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David M. Soderland  
Brant A. Godwin  
Dunlap & Soderland, PS  
901 Fifth Avenue, #3003  
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[bgodwin@dunlapsoderland.com](mailto:bgodwin@dunlapsoderland.com)

Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

CAROLYN ANDERSON,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. C11-902-RBL
	)	
vs.	)	DECLARATION OF BRANT
	)	GODWIN RE: DOMINO'S
DOMINO'S PIZZA, INC., DOMINO'S	)	SECOND MOTION FOR PROTECTIVE
PIZZA, LLC, FOUR OUR FAMILIES,	)	ORDER
INC., and CALL-EM-ALL, LLC,	)	
	)	
Defendants.	)	
	)	

I, Brant Godwin, am an attorney with Dunlap & Soderland, P.S., counsel for Defendants Domino's Pizza, Inc. and Domino's Pizza, LLC in the above captioned matter. I am over 18 years of age and otherwise qualified to make the following declarations based on personal firsthand knowledge.

BRANT GODWIN DECLARATION RE: 2<sup>ND</sup>  
MOTION FOR PROTECTIVE ORDER - 1


LAW OFFICES  
DUNLAP & SODERLAND. P.S.  
901 FIFTH AVENUE, SUITE 3003  
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1. On May 3, 2012 Carolyn Anderson's Attorney, Rob Williamson, and I had a FRCP 26 telephone conversation to discuss Anderson's Amended Fourth and Fifth discovery.
2. Attached, as Exhibit 1 is a true and correct copy of portions of FOFI's Answers to First Interrogatories and Requests for Production.
3. Attached, as Exhibit 2 is a true and correct copy of portion of FOFI's Answers to Second Interrogatories and Requests for Production.
4. Attached, as Exhibit 3 are true and correct copies of portions of the Michael Brown deposition transcript.
5. Attached, as Exhibit 4 is a true and correct copy of the Declaration of Michael Brown.
6. Attached, as Exhibit 5 are true and correct copies of portions of the Wayne Pederson deposition transcript.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: May 4, 2012.

  
\_\_\_\_\_  
Brant A. Godwin

# **EXHIBIT 1**

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

CAROLYN ANDERSON,

Plaintiff,

vs.

DOMINO'S PIZZA, INC., DOMINO'S  
PIZZA, LLC and FOUR OUR FAMILIES,  
INC.,

Defendants.

No. 10-2-15941-0 SEA

**PLAINTIFF'S FIRST  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION**

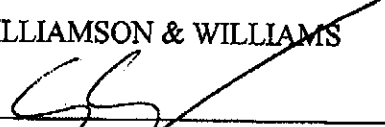
**WITH ANSWERS AND RESPONSES  
THERE TO**

TO: DOMINO'S PIZZA, INC., DOMINO'S PIZZA, LLC and FOUR OUR FAMILIES, INC.,  
Defendants.

Please respond to these Interrogatories and Requests for Production propounded herein pursuant to the Civil Rules for Superior Court. It is requested that you produce the items and materials requested herein for inspection and copying at the Law Offices of Williamson and Williams on the 40<sup>th</sup> calendar day after service, at 10:00 a.m. This request may be satisfied by providing copies of all such items to the undersigned prior to that date.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 2010.

WILLIAMSON & WILLIAMS

  
\_\_\_\_\_  
Kim Williams, WSBA #9077  
Rob Williamson, WSBA #11387  
Attorneys for Plaintiff

To the extent understood by these answering defendants, the telephone numbers represent the customers with whom Four Our Families, Inc. maintains a business relationship. The telephone numbers were provided to Four Our Families, Inc. by the customers with whom a business relationship is maintained.

**INTERROGATORY NO. 19:** Identify any and all agents, representatives or other persons known to, employed by, or otherwise involved in the business of Defendants, including but not limited to attorneys, consultants, and accountants, who had any responsibility for or involvement with the transmission of the calls by said vendors.

**ANSWER:**

Michael Brown, President, Four Our Families, Inc., hired Call-Em-All.com, an approved vendor/presenter at the most recent Domino's convention.

