

EXHIBIT 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

CAROLYN ANDERSON,)	
)	
Plaintiffs,)	
)	
vs.)	No. 2:11-cv-00902 MJP
)	
DOMINO'S PIZZA, INC.,)	
DOMINO'S PIZZA, LLC, FOUR OUR)	
FAMILIES, INC., and)	
CALL-EM-ALL, LLC,)	
)	
Defendants.)	

DEPOSITION OF CAROLYN ANDERSON
Wednesday, September 21, 2011

Reported by: Kylie Hammington, CCR, RPR
License No. 2054

APPEARANCES

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For Plaintiff: ROBLIN WILLIAMSON
Williamson & Williams
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Bainbridge Is., Washington 98110

For Defendant Four Our Families: NELSON C. FRALEY, II
NICOLE BROWN
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Suite 25
Lakewood, Washington 98499

For Defendant Domino's: DAVID SODERLAND
Dunlap & Soderland
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Suite 3003
Seattle, Washington 98164

For Defendant Call-Em-All: SCOTT SHAFFER (via telephone)
Olshan Grundman Frome
Rosenzweig & Wolosky
Park Avenue Tower
65 East 55th Street
New York, New York 10022

Also Present: Bryan Anderson

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1 A Correct. Although the first call, there was no
2 message. My phone has a -- as most phones do where
3 who's calling is lit up there and the phone number. It
4 said Domino's Pizza and the phone number, but when I
5 said hello, there was nobody there. So I hung up and
6 within a few minutes, I don't know how many minutes,
7 the phone rang again. And it was the same -- Domino's
8 Pizza was on my window of my phone, and their phone
9 number, the Parkland number. I didn't know it was the
10 Parkland number, but it was that number, so I looked it
11 up.

12 And that, the second call, had this message: The
13 special, blah, blah, blah, stay on the line if you want
14 to hear more about it or something like that. It was
15 all about some kind of a pizza special. So then I got
16 the phone book and looked up the Domino's Pizza there
17 by me in Parkland, and it was the same phone number
18 that was on my telephone screen.

19 Q Okay. So if I understand you correctly, with respect
20 to the first telephone call that you received, the
21 telephone call came through, you saw the -- the
22 information on your caller ID, correct?

23 A Correct.

24 Q And then you picked up the handset to basically answer
25 the call?

1 pizzas from Domino's, you've picked those pizzas up
2 each --

3 A Correct.

4 Q -- two or three times that you've purchased from
5 Domino's?

6 A That's correct.

7 Q How about with Pizza Hut?

8 A Yes, I would say with them too. I've never had
9 delivery. We have a very hard house to find and it's
10 terrible to have these people -- can't find it. So
11 I've just always called ahead. The few times I've ever
12 ordered pizza, I'll say I need to pick up something by
13 6:00 or 6:30 or 7:00 or whatever the occasion. And I
14 just go in, pick it up, and pay for it and leave, and
15 it's finished. It's done.

16 Q Why do you say your house is hard to find?

17 A You have to know how to get there is why I say that.

18 Q Okay. Well...

19 A It's -- how could I say this? Yeah, you could Google
20 and it will give you some type of a path to follow, but
21 it's down a road and then you turn and go down another
22 little area and turn in and then it's a long driveway
23 in. It's extremely -- not on any given path. So you
24 have to kind of know where you're going.

25 Q In that instance, if you were to have a pizza

1 with your attorneys on this?

2 A My attorneys sent to me a letter.

3 Q What was -- a letter asking -- I'm sorry. Did you make
4 the first contact to your attorneys, or did the
5 attorneys -- were you responding to an ad or some kind
6 of solicitation?

7 A There was no solicitation and no ad.

8 Q So how did you come to retain Williams and Williamson?

9 A I received a letter in the mail.

10 Q Okay. What did the letter say?

11 A Stating facts and figures of my problem.

12 Q You received a letter from them?

13 A Correct.

14 Q And did -- was it -- was it addressed Dear Sir or
15 Madam, or was it Dear Mrs. Anderson?

16 A I'm not sure who it came to. I believe it came to my
17 name.

18 Q Okay. Do you have a copy of that letter still?

19 A I don't know.

20 Q Okay. I would ask that it be produced.

21 (Request for production.)

22 Q I mean, did the letter say -- well, what's your best
23 recollection of what was in the letter?

24 A My best recollection would be that it was just general
25 information about my problem and something about

EXHIBIT 2

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

CAROLYN ANDERSON,)
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Plaintiff,)
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VERSUS)
)
DOMINO'S PIZZA, INC.)
DOMINO'S PIZZA, LLC,)
FOUR OUR FAMILIES, INC.)
and CALL-EM-ALL, LLC,)
)
Defendants.)

CIVIL ACTION NO.
2:11-cv-00902 RBL

ORAL DEPOSITION

OF

BRAD HERRMANN

December 2, 2011

ANSWERS AND DEPOSITION of BRAD HERRMANN, a witness
produced on behalf of the Plaintiff, taken in the above
styled and numbered cause at 9:05 a.m. on the 2nd day of
December, 2011, before Kelly Cobb, a Certified Shorthand
Reporter in and for the State of Texas, taken in the
Executive Conference Center of the Hyatt Regency DFW, 2334
N. International Parkway, DFW Airport, in the City of
Irving, County of Dallas, State of Texas.

ORIGINAL

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A P P E A R A N C E S

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* * * * *

09:09 1 Q Okay. Great. And then the other one is 42
2 through 48 and it says at the top somewhere, I think it
3 said terms of service. Oh, sorry. There is one in
4 between. It is just No. 42. If you could --

09:10 5 A Uh-huh.

6 Q Is that the log-in page of somebody at least back
7 in 2009 if they came into the site?

8 A Yes. This is what we could all our responsible
9 use policy. You'll see we have several things on our
09:10 10 website and during the sign-up process trying to make sure
11 that our clients are using our technology responsibly.

12 Q What about does that -- thank you. What about the
13 issue of people making calls -- or clients making calls
14 that are legal in terms of state and federal laws? Do you
09:11 15 have any particular documents that relate to that for
16 clients?

17 A Certainly. In terms of use we will reference
18 that, which looks like your next document. Terms of use
19 will reference that. We also have -- and I think we
09:11 20 provided this, we produced this, a series of questions
21 that every client has to answer specifically on the
22 website before their account will be allowed to make any
23 calls. And, you know, some of those say very specifically
24 something along the lines of do agree to use Call-Em-All
09:11 25 without -- do you agree to use Call-Em-All without

09:11 1 violating any local, state, or federal laws, something
2 along those lines. And it was one of the production
3 documents. I would be happy to point it out if we've
4 got --

09:11 5 Q I'm not sure I have -- is it more than one
6 question, you think?

7 A Yes, it is -- there is one page when you create
8 the account where you need to acknowledge first off that
9 you've read and agreed to our terms of use, and then I
09:12 10 think the second check box is that you agree not to
11 contact anyone you don't have a relationship with. Then
12 there is a three-step process after that that we call our
13 FTC questions.

14 Q Right.

09:12 15 A And that is three pages of questions and they are
16 along -- I would have to look at them to understand
17 exactly what they were. But I think the first one is are
18 you making informational calls or are they promotional
19 calls. Then we ask if it is promotional do you have a
09:12 20 relationship with the people that you're calling and you
21 have to answer yes or no. And then the third question is
22 do you understand and agree to comply with local, state,
23 and federal laws. So it is kind of in a couple of
24 different places.

09:12 25 Q I don't think we got that and that's not being

09:12 1 critical, but we would probably want to see it. So before
2 you would let someone become a customer, you would want to
3 be satisfied they answered all of those questions?

4 A Yes.

09:13 5 Q All right. If a customer from Washington filled
6 it out and said I'm only calling customers and so forth,
7 would you have known either way whether making the calls
8 would otherwise be legal? Let me ask it differently.

9 A Okay.

09:13 10 Q Do you know, in 2009, in the summer before the FTC
11 changed its ruling about getting written permission,
12 whether making automated calls into Washington was legal
13 under Washington state law?

14 A Would I have known?

09:13 15 Q Yes.

16 A I wouldn't have any specific way of knowing, no.

17 Q You, I assume, are pretty familiar with the
18 federal rules?

19 A Yes.

09:13 20 Q But you didn't have -- and I'm not being -- don't
21 want to say this critically. You and Call-Em-All did not
22 purport to have an understanding of all the various state
23 laws and have a list of those laws or other information
24 about them for your various clients; is that correct?

09:14 25 A Correct.

09:32 1 corporate came to your booth or facility and were told
2 about the services that you were offering to franchisees?

3 A I don't know.

4 Q Could somebody who was there from corporate, who
09:33 5 came to your display, could they tell from the displays or
6 the materials the services you were offering?

7 MR. SODERLAND: Object to the form of the
8 question, calls for speculation.

9 A That was the intention of our booth was to tell
09:33 10 people what we did, so...

11 Q (By Mr. Williamson) After the rally, did you have
12 communication with Domino's corporate?

13 A Not to my knowledge, no.

14 Q Did you attend in 2010?

09:33 15 A No, we were no longer doing business with -- or
16 any significant business with Domino's franchisees.

17 Q Because in part of this needing the written
18 permission?

19 A That's right. The FTC's telemarketing sales rule
09:33 20 clarification that was produced dictated that beginning
21 September 1st, 2009, you cannot make automated calls to
22 even your own customers without explicit written
23 permission and so that pretty much ended the business.

24 Q Do you know of as a result of the rally you did
09:34 25 acquire some new clients from Domino's -- Domino's

09:35 1 Our text product came online in the second half of 2009.

2 Q Okay. And do you know when it is that Call-Em-All
3 signed up to become a client of -- I'm sorry, when Four
4 Our Families signed up to become a client?

09:35 5 A Yes, it was the end of May 2009 they created their
6 account and they went through the -- what we refer to as
7 the steps, the terms of use agreement and the FTC
8 questions series on June 2nd, 2009.

9 Q And how long did they remain a client?

09:36 10 A Well, they were certainly done on September 1st,
11 2009. They may have made calls up to August 31st, 2009.
12 I don't know the exact details. I know we produced that,
13 though.

14 *(Deposition Exhibit No. 1 marked.)*

09:36 15 Q (By Mr. Williamson) Okay. Can you -- I'm going
16 to now show you what's been marked as Exhibit 1 and ask
17 you to identify it. Here's a copy for you and a copy for
18 your lawyer.

19 MR. WILLIAMSON: And, Nelson and Nicole, are
09:36 20 you still there?

21 MR. FRALEY: We are here.

22 MR. WILLIAMSON: This is CEA000049.

23 Q (By Mr. Williamson) Can you identify this for us,
24 please?

09:36 25 A This is an account summary from the home page

10:42 1 process?

2 A Yes. There are a few standard -- a couple of
3 standard pages on the website sort of like any other
4 website. You create a user name and a password, address,
10:42 5 credit card information, and then the last page in that
6 account creation process has two check boxes at the bottom
7 of it, one -- is this what you're looking for, Nicole?

8 Q Yes.

9 A Okay. One of them -- they both come up blank or
10:42 10 empty and one of them you have to check and it says that
11 you agree to the Call-Em-All terms of use and terms of use
12 is a link to our terms of use. Then the second one I
13 believe says that you will not call anyone that you do not
14 have an existing relationship with. We would have to look
10:43 15 to see what exactly it says. And that sort of completes
16 part one and that is that you agreed to our terms -- what
17 we would call the terms of use agree time stamp.

18 And then when you actually log into the
19 website, you've got a second series of questions and
10:43 20 that's what we call the FTC questions and we went through
21 those earlier. It is a three-page or three-step process
22 where we ask you a question -- we give you some
23 information and ask you a question. The first one is
24 along the lines of are you using us for informational
10:43 25 calls or sales calls.

10:43 1 The second one, I believe -- again, we would
2 have to look at it. The second one I believe asks if you
3 have a relationship with the people that you're calling.
4 And it might even say as defined by the Federal Trade
10:44 5 Commission's telemarketing sales rule, which is the 18
6 months back saying that basically if you've done business
7 within 18 months you've got an existing business
8 relationship.

9 And then the third is sort of the last page
10:44 10 and that one basically says do you agree to use
11 Call-Em-All and comply with all local, state, and federal
12 laws. Again, I'm paraphrasing. And you have to click I
13 agree and then we -- when you click I agree on that third
14 step, we log that time stamp, which is in the spreadsheet,
10:44 15 one of the exhibits. And then you're into the website and
16 ready to actually start using it.

17 Q Okay. And you said in the sign-up process they
18 create a user name and password. Is that unique to each
19 user?

10:45 20 A It is. Well, the password isn't, but the user
21 name is unique across all of our clients.

22 Q And you said they check a box, second one, of a
23 established relationship. What is the significance of
24 that?

10:45 25 A So from the federal standpoint there are, I don't

10:45 1 know exactly the words, but basically there is exemptions.
2 At the time in June of 2009 an existing business
3 relationship was valid grounds for being able to make a
4 call, a promotional call.

10:45 5 A Okay.

6 Q And you said at the time of June 2009 and are you
7 referencing the date that Mike Brown used?

8 A Yes. You know, I would say, this. Through
9 September 1st, 2009, an existing business relationship at
10:46 10 the federal level was 18 -- within 18 months they've
11 got -- made a purchase from you within 18 months and that
12 was, under my impression, valid grounds for making an
13 automated promotional call.

14 Q Okay. And once the sign-up process is complete,
10:46 15 how does the -- your customer, Call-Em-All customer, then
16 engage in using your services?

