

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ADRIAN SINGLETON
6024 New Forest Court #4
Waldorf, MD 20603
(Charles County)

and

JUSTIN D'HEILLY
1938 Munster Avenue
St. Paul, MN 55116
(Ramsey County),

individually and as representatives of the
classes,

Plaintiffs,

v.

DOMINO'S PIZZA, LLC
30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106

Defendant.

Case No.: 8:11-cv-01823-DKC

**FIRST AMENDED CLASS ACTION
COMPLAINT
(JURY TRIAL DEMANDED)**

Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiffs Adrian Singleton and Justin D'Heilly ("Plaintiffs"), by and through their attorneys, and on behalf of themselves, the Putative Classes set forth below, and in the public interest, bring the following First Amended Class Action Complaint as of right against Defendant Domino's Pizza, LLC ("Defendant" or "Domino's"), pursuant to the Fair Credit Reporting Act ("FCRA").

PRELIMINARY STATEMENT

1. Domino's routinely obtains and uses information in consumer reports to conduct background checks on prospective employees and existing employees, and frequently relies on such information, in whole or in part, as a basis for adverse

employment action, such as termination, reduction of hours, change in position, failure to hire, and failure to promote.

2. While the use of consumer report information for employment purposes is not *per se* unlawful, it is subject to strict disclosure and authorization requirements under the FCRA.

3. Domino's has willfully violated these requirements in multiple ways, in systematic violation of Plaintiffs' rights and the rights of other putative class members.

4. Domino's violated 15 U.S.C. § 1681b(b)(3)(A) by taking adverse employment action against Plaintiffs and other putative class members based on undisclosed consumer report information, without first providing Plaintiffs and other affected class members with a copy of the pertinent consumer report and without providing them a reasonable opportunity to respond to the information in the report and discuss it with Domino's.

5. Domino's also violated 15 U.S.C. § 1681b(b)(2)(A)(i) by procuring consumer reports on Plaintiffs and other putative class members for employment purposes, without first making proper disclosures in the format required by the statute. Under this subsection of the FCRA, Domino's is required to disclose to its employees – *in a document that consists solely of the disclosure* – that it may obtain a consumer report on them for employment purposes, prior to obtaining a copy of their consumer report. *Id.* Domino's willfully violated this requirement in at least two respects: (1) Domino's buried these disclosures on the fifth page of a multi-page job application; and (2) Domino's inserted a liability release and other extraneous information into the portion of its job application that purports to grant Domino's the authority to obtain and use

consumer report information. *See Exhibit 3 at 5.* Both of these practices violate longstanding regulatory guidance from the Federal Trade Commission (“FTC”).

6. Finally, Domino’s violated 15 U.S.C. § 1681b(b)(2)(A)(ii) by obtaining consumer reports on Plaintiffs and other putative class members without proper authorization, due to the fact that its disclosure forms fail to comply with the requirements of the FCRA.

7. Based on the foregoing violations, Plaintiffs assert FCRA claims against Domino’s on behalf of themselves and two separate classes of Domino’s employees and prospective employees.

8. In Count One, Plaintiffs assert a FCRA claim under 15 U.S.C. § 1681b(b)(3)(A) on behalf of an “Adverse Action Class” consisting of all employees or prospective employees of Domino’s in the United States who received notice on or after July 1, 2009 that Domino’s was taking adverse employment action against them based, in whole or in part, on information contained in a consumer report, and who were not provided a copy of such report in advance.

9. In Counts Two and Three, Plaintiffs also assert a pair of FCRA claims under 15 U.S.C. §§ 1681b(b)(2)(A)(i)-(ii) on behalf of a “Background Check Class” consisting of all employees or prospective employees of Domino’s in the United States who were the subject of a consumer report that was procured by Domino’s (or that Domino’s caused to be procured) on or after July 1, 2009.