**INTERROGATORY NO. 20:** When vendors made telephone calls of the type described in the complaint herein, were Defendants advised of the date/s the calls were made, the number of calls made, the telephone numbers called, and/or the states, area codes, or regions to which the calls were placed? If so, please describe what was conveyed by the vendors, and when it was conveyed relative to when the calls were actually made.

**ANSWER:**

These answering defendants had no knowledge of how the vendor made calls. This defendant knows that its customer base was and is limited to Pierce County, Washington and did not ever extend beyond the borders of Pierce County, much less the State of Washington.

**INTERROGATORY NO.21:** State whether Plaintiff, at the time Defendants made the calls, had an established business relationship with Defendants and, if so, state all facts which support the existence of the established business relationship, identifying all documents which support or pertain to it, and identifying all witnesses with knowledge of any such facts.

**ANSWER:**

## **EXHIBIT 2**

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HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CAROLYN ANDERSON,

Plaintiff,

No. C11-902RBL

vs.

DOMINO'S PIZZA, INC., DOMINO'S  
PIZZA, LLC and FOUR OUR FAMILIES,  
INC.,

Defendants.

**DEFENDANT FOUR OUR FAMILIES,  
INC. ANSWERS TO PLAINTIFF'S  
SECOND INTERROGATORIES AND  
REQUESTS FOR PRODUCTION**

**TO: FOUR OUR FAMILIES, INC.,**

Please respond to these Interrogatories and Requests for Production propounded herein pursuant to the Federal Rules of Civil Procedure. It is requested that you produce the items and materials requested herein for inspection and copying at the Law Offices of Williamson and Williams on the 40<sup>th</sup> calendar day after service, at 10:00 a.m. This request may be satisfied by providing copies of all such items to the undersigned prior to that date.

DATED: This 9<sup>th</sup> day of December, 2011.

WILLIAMSON & WILLIAMS

/s/ Kim Williams

Kim Williams, WSBA #9077

Defendant FOI's Answers to Plaintiff's Second Set  
of Interrogatories- 1 of 9

(11-00902)

S:\CASES7\Four Our Families class action\Discovery\Word Docs\FOI Answers to Pls 2nd  
set of rogs.doc

FAUBION, REEDER, FRALEY, & COOK, P.S.  
5920 100<sup>th</sup> St. SW #25  
Lakewood, WA 98499  
(253) 581-0660

1 Pulse is how FOFI stores operate.

2 **REQUESTS FOR PRODUCTION**

3 **REQUEST FOR PRODUCTION NO. 16:** Produce all documents that describe  
4 PULSE, or the PULSE program, and the Telephone Opt-In Program including any documents  
5 showing your utilization of it.  
6

7 **RESPONSE:**

8 Objection. This answering Defendant has no knowledge of a "Telephone Opt-In  
9 Program" about which this Request for Production refers and there is no definition provided  
10 by the Plaintiff.

11   
Nicole Brown, WSBA 40704

12 Without waiving said objection, there are no documents to provide as this answering  
13 Defendant is unsure of the request posed. Mr. Brown has no first-hand knowledge about the  
14 "Telephone Opt-In Program" to which reference is made and or it's coordination with Pulse.  
15 Mr. Brown's use of PULSE, in regards to the "calls", is described in Interrogatory No. 24.

16 **ATTORNEY'S CR 26 CERTIFICATION**

17 The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that he or she has  
18 read each response and objection to these discovery requests, and that to the best of his or her  
19 knowledge, information and belief formed after a reasonable inquiry, each is (1) consistent  
20 with the Civil Rules and warranted by existing law or a good faith argument for the extension,  
21 modification, or reversal of existing law; (2) not interposed for any improper purpose, such as  
22 to harass or to cause unnecessary delay or needless increase in the costs of litigation; and (3)  
23 not unreasonable or unduly burdensome or expensive, given the needs of the case, the  
24 discovery already had in the case, the amount in controversy, and the importance of the issues