17 A Through the website they can click a button to
18 create a broadcast and upload a file or type in phone
19 numbers, somehow enter the phone numbers or upload them,
10:46 20 and tell us when they want the calls to go out. And then
21 we give them an 800 number that they can call and record
22 their message. So it's pretty much self-service, but
23 large percentage of our clients we actually never speak to
24 or exchange e-mails or communicate with on a personal
10:47 25 level.

10:47 1 Q When you say upload phone numbers or create phone
2 numbers, who does that?

3 A Our clients do.

4 Q And how would they go about doing that?

10:47 5 A Well, it depends. We have some numbers -- some
6 clients type in phone numbers, some have them on a
7 spreadsheet. In the case of Domino's, some of them they
8 will pull them from PULSE or some other system.

9 You know, some franchisees started working on
10 other ways to collect numbers especially because we knew
11 about the opt-in permission. You know, this telemarketing
12 sales rule that went into effect September 1st, 2009, we
13 knew about at least a year in advance or certainly around
14 a year in advance.

10:48 15 And so we at Call-Em-All had communicated out
16 to franchisees, hey, this rule is coming and a lot of you
17 guys are having a lot of success with this, you are going
18 to have to start collecting permission. So I heard about
19 the one guy that I know that's actually still using us is
10:48 20 having people actually write it down on a piece of paper.

21 Some others were experimenting with
22 collecting permission on box top forms with their drivers
23 when they delivered. But it all just depends on the
24 clients. Schools will upload it from the school system or
10:48 25 parents fill out a form. They kind of come in however.

10:51 1 you will, which in Mike's case would include the offer.
2 And then at the end of the call we have a standard
3 Call-Em-All menu that comes up that says to repeat this
4 message press 1, if you would like to opt out, press 3.

10:52 5 So those are sort of the three segments.

6 So to answer your question, does Call-Em-All
7 put the message together, well, we kind of take the
8 pieces that the client records, part A and part B, and
9 then every call we make has that standard menu on the end
10 of it. But as far as the content of parts A and B, no, we
11 didn't put that together or we wouldn't put that together.

12 Q Okay. So the sales intro as far as the
13 instructions on opting out, is there a script?

14 A Yeah, we put -- on the website you'll see we link
10:52 15 to like the FTC requirements and then we give a couple of
16 highlight bullet points, I think, and a couple of
17 examples.

18 Q And then -- but Mike Brown or the client would
19 then have the ability to use those suggestions or examples
10:53 20 and form his own sales intro?

21 A That's correct.

22 Q And is that what you mean by the guidance from the
23 website?

24 A Yes.

10:53 25 Q All right. And then as far as the offer, is that

10:53 1 something that Call-Em-All does?

2 A No.

3 Q Is it the client that records the offer?

4 A Yes.

10:53 5 Q So is Mike Brown in control of recording that
6 message?

7 A Yes.

8 Q And does Call-Em-All provide any offers
9 suggestions? Like if I am a customer and I called you and
10:54 10 I said I don't really know what to put in my offer, would
11 Call-Em-All provide advice?

12 A No, we really wouldn't. The best that Call-Em-All
13 would ever do would be to put franchisees in touch with
14 one another or forward something over from another
10:54 15 franchisee or something like that.

16 But we certainly are not experts and I know
17 that that business is -- the margins and those pizzas --
18 I wouldn't -- it is hilarious. It is really fascinating.
19 The cost of a piece of sausage versus a piece of
10:54 20 pepperoni, we wouldn't begin to have any knowledge on that
21 front other than just passing along, hey, you might want
22 to talk to this franchisee who has done this for six
23 months and here's what they are doing. But we certainly
24 wouldn't purport to be consultants or anything like that
10:54 25 on that front.

11:09 1 Q And in the case Four Our Families, did you upload
2 any of the numbers?

3 A No.

4 Q Did you supply them with any numbers that they
11:09 5 could upload?

6 A No.

7 Q Did you point them to a third party where they
8 could obtain phone numbers from?

9 A Short of sending them the PULSE instructions, no.

11:09 10 Q Did you say, hey, I know this company that sends
11 out leads and you can buy a list of customers from your
12 competitor?

13 A No, we would never have done that.

14 Q Okay. Other than the -- you just said that as
11:09 15 part of the registration process your client has to
16 represent that they are calling people with whom they have
17 a relationship. Other than that representation, does
18 Call-Em-All have any way of knowing whether the call
19 recipient has -- actually in fact has a relationship with
11:10 20 your client other than -- let me say that again.

21 Other than the representation of your client, do
22 you have any way of validating or ascertaining whether the
23 relationship in fact exists?

24 A No, we don't.

11:10 25 Q And in this case did you have the representation

EXHIBIT 3

Terms Of Use

Call-Em-All, LLC ("Call-Em-All") is providing users ("User") with access to its telephone messaging services and web site, (the "Call-Em-All Service"), subject to the terms and conditions of this User Agreement (the "Terms of Use"). Any new features, changes, updates or improvements of the Call-Em-All Service, and the availability of new Call-Em-All services, shall be subject to the terms of this User Agreement unless explicitly stated otherwise.

1. YOUR ACCEPTANCE OF THIS USER AGREEMENT

Please read the User Agreement carefully before using or registering for the Call-Em-All Service. By using or registering for the Call-Em-All Service, you agree to be bound by the terms and conditions set forth. If you do not wish to be bound by these terms and conditions, you may not access or use the Call-Em-All Service.

2. MODIFICATION OF TERMS

We reserve the right to modify and restate the terms and conditions of the User Agreement, and modification(s) shall be effective immediately upon being posted on the Call-Em-All.com web site.

Unless explicitly stated otherwise, any new features that augment or enhance the current Call-Em-All Service, including the release of new Call-Em-All properties, shall be subject to the User Agreement. You understand and agree that the Call-Em-All Service is provided "AS-IS" and that Call-Em-All assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store or deliver any User communications or personalized information.

You are responsible for reviewing these terms and conditions regularly. Your continued use of the Call-Em-All Service shall be deemed to be your conclusive acceptance of all modifications to the User Agreement.

3. PRIVACY POLICY

By using or registering for the Call-Em-All Service you acknowledge that you have read and accept the Call-Em-All Privacy Statement. Before using or registering for the Call-Em-All Service, please carefully read the Call-Em-All Privacy Statement. A link to the Call-Em-All Privacy Statement is on the bottom of each page of Call-Em-All.com.

CALL-EM-ALL PRIVACY STATEMENT

Call-Em-All has implemented this privacy policy to ensure that personal information (specifically set forth below) pertaining to our clients is kept private and secure subject to the Terms & Provisions of the Call-Em-All User Agreement. Call-Em-All will not distribute any of the information we receive from you while using the Call-Em-All voice broadcasting service. Financial information and other information deemed critical by Call-Em-All will be exchanged over a secure connection and encrypted within our database.

Call-Em-All does not currently have any relationships with third parties that would want or require your personal information. If any aspect of this privacy policy changes, it will be updated on both our website and our User Agreement. If Call-Em-All deems the change particularly important, we will also notify clients via email.

What personal information does Call-Em-All collect?

Registration

During our registration process prior to using the site, Call-Em-All requires that you supply your name, e-mail address, phone number, and other identifying information. This information is used to establish your Call-Em-All account, and so that we may contact or identify you for support purposes.

Order/Purchase

During our ordering process, Call-Em-All requires that you provide us with a credit card number and other associated information. This information will be encrypted and stored so that we may process future orders and subscription renewals.

Phone Lists

Before sending a voice broadcast, you will need to provide Call-Em-All with a list of phone numbers and other optional information for the people you would like to call. This information will not be shared with any third parties, pursuant to this privacy policy and the Call-Em-All User Agreement.

Voice Broadcasts/Recordings

Call-Em-All will record your voice inputs (messages) in order to transmit them to the phone numbers you provide. Call-Em-All reserves the right to review these messages at any time and for any reason, particularly if we have reason to believe that messages are in violation of the Call-Em-All User Agreement.

Cookies

Call-Em-All employs cookies to recognize you and your access privileges on our site, as well as to track site usage. Subscribers who do not accept cookies cannot use the Call-Em-All voice broadcasting service. We do not use cookies for any reason other than to help make the Call-Em-All website easy for you to use.

IP Addresses

Call-Em-All logs IP addresses for systems administration and troubleshooting purposes. We do not use IP

address logs to track your session or your behavior on our site.

E-Mail

Call-Em-All will use the email address you provide at registration as the primary method for communicating account-related information with you.

Data Security

To prevent unauthorized access, maintain data accuracy, and ensure the use of information, we have put in place appropriate physical and electronic procedures to protect the information we collect online.

Will my information be used for marketing purposes by Call-Em-All or any other company?

Call-Em-All does not currently have any relationships with any third parties that may want or require your personal information. Therefore, you will not receive marketing messages from any company other than Call-Em-All.

Call-Em-All may, from time to time, choose to send email to our users in the form of a newsletter or special offer. Should we decide to send an email to our users, it will be sent ONLY to account owners and individuals that have a login to the Call-Em-All website.

At the end of your broadcast messages, Call-Em-All may give call recipients the option to remove their phone number from your calling list.

4. REMOVE PHONE NUMBER

If members of your group do not wish to receive messages, they may visit our website and click 'Opt Out' on the home page of the web site. Alternatively, you may notify Call-Em-All of your request for the removal of a telephone number from a calling list by sending an e-mail to AccountSupport@call-em-all.com or by writing to: Call-Em-All, 2611 Internet Blvd., Suite 120, Frisco, TX, 75034. If no specific calling list is specified, the number will be blocked from receiving calls from any Call-Em-All user. Our Do Not Call list applies even if a calling list is uploaded to our system by a client and is not stored in our database.

5. REGISTRATION INFORMATION

You agree, as a condition of your use of the Call-Em-All Service, to provide Call-Em-All with accurate and complete information when registering for or using the Call-Em-All Service, and to update and maintain such information. Call-Em-All has the right to suspend, restrict or terminate your use of the Call-Em-All Service and to refuse any future use of all or portions of the Call-Em-All Service if Call-Em-All has reason to believe that you have failed to comply with these requirements.

6. MINIMUM AGE

If you are under the age of eighteen, you are prohibited from using or registering for the Call-Em-All Service. By using or registering for the Call-Em-All Service, you warrant to Call-Em-All that you are above the age of eighteen. In addition, parents of children under the age of 18 should be aware that the Call-Em-All Service is designed to appeal to a broad audience. Accordingly, as a parent or legal guardian, it is your responsibility to determine whether any portion of the Call-Em-All Service is inappropriate for your child.

7. TELEPHONE CHARGES

Access to the Call-Em-All service is achieved by dialing a toll-free number within any of the contiguous forty eight (48) states of the United States, Hawaii, and Canada. Call-Em-All Communications is not responsible for any charges that you may incur from dialing outside of the United States or any other connection charges that you may incur when calling the Call-Em-All toll-free phone number, e.g., cellular, mobile, or pay phones.

Please note that Call-Em-All delivers messages anywhere within the contiguous forty eight (48) states of the United States. Messages CANNOT be delivered to Alaska.

8. ACCOUNT SECURITY

When you are registered, you will establish a Username and a PIN. You are responsible for protecting the confidentiality of your Username and PIN, and you are fully responsible for all activities that occur under your Username.

You agree: (a) to exit from your account when you conclude each session, and (b) to immediately notify Call-Em-All of any loss, compromise or unauthorized use of your Username and PIN or any other breach of security. You may notify Call-Em-All by sending an e-mail to AccountSupport@call-em-all.com or by writing to: Call-Em-All, 2611 Internet Blvd., Suite 120, Frisco, TX, 75034. Call-Em-All will not be liable for any loss or damage of any kind resulting from either the authorized or unauthorized use of your Username and PIN.

9. CONSENT TO RECORD YOUR VOICE INPUTS

You agree and consent that Call-Em-All may record oral or voice communications, utterances, conversations or commands, made by you during the use of the Call-Em-All Service. By using the Call-Em-All Service, you expressly consent and grant to Call-Em-All the right to record and use these recordings. If you do not authorize Call-Em-All to make or use these recordings, you may not use the Call-Em-All Service.

Call-Em-All is under no obligation to monitor any recordings for accuracy, completeness, or quality. User understands that recordings may or may not resemble that which User intends to record and that Call-Em-All is under no obligation to ensure that recordings will successfully represent that which User intends to record. User agrees that all recordings become part of the Content (hereinafter defined) of the Call-Em-All Service.

10. RESTRICTION AND MODIFICATION OF SERVICE

You agree that Call-Em-All may limit your use of the Call-Em-All Service, including without limitation the frequency and duration for which you may access the Call-Em-All Service, and that Call-Em-All has no responsibility or liability for any unavailability or limitation on use of the Call-Em-All Service. In addition, Call-Em-All reserves the right at any time to limit: access to, modify, change or discontinue the Call-Em-All Service, or any part thereof, with or without notice. You agree that Call-Em-All shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Call-Em-All Service. You acknowledge and agree that Call-Em-All may establish general practices and limits, which may not be published, concerning the use of the Call-Em-All Service, including without limitation the maximum time that messages will be retained, the maximum number of messages that may be sent from or received by an account on the Call-Em-All Service, the length of message sent and the maximum number of times, and the maximum duration for which you may access the Service, in a given period of time. You agree that Call-Em-All has no responsibility or liability for the deletion or failure to store any messages and other communications maintained or transmitted by the Call-Em-All Service. You acknowledge that Call-Em-All reserves the right to terminate any inactive or dormant account(s). You agree and Call-Em-All reserves the right to change these general practices and limits at any time, in our sole discretion, with or without notice.

