

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADVANCEME, INC.,

Plaintiff

v.

**RAPIDPAY LLC, FIRST FUNDS LLC,
MERCHANT MONEY TREE, INC.,
REACH FINANCIAL, LLC, and FAST
TRANSACT, INC. d/b/a SIMPLE CASH,**

Defendants.

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CASE NO. 6:05-CV-424 LED-JDL

**PLAINIFF ADVANCEME, INC.’S OBJECTIONS TO DEFENDANTS’ AFFIRMATIVE
DEPOSITION DESIGNATIONS**

Plaintiff AdvanceMe, Inc. hereby objects to Defendants’ Affirmative Deposition
Designations.

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ADVANCEME'S OBJECTION KEY

<u>Code</u>	<u>Objection</u>
106	Incomplete. This testimony is objectionable because it is incomplete and the introduction of the remaining portions ought, in fairness, to be considered contemporaneously with it (see F.R.E. 106).
402	Relevance. This testimony is objectionable because it is not relevant (see F.R.E. 402).
403	Misleading/Confusion of Issues/Waste of Time. This testimony is objectionable because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence (see F.R.E. 403).
408	Compromise and Offer to Compromise. This testimony is objectionable because it relates to offers to compromise and/or settlement negotiations (see F.R.E. 408).
602	Personal Knowledge. This testimony is objectionable because it constitutes testimony on a matter as to which the witness lacks personal knowledge (see F.R.E. 602).
611	Vague and Ambiguous, Argumentative, Harassment, Undue Embarrassment, Leading. This testimony is objectionable because it is vague and ambiguous, argumentative, constitutes harassment or is unduly embarrassing to the witness, or the question is leading (see F.R.E. 611).
701	Lay Opinion/Legal Conclusion. This testimony is objectionable because it is opinion testimony by a lay witness that is not reasonably based on perception and helpful to a clear understanding of the witness' testimony or the determination of a fact in dispute (see F.R.E. 701).

801	Hearsay. This testimony is objectionable because it is a statement made by one other than the declarant while testifying at trial, offered into evidence to prove the truth of the matter asserted and not subject to any hearsay exception (see F.R.E. 801 and 802).
901	Authentication. This testimony is objectionable because the evidence referred to therein has not been properly authenticated (see F.R.E. 901).
1001-1004	Best Evidence. This testimony is objectionable because it is vague and ambiguous as to whether the witness is summarizing its own independent understandings or the contents of a document. If the latter, attempt to prove content of a document with secondary evidence (see F.R.E. 1001-1004).
A/C	Privilege. Attorney Client Privilege and/or Work Product Immunity
AA	Asked and Answered
AF	This testimony is objectionable because it assumes a fact not in evidence.
B	Bolstering. This testimony is objectionable because it is improper to bolster the credibility of a witness before credibility is attacked (see F.R.E. 608 (a)).
CQ	Compound Question
CS	Calls for Speculation
E	This testimony is objectionable because it constitutes attempted expert testimony from a person who was not designated as an expert and who did not submit an expert report (see F.R.C.P. 26).
F	This testimony is objectionable because it lacks foundation.
IA	This testimony is objectionable because it is an incomplete answer.
IC	This testimony is objectionable because it has characterized a person or conduct

	with unwarranted suggestive, argumentative, or impertinent language (see F.R.E. 404-405).
IE	Improper opinion testimony by expert witness (F.R.E. 702)
IQ	This testimony is objectionable because it is an incomplete question.
MC	Mischaracterizes witness's testimony
N	Calls for narrative
NR	Nonresponsive
OS	Outside the scope of Rule 30(b)(6) topics

