

RESPONDENT 1-800 CONTACT

## I. ININDUCTION

Respondent 1-800 Contrate Ing ("1 900 Con Ma tron to Compel of the second of Documents in Response to Rem ("Motion" or "MTC"). These requests seek not only routine (and largely cumulative) weekly reports on the traffic to 1-800 Contacts website that were generated over here is not over production of these weekly reports; any a through a further reasonable course will be produced. In fact \$1800 Contacts already has produced over 1000 decisions conduct additional zell-ches over the comprehensive set to identify additional versions of these weekly reports that have not yet be The two principal issues in the two principal issues (1) whether 1-800 Contacts should be required in responding to Requests 22 and 24 to search beyond its existing (2) whether 1-80 =0 Conts relating" to the 1-800 Con "No."

In response to these requests, 1-800 Contacts agreed weeks ago to conduct a further and extensive search of the search. Committee that is the forest of the search. Committee that is the forest of the search of th

## П. FÁCTÚ 1-800 Contacts has already u and covering approximately in process to be described as the street of the s collecting how totals nearly throughout these proceedings. The requests now at issue were served on October 19, 2016 months and the Third Set of Requests for Production. Requests 22 and 24 seek regularly prepared weekly reports ("W Councel for 1-800 Contacts William Vinertare the inal-warmithie subject into the quests rueto the weeking seport titled converse in the second Complaint Counsel claims that 1-800 Control of the line reports sought by" these reports sought by the reports of the repor 1,000 documents consisting of the consisting of relative greek of control of the con Contacts has agreed to search its existing agreeneesive collection for any additional...

documents that contain the name of the contain the

The Third Set of Requests for Production states that it is seeking accument it is seeking a

that search (along with any cover cmail or other attachments & gross documents).

The scope of what 1-800 C.

reversity a nearly 3 500 additional documents are expected to the promoted with the theoretic days. The has required a second for the production. See and 3.4 Complaint evaluations are the added to the production of the production. See and 3.4 Complaint evaluations are the added to the production of the prod

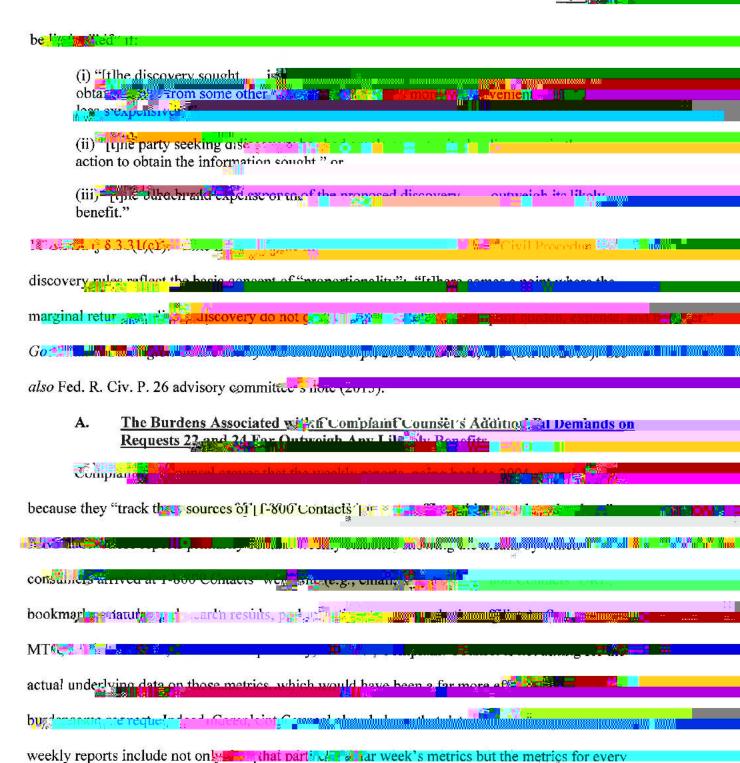
preparation of the second chest and very condition to describe the description of the second of the

agreed to review nearly 3...

repair in the state of attachment name for selds. In order 25. Complaint Wisel's Professed Order would have 1-00 entire prisotiection tory any wat mere wat ons anywhere document—the name of one of the four work gly reports, or the name "Web" with the four work gly reports. MTC, Proposed Order, secretion 2(2) . This show will require 1,800 Contacts to incur the hurden and expense of reviewing thousands of additional documents. See id. \\ \frac{3}{2} \frac{3}{2} \frac{1}{2} \frac{1 & to document: Complaint Counsel's approach documents; such as: (1) task itsis that melery more an emproyee s responsibility for the report, sant garage Clark Decl., Tab I (noting weekly re-Channel Trend," and "Week! 2) (2) correction to p related to mese weekly reponstance, e.g., Clark Dech, I and and (2) mangemesource records not III. ARGUMENT be reasonably experting the management of the control of the contr