11. YOUR CONDUCT

As a condition of your use of the Call-Em-All Service, you agree and warrant to Call-Em-All that you will not use the Call-Em-All Service for any purpose that is unlawful or prohibited by the User Agreement. You may not use the Call-Em-All Service in any manner that could damage, impair, disable or overburden the Call-Em-All Service, interfere in any way with Call-Em-All's rights, interfere in any way with any other user's use and enjoyment of the Call-Em-All Service, or otherwise infringe on any person's rights.

Specifically, you agree and warrant to Call-Em-All that:

You will not use, or attempt to use, the Call-Em-All Service to convey any information that may be considered unlawful, harassing, libelous, abusive, threatening, obscene, hateful, offensive, harmful, vulgar, distasteful, defamatory, indecent, objectionable, or invasive of another person's privacy or proprietary rights.

You will follow the letter and spirit of the terms of the User Agreement and all applicable laws;

You will not use, or attempt to use, the Call-Em-All Service in connection with any junk messages, spamming, advertising or messages that are duplicative, unsolicited, or promotional in nature;

You will not send, or attempt to send, messages to emergency lines, to any health care facility or similar establishment, to numbers assigned to radio common carrier services or to any service for which the called party is charged for the call;

You will not transmit, or attempt to transmit, any material that may infringe the contractual, fiduciary, intellectual property rights, or other rights of third parties, including trademark, copyright or the right of publicity;

You will not impersonate, or attempt to impersonate, any other person, falsify contact information, misrepresent a relationship with any person or entity, including misrepresenting a relationship with Call-Em-All, or otherwise attempt to mislead others as to the identity of the sender or the origin of a message;

You will not resell, or attempt to resell, the use of the Call-Em-All Service without express, prior written consent/permission from Call-Em-All;

You will not collect, or attempt to collect, or store information about the Call-Em-All Service or other users, including contact information, without their consent;

You will not interfere, or attempt to interfere, with or disrupt connections to the Call-Em-All Service or violate the regulations, policies or procedures of such connections;

You will not attempt to gain unauthorized access to the Call-Em-All Service, other accounts, computer systems or networks connected to the Service.

You will not attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password/PIN mining or any other means.

You agree and Call-Em-All retains the right, at its sole discretion, to determine whether or not User's conduct is consistent with the letter and spirit of the User Agreement. Call-Em-All may immediately terminate User's Call-Em-All account if User's conduct is found to be inconsistent with this User Agreement.

12. NO SPAM AND CONSENT TO DAMAGES

Call-Em-All will immediately terminate any account which it believes, in its sole discretion, is transmitting or is otherwise connected with any spam or other unsolicited messaging activities. Activities such as sending spam or other unsolicited messages can cause harm to Call-Em-All (and our customer base) in numerous ways including, but not limited to, damaging the Call-Em-All brand name, damaging our reputation for delivering relevant messages, damaging our reputation for privacy,

damaging our ability to attract and retain customers, and damaging other consumer, customer and business goals, activities, or relationships. Call-Em-All retains sole responsibility and discretion for calculating losses; because these and other damages are often difficult to quantify, if actual damages cannot be reasonably calculated by Call-Em-All; then you agree to pay Call-Em-All liquidated damages of \$5.00 for each piece of spam or unsolicited message transmitted from or otherwise connected with your Call-Em-All account; otherwise, you agree to pay Call-Em-All's actual damages, to the extent such actual damages can be reasonably calculated by Call-Em-All.

13. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

User agrees to comply with the anti-solicitation provisions of the Federal Telephone Consumer Protection Act of 1991, and any amendments thereto, at 47 U.S.C. § 227, the Federal Communications Commission's implementing regulations, at 47 CFR § 64.1200 et seq., the Federal Trade Commission's Telemarketing Sales Rule including the August 2008 Amendment at 16 CFR Part 310, and any other similar laws. User agrees not to violate these, or any other applicable anti-solicitation laws, and represents and warrants that its use of the Call-Em-All Service will not cause Call-Em-All to violate these or other similar laws.

User agrees to comply with the anti-solicitation provisions of the Federal Telephone Consumer Protection Act of 1991, and any amendments thereto, at 47 U.S.C. § 227, the Federal Communications Commission's implementing regulations, at 47 CFR § 64.1200 et seq., and any other similar laws. User agrees not to violate these, or any other applicable anti-solicitation laws, and represents and warrants that its use of the Call-Em-All Service will not cause Call-Em-All to violate these or other similar laws.

User agrees that it is the sole responsibility of User to abide by any laws defined by the State or Federal Government in which Call-Em-All Services will be applicable. User understands and agrees that Call-Em-All will not be held responsible for damages to the User or any third party incurred due to User's failure to abide by State and/or Federal laws. Please refer to the Telephone Consumer Protection Act of 1991. You may visit the Federal Communications Commission Web site at <http://www.fcc.gov> and the Federal Trade Commission Web site at <http://www.ftc.gov>. Please refer to the appropriate State Attorney Generals office or other applicable offices for telemarketing rules and or regulations pertaining to your intended application and use of the Call-Em-All Service.

14. NO RESPONSIBILITY FOR CONTENT

As part of the Call-Em-All Service, Call-Em-All may offer User access to communications, media and commerce services. Call-Em-All does not guarantee the accuracy, integrity, quality or appropriateness of any messages, communications, information, data, text, music, sound, or other materials ("Content"), whether publicly posted or privately transmitted through the Call-Em-All Service. You acknowledge that the Call-Em-All Service simply acts as a passive conduit for the distribution and transmission of information. You acknowledge that Call-Em-All has no obligation to screen, preview, or monitor such Content. By using the Call-Em-All Service, you agree that it is solely YOUR RESPONSIBILITY to evaluate the accuracy, usefulness, completeness, or appropriateness of any Content that you send, receive, access, post, or otherwise transmit through the Call-Em-All Service, including Content that may be offensive, indecent or objectionable. Under no circumstances will Call-Em-All be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content sent, accessed, posted or otherwise transmitted via the Call-Em-All Service.

15. DISCLOSURE

Call-Em-All may make identifiable information available to our employees and third parties with whom we contract. In addition, Call-Em-All may provide aggregate statistics, unique identifiers, demographic, and other anonymous information about our users to advertisers, Service Providers (hereinafter defined), and other third parties. You acknowledge and agree that Call-Em-All may make such uses of information you provide or Call-Em-All collects.

While Call-Em-All is committed to protect your privacy, Call-Em-All does not guarantee that your communications, contact information and other identifiable information will never be disclosed. You acknowledge and agree that Call-Em-All may disclose any information or Content as described herein, or if required to do so by law or in the good faith belief that such disclosure is reasonably necessary to: (a) comply with any legal process; (b) respond to claims of a violation of the rights of third parties; or (c) protect the rights, property, or safety of Call-Em-All, its users or the public. Call-Em-All does not accept any responsibility for accidental or inadvertent disclosure, unauthorized access or other disclosure as required by law or described herein.

As we continue to develop our business, we might sell our company or buy other companies or assets. In such transactions, customer information generally is one of the transferred business assets. Also, in the event that Call-Em-All, or substantially all of its assets are acquired, you consent to the transfer of your information as one of the transferred assets.

16. SERVICE FEES AND CHARGES

The basic account fees ("Service Fees") shall be provided at the rates set out in the Call-Em-All pricing plan at the time of subscription, plus applicable taxes, fees, and surcharges. Call-Em-All may modify subscription Service Fees at renewal periods.

17. SUBSCRIPTION BILLING

Service Fees for subscription users of the Call-Em-All Service will be automatically charged on the first day of each month to the credit or debit card on file for User.

If for any reason payment is not effected through User's credit or debit card and payment becomes past due, Call-Em-All will assess a late payment charge of 1.5% per month, or 18% annually (or the highest amount allowed by law, whichever is lower) on the amount due. The total amount of the late payment, and the late charge, shall be due and payable immediately. User is responsible for any fees, including attorney and collection fees that Call-Em-All may incur in its efforts to collect any Service Fees, surcharges and late payment charges owing from the User. Additionally, Call-Em-All reserves the right to immediately

and without notice terminate the account of any User with a past due balance.

Call-Em-All reserves the right to change the billing process upon providing the Subscriber with 30 days notice in writing or via email.

Unlimited Usage on Subscription Accounts: You agree and Call-Em-All retains the right, at its sole discretion, to determine whether or not User is abusing the unlimited usage privilege on a subscription account. If Call-Em-All determines that an account is abusing the unlimited usage privilege, Call-Em-All may restrict or terminate that account. As a guideline only, a user that creates broadcasts that result in more calls per day than the maximum number of recipients in their subscription plan will be considered in abuse of the unlimited usage privilege. Abuse may be addressed by contacting the group leader to warn of excessive usage. Call-Em-All reserves the right to charge an additional 9 cents (\$.09) per call for any excessive calls, as determined at the sole discretion of Call-Em-All.

18. FREE TRIALS

Call-Em-All may permit User to use the Call-Em-All Service on a free trial basis. During this time, User will not incur any charges or fees for use of the service. After the expiration of your free trial, you will have the option to purchase a Call-Em-All messaging package or subscription as described on the Call-Em-All web-site. Call-Em-All reserves the right to terminate the account of any free trial User at any time.

19. TERM AND TERMINATION

Call-Em-All Service subscriptions shall automatically renew on a monthly basis at the rate indicated on the pricing plans page of the Call-Em-All.com website. Users may discontinue their subscription at any time by logging in to the website and selecting "Cancel my Subscription", or by sending an email to AccountSupport@call-em-all.com. WE DO NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL-MONTH SUBSCRIPTION PERIODS. Users that have no past due balance and have paid for the current month will be able to complete broadcasts on their cancelled account until their paid subscription ends.

Call-Em-All per-call service plans will expire after one hundred eighty (180) days of inactivity or upon exhaustion of the messages. Inactivity is defined to mean that User has neither purchased an additional per-call plan, nor initiated a broadcast. Call-Em-All per-call service plans are non-refundable.

20. SERVICE PROVIDERS

The Call-Em-All Service may provide User with opportunities to be transferred or linked to third party providers ("Service Providers") of products, services, advertisements or Content that may be accessible through and operate with the Call-Em-All Service. Call-Em-All does not endorse and is not responsible or liable for any Content, data, advertising, products or services available or unavailable from, or through, such Service Providers. You further agree that should you use or rely on such Content, data, advertisement, goods or services on, available or unavailable from, or through any such Service Providers. Call-Em-All is not responsible or liable, indirectly or directly, for any damage or loss caused or alleged to be caused by or in connection with such use or reliance. Your dealings with, or participation in promotions of Service Providers, and any other terms, conditions, representations or warranties associated with such dealings, are between you and such Service Providers exclusively and do not involve Call-Em-All.

You agree that Call-Em-All is not responsible for the accessibility or unavailability of Service Providers or for your interaction and dealings with them.

21. LIABILITY DISCLAIMER

YOU AGREE THAT:

A. IF YOU USE THE CALL-EM-ALL SERVICE, YOU DO SO AT YOUR OWN AND SOLE RISK. THE CALL-EM-ALL SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. CALL-EM-ALL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

IN THE EVENT OF A CRITICAL EMERGENCY, REGULAR CALL-EM-ALL.COM MESSAGING SERVICES MAY TEMPORARILY BE PRE-EMPTED TO PROVIDE SERVICE TO CLIENTS WITH EMERGENCY-RELATED NEEDS.

B. CALL-EM-ALL DOES NOT WARRANT THAT (i) THE CALL-EM-ALL SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE CALL-EM-ALL SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE CALL-EM-ALL SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE CALL-EM-ALL SERVICE WILL MEET YOUR EXPECTATIONS, (v) ANY INFORMATION YOU PROVIDE OR CALL-EM-ALL COLLECTS WILL NOT BE DISCLOSED, OR (vi) ANY ERRORS IN ANY DATA OR SOFTWARE WILL BE CORRECTED. YOU ARE ESPECIALLY ADVISED NOT TO USE OR RELY ON THE CALL-EM-ALL SERVICE AND INFORMATION OR ANY OTHER PROGRAM, INFORMATION OR SERVICE WHATSOEVER RELATED THERETO FOR "CONTENT SENSITIVE" OR "MISSION CRITICAL" APPLICATIONS AND USE. "CONTENT SENSITIVE" SHALL MEAN ANY INFORMATION OR DATA YOU DO NOT WISH TO BE ACCESSIBLE TO OTHER USERS. "MISSION CRITICAL" APPLICATIONS AND USE SHALL MEAN APPLICATIONS AND USE THAT MAY RESULT IN DAMAGE.

C. IF YOU ACCESS OR TRANSMIT ANY CONTENT THROUGH THE USE OF THE CALL-EM-ALL SERVICE, YOU DO SO AT YOUR OWN DISCRETION AND YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE TO YOU IN CONNECTION WITH SUCH ACTIONS.

D. NO DATA, INFORMATION OR ADVICE OBTAINED BY YOU IN ORAL OR WRITTEN FORM FROM CALL-EM-ALL OR

THROUGH OR FROM THE CALL-EM-ALL SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

22. LIMITATION OF LIABILITY

YOU EXPRESSLY AGREE THAT CALL-EM-ALL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF CALL-EM-ALL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR INABILITY TO USE THE CALL-EM-ALL SERVICE; (ii) THE COST OF ANY SUBSTITUTE GOODS AND SERVICES PURCHASED TO REPLACE ANY GOODS OR SERVICES PURCHASED OR OBTAINED AS A RESULT OF ANY INFORMATION OBTAINED FROM OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE CALL-EM-ALL SERVICE; (iii) DISCLOSURE OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR INFORMATION OR MESSAGES; (iv) STATEMENTS OR CONDUCT OF ANY SERVICE PROVIDERS OR OTHER THIRD PARTY ON THE CALL-EM-ALL SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE CALL-EM-ALL SERVICE.