10. On behalf of themselves and the Putative Classes, Plaintiffs seek statutory damages, costs and attorneys’ fees, equitable relief, and other appropriate relief pursuant to the FCRA.

THE PARTIES

11. Individual and representative Plaintiff Adrian Singleton (“Singleton”) lives and works in this judicial district, and is a resident of Waldorf, Maryland (Charles County). Singleton is a former employee of Domino’s, and is a member of each of the Putative Classes defined below.

12. Individual and representative Plaintiff Justin D’Heilly is a resident of St. Paul, Minnesota. D’Heilly formerly worked for Domino’s in St. Paul, Minnesota, and is a member of each of the Putative Classes defined below.

13. Defendant Domino’s is headquartered in Ann Arbor, Michigan and does business in Maryland and throughout the United States. According to its website, Domino’s is the “world leader in pizza delivery[,]” and has approximately 9,000 stores and 170,000 employees worldwide.

JURISDICTION AND VENUE

14. This Court has federal question jurisdiction over Plaintiffs’ FCRA claims pursuant to 28 U.S.C. § 1331.

15. Venue is proper in the United States District Court, District of Maryland, pursuant to 28 U.S.C. § 1391. Plaintiff Singleton resides in Maryland, worked for Domino’s in Maryland, and his claims arise, in substantial part, in Maryland. Domino’s regularly conducts business in Maryland and is subject to personal jurisdiction in this district.

ALLEGATIONS REGARDING DOMINO’S BUSINESS PRACTICES

Automatic Background Checks

16. Domino’s “automatically” conducts background checks on all of its job applicants as part of a standard screening process. *See Exhibit 1 at 3.* In addition,

Domino's also conducts background checks on existing employees from time-to-time during the course of their employment.

17. Domino's does not perform these background checks in-house. Rather, Domino's relies on outside consumer reporting firms to obtain this information and report it to Domino's. These reports constitute "consumer reports" for purposes of the FCRA.

18. In 2008, Domino's hired Taleo Corporation ("Taleo") to assist it with the background check process. *See Exhibit 1 at 2.* Taleo provides Domino's with a background check assessment that divides individuals into three color-coded categories – green, yellow, and red. *Id. at 3.* According to Taleo, "[t]hirteen percent of people applying for jobs are getting 'red' assessments [based on available consumer report information] and are being taken out of consideration for employment." *Id.*

19. The consumer report information that is used for purposes of these background check assessments comes from Taleo's background screening partner, HireRight, Inc. ("HireRight"). *See Exhibit 2.* Together, Taleo and HireRight provide an "integrated" package of screening services that provides Domino's with a "single source for all candidate and employment information." *Id.*

FCRA Violations Relating to Background Check Class

20. Domino's has procured this consumer report information in violation of the FCRA.

21. Under the FCRA, it is unlawful to procure a consumer report or cause a consumer report to be procured for employment purposes, unless:

- (i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, ***in a document that consists solely of the disclosure***, that a consumer report may be obtained for employment purposes; and

- (ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report.

15 U.S.C. §§ 1681b(b)(2)(A)(i)-(ii) (emphasis added).

22. Domino's has not satisfied these disclosure and authorization requirements.

23. On page 5 of Domino's' standard job application,¹ it purports to include a "Background Investigation Information and Consent" ("BIIC"). *See Exhibit 3 at 5.* However, Domino's does not have a stand-alone FCRA disclosure or authorization form.

24. This practice violates the plain language of the statute, and flies in the face of unambiguous case law and regulatory guidance from the FTC. *See, e.g., E.E.O.C. v. Video Only, Inc.*, No. 06-1362, 2008 WL 2433841, at *11 (D.Or. June 11, 2008) ("I grant summary judgment of liability that Video Only violated . . . 15 § 1681b(b)(2)(A)(I). This section provides that at any time before the report is procured, a disclosure is made in a document that consists solely of the disclosure that a consumer report may be obtained for employment purposes. Video Only disclosed this possibility as part of its job application, which is not a document consisting solely of the disclosure."); *Exhibit 4* ("The disclosure may not be part of an employment application A disclosure that is combined with many items in an employment application -- no matter how 'prominently' it appears -- is not 'in a document that consists solely of the disclosure' as required by

¹Domino's' standard job application is posted on its website, at http://www.Dominos.com/careers/pdf/APPL01F.application_2007.pdf (last visited Sept. 2, 2011). On information and belief, Domino's has used this standard job application since at least 2007.