Contacts long ago produced hundreds of documents of which the contacts ago produced hundreds of documents of the contact and t

<sup>&</sup>quot;e-mail and of other of section Liability of the place of





this data they already

Despite the marginal relevance and appropriately appropria

1-80@ Contacts should not be precised to find eyery conceivably responsive document.

wherever it may exist and whateverver the cost prove to fipranciate floured materials no precedent or and the cost prove to fipranciate floured materials ago) to contact a search that is more than reasonable and comprehensive to identify the document sought by Requests 22 and 24. Anything fluther would impose a burden and expense that far outweights a search that is more than the contact and the contact and expense that the contact and expense the contact and expense that the contact and expense the contact and expense that the contact and expense the contact and expense that the contact and expense the contact and expense that the contact and expense the contact and expen

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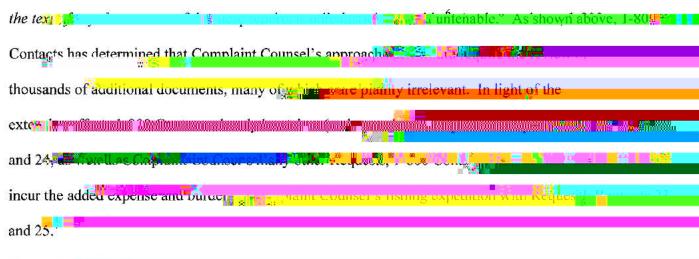
<sup>4</sup> The document is collected to the Motion as Matheson Declaration. Tab 2, for example includes an attachment titled "District Commerce Dashi Science CY12" 11.xlsx." that includes all of the reported metrics for the 51st week 1012013 and those same injections for every single preceding week back to the beginning of 2010.

Somplaint Counsel apparently attempts to justify these demand the commentary included in one weeks spenort. The commentary of the commenta

## B. Requests 250 and 25 Are Plainly 6

The principal dispersion has a second and the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports described above. Less than two incides ago morphosing Tovo contacts to the various weekly reports and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent's defenses." CC Opp. to Respondent seeks, and whether, or how, such materials relate to Respondent seeks. The relating to seek documents are to the relating to the relat

Indeed, Requests 23 and 25 are prime examples of the impermissible expedition." See Henry v. As Sand It. Sand I



## IV. CONCLUSION

For the state of t

Counser's Motion to Compel further production or accuments in respons

<sup>6</sup> Complaint Course, self-range for, bevo, Werth Targe Spagialty Physicians and decisions in that matter do not reveal circumstances remoted and self-range for the se

be limited to the degreents already Conceted, pursuant to Companie Connected property of See supra n.3; MTC, Matheson Decl., Tab 7 (email detailing score of "refresh" collection).

## Dag DATED /s/ Gregory M Gregory P. Ste se (gregory stone@mto.com) Steven M. Perry (steve Garth T. Vincent (garth.vincenta)mo.com Stuart N. Senator (stuart senator@mto.com) G Zachary Briers (Zachary orlers agmo.co MUNCON TO THE RESERVE OF THE PROPERTY OF THE P 355 South Grand Ave, 35th Floor Los Angeles, California 900 71 Phone: (213) 683-9100 Fax: (213) 687-3702 Justin C MUNGER, TOULES & OL 560 Mission Street, 27 San Franciscos Grue Chad Golder (chad.golder@mto.com) MUNGER, TOLL 1155 F Street NW, 7th Floor Washing 2000 Sean Gates (sgates@)charisley.com) CHARIS LEX P.C. 16 N. Maranger revende, 5 2 Pasadena, California 91101 Phone: (626) 508-1717 Fax: (626) 508-1730



DATED: December 7, 208

Gregory M. Sergi

## BEFORE THE FEDERAL TRADE COMMISSION OFFICE OF THE

In the Marticular 1-5 CONTACTS, INC.,
a corporation

# DECLARATION OF LISA A. CLARK F. RESPONDENT 1-800 CONTACTS, ING.'S OPPOSITION TO COUNSEL'S TO RESPOND TO RESPONDENT STORY OF THE PROPERTY OF TH

I, Lisa A. Clark

Respondent 1-800 Contacts, mc. in this matter. I am duty needsed to practice law before the courts of the Set at Collicationnia.