23. INDEMNIFICATION

You agree to indemnify, defend and hold harmless Call-Em-All, its officers, directors, owners, employees, agents, other Service Providers, vendors or customers from and against all losses, liabilities, expenses, damages and costs, including reasonable attorneys' fees resulting from any violation of the User Agreement by you or any harm you may cause to anyone. You agree and we reserve the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

24. PROPRIETARY RIGHTS

You acknowledge and agree that the Call-Em-All Service and any necessary software used in connection with the Call-Em-All Service and Service Providers contain proprietary and confidential information that are protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in sponsor advertisements or information presented to you through the Call-Em-All Service or other users is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. You may not, and agree not to, modify, reformat, copy, display, distribute, transmit, publish, license, create derivative works from, transfer or sell any information, products or services obtained from the Call-Em-All Service, except as set forth herein. Call-Em-All, the Call-Em-All logo and other Call-Em-All logos, product and service names may be trademarks, service marks or other intellectual property of Call-Em-All (the "Call-Em-All Marks"). You agree not to display or use the Call-Em-All Marks in any manner without the prior, express written permission of Call-Em-All.

25. NOTICE

You agree that Call-Em-All may communicate any notices to you, including notices of changes to the User Agreement, through email, regular mail or by posting of those notices on the Call-Em-All.com web site or through the Call-Em-All Service.

26. ENTIRE AGREEMENT

The User Agreement governs your use of the Call-Em-All Service. This User Agreement, your pricing plan, and your payment agreement constitute the entire agreement between you and Call-Em-All. They supersede any prior agreements between you and Call-Em-All. Additional terms and conditions may apply when you use the services of Service Providers and others. These additional terms will not reduce, diminish, or eliminate any rights Call-Em-All possesses with respect to this User Agreement.

27. GOVERNING LAW AND ARBITRATION

The User Agreement and the relationship between you and Call-Em-All shall be governed by the laws of the State of Texas without regard to its conflict of law provisions. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Call-Em-All Service or to the terms of this User Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. You agree to submit any dispute with Call-Em-All exclusively to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The location of any arbitration shall be in the city of Frisco, Texas. You agree any arbitrator shall not have the authority to award punitive damages. You agree to be bound by any ruling in such arbitration proceeding and that such ruling shall be enforceable in any court of competent jurisdiction.

28. MISCELLANEOUS

Any failure by Call-Em-All to exercise any rights or enforce any of the terms of this User Agreement shall not constitute a waiver of such rights or terms. If any portion of the User Agreement is found by an arbitrator or a court of competent jurisdiction to be invalid, the arbitrator or court should nevertheless give effect to the parties' intentions expressed herein. All other provisions of the User Agreement remain in full force and effect.

Feedback | Opt Out | Login | User ID and PIN Help
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EXHIBIT 4

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

CAROLYN ANDERSON,)	
)	
Plaintiff,)	
)	
vs.)	No. 10-2-15941-0 SEA
)	
DOMINO'S PIZZA, INC., DOMINO'S)	
)	
PIZZA, LLC and FOUR OUR)	
)	
FAMILIES, INC.,)	
)	
Defendants.)	

Deposition Upon Oral Examination Of
MICHAEL W. BROWN

9:38 a.m.

Thursday, September 30, 2010
5920 100th Street SW, Suite 25
Tacoma, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

Page 2

1 APPEARANCES:
 2 For the Plaintiff: ROB WILLIAMSON, ESQ.
 3 Williamson & Williams
 4 187 Parfitt Way SW, Suite 250
 5 Bainbridge Island, WA 98110
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 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 nfraley@fjr-law.com
 22
 23
 24
 25

Page 4

1 Tacoma, Washington; Thursday, September 30, 2010
 2 9:38 a.m.
 3 -----
 4 (Exhibit-1 marked.)
 5 (Exhibit-2 marked.)
 6 (Exhibit-3 marked.)
 7 (Exhibit-4 marked.)
 8 (Exhibit-5 marked.)
 9 MICHAEL W. BROWN: Witness herein, having been
 10 duly sworn, testified as follows:
 11 E-X-A-M-I-N-A-T-I-O-N
 12 BY MR. WILLIAMSON:
 13 Q. Mr. Brown, would you just state your full name
 14 including your middle initial for us.
 15 A. Michael W. Brown.
 16 Q. And you are the owner of some Domino's stores,
 17 is that correct?
 18 A. Yes.
 19 Q. Okay. For purposes of our deposition, if I talk
 20 about Domino's, I mean the corporate main headquarters, the
 21 franchisor, okay?
 22 A. Okay.
 23 Q. And when I talk about the stores, I mean your
 24 store or stores; is that okay?
 25 A. Four Our Families, Inc.?

Page 3

1 E-X-H-I-B-I-T I-N-D-E-X
 2 NO. DESCRIPTION PAGE/LINE
 3 1 Amended Subpoena for Deposition of 4 4
 4 Michael Brown
 5 2 (Exhibit withdrawn) 4 5
 6 3 Plaintiff's First Interrogatories 4 6
 7 and Requests for Production with
 8 Answers and Responses Thereto
 9 4 Domino's Pizza LLC Standard 4 7
 10 Franchise Agreement
 11 5 Call em all charges 4 8
 12 6 Credit Balance 51 2
 13 7 Opt Out Report 51 3
 14
 15 E-X-A-M-I-N-A-T-I-O-N
 16 BY PAGE/LINE
 17 MR. WILLIAMSON 4 11
 18 MR. SODERLAND 66 2
 19 MR. WILLIAMSON 76 1
 20 MR. FRALEY 77 1
 21 MR. WILLIAMSON 78 4
 22
 23
 24 (Note: * Denotes phonetic spelling.)
 25

Page 5

1 Q. Yes.
 2 A. Okay.
 3 Q. And then if I talk about the calls, I mean the
 4 calls that were placed through using -- what is it
 5 called -- Call-Em-All?
 6 A. Yes.
 7 Q. So, the calls, some people call them robocalls,
 8 and some people call them ADAD, and there's difference
 9 names, but for our deposition, I'll just say the calls,
 10 okay?
 11 A. Okay.
 12 Q. Tell me when Four Our Families, Inc., was
 13 formed. Four Our Family, is it, Inc.?
 14 A. Yeah, it's F-O-U-R --
 15 Q. Right.
 16 A. -- Our, O-U-R, and Families with I-E-S.
 17 Q. Right.
 18 A. And it was formed in September of 1994.
 19 Q. Okay. Was it formed to -- was it formed as part
 20 of making a decision to buy a franchise from Domino's?
 21 A. I bought four stores, yes.
 22 Q. Okay. In '94?
 23 A. Yes.
 24 Q. Oh, okay. And do you still have those same four
 25 stores?

Page 34

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.

Page 35

1 A. From them. They e-mailed me in August and said
 2 the laws are changing on September 1st, and they even
 3 advertised that we can help you with getting these forms,
 4 and I just looked at it and said that's way too much work
 5 for all my customers to get written permission to be able
 6 to call it, so I just said I'm not going to do it anymore
 7 after that point.
 8 Q. Okay. Did you ever have -- did you ever believe
 9 that the marketing this way was helpful? Did you have any
 10 sense that it improved sales or not?
 11 A. Oh, yes, it did.
 12 Q. Oh, okay. So, when you would go online -- when
 13 you went on -- excuse me, went online initially to do this,
 14 was there some portion of their web page where you had to,
 15 in effect, sign a contract, where you had to click "I
 16 agree," or somehow there was something that went that --
 17 that you had to do?
 18 A. Yeah, I believe there was.
 19 Q. But nothing sent to you? You don't have any
 20 papers, do you, from them?
 21 A. No.
 22 Q. All right. And do you recall -- so, initially
 23 to do it you would need to download telephone numbers, is
 24 that right?
 25 A. To them, yes.

Page 36

1 Q. Okay. Do you remember roughly how big the first
 2 download was, how many numbers?
 3 A. I don't know. An estimate, I think I tried
 4 5,000 calls the first time. I don't have the records in
 5 front of me --
 6 Q. Okay.
 7 A. -- of what the charges were on my credit card.
 8 Q. Okay. And was the database then that large at
 9 that time, were there 5,000 phone numbers that you were
 10 able to download into the system?
 11 A. Yes.
 12 Q. Okay. Did you have more than that and you just
 13 limited the first download to 5,000 numbers?
 14 A. Yeah.
 15 Q. Okay.
 16 A. I would do it by location of each store.
 17 Q. Oh, all right. And how did you get those phone
 18 numbers?
 19 A. I downloaded them from the store.
 20 Q. Okay. And how did the store have them?
 21 A. From the customer calling in --
 22 Q. Okay.
 23 A. -- and then they would give their telephone --
 24 we would get it on caller ID and confirm it, which is a
 25 safety thing, and then we'd put their address in, and make

Page 37

1 their pizza up, and then they're in our database at that
 2 point.
 3 Q. And was the database that was available kept by
 4 each store?
 5 A. Yes.
 6 Q. So, you've got like six databases?
 7 A. Yes.
 8 Q. All right. So, do you remember -- if you don't,
 9 that's okay -- which store's database you used for the
 10 first call?
 11 A. No, I don't remember that.
 12 Q. Okay. Did you, over the course of the few
 13 months that you did this, make calls from each of the
 14 stores?
 15 A. Yes.
 16 Q. Did you sometimes do more than one store?
 17 A. Yes.
 18 Q. Did the script change over the six -- three
 19 months or so you did this?
 20 A. Yes.
 21 Q. Okay. At any point did anyone with Call-Em-All
 22 interface with you about you might want to change the
 23 script to this or that, or was it always your decision?
 24 A. My decision.
 25 Q. Okay.

EXHIBIT 5

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

CAROLYN ANDERSON,

CIVIL ACTION NO.: 11-902-RBL

Plaintiff,

v.

DOMINO'S PIZZA, INC., DOMINO'S
PIZZA, LLC, FOUR OUR FAMILIES,
INC. and CALL-EM-ALL, LLC,

Defendants.

**DEFENDANT CALL-EM-ALL, LLC'S FIRST SET OF INTERROGATORIES,
REQUESTS FOR ADMISSION AND REQUESTS FOR PRODUCTION
OF DOCUMENTS TO DEFENDANT FOUR OUR FAMILIES, INC.
WITH ANSWERS AND RESPONSES THERETO**

PROPOUNDING PARTY: Call-Em-All, LLC

RESPONDING PARTY: Four Our Families, Inc.

SET NO.: One (1)

Pursuant to Federal Rule of Civil Procedure 34, Defendant Call-Em-All, LLC ("CEA"), by and through its attorneys, hereby requests that Defendant Four Our Families, Inc. ("FOFI") serve written responses to the Interrogatories and Requests For Admission on the undersigned attorneys in the time period established under the Federal Rules of Civil Procedure and produce for inspection and copying at the offices of Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55th Street, New York, New York 10022, the documents and materials requested by the Requests For Production, wherever located, in the possession, custody, or control of FOFI.

**CALL-EM-ALL, LLC'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO
FOUR OUR FAMILIES, INC. WITH ANSWERS AND
RESPONSES THERETO– Page 1**

1 correspondence, electronic mail, statements, reports, notices, letters, formal and informal
2 writings, notes, drafts, messages, advertising, labeling, packaging, computer materials,
3 brochures, magazines, mailers, articles, tests, studies, journals, abstracts, analyses, books,
4 financial statements, invoices, bills, vouchers, audit reports, checks (front and back), check
5 registers, ledgers, contracts, charts, messages, affidavits, minutes, market data, loan
6 applications, loan commitments, leases, diaries, appointment books, calendars, diagrams,
7 recordings, transcripts, instructions, lists, logs, orders, requisitions, telephone records,
8 agendas, bulletins, schedules, summaries, compilations, computations, opinions, proposals,
9 tax information, accounting work papers, complaints, charges, opinions, legal opinions,
10 transparencies, employee handbooks and manuals, personnel files, inventories,
11 photographs, video tapes, tape recordings, motion pictures, tapes, cassettes, discs, and
12 other tangible preservation of information.
13
14

15 5. "Communicate" or "Communication" means any conveyance of
16 information from one person or entity to another, including but not limited to, (a) by means
17 of a document, (b) verbally, including but not limited to in person or by mechanical,
18 electrical or other means (such as for example, by telephone, telegraph, pager, or other
19 means), and (c) by email or other electronic means.
20

21 6. "Referring" or "relating to" means discussing, describing, reflecting,
22 containing, analyzing, studying, supporting, reporting, referencing, commenting,
23 evidencing, constituting, setting forth, considering, recommending, concerning,
24 questioning, or pertaining to, in whole or in part.

1 3. If the response to any request for the production of documents is provided
2 in electronic or machine-readable form, provide such codes and instruction as are
3 necessary to enable plaintiff to recover and use that information.

4 4. Unless instructed otherwise, all requests for documents and things are
5 limited to the time period from four (4) years of the filing of the Complaint and continuing
6 to the present.

