the time the consumer would**
17 **receive this affidavit and the complaint, the**
18 **account will have been sued upon.**
19 Q. When the consumer receives it?
20 **A. Correct.**
21 Q. How about when it's filed with the
22 court, is it sued upon then?
23 MR. TUCKER: Objection to the form.
24 BY MR. PARKER:
25 Q. Is it filed then with the court? I

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 78

1 think you said October 16th.
2 **A. Yes.**
3 Q. He's not served until -- in this
4 case I think he was served in January.
5 So is the obligation sued upon in
6 October 16th when it's actually filed with the
7 court?
8 **A. That would be my -- yes.**
9 Q. All right. So it hasn't been sued
10 upon until it gets -- at least it gets to the
11 court; is that correct?
12 **A. Correct.**
13 Q. All right. And was assigned all
14 rights, title, and interest.
15 What does that mean?
16 **A. That the -- that Midland now owns**
17 **the rights, title, and interest to the**
18 **defendant's Credit One account.**
19 Q. When you -- okay. You may be not
20 doing this, but let's just say you are. Your
21 finger is going down your left hand, you're
22 clicking, scrolling down the AMS screen.
23 Is there anything that you look at
24 that shows that they have obtained all the
25 rights, title, and interest to the Credit One

Page 79

1 Bank account?
2 **A. My electronic records would**
3 **indicate that.**
4 Q. And do you go and look at that to
5 make sure that they -- is that part of your job
6 on every affidavit, when you validate you'll go
7 to the AMS screen and then you'll go to the next
8 screen to make sure they are the owners?
9 MR. TUCKER: Objection to the form
10 of the question.
11 THE WITNESS: Are you talking about
12 the bill of sale in this case, or what exactly
13 are you referring to?
14 BY MR. PARKER:
15 Q. I'm not even there yet.
16 What I'm saying is on every time
17 you validate on every affidavit of record I think
18 you called it, you go to the AMS -- you have to
19 go to the AMS screen?
20 **A. Correct.**
21 Q. Do you always go to make sure that
22 they are the current owner and own specifically
23 the rights, title, and interest?
24 Do you do that on every affidavit?
25 **A. Yes.**

Page 80

1 Q. Why?
2 **A. Because it's -- we're not going to**
3 **sue on an account we don't own.**
4 Q. All right. But you just said
5 Midland says they own it?
6 **A. Midland Credit Management services**
7 **the account. Midland Funding owns it.**
8 Q. Yeah. You just said Midland
9 Funding on your first screen says they own it.
10 And they bought it I think you said 5/20/2016?
11 **A. Correct.**
12 Q. What would make you then -- when
13 it's telling you that Midland owns it even though
14 you don't even know who Midland is --
15 MR. TUCKER: Objection to the form.
16 BY MR. PARKER:
17 Q. All right. What would make you go
18 to the next step to look at the bill of sale when
19 it says in your first sale?
20 MR. TUCKER: Objection to the form.
21 MR. PARKER: I haven't finished.
22 MR. TUCKER: Oh, I'm sorry. Go
23 ahead.
24 BY MR. PARKER:
25 Q. What would make you go to the next

Page 81

1 screen when it already says they own it, what
2 would make you go to the next screen?
3 MR. TUCKER: Objection to the form.
4 THE WITNESS: I did not have to
5 reference bill of sales in this case.
6 BY MR. PARKER:
7 Q. Because?
8 **A. Because it is not called out in the**
9 **affidavit that it needed to be done or attached.**
10 Q. All right. So when Stillman sends
11 whatever code he sends, when we say "he" we mean
12 his law office, he will tell you whether
13 something is going to be attached like the bill
14 of sale.
15 In this case there's something
16 about the code that told you nothing is going to
17 be attached.
18 So in this case you would not have
19 gone to the screen to check to see if they are
20 the -- if they own all the rights, title, and
21 interest; is that correct?
22 MR. TUCKER: Well, that's a really
23 long question. I'm going to object to the form.
24 MR. PARKER: Wait a second.
25 BY MR. PARKER:

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 82

1 Q. Do you understand what I'm saying?
2 **A. Reword it.**
3 Q. You said something very important,
4 and I thank you for that because it will take
5 away all talking.
6 You wouldn't have gone and checked
7 the bill of sale is what you said because it
8 wasn't required of your job in this case,
9 correct?
10 **A. Correct.**
11 Q. You say it wasn't called out is
12 what you said?
13 **A. Yes.**
14 Q. So you didn't check to see if they
15 did own the rights, title, and interest; is that
16 correct?
17 MR. TUCKER: Objection to the form.
18 THE WITNESS: That is incorrect.
19 My AMS screen would reflect when Midland Funding
20 became the owner of the account.
21 BY MR. PARKER:
22 Q. Certainly.
23 But it doesn't say that they own
24 all the rights, title, and interest, or does it?
25 **A. In those words.**

Page 83

1 Q. It just says they're the owner?
2 **A. Correct.**
3 Q. All right. So you have no idea if
4 they were assigned all the rights, title, and
5 interest; is that correct, other than the fact
6 that they're owners? You know they're owners?
7 MR. TUCKER: Objection; compound
8 question.
9 MR. PARKER: About time.
10 MR. TUCKER: Yeah, I'd say so.
11 MR. PARKER: You're being very
12 polite. Thank you.
13 THE WITNESS: I guess I don't
14 understand what you're referring to.
15 BY MR. PARKER:
16 Q. All right. We know what an owner
17 is?
18 **A. Yes.**
19 Q. But you haven't read anything, and
20 it's really lawyer picky, I will admit to that,
21 that says that they own the rights, title, and
22 interest, all you know is that they own
23 something?
24 **A. In this case we own the Darrin
25 Tucker account.**

Page 84

1 Q. All right. You own the account.
2 It isn't important, but a lot of
3 times rights to indebtedness is ownership. It
4 doesn't matter that you don't -- if you go on
5 Google you'll see what I'm saying.
6 So while it may not mean much to
7 you, it's everything in this case.
8 You have not seen anything about
9 what rights or what interests Midland owns,
10 you've only seen that they own an account; is
11 that correct?
12 **A. I guess in my position that is how
13 I would see it, yes.**
14 Q. All right. So you didn't look
15 at -- I already -- you didn't look at any
16 assignment from Credit One to MHC Receivables,
17 from MHC Receivables to Sherman Originator III,
18 LLC from Sherman Originator III, LLC to Midland
19 Funding; is that correct?
20 **A. I did not look at the bill of
21 sales, no.**
22 Q. All right. Okay. So you don't
23 know if they even exist at that point?
24 MR. TUCKER: Objection to the form.
25 BY MR. PARKER:

Page 85

1 Q. On September 21, 2016?
2 MR. TUCKER: Objection to the form.
3 THE WITNESS: I didn't look for
4 them. I have yet to see us not have a bill of
5 sale or affidavit of sale from a --
6 BY MR. PARKER:
7 Q. From any account?
8 **A. From a seller, yeah.**
9 Q. But you didn't look?
10 **A. But I did not look in this case.**
11 Q. All right. So you wouldn't be able
12 to say if there is an assignment?
13 MR. TUCKER: Objection to the form.
14 THE WITNESS: At this time, no.
15 BY MR. PARKER:
16 Q. All right. So if you know, where
17 does Stillman, if it's part of your process,
18 obtain all that stuff to attach to the lawsuit
19 that you have in your hands?
20 MR. TUCKER: Objection to the form.
21 THE WITNESS: I do not know.
22 BY MR. PARKER:
23 Q. You do not know, okay.
24 The records of the bill of sale and
25 all that stuff, you say -- stuff, you can go to a

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 86

1 separate screen to look at them, PDF?
2 **A. Yeah. Are you referring to the**
3 **data sheet?**
4 Q. No.
5 **A. Okay. I'm sorry.**
6 Q. We can get to that. That's okay.
7 Don't apologize to me. You're never going to see
8 me again.
9 So all that stuff, including the
10 data sheet, you have access to on your AMS in
11 another screen?
12 MR. TUCKER: Objection to the form.
13 THE WITNESS: In the different
14 system.
15 BY MR. PARKER:
16 Q. And if Stillman wants it, are they
17 allowed into that system to pull it?
18 **A. I am not sure how they obtain their**
19 **documents.**
20 Q. All right. Is there anything
21 indicating -- page 5, you said that was a cover
22 sheet?
23 **A. So if media is printed --**
24 Q. All right.
25 **A. -- this helps identify the account.**

Page 87

1 Q. All right. I'm old. So when you
2 say if media is printed, what the hell.
3 So explain that to me.
4 **A. Media would be the bill of sale in**
5 **this case. Statements.**
6 Q. Meaning if you print that screen?
7 **A. Yes. And I didn't have anything to**
8 **do with this when I --**
9 Q. I thought you said you didn't
10 know -- oh, you've never printed it, but the
11 screen can be printed?
12 **A. No, no, no, no, no.**
13 MR. TUCKER: Objection to the form.
14 THE WITNESS: Are you referring to
15 AMS?
16 MR. PARKER: Uh-huh.
17 THE WITNESS: No, this isn't from
18 AMS.
19 BY MR. PARKER:
20 Q. That's why I'm asking these
21 questions. You say media.
22 **A. Okay. No. This would be pulled**
23 **from a different systems, not AMS.**
24 MR. TUCKER: Just as a point of
25 clarification, by this can be pulled from a

Page 88

1 different system, she's referring to page 5 of
2 Exhibit 1 which is the cover sheet.
3 BY MR. PARKER:
4 Q. So it's a cover sheet -- for lack
5 of a better way of saying it, it doesn't look
6 like a cover sheet to me.
7 Are you saying -- tell me what you
8 mean.
9 **A. If I receive this cover sheet, this**
10 **would be removed. It calls out the number that**
11 **should be reflected on the affidavit to know that**
12 **they are the records that would go to this if**
13 **they were required, to the affidavit.**
14 Q. What do you mean it should be
15 removed?
16 **A. It's not needed. It's there to**
17 **identify that the media behind it belongs to the**
18 **affidavit.**
19 Q. And in this case it wasn't required
20 or asked for?
21 **A. Correct.**
22 Q. And you don't know why they would
23 attach it anyway?
24 **A. I don't know why they attached it.**
25 Q. And so the page number 5 of

Page 89

1 Exhibit 1 is about 7 inches wide and an inch
2 long; is that correct, the information?
3 **A. Yeah.**
4 Q. Does it look like that as the cover
5 sheet, or is there stuff missing?
6 Is that how the cover sheet looks?
7 It's just almost a white page with that 7 inches
8 by 1 inch horizontal thing?
9 **A. The only purpose of this is to**
10 **identify the account and that we have the correct**
11 **media for this account.**
12 Q. Okay. And then page 6.
13 MR. TUCKER: Just as a point of
14 clarification, I'm having a really hard time
15 reading page 5, the media page.
16 MR. PARKER: That's what they gave
17 me. That's what you guys served on Mr. Tucker.
18 Darrin.
19 MR. TUCKER: Well, through the
20 various copying --
21 MR. PARKER: She seemed to be
22 having no trouble.
23 BY MR. PARKER:
24 Q. All right. So then your next
25 sentence is if you go to page 3 of Exhibit 1 is,

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 90

1 "I have access to and have reviewed the
2 electronic records pertaining to the account
3 maintained by MCM, and I'm authorized to make
4 this affidavit on plaintiff's behalf."
5 Who is authorizing you to make the
6 affidavit on plaintiff's behalf?
7 **A. I would say Midland.**
8 Q. Do you know that for a fact?
9 Attorneys, huh? Do you want me to
10 repeat the question?
11 **A. Yeah.**
12 Q. Who is authorizing you to make the
13 affidavit on plaintiff's behalf? If you don't
14 know, you don't know.
15 **A. I'm just going to say I don't know.**
16 Q. All right. You don't know. So
17 then you don't know if you're authorized to make
18 this on plaintiff's behalf?
19 MR. TUCKER: Objection to the form.
20 BY MR. PARKER:
21 Q. If you don't know?
22 **A. So I am authorized to make this**
23 **affidavit on plaintiff's behalf.**
24 Q. By whom?
25 **A. Through Midland.**

Page 91

1 Q. Midland Funding or MCM?
2 **A. MCM, because Midland Funding does**
3 **not have employees.**
4 Q. All right. Midland Funding -- oh,
5 all right. Let me ask the question again.
6 So you're saying MCM is authorizing
7 you to make this affidavit on plaintiff Midland's
8 behalf; is that correct?
9 **A. Correct.**
10 MR. TUCKER: Brian we've been going
11 for about 90 minutes.
12 (Off the record.)
13 MR. PARKER: Back on the record,
14 please.
15 BY MR. PARKER:
16 Q. And I should have made this clear
17 at the beginning. You can take a break any time
18 you want. Joe did a good thing there. I
19 apologize. You can take a break any time. I'm
20 sure he told you that.
21 All right. So your last response
22 was you think you're authorized by MCM; is that
23 correct?
24 **A. I am authorized. That's my**
25 **understanding of that sentence.**

Page 92

1 Q. All right. And have you seen
2 anything, any writing or anything from Midland
3 Funding authorizing MCM to authorize you to make
4 something on their behalf?
5 **A. I have not seen any writing.**
6 Q. All right. Then the next sentence
7 says, "The account records reviewed consist of
8 data acquired from the seller when plaintiff
9 purchased the account, together with records
10 generated by MCM in connection with servicing the
11 account since the date the account was purchased
12 by plaintiff."
13 Did I say that correctly?
14 **A. You said account records. It's the**
15 **electronic records, but.**
16 Q. Electronic records reviewed, okay.
17 So the records that you reviewed
18 you're saying were acquired from the seller?
19 **A. Yes.**
20 Q. Is that correct?
21 **A. Yes.**
22 Q. And what do you mean when you sign
23 off on that?
24 **A. And they're referring to the AMS**
25 **screen in this case, as well as the data sheet**

Page 93

1 **that I would have referenced.**
2 Q. Oh. So you went to a data sheet as
3 well as AMS. All right.
4 So the electronic reviewed --
5 electronic records reviewed consist of the data
6 acquired from the seller when plaintiff purchased
7 the account. All right.
8 So what data did plaintiff acquire
9 from the seller?
10 **A. In this case we have the seller**
11 **data sheet which is attached. Or is it not**
12 **attached to this one?**
13 Q. It was not attached to the lawsuit.
14 **A. Okay. That's something --**
15 Q. Do you want to see a copy?
16 **A. I know what it looks like. That**
17 **was another validation point.**
18 MR. TUCKER: I'm going to object to
19 the form of this statement that it was not
20 attached to the lawsuit. I'm not sure that's
21 accurate.
22 MR. PARKER: Why is it determined
23 on what you think is accurate?
24 MR. TUCKER: It's not. But you
25 just made a representation there that I believe

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 94

1 is inaccurate, so --
2 MR. PARKER: There was no data
3 sheet.
4 MR. TUCKER: -- I wanted to clarify
5 that for the record.
6 BY MR. PARKER:
7 Q. You can see at the top -- well,
8 okay. You're right.
9 So in answer to my question, what
10 information did the seller give plaintiff when
11 they purchased the account? Let me ask you again
12 the answer -- what is the answer to my question?
13 **A. You're asking what I reviewed?**
14 Q. Uh-uh.
15 **A. Then reword that, please.**
16 Q. All right. The electronic records
17 reviewed consist of the data acquired from the
18 seller when plaintiff purchased the account.
19 Tell me all of the data that --
20 **A. So that would be things like the**
21 **charge-off balance, the last payment made, those**
22 **types of things would be in the -- like my**
23 **affidavit management system.**
24 Q. What you're trying to tell me --
25 MR. TUCKER: Hold on. I don't know

Page 95

1 if she was finished.
2 THE WITNESS: That would be things
3 that I would -- that would be brought into our
4 electronic system.
5 BY MR. PARKER:
6 Q. From where?
7 **A. From a file that was sent over from**
8 **the seller.**
9 Q. From the seller. And so when you
10 say data acquired from a seller, are you
11 referring to everything that the seller gave
12 plaintiff?
13 **A. I would be referring to what I can**
14 **see on my AMS screen.**
15 Q. Okay.
16 **A. As well as the data sheet in this**
17 **case.**
18 Q. All right. So you'd go to your AMS
19 screen and the data sheet as you say.
20 Would that be on another AMS
21 screen?
22 **A. It would be on a -- brought up as a**
23 **PDF.**
24 Q. PDF?
25 **A. Yeah.**

Page 96

1 Q. And who has created the AMS screen
2 and the PDF?
3 **A. The AMS is electronic. What was**
4 **sent over gets integrated into our affidavit**
5 **management system.**
6 Q. By plaintiff, the seller, or MCM?
7 **A. I am not certain of that.**
8 Q. All right. So you don't know how
9 it's created. Okay.
10 And the PDF, does that come from a
11 creation of the seller, MCM, or Midland?
12 **A. The seller.**
13 Q. The seller creates that.
14 **A. Well, yeah.**
15 Q. Yes or no?
16 **A. Yes.**
17 Q. Yes. How do you know that?
18 **A. Because it is sent over in a format**
19 **and Midland prints them -- or.**
20 Q. Midland wouldn't do that. They
21 don't have any people.
22 **A. Midland MCM.**
23 Q. Okay. MCM --
24 **A. Prints them.**
25 Q. Prints them.

Page 97

1 But who creates them? The PDF? Am
2 I correct to say the data sheet?
3 Who creates the data sheet that you
4 say is in a PDF form?
5 **A. It's an electronic process. It all**
6 **comes over, my understanding is, a spreadsheet**
7 **and then --**
8 Q. Populated?
9 **A. Yeah, populated into each account.**
10 Q. Who creates -- if you know, great.
11 If you don't --
12 **A. I'm going to say I don't know.**
13 Q. Let me ask you the question again.
14 Who creates the data sheet, the
15 PDF?
16 MR. TUCKER: Objection to the form.
17 THE WITNESS: I don't know.
18 BY MR. PARKER:
19 Q. You don't know.
20 So you don't know really where it
21 came from, the data sheet?
22 MR. TUCKER: Objection to the form.
23 Go ahead.
24 BY MR. PARKER:
25 Q. Let me hand you --

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 98

1 MR. TUCKER: Wait. She can answer
2 the question.
3 MR. PARKER: You want her to, okay.
4 THE WITNESS: The seller sends over
5 the compilation of in this case Darrin Tucker's
6 account. And it is put into what we call a data
7 sheet.
8 BY MR. PARKER:
9 Q. Do you know who the seller is?
10 **A. Sherman.**
11 Q. Originator?
12 **A. Originator III, LLC.**
13 Q. All right. And you're saying that
14 they created the sheet and sent it over -- or no,
15 you don't know who created it, but they send
16 information? Yes? No?
17 **A. Correct.**
18 MR. TUCKER: Objection.
19 BY MR. PARKER:
20 Q. And how --
21 MR. TUCKER: I think we got it with
22 the last phrase you said before she answered, but
23 the question was compound and confusing to me.
24 MR. PARKER: All right. Let me
25 repeat it. Let me rephrase it.

Page 99

1 MR. TUCKER: But I think we got it.
2 BY MR. PARKER:
3 Q. Let me rephrase it.
4 So this data sheet, we don't know
5 who creates it, but you, for lack of a better
6 word, correct me if it's the wrong word, you
7 depend on it?
8 MR. TUCKER: Objection to the form
9 of the question. That's not what she said.
10 BY MR. PARKER:
11 Q. All right. You said you don't know
12 who creates the data sheet, but you depend on it?
13 MR. TUCKER: Objection to the form.
14 BY MR. PARKER:
15 Q. Do you depend on it?
16 **A. I don't depend -- it's another**
17 **validation check. It's almost like we're double**
18 **checking.**
19 Q. Like we talked about, redundancy.
20 It's like NASA. They have all these
21 redundancies. If something breaks -- all right.
22 So --
23 **A. We focus on quality, so we're going**
24 **to add in that extra check when we can.**
25 Q. Even though you don't know if it's

Page 100

1 accurate?
2 MR. TUCKER: Objection.
3 THE WITNESS: How would it not be
4 accurate if it is lining up with my affidavit
5 management system?
6 BY MR. PARKER:
7 Q. The affidavit management system,
8 who puts that information into the affidavit
9 management system?
10 **A. To my knowledge, that's done**
11 **electronically through a secure website that we**
12 **pull from and integrate into our system.**
13 Q. So you don't know who does?
14 **A. I don't know who does it.**
15 Q. Okay. You don't know who puts the
16 information into the affidavit management system,
17 correct?
18 **A. Correct.**
19 Q. And you don't know who put the
20 information into the data sheet?
21 MR. TUCKER: Are we talking about
22 the name of a person, Brian?
23 BY MR. PARKER:
24 Q. Is that correct?
25 **A. I don't know.**

Page 101

1 Q. If I hand you a data sheet -- so we
2 know what we're talking about. I think it says
3 field data sheet. Am I saying that correctly?
4 I'm going to hand it to you.
5 **A. Yeah.**
6 Q. I'm going to call this -- boy, we
7 got to number these. Number 2. You know what,
8 why don't we wait a second. Let me think about
9 this for a second.
10 MR. PARKER: Sorry. I apologize.
11 Exhibit 2.
12 (Deposition Exhibit 2 was marked
13 for identification.)
14 BY MR. PARKER:
15 Q. I'm going to hand you what's called
16 Exhibit 2. I'm going to represent to you it's
17 attached to what's called a Summary Disposition
18 Motion filed by Midland Funding who doesn't
19 exist.
20 MR. TUCKER: Objection to the form.
21 BY MR. PARKER:
22 Q. It's a -- well, based on what
23 you're telling me there's no employees and
24 nothing.
25 So it's going to be -- I'm going to

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 102

1 hand you what's identified as Exhibit D in
2 Exhibit 2.
3 Tell me if this is the data sheet
4 that you refer to generally -- not necessarily in
5 this case, we'll get to that, but is that what
6 we're talking about?
7 **A. Yes.**
8 Q. And it's called a field data sheet;
9 is that correct?
10 **A. We refer to it as seller data**
11 **sheet, but.**
12 Q. Seller data sheet.
13 Why do you refer to it as a seller
14 data sheet?
15 **A. Because it's data that was sent**
16 **over by the seller regarding the account.**
17 Q. I'm just going to find my copy.
18 I'm sorry for the delay. What is that, D? All
19 right.
20 All right. So you will refer to
21 that as one of the screens that you look at; is
22 that correct?
23 **A. Correct.**
24 Q. Is there any other data that you
25 look at when you're saying the electronic records

Page 103

1 reviewed consist of data acquired from the seller
2 when plaintiff purchased the account?
3 **A. At the time I validated this**
4 **affidavit, no. I referred to AMS and the seller**
5 **data sheet.**
6 Q. You're sure because?
7 **A. Because that is what is required**
8 **when processing these particular affidavits.**
9 **Affidavit of record I'm strictly --**
10 Q. You don't look at the bill of sale?
11 **A. No.**
12 Q. So when you do an affidavit of
13 record like in this case, the Hanke affidavit of
14 record, correct me if I'm wrong, the three things
15 you look at are the AMS, the data sheet, and then
16 there was some other AMS thing you said?
17 **A. No, just the affidavit. The**
18 **affidavit, and I validate it against those two.**
19 Q. Just two things, the screen which
20 is your left -- you're talking about you scroll
21 down, and the data sheet are the only two things
22 you look at?
23 **A. In this case, yes.**
24 Q. All right. So there's no
25 information from Credit One that you look at?