DEPOSITION OF ALLEN ABBOTT, January 11, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
21:23-24:4	CS, 611
25:6-27:6	402
28:2-28:14	106, 602
38:15-39:5	CS, 602, 106
39:9-39:24	801-804, 1001-1002, 1004
40:7-41:23	106, 801-804, 1001-1002, 1004
62:19-63:11	106
63:24-64:18	801-804, 1001-1002, 1004
71:6-71:11	402
81:8-82:6	801-804, 1001-1002, 1004
84:13-85:5	801-804, 1001-1002, 1004
85:19-86:3	801-804, 1001-1002, 1004
87:1-89:22	IQ, 801-804, 1001-1002, 1004
89:24-90:4	106
92:4-92:18	611, CS
92:20-92:20	106
93:3-94:7	801-804, 1001-1002, 1004
94:9-95:6	106, 611
95:8-95:8	106

DEPOSITION OF JAMES R. ALEXANDER, March 9, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
12:15-13:4	611
13:20-14:6	106
15:2-15:11	106
27:16-27:21	IA, 106
34:11-35:4	CS, 801

DEPOSITION OF LAURENT F. BOUCHARD, January 31, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
11:11-14:8	701, 602
16:16-17:2	602
17:5-17:19	611
18:2-18:5	602
18:8-18:23	602
19:2-20:21	602, 701
22:18-22:19	602
22:21-25:15	602, AA
26:3-29:15	602
29:18-32:20	602
32:22-32:22	602
32:24-33:4	602
33:6-34:5	602
34:7-35:14	602
35:17-35:22	602
35:24-36:4	602
36:7-36:12	602
36:14-37:5	602
41:4-46:1	602
46:3-46:14	602
46:16-46:16	602
47:6-50:12	602, 701
51:8-51:15	602
51:17-55:23	602
56:1-57:7	602
57:11-59:16	602
62:10-64:24	611
65:2-65:9	611
67:18-72:11	402, 611

72:14-72:20	611
73:23-74:18	CS, 611
74:20-77:5	602, 106
77:23-78:19	602, 701
78:21-79:9	602, 701
79:11-79:16	602, 701, 106
80:24-82:23	N
83:2-89:12	611
89:15-92:14	611, 1001-1004
92:17-98:1	611, 402, 602
100:21-100:24	611
101:3-101:20	611
104:9-121:4	602, 701, 402
125:13-127:19	602
128:19-131:2	402
132:24-136:23	611, 602

DEPOSITION OF MICHELLE BOUDETTE, February 16, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
14:4-14:13	106, IA, F
16:4-17:10	F, 602, 611
17:16-18:2	F, 602, 611
18:15-20:8	F, 602, 611
20:20-22:10	801, F, 602, CS
22:19-22:24	MC
23:13-24:1	106, IA, 602, F
24:3-25:19	106, F, 602
25:21-28:5	602, 801, F, AF, 106, CS, 611
30:14-32:10	801
33:1-36:17	801, 804, F, 602
36:19-36:20	106, IA
36:22-39:1	602, F, A, 1001-1004
39:17-40:16	602, F, A, 1001-1004
41:11-41:21	602, F, A, 1001-1004, MC
42:6-42:22	602, F
46:2-46:3	602, F, CS
46:22-47:5	602, F, CS
49:13-54:21	602, F, CS, IC, AA
54:24-58:4	106, AA, 611, 801
61:4-61:16	CS, 801
65:14-67:13	402, 403, IC
68:9-73:15	F, 602, 611, CS, 402, 403
75:20-78:22	402, 403
80:4-81:1	CS, 402, 403
85:12-90:10	CQ, NR, 602, 611
99:15-99:20	602
102:4-103:5	611
105:22-106:8	602, F

DEPOSITION OF JOHN RANDALL BOURNE, January 26, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
23:20-28:19	402
28:23-31:9	106
31:25-32:6	801, 1001-1004
41:14-41:22	1001-1002, 1004
43:9-44:22	602, 901, 1001-1002, 1004, CS
45:5-46:9	602, 801-804, 901, 1001-1002, 1004, CS
52:5-52:20	602, 801-804, 901, 1001-1002, 1004
73:11-73:18	402
76:13-76:25	602, 801-804, 901, 1001-1002, 1004, CS
77:13-78:22	F, 602, 611
78:24-79:12	611
79:14-79:17	106, 611
79:19-79:22	106, 602
80:7-81:3	MC, 602, 611, F
81:5-81:7	106, 602, F
82:18-84:22	611, 1001-1004
84:24-84:24	106
85:7-85:24	AA, 611, CS, 602
86:1-87:3	CS, 602, 106, AA
87:5-87:11	106
88:2-89:9	402, 1001-1004
91:2-92:2	F, 602, 701
93:18-93:22	106, 402, 403
96:18-97:16	F, 602, 701, 801-804, 901, 1001-1002, 1004