25 Defendant FOFI's Answers to Plaintiff's Second Set  
26 of Interrogatories- 5 of 10  
(11-00902)  
S:\CASES7\Four Our Families class action\Discovery\FOFI Answers to Pls 2nd set of  
rogs.doc

FAUBION, REEDER, FRALEY, & COOK, P.S.  
5920 100<sup>th</sup> St. SW #25  
Lakewood, WA 98499  
(253) 581-0660





## **EXHIBIT 3**



1 APPEARANCES:

2 For the Plaintiff: ROB WILLIAMSON, ESQ.  
3 Williamson & Williams  
4 187 Parfitt Way SW, Suite 250  
5 Bainbridge Island, WA 98110  
6 206-780-4447  
7 roblin@williamslaw.com

8 For the Defendants Domino's:

9 DAVID M. SODERLAND, ESQ.  
10 Dunlap & Soderland  
11 901 Fifth Avenue, Suite 3003  
12 Seattle, WA 98164  
13 206-682-0902  
14 dsoderland@dunlapsoderland.com

15 For the Defendant Four Our Families:

16 NELSON C. FRALEY II, ESQ.  
17 Faubion, Johnson, Reeder & Fraley  
18 5920 100th Street SW, Suite 25  
19 Tacoma, WA 98499  
20 253-581-0660  
21 nfracley@fjr-law.com

22  
23  
24  
25

1 A. Yeah.

2 Q. All right. And so then you had contact with  
3 some -- renewed contact with somebody at Call-Em-All, or  
4 was it just a matter of going on their web site?

5 A. You can go right onto their web site and sign  
6 up, anybody can.

7 Q. Okay. And the process, as I understand it,  
8 would be in part that you would download phone numbers that  
9 you wanted to be called, is that right?

10 A. Correct.

11 Q. Okay. What about did you have to download or  
12 type in the script of what you wanted the call to say?

13 A. Yes.

14 Q. Okay. And when did you first start having these  
15 calls made on your behalf, roughly?

16 A. I believe in June of 2009.

17 Q. All right. And how long did you do that?

18 A. Up until about August 30th or 31st.

19 Q. Of 2009?

20 A. Yes.

21 Q. Okay. And why did you stop after that?

22 A. Because they changed the federal law that you  
23 had to have a written permission from the customer to be  
24 called, so --

25 Q. How did you -- sorry.

1 Q. You didn't at any point contact anybody with  
2 Domino's and say, you know, I'm going to use these guys, is  
3 it okay?

4 A. No.

5 Q. Nothing like that?

6 A. No.

7 Q. All right. The reports that you received would  
8 tell you in the end of the 5,000, or whatever number of  
9 calls, they actually would tell you how many got through  
10 and how many did not, is that correct?

11 A. Yes.

12 Q. Okay. And I'm just imagining that if I -- if  
13 somebody did 5,000 calls, that some number of those would  
14 go to voice mail, and you told me that if that happened,  
15 they would not connect, as it were, is that right?

16 A. Yeah.

17 Q. Okay. So, what if after a second or third try  
18 it was still just voice mail, would the report then reflect  
19 that there were a certain number of calls that couldn't get  
20 through because they kept going into voice mail?

21 A. I believe so.

22 Q. Okay. And whether you paid for those or not, do  
23 you recall?

24 A. I don't think you pay for a call that didn't get  
25 answered.

## **EXHIBIT 4**

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IN KING COUNTY SUPERIOR COURT STATE OF WASHINGTON

CAROLYN ANDERSON,

Plaintiff,

Vs.

DOMINO'S PIZZA INC., DOMINO'S  
PIZZA, LLC and FOUR OUR FAMILIES,  
INC.,

Defendants.

No. 10-2-15941-0SEA

DECLARATION OF MICHAEL  
BROWN

I, Michael Brown make the following declarations based on personal firsthand knowledge.