Page 104

1 MR. TUCKER: Objection.
2 THE WITNESS: No.
3 BY MR. PARKER:
4 Q. And there's no information from MHC
5 Receivables, LLC that you look at?
6 MR. TUCKER: Objection.
7 THE WITNESS: No.
8 BY MR. PARKER:
9 Q. No.
10 Is that correct? No?
11 **A. No.**
12 Q. All right. I kind of said that in
13 a lawyer way.
14 You do not look at information from
15 Credit One Bank; is that correct?
16 MR. TUCKER: Objection to the form.
17 You can answer.
18 THE WITNESS: No.
19 BY MR. PARKER:
20 Q. You do not look at information from
21 MHC Receivables; is that correct?
22 MR. TUCKER: Objection to the form.
23 You can answer.
24 BY MR. PARKER:
25 Q. You keep saying no. That's why I'm

Page 105

1 trying to say it -- let me rephrase because
2 you're actually saying no, no.
3 Do you look at information from
4 Credit One Bank?
5 MR. TUCKER: Objection to the form.
6 You can answer.
7 THE WITNESS: If you're referring
8 to this affidavit, I did not look at any bill of
9 sales.
10 BY MR. PARKER:
11 Q. All right. So you didn't look at
12 information from Credit One Bank; is that
13 correct?
14 **A. Correct.**
15 MR. TUCKER: Objection to the form.
16 You can answer.
17 THE WITNESS: Correct.
18 MR. PARKER: What is wrong with the
19 form?
20 MR. TUCKER: The question is
21 misleading and assumes the facts. It's not --
22 it's incorrect.
23 MR. PARKER: I don't know how
24 else...
25 BY MR. PARKER:

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 106

1 Q. Did you look at any Credit One Bank
2 information prior to signing that affidavit?
3 MR. TUCKER: Objection to the form.
4 MR. PARKER: What's wrong with --
5 MR. TUCKER: You can answer.
6 MR. PARKER: -- form?
7 MR. TUCKER: The information that
8 you're referring to is ultimately from Credit
9 One. The information --
10 MR. PARKER: Now you're testifying.
11 MR. TUCKER: You asked me to
12 explain the objection. Now I'm explaining the
13 objection.
14 MR. PARKER: But you're testifying.
15 MR. TUCKER: You asked the same
16 question four times. I didn't elaborate.
17 Finally you asked me twice to elaborate, so I
18 did. So that's all I've done.
19 BY MR. PARKER:
20 Q. Do you look at information from MHC
21 Receivables, LLC and these affidavit of records?
22 MR. TUCKER: Same objection.
23 THE WITNESS: I -- no. I didn't
24 look at any bill of sale or any of --
25 BY MR. PARKER:

Page 107

1 Q. Anything from those entities?
2 MR. TUCKER: Objection.
3 BY MR. PARKER:
4 Q. On September 21st?
5 **A. No.**
6 Q. No.
7 All right. So the data you looked
8 at is two things. The data sheet, the field data
9 sheet, or you call it the seller's data sheet?
10 **A. Seller data sheet.**
11 Q. And your AMS screen, yes?
12 **A. Yes.**
13 Q. Do you know if there was anything
14 else that Sherman Originators sent to Midland
15 Funding in this sale on September 21st?
16 I think you testified you hadn't
17 looked at anything else?
18 **A. I have not. And I -- no.**
19 Q. Okay. Then you said together with
20 records generated by MCM in connection with
21 servicing the account.
22 You said you did not look at those
23 records, you only looked at the AMS and the data
24 sheet; is that correct? Two things?
25 MR. TUCKER: Objection to the form.

Page 108

1 But you can answer.
2 THE WITNESS: The records -- so the
3 records I referenced were records that were sent
4 over by the seller.
5 BY MR. PARKER:
6 Q. Right.
7 **A. And --**
8 Q. We've gone beyond that.
9 MR. TUCKER: Let her finish.
10 MR. PARKER: Sorry, go ahead.
11 THE WITNESS: And this was another
12 record, so to speak --
13 BY MR. PARKER:
14 Q. Back to your testimony --
15 MR. TUCKER: Wait, wait. Hold on.
16 THE WITNESS: So to speak that was
17 sent over and that was validated.
18 MR. TUCKER: And just as a point of
19 clarification, when she said "this" she was
20 putting her hand on the data sheet. I want the
21 record to be clear because there's lots of use of
22 pronouns in your questions and it can be
23 confusing.
24 MR. PARKER: What's a pronoun?
25 MR. TUCKER: So go ahead.

Page 109

1 MR. PARKER: What's a pronoun?
2 MR. TUCKER: Go ahead.
3 BY MR. PARKER:
4 Q. Do you know what a pronoun is?
5 You actually do have your hands on
6 the affidavit, you don't have to take them off,
7 and the data sheet.
8 You testified you looked at two
9 things.
10 The AMS and the data -- another
11 screen you looked at the data sheet, correct?
12 **A. Correct.**
13 Q. Nothing else? Because of the
14 affidavit type?
15 **A. Correct.**
16 Q. Correct? All right.
17 So when you say together with
18 records generated by MCM in connection with the
19 servicing account since the date the account was
20 purchased, you did not look at any records
21 generated by MCM because these records were
22 generated by the seller, correct?
23 MR. TUCKER: Objection to the form
24 of the question.
25 THE WITNESS: You're still on this

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 110

1 statement here, the electronic records reviewed
2 consist of data acquired from the seller.
3 BY MR. PARKER:
4 Q. Purchased -- okay. Stop.
5 And then you also say, "together
6 with records generated by MCM in connection with
7 servicing the account."
8 But you've testified a number of
9 times that you only looked at the data sheet you
10 had your hand on and the AMS.
11 Do you understand?
12 **A. So what are you asking exactly?**
13 Q. You didn't look at any records
14 generated by MCM, you looked at records generated
15 by the seller?
16 MR. TUCKER: Objection to the form
17 of the question.
18 THE WITNESS: Midland pulls in the
19 information from the seller into our database.
20 BY MR. PARKER:
21 Q. Into what database?
22 **A. To affidavit management system.**
23 Q. All right. Good. So you did look
24 at records that were generated by MCM, not your
25 system, by MCM.

Page 112

1 servicing the account?
2 **A. The records that I looked at on my**
3 **AMS screen.**
4 Q. All right. So you looked at the
5 AMS and you looked at the data.
6 The field data report you said was
7 created by the seller?
8 MR. TUCKER: Objection to the form.
9 BY MR. PARKER:
10 Q. Yes? You said it was in PDF.
11 **A. The information is sent over by the**
12 **seller.**
13 Q. All right.
14 **A. And I don't know who compiles --**
15 MR. PARKER: Don't worry, Joe.
16 We'll get to lunch.
17 BY MR. PARKER:
18 Q. Together with records generated by
19 MCM, you didn't look at any records generated by
20 MCM?
21 MR. TUCKER: Objection.
22 THE WITNESS: My understanding of
23 that statement is AMS is my record database that
24 I reviewed.
25 BY MR. PARKER:

Page 111

1 Like did you look at letters sent
2 to Mr. Tucker? Yes or no.
3 **A. No.**
4 Q. Did you look at anything where you
5 received money from Mr. Tucker, that MCM
6 received?
7 **A. No.**
8 Q. All right. So you didn't look at
9 records generated by MCM?
10 MR. TUCKER: Objection.
11 THE WITNESS: Had the consumer made
12 a payment after we purchased the account, that
13 would have been reflected on our screen which
14 would have been a record of MCM.
15 BY MR. PARKER:
16 Q. All right. So they sent letters to
17 him.
18 Did you look at those records?
19 **A. No.**
20 Q. All right. Is it fair to say you
21 did not look at records generated by MCM?
22 **A. I don't understand it that way.**
23 **AMS --**
24 Q. What records were generated by MCM
25 that you're referring to in connection with

Page 113

1 Q. So did you mean then that together
2 with the records generated by MCM in connection
3 with servicing the account you meant AMS?
4 **A. That is how I understood it.**
5 Q. So account means -- servicing the
6 account means AMS?
7 MR. TUCKER: Objection to the form.
8 BY MR. PARKER:
9 Q. Yes? No?
10 **A. Can you reword that?**
11 Q. Together with records generated by
12 MCM. So your affidavit that you didn't create
13 says that you looked at the data created by the
14 seller together with records created by MCM when
15 they service the account after May 20th.
16 Do you recall looking at those
17 records after May 20th, if they were generated?
18 If anything was generated?
19 **A. I guess I am confused as to what**
20 **you're asking.**
21 **When I refer to this statement, I**
22 **understand it as I am validating these statements**
23 **against our affidavit management system.**
24 Q. All right. Excellent.
25 Did the AMS say that there were

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 114

1 letters sent out by MCM or anything showing the
2 servicing the account?
3 **A. That would not be reflected on --**
4 Q. The AMS?
5 **A. The letters would not be reflected.**
6 **Had he made a payment, that would have been**
7 **reflected on AMS.**
8 Q. All right. There were letters sent
9 out, but you didn't look at them because it
10 wouldn't be on the AMS; is that correct?
11 MR. TUCKER: Objection to the form.
12 THE WITNESS: I wouldn't have
13 looked because it wasn't a requirement when I
14 process this affidavit.
15 BY MR. PARKER:
16 Q. All right. So what do you look at
17 to see how the account was serviced?
18 **A. Like I said, I reference the AMS**
19 **system and the seller data sheet.**
20 Q. All right. Would it be a fair
21 statement to say that you didn't look at anything
22 to see how the account was serviced?
23 MR. TUCKER: Objection to the form
24 of the question.
25 THE WITNESS: When I validated this

Page 115

1 affidavit I referenced the AMS screen and the
2 data sheet.
3 BY MR. PARKER:
4 Q. Let me ask the question again, and
5 correct me if you don't understand. He'll
6 object.
7 It's a fair statement to say that
8 you did not look at records generated by MCM in
9 connection with servicing the account?
10 MR. TUCKER: Objection.
11 BY MR. PARKER:
12 Q. Correct?
13 MR. TUCKER: Objection to the form
14 of the question, asked and answered.
15 THE WITNESS: I guess I'm just
16 confused as to what you're asking. AMS doesn't
17 break down -- doesn't have notes, it doesn't have
18 activity that was done on the account, so.
19 BY MR. PARKER:
20 Q. Right. I can't think of -- I don't
21 want to be disrespectful. Listen to what I'm
22 asking. It's a yes or no.
23 You've signed off on that you
24 looked at two things. The data, we broke that
25 down. And then you also said I also looked at

Page 116

1 that together with records generated, produced,
2 by MCM in connection with servicing the account.
3 If I'm hearing what you're saying
4 is you did not look at any records --
5 **A. And I understand that.**
6 MR. TUCKER: Hold on a second. I
7 don't think Brian was finished with his question.
8 BY MR. PARKER:
9 Q. You did not look at any records
10 generated by MCM servicing the account; is that
11 correct?
12 MR. TUCKER: Objection to the form
13 of the question.
14 BY MR. PARKER:
15 Q. Is that correct?
16 **A. I don't understand it that way.**
17 **When I read that I understand it as I'm -- I'm**
18 **validating this affidavit against the records**
19 **that we have which would be in my mind affidavit**
20 **management system records.**
21 Q. Great. Then let me ask it the
22 other way then.
23 What records did you look at that
24 were generated by MCM servicing the account?
25 MR. TUCKER: Objection to the form

Page 117

1 of the question.
2 THE WITNESS: Once again, that
3 would be if he made a payment it would have been
4 reflected in AMS. I would have seen that there
5 was that activity that happened.
6 BY MR. PARKER:
7 Q. All right. If he didn't make a
8 payment, what else would you have seen that was
9 created by MCM servicing the account?
10 **A. Probably nothing.**
11 Q. Nothing. All right.
12 So you didn't see anything --
13 unless he made a payment, you didn't see anything
14 from MCM servicing the account, correct?
15 MR. TUCKER: Objection to the form
16 of the question.
17 BY MR. PARKER:
18 Q. Correct?
19 MR. TUCKER: Objection.
20 THE WITNESS: Correct I would say,
21 yeah.
22 BY MR. PARKER:
23 Q. All right. You're familiar with
24 and trained on the manner and method by which MCM
25 creates and maintains its business records

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 118

1 pertaining to this account; is that correct?
2 That's what number 2 says --
3 **A. Correct.**
4 Q. -- on page 3, Exhibit 1.
5 You say, "I'm familiar with and
6 trained on the manner and method by which MCM
7 creates and maintains its business records."
8 Please detail your training of how
9 MCM creates and maintains its business records
10 pertaining to the Tucker account.
11 **A. High-level overview of that would**
12 **be we have an agreement with a seller, the seller**
13 **sends over the accounts in a secured file to a**
14 **secured site that requires credentials, a**
15 **password that only certain people can get into.**
16 Q. Can I stop you?
17 Do you have those credentials?
18 **A. I do not.**
19 Q. So you can't get in there?
20 **A. I cannot.**
21 Q. All right. Keep going.
22 **A. Those records go through scrub for**
23 **validity purposes, and then are integrated into**
24 **the MCM systems.**
25 Q. All right. Everything you just

Page 119

1 described, is that what MCM does?
2 **A. That is my understanding.**
3 Q. All right. So is it a fair
4 statement that Midland Funding, whatever it is,
5 somehow obtains a debt or an account, and correct
6 me if I'm wrong, it gets scrubbed, among other
7 things, right?
8 **A. Yeah.**
9 Q. Before it ends up on your desk or
10 in your screen?
11 **A. Correct.**
12 Q. And how do you know any of that
13 occurs?
14 **A. Just through training.**
15 Q. You've actually seen the scrubbing
16 process?
17 **A. I have not.**
18 Q. All right. So how do you know that
19 actually occurs?
20 **A. Probably because we rarely -- I**
21 **guess I can't say for sure. I don't -- I've**
22 **never seen the process done.**
23 Q. What did you mean when you agreed
24 that the records are kept in the regular course
25 of business? Because you've said that this

Page 120

1 document is for litigation.
2 **A. That when the account is serviced,**
3 **it's notated. The letter is sent out, it's**
4 **notated.**
5 Q. Do you not know what that means,
6 the records are kept in the regular course of
7 business?
8 **A. That's how I understand it, is that**
9 **anything that's done on the account is recorded**
10 **and compiled and kept in the regular course of**
11 **business.**
12 Q. All right. Then you say, "It was
13 in the regular course of business for a person
14 with knowledge of the act or event recorded to
15 make the record or data compilation."
16 Do you see that?
17 **A. Uh-huh.**
18 **(Clarification by the court**
19 **reporter.)**
20 THE WITNESS: Yes.
21 BY MR. PARKER:
22 Q. What does "regular course of
23 business" mean?
24 **A. That data is unaltered, it's**
25 **accurate. When -- like I said, a payment,**

Page 121

1 **something is made, a call is made, it is notated**
2 **and just kept in the regular course of business.**
3 Q. All right. For a person with
4 knowledge of the act, you're not saying you when
5 you say person with knowledge of the act, are
6 you?
7 **A. No.**
8 Q. All right. And then it goes on,
9 "Event recorded to make the record or data
10 compilation, or for a person with knowledge to
11 transmit information thereof."
12 Again, you're not referring to you?
13 **A. No.**
14 Q. Do you know who the person is that
15 scrubs or compiles all this data?
16 **A. I do not know specific people.**
17 Q. Have you ever met any of them?
18 **A. No.**
19 Q. All right. Have you ever seen any
20 writing from them saying we're the person that
21 scrubs and compiles all this?
22 **A. No.**
23 Q. No. All right.
24 I will skip to the next sentence
25 which is, "In the regular course of business, the

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 122

1 record or compilation is made at or near the time
2 of the act or event."
3 What time, what act, what event?
4 MR. TUCKER: Objection; asked and
5 answered.
6 THE WITNESS: That -- and my
7 understanding with those is a letter is sent out,
8 it's recorded, call is made, it's recorded.
9 Those sort of things.
10 BY MR. PARKER:
11 Q. And that didn't occur with the
12 Tucker debt?
13 **A. What do you mean?**
14 Q. Did any of that occur with the
15 Tucker debt?
16 **A. Were records kept? Yes.**
17 Q. Yes?
18 **A. All records are kept with all of**
19 **our accounts.**
20 Q. All right. We'll move on.
21 And then your finger comes down to
22 number 3. MCM's records show that defendants
23 owed a balance, and then has a date.
24 And then your other finger would be
25 confirming that on the AMS or the data sheet?

Page 123

1 **A. AMS.**
2 Q. AMS.
3 So that would already be written
4 in, and you would confirm it on the AMS?
5 **A. Yes.**
6 Q. Correct? All right.
7 I forgot to ask you this: Do you
8 have any meetings or conferences or education on
9 the Fair Debt Collection Practices Act?
10 **A. Yes.**
11 Q. And how many times a year do you do
12 that of the two years you've been there?
13 **A. I can't say for sure. It's at**
14 **least once a year for sure.**
15 Q. Once a year.
16 And is that personal instruction or
17 do you go online?
18 **A. Kind of both, but for sure there's**
19 **an online.**
20 Q. There's an online.
21 And is there a followup with
22 somebody?
23 **A. We have trainings all the time.**
24 Q. On FDCPA?
25 **A. Well, just really anything. But I**

Page 124

1 **would just stick to the once a year on my course**
2 **for the FDCPA.**
3 Q. How long does that last?
4 **A. I'm not sure.**
5 Q. More than an hour?
6 **A. I -- I'm not sure.**
7 Q. So of the year that you worked
8 there, just once a year you have FDCPA
9 instruction online?
10 MR. TUCKER: Objection to the form
11 of the question.
12 THE WITNESS: Yes.
13 BY MR. PARKER:
14 Q. All right. And do you go over any
15 state's laws?
16 Do you review any statutes or laws
17 from the states that you operate in?
18 **A. Not super specific.**
19 Q. All right. You've trained with
20 MCM; is that correct?
21 **A. Yes.**
22 Q. Obviously.
23 You've done training, you are even
24 a trainer now.
25 Have you done any training with

Page 125

1 Credit One Bank?
2 **A. Specifically, no.**
3 Q. No. Have you done any training
4 with MHC Receivables?
5 **A. Aside from just knowing their**
6 **documentation and going through trainings on**
7 **that, no.**
8 Q. No. All right.
9 You don't store any records for
10 MCM, you don't place anything in a data file for
11 MCM; is that correct?
12 MR. TUCKER: Objection to the form.
13 THE WITNESS: Do I add anything to
14 these records?
15 MR. PARKER: Yes.
16 THE WITNESS: I do not.
17 BY MR. PARKER:
18 Q. Okay. It says MCM's records
19 show that -- number 3. Exhibit 1, page 3. MCM's
20 records show that defendants or defendant owed a
21 balance, and it says the balance. It doesn't say
22 who it's owed to.
23 Why doesn't it say who the money is
24 owed to?
25 MR. TUCKER: Objection to the form

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 126

1 of the question.
2 THE WITNESS: Because the plaintiff
3 in this case is Midland Funding, so.
4 BY MR. PARKER:
5 Q. Not to belabor this, the thing
6 says --
7 MR. TUCKER: Nicole, were you
8 finished with your answer?
9 THE WITNESS: Yeah. I guess I
10 don't know how to elaborate much on that.
11 BY MR. PARKER:
12 Q. Well, let me ask you this: It
13 doesn't say that it's owed to plaintiff.
14 MR. TUCKER: Objection to the form.
15 THE WITNESS: It's an MCM
16 affidavit. I guess I thought that -- in my
17 opinion, that's pretty clear that it's -- we are
18 the one that are suing.
19 BY MR. PARKER:
20 Q. You called it an MCM affidavit; is
21 that correct?
22 **A. It's a Midland Funding affidavit.**
23 Q. Okay. Which one is it, a Midland
24 Funding affidavit or an MCM affidavit?
25 MCM created it; is that correct?

Page 127

1 **A. Yes.**
2 Q. Midland had nothing to do with this
3 creation of this; is that correct, Midland
4 Funding?
5 **A. To my knowledge, yes.**
6 Q. They didn't have --
7 **A. Yeah.**
8 Q. All right. They had no connection
9 to this.
10 And why doesn't it say who the
11 money is owed to?
12 MR. TUCKER: Objection.
13 THE WITNESS: I don't know.
14 BY MR. PARKER:
15 Q. All right. Then the obvious, it
16 doesn't say who the money is owed to?
17 MR. TUCKER: Objection.
18 BY MR. PARKER:
19 Q. Correct?
20 **A. Correct.**
21 Q. All right. I never noticed that
22 before. All right.
23 So I believe that six times in this
24 affidavit the word "plaintiff" is used even
25 though there's no lawsuit filed on September

Page 128

1 21st; is that correct?
2 **A. Correct.**
3 Q. You're probably ready for this.
4 You say you look at two -- because
5 of the nature of the request by Stillman Law
6 Offices, the code above the AFF Record which is
7 on page 3 of Exhibit 1, and also on page 4 of
8 Exhibit 1, you only look at two things, the data
9 sheet and the AMS.
10 Am I correct about that?
11 **A. That's correct.**
12 Q. And is that what you look at to
13 find out what date, at least what it says, each
14 entity purchased or sold the debt, correct?
15 **A. Correct.**
16 Q. All right. Can you tell me why it
17 doesn't say the date that it sold from your
18 screen as opposed to saying why does it say on or
19 about?
20 Was there some problem with the
21 information that you weren't sure if it was in
22 this case 4/17/2016?
23 **A. That's just the language they went**
24 **with in the case of this account. 4/17/2016 was**
25 **the date that Mr. Tucker's account charged off.**

Page 129

1 Q. All right. Thank you.
2 What documents did you look at from
3 Credit One that showed it to be charged off at
4 that date?
5 **A. I didn't look at documents. I**
6 **looked at the information that was integrated**
7 **into our internal database.**
8 Q. From?
9 **A. The seller.**
10 Q. Which was Sherman Originators?
11 **A. Correct.**
12 Q. So you didn't see anything from
13 Credit One saying when the debt was charged off,
14 you saw it from the third owner of the debt
15 saying when it was charged off; is that correct?
16 **A. Correct.**
17 Q. And you know that Mr. Tucker debt
18 was charged off -- or maybe you don't know -- by
19 Credit One?
20 **A. Yes.**
21 Q. All right. So you've never
22 questioned why it says on or about, or has
23 anybody instructed you as to why it says on or
24 about instead of just saying 2/16/04-17?
25 **A. I guess I've just never questioned**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 130

1 **that.**
2 Q. All right. And then it does it
3 again. It then says, "The account was then sold
4 to the following debt buyers in order of
5 occurrence on or about," and it gives two dates.
6 Have you ever questioned why it
7 says on or about instead of what's on your AMS?
8 **A. I have not because that's not**
9 **inaccurate to me.**
10 Q. All right.
11 **A. Or incorrect.**
12 Q. Okay. All right. I think I'm done
13 with the affidavit for now.
14 MR. PARKER: What time is it?
15 MR. TUCKER: 11:08. On or about
16 11:08.
17 BY MR. PARKER:
18 Q. Have you seen the credit card
19 agreement between Mr. Tucker and Credit One Bank?
20 **A. I have not.**
21 Q. All right. Do you know if it's a
22 Visa, a Mastercard, Discover, or anything else?
23 **A. Offhand, no. It would be -- it's**
24 **possible it is reflected in the AMS screen, but**
25 **obviously I don't have that.**

Page 131

1 Q. What did you look at to prepare for
2 today's deposition?
3 **A. The affidavit.**
4 Q. Nothing else?
5 **A. I read through the deposition, so**
6 **everything that was in there. So I did glance at**
7 **the media, but it's not stuff that I validated**
8 **when I --**
9 MR. TUCKER: Can I interject for
10 just a second?
11 MR. PARKER: Yes. What if I say
12 no?
13 MR. TUCKER: I thought she said she
14 looked at the deposition.
15 MR. PARKER: She meant the notice.
16 MR. TUCKER: The deposition notice.
17 THE WITNESS: Notice, okay.
18 MR. TUCKER: And all of the
19 attachments.
20 THE WITNESS: Okay. Sorry.
21 BY MR. PARKER:
22 Q. All right. So did you go back to
23 your AMS screen to update yourself?
24 **A. I did go back in. It is not going**
25 **to show me the same information that reflected**

Page 132

1 **the day I validated this.**
2 Q. And why is that?
3 **A. Because the suit is no longer --**
4 **it's not active. Or I don't know how to word**
5 **that.**
6 Q. You are no longer servicing or
7 collecting it?
8 **A. Yes.**
9 Q. All right. So the differences that
10 you see now as opposed to back then, what are
11 those differences?
12 **A. The financial data is not there.**
13 Q. Okay. Do you know why that is?
14 **A. I don't know why that is.**
15 Q. That's the only thing missing?
16 **A. Yes.**
17 Q. All right. So the only difference
18 between the screen for let's say September 21,
19 2017 and when you went back -- when did you go
20 back? Last week? This week?
21 **A. Yeah, couple weeks.**
22 Q. Couple of weeks ago.
23 Would be the financial data is
24 missing; is that correct?
25 **A. Correct.**

Page 133

1 Q. And if you don't mind --
2 **A. The financial data and then the**
3 **date that the firm requested this affidavit was**
4 **missing as well, the 9/15/2017.**
5 Q. That's the date they would have
6 requested -- Stillman would have requested it?
7 **A. Yeah.**
8 Q. So you're that good, date it's
9 requested you get the thing validated on the same
10 day, or you --
11 **A. No, no. Not necessarily. They're**
12 **saying as of this date this is the amount that's**
13 **due on the account, or that's on the account.**
14 Q. So the fact that Stillman requested
15 it has disappeared now?
16 You're saying the financial data,
17 how much is owed has disappeared?
18 **A. Oh, yeah. Yeah, that part is not**
19 **available for me.**
20 Q. Anything else? Anything else
21 missing?
22 **A. Not to my knowledge.**
23 Q. And so when you say financial data,
24 you just mean how much they're claiming is owed?
25 **A. Yes.**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 134

1 Q. Anything else when you say
2 financial data?
3 **A. If there was interest on the**
4 **account, that would probably be reflected in that**
5 **area. But there was no interest on the account.**
6 Q. So the difference between September
7 21st and when you looked at it a couple of weeks
8 ago is just that the financial data is missing?
9 That's it?
10 **A. Yes.**
11 Q. And you could have looked at either
12 screen, and the only thing missing is the
13 financial data today?
14 If you looked at it today --
15 **A. Yes.**
16 Q. -- that would be the only
17 difference?
18 **A. And the date.**
19 Q. And the date.
20 The date of the financial being --
21 **A. The firm requested this affidavit**
22 **or -- yeah.**
23 Q. Are you saying the date that a
24 person or a firm requests an affidavit is always
25 the date of the balance?