7 5. Any claim(s) of privilege or other objection to disclosure made in response
8 to any request for the production of documents or things shall state your complete
9 objection to the request. If any responsive document is withheld under claims of privilege,
10 you must submit a privilege log for that document specification, setting forth the specific
11 grounds for claiming the privilege, the date of the document, the identity of the person(s)
12 who prepared it, the identity of the person(s) to whom it was disseminated, the subject of
13 the document and the basis of the claim of privilege. If only some portion of any
14 responsive document is privileged, you must produce all non-privileged portions of the
15 document. Any claim(s) of privilege or other objection to disclosure not made by you in
16 your initial response to this request for the production of documents or things shall be
17 waived.

18 6. This request for the production of documents and interrogatories shall be
19 continuing to the full extent permitted by Fed. R. Civ. P. 26(e) and any other provision of
20 the Federal Rules of Civil Procedure.

1 **RESPONSE:**

2 See Response to RFP No. 1.

3
4 **REQUEST FOR PRODUCTION NO. 4:**

5 All documents, including credit card purchases, that reflect, refer, or relate to any
6 transactions between You on the one hand, and Plaintiff, any resident of Plaintiff's
7 household or any user of the phone line on which the telephone call(s) described in
8 Paragraph 2.1 of the Complaint were received.

9
10 **RESPONSE:**

11 See Response to RFP No. 1.

12
13 **REQUEST FOR PRODUCTION NO. 5:**

14 All documents relating to, referring to CEA in any way, including but not limited to
15 all correspondence, e-mails, Internet-based communications and transactions.

16 **RESPONSE:**

17 See Request for Production No. 10 for Exhibits 5-7 of Michael Brown's deposition. Also
18 attached are CEA's Privacy Statement, Terms of Use, and Features dated June 23, 2010
19 and accessed via CEA's website.

20 **REQUEST FOR PRODUCTION NO. 6:**

21 All books, records, diaries, journals, notes, correspondence or other documents in
22 your possession or in the possession of your attorney other than attorney-client
23 communications) which in any way relate to the conduct at issue in this action.

1 **RESPONSE:**

2 Attached please find discovery produced by Defendant, FOFI. Please note that this
3 discovery was produced to Andrew B. Lustigman on or about May 19, 2011.

4 **REQUEST FOR PRODUCTION NO. 10:**

5 All documents relating to and/or identifying persons who have information relating
6 to the allegations in the Complaint.

7 **RESPONSE:**

8 Attached please find Defendant, FOFI's initial disclosures.

9 **REQUEST FOR PRODUCTION NO. 11:**

10 All documents you obtained pursuant to any subpoena(s) in this civil action.

11 **RESPONSE:**

12 Defendant's counsel has issued no subpoenas in this action to date.

13 **REQUEST FOR PRODUCTION NO. 12:**

14 All documents relating to and/or identifying persons who have information relating
15 to any affirmative defense asserted by You.

16 **RESPONSE:**

17 See Response to RFP No. 10.

18 **REQUEST FOR PRODUCTION NO. 13:**

19 All documents, including resumes, curriculum vitae and communications with or
20 relating to each and every expert you expect to call to testify at trial.

1 **RESPONSE:**

2 No experts have been retained at this time.

3
4 **REQUEST FOR PRODUCTION NO. 14:**

5 All documents identified or described in your Rule 26(a)(1) mandatory initial
6 disclosures.

7
8 **RESPONSE:**

9 See Response to RFP No. 10.

10
11 **REQUESTS FOR ADMISSIONS AND INTERROGATORIES**

12 **REQUEST FOR ADMISSION NO. 1:**

13 Admit that You agreed to Call-Em-All's Terms Of Use as part of the registration
14 process for Call-Em-All's Internet website.

15
16 **RESPONSE:**

17 This answering Defendant admits that "Terms of Use" may have been a part of the
18 registration process, but has no way of verifying that "Terms of Use" to which this request
19 refers is the one that was provided on the date and time of registration.

20 **INTERROGATORY NO. 1:**

21 If your answer to the previous Request for Admission is anything other than an
22 unqualified admission, please state in detail all facts, evidence and legal theories in support
23 of your denial.

24 **ANSWER:**

1 This Defendant has no way of verifying that the "Terms of Use" to which the previous
2 request refers is the actual "Terms of Use" in effect at the time of registration.

3 REQUEST FOR ADMISSION NO. 2:

4 Admit that Exhibit A contains the identical terms, with respect to Paragraphs 13
5 and 22, as the Terms Of Use You agreed to prior to doing business with CEA in 2009.

6 ANSWER:


7 Denied. No "Exhibit A" was provided with the request.

8 INTERROGATORY NO. 2:

9 If your answer to the previous Request for Admission is anything other than an
10 unqualified admission, please state in detail all facts, evidence and legal theories in support
11 of your denial.
12

13 ANSWER:

14 Objection. The "Exhibit A" mentioned above conflicts with that described in the
15 definition of the Complaint to these discovery requests. Without waiving said objection,
16 no Exhibit A was provided.

17 
18 _____
NELSON C. FRALEY II
19 WSBA# 26742

20 REQUEST FOR ADMISSION NO. 3:

21 Admit that You have a duty to indemnify, defend and hold CEA harmless for all
22 allegations in this Action.

23 RESPONSE:

24 Denied.

1 INTERROGATORY NO. 3:

2 If your answer to the previous Request for Admission is anything other than an
3 unqualified admission, please state in detail all facts, evidence and legal theories in support
4 of your denial.

5 ANSWER:

6 There are allegations in this action that do not pertain to CEA or FOFI. Thus, as currently
7 requested, FOFI is unable to admit to the portion of the request referring to "all allegations
8 in this action."

9 INTERROGATORY NO. 4:

10 For each response you provide to these interrogatories and requests for admissions,
11 identify the person, other than counsel, responsible for providing the information for or
12 formulating such response, and identify each document relied on in formulating such
13 response.

14 ANSWER:

15 Michael Brown is responsible for providing information for answers and responses to these
16 discovery requests.

17 INTERROGATORY NO. 5:

18 Identify the telephone number(s) that received the two calls in question, and
19 identify under whose name(s) each telephone number is listed in Your records.

20 ANSWER:

21 The telephone number that received the two calls in question is: (253) 537-9215.

22 INTERROGATORY NO. 6:

23 Identify the address associated with telephone number(s) that received the two calls
24 in question, according to Your records.

1 **ANSWER:**

2 The address associated with the above-mentioned telephone number is:
3 1126 – 132nd Ct. E.
4 Tacoma, WA 98445

5 **INTERROGATORY NO. 7:**

6 Identify and describe the substance of each and every business transaction you have
7 had with the Plaintiff.

8 **ANSWER:**

9 Referring specifically to the deposition testimony of Carolyn Anderson, Defendant, FOFI's
10 business transaction with Plaintiff consisted of selling Plaintiff pizza.

11 **INTERROGATORY NO. 8:**

12 Identify each and every fact and document supporting any affirmative defense
13 asserted by you in this action.

14 **ANSWER:**

15
16 Defendant FOFI had a business relationship with Plaintiff. FOFI complied with the
17 requirements of 47 U.S.C § 227, as was suggested by the representative of CEA at the
18 World Wide Rally in May 2009. Attached is a transcript of the recorded message that
19 played for Plaintiff on August 31, 2009. Discovery is ongoing regarding FOFI's
20 affirmative defenses.

21 **INTERROGATORY NO. 9:**

22 Identify each and every person who you believe has knowledge of the factual
23 allegations related to this lawsuit and describe the substance of that knowledge.

24 **ANSWER:**

 The following individuals have knowledge regarding factual allegations related to this
 lawsuit:

 Michael Brown

 Jeanette Brown

 Any and all individuals who worked on putting FOFI's campaign together.

1 INTERROGATORY NO. 10:

2 Identify each person by name, address, telephone number, and place of
3 employment from whom you have taken a statement, affidavit or report, interviewed or
4 spoken to, about any factual or substantive aspect of this case.

5 ANSWER:

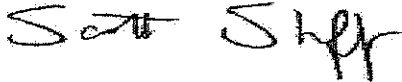
6
7 Objection, work product. Without waiving said objection, the attorney's for FOFI have
8 deposed Carolyn Anderson.

9
10 
NELSON C. FRALEY II
WSBA# 26742

11 DATED: October 20, 2011

12 Respectfully submitted,

13 **OLSHAN GRUNDMAN FROME
14 ROSENZWEIG & WOLOSKY LLP**

15 

16

Scott Shaffer (pro hac)
17 Park Avenue Tower
65 East 55th Street
18 New York, New York 10022
Tel. 212.451.2300
19 Fax. 212.451.2222

20 **CORR CRONIN MICHELSON
21 BAUMGARDNER & PREECE LLP**
Kelly P. Corr, WSBA No. 555
Christina Dimock, WSBA No. 40159
22 1001 4th Ave., Suite 3900
Seattle, WA 98154-1051
23 Tel. 206.625.8600
24 Fax. 206.625.0900

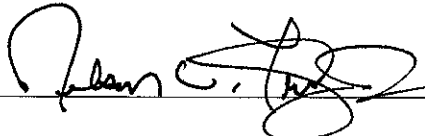
ATTORNEYS FOR
DEFENDANT CALL-EM-ALL, LLC

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ATTORNEY'S RULE 26 CERTIFICATION

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

DATED at Lakewood, WA, this 19th day of November, 2011.



PRINT NAME: NELSON C. FRALEY II

Attorney for Four Our Families, Inc.

Request for Production #5



CALL-EM-ALL PRIVACY STATEMENT

Call-Em-All has implemented this privacy policy to ensure that personal information (specifically set forth below) pertaining to our clients is kept private and secure subject to the Terms & Provisions of the Call-Em-All User Agreement. Call-Em-All will not distribute any of the information we receive from you while using the Call-Em-All voice broadcasting service. Financial information and other information deemed critical by Call-Em-All will be exchanged over a secure connection and encrypted within our database.

Call-Em-All does not currently have any relationships with third parties that would want or require your personal information. If any aspect of this privacy policy changes, it will be updated on both our website and our User Agreement. If Call-Em-All deems the change particularly important, we will also notify clients via email.

What personal information does Call-Em-All collect?

Registration

During our registration process prior to using the site, Call-Em-All requires that you supply your name, e-mail address, phone number, and other identifying information. This information is used to establish your Call-Em-All account, and so that we may contact or identify you for support purposes.

Order/Purchase

During our ordering process, Call-Em-All requires that you provide us with a credit card number and other associated information. This information will be encrypted and stored so that we may process future orders and subscription renewals.

Phone Lists

Before sending a voice broadcast, you will need to provide Call-Em-All with a list of phone numbers and other optional information for the people you would like to call. This information will not be shared with any third parties, pursuant to this privacy policy and the Call-Em-All User Agreement.

Voice Broadcasts/Recordings

Call-Em-All will record your voice inputs (messages) in order to transmit them to the phone numbers you provide. Call-Em-All reserves the right to review these messages at any time and for any reason, particularly if we have reason to believe that messages are in violation of the Call-Em-All User Agreement.

Cookies

Call-Em-All employs cookies to recognize you and your access privileges on our site, as well as to track site usage. Subscribers who do not accept cookies cannot use the Call-Em-All voice broadcasting service. We do not use cookies for any reason other than to help make the Call-Em-All website easy for you to use.

IP Addresses

Call-Em-All logs IP addresses for systems administration and troubleshooting purposes. We do not use IP address logs to track your session or your behavior on our site.

E-Mail

Call-Em-All will use the email address you provide at registration as the primary method for communicating account-related information with you.

Data Security

To prevent unauthorized access, maintain data accuracy, and ensure the use of information, we have put in place appropriate physical and electronic procedures to protect the information we collect online.

Will my information be used for marketing purposes by Call-Em-All or any other company?

Call-Em-All does not currently have any relationships with any third parties that may want or require your personal information. Therefore, you will not receive marketing messages from any company other than Call-Em-All.

Call-Em-All may, from time to time, choose to send email to our users in the form of a newsletter or special offer. Should we decide to send an email to our users, it will be sent ONLY to account owners and individuals that have a login to the Call-Em-All website.

At the end of your broadcast messages, Call-Em-All may give call recipients the option to remove their phone number from your calling list.

Site Links	Automated Calling Service	Who's Using Call-Em-All	Company Information
Home	How It Works	Business	About Call-Em-All
Login	Features	Schools	Testimonials
User ID & PIN Help	Pricing Plans	Religious	News

[Opt Out](#)

[Learn More](#)

[Sports](#)

[Blog](#)

[Privacy & Security](#)

[Sign Up](#)

[Non-Profit](#)

[FAQ](#)

[Responsible Use](#)

[Staffing](#)

[Terms Of Use](#)

[Political](#)

[Mobile Terms and Conditions](#)

[Restaurants and Retailers](#)

[Site Map](#)

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[how it works](#) [pricing / get started](#) [learn more](#)

Call-Em-All is providing the following information in an effort to ensure proper and responsible use of the Call-Em-All voice broadcasting service.

The Call-Em-All voice broadcasting service places the ability to notify thousands of people in the hands of you, the subscriber. Call-Em-All respects your privacy. Since it is you the subscriber who creates the audio announcement, provides the calling list, and most importantly launches your own calling broadcast, we feel it necessary to provide you the subscriber with the following information in an effort to insure that all Call-Em-All call broadcasts are conducted responsibly.

Prior to using Call-Em-All make sure you are familiar with any Federal or State Laws that would be applicable to your call campaign.

Be respectful of proper calling time restrictions that would be applicable to your specific call broadcast.

