

HONORABLE RONALD B. LEIGHTON
Date of Hearing: December 23, 2011

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

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

No. C11-902RBL

DECLARATION OF ROB
WILLIAMSON IN SUPPORT OF
PLAINTIFF'S REPLY TO DEFENDANT
DOMINO'S PIZZA, INC. AND
DOMINO'S PIZZA, LLC'S RESPONSE
TO PLAINTIFF'S 56(d) MOTION

I, Rob Williamson, declare under penalty of perjury as follows:

1. I am one of the lawyers representing Plaintiff Carolyn Anderson in this case.
2. Attached hereto as Exhibit A is Plaintiff's FRCP 30(b)(6) deposition notice for Domino's Pizza Inc. and Domino's Pizza, LLC ("Domino's") served on December 8, 2011 scheduling the deposition for January 23, 2012 in Ann Arbor, Michigan.
3. Attached hereto as Exhibit B is Plaintiff's FRCP 30(b)(6) deposition notice for Four Our Families, Inc. ("FOFI") served on December 14, 2011, scheduling the deposition for January 5, 2012. Defendant Call-Em-All has also now scheduled a FRCP 30(b)(6) deposition for the same day.
4. Attached hereto as Exhibit C are Plaintiff's Fourth Requests for Production served on Domino's on December 8, 2011.

DECLARATION OF ROB WILLIAMSON IN SUPPORT
OF PLAINTIFF'S REPLY TO DEFENDANT DOMINO'S
PIZZA, INC. AND DOMINO'S PIZZA, LLC'S RESPONSE
TO PLAINTIFF'S 56(d) MOTION - 1
(11-902 RBL)

**WILLIAMSON
& WILLIAMS** 17253 AGATE STREET NE
BAJNRIDGE ISLAND, WA 98110
(206) 780-4447
(206) 780-5557 (FAX)
www.williamslaw.com

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4 5. Attached hereto as Exhibit D are Plaintiff's Fifth Requests for Production served
5 on Domino's on December 12, 2011.

6 6. Attached hereto as Exhibit E are Plaintiff's Second Interrogatories served on
7 FOFI served on December 9, 2011 (inadvertently labeled "First").
8

9 7. Attached hereto as Exhibit F is Plaintiff's Request to Defendants Domino's
10 Pizza, Inc. and Domino's Pizza, LLC for Electronically Stored Information served on
11 December 8, 2011.

12 8. Attached hereto as Exhibit G is Domino's responses to questions regarding
13 Electronically Stored Discovery.

14 9. Attached hereto as Exhibit H is page 8 of the deposition of Scott Senne
15 regarding the PULSE program. Obviously Mr. Senne did not indicate what the software
16 system was about, did not indicate that its use was required by Domino's franchisees, nor that
17 the system allowed for the collection telephone numbers to be used for marketing
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19 10. Attached hereto as Exhibit I is page 72 from the deposition of Brad Herrmann.

20 11. I first began to try to schedule depositions of Domino's and Defendant Call-Em-
21 All, Inc. in mid-June, 2011 for Domino's and in September 2011 once Call-Em-All had
22 responded to written discovery. I did not anticipate these would not be scheduled until October
23 29 and December 1, 2011, respectively.

24 12. In addition, the October and early December depositions gave rise to the need
25 for Plaintiff to promulgate additional written discovery as set forth above. Plaintiff's counsel
26 did not know what additional discovery would be required based on the deposition testimony

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4 until the depositions actually occurred, and then Plaintiff promptly promulgated that discovery

5 13. Discovery related to Domino's' interactions with RPM on the same issues as
6 those posed in the case are relevant both to class certification and liability

7 14. Discovery to date has revealed that every time a pizza is sold by any of its
8 franchisees, Domino's makes more money. Domino's facilitated and encouraged making the
9 "robo-calls" that are the subject of this litigation, in part, because such marketing generated
10 additional revenue. It specifically invited Defendant Call-Em-All ("Call-Em-All") to attend a
11 rally where its automated voice broadcasting services could be promoted to franchisees. It
12 requires franchisees to use the software system entitled PULSE which collects data, including
13 the telephone numbers of all customers of Domino's, and provides a mechanism by which those
14 telephone numbers can be downloaded by a franchisee for various purposes, including the
15 robo-calling in this case.
16

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18 15. It is believed that at the time Plaintiff received the autodialer solicitation calls at
19 issue in this case, Domino's was fully aware that franchisees were robo-calling, and, other than
20 to issue a warning to franchisees to be sure to follow state and federal laws, did nothing to
21 prevent this form of marketing, again presumably because it increased its revenue as the
22 franchisees' revenue increased. Domino's received possibly thousands of complaints on its
23 website from customers around the country complaining about robo-calling, to which,
24 apparently, its sole response was to send the complaints on to the franchisees. Domino's
25 initiated a Telephone Opt In program to permit customers who log on to the Domino's website
26 to "opt in" to receive various communications from Domino's (as opposed to the individual

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4 franchisees), including "robo-calls." This particular functionality of its website was added
5 specifically at the request of Domino's largest franchisee, RPM, Incorporated because its
6 relationship with RPM is important to revenue generation for Domino's.