Page 135

1 **A. It depends on the affidavit.**
2 **Some -- in this case this is as of 9/15/2017,**
3 **\$612.36 was owed on the account.**
4 Q. All right. And you're pretty sure
5 because of the nature of the request based upon
6 the AFF Record, that means that was usually --
7 that's usually the date it's requested?
8 **A. Correct.**
9 Q. Okay. All right. And did you have
10 an interest rate being charged on 9/15 that isn't
11 reflected in your recent review of the AMS?
12 **A. No.**
13 Q. All right. Because you
14 mentioned --
15 **A. There's no interest on this**
16 **account.**
17 Q. So the only difference between the
18 AMS review when you looked at it and -- back in
19 September and a couple of weeks ago would be the
20 balance that's owed is missing, that's it?
21 **A. Yes.**
22 Q. All right. You just piqued my
23 interest about something.
24 It was requested on 9/15 you're
25 saying, Exhibit 1, page 3, but you signed it on

Page 136

1 September 21, 2017 -- wait a minute. I'm reading
2 it. Okay. 2/17 -- because of the nature the way
3 this is written it's done in an Asian format or a
4 European format.
5 It says 2/17/09, 15 is the date the
6 balance of 612.36 is due on Paragraph 3, correct?
7 **A. It's saying as of that date that is**
8 **the amount that's owed on the account.**
9 Q. And you put your finger and said
10 that was the day that Stillman would have
11 requested this document, and that's why the
12 balance is of that date?
13 **A. Yes.**
14 Q. Yes. And when I say Asian or
15 European, that's not the way we write our date
16 and year in America. Do you understand what I'm
17 saying when I say that?
18 That's sort of a computerese or --
19 I mean, I'm from England and that's how we'd
20 write it in England. And then six days later is
21 when you signed the affidavit.
22 Can you tell me why six days
23 delay -- delay. I don't mean to imply anything,
24 but why the six-day gap?
25 **A. It could be a variety of reasons.**

Page 137

1 **We -- priority would be for me to get through**
2 **affidavits that were dated prior to this one.**
3 Q. All right. It's just a matter of
4 you have a lot of work to do before you can get
5 to this one?
6 **A. Correct.**
7 Q. Do you ever -- do you -- I'm not
8 talking MCM, do you ever receive requests for
9 these affidavits after a lawsuit is filed?
10 **A. I cannot say for a fact. I'm not**
11 **sure.**
12 Q. All right. And this may sound --
13 how do you not know?
14 **A. Because when the affidavits are**
15 **sent, they're sent over by the firm. As for what**
16 **action they're taking whether they filed the**
17 **complaint or not, I'm not aware. I just know**
18 **that they need this affidavit to file suit.**
19 Q. Okay. To file suit. All right.
20 So that's your job is to set up an
21 affidavit prior to filing suit?
22 **A. To attach it to their complaint.**
23 Q. Okay. Do you know why they need
24 the affidavit?
25 **A. For validation purposes to show**

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 138

1 **that we own the account. Just -- yeah. Gives**
2 **all the information about the consumer's account**
3 **and chain of title.**
4 Q. But it doesn't say that Mr. Tucker
5 owes the debt to Midland; is that correct?
6 MR. TUCKER: Objection.
7 BY MR. PARKER:
8 Q. The amount, the balance?
9 MR. TUCKER: Objection.
10 THE WITNESS: It's not stated that
11 way.
12 BY MR. PARKER:
13 Q. All right. And what date was the
14 credit card account opened? You're referring to
15 the data sheet?
16 **A. Yes.**
17 Q. Exhibit 2 marked as D.
18 **A. It is 3/10/2015.**
19 Q. You don't know if that's the truth
20 or a fact, you do know it's written on the field
21 data sheet; is that correct?
22 **A. No. This is a field that can be**
23 **validated against our affidavit management**
24 **system.**
25 Q. All right. So the information

Page 140

1 MR. TUCKER: Objection.
2 THE WITNESS: All of these fields
3 can be validated against our affidavit management
4 system.
5 BY MR. PARKER:
6 Q. Right. Which is created from the
7 seller's information?
8 **A. That's correct.**
9 Q. All right. So you've already
10 testified that you didn't receive anything from
11 Credit One saying when they say the debt was
12 charged off, correct?
13 **A. I said I didn't reference those**
14 **documents. It didn't mean we didn't have them,**
15 **but it's not something I looked at when I**
16 **validated this affidavit.**
17 Q. Do you believe you have them now?
18 **A. Based off of the attachments here,**
19 **yes.**
20 Q. You're putting your hand on -- use
21 Joe's words, you're putting your hands on
22 Exhibit D.
23 **A. Well, on this entire stack.**
24 Q. Created by the seller.
25 MR. TUCKER: Please let her -- you

Page 139

1 that's in your AMS comes from the seller is what
2 you've testified?
3 **A. Yes.**
4 Q. So the seller also, you said the
5 other document is the field data sheet. You
6 called it a seller data sheet.
7 That's created by the seller, too?
8 **A. Correct.**
9 MR. TUCKER: Objection to the form.
10 BY MR. PARKER:
11 Q. It isn't created by the seller?
12 **A. It's sent over by --**
13 Q. It says right on the bottom.
14 **A. Yes. We print them, so they send**
15 **over this information.**
16 Q. All right. So as far as you know,
17 it's created by the seller?
18 **A. Correct.**
19 MR. TUCKER: Objection to the form.
20 BY MR. PARKER:
21 Q. And there's nothing confirming that
22 that's the actual charge-off date or the -- I
23 don't know how they put it there, creation of
24 obligation date, it's just what Sherman
25 Originator has created? Yes?

Page 141

1 guys are talking over each other.
2 MR. PARKER: My fault.
3 THE WITNESS: So we basic --
4 BY MR. PARKER:
5 Q. So you haven't looked at anything
6 from Credit One Bank that says -- you have not
7 looked at anything from Credit One Bank telling
8 you when the charge-off date was?
9 MR. TUCKER: Objection to the form.
10 At what time?
11 BY MR. PARKER:
12 Q. Have you?
13 **A. Did I reference a bill of sale when**
14 **I validated --**
15 Q. No, you didn't.
16 **A. What are you asking?**
17 Q. I'm going to move on.
18 At the time you signed this, which
19 was we think September 21, 2017?
20 **A. Correct. '17.**
21 Q. What was your definition of the
22 word "account"?
23 **A. What's my definition of -- I would**
24 **say this --**
25 Q. 2017. September 21st when you

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 142

1 signed this, what was your definition of the word
2 "account"?

3 **A. Darrin Tucker's account.**

4 Q. We can get to that.

5 But the word "account," what does
6 it mean to you?

7 **A. I don't know where you're going
8 with this, I guess.**

9 Q. Well, he would tell you don't try
10 to get into the attorney's mind, just answer the
11 question.

12 What was your -- it's a simple
13 question. If you didn't have one you'd say I
14 didn't have a definition.

15 What was your definition of the
16 word "account" on September 21, 2017?

17 **A. I don't -- I honestly don't know
18 what you mean. An account would be this account
19 has an account number, it belongs to Midland
20 Funding. I guess I don't know how much more you
21 want me to elaborate on that.**

22 Q. Separate from Tucker, I don't want
23 you to elaborate as much as you just did. And
24 you can tell me I don't have a definition.

25 All I want to know is in your job,

Page 143

1 you're asked to verify or validate accounts; is
2 that fair?

3 **A. Yeah.**

4 Q. Separate from assigning somebody's
5 name, the word "account," how do you define the
6 word "account" on September 21, 2017?

7 MR. TUCKER: Objection to the form.

8 THE WITNESS: I --

9 BY MR. PARKER:

10 Q. The word "account," what does it
11 mean to you?

12 MR. TUCKER: Objection.

13 THE WITNESS: I -- to me it would
14 be a profile or information on somebody.

15 BY MR. PARKER:

16 Q. Fair enough. All right. Profile
17 is good.

18 You testified that -- we can move
19 along fast now.

20 You testified you did not look at
21 any bill of sales?

22 **A. Correct.**

23 Q. Is that correct, prior to September
24 21st?

25 **A. Correct.**

Page 144

1 Q. And is it fair to say the next time
2 you did was after September 21, 2016 regarding
3 this account?

4 **A. Correct.**

5 Q. And that was because you received
6 the deposition notice which had some bill of
7 sales attached; is that correct?

8 **A. Correct.**

9 Q. I have given you Exhibit 2 which I
10 represented to you was attached to what's called
11 a summary disposition. And I am going to tell
12 you, if I can find it, forgive me for the delay,
13 I'm just presenting this the way it was provided
14 in the summary motion. That's why I'm having
15 trouble finding this. Sorry, Ma'am. I will be
16 right there.

17 All right. You refer to things --
18 you know, I didn't ask you, Sherman Originator,
19 do you know what that is?

20 Sherman Originator III, LLC, do you
21 know what that is?

22 **A. The seller in this case.**

23 Q. All right. Is it a company? Is it
24 a computer? Have you met employees from it?
25 What's your --

Page 145

1 **A. My understanding of Sherman is that
2 they are affiliates with Credit One and MHC.**

3 Q. All right. And what evidence have
4 you seen or read or heard that they are
5 affiliated with Sherman Originator? Tell me
6 everything.

7 **A. Just -- I guess just training wise
8 we have mergers that show the relationship.**

9 Q. You're using computer words.
10 Merger, what do you mean merger?

11 **A. We have -- it's a document that was
12 sent by Credit One, MHC that shows that they are
13 affiliated.**

14 Q. Affiliated. Like sort of like
15 Midland Funding and MCM are affiliated?

16 **A. Yes.**

17 Q. Yes. All right.

18 But we do know that they're
19 separate companies?

20 **A. Correct.**

21 Q. All right. So do you know anything
22 about the Sherman Originator company? Regardless
23 of who its friends or sisters are, do you know
24 who that is?

25 Have you ever met anybody from

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 146

1 Sherman?
2 **A. No.**
3 Q. Do you know if it is a company? Do
4 you know where they're located? Are they brick
5 and mortar?
6 **A. I can't recall.**
7 MR. TUCKER: There's about five
8 questions there. Let's try one at a time.
9 MR. PARKER: Thanks.
10 THE WITNESS: I can't tell you
11 where they're located.
12 BY MR. PARKER:
13 Q. Have you ever met an employee from
14 Sherman Originator?
15 **A. I have not.**
16 Q. Have you ever done any training
17 with them?
18 **A. I have not.**
19 Q. You have not. All right.
20 In this case it says -- sorry. Go
21 to Exhibit G of Exhibit 2, inside Exhibit 2. And
22 this is just the way your counsel has set this
23 up.
24 MR. TUCKER: I'm sorry, what have I
25 set up?

Page 147

1 BY MR. PARKER:
2 Q. Your counsel created a --
3 MR. TUCKER: You weren't talking
4 about me, you were talking about the Stillman Law
5 Office.
6 MR. PARKER: Yes.
7 MR. TUCKER: You're saying that
8 Exhibit 2 to this deposition is an attachment to
9 the Stillman Law Office's motion for summary
10 disposition in this case.
11 MR. PARKER: Correct.
12 MR. TUCKER: Okay.
13 BY MR. PARKER:
14 Q. And Exhibit G appears to be a bill
15 of sale and assignment.
16 Do you see that?
17 **A. Yes.**
18 Q. And it says, and correct me if I'm
19 wrong, Sherman Originator is the seller and
20 Midland Funding, LLC is the buyer; is that
21 correct?
22 **A. Correct.**
23 Q. And do you see anywhere that
24 Midland Funding has signed this assignment?
25 **A. I do not.**

Page 148

1 Q. All right. Have you seen anything
2 signed by Midland where they're accepting
3 ownership of this Tucker debt?
4 **A. Not to my knowledge.**
5 Q. All right. And there is a -- I
6 don't know if you know about this. The bill of
7 sale -- there was a bill of sale that maybe you
8 could explain this to me.
9 There's an affidavit of accounts by
10 Sherman Originator which is Exhibit H. You've
11 got it.
12 Do you see Exhibit H?
13 **A. Uh-huh.**
14 Q. And go two pages. It says
15 Certificate of Conformity.
16 Have you ever seen something like
17 that before?
18 **A. Yes.**
19 Q. It's usually attached to the bill
20 of sales or assignments or affidavits?
21 **A. Uh-huh.**
22 Q. Do you know why they used someone
23 from South Carolina specializing in proof of
24 deeds of real property?
25 MR. TUCKER: Objection to the form.

Page 149

1 THE WITNESS: I don't know.
2 BY MR. PARKER:
3 Q. You don't know. You said you were
4 a notary. If you go back one page, is it common
5 to see the notary stamp upsidedown like that? Do
6 you do that?
7 **A. I do not.**
8 Q. Why not?
9 **A. I -- if I were attaching media --**
10 Q. Yeah, media.
11 **A. -- I -- an affidavit of sale, bill**
12 **of sale, any of that, I actually remove this.**
13 Q. Remove it?
14 **A. Because I don't -- I don't agree**
15 **with that being upsidedown.**
16 Q. Why?
17 **A. I just see it as incomplete or just**
18 **not done right, I guess.**
19 Q. It's not following the rules?
20 **A. In my mind, yes. I mean, it's**
21 **acceptable. It's been cleared that we can take**
22 **them.**
23 Q. Upside down?
24 The reason I ask you, I don't know
25 Ms. Davis and I don't know her state, but does

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 150

1 your state allow you to be upsidedown notary
2 stamps?
3 **A. I don't think it's wrong either**
4 **way, but.**
5 Q. Okay. But you wouldn't -- this
6 would be unacceptable for you?
7 **A. For me, it is.**
8 Q. Okay. So you have looked at the
9 bill of sales that we're looking at right now?
10 **A. After the deposition notice, yes.**
11 Q. You did, all right. I'll leave
12 that alone for now. I'm going to try and finish
13 this up.
14 If you give me a minute I'm going
15 to try and make this quick. If you want to take
16 a break or something.
17 MR. TUCKER: Yeah, why don't we do
18 that.
19 (Thereupon, a break was taken, and
20 then the proceedings continued as follows:)
21 MR. PARKER: On the record.
22 BY MR. PARKER:
23 Q. Have you ever been a custodian of
24 records -- listed as a custodian of records in a
25 case?

Page 151

1 **A. Yes.**
2 Q. In a case in Michigan?
3 **A. I'm not sure about that.**
4 Q. What does that mean?
5 **A. It means I have access to the**
6 **records and I don't alter them but I just -- I'm**
7 **able to see that we have them, that they're**
8 **accurate, complete.**
9 Q. And you've testified in court to
10 that?
11 **A. No.**
12 Q. So you were listed as a custodian
13 of records in litigation, or just in something
14 else?
15 **A. I just have seen it as language.**
16 Q. Nicole Hanke is the custodian of
17 records?
18 **A. Yes.**
19 Q. What kind of document was this
20 written on?
21 **A. I can't -- I don't recall.**
22 Q. Do you remember when?
23 **A. No.**
24 Q. Do you remember why?
25 **A. Why I would be listed as a**

Page 152

1 **custodian? Because it's just another form of**
2 **legal specialist. I'm validating records, making**
3 **sure they're complete and accurate.**
4 Q. So is that what you think a
5 custodian of the records is, is a person that
6 validates records?
7 **A. I mean, it could be a number of**
8 **things. But as for me, that is what I do.**
9 Q. Is you validate records.
10 And you don't see a difference
11 between a custodian of records versus a
12 validation of records? If you do.
13 **A. I guess I don't, but. I don't.**
14 Q. For whom were you a custodian of
15 records?
16 **A. For MCM, we service the account.**
17 Q. You seem -- are you sure it wasn't
18 Midland?
19 **A. I don't know.**
20 Q. You don't know.
21 Was it a bank?
22 **A. That I've been a custodian of**
23 **record before? I suppose you could say that -- I**
24 **worked for a bank before.**
25 Q. Oh, okay. What was the name of the

Page 153

1 bank?
2 **A. ING Direct.**
3 Q. What was the employer you worked
4 for before Midland Credit Management?
5 **A. St. Cloud Hospital.**
6 Q. Oh. A nurse?
7 **A. Patient care assistant.**
8 Q. For how long?
9 **A. Three years.**
10 Q. What made you join Midland Credit
11 Management?
12 **A. I have a background or education in**
13 **marketing management, and I wanted to get into**
14 **the business.**
15 Q. So that's your goal in this company
16 is to learn everything and then move on up?
17 **A. Yeah.**
18 Q. Okay. So in your job though the
19 last two years, you haven't been a custodian of
20 records for anybody other than MCM and possibly
21 Midland?
22 **A. Correct.**
23 Q. In the Tucker case, are you a
24 custodian of records for anybody other than --
25 you haven't been designated.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 154

1 Are you a custodian of records of
2 anybody in the Tucker case?
3 **A. I guess I don't know exactly what**
4 **you're -- if you're --**
5 Q. Have you been assigned the job to
6 be the custodian of records -- apparently you
7 don't do it that much.
8 Have you been assigned the task to
9 be a custodian of records in this case?
10 **A. I would say yes.**
11 Q. Of what records?
12 **A. Of the records reflected on our**
13 **affidavit management system.**
14 Q. All right. But you haven't been
15 assigned to be the custodian of the records by
16 Credit One; is that correct? By Credit One.
17 **A. Correct.**
18 Q. Or by MHC, you haven't been
19 assigned to be their custodian of record; is that
20 correct?
21 **A. Correct.**
22 Q. How about Sherman Originator, have
23 they assigned you to be the custodian of records?
24 **A. No.**
25 Q. No.

Page 155

1 You're not, correct?
2 **A. Correct.**
3 Q. All right. You're not familiar
4 with their processes, how they accumulate data,
5 Credit One, are you?
6 Have you spent time training?
7 **A. No.**
8 Q. In this case you're not familiar;
9 is that correct?
10 **A. Correct.**
11 Q. You don't know how they got
12 together all their information on Mr. Tucker?
13 **A. No.**
14 Q. No. And in MHC, are you familiar
15 how they got their information together, if they
16 got anything together on Mr. Tucker?
17 **A. No.**
18 Q. No. Do you know how many debts
19 were passed from Credit One Bank to MHC
20 Receivables, LLC pursuant to the sale between
21 Credit One and MHC -- before you answer that, I
22 want to make sure I've got the date -- it says
23 April 30th. We can go to your date if we want.
24 You write on or about on
25 Exhibit 4 -- excuse me. Exhibit 1, page 4 you

Page 156

1 say the debt between Credit One Bank and
2 MHC Receivables.
3 Do you know how many debts were
4 sold between those two entities?
5 **A. I do not.**
6 Q. And why is that?
7 **A. Because we receive them in bulk**
8 **portfolios.**
9 Q. So you're unable to say how many --
10 what does bulk mean?
11 **A. That we receive several at a time.**
12 Q. More than ten?
13 **A. I -- I have zero idea what the**
14 **number would actually be.**
15 Q. Why do you call it bulk?
16 **A. Because there's more than one.**
17 Q. More than one?
18 **A. In a portfolio.**
19 Q. Do you know what a portfolio is?
20 **A. It's -- in my mind it's what's**
21 **being sent over.**
22 Q. Between the two entities?
23 **A. From Sherman, yeah.**
24 Q. Not from --
25 **A. Well, it would be from -- the**

Page 157

1 **accounts that charged off throughout the month of**
2 **April in this case would be documented on the**
3 **30th of April.**
4 Q. All right. And you're referring to
5 Exhibit C -- excuse me. Exhibit 2, Exhibit C?
6 MR. TUCKER: This is the document
7 that he's looking at.
8 THE WITNESS: Oh, okay.
9 MR. TUCKER: It's the same
10 document, I believe.
11 THE WITNESS: Yeah, yeah.
12 BY MR. PARKER:
13 Q. Right? Is that correct?
14 MR. TUCKER: And just for the
15 record, it's the bill of sale and assignment from
16 Credit One Bank to MHC Receivables.
17 BY MR. PARKER:
18 Q. So they're selling a chunk --
19 you've seen something like the bill of sale and
20 assignment form of the Exhibit C, you've seen
21 this before?
22 **A. Yes.**
23 Q. And so you're saying they're
24 selling a portfolio in bulk between the two
25 entities?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 158

1 **A. Yes. That's how I understand it.**
2 Q. All right. And you don't know what
3 or how many were sold between the two entities?
4 **A. I do not.**
5 Q. How would you find out?
6 **A. I'm sure there's a report somewhere**
7 **I don't have access to.**
8 Q. Why is that?
9 **A. Because I'm not authorized to have**
10 **access to it.**
11 Q. It's not your job?
12 **A. Correct.**
13 Q. All right. So you wouldn't know
14 what debts were passed from Credit One Bank to
15 MHC Receivables; is that correct?
16 **A. Correct.**
17 MR. TUCKER: Objection.
18 BY MR. PARKER:
19 Q. And who is Vicki Scott?
20 **A. She -- I think her title is on one**
21 **of these pages.**
22 Q. Do you know who --
23 **A. She's vice president.**
24 Q. All right. Have you ever met her?
25 **A. No.**

Page 160

1 **A. No.**
2 Q. Do you know he exists? I mean if
3 you have any evidence of his existence.
4 **A. I have his signature.**
5 Q. Is that enough?
6 **A. For me it is. These are legal**
7 **documents.**
8 Q. So in this giant world of robo
9 signing --
10 MR. TUCKER: Objection to form.
11 BY MR. PARKER:
12 Q. -- his signature -- not saying
13 anybody is robo signing, signature means somebody
14 exists; is that correct?
15 **A. I believe so.**
16 Q. And then Vicki Scott, you said
17 you've never seen a picture.
18 Ever talked to her, called her,
19 anything?
20 **A. No.**
21 Q. Do you know if she exists?
22 **A. I guess I don't.**
23 Q. All right.
24 **A. I don't know that it's -- okay.**
25 Q. Have you contacted either one of

Page 159

1 Q. Have you ever seen a picture of
2 her?
3 **A. No.**
4 Q. Have you seen her name on these
5 documents before?
6 **A. Yes.**
7 Q. Yes?
8 **A. Yes.**
9 Q. And have you ever talked to her on
10 the phone?
11 **A. No.**
12 Q. E-mailed?
13 **A. No.**
14 Q. How about Jon Mazzoli, do you know
15 who that is?
16 **A. Do I know him?**
17 Q. When I say know, we've both read in
18 these documents Mazzoli's name.
19 Have you ever met Mr. Mazzoli?
20 **A. No.**
21 Q. Have you ever talked to him on the
22 phone?
23 **A. No.**
24 Q. Have you ever seen a picture of
25 him?