Monitor the Call-Em-All "Do Not Call List" / Opt Out report available to you at no charge as part of your Call-Em-All voice broadcasting service. In the event a recipient makes a request to be taken off your calling list, do so immediately and indefinitely. Allowing those on your calling list to be removed and avoiding calls to those who do not wish to be called plays a very important role with regard to responsible calling broadcasts.

Follow Federal and State calling time rules and or restrictions.

Provide proper contact information in your recording, such as phone number and address.

It is unlawful to send audio messages to any emergency phone lines. For example, 911 numbers, hospital medical service lines, physicians, health care facilities, poison control centers, fire or law enforcement agencies.

Do not send unsolicited audio messages to those who will incur charges. For example: beepers, pagers or cell phones unless proper prior permission has been obtain by the recipient.

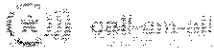
Do not send pre-recorded sales messages to those whom you haven't received permission to call.

The Telephone Consumer Protection Act (TCPA) <http://www.fcc.gov>, the Federal Trade Commission <http://www.ftc.gov> and the Federal Communications Commission <http://www.fcc.gov> do not call list registry rules <http://www.donotcall.gov> and various State laws place restrictions on certain types of phone calls. Typically a call may be exempt from the TCPA if the call:

- * Is made on behalf of a non-profit organization.
- * Business to business contact.
- * Does not include an unsolicited advertisement, even if the call is made for commercial purpose.
- * Is survey work.

Call-Em-All is in no way attempting to interpret the TCPA of 1991 nor the laws of any State. This information provided is not intended to replace the responsibility of you the subscriber to check out the legal requirements pertaining to your call campaign prior to using Call-Em-All voice broadcasting services. You are ultimately responsible to make your own informed decisions regarding your call campaign.

Site Links	Automated Calling Service	Who's Using Call-Em-All	Company Information
Home	How It Works	Business	About Call-Em-All
Login	Features	Schools	Testimonials
User ID & PIN Help	Pricing Plans	Religious	News
Opt Out	Learn More	Sports	Blog
Privacy & Security	Sign Up	Non-Profit	FAQ
Responsible Use		Staffing	
Terms Of Use		Political	
Mobile Terms and Conditions		Restaurants and Retailers	
Site Map			



Terms Of Use

Call-Em-All, LLC ("Call-Em-All") is providing users ("User") with access to its telephone messaging services and web site, (the "Call-Em-All Service"), subject to the terms and conditions of this User Agreement (the "Terms of Use"). Any new features, changes, updates or improvements of the Call-Em-All Service, and the availability of new Call-Em-All services, shall be subject to the terms of this User Agreement unless explicitly stated otherwise.

1. YOUR ACCEPTANCE OF THIS USER AGREEMENT

Please read the User Agreement carefully before using or registering for the Call-Em-All Service. By using or registering for the Call-Em-All Service, you agree to be bound by the terms and conditions set forth. If you do not wish to be bound by these terms and conditions, you may not access or use the Call-Em-All Service.

2. MODIFICATION OF TERMS

We reserve the right to modify and restate the terms and conditions of the User Agreement, and modification(s) shall be effective immediately upon being posted on the Call-Em-All.com web site.

Unless explicitly stated otherwise, any new features that augment or enhance the current Call-Em-All Service, including the release of new Call-Em-All properties, shall be subject to the User Agreement. You understand and agree that the Call-Em-All Service is provided "AS-IS" and that Call-Em-All assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store or deliver any User communications or personalized information.

You are responsible for reviewing these terms and conditions regularly. Your continued use of the Call-Em-All Service shall be deemed to be your conclusive acceptance of all modifications to the User Agreement.

3. PRIVACY POLICY

By using or registering for the Call-Em-All Service you acknowledge that you have read and accept the Call-Em-All Privacy Statement. Before using or registering for the Call-Em-All Service, please carefully read the Call-Em-All Privacy Statement. A link to the Call-Em-All Privacy Statement is on the bottom of each page of Call-Em-All.com.

CALL-EM-ALL PRIVACY STATEMENT

Call-Em-All has implemented this privacy policy to ensure that personal information (specifically set forth below) pertaining to our clients is kept private and secure subject to the Terms & Provisions of the Call-Em-All User Agreement. Call-Em-All will not distribute any of the information we receive from you while using the Call-Em-All voice broadcasting service. Financial information and other information deemed critical by Call-Em-All will be exchanged over a secure connection and encrypted within our database.

Call-Em-All does not currently have any relationships with third parties that would want or require your personal information. If any aspect of this privacy policy changes, it will be updated on both our website and our User Agreement. If Call-Em-All deems the change particularly important, we will also notify clients via email.

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Registration

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Order/Purchase

During our ordering process, Call-Em-All requires that you provide us with a credit card number and other associated information. This information will be encrypted and stored so that we may process future orders and subscription renewals.

Phone Lists

Before sending a voice broadcast, you will need to provide Call-Em-All with a list of phone numbers and other optional information for the people you would like to call. This information will not be shared with any third parties, pursuant to this privacy policy and the Call-Em-All User Agreement.

Voice Broadcasts/Recordings

Call-Em-All will record your voice inputs (messages) in order to transmit them to the phone numbers you provide. Call-Em-All reserves the right to review these messages at any time and for any reason, particularly if we have reason to believe that messages are in violation of the Call-Em-All User Agreement.

Cookies

Call-Em-All employs cookies to recognize you and your access privileges on our site, as well as to track site usage. Subscribers who do not accept cookies cannot use the Call-Em-All voice broadcasting service. We do not use cookies for any reason other than to help make the Call-Em-All website easy for you to use.

IP Addresses

Call-Em-All logs IP addresses for systems administration and troubleshooting purposes. We do not use IP address logs to track your session or your behavior on our site.

E-Mail

Call-Em-All will use the email address you provide at registration as the primary method for communicating account-related information with you.

Data Security

To prevent unauthorized access, maintain data accuracy, and ensure the use of information, we have put in place appropriate physical and electronic procedures to protect the information we collect online.

Will my information be used for marketing purposes by Call-Em-All or any other company?

Call-Em-All does not currently have any relationships with any third parties that may want or require your personal information. Therefore, you will not receive marketing messages from any company other than Call-Em-All.

Call-Em-All may, from time to time, choose to send email to our users in the form of a newsletter or special offer. Should we decide to send an email to our users, it will be sent ONLY to account owners and individuals that have a login to the Call-Em-All website.

At the end of your broadcast messages, Call-Em-All may give call recipients the option to remove their phone number from your calling list.

4. REMOVE PHONE NUMBER

If members of your group do not wish to receive messages, they may visit our website and click 'Opt Out' on the home page of the web site. Alternatively, you may notify Call-Em-All of your request for the removal of a telephone number from a calling list by sending an e-mail to AccountSupport@call-em-all.com or by writing to: Call-Em-All, 2611 Internet Blvd., Suite 120, Frisco, TX, 75034. If no specific calling list is specified, the number will be blocked from receiving calls from any Call-Em-All user. Our Do Not Call list applies even if a calling list is uploaded to our system by a client and is not stored in our database.

5. REGISTRATION INFORMATION

You agree, as a condition of your use of the Call-Em-All Service, to provide Call-Em-All with accurate and complete information when registering for or using the Call-Em-All Service, and to update and maintain such information. Call-Em-All has the right to suspend, restrict or terminate your use of the Call-Em-All Service and to refuse any future use of all or portions of the Call-Em-All Service if Call-Em-All has reason to believe that you have failed to comply with these requirements.

6. MINIMUM AGE

If you are under the age of eighteen, you are prohibited from using or registering for the Call-Em-All Service. By using or registering for the Call-Em-All Service, you warrant to Call-Em-All that you are above the age of eighteen. In addition, parents of children under the age of 18 should be aware that the Call-Em-All Service is designed to appeal to a broad audience. Accordingly, as a parent or legal guardian, it is your responsibility to determine whether any portion of the Call-Em-All Service is inappropriate for your child.

7. TELEPHONE CHARGES

a) Voice Broadcasting - Access to the Call-Em-All service is achieved by dialing a toll-free number within any of the contiguous forty eight (48) states of the United States, Hawaii, Puerto Rico, and Canada. Call-Em-All Communications is not responsible for any charges that you may incur from dialing outside of the United States or any other connection charges that you may incur when calling the Call-Em-All toll-free phone number, e.g., cellular, mobile, or pay phones.

Call-Em-All delivers voice messages anywhere within the contiguous forty eight (48) states of the United States, Hawaii, Puerto Rico, and Canada. Messages CANNOT be delivered to Alaska.

b) Text Broadcasting - Your receipt of text messages may result in standard messaging charges from your cellular service carrier. Additionally, your group members may incur charges when you initiate text broadcasts. Call-Em-All is not responsible for any charges that you or your group may incur from use of our service.

Call-Em-All sends text messages within the United States and Canada only, excluding Puerto Rico. Call-Em-All's network may not include all cellular carriers in the United States and Canada, and may result in undelivered messages. You may contact Call-Em-All for a current list of covered providers.

8. ACCOUNT SECURITY

When you are registered, you will establish a Username and a PIN. You are responsible for protecting the confidentiality of your Username and PIN, and you are fully responsible for all activities that occur under your Username.

You agree: (a) to exit from your account when you conclude each session, and (b) to immediately notify Call-Em-All of any loss, compromise or unauthorized use of your Username and PIN or any other breach of security. You may notify Call-Em-All by sending an e-mail to AccountSupport@call-em-all.com or by writing to: Call-Em-All, 2611 Internet Blvd., Suite 120, Frisco, TX, 75034. Call-Em-All will not be liable for any loss or damage of any kind resulting from either the authorized or unauthorized use of your Username and PIN.

9. CONSENT TO RECORD YOUR VOICE INPUTS

You agree and consent that Call-Em-All may record oral or voice communications, utterances, conversations or commands, made by you during the use of the Call-Em-All Service. By using the Call-Em-All Service, you expressly consent and grant to Call-Em-All the right to record and use these recordings. If you do not authorize Call-Em-All to make or use these recordings, you may not use the Call-Em-All Service.

Call-Em-All is under no obligation to monitor any recordings for accuracy, completeness, or quality. User understands that recordings may or may not resemble that which User intends to record and that Call-Em-All is under no obligation to ensure that recordings will successfully represent that which User intends to record. User agrees that all recordings become part of the Content (hereinafter defined) of the Call-Em-All Service.

10. RESTRICTION AND MODIFICATION OF SERVICE

You agree that Call-Em-All may limit your use of the Call-Em-All Service, including without limitation the frequency and duration for which you may access the Call-Em-All Service, and that Call-Em-All has no responsibility or liability for any unavailability or limitation on use of the Call-Em-All Service. In addition, Call-Em-All reserves the right at any time to limit, access to, modify, change or discontinue the Call-Em-All Service, or any part thereof, with or without notice. You agree that Call-Em-All shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Call-Em-All Service. You acknowledge and agree that Call-Em-All may establish general practices and limits, which may not be published, concerning the use of the Call-Em-All Service, including without limitation the maximum time that messages will be retained, the maximum number of messages that may be sent from or received by an account on the Call-Em-All Service, the length of message sent and the maximum number of times, and the maximum duration for which you may access the Service, in a given period of time. You agree that Call-Em-All has no responsibility or liability for the deletion or failure to store any messages and other communications maintained or transmitted by the Call-Em-All Service. You acknowledge that Call-Em-All reserves the right to terminate any inactive or dormant account(s). You agree and Call-Em-All reserves the right to change these general practices and limits at any time, in our sole discretion, with or without notice.

11. YOUR CONDUCT

As a condition of your use of the Call-Em-All Service, you agree and warrant to Call-Em-All that you will not use the Call-Em-All Service for any purpose that is unlawful or prohibited by the User Agreement. You may not use the Call-Em-All Service in any manner that could damage, impair, disable or overburden the Call-Em-All Service, interfere in any way with Call-Em-All's rights, interfere in any way with any other user's use and enjoyment of the Call-Em-All Service, or otherwise infringe on any person's rights.

Specifically, you agree and warrant to Call-Em-All that:

You will not use, or attempt to use, the Call-Em-All Service to convey any information that may be considered unlawful, harassing, libelous, abusive, threatening, obscene, hateful, offensive, harmful, vulgar, distasteful, defamatory, indecent, objectionable, or invasive of another person's privacy or proprietary rights.

You will follow the letter and spirit of the terms of the User Agreement and all applicable laws;

You will not use, or attempt to use, the Call-Em-All Service in connection with any junk messages, spamming or messages that are duplicative or unsolicited in nature;

You will not send, or attempt to send, messages to emergency lines, to any health care facility or similar establishment, to numbers assigned to radio common carrier services or to any service for which the called party is charged for the call;

You will not transmit, or attempt to transmit, any material that may infringe the contractual, fiduciary, intellectual property rights, or other rights of third parties, including trademark, copyright or the right of publicity;

You will not impersonate, or attempt to impersonate, any other person, falsify contact information, misrepresent a relationship with any person or entity, including misrepresenting a relationship with Call-Em-All, or otherwise attempt to mislead others as to the identity of the sender or the origin of a message;

You will not resell, or attempt to resell, the use of the Call-Em-All Service without express, prior written consent/permission from Call-Em-All;

You will not collect, or attempt to collect, or store information about the Call-Em-All Service or other users, including contact information, without their consent;

You will not interfere, or attempt to interfere, with or disrupt connections to the Call-Em-All Service or violate the regulations, policies or procedures of such connections;

You will not attempt to gain unauthorized access to the Call-Em-All Service, other accounts, computer systems or networks connected to the Service.