7 16. Plaintiff filed her Motion for Certification of Class yesterday on December 22,
8 2011.

9
10 I declare under penalty of perjury of the laws of the State of Washington and the United
11 States that the foregoing statements are true and correct.

12 DATED: December 23, 2011 on Bainbridge Island, WA.

13
14 /s/Rob Williamson
15 Rob Williamson, WSBA #11387
16 17253 Agate Street NE
17 Bainbridge Island, WA 98110
18 Telephone: (206) 780-4447
19 Fax: (206) 780-5557
20 Email: roblin@williamslaw.com
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EXHIBIT A

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAROLYN ANDERSON,

Plaintiff,

vs.

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

Defendants.

No. C11-902RBL

NOTICE OF DEPOSITON PURSUANT
TO FRCP 30(b)(6) TO
DOMINO'S PIZZA, INC. AND
DOMINO'S PIZZA, LLC

TO: DOMINO'S PIZZA, INC. AND DOMINO'S PIZZA, LLC, and its Attorneys.

Notice is given pursuant to FRCP 30(b)(6) that the deposition of DOMINO'S PIZZA,
INC. AND DOMINO'S PIZZA, LLC will be taken at Huron Reporting & Video
Conferencing Center, 623 W Huron Street, Ann Arbor, MI, 48103 on January 23, 2012 at
9:00 a.m. regarding the matters set forth below.

YOU ARE HEREBY COMMANDED to designate one or more officer, director or
managing agent, or other person to testify on your behalf concerning the following matters:

NOTICE OF DEPOSITON PURSUANT TO FRCP 30(b)(6) TO
DOMINO'S PIZZA, INC. AND DOMINO'S PIZZA, LLC - 1
(No. C11-902RBL)

**WILLIAMSON
& WILLIAMS** | 17253 AGATE STREET
EDMUNDS, WA 98110
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1. All communications with FOUR OUR FAMILIES, INC. regarding marketing in 2008 and 2009, including but not limited to the calls made by using the CALL-EM-ALL platform.

2. All policies regarding marketing and the role of DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding marketing by FOUR OUR FAMILIES in 2008 and 2009.

3. The PULSE software or program.

4. All communications or policies from or DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding marketing with voice broadcasting or pre-recorded telephone calls using automated dialing and announcing devices.

5. How franchisees can save telephone numbers in databases or otherwise, including the identification of the software or computer program used.

6. The telephone opt-in program or functionality (See Deposition of Chris Roeser, page 38) including but not limited to its creation the reason for its creation, its implementation, how is actually functions, when it began running, its current status, the names of all franchisees who used the functionality, all communications with RPM or any other franchisee about the functionality, all communications with RPM or any other franchisee about the decision to delete the functionality from the website.

Dated: December 7, 2011

WILLIAMSON & WILLIAMS

/s/Rob Williamson
Kim Williams, WSBA No. 9077
Rob Williamson, WSBA No. 11387
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I, Lisa Hanlon, certify under penalty of perjury under the laws of the State of Washington that on December 8, 2011, I caused the foregoing document to be served via email on the persons listed below:

David Soderland
DUNLAP & SODERLAND, P.S.
901 Fifth Avenue, Suite 3003
Seattle, WA 98164
dsoderland@dunlapsoderland.com

Nelson Fraley
Nicole Brown
FAUBION, REEDER, FRALEY & COOK, PS
5920 – 100th Street SW, #25
Lakewood, WA 98499
nfraley@fjr-law.com
nbrown@fjr-law.com

Andrew Lustigman
Scott Shaffer
OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP
Park Avenue Tower
65 East 55th Street
New York, NY 10022
ALustigman@olshanlaw.com
SShaffer@olshanlaw.com

Kelly Corr (local counsel)
Christina Dimock
CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP
1001 4th Avenue, Suite 3900
Seattle, WA 98154
kcorr@correronin.com
cdimock@correronin.com

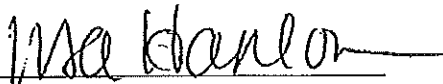
NOTICE OF DEPOSITON PURSUANT TO FRCP 30(b)(6) TO
DOMINO'S PIZZA, INC. AND DOMINO'S PIZZA, LLC - 3
(No. C11-902RBL)

WILLIAMSON & WILLIAMS
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Dated: December 8, 2011



Lisa Hanlon

NOTICE OF DEPOSITON PURSUANT TO FRCP 30(b)(6) TO
DOMINO'S PIZZA, INC. AND DOMINO'S PIZZA, LLC - 4
(No. C11-902RBL)

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EXHIBIT B

HONORABLE RONALD B. LEIGHTON

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAROLYN ANDERSON,

Plaintiff,

vs.

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

Defendants.

No. C11-902 RBL

AMENDED NOTICE OF DEPOSITION
PURSUANT TO FRCP 30(b)(6) TO
FOUR OUR FAMILIES, INC.

TO: FOUR OUR FAMILIES, INC. and its Attorneys.