Page 161

1 these people regarding this portfolio of
2 accounts?
3 **A. No.**
4 Q. And there's another guy, Rusty
5 Kendall on Exhibit E of Exhibit 2.
6 Do you know who Rusty Kendall is?
7 Do you personally know him?
8 **A. I do not.**
9 Q. Have you ever heard of him before?
10 **A. No.**
11 Q. Ever seen his signature before
12 today?
13 **A. Yeah.**
14 Q. On other documents?
15 **A. Yes.**
16 Q. Have you ever called him on the
17 phone?
18 **A. No.**
19 Q. Ever e-mailed him?
20 **A. No.**
21 Q. Sorry about this.
22 Have you ever e-mailed any of these
23 individuals, Rusty, Jon Mazzoli, or Vicki Scott?
24 **A. No.**
25 Q. And how do you know, other than it

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 162

1 says Vicki is vice president of collections, that
2 she is vice president of collections?
3 **A. Because we only purchase accounts**
4 **from reputable sellers. We have open-ended**
5 **relationships with that are required to keep**
6 **their records in the regular course of business.**
7 Q. You don't purchase accounts though,
8 you service them.
9 **A. Correct.**
10 Q. So how do you know that Vicki Scott
11 is a vice president of collections at Credit One
12 Bank?
13 **A. I would base it off of the document**
14 **that she signed.**
15 Q. Because it's written down you
16 believe it?
17 **A. Yeah.**
18 Q. All right. Do you ever -- do you
19 know who created the affidavit Exhibit 1, page 3
20 and 4?
21 **A. This. MCM creates them.**
22 Q. MCM creates them.
23 When you say MCM, is there a human
24 being that creates them?
25 **A. Yeah. We work with our legal team**

Page 163

1 **when we create these affidavits.**
2 Q. Have you done that?
3 **A. I have not.**
4 Q. So when you say we, who do you --
5 **A. These are templates. I don't know**
6 **who is responsible for writing them up.**
7 Q. When you receive them they're
8 completely done, completed already by somebody
9 other than your signature and the notary; is that
10 correct? And the date stamp?
11 **A. That is correct.**
12 Q. So three things are added, it's
13 completely done.
14 It's added your signature, the date
15 stamp, and the notary; is that correct?
16 **A. That is correct.**
17 Q. And you're saying that MCM and
18 their own legal team have created this template?
19 **A. Yes.**
20 Q. Is that correct?
21 **A. Yes.**
22 Q. And how do you know that?
23 **A. Through training, through affidavit**
24 **training.**
25 Q. When was the last time it changed?

Page 164

1 You said it's a template. When was
2 the last time you noticed a change?
3 **A. We have several templates. They**
4 **don't all look like this.**
5 Q. All right.
6 **A. So when did this particular one**
7 **change, I couldn't tell you.**
8 Q. How long have you been using this
9 particular template, meaning Exhibit 1, page 3,
10 page 4? The one you've got your hand on.
11 **A. I'm not -- I don't know.**
12 Q. It's always been that way?
13 **A. To my knowledge, yes.**
14 Q. I hate the way this sounds, but
15 have you been -- have you been instructed or
16 cautioned or trained about court orders that tell
17 MCM or Midland how the document should be
18 created?
19 Have you received any word of any
20 court litigation that says something is wrong
21 with the affidavits, now we've got to do it this
22 way of any kind in your two years?
23 **A. I know we have changed our**
24 **templates a lot where they'll remove something,**
25 **you know, take the firm name away or something.**

Page 165

1 **Changes do happen. I'm sure it's based off of**
2 **feedback that they receive from --**
3 Q. And that's good.
4 But are you familiar with any court
5 litigation that says you've got to change --
6 **A. No.**
7 Q. All right. So that's not part of
8 your training?
9 **A. Yeah, no. I don't have a part in**
10 **changing the templates.**
11 Q. Do you have to sit down with an
12 attorney when you do your job?
13 **A. Are you referring to training, like**
14 **when I started validating?**
15 Q. Yes.
16 **A. There was a training.**
17 Q. With an attorney.
18 And what does the attorney say to
19 you?
20 MR. TUCKER: Objection to the form
21 of the question.
22 I'm going to instruct you not to
23 answer.
24 MR. PARKER: Privilege? You said
25 form, you didn't say privilege.

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 166

1 MR. TUCKER: Well, you're correct.
2 Thank you. Object to the form of the question.
3 If you're asking her what the
4 attorney said to her in connection with any
5 specific piece of litigation or this case, that
6 would be attorney-client privilege.
7 BY MR. PARKER:
8 Q. All right. Separate from that.
9 You said training. We weren't talking about
10 that.
11 Meaning has an attorney instructed
12 you on how to do your job?
13 **A. Yeah. What to watch for in**
14 **affidavits and the language.**
15 Q. Why would they instruct you what to
16 watch for if it is a template that you said the
17 legal team is creating?
18 **A. Just so we have a good**
19 **understanding of it.**
20 Q. Excellent. And that's what we did.
21 We went down as to why you -- you agreed to sign
22 off on certain things.
23 When was the last time you had that
24 kind of a training where an attorney sat you down
25 and said here's what you've got to watch for?

Page 167

1 MR. TUCKER: Objection to the form
2 of the question. And I'm going to object on
3 privilege grounds as it may relate to this
4 litigation.
5 If you're just asking about general
6 FDCPA or data training done by an attorney, you
7 can go ahead and answer.
8 THE WITNESS: It was January, I
9 believe.
10 BY MR. PARKER:
11 Q. Of this year?
12 **A. Yes. We have annual trainings.**
13 Q. All right. What was the purpose of
14 the training?
15 **A. A refresher.**
16 Q. Of?
17 **A. The affidavits, any changes, things**
18 **to watch for.**
19 Q. And did they present you new
20 affidavits that you were going to use? Any
21 changes?
22 **A. Yes. It wasn't regarding this**
23 **particular affidavit, but.**
24 Q. Was it an attorney within the
25 company or an outside attorney?

Page 168

1 **A. Within the company.**
2 Q. Within the company. Okay.
3 So once you've done your -- you've
4 gone through the affidavit and you've -- it's now
5 time to sign it, where do you sign the affidavit
6 in your job?
7 **A. We have a notary table area.**
8 Q. And is he or she waiting there for
9 you to take your stuff over or do you make an
10 appointment? How does that go?
11 **A. I would write my name on the board**
12 **and they would come get me when they're ready.**
13 Q. What does that mean?
14 **A. They have a board.**
15 Q. Not an electronic board, a
16 chalkboard?
17 **A. Yeah. Like a dry board. Dry-erase**
18 **board.**
19 Q. So you write your name on the
20 board, and someone's job -- some notary and your
21 job sometimes when you're the notary is to go
22 look to see if Nicole needs some signing, is it
23 as simple as that?
24 **A. Yeah.**
25 Q. Do you put a time or a date?

Page 169

1 **A. No.**
2 Q. And how do they get to pull you
3 from whatever job you're doing when they choose
4 to as opposed to a predetermined date?
5 **A. If I put my name on the board it**
6 **gets notarized that day.**
7 Q. Okay. And so at some point after
8 you put your note -- is it a chalk?
9 **A. Dry-erase board.**
10 Q. Dry-erase board.
11 Not electronic?
12 **A. No.**
13 Q. And when you put your name up
14 there, in that day someone will come and get you?
15 **A. Yes.**
16 Q. So even if it's in the afternoon?
17 **A. Yes.**
18 Q. And when someone comes and gets
19 you, what happens then?
20 **A. They swear me in, we sign, stamp,**
21 **date. And then the affidavits go to our QC**
22 **department. They quality check it, and then it's**
23 **taken to the mailroom and scanned in, sent to the**
24 **firms.**
25 Q. By electronic mail?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 170

1 **A. Depends on the firm.**
2 Q. You mail them?
3 **A. Some.**
4 Q. Really. Oh, the originals?
5 **A. Yeah. It depends on the firm.**
6 **Some of them get mailed electronically, some of**
7 **them do actually require them to be mailed.**
8 Q. Stillman?
9 **A. I'm not sure what their --**
10 Q. When you say hey, I'm on the
11 chalkboard, guy or girl comes and gets you, do
12 you go over the one or with a stack?
13 **A. It depends. Typically a stack.**
14 Q. And take me through the process.
15 Is there a table you said?
16 **A. Uh-huh.**
17 Q. And is there a man or woman sitting
18 at the table, or you both walk together when they
19 come and get you?
20 **A. Yeah. Depends. They might just go**
21 **and I'll get my stuff and walk over there.**
22 Q. Meet you over there?
23 **A. Yeah.**
24 Q. Because you don't have it sitting
25 there. Okay.

Page 172

1 **A. Do you solemnly swear the**
2 **statements set forth in these documents which you**
3 **are about to sign before me are true.**
4 Q. So the one on top, you open it, you
5 sign in front of he or she?
6 **A. Uh-huh.**
7 Q. You hand it to her, and she
8 notarizes?
9 **A. Yes.**
10 Q. Is that how it goes?
11 **A. Yeah. I date stamp it, sign my**
12 **name.**
13 Q. Oh, you take a stamp with you?
14 **A. Yeah.**
15 Q. Stamp it.
16 So when you go over there you go
17 with a stack, a pen, and a date stamp.
18 Anything else?
19 **A. My little thumb thing so I can grip**
20 **the paper.**
21 Q. Rubber thing.
22 Okay. And do you take an ID?
23 **A. No.**
24 Q. Why not?
25 **A. Because I know everyone.**

Page 171

1 So are they sitting at a table or
2 standing?
3 **A. Sitting.**
4 Q. Sitting. Is there another chair
5 for you to sit at?
6 **A. Yes.**
7 Q. And do you sit?
8 **A. Yes.**
9 Q. Across from them or next to them?
10 **A. Across.**
11 Q. Across. So now you've got your
12 stack and it's to be signed and notarized.
13 Is it true that you sign it in
14 front of the notary?
15 **A. It is.**
16 Q. Or is it already signed?
17 **A. No. We have to sign in front of a**
18 **notary.**
19 Q. Right. And you demand that of the
20 people that sign in front of you, they sign in
21 front of you?
22 **A. Absolutely.**
23 Q. Do they swear you in?
24 **A. Yes.**
25 Q. Tell me how that goes.

Page 173

1 Q. Right. And they know you is the
2 point. All right.
3 So he or she swears you, you sign,
4 and you hand it for the notary.
5 Then the next one, does she swear
6 you in for the next one, you sign, you hand it
7 in --
8 **A. No. She just swears me -- he or**
9 **she would swear me in the one time for all of**
10 **those documents. If I had to get up and leave**
11 **for any reason or my notary did, they'd come back**
12 **and swear me in again.**
13 Q. Cool.
14 And so do you sign the whole stack
15 and then give he or she the stack?
16 **A. Yes.**
17 Q. And then she notarizes each one?
18 **A. It's usually as we go. So I sign**
19 **it --**
20 Q. Hand it?
21 **A. Yeah.**
22 Q. Sign it. All right. You've just
23 explained the process.
24 Okay. And then what happens? It
25 goes eventually to the QC department?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 174

1 (Clarification by the court
2 reporter.)
3 THE WITNESS: Yes.
4 BY MR. PARKER:
5 Q. And who takes it to the QC
6 department?
7 **A. The QC department will usually --**
8 **we have carts, so they'll usually come grab the**
9 **cart.**
10 Q. So you just drop all this stack on
11 a cart?
12 **A. Next to the notary tables, yes.**
13 Q. And then it's QC's job to
14 eventually come over and take a cart.
15 And it's up to them from then on?
16 You're not going to see it again. They're not
17 going to ask any questions of you?
18 **A. If there's something wrong with it.**
19 **Like I had missed one or something, then that**
20 **would come back to me. But otherwise, yeah, it**
21 **would go to the mailroom.**
22 Q. All right. And when you do the
23 notary, that's what you go through as the notary?
24 You come and get somebody, you sit
25 them down at the desk, and you make them swear

Page 176

1 Q. California where -- all right.
2 **A. I can't give you firm names. I**
3 **can't think of anybody. I think it boils down**
4 **more to the state.**
5 Q. They don't require a notary?
6 **A. Yeah.**
7 Q. Just your signature.
8 Have you ever signed it at the desk
9 and then taken it to the notary to be --
10 **A. No.**
11 Q. Never?
12 **A. Never.**
13 Q. In the two years?
14 **A. Never.**
15 Q. All right. So what's the longest
16 time you've ever gone between your signature and
17 the notary's signature?
18 **A. Seconds.**
19 Q. All right. Okay. I think you said
20 you haven't seen a credit card agreement between
21 Mr. Tucker and Credit One Bank?
22 **A. I have not. I believe it's**
23 **attached, but it wasn't something I referenced**
24 **when I signed the affidavit.**
25 Q. All right. You hadn't seen

Page 175

1 and go through their deal, right?
2 **A. Yes.**
3 Q. And then somebody puts it on that
4 cart?
5 **A. I would put it on the cart when**
6 **we're done, yeah.**
7 Q. The notary?
8 **A. Uh-huh.**
9 Q. Does the notary do it when you go
10 over and swear?
11 **A. Yeah.**
12 Q. All right. Are you required to
13 sign a certain amount during the week?
14 **A. No.**
15 Q. No. Have you ever signed an
16 affidavit at your desk in two years and then
17 taken it to the notary?
18 **A. There are circumstances where it**
19 **does not need a notary stamp. So yes, there are**
20 **a few firms that we can do that with.**
21 Q. What's an example of a firm that
22 requires you not to notarize an affidavit?
23 **A. I think it kind of comes down to**
24 **more states. California I believe is one of**
25 **them, and New Jersey.**

Page 177

1 anything from Credit One?
2 MR. TUCKER: Objection to the form.
3 BY MR. PARKER:
4 Q. When you signed the affidavit?
5 **A. No.**
6 MR. TUCKER: Same objection.
7 BY MR. PARKER:
8 Q. And you said you didn't know if it
9 was a Visa, Mastercard, or Discover?
10 **A. I do not know.**
11 Q. All right. Exhibit 2. I am close
12 to ending, and I keep promising that, and I'm
13 trying to get it done.
14 Exhibit 2C, there is no signature
15 of anyone from MHC Receivables or representing
16 themselves as MHC Receivables; is that correct on
17 Exhibit C?
18 MR. TUCKER: Objection; document
19 speaks for itself.
20 THE WITNESS: That's correct.
21 BY MR. PARKER:
22 Q. All right. Exhibit E of Exhibit 2,
23 there is no signature of anybody representing
24 themselves from Sherman Originator III or
25 line-line-line, LLC; is that correct?

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 178

1 **A. That is correct.**
2 Q. And we already asked you, there's
3 no signature from Midland Funding on Exhibit G?
4 **A. Correct.**
5 Q. This may sound like silly, but I
6 know what the answer is but I'm going to ask it
7 anyway.
8 The records that you review, you
9 said so this affidavit Exhibit 1, page 3, page 4,
10 you looked at two things, and correct me if I'm
11 wrong, the AMS and the seller's data report
12 called the field data report; is that correct?
13 **A. Correct.**
14 Q. Those two things before you signed?
15 **A. Correct.**
16 Q. Right?
17 Why didn't you attach those to the
18 affidavit?
19 **A. Because the firm didn't require it**
20 **to be attached.**
21 Q. All right. When you say firm, you
22 say Stillman didn't want it attached?
23 **A. Correct.**
24 Q. If you don't mind my asking, how is
25 the reader -- you may not know the answer to

Page 179

1 this.
2 How is the reader of this
3 affidavit -- or even a court because -- how are
4 they supposed to know what you're referring to
5 when you refer to certain electronic records?
6 **A. I don't know.**
7 Q. In other words, the reader doesn't
8 know what you're looking at if they look at your
9 affidavit; is that correct?
10 **A. Yeah.**
11 Q. Yes?
12 **A. Yeah.**
13 Q. All right. So nothing you've sworn
14 to is attached to the affidavit?
15 Nothing you say you review is
16 attached to the affidavit?
17 **A. What I reviewed is in the**
18 **affidavit.**
19 Q. Right.
20 But what you reviewed is not
21 attached --
22 **A. Yeah.**
23 Q. -- to the affidavit?
24 **A. The seller data sheet is not**
25 **attached --**

Page 180

1 Q. All right.
2 **A. -- to the affidavit.**
3 Q. And the AMS --
4 **A. Is screenshot -- yeah.**
5 Q. Are you able to get a screenshot?
6 **A. I've never tried.**
7 Q. All right. The question is: Are
8 you able to get a screenshot? Is one able to?
9 **A. You can take a screenshot of**
10 **anything.**
11 Q. Oh, okay.
12 **A. I think.**
13 Q. I just keep pressing that button.
14 It doesn't work.
15 If you go to page 3 of Exhibit 1
16 again. We are almost done.
17 You touched upon how -- do you see
18 the part where it says obligation sued upon?
19 **A. Uh-huh.**
20 **(Clarification by the court**
21 **reporter.)**
22 THE WITNESS: Yes.
23 MR. PARKER: Sorry. Sorry. Well,
24 yeah, it's your fault, not mine.
25 We're almost done.

Page 181

1 BY MR. PARKER:
2 Q. We had some discussion on that.
3 Is it your belief it's not a false
4 statement to Mr. Tucker because when he obtains
5 it, it is a true statement that it's been sued
6 upon?
7 **A. Correct.**
8 Q. Right?
9 **A. Correct.**
10 Q. Is it your belief that it becomes a
11 true statement once Mr. Tucker receives this?
12 **A. Yes.**
13 Q. But at the time in September 21st
14 it's not a true statement; isn't that correct?
15 MR. TUCKER: Objection to the form.
16 BY MR. PARKER:
17 Q. It is sued upon when Tucker gets
18 it, but in -- that's -- what do we think,
19 October 16.
20 But in September 21 it isn't a true
21 statement?
22 MR. TUCKER: Objection to the form.
23 THE WITNESS: The obligation sued
24 upon is the account sued upon the complaint --
25 the complaint wasn't filed, but the firm

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

Page 182

1 requested this to be attached to the complaint.
2 BY MR. PARKER:
3 Q. But it wasn't sued upon in October
4 16th -- excuse me, October 21st; is that correct?
5 **A. September 21st.**
6 Q. Yes.
7 **A. No.**
8 Q. All right. So that's not a true
9 statement.
10 But you think -- your belief is it
11 becomes a true statement once the consumer
12 obtains the loss?
13 MR. TUCKER: Objection to the form.
14 You can answer.
15 BY MR. PARKER:
16 Q. Yes?
17 **A. Yes.**
18 Q. All right. The lawsuit, if you
19 know, you made a point to me, yes, this is
20 attached to -- this affidavit, it's supposed to
21 be attached to a lawsuit; is that correct?
22 **A. Yeah.**
23 Q. And is that an attempt to collect a
24 debt?
25 **A. Yes.**

Page 183

1 Q. Mr. Tucker's debt?
2 **A. Yes.**
3 Q. Correct?
4 So you're part of MCM that's
5 collecting a debt with this affidavit for
6 Mr. Tucker? Yes?
7 **A. Yes.**
8 Q. And you don't know if that
9 affidavit traveled to Stillman through e-mail or
10 by mail? Or do you know?
11 **A. I don't know.**
12 Q. You don't know. Okay. I already
13 asked you that, but okay. I think I'm done.
14 He's going to have questions for you, I think.
15 The AMS thing -- we're almost done.
16 The AMS that you report to -- you
17 use as a tool when you're doing your job to
18 validate, in the Tucker case you said it just
19 changed when the -- I think you said the
20 financial data dropped off when you looked at it
21 again a couple weeks ago; is that correct?
22 **A. Correct.**
23 Q. Is the AMS -- it's called the AMS
24 screen. Does it change after you've done your
25 job to validate?