You will not attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password/PIN mining or any other means.

You agree and Call-Em-All retains the right, at its sole discretion, to determine whether or not User's conduct is consistent with the letter and spirit of the User Agreement. Call-Em-All may immediately terminate User's Call-Em-All account if User's conduct is found to be inconsistent with this User Agreement.

12. NO SPAM AND CONSENT TO DAMAGES

Call-Em-All will immediately terminate any account which it believes, in its sole discretion, is transmitting or is otherwise connected with any spam or other unsolicited messaging activities. Activities such as sending spam or other unsolicited messages can cause harm to Call-Em-All (and our customer base) in numerous ways including, but not limited to, damaging the Call-Em-All brand name, damaging our reputation for delivering relevant messages, damaging our reputation for privacy, damaging our ability to attract and retain customers, and damaging other consumer, customer and business goals, activities, or relationships. Call-Em-All retains sole responsibility and discretion for calculating losses; because these and other damages are often difficult to quantify, if actual damages cannot be reasonably calculated by Call-Em-All; then you agree to pay Call-Em-All liquidated damages of \$5.00 for each piece of spam or unsolicited message transmitted from or otherwise connected with your Call-Em-All account; otherwise, you agree to pay Call-Em-All's actual damages, to the extent such actual damages can be reasonably calculated by Call-Em-All.

13. TEXT MESSAGE COMPLIANCE WITH MOBILE MARKETING ASSOCIATION

User agrees that all marketing or sales related text messages will comply with policies and guidelines for the Mobile Marketing Association. More information can be found at <http://mmaglobal.com/policies>.

14. TEXT MESSAGING TERMS AND CONDITIONS

Standard messaging charges apply. For HELP text help to 292929 or call 877.226.3080 or email us at AccountSupport@call-em-all.com. To STOP this service, text STOP, QUIT, END, CANCEL, UNSUBSCRIBE, or STOP ALL to 292929. Carriers supported: Alltel, AT&T, Boost Mobile, Cellcom, Cincinnati Bell, Cellular One, Cellular South, Cricket, Metro PCS, Nextel, nTelos, Sprint, T-Mobile, Verizon Wireless, US Cellular, Virgin Mobile, Bluegrass, Centennial Wireless, ECIT, EKN, Immix, Inland Cellular, Illinois Valley Cellular, Revol, West Central Wireless, General Communications, Bell Mobility, Fido Solutions, MTS Communications, Rogers Wireless, SaskTel, Telus Communications, Virgin Mobile Canada.

15. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

User agrees to comply with the anti-solicitation provisions of the Federal Telephone Consumer Protection Act of 1991, and any amendments thereto, at 47 U.S.C. § 227, the Federal Communications Commission's implementing regulations, at 47 CFR § 64.1200 et seq., the Federal Trade Commission's Telemarketing Sales Rule including the August 2008 Amendment at 16 CFR Part 310, and any other similar laws. User agrees not to violate these, or any other applicable anti-solicitation laws, and represents and warrants that its use of the Call-Em-All Service will not cause Call-Em-All to violate these or other similar laws.

User agrees to comply with the anti-solicitation provisions of the Federal Telephone Consumer Protection Act of 1991, and any amendments thereto, at 47 U.S.C. § 227, the Federal Communications Commission's implementing regulations, at 47 CFR § 64.1200 et seq., and any other similar laws. User agrees not to violate these, or any other applicable anti-solicitation laws, and represents and warrants that its use of the Call-Em-All Service will not cause Call-Em-All to violate these or other similar laws.

User agrees that it is the sole responsibility of User to abide by any laws defined by the State or Federal Government in which Call-Em-All Services will be applicable. User understands and agrees that Call-Em-All will not be held responsible for damages to the User or any third party incurred due to User's failure to abide by State and/or Federal laws. Please refer to the Telephone Consumer Protection Act of 1991. You may visit the Federal Communications Commission Web site at <http://www.fcc.gov> and the Federal Trade Commission Web site at <http://www.ftc.gov>. Please refer to the appropriate State Attorney General's office or other applicable offices for telemarketing rules and or regulations pertaining to your intended application and use of the Call-Em-All Service.

16. NO RESPONSIBILITY FOR CONTENT

As part of the Call-Em-All Service, Call-Em-All may offer User access to communications, media and commerce services. Call-Em-All does not guarantee the accuracy, integrity, quality or appropriateness of any messages, communications, information, data, text, music, sound, or other materials ("Content"), whether publicly posted or privately transmitted through the Call-Em-All Service. You acknowledge that the Call-Em-All Service simply acts as a passive conduit for the distribution and transmission of information. You acknowledge that Call-Em-All has no obligation to screen, preview, or monitor such Content. By using the Call-Em-All Service, you agree that it is solely YOUR RESPONSIBILITY to evaluate the accuracy, usefulness, completeness, or appropriateness of any Content that you send, receive, access, post, or otherwise transmit through the Call-Em-All Service, including Content that may be offensive, indecent or objectionable. Under no circumstances will Call-Em-All be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content sent, accessed, posted or otherwise transmitted via the Call-Em-All Service.

17. DISCLOSURE

Call-Em-All may make identifiable information available to our employees and third parties with whom we contract. In addition, Call-Em-All may provide aggregate statistics, unique identifiers, demographic, and other anonymous information about our users to advertisers, Service Providers (hereinafter defined), and other third parties. You acknowledge and agree that Call-Em-All may make such uses of information you provide or Call-Em-All collects.

While Call-Em-All is committed to protect your privacy, Call-Em-All does not guarantee that your communications, contact information and other identifiable information will never be disclosed. You acknowledge and agree that Call-Em-All may disclose any information or Content as described herein, or if required to do so by law or in the good faith belief that such disclosure is reasonably necessary to: (a) comply with any legal process; (b) respond to claims of a violation of the rights of third parties; or (c) protect the rights, property, or safety of Call-Em-All, its users or the public. Call-Em-All does not accept any responsibility for accidental or inadvertent disclosure, unauthorized access or other disclosure as required by law or described herein.

As we continue to develop our business, we might sell our company or buy other companies or assets. In such transactions, customer information generally is one of the transferred business assets. Also, in the event that Call-Em-All, or substantially all of its assets are acquired, you consent to the transfer of your information as one of the transferred assets.

18. SERVICE FEES AND CHARGES

The basic account fees ("Service Fees") shall be provided at the rates set out in the Call-Em-All pricing plan at the time of subscription, plus applicable taxes, fees, and surcharges. Call-Em-All may modify subscription Service Fees at renewal periods.

19. SUBSCRIPTION BILLING

Service Fees for subscription users of the Call-Em-All Service will be automatically charged on the first day of each month to the credit or debit card on file for User.

If for any reason payment is not effected through User's credit or debit card and payment becomes past due, Call-Em-All will assess a late payment charge of 1.5% per month, or 18% annually (or the highest amount allowed by law, whichever is lower) on the amount due. The total amount of the late payment, and the late charge, shall be due and payable immediately. User is responsible for any fees, including attorney and collection fees that Call-Em-All may incur in its efforts to collect any Service Fees, surcharges and late payment charges owing from the User. Additionally, Call-Em-All reserves the right to immediately and without notice terminate the account of any User with a past due balance.

Call-Em-All reserves the right to change the billing process upon providing the Subscriber with 30 days notice in writing or via

email.

Unlimited Usage on Subscription Accounts: You agree and Call-Em-All retains the right, at its sole discretion, to determine whether or not User is abusing the unlimited usage privilege on a subscription account. If Call-Em-All determines that an account is abusing the unlimited usage privilege, Call-Em-All may restrict or terminate that account. As a guideline only, a user that creates broadcasts that result in more calls per day than the maximum number of recipients in their subscription plan will be considered in abuse of the unlimited usage privilege. Abuse may be addressed by contacting the group leader to warn of excessive usage. Call-Em-All reserves the right to charge an additional 9 cents (\$.09) per call for any excessive calls, as determined at the sole discretion of Call-Em-All.

20. FREE TRIALS

Call-Em-All may permit User to use the Call-Em-All Service on a free trial basis. During this time, User will not incur any charges or fees for use of the service. After the expiration of your free trial, you will have the option to purchase a Call-Em-All messaging package or subscription as described on the Call-Em-All web-site. Call-Em-All reserves the right to terminate the account of any free trial User at any time.

21. TERM AND TERMINATION

Call-Em-All Service subscriptions shall automatically renew on a monthly basis at the rate indicated on the pricing plans page of the Call-Em-All.com website. Users may discontinue their subscription at any time by logging in to the website and selecting "Cancel my Subscription", or by sending an email to AccountSupport@call-em-all.com. WE DO NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL-MONTH SUBSCRIPTION PERIODS. Users that have no past due balance and have paid for the current month will be able to complete broadcasts on their cancelled account until their paid subscription ends.

Call-Em-All per-call service plans will expire after one hundred eighty (180) days of inactivity or upon exhaustion of the messages. Inactivity is defined to mean that User has neither purchased an additional per-call plan, nor initiated a broadcast. Call-Em-All per-call service plans are non-refundable.

22. SERVICE PROVIDERS

The Call-Em-All Service may provide User with opportunities to be transferred or linked to third party providers ("Service Providers") of products, services, advertisements or Content that may be accessible through and operate with the Call-Em-All Service. Call-Em-All does not endorse and is not responsible or liable for any Content, data, advertising, products or services available or unavailable from, or through, such Service Providers. You further agree that should you use or rely on such Content, data, advertisement, goods or services on, available or unavailable from, or through any such Service Providers. Call-Em-All is not responsible or liable, indirectly or directly, for any damage or loss caused or alleged to be caused by or in connection with such use or reliance. Your dealings with, or participation in promotions of Service Providers, and any other terms, conditions, representations or warranties associated with such dealings, are between you and such Service Providers exclusively and do not involve Call-Em-All.

You agree that Call-Em-All is not responsible for the accessibility or unavailability of Service Providers or for your interaction and dealings with them.

23. LIABILITY DISCLAIMER

YOU AGREE THAT:

A. IF YOU USE THE CALL-EM-ALL SERVICE, YOU DO SO AT YOUR OWN AND SOLE RISK. THE CALL-EM-ALL SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. CALL-EM-ALL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

IN THE EVENT OF A CRITICAL EMERGENCY, REGULAR CALL-EM-ALL.COM MESSAGING SERVICES MAY TEMPORARILY BE PRE-EMPTED TO PROVIDE SERVICE TO CLIENTS WITH EMERGENCY-RELATED NEEDS.

B. CALL-EM-ALL DOES NOT WARRANT THAT (i) THE CALL-EM-ALL SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE CALL-EM-ALL SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE CALL-EM-ALL SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE CALL-EM-ALL SERVICE WILL MEET YOUR EXPECTATIONS, (v) ANY INFORMATION YOU PROVIDE OR CALL-EM-ALL COLLECTS WILL NOT BE DISCLOSED, OR (vi) ANY ERRORS IN ANY DATA OR SOFTWARE WILL BE CORRECTED. YOU ARE ESPECIALLY ADVISED NOT TO USE OR RELY ON THE CALL-EM-ALL SERVICE AND INFORMATION OR ANY OTHER PROGRAM, INFORMATION OR SERVICE WHATSOEVER RELATED THERETO FOR "CONTENT SENSITIVE" OR "MISSION CRITICAL" APPLICATIONS AND USE. "CONTENT SENSITIVE" SHALL MEAN ANY INFORMATION OR DATA YOU DO NOT WISH TO BE ACCESSIBLE TO OTHER USERS. "MISSION CRITICAL" APPLICATIONS AND USE SHALL MEAN APPLICATIONS AND USE THAT MAY RESULT IN DAMAGE.

C. IF YOU ACCESS OR TRANSMIT ANY CONTENT THROUGH THE USE OF THE CALL-EM-ALL SERVICE, YOU DO SO AT YOUR OWN DISCRETION AND YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE TO YOU IN CONNECTION WITH SUCH ACTIONS.

D. NO DATA, INFORMATION OR ADVICE OBTAINED BY YOU IN ORAL OR WRITTEN FORM FROM CALL-EM-ALL OR THROUGH OR FROM THE CALL-EM-ALL SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

24. LIMITATION OF LIABILITY

YOU EXPRESSLY AGREE THAT CALL-EM-ALL SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF CALL-EM-ALL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR INABILITY TO USE THE CALL-EM-ALL SERVICE; (ii) THE COST OF ANY SUBSTITUTE GOODS AND SERVICES PURCHASED TO REPLACE ANY GOODS OR SERVICES PURCHASED OR OBTAINED AS A RESULT OF ANY INFORMATION OBTAINED FROM OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE CALL-EM-ALL SERVICE; (iii) DISCLOSURE OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR INFORMATION OR MESSAGES; (iv) STATEMENTS OR CONDUCT OF ANY SERVICE

PROVIDERS OR OTHER THIRD PARTY ON THE CALL-EM-ALL SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE CALL-EM-ALL SERVICE.

25. INDEMNIFICATION

You agree to indemnify, defend and hold harmless Call-Em-All, its officers, directors, owners, employees, agents, other Service Providers, vendors or customers from and against all losses, liabilities, expenses, damages and costs, including reasonable attorneys' fees resulting from any violation of the User Agreement by you or any harm you may cause to anyone. You agree and we reserve the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

26. PROPRIETARY RIGHTS

You acknowledge and agree that the Call-Em-All Service and any necessary software used in connection with the Call-Em-All Service and Service Providers contain proprietary and confidential information that are protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in sponsor advertisements or information presented to you through the Call-Em-All Service or other users is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. You may not, and agree not to, modify, reformat, copy, display, distribute, transmit, publish, license, create derivative works from, transfer or sell any information, products or services obtained from the Call-Em-All Service, except as set forth herein. Call-Em-All, the Call-Em-All logo and other Call-Em-All logos, product and service names may be trademarks, service marks or other intellectual property of Call-Em-All (the "Call-Em-All Marks"). You agree not to display or use the Call-Em-All Marks in any manner without the prior, express written permission of Call-Em-All.