Notice is given pursuant to FRCP 30(b)(6) that the deposition of FOUR OUR
FAMILIES, INC. will be taken at the law offices of Faubion, Reeder, Fraley & Cook P.S.,
5920 – 100th Street SW, #25, Lakewood, WA, 98499 on January 5, 2012 at 10:00 a.m.
regarding the matters set forth below.

YOU ARE HEREBY COMMANDED to designate one or more officer, director or
managing agent, or other person to testify on your behalf concerning the following matters:

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1. All communications with DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding your marketing in 2008 and 2009, including but not limited to the calls made by you using the CALL-EM-ALL platform.
2. All policies regarding your marketing and the role of DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding your marketing in 2008 and 2009.
3. The PULSE software or program.
4. All communications or policies from or to DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding marketing with voice broadcasting or pre-recorded telephone calls using automated dialing and announcing devices.
5. How the telephone numbers were placed in the databases for your stores, including identification of the software or computer program used;
6. The scripts of the calls that are the subject of this litigation.
7. The Telephone Opt-In Program.

Dated: December 14, 2011

WILLIAMSON & WILLIAMS

/s/Rob Williamson
Kim Williams, WSBA No. 9077
Rob Williamson, WSBA No. 11387

Attorneys for Plaintiff



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CERTIFICATE OF SERVICE

I, Lisa Hanlon, certify under penalty of perjury under the laws of the State of Washington that on December 14, 2011, I caused the foregoing document to be served via email on the persons listed below:


David Soderland & Brant Godwin
DUNLAP & SODERLAND, P.S.
901 Fifth Avenue, Suite 3003
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dsoderland@dunlapsoderland.com
bgodwin@dunlapsoderland.com
Attorneys for Domino's

Nelson Fraley & Nicole Brown
FAUBION, REEDER, FRALEY & COOK, PS
5920 – 100th Street SW, #25
Lakewood, WA 98499
nfraley@fjr-law.com
nbrown@fjr-law.com
Attorneys for Four Our Families

Andrew Lustigman & Scott Shaffer
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ROSENZWEIG & WOLOSKY LLP
Park Avenue Tower
65 East 55th Street
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ALustigman@olshanlaw.com
SShaffer@olshanlaw.com
Attorneys for Call-Em-All

Kelly Corr & Christina Dimock (local counsel)
CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP
1001 4th Avenue, Suite 3900
Seattle, WA 98154
kcorr@corrchronin.com
cdimock@corrchronin.com
Attorneys for Call-Em-All

Dated: December 14, 2011



Lisa Hanlon

EXHIBIT C

HONORABLE RONALD B. LEIGHTON

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

CAROLYN ANDERSON,

Plaintiff,

vs.

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

Defendants.

No. C11-902 RBL

**PLAINTIFF'S FOURTH REQUESTS
FOR PRODUCTION TO
DEFENDANTS DOMINO'S PIZZA,
INC. and DOMINO'S PIZZA, LLC**

TO: DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC ("DOMINO'S"), Defendants

Please respond to these Requests for Production propounded herein pursuant to the Civil Rules for Superior Court. It is requested that you produce the items and materials requested herein for inspection and copying at the Law Offices of Williamson and Williams on the 30th calendar day after service, at 10:00 a.m. This request may be satisfied by providing copies of all such items to the undersigned prior to that date.

DATED: This 8th day of December, 2011.

WILLIAMSON & WILLIAMS

/s/Rob Williamson

Kim Williams, WSBA #9077

Rob Williamson, WSBA #11387

Attorneys for Plaintiff

PLAINTIFF'S FOURTH REQUESTS FOR PRODUCTION TO
DEFENDANTS DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC- 1
(No. C11-902 RBL)

**WILLIAMSON
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1) "Document" as used herein shall refer to all writings of every kind pertaining to the subject-matter of this litigation including, but not limited to, the original or any legible copy of all records, letters, correspondence, appointment books, diaries, files, notes, statements, memoranda or minutes of meetings, conferences and telephone calls, receipts, written reports or opinions of investigators or experts, status reports, drawings, press releases, charts, photographs, negatives, brochures, lists, messages, email messages, intranet messages, citizen complaints, schedules, manuals, technical notes or standards, expense accounts, financial statements or audit reports, tickets, infractions, dockets, judgments, collections actions, court files, however produced or reproduced or archived or stored, within your possession or subject to your control, of which you have knowledge or to which you now have or previously had access, including all information in electronic format.

2) "Identity of Document." The term "identify," when used in reference to a document, means to state the date of preparation of the document, its author, the sender, the recipient (if any), the nature of the document (e.g., letter, memorandum, tape) and other means of identification sufficient to identify the document for purposes of a request for production, and to further state its present location and custodian. If any such document was, but no longer is, in your possession or custody or subject to your control, describe what disposition was made of it, and give the name, address and telephone number of the person presently having possession, custody or control of the document.