Page 184

1 **A. In what way?**
2 Q. I guess the question again is:
3 Does it change in any way, the information in the
4 AMS?
5 **A. Not right away. I can go back in
6 and rework something. So -- and it's still
7 there.**
8 Q. Meaning --
9 **A. It doesn't change.**
10 Q. Nothing changes because it's --
11 **A. Yeah. I don't know at what point
12 it does. If it's when the firm files the
13 complaint, I'm not sure, because I've never gone
14 back and pulled up an account.**
15 Q. In this case you did to get ready
16 for the deposition?
17 **A. Right.**
18 Q. Right?
19 **A. Right.**
20 Q. So is that the only time you've
21 ever gone and looked at another account after
22 you've validated is when there's -- no, it
23 wouldn't be -- is that the only time you've ever
24 gone back and looked at an AMS screen?
25 **A. After I've processed an account?**

Page 185

1 Q. Yes.
2 **A. No. If there was something that I
3 read through and I, you know, maybe I didn't
4 catch it right away, I can go back in, rework it.**
5 Q. Same day?
6 **A. Yeah.**
7 Q. All right. When you say "rework
8 it," are you changing information on the --
9 **A. No.**
10 Q. -- AMS screen?
11 You can't?
12 **A. No, I can't change it. That's not
13 an option for me.**
14 Q. Who can change it? Or is it like a
15 PDF?
16 **A. I honestly don't know who can
17 change it. If a payment is made, I don't know if
18 that's an -- I don't know who updates that.**
19 Q. All right. So however the
20 information is created on the thing that you
21 refer to, the AMS, you don't know how the
22 information is compiled or changed or by whom?
23 **A. I don't know the person that does
24 that, no.**
25 Q. All right. And you haven't met

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

1 them or talked to them.
2 Is it done at 16 McLeland, or is it
3 some server out in Nevada or California or
4 something?
5 **A. I believe it's out at a different**
6 **location.**
7 Q. Same state or different state?
8 **A. A different state, I believe.**
9 Q. All right. So it's somebody has
10 created this information and dropped it onto a
11 server that's populated in the thing that you
12 look at?
13 **A. Yes.**
14 Q. You understood what I said? That's
15 awesome. I'm learning a lot.
16 And so in this case you went in and
17 there was only one change, somehow they'd gotten
18 rid of the financial data?
19 **A. Yes.**
20 Q. All right. Is that the only time
21 that you've ever done that?
22 For example, you sign September
23 21st, and then you look sometime early April,
24 late March, that's about six months, have you
25 ever done a revisit of that long as opposed to

1 when you're going and correcting stuff?
2 **A. I haven't.**
3 Q. What's the longest time before this
4 case that you've gone between visits?
5 **A. Probably a day.**
6 Q. A day?
7 **A. Where it's still available for me**
8 **to look at everything without things missing.**
9 Q. All right. Okay. Good. Okay.
10 All right.
11 MR. PARKER: At this time, I have
12 no other questions.
13 MR. TUCKER: You're done?
14 MR. PARKER: Yes, sir.
15 MR. TUCKER: All right. We're
16 done.
17 (Whereupon, the deposition was
18 terminated at 12:20 p.m.)
19
20
21
22
23
24
25

1 I, the undersigned, NICOLE HANKE,
2 do hereby certify that I have read the foregoing
3 deposition and that, to the best of my knowledge,
4 said deposition is true and accurate (with the
5 exception of the following corrections listed
6 below):
7 PAGE LINE CHANGE REASON FOR CHANGE
8
9
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23
24 DATE _____
25 SIGNATURE _____

1 DEPOSITION ERRATA SHEET
2 Page No. ____ Line No. ____ Change to: _____
3 Reason for change: _____
4 Page No. ____ Line No. ____ Change to: _____
5 _____
6 Reason for change: _____
7 Page No. ____ Line No. ____ Change to: _____
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18 Reason for change: _____
19 Page No. ____ Line No. ____ Change to: _____
20 _____
21 Reason for change: _____
22 _____
23 _____
24 SIGNATURE: _____ DATE: _____
25 NICOLE HANKE

1 C E R T I F I C A T E

2 STATE OF MINNESOTA:

3 : SS.:

4 COUNTY OF HENNEPIN:

5

6 BE IT KNOW, that I, Brandi N. Bigalke, RPR,
7 RSA, do hereby certify that the foregoing
8 transcript of NICOLE HANKE, in the matter of
9 MIDLAND FUNDING, LLC, As Assignee of CREDIT ONE
10 BANK, N.A. versus DARRIN TUCKER, is true, correct
11 and accurate;

9

10 That said transcript was prepared under my
11 direction and control from my stenographic
12 shorthand notes taken on the 23rd day of April,
13 2018;

12

13 That I am not related to any of the parties
14 in this matter, nor am I interested in the
15 outcome of this action;

15

16 That the cost of the original has been
17 charged to the noticing party, and that all
18 parties who ordered copies have been charged at
19 the same rate for such copies;

18

19 WITNESS MY HAND AND SEAL this 28th day of
20 April, 2018.

20

21

22

Brandi N. Bigalke, RPR, RSA

23

24

25

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

<p>A</p> <p>A-F-F-R-E-C-... 31:7</p> <p>a.m 4:5</p> <p>ability 19:16</p> <p>able 85:11 151:7 180:5 180:8,8</p> <p>Absolutely 171:22</p> <p>acceptable 149:21</p> <p>accepting 148:2</p> <p>access 11:10 57:20 86:10 90:1 151:5 158:7,10</p> <p>account 45:23 51:6 57:20 57:22 59:23 59:25 67:8 69:7,14,22 70:14 71:2 71:25 73:20 73:21 75:19 76:4,11,20 77:18 78:18 79:1 80:3,7 82:20 83:25 84:1,10 85:7 86:25 89:10 89:11 90:2 92:7,9,11,11 92:14 93:7 94:11,18 97:9 98:6 102:16 103:2 107:21 109:19,19 110:7 111:12 112:1 113:3 113:5,6,15 114:2,17,22 115:9,18 116:2,10,24 117:9,14 118:1,10 119:5 120:2 120:9 128:24 128:25 130:3 133:13,13 134:4,5 135:3,16 136:8 138:1 138:2,14 141:22 142:2 142:3,5,16,18 142:18,19 143:5,6,10 144:3 152:16 181:24 184:14,21,25</p>	<p>accounts 22:10 22:11,16 23:13 24:7 62:12 69:19 118:13 122:19 143:1 148:9 157:1 161:2 162:3 162:7</p> <p>accumulate 155:4</p> <p>accumulation 72:17</p> <p>accurate 12:20 54:23,25 55:2,9,15 93:21,23 100:1,4 120:25 151:8 152:3 188:2 190:8</p> <p>acquire 93:8</p> <p>acquired 92:8 92:18 93:6 94:17 95:10 103:1 110:2</p> <p>act 120:14 121:4,5 122:2,3 123:9</p> <p>action 137:16 190:14</p> <p>active 132:4</p> <p>activity 115:18 117:5</p> <p>actual 26:24 36:12 50:25 60:22 139:22</p> <p>add 24:12,18 24:24 29:13 99:24 125:13</p> <p>added 163:12 163:14</p> <p>address 54:1 55:12</p> <p>admit 83:20</p> <p>AFF 32:14 35:10 128:6 135:6</p> <p>affidavit 8:6 19:17 21:2 24:18 26:13 27:4 28:4 29:20 30:7 30:12,24 31:2,4 32:11 34:4,7 35:12 35:13,15,22 35:24 36:5,8 36:23,25 37:2,3,5,7,12 37:16,18,23 37:24,25</p>	<p>38:2,5,7,9,25 39:4,8,10 40:10,15,17 42:2,5,6 43:7 43:15,23 44:4 48:8,18 50:8 51:6 55:19 56:12 56:25 57:11 57:14 60:9 67:4,20,24 71:5 72:25 76:24 77:12 77:17 79:6 79:17,24 81:9 85:5 88:11,13,18 90:4,6,13,23 91:7 94:23 96:4 100:4,7 100:8,16 103:4,9,12,13 103:17,18 105:8 106:2 106:21 109:6 109:14 110:22 113:12,23 114:14 115:1 116:18,19 126:16,20,22 126:24,24 127:24 130:13 131:3 133:3 134:21 134:24 135:1 136:21 137:18,21,24 138:23 140:3 140:16 148:9 149:11 154:13 162:19 163:23 167:23 168:4 168:5 175:16 175:22 176:24 177:4 178:9,18 179:3,9,14,16 179:18,23 180:2 182:20 183:5,9</p> <p>affidavits 7:24 8:1 10:23 11:2 16:15 21:1 23:17 24:9,13 25:21 32:12 35:18 40:1 65:13 103:8 137:2,9,14 148:20 163:1</p>	<p>164:21 166:14 167:17,20 169:21</p> <p>affiliated 22:9 23:2 145:5 145:13,14,15</p> <p>affiliates 145:2</p> <p>affiliation 23:4</p> <p>Affirmative 10:1</p> <p>Affirmed 10:12</p> <p>afraid 6:21</p> <p>afternoon 169:16</p> <p>age 69:5</p> <p>ago 132:22 134:8 135:19 183:21</p> <p>agree 51:8 52:11 149:14</p> <p>agreed 51:1 119:23 166:21</p> <p>agreement 118:12 130:19 176:20</p> <p>ahead 4:22 8:9 27:12 52:1 56:17 76:8 80:23 97:23 108:10,25 109:2 167:7</p> <p>algorithm 34:11,11</p> <p>algorithms 31:20</p> <p>allow 150:1</p> <p>allowed 86:17</p> <p>alter 151:6</p> <p>America 136:16</p> <p>amount 133:12 136:8 138:8 175:13</p> <p>AMS 40:18,18 40:24 41:4 48:10,13,23 49:6 58:17 58:24 60:4 61:6 67:21 68:15,17,23 74:22 78:22 79:7,18,19 82:19 86:10 87:15,18,23 92:24 93:3 95:14,18,20 96:1,3 103:4 103:15,16 107:11,23 109:10</p>	<p>110:10 111:23 112:3 112:5,23 113:3,6,25 114:4,7,10,18 115:1,16 117:4 122:25 123:1,2,4 128:9 130:7 130:24 131:23 135:11,18 139:1 178:11 180:3 183:15 183:16,23,23 184:4,24 185:10,21</p> <p>and/or 73:17 74:9,25 75:3 75:7,16</p> <p>annual 167:12</p> <p>answer 8:19 10:6 47:13 48:3 52:1 59:18 62:9 94:9,12,12 98:1 104:17 104:23 105:6 105:16 106:5 108:1 126:8 142:10 155:21 165:23 167:7 178:6,25 182:14</p> <p>answered 98:22 115:14 122:5</p> <p>anybody 64:17 65:2,7,22 129:23 145:25 153:20,24 154:2 160:13 176:3 177:23</p> <p>anyway 74:6 75:10 88:23 178:7</p> <p>apologize 47:25 71:22 71:23 86:7 91:19 101:10</p> <p>apparently 154:6</p> <p>appeants 32:5</p> <p>appearance 4:22 5:12</p> <p>APPEARANCES 2:1</p> <p>appears 147:14</p> <p>appointment 168:10</p> <p>April 1:25 4:2</p>	<p>30:1 155:23 157:2,3 186:23 190:11,19</p> <p>area 18:22 134:5 168:7</p> <p>Asian 136:3,14</p> <p>Aside 72:20 73:3 125:5</p> <p>asked 11:17 40:11 47:1 47:22 50:15 64:23 88:20 106:11,15,17 115:14 122:4 143:1 178:2 183:13</p> <p>asking 12:24 14:22 16:19 23:3 67:23 43:21 36:18 87:20 94:13 110:12 113:20 115:16,22 141:16 166:3 167:5 178:24</p> <p>asks 14:9</p> <p>assigned 73:18 78:13 83:4 154:5,8,15,19 154:23</p> <p>assignee 1:4 29:17 190:7</p> <p>assigning 143:4</p> <p>assignment 29:25 30:2,4 30:10 84:16 85:12 147:15 147:24 157:15,20</p> <p>assignments 148:20</p> <p>assist 8:21</p> <p>assistant 153:7</p> <p>assume 17:3 36:19</p> <p>assumes 105:21</p> <p>assuming 17:5</p> <p>assumption 61:20 63:10 63:14</p> <p>attach 37:13 85:18 88:23 137:22 178:17</p> <p>attached 30:25 34:5 35:21 35:24 36:25 37:2,9 38:24 39:3 40:13</p>
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Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

43:16 50:8	108:14	9:7 20:23	broke 115:24	29:11 32:14	188:4 189:2
51:9 55:19	131:22,24	28:12 49:20	brought 9:14	38:4 39:2	189:3,4,6,7,9
76:25 77:13	132:10,19,20	74:9 93:25	42:17 95:3	43:9 46:2	189:10,12,13
81:9,13,17	135:18 149:4	127:23	95:22	57:9 59:8	189:15,16,18
88:24 93:11	173:11	140:17	bulk 156:7,10	60:15 61:12	189:19,21
93:12,13,20	174:20 184:5	157:10	156:15	62:5 78:4	changed 68:25
101:17 144:7	184:14,24	160:15	157:24	79:12 81:5	163:25
144:10	185:4	162:16 167:9	business 54:1	81:15,18	164:23
148:19	background	175:24	55:11 117:25	82:8 83:24	183:19
176:23	153:12	176:22 186:5	118:7,9	84:7 85:10	185:22
178:20,22	bad 65:5	186:8	119:25 120:7	87:5 88:19	changes 165:1
179:14,16,21	balance 94:21	believed 57:2,5	120:11,13,23	92:25 93:10	167:17,21
179:25 182:1	122:23	belongs 88:17	121:2,25	95:17 98:5	184:10
182:20,21	125:21,21	142:19	153:14 162:6	102:5 103:13	changing
attaches 37:11	134:25	best 35:9 66:13	businesses	103:23 126:3	165:10 185:8
attaching	135:20 136:6	188:2	62:19	128:22,24	charge-off
149:9	136:12 138:8	better 13:13	button 180:13	135:2 144:22	94:21 139:22
attachment	bank 1:4 3:9	88:5 99:5	buyer 147:20	146:20	141:8
147:8	29:18 30:2	beyond 108:8	buyers 130:4	147:10	charged 128:25
attachments	73:20 79:1	Bigalke 1:25	buying 65:1,23	150:25 151:2	129:3,13,15
25:25 26:2	104:15 105:4	190:6,22	buys 22:13	153:23 154:2	129:18
35:21 37:6	105:12 106:1	bill 29:25 30:1	63:12 64:21	154:9 155:8	135:10
38:5,6,10,12	125:1 130:19	30:3,10		157:2 166:5	140:12 157:1
131:19	141:6,7	79:12 80:18	C	183:18	190:16,17
140:18	152:21,24	81:5,13 82:7	C 157:5,5,20	184:15	check 36:5
attempt 182:23	153:1 155:19	84:20 85:4	177:17 190:1	186:16 187:4	38:19,21,22
attention 9:15	156:1 157:16	85:24 87:4	190:1	catch 185:4	38:22 42:4,7
attorney 7:1	158:14	103:10 105:8	Calgary 18:1	cause 25:24	42:12 44:16
8:7,18 15:18	162:12	106:24	California	cautioned	46:15 47:5,8
165:12,17,18	176:21 190:8	141:13	175:24 176:1	164:16	47:17,18
166:4,11,24	barcode 31:10	143:21 144:6	186:3	Center 4:4	48:4 49:6
167:6,24,25	32:15	147:14 148:6	call 23:17	certain 34:20	56:12 81:19
attorney's	base 162:13	148:7,19	29:21 35:9	36:25 38:3	82:14 99:17
142:10	based 30:20	149:11 150:9	35:11,12,15	38:15 40:12	99:24 169:22
attorney-client	36:3 37:14	157:15,19	38:9 40:18	96:7 118:15	checked 40:7
166:6	37:15,22	Bloomfield	98:6 101:6	166:22	40:12 41:25
Attorneys	41:20 46:22	2:12	107:9 121:1	175:13 179:5	46:13 47:23
52:20 90:9	58:12 63:16	blow 66:2	122:8 156:15	Certainly 82:22	82:6
auspices 7:6	63:18 69:6	blurt 10:6	called 4:8	Certificate 30:8	checking 38:23
authority	101:22 135:5	board 168:11	35:10 79:18	30:14 148:15	48:22,22
67:10	140:18 165:1	168:14,15,17	81:8 82:11	certification	53:13 99:18
authorize 92:3	basic 141:3	168:18,20	101:15,17	19:21	checks 43:14
authorized	basics 11:11	169:5,9,10	102:8 126:20	certified 54:18	choose 169:3
90:3,17,22	becoming	boils 176:3	139:6 144:10	certifies 54:21	chunk 157:18
91:22,24	39:12	bosses 67:7	160:18	certify 52:17	circumstances
158:9	beginning 18:5	bottom 41:8	161:16	54:15 55:10	175:18
authorizing	28:19 43:24	49:23 139:13	178:12	188:1 190:6	claiming
90:5,12 91:6	91:17	bought 71:11	183:23	certifying	133:24
92:3	behalf 2:2,9	80:10	calls 71:25	54:22	clarification
automatically	4:25 5:1	boy 69:7 101:6	88:10	cetera 55:12	9:21 15:23
63:12	23:18 57:22	Brandi 1:25	card 3:9 130:18	chain 58:12	36:11 42:16
available	69:8,21	190:6,22	138:14	59:5 138:3	69:25 87:25
133:19 187:7	70:14,15	break 91:17,19	176:20	chair 171:4	89:14 108:19
average 27:25	71:3 72:3	115:17	care 44:19	chalk 169:8	120:18 174:1
aware 62:17	73:12,13	150:16,19	65:12 153:7	chalkboard	180:20
137:17	90:4,6,13,18	breaks 35:20	Carolina	168:16	clarify 94:4
awesome	90:23 91:8	38:17 99:21	148:23	170:11	clear 8:23
186:15	92:4	Brian 2:10,10	cart 174:9,11	change 55:22	91:16 108:21
	belabor 126:5	5:25 91:10	174:14 175:4	164:2,7	126:17
B	belief 77:7,9,11	100:22 116:7	175:5	165:5 183:24	cleared 149:21
back 32:13	181:3,10	brianparker...	carts 174:8	184:3,9	clicking 67:21
36:20 53:10	182:10	2:13	case 1:3 5:11	185:12,14,17	78:22
68:14 91:13	believe 6:17	brick 146:4	5:15 6:2 15:4	186:17 188:4	client 29:10

clients 6:25 10:5	185:22	contacting 28:6	109:11,12,15 109:16,22	43:5 190:4	66:13 67:8 70:4,10
close 17:23,24 177:11	compiles 121:15,21	continued 150:20	114:10 115:5 115:12	couple 9:8 56:18 132:21	73:19 78:18 78:25 80:6
Cloud 54:13 153:5	complaint 3:7 29:19 30:25	control 190:10	116:11,15 117:14,18,20	132:22 134:7 135:19	84:16 103:25 104:15 105:4
co-counsel 5:15	50:9 51:10 51:22 55:19	Cool 17:22 173:13	118:1,3 119:5,11	183:21 course 26:1	105:12 106:1 106:8 125:1
code 30:24 31:3 38:15	55:21 56:25 57:7 76:25	copies 68:19 190:17,17	123:6 124:20 125:11	119:24 120:6 120:10,13,22	129:3,13,19 130:18,19
41:9,11 81:11,16	77:14,17 137:17,22	copy 17:8,14 17:15 93:15	126:21,25 127:3,19,20	120:10,13,22 121:2,25	130:18,19 138:14
128:6	181:24,25 182:1 184:13	copying 89:20	128:1,2,10,11 128:14,15	124:1 162:6 court 6:25 7:6	140:11 141:6 141:7 145:2
collect 24:6 182:23	complete 151:8 152:3	correct 6:4,5 7:12 12:2	129:11,15,16 132:24,25	9:21 10:9,12 14:4,5 15:23	145:12 153:4 153:10
collecting 132:7 183:5	completed 163:8	13:15,20 19:18 21:2	135:8 136:6 137:6 138:5	25:5 77:22 77:25 78:7	154:16,16 155:5,19,21
collection 5:18 123:9	completely 28:19 163:8	26:4 27:6 32:17 34:13	138:21 139:8 139:18 140:8	151:9 164:16 164:20 165:4	156:1 157:16 158:14
collections 162:1,2,11	163:13 compound	34:17,18 38:13,25	140:12 141:20	174:1 179:3 180:20	162:11 176:20,21
college 18:17 18:19	83:7 98:23 computer	39:1 42:24 43:1,13,17,18	143:22,23,25 144:4,7,8	cover 17:9 29:23,24	177:1 190:7 crime 16:23
come 67:10 96:10 168:12	32:23 48:16 64:15,20	44:2,4,5,16 45:1,3 46:9	145:20 147:11,18,21	86:21 88:2,4 88:6,9 89:4,6	17:2 cross-refere...
169:14 170:19	68:11 144:24 145:9	46:11,12 49:22 50:11	147:11,18,21 147:22	crazy 39:6 create 72:7	48:2 cubicle 26:18
173:11 174:8 174:14,20,24	computerese 136:18	50:19 51:4 51:13,15,18	153:22 154:16,17,20	113:12 163:1 created 43:16	27:18 33:5 current 73:17
comes 6:23 32:24 35:6	concerned 58:3 conferences	51:24 52:2,4 52:7,9,19,24	155:2,9,10 157:13	71:14 96:1,9 98:14,15	74:8,20,23 79:22
62:12 97:6 122:21 139:1	123:8 confirm 123:4	52:25 53:8,9 54:16 56:9	158:12,15,16 160:14 162:9	112:7 113:13 113:14 117:9	currently 7:16 11:3 19:7
169:18 170:11	confirming 122:25	56:10,15 57:15,16,18	163:10,11,15 163:16,20	126:25 139:7 139:11,17,25	custodian 150:23,24
175:23	139:21 Conformity	58:5,7 61:22 62:19 63:22	166:1 177:16 177:20,25	140:6,24 147:2 162:19	151:12,16 152:1,5,11,14
commencing 4:4	30:8,14 148:15	63:23 64:13 64:15,16	178:1,4,10,12 178:13,15,23	163:18 164:18	152:22 153:19,24
common 149:4 companies	confused 113:19	65:3,4,9,13 65:14 66:12	179:9 181:7 181:9,14	185:20 186:10	154:1,6,9,15 154:19,23
22:25 61:25 62:4,15 63:1	115:16 confusing 47:9	67:12 68:5 69:9,10 72:5	182:4,21 183:3,21,22	186:10 creates 96:13	cut 41:24 59:16
63:4,11,17 145:19	98:23 108:23 connection	72:24 73:9 73:10 74:23	190:8 correcting	97:1,3,10,14 99:5,12	
company 22:6 22:8,19 24:2	92:10 107:20 109:18 110:6	74:24 75:23 76:23 77:3,4	187:1 corrections	117:25 118:7 118:9 162:21	D
63:20 65:1 144:23	111:25 113:2 115:9 116:2	77:20 78:11 78:12 79:20	188:3 correctly 26:4	162:22,24 creating	D 102:1,18 138:17
145:22 146:3 153:15	127:8 166:4 consist 92:7	80:11 81:21 82:9,10,16	53:14 92:13 101:3	166:17 creation 72:17	18:24 19:1 Damn 74:14
167:25 168:1 168:2	93:5 94:17 103:1 110:2	83:2,5 84:11 84:19 88:21	corrects 44:11 cost 190:16	96:11 127:3 139:23	Darrin 1:7 29:18 45:17
competent 69:4	consumer 15:7 42:14 51:5	89:2,10 91:8 91:9,23	counsel 29:14 146:22 147:2	credentials 118:14,17	49:5 53:7 59:23 83:24
compilates 112:14	55:20 56:19 77:16,19	92:20 97:2 98:17 99:6	Counter-Def... 5:7,8	credit 1:4 3:9,9 7:17 19:12	89:18 98:5 142:3 190:8
compilation 72:17 98:5	111:11 182:11	100:17,18,24 102:9,22,23	Counter-Plai... 6:2	21:12 22:6 22:11,22	data 86:3,10 92:8,25 93:2
120:15 121:10 122:1	consumer's 138:2	103:14 104:10,15,21	counterclaim 5:5,19	29:17 30:2 44:17 45:21	93:5,8,11 94:2,17,19
compiled 120:10	contacted 160:25	105:13,14,17 107:24	county 1:2	45:22 46:1 57:21 60:16	95:10,16,19 97:2,3,14,21
				61:18,21	98:6 99:4,12