27. NOTICE

You agree that Call-Em-All may communicate any notices to you, including notices of changes to the User Agreement, through email, regular mail or by posting of those notices on the Call-Em-All.com web site or through the Call-Em-All Service.

28. ENTIRE AGREEMENT

The User Agreement governs your use of the Call-Em-All Service. This User Agreement, your pricing plan, and your payment agreement constitute the entire agreement between you and Call-Em-All. They supersede any prior agreements between you and Call-Em-All. Additional terms and conditions may apply when you use the services of Service Providers and others. These additional terms will not reduce, diminish, or eliminate any rights Call-Em-All possesses with respect to this User Agreement.

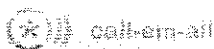
29. GOVERNING LAW AND ARBITRATION

The User Agreement and the relationship between you and Call-Em-All shall be governed by the laws of the State of Texas without regard to its conflict of law provisions. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Call-Em-All Service or to the terms of this User Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. You agree to submit any dispute with Call-Em-All exclusively to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The location of any arbitration shall be in the city of Frisco, Texas. You agree any arbitrator shall not have the authority to award punitive damages. You agree to be bound by any ruling in such arbitration proceeding and that such ruling shall be enforceable in any court of competent jurisdiction.

30. MISCELLANEOUS

Any failure by Call-Em-All to exercise any rights or enforce any of the terms of this User Agreement shall not constitute a waiver of such rights or terms. If any portion of the User Agreement is found by an arbitrator or a court of competent jurisdiction to be invalid, the arbitrator or court should nevertheless give effect to the parties' intentions expressed herein. All other provisions of the User Agreement remain in full force and effect.

Site Links	Automated Calling Service	Who's Using Call-Em-All	Company Information
Home	How It Works	Business	About Call-Em-All
Login	Features	Schools	Testimonials
User ID & PIN Help	Pricing Plans	Religious	News
Opt Out	Learn More	Sports	Blog
Privacy & Security	Sign Up	Non-Profit	FAQ
Responsible Use		Staffing	
Terms Of Use		Political	
Mobile Terms and Conditions		Restaurants and Retailers	
Site Map			






how it works pricing / get started learn more

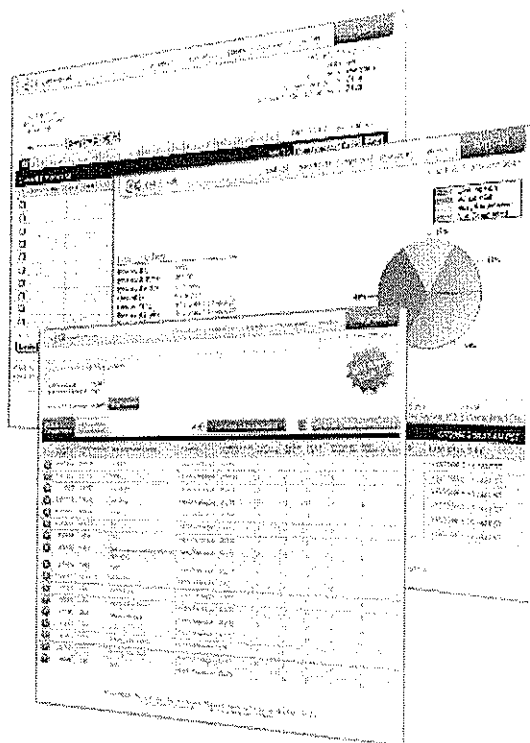
how call-em-all works

Call-Em-All's automated messaging service helps make life a little easier for organizations, businesses and groups by providing affordable access to powerful voice broadcasting technology and premium bulk sms text messaging. Automated calling and bulk text messaging is easy with Call-Em-All - you can be launching your own automated phone calls and bulk text messages in minutes! Setting up a Call-Em-All account can be done entirely online, and creating an automated phone call or text message for broadcast can be done in **3 simple steps**:

- 1 **Who?** Import a list of who you want to call or text. Text message recipients must first opt in to your text messages from their mobile phone. *(Visit our sms text messaging page for information.)*
- 2 **When?** Tell us when you want us to make your calls or text.
- 3 **What Message?** Upload an audio file, record a message on our toll free number, create a text message in your account or send your text message to our short code 292929.

here's what call-em-all does:

-  We call everyone on your automated phone call list at the time you designated.
 - * When a live person answers the call, we give them the option to hear the automated calling message again at no cost to you.
 - * When we get an answering machine, we leave a message.
 - * When we get a busy signal or no answer, we try several more times after waiting a few minutes.
-  We build REAL-TIME (up-to-the-second) reports on our website so you can monitor automated phone calls and text messages as they are happening. You can see the results of every message we send as we send them!
-  When your automated phone calls and text messages complete, Call-Em-All sends you an email with a summary of the results!



"How amazing! In less than 15 minutes they completed my 10,000 calls! That included the setup time too. Call-Em-All is fast and efficient, that's for sure!"

- Tim, Kankakee, IL

Site Links

[Home](#)
[Login](#)
[User ID & PIN Help](#)
[Opt Out](#)
[Privacy & Security](#)
[Responsible Use](#)
[Terms Of Use](#)
[Mobile Terms and Conditions](#)
[Site Map](#)

Automated Calling Service

[How It Works](#)
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Who's Using Call-Em-All

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[Non-Profit](#)
[Staffing](#)
[Political](#)
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Company Information

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[Blog](#)
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features

Below are some features that are available to all Call-Em-All accounts. For an overview of how our service works, please visit our "How It Works" page.

broadcast features

- Call thousands of numbers in minutes!
- Your number shows as the Caller ID
- Low and up front pricing
- Call anywhere in the continental US, Puerto Rico, Canada, and Hawaii without long distance charges
- Broadcasts can start seconds after your message is recorded or can be scheduled for a future date or time
- Record messages in your own voice via our 877 number
- Complete and accurate messages are left on answering machines
- Collect feedback with survey broadcasts
- Busy and no answers are automatically retried for free (up to 3 additional attempts)
- Easily create broadcasts by uploading a file
- No charge for callers electing to repeat their message
- Live answers can add themselves to our Do-Not-Call list
- Launch a broadcast via telephone or internet

website features

- 100% self service website allows you to quickly and efficiently create broadcasts
- Populate your calling lists by uploading a file (Excel, txt, csv)
- Easily manage your calling lists by creating as many subgroups as you like
- Real-time reporting and charts of all broadcasts
- Real-time survey results for survey broadcasts
- Create additional users for your account
- View reports broken out by user

need help?

If you have any questions, just give us a call at 877.226.3080 or email us at: info@call-em-all.com

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- [User ID & PIN Help](#)
- [Opt Out](#)
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Automated Calling Service

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- [Features](#)
- [Pricing Plans](#)
- [Learn More](#)
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Who's Using Call-Em-All

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- [Religious](#)
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- [Non-Profit](#)
- [Staffing](#)
- [Political](#)
- [Restaurants and Retailers](#)

Company Information

- [About Call-Em-All](#)
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Call-Em-All's Text Messaging for Restaurants and Retailers

Restaurants and Retailers are quickly discovering the power and simplicity of Call-Em-All's texting program. Within minutes, a mobile marketing campaign can be in full swing. Simply set up a keyword, then invite customers to join by sending an email invitation or creating simple in-store displays. Then, send discounts, promotions or last minute deals straight to the cell phones of your best customers. Scotty P's Hamburgers had 5% of his email list opt-in within 24 hours. His redemption rate for text promotions is 3 times better than email! [Read Scotty P's Case Study Here!](#)

Why Call-Em-All?

Simple. Professional. Affordable.

- * FREE custom keywords with plans as low as \$9. Pay as you go, no fees!
- * Contacts can join via our short code - 292929
- * Multiple phone carrier support, 98-99% coverage. [view all](#)
- * Premium SMS text messaging w/ Auto Reply
- * Create unlimited sub-groups and unlimited keywords
- * Opt-out and unsubscribe compliant
- * View & manage all text replies in your inbox - at no charge
- * Send text broadcasts online or directly from mobile phone

- Fast, simple & easy to use
- No hardware or software to buy
- 24/7 support & training

Consider Call-em-all for the following:

- SMS Mobile Marketing
- Mobile Couponing - Send coupons and promo codes directly to your customers' mobile phone
- Employee / field personnel notification
- Improve customer loyalty
- Send event notification and updates
- Broadcast last-minute announcements or promotions
- Use our custom API to integrate a mobile marketing system directly into your in-house application
- Utilize the message reply feature by running contests or polling your customers

For a demo, text **join demo** to **292929**.



[Read case study](#)

I use Call-Em-All to send last-minute specials to my customers. It takes less than 5 minutes to set up, and within hours I get a 12% redemption rate and over 1,600% return on my marketing dollar!

- Scott Pontikes, TX

Wanna try it for FREE?
Call 877.226.3080 for a Free Trial!

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EXHIBIT 6

From: Nelson Fraley [mailto:nfraley@fjr-law.com]

Sent: Tuesday, June 12, 2012 1:40 PM

To: Dave Soderland; Rob Williamson; Lustigman, Andrew B.; Brant Godwin; Nicole Brown; Shaffer, Scott A.

Cc: Brant Godwin

Subject: RE: Trial date, etc.

Forgive me for throwing some obvious facts out there. As I understand the case, FOFI has admitted to making calls, in particular to the Plaintiff. FOFI has admitted that CEA was merely a conduit for the calls, and therefore an agent of FOFI. Hasn't liability already been established against FOFI? Thus, the only matter to be determined at this point is damages.

I agree that we are down to a single day of testimony. I can agree to an earlier trial date. The current trial date of September 24, 2012, can't come soon enough for FOFI.

From: Dave Soderland [mailto:dsoderland@dunlapsoderland.com]

Sent: Tuesday, June 12, 2012 9:08 AM

To: Rob Williamson; Andrew Lustigman; Brant Godwin; Nelson Fraley; Nicole Brown; Shaffer, Scott A.

Cc: Brant Godwin

Subject: RE: Trial date, etc.

Rob: How about certifying the summary judgment order under 54(b). Dave

From: Rob Williamson [mailto:roblin@williamslaw.com]

Sent: Tuesday, June 12, 2012 7:26 AM

To: Andrew Lustigman; Brant Godwin; Dave Soderland; Nelson C. Fraley II; Nicole Brown; Shaffer, Scott A.

Subject: Trial date, etc.

We cannot appeal the SJ ruling as to Domino's until the case is over, and we should not delay further work on the case while the recon motion is pending, so perhaps we should consider proposing to the court, subject to possible reconsideration of the class cert denial, for a new case schedule with a trial date, etc. Seems like we are down to a single day of testimony? Please let me know.

Rob Williamson

17253 Agate Street NE

Bainbridge Island, WA 98110

Direct Line: 206-780-4457

Cell: 206-321-1917

EXHIBIT 7

**WILLIAMSON
& WILLIAMS**
L A W Y E E R S

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(206) 780-4447
(206) 780-5557 (FAX)
www.williamslaw.com

1708 BELLEVUE AVENUE
SEATTLE, WA 98104

KIM WILLIAMS*
(206) 780-4456
kim@williamslaw.com

ROB WILLIAMSON**
(206) 780-4457
rob@williamslaw.com

* ALSO ADMITTED IN OREGON
** ALSO ADMITTED IN CALIFORNIA

Please reply to the
Bainbridge Island Address

March 19, 2010

VIA EMAIL AND REGULAR MAIL

Carolyn Anderson
1126 132nd St Ct E
Tacoma, WA 98445
lasbry@mail2bryan.com

Re: Domino's Pizza autodialer telephone solicitation

Dear Ms. Anderson:

Our firm has filed a number of class action lawsuits in the State of Washington on behalf of classes of people who receive automatic dialing and announcing device (ADAD) solicitation calls from businesses; currently we have cases pending against Payless Shoe Source, Talbot's, Intuit, Sprint and Tween Brands, to name only a few. In connection with our work in this area, we obtained records of complaints submitted to the Washington Attorney General's Office regarding ADAD solicitation calls, including a copy of the complaint you filed with the Washington State Attorney General's Office concerning a sales call you received from Domino's Pizza on August 31, 2009.

Unfortunately, it appears that the Attorney General's Office was unable to assist you in connection with a claim for statutory damages against Domino's. Your Attorney General complaint indicates that Domino's did not respond to your request for a copy of WAC 408-120-253, and I am enclosing WAC 480-120-253 which I believe is the WAC you need. As you can see, this WAC addresses ADAD calls that are not made for commercial solicitation purposes, and it does not appear to apply to the call you received from Domino's.

We would like to discuss with you the possibility of filing a class action case on your behalf and on behalf of all other persons in Washington State and, potentially, around the United States who received ADAD solicitation calls from Domino's. Please give me a call or send me an email if you are interested in discussing the Domino's matter in more detail. There is no charge for a consultation, and, in the event we file a case, our firm advances all costs of suit.

I look forward to hearing from you.

Sincerely,

WILLIAMSON & WILLIAMS



Kim Williams

KW/vh
Enclosure