3) "Identity of Individuals and/or Entities." Unless otherwise indicated, where the name or identity of an individual person or entity is requested, or where the term "identify" is used in reference to an individual person or entity, please state that person's full name, title, business address and telephone number, email address, occupation, and employer, and state the



1 entity's full name, address telephone number and web address. Unless it otherwise appears
2 from the context, a request for the identity of a person relates to all persons in such
3 classification or category, and the request for the identity of an entity relates to all affiliated
4 entities.

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6 4) "Subscriber" means the person or party who subscribes to a telephone number
7 through a telephone service provider (i.e. a person or party who "owns" a given telephone
8 number).

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10 5) "The calls" or "the call" or "a call" means those pre-recorded calls made to
11 recipients (potential class members) which are the subject of this lawsuit at any time from four
12 years prior to the filing of this suit to the present, including all calls made by a predictive dialer,
13 as well as other ADAD equipment.

14 **RELEVANT TIME PERIOD.** Unless otherwise indicated, the relevant time period
15 for the purposes of this discovery request is four years from the date of filing the complaint
16 herein through the date of your responses.

17 **REQUESTS FOR PRODUCTION**

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19 **REQUEST FOR PRODUCTION NO. 27:** Produce all e-mails or letters to RPM from
20 you or to RPM from you regarding:

- 21 a. Pulse
22 b. The Telephone Opt In Program,
23 c. The litigation against RPM
24 d. This litigation

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26 **RESPONSE:**

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REQUEST FOR PRODUCTION NO. 28: Produce all documents related to the PULSE program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: Produce all documents related the telephone opt in program.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: Produce all documents which in any way address automated telephone marketing, sometimes called voice broadcasting, including documents expressing any reservations or negative positions you had regarding such calls, as well as documents discussing such marketing, encouraging it, explaining it, discouraging it. In particular but without limitation, produce the document or documents referred to by Mr. Roeser in his deposition on page 25.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Produce documents regarding the use of any franchisee of the services of Call-Em-All, or their use of voice broadcasting with any other vendor.

RESPONSE:



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REQUEST FOR PRODUCTION NO. 32: Produce all discovery and responses thereto, including all depositions, from Spillman v. Domino's Pizza, LLC., et al.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Produce all documents related to request by any franchisee for permission to advertise by voice broadcasting.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34: Produce all documents related to Rick Rezler, including but not limited to news releases.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: Produce all news releases that included any reference of any kind to voice broadcasting.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: Produce all documents related to franchisees who were using automated dialing at the time of Mr. Rezler's news article (Exhibit 2 of the complaint)

RESPONSE:

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REQUEST FOR PRODUCTION NO. 37: Produce all documents concerning communications with FOUR OUR FAMILIES, INC. regarding marketing in 2008 and 2009, including but not limited to the calls made by using the CALL-EM-ALL platform.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38: Produce all documents related to any other of your employees involved in the production of Exhibit 2.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: Produce all documents related to any complaints by any customers of any franchisee regarding automated calls.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40: Produce all documents related to any voice broadcaster who attended any Rally.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41: Produce all documents related to the telephone opt in program or functionality, including documents which show which franchisees

1 utilized the functionality, communications to or from franchisees regarding the functionality
2 including any documents like those described by Mr. Roeser at page 45 of his deposition.

3 **RESPONSE:**

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7 **REQUEST FOR PRODUCTION NO. 42:** Produce all policies regarding marketing
8 and the role of DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC regarding marketing by
9 FOUR OUR FAMILIES in 2008 and 2009.

10 **RESPONSE:**

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14 **REQUEST FOR PRODUCTION NO. 43:** To the extent not earlier produce, produce
15 all communications or policies from or DOMINO'S PIZZA, INC. or DOMINO'S PIZZA, LLC
16 regarding marketing with voice broadcasting or pre-recorded telephone calls using automated
17 dialing and announcing devices.

18 **RESPONSE:**

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22 **REQUEST FOR PRODUCTION NO. 44:** Produce all documents relating to how
23 franchisees can save telephone numbers in databases or otherwise, including the identification
24 of the software or computer program used.

25 **RESPONSE:**

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ATTORNEY'S CR 26 CERTIFICATION

The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that he or she has read each 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 Civil Rules 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 _____, this ____ day of _____, 2011.

Attorney for Defendants Domino's Pizza, Inc. and
Domino's Pizza, LLC



VERIFICATION

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I declare under penalty of perjury under the laws of the State of Washington that I am
the _____ of _____, and am authorized to make the foregoing
responses. I have read the foregoing responses to Plaintiff's Fourth Requests for Production of
Documents to Defendants Domino's Pizza, Inc. and Domino's Pizza, LLC, know the contents
thereof, and believe them to be true and correct.

Dated: _____ at _____, 2011.

Title



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CERTIFICATE OF SERVICE

I, Lisa Hanlon, the undersigned, hereby certify and declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct:

1. I am over the age of 18 years and not a party to the within cause.
2. I am employed by the law firm of Williamson and Williams. My business and mailing addresses are both 17253 Agate Street NE, Bainbridge Island, WA 98110.
3. On the 8th day of December, 2011, I served via EMAIL a copy of the attached PLAINTIFF'S FOURTH REQUESTS FOR PRODUCTION TO DEFENDANTS DOMINO'S PIZZA, INC. and Domino's PIZZA, LLC on the following individuals:

David Soderland
dsoderland@dunlapsoderland.com

Nelson Fraley
nfracley@fjr-law.com

Andrew Lustigman
ALustigman@olshanlaw.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Execute this 8th day of December, 2011, at Bainbridge Island, Washington.