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

100:20 101:1	25:22 27:19	174:7	discovered	e-mail 183:9	event 120:14
101:3 102:3	27:20,25	depend 99:7,12	53:6 54:24	e-mailed	121:9 122:2
102:8,10,12	28:12,18	99:15,16	55:7	159:12	122:3
102:14,15,24	33:17,20	dependant	discussion	161:19,22	eventually
103:1,5,15,21	132:1 133:10	28:5	181:2	early 186:23	173:25
107:7,8,8,9	136:10 169:6	dependent	dispersed	easier 15:4	174:14
107:10,23	169:14 185:5	35:23	34:12	educate 50:17	evidence 7:7
108:20 109:7	187:5,6	depending	disperses 32:2	education	23:6 65:15
109:10,11	190:11,19	28:2 37:7	32:16,17	18:12 123:8	145:3 160:3
110:2,9	days 20:20,22	depends 33:15	disposition	153:12	exact 9:2
112:5,6	27:22 28:8	33:18 34:3	101:17	Eight 33:21,22	exactly 57:5
113:13	136:20,22	37:3 135:1	144:11	either 10:2	60:20 79:12
114:19 115:2	deal 21:23 22:1	170:1,5,13,20	147:10	13:24 17:4	110:12 154:3
115:24	175:1	deposed 21:4	disrespectful	31:2 34:16	EXAMINATION
120:15,24	debt 24:6 45:6	deposition	115:21	51:19 134:11	3:2 4:11
121:9,15	45:8,16,17,17	1:14 4:1 5:11	document	150:3 160:25	example
122:25	46:14,20	6:4,7 7:4 9:1	26:25 38:3	elaborate	175:21
125:10 128:8	47:6,24 48:5	17:2 29:5	120:1 136:11	106:16,17	186:22
132:12,23	49:14 58:9	101:12 131:2	139:5 145:11	126:10	Excellent
133:2,16,23	59:5 60:7	131:5,14,16	151:19 157:6	142:21,23	113:24
134:2,8,13	61:1,10,15	144:6 147:8	157:10	electronic 79:2	166:20
138:15,21	75:2,4 119:5	150:10	162:13	90:2 92:15	exception
139:5,6	122:12,15	184:16	164:17	92:16 93:4,5	188:3
155:4 167:6	123:9 128:14	187:17 188:2	177:18	94:16 95:4	excuse 15:2
178:11,12	129:13,14,17	188:2 189:1	documentation	96:3 97:5	30:8 155:25
179:24	130:4 138:5	depositions	24:3 125:6	102:25 110:1	157:5 182:4
183:20	140:11 148:3	8:16	documented	168:15	exhibit 3:6,8
186:18	156:1 182:24	described	157:2	169:11,25	29:1,5,9,16
database 36:3	183:1,5	119:1	documents	179:5	30:17 35:5
38:17 58:14	debts 23:6	designated	61:4 86:19	electronically	37:20 42:9
110:19,21	64:21 65:1	153:25	129:2,5	100:11 170:6	44:14 69:5
112:23 129:7	65:23,23	designation	140:14 159:5	else's 27:3	88:2 89:1,25
date 9:2 24:20	155:18 156:3	43:5	159:18 160:7	employed 56:8	101:11,12,16
24:21 58:8	158:14	desk 26:16	161:14 172:2	57:19	102:1,2
58:16,25	decide 35:17	27:18 28:17	173:10	employee	118:4 125:19
59:25 60:14	decides 26:20	119:9 174:25	doing 8:15	146:13	128:7,8
60:22,25	26:20 32:6	175:16 176:8	15:14 16:4	employees	135:25
61:9,14	deeds 148:24	detail 118:8	28:23 29:12	11:6 91:3	138:17
92:11 109:19	defendant 6:1	determined	44:20 46:6	101:23	140:22 144:9
122:23	52:5,12 53:7	93:22	48:25 62:25	144:24	146:21,21,21
128:13,17,25	55:9 56:21	dictates 37:8	66:13,14,15	employer	147:8,14
129:4 133:3	57:8,8	difference	68:7,8,12	153:3	148:10,12
133:5,8,12	125:20	132:17 134:6	78:20 169:3	ends 119:9	155:25,25
134:18,19,20	defendant's	134:17	183:17	England 136:19	157:5,5,5,20
134:23,25	49:4 73:19	135:17	double 38:19	136:20	161:5,5
135:7 136:5	78:18	152:10	38:23 99:17	enjoy 11:20,21	162:19 164:9
136:7,12,15	Defendant/C...	differences	drop 174:10	11:21,22	177:11,14,17
138:13	1:8 2:9	132:9,11	dropped	entire 11:1	177:22,22
139:22,24	defendants	different 24:5	183:20	26:13 40:9	178:3,9
141:8 155:22	122:22	27:11 32:12	186:10	44:15 140:23	180:15
155:23	125:20	37:4 61:25	dry 168:17	entities 22:23	exhibits 3:5
163:10,14	define 143:5	67:19 86:13	Dry-erase	22:23,24	28:22
168:25 169:4	definition	87:23 88:1	168:17 169:9	23:3 45:10	exist 64:9
169:21	141:21,23	186:5,7,8	169:10	62:10,15	84:23 101:19
172:11,17	142:1,14,15	DINSMORE 2:3	due 133:13	63:7 107:1	existence
188:24	142:24	Direct 153:2	136:6	156:4,22	160:3
189:24	delay 102:18	direction	duly 4:8	157:25 158:3	exists 65:16
dated 30:8,14	136:23,23	190:10	duties 73:2	entity 61:15	160:2,14,21
137:2	144:12	directly 32:3	Dykema 4:2	128:14	experience
dates 60:17	demand 171:19	disappeared	<hr/>	ERRATA 189:1	10:3
130:5	department	133:15,17	<hr/>	et 55:12	explain 59:20
Davis 149:25	8:12 169:22	Discover	E	European	59:21 65:10
day 4:2 25:20	173:25 174:6	130:22 177:9	E 161:5 177:22	136:4,15	87:3 106:12
			190:1,1		

148:8 explained 65:22 173:23 explaining 59:9 106:12 extra 99:24	financial 132:12,23 133:2,16,23 134:2,8,13,20 183:20 186:18 find 11:23 61:9 102:17 128:13 144:12 158:5 finding 144:15 finger 46:19 47:16 48:21 49:3 56:11 57:18 58:15 67:14 68:1 69:3 74:20 78:21 122:21 122:24 136:9 fingers 49:23 59:10 67:14 finish 59:17 108:9 150:12 finished 80:21 95:1 116:7 126:8 firm 28:25 31:13 35:20 35:23 36:5,6 36:11,19 38:18 41:9,9 133:3 134:21 134:24 137:15 164:25 170:1 170:5 175:21 176:2 178:19 178:21 181:25 184:12 firm's 30:21 firms 7:24 8:1 28:3,6 35:20 41:23 66:18 169:24 175:20 first 4:8 6:11 42:12 47:18 80:9,19 five 10:5 25:4 146:7 focus 99:23 follow 39:25 following 130:4 149:19 188:3 follows 4:9 150:20 followup 123:21 foregoing 52:18 188:1 190:6	foremost 6:11 forget 15:21 32:19 forgive 40:11 144:12 forgot 9:25 123:7 form 11:14 12:17 13:1,8 13:16 14:2 20:3,19 21:18 23:8 26:7 31:21 35:6 39:18 39:23 48:19 50:20 51:25 52:8 55:3,17 57:25 61:23 62:8 63:2 64:1 65:17 66:20 70:22 71:8,15 72:19 73:24 77:23 79:9 80:15,20 81:3,23 82:17 84:24 85:2,13,20 86:12 87:13 90:19 93:19 97:4,16,22 99:8,13 101:20 104:16,22 105:5,15,19 106:3,6 107:25 109:23 110:16 112:8 113:7 114:11 114:23 115:13 116:12,25 117:15 124:10 125:12,25 126:14 139:9 139:19 141:9 143:7 148:25 152:1 157:20 160:10 165:20,25 166:2 167:1 177:2 181:15 181:22 182:13 format 96:18 136:3,4 forth 172:2 four 106:16 four-paragra... 29:19 frankly 65:12	friends 145:23 front 16:10 27:1 48:18 171:14,17,20 171:21 172:5 Funding 1:3 4:25 5:2,3,9 5:21 21:17 21:23 22:4,5 22:10,13,21 23:12,19 24:4 29:17 45:2,15 46:10,19 49:10 50:15 63:11,22,25 64:5,14,18 65:8,12,16 66:25 67:3,7 67:11 69:16 72:4 80:7,9 82:19 84:19 91:1,2,4 92:3 101:18 107:15 119:4 126:3,22,24 127:4 142:20 145:15 147:20,24 178:3 190:7 Funding's 73:12 further 41:6	gives 130:5 138:1 giving 7:5 glance 131:6 go 4:21 8:9 9:18 15:10 26:12 29:2 36:20 40:15 41:4,6 44:7 48:13 52:1 52:15 53:10 53:22 67:8 67:19,21,23 68:4,14 76:8 79:4,6,7,18 79:19,21 80:17,22,25 81:2 84:4 85:25 88:12 89:25 95:18 97:23 108:10 108:25 109:2 118:22 123:17 124:14 131:22,24 132:19 146:20 148:14 149:4 155:23 167:7 168:10,21 169:21 170:12,20 172:16,16 173:18 174:21,23 175:1,9 180:15 184:5 185:4 goal 153:15 goes 32:4 38:21 68:8 121:8 171:25 172:10 173:25 going 4:21 6:12,16 8:20 10:3 15:12 15:13 16:22 17:8,14,15,16 17:20 24:3 26:21 28:18 28:25 29:8 29:12 37:8 39:6 43:25 47:12,17 48:22 63:19 64:7 66:2 74:20 76:4,5 77:8 78:21 80:2 81:13 81:16,23 86:7 90:15	91:10 93:18 97:12 99:23 101:4,6,15,16 101:25,25 102:17 118:21 125:6 131:24 141:17 142:7 144:11 150:12,14 165:22 167:2 167:20 174:16,17 178:6 183:14 187:1 good 4:13 10:2 10:9 27:14 56:7 66:15 91:18 110:23 133:8 143:17 165:3 166:18 187:9 Google 84:5 Gossett 4:3 gotten 186:17 grab 174:8 graduate 18:15 18:19,21 great 17:18 66:15 97:10 116:21 grip 172:19 ground 6:10 grounds 167:3 guess 13:22 16:7,19 28:21 65:9 65:19 75:17 83:13 84:12 113:19 115:15 119:21 126:9 126:16 129:25 142:8 142:20 145:7 149:18 152:13 154:3 160:22 184:2 guy 161:4 170:11 guys 27:10 89:17 141:1
Finally 106:17					H H 148:10,12 half 10:18 19:17 hand 12:5,13 12:16,23,25 13:7,15 14:1 14:9,12 33:7 33:8 52:21 67:18,23

68:2 78:21 97:25 101:1 101:4,15 102:1 108:20 110:10 140:20 164:10 172:7 173:4,6,20 190:19 handed 29:14 handle 34:20 handling 5:18 5:19 hands 32:25 34:16 85:19 109:5 140:21 Hanke 1:15 4:1 4:7,16 18:9 29:20 32:7 55:11 103:13 151:16 188:1 189:25 190:7 happen 165:1 happened 117:5 happens 169:19 173:24 hard 89:14 hate 164:14 He'll 115:5 head 6:23 hear 10:2 26:3 heard 36:16 145:4 161:9 hearing 116:3 hell 87:2 help 10:4 11:6 11:10 25:10 helping 74:12 helps 86:25 HENNEPIN 190:4 hey 44:8 67:3 170:10 high 18:15 High-level 118:11 hires 25:10 Hold 71:20,20 94:25 108:15 116:6 honestly 68:21 142:17 185:16 horizontal 89:8 horrible 18:14 44:22 Hospital 153:5 hour 25:14 124:5 hours 33:19,22 huh 90:9	human 34:15 162:23 <hr/> I ID 17:7,11 36:5 36:6 172:22 idea 83:3 156:13 identification 29:6 101:13 identified 102:1 identify 30:24 86:25 88:17 89:10 III 84:17,18 98:12 144:20 177:24 imply 136:23 importance 67:14 important 7:2 45:5 82:3 84:2 inaccurate 94:1 130:9 inch 89:1,8 inches 89:1,7 including 35:2 86:9 incomplete 149:17 incorrect 82:18 105:22 130:11 indebtedness 84:3 INDEX 3:1,5 indicate 79:3 indicating 86:21 indication 45:8 45:14 46:20 individuals 161:23 information 24:25 29:11 53:1,5 58:13 58:13 69:13 89:2 94:10 98:16 100:8 100:16,20 103:25 104:4 104:14,20 105:3,12 106:2,7,9,20 110:19 112:11 121:11 128:21 129:6 131:25 138:2 138:25 139:15 140:7	143:14 155:12,15 184:3 185:8 185:20,22 186:10 ING 153:2 initial 53:16 inside 146:21 Institute 18:22 instruct 165:22 166:15 instructed 129:23 164:15 166:11 instruction 123:16 124:9 integrate 100:12 integrated 96:4 118:23 129:6 intent 77:13 interaction 64:14 interest 73:19 78:14,17,25 79:23 81:21 82:15,24 83:5,22 134:3,5 135:10,15,23 interested 190:13 interests 84:9 interject 26:22 131:9 internal 31:18 35:19 36:3 38:17 46:22 47:17 58:14 129:7 interpret 54:22 interrupt 15:12 interrupting 15:13 involved 24:3 issuer 59:4 <hr/> J J 53:19 January 78:4 167:8 Jean 53:21 Jersey 175:25 job 10:19 11:1 12:16 14:7 15:14 16:2 17:20 19:23 19:25 20:1 20:18,25 23:24 24:18 28:5,23 46:8	58:6 65:11 65:12 66:13 66:15 68:7 68:12 72:23 73:1 79:5 82:8 137:20 142:25 153:18 154:5 158:11 165:12 166:12 168:6 168:20,21 169:3 174:13 183:17,25 Joe 15:1,4,8 44:20 91:18 112:15 Joe's 140:21 joined 153:10 joked 47:19 Jon 30:11 159:14 161:23 Joseph 2:3 4:24 joseph.tucke... 2:6 jousting 62:23 JT 15:9,10,12 JUDICIAL 1:2 July 30:8,9 jump 56:2,4,17 justification 62:25 <hr/> K keep 104:25 118:21 162:5 177:12 180:13 Kendall 161:5 161:6 Kentucky 2:5 kept 73:11,13 119:24 120:6 120:10 121:2 122:16,18 kids 7:14 kind 11:9 38:18 62:24 65:5 104:12 123:18 151:19 164:22 166:24 175:23 knock 33:24 34:2 know 6:10 8:21 12:7,12,22 13:14,21,25 14:1,8,17,22 14:24 15:3	16:12,21 17:4 21:24 22:18 28:24 29:12 33:14 36:2 38:14 38:16 41:8 41:16,18,20 43:8,10 45:12 50:22 51:14 54:17 56:14 58:11 59:5 60:5,8 64:9 65:9 68:13,21 72:10 74:15 75:8 80:14 83:6,16,22 84:23 85:16 85:21,23 87:10 88:11 88:22,24 90:8,14,14,15 90:16,17,21 93:16 94:25 96:8,17 97:10,12,17 97:19,20 98:9,15 99:4 99:11,25 100:13,14,15 100:19,25 101:2,7 105:23 107:13 109:4 112:14 119:12,18 120:5 121:14 121:16 126:10 127:13 129:17,18 130:21 132:4 132:13,14 137:13,17,23 138:19,20 139:16,23 142:7,17,20 142:25 144:18,19,21 145:18,21,23 146:3,4 148:6,6,22 149:1,3,24,25 152:19,20 154:3 155:11 155:18 156:3 156:19 158:2 158:13,22 159:14,16,17 160:2,21,24 161:6,7,25 162:10,19 163:5,22	164:11,23,25 172:25 173:1 177:8,10 178:6,25 179:4,6,8 182:19 183:8 183:10,11,12 184:11 185:3 185:16,17,18 185:21,23 190:6 knowing 24:3 62:6 125:5 knowledge 12:20 46:4 69:7,19 70:13,19 71:2 73:7 100:10 120:14 121:4 121:5,10 127:5 133:22 148:4 164:13 188:2 <hr/> L lack 13:13 88:4 99:5 Lake 2:11 18:22 language 128:23 151:15 166:14 late 186:24 law 2:10 7:24 8:1 28:6,24 30:21 31:13 36:11,19 41:7,15 66:18 81:12 128:5 147:4 147:9 laws 124:15,16 lawsuit 29:9 42:17 43:17 43:22 49:17 49:18 50:2 50:10,18,25 51:2 85:18 93:13,20 127:25 137:9 182:18,21 lawyer 83:20 104:13 lay 15:14 learn 153:16 learned 64:12 learning 10:3 186:15 leave 150:11 173:10 left 8:18 49:22
---	---	---	--	---	--

67:18,23 78:21 103:20 left-handed 67:16 legal 7:21,22 7:23 8:11 20:5 24:19 56:9,14 57:19 58:2 73:2 152:2 160:6 162:25 163:18 166:17 let's 28:17 29:1 32:13 42:8 53:10 78:20 132:18 146:8 letter 120:3 122:7 letters 71:25 72:13 111:1 111:16 114:1 114:5,8 liaison 21:22 line 69:2 73:16 74:8 75:21 188:4 189:2 189:4,7,10,13 189:16,19 line-line-line 177:25 lining 100:4 list 59:4 listed 46:23 60:16 150:24 151:12,25 188:3 Listen 115:21 listener 56:7 lists 60:15 literally 48:21 litigation 43:24 50:12 57:10 120:1 151:13 164:20 165:5 166:5 167:4 little 172:19 live 19:1 lived 19:4,9 lives 36:15 LLC 1:3 5:3 21:17 22:4 45:2 46:10 63:25 64:5 84:18,18 98:12 104:5 106:21 144:20 147:20 155:20 177:25 190:7 LLP 2:3 located 21:20	146:4,11 location 186:6 long 10:16 18:8 19:4,9 54:6 71:6 81:23 89:2 124:3 153:8 164:8 186:25 longer 26:1,5,8 132:3,6 longest 176:15 187:3 look 17:11 19:16 24:4 28:22 38:15 44:13 58:16 59:22 60:2 61:7 78:23 79:4 80:18 84:14,15,20 85:3,9,10 86:1 88:5 89:4 102:21 102:25 103:10,15,22 103:25 104:5 104:14,20 105:3,8,11 106:1,20,24 107:22 109:20 110:13,23 111:1,4,8,18 111:21 112:19 114:9 114:16,21 115:8 116:4 116:9,23 128:4,8,12 129:2,5 131:1 143:20 164:4 168:22 179:8 186:12 186:23 187:8 looked 107:7 107:17,23 109:8,11 110:9,14 112:2,4,5 113:13 114:13 115:24,25 129:6 131:14 134:7,11,14 135:18 140:15 141:5 141:7 150:8 178:10 183:20 184:21,24 looking 7:1 14:4 26:25 39:13 41:21	60:12 113:16 150:9 157:7 179:8 looks 31:9 89:6 93:16 loss 182:12 lot 6:12,16 84:2 137:4 164:24 186:15 lots 108:21 Louisville 2:5 lunch 112:16 <hr/> M M 41:7 M-A-Z-Z-O-L-I 30:11 Ma'am 18:4 49:19 77:1 144:15 maiden 4:18 18:7 mail 169:25 170:2 183:10 mailed 170:6,7 mailroom 169:23 174:21 maintained 69:8,19 70:14,20 71:2 72:13 90:3 maintaining 69:20 maintains 70:15 117:25 118:7,9 majority 27:23 28:12 making 152:2 man 170:17 management 7:17 19:13 21:13 22:6 22:12,22 40:16,17 42:5,6 44:17 45:21,22 46:2 48:8 60:9 61:18 61:21 66:13 67:8 70:5,10 80:6 94:23 96:5 100:5,7 100:9,16 110:22 113:23 116:20 138:23 140:3 153:4,11,13 154:13	manager 9:14 manner 117:24 118:6 March 186:24 marked 29:5 101:12 138:17 marketing 153:13 married 7:11 Mastercard 130:22 177:9 material 74:4 74:17 matter 84:4 137:3 190:7 190:13 Mazzoli 30:11 30:13 159:14 159:19 161:23 Mazzoli's 159:18 McLeland 54:1 54:10 186:2 MCM 57:21 58:8 70:2,9 70:11,12,16 70:17,20 72:3 90:3 91:1,2,6,22 92:3,10 96:6 96:11,22,23 107:20 109:18,21 110:6,14,24 110:25 111:5 111:9,14,21 111:24 112:19,20 113:2,12,14 114:1 115:8 116:2,10,24 117:9,14,24 118:6,9,24 119:1 124:20 125:10,11 126:15,20,24 126:25 137:8 145:15 152:16 153:20 162:21,22,23 163:17 164:17 183:4 MCM's 73:13 122:22 125:18,19 mean 11:5 14:3,3 17:19 22:2,7 32:9 34:1 37:21 39:19 42:10	42:16,17 44:9 46:25 49:12 53:1 55:5 62:7 66:8 70:1 75:1,3,13 76:1 78:15 81:11 84:6 88:8,14 92:22 113:1 119:23 120:23 122:13 133:24 136:19,23 140:14 142:6 142:18 143:11 145:10 149:20 151:4 152:7 156:10 160:2 168:13 meaning 27:2 31:13 34:5 76:12 87:6 164:9 166:11 184:8 means 12:7 41:8 49:13 49:16 52:23 54:17 62:24 69:12 75:11 113:5,6 120:5 135:6 151:5 160:13 meant 44:25 76:19 113:3 131:15 media 26:2 86:23 87:2,4 87:21 88:17 89:11,15 131:7 149:9 149:10 Meet 170:22 meetings 123:8 mentioned 135:14 mentor 11:4,9 11:17,18 25:10 mentoring 11:21 28:14 28:15 58:5 66:14 merger 145:10 145:10 mergers 145:8 met 64:17 76:2 121:17 144:24 145:25	146:13 158:24 159:19 185:25 method 117:24 118:6 MHC 30:2,4 60:16 84:16 84:17 104:4 104:21 106:20 125:4 145:2,12 154:18 155:14,19,21 156:2 157:16 158:15 177:15,16 MI 133 41:7,14 41:21 Michael 5:14 36:12,18 Michigan 1:1 2:12 7:6,6,8 42:13,14,17 42:18 44:13 47:19 151:2 middle 53:16 71:21 Midland 1:3 4:25 5:2,3,9 5:20 7:17 10:17 19:12 20:13 21:12 21:17,23,25 22:3,5,6,9,11 22:13,21,22 23:7,12,19 24:4 29:17 44:17 45:2 45:15,20,22 46:1,10,19 49:10 50:15 53:6 55:8 57:21 58:9 59:23 60:17 61:18,20 63:11,22,25 64:4,14,18 65:8,8,12,16 66:13,24 67:3,7,7,11 69:16 70:4,9 72:3 73:12 78:16 80:5,6 80:7,8,13,14 82:19 84:9 84:18 90:7 90:25 91:1,2 91:4 92:2 96:11,19,20 96:22 101:18 107:14 110:18 119:4
--	---	--	---	--	--