1. I am over 18 years of age and otherwise qualified to make these statements.
2. I am the President of Four Our Families, Inc.
3. Four Our Families, Inc. was formed to manage Domino's Pizza franchises in Pierce County, Washington.
4. Domino's played a limited role in local advertising for my franchises. Domino's Pizza, LLC role in Four Our Families, Inc.'s local advertising was limited to negotiating deals on coupon mailings in 2009.
5. In 2009, Domino's Pizza, LLC did not control or direct my local advertising campaigns and methods.
6. Domino's Pizza, LLC provided advice on local advertising. Domino's advice was limited to ways to distribute menus and coupons.

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- 7. At no time has Domino's Pizza, LLC controlled or directed Four Our Families, Inc.'s local advertising methods.
- 8. Four Our Families, Inc. has discretion to formulate its own local advertising campaign free of Domino's control or direction.
- 9. Four Our Families, Inc. was allowed to accept or reject Domino's Pizza, LLC's advice regarding local advertising.
- 10. Domino's Pizza, LLC never recommended advertising using automated dial calls.
- 11. Domino's Pizza, LLC did not ever direct advertising using automated dial calls.
- 12. The decision to use Call-Em-All was entirely my own.
- 13. I do not know whether Domino's Pizza, LLC recommended or endorsed the vendors present at the May 2009 convention.
- 14. I do not know whether or not the vendors at the convention, including Call-Em-All, had worked with Domino's in the past.
- 15. I was not relying on the fact that Call-Em-All was at a Domino's Pizza, LLC rally in making the decision to use Call-Em-All's services.
- 16. I do not know if the vendors at the convention were selected by Domino's Pizza, LLC.
- 17. I do not know if the vendors at the convention were approved by Domino's Pizza, LLC.
- 18. I do not believe that Domino's Pizza, LLC was even aware of my independent decision to use the services of Call-Em-All.
- 19. Domino's Pizza, LLC was not involved in any way in my contracting with Call-Em-All.
- 20. Domino's Pizza, LLC did not direct me to the Call-Em-All website, assist with the advertising script, or pay any of Call-Em-All's fees.





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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: January 21, 2011.

  
Michael Brown

## **EXHIBIT 5**

# Anderson v. Domino's Pizza, Inc.

Deponent: **Wayne Peterson**

Taken: **2/10/2012**



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1 Q. Okay. Other than what I read on a 10K that is a point  
2 of sale software, I know nothing about Pulse. I have  
3 no documents, I know nothing. So let's, I don't know,  
4 start at the beginning. When did Pulse, well start  
5 over. What is Pulse?

6 A. Pulse is a point of sale system and back of house  
7 system, back of house system meaning it handles the  
8 payroll, timekeeping, it has marketing applications,  
9 it's a whole suite of applications that are used by our  
10 franchisees for a variety of purposes.

11 Q. So you say it's a point of sale system, I think was the  
12 word you used, and a what was the word, backa?

13 A. Back of house.

14 Q. Back of house, all right. Are those like separate  
15 components of Pulse?

16 A. They're all, all the same.

17 Q. And is there a manual or other document that describes,  
18 that describes what Pulse is?

19 A. There is an on-line user guide for all of Pulse and all  
20 the applications that reside within Pulse.

21 Q. And I assume at this point that this is something that  
22 the franchisees can access, the on-line user guide?

23 A. Yes.

24 Q. Is there anything in writing, anything sent out to  
25 franchisees about how to use Pulse?



1 A. We handle everything electronically.

2 Q. Okay. When was Pulse first developed?

3 A. Late '90s, it went into the first store in 2000/2001.

4 It predates when I was at Domino's.

5 Q. Is Pulse now in all franchisees?

6 A. All domestic franchisees, yes.

7 Q. And is its use mandated by Domino's?

8 A. We require that franchisees enter all of their  
9 transactions, their point of sale transactions, all  
10 sales are entered into the system.

11 Q. What about any other uses of Pulse besides the entry of  
12 sales, sorry, that's voluntary?

13 A. That's voluntary.

14 Q. All right. What are some, you talked about it had  
15 various applications. What do you mean by that?

16 A. It has the ability of timekeeping, inventory control,  
17 marketing, it has the ability to do dispatch, to route  
18 drivers to different locations, it's got a built-in  
19 kitchen management system so that when the order's  
20 entered in the system, it goes to the kitchen monitors  
21 in the kitchen.