Lisa Hanlon

EXHIBIT D

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

CAROLYN ANDERSON,

Plaintiff,

vs.

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

Defendants.

No. C11-902 RBL

**PLAINTIFF'S FIFTH REQUESTS
FOR PRODUCTION TO
DEFENDANTS DOMINO'S PIZZA,
INC. and DOMINO'S PIZZA, LLC**

TO: DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC ("DOMINO'S"), Defendants

Please respond to these Requests for Production propounded herein pursuant to the Civil Rules for Superior Court. It is requested that you produce the items and materials requested herein for inspection and copying at the Law Offices of Williamson and Williams on the 30th calendar day after service, at 10:00 a.m. This request may be satisfied by providing copies of all such items to the undersigned prior to that date.

DATED: December 12, 2011.

WILLIAMSON & WILLIAMS

/s/Rob Williamson
Kim Williams, WSBA #9077
Rob Williamson, WSBA #11387
Attorneys for Plaintiff

PLAINTIFF'S FIFTH REQUESTS FOR PRODUCTION TO
DEFENDANTS DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC- 1
(No. C11-902 RBL)

**WILLIAMSON
& WILLIAMS** | 17253 AGATE STREET NE
BAINBRIDGE ISLAND, WA 98110
(206) 789-4447
(206) 789-5557 (FAX)
www.williamson.com



1 All definitions set out in Plaintiff's First, Second and Third Requests for Production are
2 incorporated herein by reference.

3 **REQUEST FOR PRODUCTION NO. 45:** Produce all documents of any type,
4 including but not limited to electronically stored documents, relating to the discovery of
5 electronically stored information produced by you to any party or the Court in *Spillman v.*
6 *Domino's Pizza, LLC* including but not limited to (1) the identity of custodians, (2) search
7 terms, (3) descriptions of the primary systems you use to store documents and information (i.e.
8 email, word, word perfect or other word processing, excel, data bases, spreadsheets (4)
9 Preservation issues including identification of preservation policies, key players or custodians
10 designated for litigation and (5) the names of all your employees with knowledge of these
11 issues.
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14 **RESPONSE:**
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ATTORNEY'S CR 26 CERTIFICATION

The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that he or she has read each 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 Civil Rules 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 _____, this ____ day of _____, 2011.

Attorney for Defendants Domino's Pizza, Inc. and
Domino's Pizza, LLC

VERIFICATION

1
2 I declare under penalty of perjury under the laws of the State of Washington that I am
3 the _____ of _____, and am authorized to make the foregoing
4 responses. I have read the foregoing responses to Plaintiff's Fifth Requests for Production of
5 Documents to Defendants Domino's Pizza, Inc. and Domino's Pizza, LLC, know the contents
6 thereof, and believe them to be true and correct.
7

8
9 Dated: _____ at _____, 2011.

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11 Title
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1 CERTIFICATE OF SERVICE

2 I, Lisa Hanlon, the undersigned, hereby certify and declare under penalty of
3 perjury under the laws of the State of Washington that the following statements are true and
4 correct:
5

- 6 1. I am over the age of 18 years and not a party to the within cause.
7
8 2. I am employed by the law firm of Williamson and Williams. My
9 business and mailing addresses are both 17253 Agate Street NE, Bainbridge Island, WA 98110.
10
11 3. On the 12th day of December, 2011, I served via EMAIL a copy of the
12 attached PLAINTIFF'S FIFTH REQUESTS FOR PRODUCTION TO DEFENDANTS
13 DOMINO'S PIZZA, INC. and Domino's PIZZA, LLC on the following individuals:

14 David Soderland
15 dsoderland@dunlapsoderland.com

16 Nelson Fraley
17 nfraley@fjr-law.com

18 Andrew Lustigman
19 ALustigman@olshanlaw.com

20 I certify under penalty of perjury under the laws of the state of Washington that
21 the foregoing is true and correct.

22 Execute this 12th day of December, 2011, at Bainbridge Island, Washington.

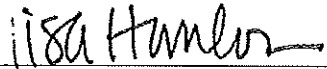
23 
24 Lisa Hanlon

EXHIBIT E

HONORABLE RONALD B. LEIGHTON

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

CAROLYN ANDERSON,

Plaintiff, No. C11-902RBL

vs.

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

Defendants.

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

TO: FOUR OUR FAMILIES, INC.,

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

DATED: This 9th day of December, 2011.

