

1 **II. Mr. ██████ Discovery Requests are Reasonable**

2 “Direct evidence is a physical exhibit or the testimony of a witness who saw, heard,
3 touched, smelled or otherwise actually perceived an event. Circumstantial evidence is the
4 proof of a fact from which the existence of another fact may be inferred.” RAJI (Civil
5 5th, Preliminary 3. “Circumstantial evidence has the same probative value as direct
6 evidence.” *Castro v. Ballesteros-Suarez*, 222 Ariz. 48, 54, ¶ 21, 213 P.3d 197, 203 (App.
7 2009). And although other acts evidence is inadmissible “to show action in conformity
8 therewith,” such other acts evidence is “admissible for other purposes, such as proof of
9 motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake
10 or accident.” Ariz. R. Evid. 404(b). Other acts evidence can be used to establish identity
11 and common plan if the acts at issue are sufficiently similar to the other acts “as to be like
12 a signature.” *State v. Jackson*, 186 Ariz. 20, 27, 918 P.2d 1038, 1045 (1996). Such is the
13 case with ██████ and his proclivity for conducting research on an adverse target, and then
14 exploiting the information obtained for his personal gain—it is, indeed, ██████ calling
15 card.

16 It is precisely this type of relevant information—or information that may lead to the
17 discovery of admissible evidence—that Mr. ██████ seeks and that ██████ refuses to
18 produce. The Rules provide a remedy when a party fails to adequately respond to
19 interrogatories or requests for production of documents. Ariz. R. Civ. P. 37(a)(2)(B).
20 Sanctions for disclosure/discovery violations include (1) the payment of attorneys’ fees
21 incurred in securing an order to compel, (2) ordering that matters relating to an order to
22 compel be established in favor of the moving party, (3) ordering that the disobedient party
23 not be permitted to support or oppose claims or defenses or introduce evidence thereof, (4)
24 ordering the pleadings or portions thereof be stricken, (5) dismissing the disobedient
25 party’s claims, (6) granting default judgment, (7) treating the disobedient party’s violation
26 of any order as contempt of court, and (8) precluding the introduction of undisclosed
27 matters into evidence. *See* Ariz. R. Civ. P. 37(a)(4)(A); Ariz. R. Civ. P. 37(b)(2); Ariz. R.
28 Civ. P. 37(c)(1); *see also* Ariz. R. Civ. P. 26(f). The specific discovery responses to