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Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

CAROLYN ANDERSON,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. C11-902-RBL
	)	
vs.	)	DOMINO'S RESPONSE TO
	)	PLAINTIFF'S MOTION TO BE
DOMINO'S PIZZA, INC., DOMINO'S	)	RELIEVED OF DEADLINE
PIZZA, LLC, FOUR OUR FAMILIES,	)	
INC., and CALL-EM-ALL, LLC,	)	
	)	
Defendants.	)	

**I. RELIEF REQUESTED**

COMES NOW Domino's Pizza, Inc. and Domino's Pizza, LLC and provides the following Response to Plaintiff's Motion to be Relieved of Deadline. First, the 90 day extension requested by Anderson is excessive when this motion has now been pending for almost one year. Second, FOFI's Motion for Summary Judgment should still be heard on March 30, 2012 since none of the discovery issues raised by Anderson are pertinent. Finally, Domino's renews its request that a Special Master be appointed to resolve discovery disputes in this matter.

DOMINO'S RESPONSE RE:  
RELIEF FROM DEADLINE  
Anderson v Domino's-P a g e | 1

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## II. FACTS

Domino's adds the following facts omitted by Anderson.

Domino's originally filed its motion for summary judgment in State Court on April 22, 2011. Domino's motion was noted for argument in May 2011. Argument was moved to July 2011 to allow Anderson to conduct certain discovery. Anderson conducted all the discovery she noted as necessary to respond to Domino's motion. The motion was stricken when the case was removed to Federal Court on May 31, 2011. Anderson conducted no discovery regarding the pending motion for over four months, despite knowing Domino's intended to re-note its Motion. Only after Domino's re-noted its Motion on November 28, 2011, did Anderson conduct a sudden flurry of discovery. Anderson then filed for an extension of time to respond to the Motion, using the argument that "discovery was pending".

As part of this suddenly urgent discovery, Anderson noted a FRCP 30(b)(6) deposition for February 10, 2012 to explore various topics. Domino's designated three witnesses to discuss the topics identified by Anderson. Each witness designated was the person with the most knowledge and was prepared as possible, given the simple lack of documents. Domino's has in no way "evaded its responsibilities" under the FRCP. The witnesses representing Domino's limited knowledge on the relevant issues have been produced.

Further, Domino's has not refused to provide discovery. Domino's believes that the majority of the discovery requested by Anderson was improper for various reasons. These reasons were outlined in Domino's Motion for Protective Order. Domino's will comply with whatever the Court orders regarding the discovery but takes issue with Anderson's assertion that Domino's has refused to provide discovery answers.

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### III. ARGUMENT

1. The Ninety Day Extension Requested by Anderson is Excessive.

Domino's does not oppose Anderson's Motion. An extension of time for Anderson to respond is proper since the discovery issues remain pending. However, Domino's requests that its summary judgment motion be re-noted for 45 days from the date on which Domino's provides whatever discovery answers the Court orders. This allows Anderson approximately 30 days to review the discovery and incorporate whatever she needs into her response. This also allows Domino's motion for summary judgment to be heard as soon as possible. Finally, it puts the burden on Domino's to provide speedy discovery responses in order to have the summary judgment motion heard.

2. The Extension Requested by Anderson does not Impact Four Our Families, Inc.'s Motion for Summary Judgment also Noted for March 30, 2012.

Co-Defendant Four Our Families, Inc. ("FOFI") also noted a motion for summary judgment for March 30, 2012. None of the pending discovery possibly relates to the FOFI motion. None of the pending discovery might be used by Anderson in responding to the FOFI motion. The FOFI motion hinges on the narrow legal issue of whether simply listening to a recorded message, without any chance of responsive interaction, constitutes a "conversation". FOFI's motion should go forward on March 30, 2012. If the FOFI motion is granted, Domino's motion for Protective Order, Domino's motion for summary judgment, and Anderson's motion to compel become nearly irrelevant and are unlikely to proceed. The same is true for Anderson's asserted need to re-depose Domino's 30(b)(6) representatives. FOFI's properly noted motion

1 should be heard on March 30, 2012 in the interest of judicial economy and because none of the  
2 pending discovery is related.

3 3. Domino's Renews its Request that a Special Master be Appointed to Resolve  
4 Discovery Issues.

5 In its Motion for a Protective Order, Domino's requested that the Court appoint a Special  
6 Master to resolve the discovery issues in this case. Such an appointment would free the Court up  
7 from having to wade into these complex, time consuming discovery issues. Such an appointment  
8 would also allow for quick resolution of discovery issues and allow the pending motions for  
9 summary judgment to proceed. Finally, resolving the discovery issues quickly will allow each  
10 side to evaluate its strengths and weaknesses and foster settlement in the case.  
11

12 **IV. CONCLUSION**

13 For the above stated reasons, Domino's respectfully requests that Court issue an Order  
14 allowing 45 days from the date upon which it provides discovery answers for Anderson to file a  
15 response to Domino's summary judgment. Domino's further requests the Court appoint a  
16 Special Master to resolve discovery issues. A proposed order is attached.  
17

18 Dated: March 21, 2012.

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