WILLIAMSON & WILLIAMS

/s/ Kim Williams
Kim Williams, WSBA #9077
Rob Williamson, WSBA #11387
Attorneys for Plaintiff

1 1) "Document" as used herein shall refer to all writings of every kind pertaining to
2 the subject-matter of this litigation including, but not limited to, the original or any legible
3 copy of all records, letters, correspondence, appointment books, diaries, files, notes,
4 statements, memoranda or minutes of meetings, conferences and telephone calls, receipts,
5 written reports or opinions of investigators or experts, status reports, drawings, press releases,
6 charts, photographs, negatives, brochures, lists, messages, email messages, intranet messages,
7 citizen complaints, schedules, manuals, technical notes or standards, expense accounts,
8 financial statements or audit reports, tickets, infractions, dockets, judgments, collections
9 actions, court files, however produced or reproduced or archived or stored, within your
10 possession or subject to your control, of which you have knowledge or to which you now
11 have or previously had access, including all information in electronic format.
12

13
14 2) "Identity of Document." The term "identify," when used in reference to a
15 document, means to state the date of preparation of the document, its author, the sender, the
16 recipient (if any), the nature of the document (e.g., letter, memorandum, tape) and other
17 means of identification sufficient to identify the document for purposes of a request for
18 production, and to further state its present location and custodian. If any such document was,
19 but no longer is, in your possession or custody or subject to your control, describe what
20 disposition was made of it, and give the name, address and telephone number of the person
21 presently having possession, custody or control of the document.
22

23 3) "Identity of Individuals and/or Entities." Unless otherwise indicated, where the
24 name or identity of an individual person or entity is requested, or where the term "identify" is
25 used in reference to an individual person or entity, please state that person's full name, title,
26

1 business address and telephone number, email address, occupation, and employer, and state
2 the entity's full name, address telephone number and web address. Unless it otherwise
3 appears from the context, a request for the identity of a person relates to all persons in such
4 classification or category, and the request for the identity of an entity relates to all affiliated
5 entities.
6

7 4) "Subscriber" means the person or party who subscribes to a telephone number
8 through a telephone service provider (i.e. a person or party who "owns" a given telephone
9 number).
10

11 5) "The calls" or "the call" or "a call" means those pre-recorded calls made to
12 recipients (potential class members) which are the subject of this lawsuit at any time from
13 four years prior to the filing of this suit to the present, including all calls made by a predictive
14 dialer, as well as other ADAD equipment.
15

16 **RELEVANT TIME PERIOD.** Unless otherwise indicated, the relevant time period
17 for the purposes of this discovery request is four years from the date of filing the complaint
18 herein through the date of your responses.
19

20 INTERROGATORIES

21 INTERROGATORY NO. 24: Describe how you developed the databases of
22 customer telephone numbers that were then used for the calls at issue in this case,
23

24 ANSWER:
25

26 INTERROGATORY NO. 25: Describe the PULSE program and your use of it.
27

ANSWER:

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REQUESTS FOR PRODUCTION

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

RESPONSE:

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ATTORNEY'S CR 26 CERTIFICATION

The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that he or she has read each 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 Civil Rules 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 _____, this ____ day of _____, 2010.

Attorney for Defendants

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VERIFICATION

I declare under penalty of perjury under the laws of the State of Washington that I am the _____ of _____, and am authorized to make the foregoing responses. I have read the foregoing responses to Plaintiff's First Interrogatories and Requests for Production of Documents to Defendants, know the contents thereof, and believe them to be true and correct.

Dated: _____ at _____, _____.

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CERTIFICATE OF SERVICE

I, Victoria Harrison, the undersigned, hereby certify and declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct:

1. I am over the age of 18 years and not a party to the within cause.
2. I am employed by the law firm of Williamson and Williams. My business and mailing addresses are both 187 Parfitt Way SW, #250, Bainbridge Island, WA 98110.
3. On the 9th day of December, 2011, I served via U.S. Mail a copy of the attached PLAINTIFF'S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS on the individuals at the following addresses and by email/PDF:

David Soderland & Brant Godwin
DUNLAP & SODERLAND, P.S.
901 Fifth Avenue, Suite 3003
Seattle, WA 98164
dsoderland@dunlapsoderland.com
bgodwin@dunlapsoderland.com
Attorneys for Domino's

Nelson Fraley & Nicole Brown
FAUBION, REEDER, FRALEY & COOK, PS
5920 – 100th Street SW, #25
Lakewood, WA 98499
nfraley@fjr-law.com
nbrown@fjr-law.com
Attorneys for Four Our Families

Andrew Lustigman & Scott Shaffer
OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP
Park Avenue Tower
65 East 55th Street
New York, NY 10022
ALustigman@olshanlaw.com

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SShafter@olshanlaw.com
Attorneys for Call-Em-All

Kelly Corr & Christina Dimock (local counsel)
CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP
1001 4th Avenue, Suite 3900
Seattle, WA 98154
kcorr@correronin.com
cdimock@correronin.com
Attorneys for Call-Em-All

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Executed this 9th day of December, 2011, at Bainbridge Island, Washington.



Victoria Harrison

EXHIBIT F

HONORABLE RONALD B. LEIGHTON

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

CAROLYN ANDERSON,

Plaintiff,

vs.

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

Defendants.