22 Q. All right. And what is within the marketing  
23 application?

24 A. The ability for franchisees to get information about  
25 any customers that are located within their database.

1 A. That is correct.

2 Q. Okay. And in addition, it's not set up to, to do  
3 robocalling, is that correct?

4 A. That is correct.

5 Q. Okay. I was just reviewing some of my notes in talking  
6 with my co-counsel, but as far as the parameters, just  
7 trying to get an additional level of understanding  
8 specifically of default and that sort of thing, you  
9 testified earlier that some of the information based  
10 upon the sales is stored in Ann Arbor somewhere,  
11 correct?

12 A. Correct.

13 Q. All right. As far as information that can be accessed  
14 by a franchisee, specifically on telephone numbers, we  
15 know that there is purging of information at the  
16 franchisee level. Is there such a purging of  
17 information at the corporate level?

18 A. I am not aware if we have a purging or what the purge  
19 setting would be at the corporate level.

20 Q. Okay. And at the franchisee level, you helped me  
21 understand that there's not really a default purge for  
22 franchisee, that would have to be set by the  
23 franchisee, correct?

24 A. The default, when a store originally gets Pulse, is set  
25 to never purge. The franchisee then can choose to

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies as follows:

3 I am employed at Dunlap & Soderland, PS, attorneys of record for Defendants Domino's  
4 Pizza, Inc. and Domino's Pizza, LLC.

5 On May 8, 2012, I caused a true and correct copy of the foregoing document to  
6 be delivered to the following via email:

7  
8 **Counsel for Plaintiff:**

9 Rob Williamson  
10 Kim Williams  
11 Williamson & Williams  
12 17253 Agate Street N.E.  
13 Bainbridge Island, WA 98110  
14 [roblin@williamslaw.com](mailto:roblin@williamslaw.com)  
15 [kim@williamslaw.com](mailto:kim@williamslaw.com)

16  
17 **Counsel for Four Our Families, Inc:**

18 Nelson Fraley  
19 Nicole Brown  
20 Faubion, Reeder, Fraley & Cook, PS  
21 5920 – 100<sup>th</sup> Street S.W., #25  
22 Lakewood, WA 98499  
23 [nfraley@fjr-law.com](mailto:nfraley@fjr-law.com)  
24 [nbrown@fir-law.com](mailto:nbrown@fir-law.com)

25  
26 **Counsel for Call-Em-All, LLC:**

Andrew Lustigman  
Scott Shaffer  
Olshan Grundman Frome Rosenzweig & Wolosky, LLP  
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[ALustigman@olshanlaw.com](mailto:ALustigman@olshanlaw.com)  
[SShaffer@olshanlaw.com](mailto:SShaffer@olshanlaw.com)


CERTIFICATE OF SERVICE – 1

LAW OFFICES  
**DUNLAP & SODERLAND. P.S.**  
901 FIFTH AVENUE, SUITE 3003  
SEATTLE, WA 98164  
(206) 682-0902 (206) 682-1551

1 Kelly Corr  
2 Christina Dimock  
3 Corr Cronin Michelson Baumgardner & Preece, LLP  
4 1001 Fourth Avenue, #3900  
5 Seattle, WA 98154  
6 [kcorr@corrchronin.com](mailto:kcorr@corrchronin.com)  
7 [cdimock@corrchronin.com](mailto:cdimock@corrchronin.com)

8 I declare under penalty of perjury under the laws of the State of Washington that the  
9 foregoing is true and correct.

10 DATED at Seattle, Washington this 8<sup>th</sup> day of May, 2012.

11   
12 \_\_\_\_\_  
13 Gail M. Garner

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LAW OFFICES  
DUNLAP & SODERLAND, P.S.  
901 FIFTH AVENUE, SUITE 3003  
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(206) 682-0902 (206) 682-1551