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

126:3,22,23 127:2,3 138:5 142:19 145:15 147:20,24 148:2 152:18 153:4,10,21 164:17 178:3 190:7 Midland's 91:7 Mimi 5:15,17 mind 66:2 116:19 133:1 142:10 149:20 156:20 178:24 mine 180:24 Minneapolis 4:4 Minnesota 4:4 7:5,18 19:5,7 35:2 190:2 minute 136:1 150:14 minutes 91:11 misleading 105:21 misquoted 74:1 missed 174:19 missing 89:5 132:15,24 133:4,21 134:8,12 135:20 187:8 misunderstood 47:2,25 Monday 9:5 money 111:5 125:23 127:11,16 monitor 68:11 month 157:1 months 20:14 186:24 morning 4:13 4:14 mortar 146:5 motion 101:18 144:14 147:9 mouse 67:21 move 58:20 122:20 141:17 143:18 153:16 moving 57:18 mumble 6:13 <hr/> <p style="text-align: center;">N</p> <hr/> N 2:3 190:6,22 N.A 1:4 190:8	name 4:15,17 4:18 5:25 18:7 47:21 49:4,7 52:16 53:2,14 100:22 143:5 152:25 159:4 159:18 164:25 168:11,19 169:5,13 172:12 names 176:2 NASA 38:20 99:20 nature 128:5 135:5 136:2 near 122:1 necessarily 102:4 133:11 necessary 10:1 66:1 need 36:7,21 137:18,23 175:19 needed 81:9 88:16 needs 168:22 neighborhood 36:15 Nevada 186:3 never 45:24 53:23 64:25 65:2,7,8 68:18 72:16 86:7 87:10 119:22 127:21 129:21,25 160:17 176:11,12,14 180:6 184:13 new 11:6 25:10 59:24 60:7 60:14 167:19 175:25 nice 17:22 Nicole 1:15 4:1 4:7,16,18 32:6 55:11 67:4 126:7 151:16 168:22 188:1 189:25 190:7 nine 18:10 19:11 nomenclature 31:6 60:6 normally 22:1 notaries 25:19 notarize 10:23 11:3 24:9,13 26:6,21 27:2	27:3,23 175:22 notarized 20:9 169:6 171:12 notarizes 172:8 173:17 notarizing 25:9 27:21 notary 10:14 10:16,20 12:2,24 14:7 16:11,20 19:16,20 20:9,11,12,15 20:23 24:22 24:22 25:9 27:1 52:22 58:4 149:4,5 150:1 163:9 163:15 168:7 168:20,21 171:14,18 173:4,11 174:12,23,23 175:7,9,17,19 176:5,9 notary's 176:17 notated 120:3 120:4 121:1 note 29:16 169:8 notes 115:17 190:11 notice 6:3 9:1 131:15,16,17 144:6 150:10 noticed 8:14 49:9 127:21 164:2 noticing 39:16 190:16 number 29:16 29:16,18,19 29:21,25 30:1,3,6,7,9 43:9 88:10 88:25 101:7 101:7 110:8 118:2 122:22 125:19 142:19 152:7 156:14 numbers 29:13 nurse 153:6 <hr/> <p style="text-align: center;">O</p> <hr/> OAKLAND 1:2 oath 57:3 76:12,19 object 81:23 93:18 115:6 166:2 167:2	objected 74:5 objection 11:14 12:17 13:1,8,16 14:2 15:14 15:17 20:3 20:19 21:18 23:8 26:7 31:21 39:18 39:23 50:20 51:25 52:8 55:3,13,16 57:25 61:23 62:8 63:2 64:1 65:17 66:20 70:22 71:8,15 72:19 73:24 77:23 79:9 80:15,20 81:3 82:17 83:7 84:24 85:2,13,20 86:12 87:13 90:19 97:16 97:22 98:18 99:8,13 100:2 101:20 104:1,6,16,22 105:5,15 106:3,12,13 106:22 107:2 107:25 109:23 110:16 111:10 112:8 112:21 113:7 114:11,23 115:10,13 116:12,25 117:15,19 122:4 124:10 125:12,25 126:14 127:12,17 138:6,9 139:9,19 140:1 141:9 143:7,12 148:25 158:17 160:10 165:20 167:1 177:2,6,18 181:15,22 182:13 objections 8:22 obligation 55:22 73:18 75:22 76:3 77:5 78:5 139:24	180:18 181:23 obtain 85:18 86:18 obtained 78:24 obtains 119:5 181:4 182:12 obvious 127:15 obviously 73:8 124:22 130:25 occur 122:11 122:14 occurred 64:25 occurrence 130:5 occurs 28:20 119:13,19 October 49:20 49:22,24 75:21 78:1,6 181:19 182:3 182:4 Offhand 130:23 office 41:7,15 81:12 147:5 Office's 147:9 Offices 2:10 128:6 oh 4:23 9:5 15:1 38:6 69:7 74:11 80:22 87:10 91:4 93:2 133:18 152:25 153:6 157:8 170:4 172:13 180:11 okay 4:23 15:5 23:20,22 38:6 42:3,23 43:25 44:21 44:23 48:10 49:15,16,24 54:13,24 56:3 57:13 57:17 58:8 59:3 62:16 68:3 70:7,12 73:15 74:12 75:12 76:22 78:19 84:22 85:23 86:5,6 87:22 89:12 92:16 93:14 94:8 95:15 96:9,23 98:3 100:15 107:19 110:4 125:18 126:23 130:12	131:17,20 132:13 135:9 136:2 137:19 137:23 147:12 150:5 150:8 152:25 153:18 157:8 160:24 168:2 169:7 170:25 172:22 173:24 176:19 180:11 183:12,13 187:9,9 old 87:1 onboard 11:6 once 59:6 117:2 123:14 123:15 124:1 124:8 168:3 181:11 182:11 ones 26:2 49:13,14,15 online 123:17 123:19,20 124:9 open 48:13 172:4 open-ended 162:4 opened 138:14 operate 124:17 opinion 126:17 opposed 37:22 128:18 132:10 169:4 186:25 option 185:13 Orchard 2:11 order 130:4 ordered 190:17 orders 164:16 original 36:20 190:16 originals 170:4 Originator 30:5 84:17,18 98:11,12 139:25 144:18,20 145:5,22 146:14 147:19 148:10 154:22 177:24 Originators 107:14 129:10 outcome 190:14
--	---	--	--	---	---

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

<p>outside 167:25 overview 118:11 owed 122:23 125:20,22,24 126:13 127:11,16 133:17,24 135:3,20 136:8 owes 138:5 owned 46:20 48:5 owner 60:7,14 73:17 74:9 74:21,23 75:2,6 79:22 82:20 83:1 83:16 129:14 owners 24:6 59:25 60:23 75:19 79:8 83:6,6 ownership 84:3 148:3 owns 22:10 23:13 45:16 46:14 78:16 80:7,13 84:9</p> <hr/> <p style="text-align: center;">P</p> <p>P.C 2:10 p.m 187:17 page 3:1,2 27:10 29:16 29:18,19,20 29:24 30:1,3 30:6,7,9,12 30:13 35:5,5 37:20 42:9 44:14 49:21 52:16 53:11 69:5 86:21 88:1,25 89:7 89:12,15,15 89:25 118:4 125:19 128:7 128:7 135:25 149:4 155:25 162:19 164:9 164:10 178:9 178:9 180:15 188:4 189:2 189:4,7,10,13 189:16,19 pages 29:9 148:14 158:21 paid 11:24 25:13 paper 48:19 172:20 paperwork</p>	<p>67:3,6 Paragraph 136:6 paragraphs 67:20 Parker 2:10,10 3:3 4:12,23 5:1,5,8,12,16 5:22,24,25 6:14 8:13 9:24 10:13 11:16 12:21 13:5,12,18 14:6,10 15:5 15:9,11,25 17:14,17,19 17:22,25 18:3 20:4,21 21:21 23:11 26:7,10 27:5 27:12,16 29:7 30:16 31:23 32:22 36:14,17 39:20 40:2 40:23 42:20 42:25 43:4 47:11 50:5 50:21 52:3 52:10 55:6 55:14,24 58:1 59:12 59:16,19 62:2,13 63:3 64:3 65:21 66:23 70:2,8 70:25 71:12 71:18,22 72:2,22 73:25 74:3,5 74:11,14,18 77:24 79:14 80:16,21,24 81:6,24,25 82:21 83:9 83:11,15 84:25 85:6 85:15,22 86:15 87:16 87:19 88:3 89:16,21,23 90:20 91:13 91:15 93:22 94:2,6 95:5 97:18,24 98:3,8,19,24 99:2,10,14 100:6,23 101:10,14,21 104:3,8,19,24 105:10,18,23 105:25 106:4 106:6,10,14</p>	<p>106:19,25 107:3 108:5 108:10,13,24 109:1,3 110:3,20 111:15 112:9 112:15,17,25 113:8 114:15 115:3,11,19 116:8,14 117:6,17,22 120:21 122:10 124:13 125:15,17 126:4,11,19 127:14,18 130:14,17 131:11,15,21 138:7,12 139:10,20 140:5 141:2 141:4,11 143:9,15 146:9,12 147:1,6,11,13 149:2 150:21 150:22 157:12,17 158:18 160:11 165:24 166:7 167:10 174:4 177:3,7,21 180:23 181:1 181:16 182:2 182:15 187:11,14 part 6:6 10:19 13:10 24:18 62:11 65:11 79:5 85:17 133:18 165:7 165:9 180:18 183:4 particular 39:10 49:18 103:8 164:6 164:9 167:23 parties 190:13 190:17 party 190:16 passed 155:19 158:14 password 118:15 Patient 153:7 pay 25:14 paying 11:13 payment 94:21 111:12 114:6 117:3,8,13 120:25</p>	<p>185:17 PDF 86:1 95:23 95:24 96:2 96:10 97:1,4 97:15 112:10 185:15 pen 172:17 penalty 52:17 people 11:23 14:9,11 21:1 52:21 66:11 96:21 118:15 121:16 161:1 171:20 perjury 52:17 person 12:16 21:25 33:4 69:4 100:22 120:13 121:3 121:5,10,14 121:20 134:24 152:5 185:23 personal 69:6 70:13,19 71:1 73:7 123:16 personally 161:7 pertaining 90:2 118:1,10 pertinent 57:20 phone 71:25 159:10,22 161:17 phrase 98:22 picky 83:20 picture 17:23 159:1,24 160:17 piece 166:5 piqued 135:22 place 8:21 18:2 125:10 plaintiff 23:18 24:5 46:3,11 46:23 49:11 49:16 50:15 50:18,24 51:3,12,14,18 51:24 53:6 55:8 57:22 71:6,14 73:16 74:8 74:20,22 91:7 92:8,12 93:6,8 94:10 94:18 95:12 96:6 103:2 126:2,13 127:24 plaintiff's 69:8</p>	<p>69:20 70:14 70:15 71:3 90:4,6,13,18 90:23 Plaintiff/Cou... 1:5 2:2 plaintiffs 52:12 play 62:11 please 6:13,14 26:4 29:11 70:24 91:14 94:15 118:8 140:25 PLLC 4:3 point 26:13 27:17 36:10 42:8,15 44:7 44:7,19 45:7 45:12 46:14 46:21 47:8 47:22 48:1,4 50:3,4,14 51:4,12 52:13 53:7 53:12 56:12 57:18 59:15 69:24 76:23 77:2 84:23 87:24 89:13 93:17 108:18 169:7 173:2 182:19 184:11 pointed 42:8 42:10 44:7,8 44:24 45:1 pointing 31:6 43:6 67:15 points 42:4,7 polite 83:12 pops 32:23 populated 34:12 41:13 97:8,9 186:11 populates 32:4 32:16,16 portfolio 156:18,19 157:24 161:1 portfolios 156:8 position 84:12 possible 130:24 possibly 153:20 power 68:8 Practices 123:9 predetermined 169:4 prefer 70:9 prepare 131:1</p>	<p>prepared 190:10 present 167:19 presented 9:12 23:5,15 presenting 144:13 president 158:23 162:1 162:2,11 pressed 46:18 47:16 pressing 180:13 pretty 17:23,24 126:17 135:4 previous 20:1 previously 19:2 primarily 5:17 5:19 print 68:17 87:6 139:14 printed 30:25 32:25 33:2,3 34:15 77:12 86:23 87:2 87:10,11 printer 34:13 prints 96:19,24 96:25 prior 106:2 137:2,21 143:23 priority 137:1 privilege 165:24,25 166:6 167:3 probably 9:10 27:23 117:10 119:20 128:3 134:4 187:5 problem 128:20 proceedings 150:20 process 13:11 14:15 16:11 26:25 39:25 43:24 45:16 65:23 85:17 97:5 114:14 119:16,22 170:14 173:23 processed 184:25 processes 39:24 155:4 processing 103:8 produced 116:1</p>
--	---	--	--	---	--

Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

profile 143:14 143:16	quality 99:23 169:22	179:2,7	112:23	81:5 114:18	repeat 6:14 13:19 90:10 98:25
promising 177:12	question 6:15 6:18 8:20	reading 38:14 38:16 76:10 89:15 136:1	120:15 121:9 122:1 128:6 135:6 150:21	140:13 141:13	repeated 56:18
pronoun 108:24 109:1 109:4	13:2,9,17,23 18:14 23:9 23:20 36:20	ready 73:15 128:3 168:12 184:15	152:23 154:19 157:15	referenced 35:14 93:1 108:3 115:1 176:23	rephrase 13:3 98:25 99:3 105:1
pronouns 108:22	42:21 45:12 45:13 47:13	real 148:24	recorded 120:9 120:14 121:9 122:8,8	referencing 38:17	report 112:6 158:6 178:11 178:12
proof 23:6,16 148:23	48:3 51:19 55:4,17 65:5 65:18 66:4	realize 16:7 really 47:23 56:2 62:6 65:11 73:1	records 26:14 32:11 46:23 57:21 69:7	referred 41:1 103:4	183:16
property 148:24	71:9,16 79:10 81:23	81:22 83:20 89:14 97:20 123:25 170:4	69:16,20 70:14,15,20 71:2,5,7,13 71:24 72:12 72:18 73:11 73:12 79:2 85:24 88:12 90:2 92:7,9 92:14,15,16 92:17 93:5 94:16 102:25 106:21 107:20,23 108:2,3,3 109:18,20,21 110:1,6,13,14 110:24 111:9 111:18,21,24 112:2,18,19 113:2,11,14 113:17 115:8 116:1,4,9,18 116:20,23 117:25 118:7 118:9,22 119:24 120:6 122:16,18,22 125:9,14,18 125:20 150:24,24 151:6,13,17 152:2,5,6,9 153:20,24 154:1,6,9,11 154:12,15,23 162:6 178:8 179:5	referring 79:13 83:14 86:2 87:14 88:1 92:24 95:11 95:13 105:7 106:8 111:25 121:12 138:14 157:4 165:13 179:4	reporter 6:25 9:22 10:12 14:4,5 15:24 25:5 120:19 174:2 180:21
prove 61:4	83:8 90:10 91:5 94:9,12 97:13 98:2 98:23 99:9 105:20 106:16 109:24 110:17 114:24 115:4 115:14 116:7 116:13 117:1 117:16 124:11 126:1 142:11,13 165:21 166:2 167:2 180:7 184:2	reason 52:22 149:24 173:11 188:4 189:3,6,9,12 189:15,18,21 reasons 136:25 recall 56:22 113:16 146:6 151:21 receipt 8:25 Receivables 30:3,4 84:16 84:17 104:5 104:21 106:21 125:4 155:20 156:2 157:16 158:15 177:15,16 receive 9:1 35:4 37:8 51:6 55:20 56:24 77:17 88:9 137:8 140:10 156:7 156:11 163:7 165:2 received 6:3 58:10 111:5 111:6 144:5 164:19 receives 56:20 77:19 181:11 recognize 39:8 63:6 record 4:15,22 5:22,23 8:22 10:10 15:15 17:11 29:2,4 29:15 31:4 32:14 35:10 37:5 38:1,3 43:3 69:25 79:17 91:12 91:13 94:5 103:9,13,14 108:12,21 111:14	112:23 120:15 121:9 122:1 128:6 135:6 150:21 152:23 154:19 157:15 recorded 120:9 120:14 121:9 122:8,8 records 26:14 32:11 46:23 57:21 69:7 69:16,20 70:14,15,20 71:2,5,7,13 71:24 72:12 72:18 73:11 73:12 79:2 85:24 88:12 90:2 92:7,9 92:14,15,16 92:17 93:5 94:16 102:25 106:21 107:20,23 108:2,3,3 109:18,20,21 110:1,6,13,14 110:24 111:9 111:18,21,24 112:2,18,19 113:2,11,14 113:17 115:8 116:1,4,9,18 116:20,23 117:25 118:7 118:9,22 119:24 120:6 122:16,18,22 125:9,14,18 125:20 150:24,24 151:6,13,17 152:2,5,6,9 153:20,24 154:1,6,9,11 154:12,15,23 162:6 178:8 179:5 redundancies 38:21 40:6 99:21 redundancy 99:19 refer 28:24 40:24 102:4 102:10,13,20 113:21 144:17 179:5 185:21 reference 36:4	reflected 31:1 88:11 111:13 114:3,5,7 117:4 130:24 131:25 134:4 135:11 154:12 refreshed 39:16 refresher 167:15 regarding 71:24 102:16 144:2 161:1 167:22 Regardless 74:16 145:22 region 34:20 regular 25:14 119:24 120:6 120:10,13,22 121:2,25 162:6 relate 167:3 related 190:13 relation 5:20 relationship 65:10 145:8 relationships 162:5 remember 9:2 29:21 39:9 57:3 151:22 151:24 remembering 39:16 remind 39:21 remove 149:12 149:13 164:24 removed 88:10 88:15	represent 6:1 29:8 101:16 representation 93:25 represented 144:10 representing 177:15,23 reputable 162:4 request 7:25 8:2,4 30:21 30:21 36:1 36:13,18,22 37:1 128:5 135:5 requested 133:3,6,6,9 133:14 134:21 135:7 135:24 136:11 182:1 requesting 35:24 43:23 requests 8:7 134:24 137:8 require 26:2 36:24 37:6 170:7 176:5 178:19 required 20:8 82:8 88:13 88:19 103:7 162:5 175:12 requirement 19:22 20:17 114:13 requirements 28:3 34:4 requires 24:22 118:14 175:22 respond 6:13 13:23 response 6:17 10:9 71:21 91:21
QC 169:21 173:25 174:5 174:7 QC's 174:13	reader 178:25				
	Q				
	R				
	R 190:1 raise 12:4,16 12:23,25 13:6,15 14:1 14:9,11 raising 12:13 16:21 52:21 range 33:13 rarely 119:20 rate 135:10 190:17 re-read 47:13 read 9:18 26:13 42:2 44:15 83:19 116:17 131:5 145:4 159:17 185:3 188:1 reader 178:25				

Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

responses 10:1 responsibiliti... 25:8 responsible 163:6 restrictive 5:13 rethink 66:4 review 39:17 44:3 74:19 76:17 124:16 135:11,18 178:8 179:15 reviewed 69:13 71:4 90:1 92:7,16,17 93:4,5 94:13 94:17 103:1 110:1 112:24 179:17,20 reviewing 39:22 73:4 revisit 186:25 rewarding 11:23 reword 23:10 50:23 66:5 70:23 82:2 94:15 113:10 rework 184:6 185:4,7 Rice 19:7,10 rid 186:18 right 4:13 6:9 6:21 7:10 8:14 9:12,16 9:19 10:22 11:24 12:4,9 12:13,16,22 12:23,25 13:13,15 14:9,12,17,20 15:20 16:2 17:7,23 18:11 20:24 21:22 22:13 22:24 24:8 24:17,24 25:2 26:3,15 27:8 28:11 29:1 31:1,5 31:19 32:13 33:19 35:4 35:13,14 38:2 39:2,4 39:11,15 40:5 41:4,14 41:18,24 42:6,25 43:12,15 44:10,18 45:11,19 46:7,8 47:5 47:12,21	48:25 49:7,9 50:14 51:23 52:11 53:4 53:10,15,25 54:10 55:7 56:6 57:13 57:17 58:15 59:7,20 60:12 61:6 61:17 62:3 62:14,23 63:6,9,21 64:20 65:15 66:8 67:2,13 67:15,17 68:1,1,2,6,19 68:22 69:2 69:23 71:1 71:13 72:6 72:25 73:8 74:11 75:9 76:7,13 77:1 77:5,15 78:9 78:13 80:4 80:17 81:10 83:3,16 84:1 84:14,22 85:11,16 86:20,24 87:1 89:24 90:16 91:4,5 91:21 92:1,6 93:3,7 94:8 94:16 95:18 96:8 98:13 98:24 99:11 99:21 102:19 102:20 103:24 104:12 105:11 107:7 108:6 109:16 110:23 111:8 111:16,20 112:4,13 113:24 114:8 114:16,20 115:20 117:7 117:11,23 118:21,25 119:3,7,18 120:12 121:3 121:8,19,23 122:20 123:6 124:14,19 125:8 127:8 127:15,21,22 128:16 129:1 129:21 130:2 130:10,12,21 131:22 132:9 132:17 135:4 135:9,13,22	137:3,12,19 138:13,25 139:13,16 140:6,9 143:16 144:16,17,23 145:3,17,21 146:19 148:1 148:5 149:18 150:9,11 154:14 155:3 157:4,13 158:2,13,24 160:23 162:18 164:5 165:7 166:8 167:13 171:19 173:1 173:2,22 174:22 175:1 175:12 176:1 176:15,19,25 177:11,22 178:16,21 179:13,19 180:1,7 181:8 182:8 182:18 184:5 184:17,18,19 185:4,7,19,25 186:9,20 187:9,10,15 rights 73:19 78:14,17,25 79:23 81:20 82:15,24 83:4,21 84:3 84:9 Road 2:11 54:1 54:11 robo 160:8,13 RPR 1:25 190:6 190:22 RSA 1:25 190:6 190:22 Rubber 172:21 rude 66:9 rule 25:4 rules 6:10 7:6 7:7 149:19 runs 56:11 Rusty 161:4,6 161:23 <hr/> <p style="text-align: center;">S</p> <hr/> sale 29:25 30:1 30:3,10 79:12 80:18 80:19 81:14 82:7 85:5,5 85:24 87:4 103:10 106:24	107:15 141:13 147:15 148:7 148:7 149:11 149:12 155:20 157:15,19 sales 60:18 81:5 84:21 105:9 143:21 144:7 148:20 150:9 sat 166:24 saw 41:14 42:7 74:21 129:14 saying 8:6 13:14,20 26:24 27:1 31:12 42:24 47:7 54:15 55:1,10 56:22 57:2 62:5,7 67:8 79:16 82:1 84:5 88:5,7 91:6 92:18 98:13 101:3 102:25 104:25 105:2 116:3 121:4 121:20 128:18 129:13,15,24 133:12,16 134:23 135:25 136:7 136:17 140:11 147:7 157:23 160:12 163:17 says 17:12 42:24 45:2 53:25 54:21 56:8 57:19 57:23 58:19 59:22 60:14 67:3 69:4 73:6,22 77:5 80:5,9,19 81:1 83:1,21 92:7 101:2 113:13 118:2 125:18,21 126:6 128:13 129:22,23 130:3,7 136:5 139:13 141:6 146:20 147:18 148:14 155:22 162:1 164:20 165:5	180:18 scanned 169:23 school 18:15 Scott 30:7 158:19 160:16 161:23 162:10 screen 48:16 58:19,20,21 58:24 60:4 61:5,6 64:15 67:22,25 68:4,15,17,20 78:22 79:7,8 79:19 80:9 81:1,2,19 82:19 86:1 86:11 87:6 87:11 92:25 95:14,19,21 96:1 103:19 107:11 109:11 111:13 112:3 115:1 119:10 128:18 130:24 131:23 132:18 134:12 183:24 184:24 185:10 screens 102:21 screenshot 180:4,5,8,9 scroll 67:24 68:2 103:20 scrolling 78:22 scrub 118:22 scrubbed 119:6 scrubbing 119:15 scrubs 121:15 121:21 SEAL 190:19 second 25:4 29:3 47:17 47:20 55:25 81:24 101:8 101:9 116:6 131:10 seconds 10:6 176:18 sections 67:19 secure 100:11 secured 118:13 118:14 see 8:16 17:8 41:15 46:13 47:5,23 48:4	58:16 59:24 59:25 72:14 75:24 81:19 82:14 84:5 84:13 85:4 86:7 93:15 94:7 95:14 114:17,22 117:12,13 120:16 129:12 132:10 147:16,23 148:12 149:5 149:17 151:7 152:10 168:22 174:16 180:17 seen 30:17 40:6 45:7,14 46:1,20 67:2 67:6 72:12 72:16 84:8 84:10 92:1,5 117:4,8 119:15,22 121:19 130:18 145:4 148:1,16 151:15 157:19,20 159:1,4,24 160:17 161:11 176:20,25 seller 85:8 92:8 92:18 93:6,9 93:10 94:10 94:18 95:8,9 95:10,11 96:6,11,12,13 98:4,9 102:10,12,13 102:16 103:1 103:4 107:10 108:4 109:22 110:2,15,19 112:7,12 113:14 114:19 118:12,12 129:9 139:1 139:4,6,7,11 139:17 140:24 144:22 147:19 179:24 seller's 107:9 140:7 178:11 sellers 162:4 selling 157:18
---	---	---	---	---	---

Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

157:24	59:22 61:19	137:25 145:8	sit 26:15	152:2	172:2
send 30:22,23	61:21 63:13	showed 129:3	165:11 171:5	specializing	states 34:23,23
31:12,13,15	services 22:12	showing 114:1	171:7 174:24	148:23	34:24,25
31:24 32:3	23:7 45:23	shows 60:3	site 118:14	specific 59:13	124:17
37:4,4 98:15	80:6	72:21 78:24	sitting 28:16	121:16	175:24
139:14	servicing 65:23	145:12	170:17,24	124:18 166:5	stating 75:18
sends 81:10,11	69:22 92:10	side 5:18 45:10	171:1,3,4	specifically	statutes
98:4 118:13	107:21	58:5	situation 68:7	60:19 79:22	124:16
sense 6:19	109:19 110:7	sign 23:17 24:9	68:10	125:2	stenographic
65:20 66:21	112:1 113:3	24:13 25:22	six 20:14,16	spell 4:19	190:10
sent 32:14	113:5 114:2	26:9 51:12	127:23	spelled 53:14	step 35:18 40:8
34:10,11,11	115:9 116:2	51:17 92:22	136:20,22	spent 155:6	40:14 44:3
34:12 72:1	116:10,24	166:21 168:5	186:24	spoken 63:24	44:12 48:22
72:13,14	117:9,14	168:5 169:20	six-day 136:24	65:2,7	80:18
95:7 96:4,18	132:6	171:13,17,20	skip 121:24	spreadsheet	stick 124:1
98:14 102:15	set 137:20	171:20 172:3	sold 59:6	97:6	Stillman 5:14
107:14 108:3	146:22,25	172:5,11	128:14,17	SS 190:3	32:14 34:10
108:17 111:1	172:2	173:3,6,14,18	130:3 156:4	St 54:13 153:5	36:1,6,8,11
111:16	Seventh 4:3	173:22	158:3	stack 33:8,10	36:11,12,19
112:11 114:1	sheet 29:23,24	175:13	solemnly 172:1	33:11 34:16	36:22,22,24
114:8 120:3	86:3,10,22	186:22	somebody 27:3	35:16,18	38:24 39:3
122:7 137:15	88:2,4,6,9	signature	72:8,9	140:23	40:12 41:7
137:15	89:5,6 92:25	17:25 24:15	123:22	170:12,13	41:11,15,16
139:12	93:2,11 94:3	24:19 27:3	143:14	171:12	41:19 43:21
145:12	95:16,19	35:7 53:23	160:13 163:8	172:17	81:10 85:17
156:21	97:2,3,14,21	160:4,12,13	174:24 175:3	173:14,15	86:16 128:5
169:23	98:7,14 99:4	161:11 163:9	186:9	174:10	133:6,14
sentence 89:25	99:12 100:20	163:14 176:7	somebody's	stamp 24:20,21	136:10 147:4
91:25 92:6	101:1,3	176:16,17	143:4	24:23 149:5	147:9 170:8
121:24	102:3,8,11,12	177:14,23	someone's	163:10,15	178:22 183:9
separate 22:25	102:14 103:5	178:3 188:24	168:20	169:20	stop 15:17
23:3 62:15	103:15,21	189:24	sorry 9:25	172:11,13,15	55:25 110:4
62:19 63:7	107:8,9,9,10	signed 30:10	19:15 32:15	172:17	118:16
86:1 142:22	107:24	30:13 49:25	34:23 65:6	175:19	store 125:9
143:4 145:19	108:20 109:7	50:6 51:1,21	66:8 80:22	stamps 150:2	Street 2:4 4:3
166:8	109:11 110:9	52:6 75:9,20	86:5 101:10	standing 171:2	strictly 103:9
September	114:19 115:2	115:23	102:18	start 11:10	structure 32:10
50:1 75:21	122:25 128:9	135:25	108:10	59:18	stuff 37:11
76:1,10,18,19	138:15,21	136:21	131:20	started 10:17	55:11 85:18
77:7 85:1	139:5,6	141:18 142:1	144:15	20:12 24:1	85:25,25
107:4,15	179:24 189:1	147:24 148:2	146:20,24	165:14	86:9 89:5
127:25	sheets 29:13	162:14	161:21	starting 45:15	131:7 168:9
132:18 134:6	Sherman 30:4	171:12,16	180:23,23	starts 74:8	170:21 187:1
135:19 136:1	60:16 84:17	175:15 176:8	sort 122:9	state 1:1 43:12	successor
141:19,25	84:18 98:10	176:24 177:4	136:18	44:10,13	73:17 74:9
142:16 143:6	107:14	178:14	145:14	47:18 149:25	74:25 75:3,7
143:23 144:2	129:10	signing 16:10	sorts 72:1	150:1 176:4	sue 45:24 80:3
181:13,20	139:24	21:1 25:9	sound 15:13	186:7,7,8	sued 21:6,8
182:5 186:22	144:18,20	26:25 53:2	64:7 137:12	190:2	50:16 51:7
served 29:10	145:1,5,22	57:3 106:2	178:5	state's 124:15	55:21,23
52:13 57:7	146:1,14	160:9,13	sounds 164:14	stated 138:10	73:18 75:22
78:3,4 89:17	147:19	168:22	South 2:4 4:3	statement 3:9	76:3,4,5,6,11
server 186:3	148:10	silly 8:17 178:5	18:23,24	69:12 93:19	76:20,21,23
186:11	154:22	simple 14:25	19:1 148:23	110:1 112:23	77:2,6,8,9,10
service 22:11	156:23	51:19 142:12	space 25:5	113:21	77:18,22
24:6 62:1	177:24	168:23	speak 66:9	114:21 115:7	78:5,9
67:8 113:15	SHOHL 2:3	sir 187:14	108:12,16	119:4 181:4	180:18 181:5
152:16 162:8	shorthand	sister 22:5,7	speaks 177:19	181:5,11,14	181:17,23,24
serviced	190:11	61:24 62:4,7	specialist 7:21	181:21 182:9	182:3
114:17,22	show 61:3	62:14 63:11	7:22,23 20:6	182:11	suing 23:18
120:2	122:22	63:17 65:1	24:19 56:9	statements	42:13,16
servicer 57:21	125:19,20	sisters 45:9	56:15 57:20	52:18 69:6	43:12 44:10
58:9,17 59:1	131:25	145:23	58:2 73:2	87:5 113:22	44:11 47:19

Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

49:14,15,16 126:18 suit 132:3 137:18,19,21 Suite 2:4 54:1 54:3,6 summary 101:17 144:11,14 147:9 Summons 3:7 29:17 super 124:18 supervisor 11:7 suppose 152:23 supposed 179:4 182:20 sure 6:9 12:11 13:6,22 15:16 17:6 17:11 21:19 26:23 27:10 41:12 42:13 43:11 44:9 45:2 46:9 47:20 49:6 50:24 64:22 69:3,17,23 79:5,8,21 86:18 91:20 93:20 103:6 119:21 123:13,14,18 124:4,6 128:21 135:4 137:11 151:3 152:3,17 155:22 158:6 165:1 170:9 184:13 swear 10:11 14:12 19:16 21:1 169:20 171:23 172:1 173:5,9,12 174:25 175:10 swearing 12:10 12:18 14:15 16:9,14,15,17 swears 16:20 173:3,8 swore 12:5 sworn 4:9 179:13 system 31:16 31:17,18,25 31:25 32:1,4 32:8,15,15 35:19 36:6 40:16,17	41:21,25 42:5,7 46:16 48:2,9 60:9 68:23 72:21 86:14,17 88:1 94:23 95:4 96:5 100:5,7,9,12 100:16 110:22,25 113:23 114:19 116:20 138:24 140:4 154:13 systems 87:23 118:24 <hr/> <p style="text-align: center;">T</p> <hr/> T 190:1,1 table 168:7 170:15,18 171:1 tables 174:12 take 10:5 18:17 26:8 28:18 82:4 91:17 91:19 109:6 149:21 150:15 164:25 168:9 170:14 172:13,22 174:14 180:9 taken 1:25 4:1 150:19 169:23 175:17 176:9 190:11 takes 26:1,5 32:7 174:5 talk 6:25 15:18 63:21 73:1 talked 67:13 99:19 159:9 159:21 160:18 186:1 talking 26:24 27:11 47:4 56:20 79:11 82:5 100:21 101:2 102:6 103:20 137:8 141:1 147:3 147:4 166:9 task 154:8 tasks 25:7 27:11 teaching 11:10 team 162:25 163:18 166:17 Technical	18:22 technicality 16:8 tell 6:25 9:25 10:5 11:1 12:8 16:3,18 17:1 23:25 42:21 52:23 62:20 67:11 81:12 88:7 94:19,24 102:3 128:16 136:22 142:9 142:24 144:11 145:5 146:10 164:7 164:16 171:25 telling 16:12 16:22 76:15 80:13 101:23 141:7 tells 60:6 template 163:18 164:1 164:9 166:16 templates 8:10 163:5 164:3 164:24 165:10 ten 156:12 terminated 187:17 testified 57:14 107:16 109:8 110:8 139:2 140:10 143:18,20 151:9 testifies 4:9 testify 42:22 testifying 106:10,14 testimony 108:14 thank 18:4 82:4 83:12 129:1 166:2 Thanks 146:9 thereof 121:11 they'd 173:11 186:17 thing 5:6 24:17 35:9 39:6 42:12 44:15 47:18,18 49:2 64:8 73:15 75:11 89:8 91:18 103:16 126:5 132:15 133:9 134:12 172:19,21	183:15 185:20 186:11 things 36:25 44:22 61:25 62:25 66:3 72:1 94:20 94:22 95:2 103:14,19,21 107:8,24 109:9 115:24 119:7 122:9 128:8 144:17 152:8 163:12 166:22 167:17 178:10,14 187:8 think 10:8 20:24 23:2 25:3 62:18 78:1,4 79:17 80:10 91:22 93:23 98:21 99:1 101:2,8 107:16 115:20 116:7 130:12 141:19 150:3 152:4 158:20 175:23 176:3 176:3,19 180:12 181:18 182:10 183:13,14,19 thinking 66:10 76:9,18 third 129:14 thought 87:9 126:16 131:13 three 20:16 62:3 103:14 153:9 163:12 thumb 172:19 time 9:11 11:3 11:3 27:24 28:17 48:14 51:5,21 52:6 55:20 56:24 57:2 66:3 69:4 75:20 77:16 79:16 83:9 85:14 89:14 91:17 91:19 103:3 122:1,3 123:23 130:14 141:10,18 144:1 146:8 155:6 156:11	163:25 164:2 166:23 168:5 168:25 173:9 176:16 181:13 184:20,23 186:20 187:3 187:11 times 25:16 56:19 62:3 84:3 106:16 110:9 123:11 127:23 title 58:12 59:5 73:19 78:14 78:17,25 79:23 81:20 82:15,24 83:4,21 138:3 158:20 today 9:5 12:5 44:19 134:13 134:14 161:12 today's 131:2 told 15:16 20:24 58:2 74:21 81:16 91:20 tool 183:17 top 42:8 43:6 44:8,13 46:2 46:10 94:7 172:4 touch 17:20 touched 180:17 train 11:23 trained 43:19 75:12,13,15 117:24 118:6 124:19 164:16 trainer 124:24 training 11:7,8 11:13 12:24 24:2,2 63:19 64:11 75:15 118:8 119:14 124:23,25 125:3 145:7 146:16 155:6 163:23,24 165:8,13,16 166:9,24 167:6,14 trainings 123:23 125:6 167:12 transactional 30:23 31:3 transcript 190:7,10 transfers 60:18	transmit 121:11 traveled 183:9 tried 68:18 180:6 trouble 89:22 144:15 true 12:20 51:11 52:18 53:2 54:23 54:25 55:2,9 55:15 66:17 171:13 172:3 181:5,11,14 181:20 182:8 182:11 188:2 190:8 truth 12:8 16:13,18,22 17:1 52:24 76:15 138:19 try 41:5 59:17 142:9 146:8 150:12,15 trying 62:20 66:4 94:24 105:1 177:13 Tucker 1:7 2:3 4:21,24,24 5:3,7,10,14 5:17,20 6:1,9 8:9 11:14 12:17 13:1,8 13:16 14:2,8 15:2,3,6,7,7 15:10,21 17:10,15,18 17:24 20:3 20:19 21:18 23:8 26:22 27:9,14 29:15,18,24 31:21 32:19 36:10,16 39:18,23 40:20 42:15 42:23 43:2 47:9 49:5 50:4,20 51:25 52:5,8 53:7 55:3,8 55:13,16 56:20 57:25 59:11,15,17 61:23 62:8 63:2 64:1 65:17 66:20 69:24 70:4,7 70:22 71:8 71:15,20 72:19 73:24 74:1,4,7,13 74:16 76:2
---	---	--	--	---	---

**Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker**

77:23 79:9	182:13 183:6	66:6 69:11	validating 25:8	39:3 43:1,2	164:21
80:15,20,22	183:18	82:1 83:14	26:5 27:24	43:11 44:9	website 100:11
81:3,22	187:13,15	110:11	28:1,12,13	47:20 56:2,4	week 9:3,6,8
82:17 83:7	190:8	111:22	39:9,25 73:6	90:9 91:18	25:16 132:20
83:10,25	Tucker's 45:16	113:22 115:5	113:22	93:15 98:3	132:20
84:24 85:2	45:17 59:23	116:5,16,17	116:18 152:2	108:20	175:13
85:13,20	98:5 128:25	120:8 136:16	165:14	115:21	weeks 9:8
86:12 87:13	142:3 183:1	158:1	validation	142:21,22,25	132:21,22
87:24 89:13	turned 68:11	understanding	27:20 28:6	150:15	134:7 135:19
89:17,19	68:12	16:3 91:25	28:18 45:16	155:22,23	183:21
90:19 91:10	twice 56:19	97:6 112:22	93:17 99:17	178:22	Wells 4:3
93:18,24	106:17	119:2 122:7	137:25	wanted 6:24	went 18:5 24:2
94:4,25	two 7:14 10:17	145:1 166:19	152:12	94:4 153:13	93:2 128:23
97:16,22	19:13,14	understood	validator 12:1	wants 35:20	132:19
98:1,18,21	21:13 27:11	6:18 113:4	58:4	36:6,9 38:18	166:21
99:1,8,13	46:5 54:8,9	186:14	validity 118:23	40:12,13,13	186:16
100:2,21	61:25 66:11	update 131:23	variation 18:1	56:1 86:16	weren't 20:11
101:20 104:1	67:14 103:18	updates 185:18	25:24	wasn't 36:14	51:23 128:21
104:6,16,22	103:19,21	upgraded	varies 25:18,23	52:5 75:17	147:3 166:9
105:5,15,20	107:8,24	68:22	28:2	76:23 82:8	West 2:12
106:3,5,7,11	109:8 115:24	Upside 149:23	variety 32:12	82:11 88:19	whatsoever
106:15,22	123:12 128:4	upsidedown	136:25	114:13	67:10
107:2,25	128:8 130:5	149:5,15	various 89:20	152:17	white 89:7
108:9,15,18	148:14	150:1	verify 143:1	167:22	Whoa 18:11
108:25 109:2	153:19 156:4	use 15:3,8	versus 26:1	176:23	wide 89:1
109:23	156:22	28:21 67:23	29:18 152:11	181:25 182:3	wise 145:7
110:16 111:2	157:24 158:3	108:21	190:8	watch 166:13	wish 10:7
111:5,10	164:22	140:20	vice 158:23	166:16,25	witness 4:8
112:8,21	175:16	167:20	162:1,2,11	167:18	8:10 9:23
113:7 114:11	176:13	183:17	Vicki 30:7	Watertown	11:15 12:18
114:23	178:10,14	usually 33:10	158:19	18:23	13:3,10
115:10,13	type 37:16,18	135:6,7	160:16	way 13:14	17:21 20:20
116:6,12,25	37:23,24	148:19	161:23 162:1	27:12 29:1	21:10,19
117:15,19	38:3 109:14	173:18 174:7	162:10	40:12 44:22	23:10 26:8
118:10 122:4	types 94:22	174:8	video 44:18	57:1 88:5	29:23 31:22
122:12,15	Typically		Visa 130:22	104:13	32:21 39:19
124:10	170:13	V	177:9	111:22	39:24 40:21
125:12,25		valid 16:10	visited 64:4	116:16,22	42:19 52:2,9
126:7,14	U	validate 7:24	visits 187:4	136:2,15	55:5,18
127:12,17	Uh-huh 6:20	8:1,3 10:23	volunteer	138:11	61:24 62:10
129:17	9:20 15:19	11:2 20:25	25:11	144:13	64:2 65:19
130:15,19	18:25 23:14	24:9,13 26:1	volunteered	146:22 150:4	66:21 70:3,6
131:9,13,16	32:18 40:19	26:5,9,14,21	11:18	164:12,14,22	70:23 71:10
131:18 138:4	87:16 120:17	26:24 28:17	VS 1:6	184:1,3	71:17,24
138:6,9	148:13,21	34:8 54:20	W	we'll 36:19	72:20 79:11
139:9,19	170:16 172:6	79:6,17	w/attachme...	102:5 112:16	81:4 82:18
140:1,25	175:8 180:19	103:18 143:1	3:7,10	122:20	83:13 85:3
141:9 142:22	Uh-uh 94:14	152:9 183:18	wacky 64:7	we're 7:5	85:14,21
143:7,12	ultimately	183:25	wait 9:5 15:17	17:10 22:23	86:13 87:14
146:7,24	106:8	validated 12:19	81:24 98:1	27:12 28:22	87:17 95:2
147:3,7,12	unable 156:9	16:16 35:22	101:8 108:15	43:25 45:9,9	97:17 98:4
148:3,25	unacceptable	40:3,9 54:18	108:15 136:1	48:25 56:20	100:3 104:2
150:17	150:6	58:14 71:5	waited 20:14	62:10 75:6	104:7,18
153:23 154:2	unaltered	77:13 103:3	waiting 168:8	80:2 99:17	105:7,17
155:12,16	120:24	108:17	walk 170:18,21	99:23 101:2	106:23 108:2
157:6,9,14	unclear 43:3	114:25 131:7	walks 33:4	102:6 121:20	108:11,16
158:17	undersigned	132:1 133:9	want 7:1 15:8	150:9 175:6	109:25
160:10	188:1	138:23 140:3	17:9 25:3,6	180:25	110:18
165:20 166:1	understand	140:16	27:9 28:3,21	183:15	111:11
167:1 176:21	6:12,14,15,22	141:14	29:2 30:25	187:15	112:22
177:2,6,18	8:20 34:1	184:22	35:21,22	we've 53:5	114:12,25
181:4,11,15	45:11 47:14	validates 10:24	37:2 38:24	54:24 91:10	115:15 117:2
181:17,22	59:14,21	152:6		108:8 159:17	117:20

Deposition of Nicole Hanke - 4/23/2018
Midland Funding LLC, et al. v. Darrin Tucker

<p>120:20 122:6 124:12 125:13,16 126:2,9,15 127:13 131:17,20 138:10 140:2 141:3 143:8 143:13 146:10 149:1 157:8,11 167:8 174:3 177:20 180:22 181:23 190:19 woman 170:17 word 34:11 46:2,10 49:10,10 60:5 74:2,3 74:10 99:6,6 127:24 132:4 141:22 142:1 142:5,16 143:5,6,10 164:19 wording 55:22 words 46:10 60:25 82:25 140:21 145:9 179:7 work 7:16 11:21 21:12 22:3,19,21 28:10 33:9 33:20 41:22 62:20 63:1,4 64:11 66:17 66:18 137:4 162:25 180:14 worked 19:12 68:23 124:7 152:24 153:3 worker 66:15 working 20:13 66:11,12,24 68:15 world 160:8 worry 112:15 wouldn't 38:5 41:22 42:21 44:16 45:20 82:6 85:11 96:20 114:10 114:12 150:5 158:13 184:23 Wow 17:23 write 17:16 24:8,11 136:15,20</p>	<p>155:24 168:11,19 writes 8:7 writing 92:2,5 121:20 163:6 written 8:7,11 123:3 136:3 138:20 151:20 162:15 wrong 26:4 38:21 44:3 45:1 46:9 64:13 66:12 73:25 99:6 103:14 105:18 106:4 119:6 147:19 150:3 164:20 174:18 178:11 wrote 57:14</p> <hr/> <p style="text-align: center;">X</p> <p>XXXX77736 73:20</p> <hr/> <p style="text-align: center;">Y</p> <p>yeah 10:21 13:22 17:21 20:16 23:12 23:23 26:19 34:23 36:18 49:24 54:2 70:3,6 75:25 76:12 80:8 83:10 85:8 86:2 89:3 90:11 95:25 96:14 97:9 101:5 117:21 119:8 126:9 127:7 132:21 133:7,18,18 134:22 138:1 143:3 149:10 150:17 153:17 156:23 157:11,11 161:13 162:17,25 165:9 166:13 168:17,24 170:5,20,23 172:11,14 173:21 174:20 175:6 175:11 176:6 179:10,12,22 180:4,24 182:22 184:11 185:6</p>	<p>year 10:18 19:17 123:11 123:14,15 124:1,7,8 136:16 167:11 years 10:18 18:10 19:11 19:13,14 21:13 46:5 54:8,9 69:5 123:12 153:9 153:19 164:22 175:16 176:13 yell 52:20</p> <hr/> <p style="text-align: center;">Z</p> <p>Z-I-R-B-E-L 4:20 zero 156:13 Zirbel 4:18,19 4:19 18:6,7</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p style="text-align: center;">1</p> <p>1 3:6 29:5,9,16 29:16 30:17 33:14 35:5 37:20 42:9 44:14 49:21 69:5 88:2 89:1,8,25 118:4 125:19 128:7,8 135:25 155:25 162:19 164:9 178:9 180:15 10 30:6 101 2:4 3:8 54:1,4,7 11 30:7 11:08 130:15 130:16 12 30:9 12:20 187:17 13 30:12 14 30:12 15 29:9 30:14 136:5 16 30:8 49:22 54:1,10 181:19 186:2 16th 49:20,24 78:1,6 182:4 17 141:20 17-H1884 1:4 18 69:5 73:9 180-208 2:11</p>	<hr/> <p style="text-align: center;">2</p> <p>2 3:8 29:18 101:7,11,12 101:16 102:2 118:2 138:17 144:9 146:21 146:21 147:8 157:5 161:5 177:11,22 2/16/04-17 129:24 2/17 136:2 2/17/09 136:5 20 29:25 30:10 71:11 2007 19:6 2016 30:9,10 30:13,15 71:11 85:1 144:2 2017 75:21 132:19 136:1 141:19,25 142:16 143:6 2018 1:25 4:2 190:11,19 20th 113:15,17 21 75:21 85:1 132:18 136:1 141:19 142:16 143:6 144:2 181:20 21st 50:1 76:1 76:10,18,19 77:7 107:4 107:15 128:1 134:7 141:25 143:24 181:13 182:4 182:5 186:23 23 1:25 23rd 4:2 190:11 248-342-9583 2:12 2500 2:4 27 30:9,13,15 28th 190:19 29 3:6 2C 177:14</p> <hr/> <p style="text-align: center;">3</p> <p>3 29:19 35:5 37:20 42:9 44:14 53:11 69:5 89:25 118:4 122:22 125:19,19 128:7 135:25 136:6 162:19 164:9 178:9 180:15 3/10/2015</p>	<p>138:18 30 30:1 30th 155:23 157:3</p> <hr/> <p style="text-align: center;">4</p> <p>4 3:3 29:19 35:5 52:16 128:7 155:25 155:25 162:20 164:10 178:9 4/17/2016 128:22,24 4:00 33:23 4000 4:3 40202 2:5 4301 2:11 47TH 1:2 48323 2:12 49 34:23</p> <hr/> <p style="text-align: center;">5</p> <p>5 29:21 86:21 88:1,25 89:15 5/20/2016 58:10 80:10 50 33:14,16 34:23,23,23 34:24,25 502-540-2300 2:5</p> <hr/> <p style="text-align: center;">6</p> <p>6 29:25 89:12 60 33:14 612.36 135:3 136:6</p> <hr/> <p style="text-align: center;">7</p> <p>7 30:1 89:1,7 7:30 33:23</p> <hr/> <p style="text-align: center;">8</p> <p>8 30:3 8:52 4:5</p> <hr/> <p style="text-align: center;">9</p> <p>9 30:6 9/15 135:10,24 9/15/2017 133:4 135:2 90 4:3 20:20,22 91:11</p>
---	--	---	--	--