DEPOSITION OF JENNIFER L. CARTER, February 27, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
37:3-38:16	106, 402, 611, IQ, MC
38:10-38:16	106, MC, 611
40:15-41:7	402, MC, 611, 106
42:4-45:8	611, IQ, 602, 801, F, CS, MC, 402
54:24-55:11	NR, CQ, MC, 602, 701, E, 106, F, CS

DEPOSITION OF RUTH ELASRI, February 22, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
67:5-72:18	106, 611, 402
75:12-76:2	106, 402
77:9-77:20	106, 402, MC
78:25-79:5	106
79:12-80:9	602, F, CS
81:16-81:25	106, 402
84:23-88:16	106, 402
90:21-91:8	106, 402, OS
92:11-94:20	106, 402, MC, 611
98:1-99:2	106, 611, CQ
100:8-100:18	602, 701, E, F, CS
101:9-106:3	106, 402, 602, 701, E, F, CS, OS
106:14-107:2	MC, 106, 402, 602, 701, E, F, CS, OS
107:4-107:18	106, 402, 602, 701, E, F, CS, OS
110:10-111:8	106, 402, 602, 701, E, F, CS, OS
120:21-120:24	106, 402, 602, 701, E, F, CS, OS

DEPOSITION OF LES FALKE, March 2, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS¹
5:6-156:6	106, 403, 602, 611, 701, 901, A, AA, A/C, AF, AR, CQ, CS, F, IQ, MC

¹ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF JEANNETTE MAY GEPFORD, February 15, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS²
4:23-10:5	801
10:17-26:17	611, 801, F, 602, AA, CS, IQ
28:14-44:5	602, 611, CQ, CS, F, IQ
52:22-54:3	402, 403
63:5-74:16	CQ, CS, 602, 611, 402, 801

² The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF CLIFFORD CHARLES HARDWICK

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
5:8-24:6	611, CQ, CS, AA, AF
25:12-69:3	611, F, 602, CS, AR, AA, CQ, 801, 802, AF, IQ,
75:9-112:8	F, CS, 602, 801, 802, AA, 611, 403, IQ, 402, CQ

DEPOSITION OF BARBARA JOHNSON, June 28, 2006

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS³
14:2-15:21	AA, 611, 403
17:8-17:23	AA, 611, 403
18:16-20:14	402, 403, 611
21:14-26:25	402, AA, 403, 611
74:18-81:24	602, 611, 701, 1001-1004, 701, E, AA, 403, F, CS, A
84:8-99:3	1001-1004, 611, 701, E, AA, 403, 602, F, CS, A
102:5-115:14	701, E, 611, AA, 403
117:14-118:12	IA, 106, 403
120:5-144:7	1001-1004, 106, 701, IE (702), 611, AA, 403, MC, 602, F, CS, A
157:20-158:20	106
165:3-183:23	1001-1004, 701, E, 702, 611, AA, 403, F, CS, A
191:4-214:8	1001-1004, 701, 403, E, AA, A, 611, F, 602, CS, A
217:2-233:22	701, E, 611
235:3-239:4	701, E, 611
258:18-259:11	701, E, 611
264:11-271:12	106, 611
276:15-277:4	106
280:17-281:18	AA, 611, 403, 701, E

³ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF GARY JOHNSON

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
4:13-39:7	F, CQ, 611, MC, 403, 701, CS
41:5-43:24	402, CS
47:22-56:10	F, AA, CS
56:23-72:15	611, CS, F, AA