- 2. \*\*submit this Deciment of D
- 3. In the course of the underlying invostigation and the discrete transition, to the countries has vonected accuments morning in the particle of 1-800 Contacts and from

  This collection now totals nearly accuments. T-800 Contacts has searched this collection or documents in the reservoir to the contact of the contact of

- Contacts produced the state of the state of the state of the state of the accompanying all of the accompanying all of the accompanying total exceeds 1,600 documents.
- project of ligitation approximately 75-80 hours are required to constitution approximately 75-80 hours are required to co
- and 6 above, a search for the nearly documents already collected, as suggested in section 2 of Complete Surgested in section 3 of the nearly 3 of Complete Surgested in section 3 of the sect

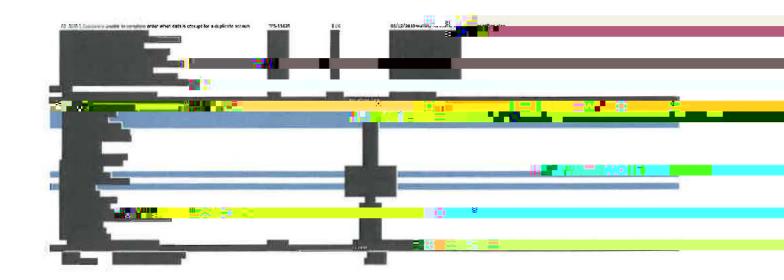
## PUBEL

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pro🍰	med by	S St. 5 Ontacts with Bates number   William   St. 1
	9.	Tab 2 is a true and correct copy of a document produced by 1-600 comacis with
Bates number 1-800F_00025064+		
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true din		
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	Evecut	ed on December

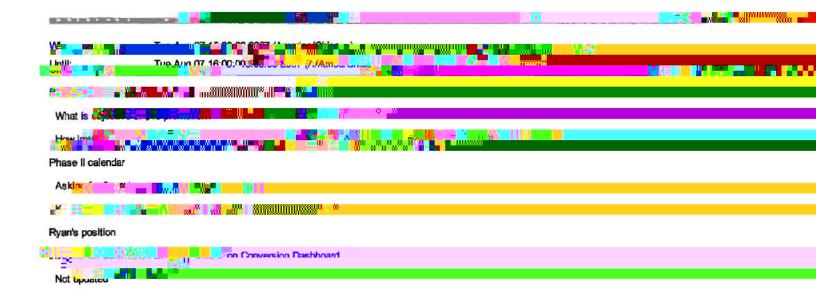
/s/ Lisa A. Clark Lisa A. Clark

## Tab 1





# Tab.2



## Notice of Electronic Service

I here by ce Contacts' Opp. to Complaint Counsel's Me. ..... Michael Channell Chief Adminintstrative was dange 600 Pennsylvania Ave., NW Suite 110 Vash a Donald Clark 600 Permy Ave NW Suite 172 Washington, DC, 2 I hereby cert Responded a stand South allow copp. are do for 2016), upo Thomas H. Brock Attorney Fea. Complaint Barbara Blank Attorney Federal Trade.Commission... bblank@nc.go Gual Salar Attorney Feder Frade Commission gchiarello@ffc gov Complaint Kathlee Attorney Federal Trade Commission kclair@ftc.gov Complaint Joshua B. Gray Attorn Attorn State of the state jbgray@ftc.go Comp Gestill Attorna Federal Trade Comes anission ggreen@ffc\_gov Nathaniel Hopkin

Attorney

Federal Trade Commission

nhopkin@ftc Complain es A. Loughlin Audiney Federal Te Commission cloughlin@ftc.gov Complaint Dan<sup>a</sup> Attorney Federal Trans dmatheson@ftc.gov Complaint Charlotte Slaiman Attorney Federal Trade Commission cslaiman@ftc.gov **Cuthpanlau** Mark Taylor Attorney Federal Trade Commission mtaylor@ftc.gov Complaint Gregory P. Stone Attorney

Manage To Proudes with a gregory.stone@mto.com Respondent Steven M. Perry Atwerney Munger Tolles & Olson I. sieven.perry@mto.com Respondent Garth T. Vincent Munger, Tolles & Olson LLP garth.vine 19481 <u>+</u> Respondent Stuart N. S Munger, Tolles & Vison LLP" stuart.senator@mto.com Resperdaren Greenwal O Call Munger, Folles & Ul gregory.sergi@.il.w.o.sam Respondent Justin P : 307 hand Munger, Tolles 📲 🦊 Justin Raphaer anno com Respondent