No. C11-902RBL

**PLAINTIFF'S REQUEST TO
DEFENDANTS DOMINO'S PIZZA,
INC. and DOMINO'S PIZZA, LLC
FOR ELECTRONICALLY STORED
INFORMATION**

TO: DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC ("DOMINO'S"), Defendants

Please take notice that with respect to all discovery that has heretofore been submitted or is submitted hereafter, plaintiff seeks information and documents that are electronically stored. ("ESI") Defendants are requested to supplement their responses under FRCP 26(e) and withdraw their objection that they were not required to produce ESI documents or information when this case was pending in state court. Plaintiff gives notice, further, that her counsel are willing to confer with Defendants with respect to the listed custodians and search terms set forth herein. Plaintiff requests that the hard drives, emails or other electronic storage of information or documents of the following custodians be searched for responsive materials:

PLAINTIFF'S REQUEST TO DEFENDANTS DOMINO'S PIZZA, INC.
and DOMINO'S PIZZA, LLC FOR ELECTRONICALLY STORED
INFORMATION - 1
(No. C11-902RBL)

**WILLIAMSON
& WILLIAMS** | 17253 AGATE STREET NE
RAINS RIDGE ISLAND, WA 98110
(206) 780-4447
(206) 780-5557 (FAX)
WWW.WILLIAMSON.COM



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- Robert Weisberg
- Chris Roeser
- Joanne Owings
- Randy Stieg
- Steve Atkinboro
- Natalie Hayden
- Andy Wetzel
- Russell Weiner
- Rick Rezler
- Lori Bohlen
- Field Marketing Teams¹
- Customer Care Team, or Unit or Center²

Plaintiff further requests that Defendants utilize the following search terms in connection with responding to the discovery, both in regard to searches of custodian records and in regard to complying with their discovery obligations in general:

- adad
- "auto* call"
- "auto* dial"
- autodial
- "automat* calls"
- brad herrmann
- call em all
- call-em-all
- communica*
- complain*
- four our families
- michael brown
- pat reimers
- predict* dial*
- Pre-recorded Calls
- Prerecorded Calls
- Pre-recorded message*
- Prerecorded message*
- PULSE

¹ Defendants have not heretofore identified any persons connected with Field Marketing Teams, so this request is intended to include all management or supervisor employees on the Teams
² Likewise, defendants have not heretofore identified any persons on the Customer Care Team, Unit or Center, so this request is intended to include all management or supervisor employees of said Team, Unit or Center.



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Rick Rezler
RPM
"robo* call"
robocall
robo-call
tepa
telemark*
"Telephone Consumer Protection Act"
teleph*
voice broadcasting
Fast Facts

DATED: This 8th day of December, 2011.

WILLIAMSON & WILLIAMS

/s/ Rob Williamson
Rob Williamson, WSBA #11387
Kim Williams, WSBA #9077
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I, Lisa Hanlon, the undersigned, hereby certify and declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct:

1. I am over the age of 18 years and not a party to the within cause.

2. I am employed by the law firm of Williamson and Williams. My business and mailing addresses are both 17253 Agate Street NE, Bainbridge Island, WA 98110.

3. On the 8th day of December, 2011, I served via EMAIL a copy of the attached PLAINTIFF'S REQUEST TO DEFENDANTS DOMINO'S PIZZA, INC. and DOMINO'S PIZZA, LLC FOR ELECTRONICALLY STORED INFORMATION on the following individuals:

David Soderland
dsoderland@dunlapsoderland.com

Nelson Fraley
nfraley@fjr-law.com

Andrew Lustigman
ALustigman@olshanlaw.com

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Executed this 8th day of December, 2011, at Bainbridge Island, Washington.


Lisa Hanlon

EXHIBIT G

1. How does Domino's store electronic data and where?
 - Electronic data is stored on various servers at Domino's headquarters in Ann Arbor, Michigan.
2. What are Domino's retention and destruction policies for electronic data?
 - Electronic data is typically stored for 18 months before it is purged.
3. What steps are taken to preserve electronic data in general?
 - Electronic data is typically stored for 18 months before it is purged.
4. What steps were taken to preserve potentially responsive or relevant electronic data to this case?
 - Domino's checked with its employees who might potentially have responsive data and verified that none of these employees had any such data.
5. The names of key players for this litigation. The names of those people who may have responsive electronic data. What steps were taken to preserve these individual's electronic data?
 - Joe Devereux and Scott Roesser. These individuals already had litigation holds placed on them due to another case.
6. In what form is the electronic data stored?
 - Information is stored in its native form.

EXHIBIT H

- 1 A. There are a couple of things. One is they had to have come
2 before. So if they are an existing vendor from a prior show,
3 they're on the mailing list for the following show.
4 Q. Okay.
5 A. Another one is if our Domino's Franchisee Association works
6 with a specific vendor and asks us to invite them.
7 Another one would be if we are asked by franchisees
8 or our field people or our Home Office people, if they're
9 working with so-and-so, would we invite them.
10 Q. Okay. And if somebody has been, is invited because they have
11 been there before, then presumably they had jumped through
12 those other hoops earlier?
13 A. Exactly. Exactly.
14 Q. All right. So either the Association might ask or recommend
15 someone; correct?
16 A. Correct.
17 Q. Or a franchisee or Home Office?
18 A. Correct.
19 Q. Or field?
20 A. Correct.
21 Q. All right. What if a vendor just out of the blue, without
22 these introductions, contacts Domino's and says, "I'd like to
23 be there", can they be invited then?
24 A. They would contact us. We would request information on them
25 to find out what kind of company they are.