DEPOSITION OF JOHN KONOP, February 8, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
152:3-153:6	106, 402, 602, 701, 801, 1001-1004, CS, E, F, IA
154:1-155:17	106, 402, 602, 701, 801, 1001-1004, CS, E, F, IA, 611, CQ
158:23-161:12	106, 402, 701, 801, 1001-1004, CS, E, IA, 403, 602, F
162:1-21	106, 402, 801, 1001-1004, IA
163:24-166:17	106, 402, 602, 701, 801, 1001-1004, AF, CS, F, IA
167:13-168:25	106, 402, 602, 701, 801, AF, CS, E, F, IA
170:4-173:2	106, 402, 602, 701, 801, A, AF, CS, 1001-1004, F, 611
176:19-178:8	106, 402, 602, 701, 801, AF, 1001-1004, CS, F
182:9-183:15	106, 402, 602, 701, 801, AF, 1001-1004, CS, F
184:2-11	106, 402, 602, 701, 801, 1001-1004, CS, F
185:11-189:25	106, 402, 602, 701, 801, 1001-1004, CS, F
191:18-194:12	106, 402, 801, 1001-1004, IA
194:23-195:6	106, 801, 1001-1004, F, IA, Y, 602, CS
203:21-205:4	106, 611, 801, CS, F, 602
207:7-214:25	106, 611
231:18-232:12	106, 611, CS, F, 602, 701, E
234:23-237:8	106, 611
262:8-263:5	106, 611, CS, F, 602, 701, E
267:10-24	106, 611
298:16-299:3	106, 611
317:19-320:21	106, 611
322:20-324:11	106, IC, 611
324:23-326:21	106, IC, 611
328:23-329:13	106, 402, 701, 801, A/C, CS, E, F, IA, 611
330:22-331:8	106, 402, 701, 801, AA, AF, CS, E, F, 611

DEPOSITION OF EDWARD W. LANDON, February 14, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS⁴
5:19-18:23	602, CS, F
19:13-44:2	602, CS, F, 701, IE (702), MC, 611, 1001-1004
44:10-50:22	602, CS, F, AA, MC, 611
68:19-69:23	AA
70:23-71:7	AA, 602, CS, F

⁴ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF THOMAS J. LITTLE IV, September 6, 2006

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
22:13-27:25	402, 403, 602, 611, F
28:13-28:19	602, 611, 701, 702, E
28:22-34:8	602, 611, 701, 702
35:13-36:7	602, 701, 702
38:9-39:10	602, 701, 702
46:7-49:15	402, 602, 611
49:25-55:3	602
56:21-57:3	106, 611
57:9-63:2	402, 403, 801-804
66:22-67:18	106, 602, 611, 901, 1000-1004, 1007
67:21-67:22	106, 602, 611, 901, 1000-1004
67:25-70:9	106, 602, 611, 901, 1000-1004, 1007
70:14-72:17	602, 611, 901, 1000-1004, 1007, CS
72:21-73:13	106, 611
73:16-74:3	106, 611
74:12-75:5	106, 611
75:8-76:16	106, 602, 611
76:19-82:9	611
82:12-83:2	602, 701, CS, F
83:7-83:13	602, 801, CS
83:16-88:24	602, 611, 901, 1000-1004, 1007, CS
89:1-92:20	602, 1000-1004
93:3-99:1	602, 701, 702, 801-804, 901, 1000-1004
99:17-110:11	402, 403, 602, 611, 1000-1004, CS
110:13-113:10	106, 403, B
114:11-114:22	611, 701, F
114:24-115:25	611, 701, F
152:19-152:21	602, 611, 701, 702, 1000-1004, CS
152:23-155:18	602, 611, 701, 702, 1000-1004, CS

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
155:21-155:24	602, 611, 701, 702, 1000-1004, CS
156:4-158:9	602, 611, 701, 702, 1000-1004, CS
289:15-290:3	602, 611
290:6-290:11	602, 611
290:15-290:15	602, 611

DEPOSITION OF NICK LOGAN, March 1, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
6:11-55:7	801, 802, 602, AA, 611, CS
56:26-62:12	402, CS, 602, 611
74:10-75:16	402

DEPOSITION OF DANIAL LOTT, February 16, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
88:20-89:23	611
89:5-89:23	611
90:19-91:22	611, CQ, CS
92:9-94:3	611
101:19-103:18	F, CS
115:9-115:17	F, CS

DEPOSITION OF ANTHONY S. MALEY, February 28, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
57:17-59:14	OS
66:24-67:9	NR

DEPOSITION OF TOM MCBREARTY, February 13, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
15:23-18:24	602, CS, F
19:4-22:23	CQ
24:12-28:6	CQ, 611, CS
28:17-33:3	611, 602, CS, F, 1001-1004
36:18-43:19	602, CS, F, IQ, MC, 701, IE (702), E
44:12-46:18	MC, 602, F, CS, 611, 1001-1004
48:7-48:19	106, 602, CS, F, 611, 1001-1004
49:5-49:12	602, CS, F, 1001-1004
51:21-58:21	611, 602, CS, F, 1001-1004
59:12-69:6	602, CS, F
75:25-78:4	602, CS, F, CQ, 701, IE (702), E
78:14-83:5	602, F, CS, 701, IE (702), E, AA, IA, 611
93:3-93:16	CQ
94:17-94:25	106, IA
95:15-96:16	611, MC
117:1-120:11	611, AA, MC
122:7-123:6	602, F, CS

DEPOSITION OF WILLIAM MORGENSTEIN, February 20, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS⁵
7:25-11:21	402
13:2-14:25	402, F, 611, 602
15:13-18:18	801, 802
18:22-20:16	402
24:13-36:1	B, 402, 611, 602, 801, 802, F, CS
36:21-38:5	F, CS, 602
38:17-40:18	402, A
43:10-44:17	F, 602, CS, A
45:25-46:11	801, 802
46:21-52:21	F, 602, 611, IC, CS
53:7-53:9	106
54:25-55:6	F, 602, CS
59:8-61:18	402, B
65:11-65:13	F, 602, CS
67:13-68:6	A, CS, F, 602
79:22-80:6	AA, F, CS, 602
94:3-94:9	NR
95:14-98:12	F, 602, CS, AA, IC, MC

⁵ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF ADAM SECHER, January 30, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS
8:8-10:1	IQ
13:10-19:20	602, F, CS
27:6-27:19	106, AA
31:9-32:17	602, F, CS
40:20-41:9	611, MC
47:4-47:24	611
51:5-51:20	IQ, 602, F, CS
55:2-56:23	611
59:2-60:11	611, IQ, 602, F, CS
64:13-65:6	106, IQ, IA, 611, 402

DEPOSITION OF GERETTE SORWELL, February 14, 2007

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS⁶
6:8-11:6	611
13:15-16:21	611
17:10-28:24	602, CS, F
30:10-31:24	611
36:16-43:18	602, CS, F
45:1-47:7	602, CS, F
47:17-51:4	AA

⁶ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

DEPOSITION OF LEE SUCKOW, October 4, 2006

DEFENDANTS' DESIGNATED TESTIMONY	ADVANCEME'S OBJECTIONS⁷
5:18-63:3	IQ
69:22-71:5	602, F, CS, 801
74:12-82:15	611
83:3-88:22	611
134:3-139:10	IQ

⁷ The Defendants have designated several large portions of deposition testimony (some in excess of 100-pages) without identifying the specific portions on which they intend to rely at trial. Because AdvanceMe should not bear the burden of identifying the relevant portions of Defendants' designations, AdvanceMe has objected to the entire designated section for each designation exceeding ten pages of testimony.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served a copy of this document via the court's CM/ECF system pursuant to Local Rule CV-5(a)(3) on this the 19th day of June, 2007. Any other counsel of record will be served by first class mail on this same date.

By. /s/ Vidya R. Bhakar

Vidya R. Bhakar

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