- 1 Q. Right.
2 A. And if they are presently working with any Domino's stores or
3 franchisees, if they are not in direct competition with
4 Equipment & Supply, the merchandise we sell and the things we
5 offer and anything that's proprietary to Domino's Pizza --
6 Q. Right.
7 A. -- then we would be glad to invite them.
8 Q. Okay. Before 2009, were you aware of any vendor that provided
9 automatic dialing services to franchisees and had appeared at
10 an expo?
11 A. I am not.
12 Q. Okay. Since 2009, has there been any such vendor?
13 A. I don't know. I don't recall. I'm not -- there have been so
14 many vendors, I'm not sure.
15 Q. I understand. And in 2009, is it true that there was a vendor
16 there called Call-Em-All?
17 A. Yes.
18 Q. Do you know how it is that Call-Em-All was invited?
19 A. I do not remember.
20 Q. Are you able to -- would you be able to determine that by
21 looking at records or consulting with others?
22 A. Most of the records, unfortunately, are purged for the next
23 show, so I mean we would have record of who attended and who
24 paid for the registration and came, what booth they were in,
25 but we don't keep any of the other materials.

- 1 Q. If a vendor is going to appear at an expo for the first time
2 and they are brought to your attention in one of the different
3 ways you've described, is there any vetting done by you or
4 people under your control to screen them or otherwise make
5 sure they're suitable?
6 A. If they are -- if they resemble anything that is something
7 that Domino's Corporate is working with, then I immediately
8 contact that department to see if they would have any problems
9 with them being invited.
10 And if somebody is in direct competition, then we
11 would get back with the vendor and give them our apologies and
12 tell them, "No, we can't invite you."
13 Q. Okay. Give me an example of a vendor who would be offering a
14 service that's in direct competition.
15 A. I don't remember the name of a vendor, but I know there was
16 one that wanted to come that was in direct competition with
17 our Pulse computer system, the software.
18 Q. So the one form of screening, as it were, is to make sure they
19 aren't in competition; is that correct?
20 A. Correct.
21 Q. Is there any other kind of screening?
22 A. No.
23 Q. Okay. What if a vendor said that we wanted to offer a service
24 where franchisees could insert, in every Domino's pizza box
25 they distribute, a flyer for Newt Gingrich, would you

- 1 disapprove that if that's what they wanted to do?
2 I'm trying to pick a ridiculous example to see
3 whether there are any actual standards for review.
4 A. If they wanted to do that, my first recourse is I would think
5 that's something unusual, we've never done that before, I
6 would make some phone calls to some folks in like our
7 Marketing and Advertising Department to find if there are any
8 rules or regulations against that.
9 If it's something they wanted to do strictly at the
10 expo, then I would get with my counterparts, who help put
11 together the entire rally, to find out if there is any
12 rules/regulations against that.
13 Q. All right. And you don't recall how it is that Call-Em-All
14 became a vendor in 2009?
15 A. I do not. I'm sorry.
16 Q. Okay. Who would recall, if anyone? Who would have known
17 about it?
18 A. Me.
19 Q. Okay. And you don't remember?
20 A. And Beth, who keeps my books.
21 Q. Okay. And who apparently says she doesn't remember either --
22 A. Correct.
23 Q. -- which we'll find out shortly. Okay.
24 Do you recall even if somebody that was selling the
25 auto dialing program was wanting to be a vendor in 2009?

EXHIBIT I

<p style="text-align: right;">69</p> <p>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</p>	<p style="text-align: right;">71</p> <p>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 10:47 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 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.</p>
<p style="text-align: right;">70</p> <p>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.</p>	<p style="text-align: right;">72</p> <p>10:48 1 There is multiple ways to enter them in the system. 2 Q But it is the client who puts that information in? 3 A That's right. 4 Q And can a franchisee access that information 10:49 5 through the PULSE system? 6 A I'm under the impression, yes, and that's why we 7 sent out the PULSE -- the PULSE access, you know, one of 8 the exhibits here that sort of how to get numbers out of 9 PULSE. 10:49 10 Q Okay. And do you know if Mike Brown used PULSE to 11 get his customer call list? 12 A I can't say what he did. I know we sent him 13 instructions for how to get numbers out of PULSE, so I 14 would assume that he is a PULSE user and that's where they 10:49 15 came from or at least the large majority would have come 16 from. 17 Q Does Call-Em-All promote or encourage their 18 clients to call noncustomers? 19 A No, emphatically no. We've turned away business 10:50 20 in many cases I was under the impression was legal because 21 we just -- we don't want our service to be used to call 22 people that you don't have a relationship with. 23 Q Okay. And who do you encourage them to call? 24 A Their customers or in the case of a church their 10:50 25 constituents or I guess a politician their constituents.</p>