[1681b(b)(2)(A)].”); *Exhibit 5 at 51* (“The disclosure cannot be part of a printed employment application.”).

25. By burying its disclosures on the fifth page of a multi-page job application, Domino’s willfully disregarded this case law and regulatory guidance, and willfully violated 15 U.S.C. §§ 1681b(b)(2)(A) by procuring consumer report information on employees without complying with the disclosure and authorization requirements of the statute.

26. Moreover, the BIIC does not consist solely of a disclosure and authorization to obtain consumer report information. In addition, the BIIC contains the following release and acknowledgement:

I release, without reservation, you and any person or entity which provides information pursuant to this authorization, from any and all liabilities, claims or causes of action in regards to the information obtained from any and all of the above reference [sic] sources used. I acknowledge that this is a stand-alone customer notification informing me that a report will be requested and that the information obtained shall be used solely for the purpose of evaluating me for employment, promotion, reassignment, or retention as an employee.

27. The insertion of this release and acknowledgement into the BIIC also is contrary to the plain language of the statute and longstanding regulatory guidance. The FTC has warned that “the form should not include any extraneous information.” *Exhibit 6*. In fact, the FTC has specifically warned that “[t]he inclusion of such a waiver [of liability] in a disclosure form will violate Section 604(b)(2)(A) of the FCRA [15 U.S.C. §§ 1681b(b)(2)(A)], which requires that a disclosure consist ‘solely’ of the disclosure that a consumer report may be obtained for employment purposes.” *Id.*

28. By including an extraneous release and acknowledgement in the BIIC, Domino’s willfully disregarded this regulatory guidance, and willfully violated 15 U.S.C.

§§ 1681b(b)(2)(A) by procuring consumer report information on employees without complying with the disclosure and authorization requirements of the statute.²

FCRA Violations Relating to Adverse Action Class

29. The FCRA also provides that “in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates . . . a copy of the report[.]” 15 U.S.C. § 1681b(b)(3)(A)(i).

30. Domino’s typically does not provide job applicants or employees with a copy of their consumer reports when it takes adverse action against them based on the information in such reports.

31. This practice violates one of the most fundamental protections afforded to employees under the FCRA, and also runs counter to longstanding regulatory guidance. *See Exhibit 7* (“[15 U.S.C. § 1681b(b)(3)(A)] requires that all employers who use consumer reports provide a copy of the report to the affected consumer before any adverse action is taken. Employers must comply with this provision even where the information contained in the report (such as a criminal record) would automatically disqualify the individual from employment or lead to an adverse employment action. Indeed, this is precisely the situation where it is important that the consumer be informed of the negative information . . .”).

32. By failing to provide Plaintiffs and other Putative Class members with copies of their consumer reports prior to taking adverse employment action against them

² The fact that the BIIC asked employees to acknowledge that “this is a stand-alone customer notification” clearly demonstrates that Domino’s was aware that the required FCRA disclosure and authorization must be set forth in a stand-alone document.

based on such reports, Domino's willfully disregarded this regulatory guidance and the plain language of the statute in violation of 15 U.S.C. §§ 1681b(b)(2)(A).

ALLEGATIONS RELATING TO PLAINTIFF SINGLETON

33. Plaintiff Singleton applied for work at Domino's in the spring of 2009.

34. In connection with his employment application, Singleton completed Domino's' standard employment application.

35. Following completion of his employment application, Singleton was hired to work at the Domino's store location at 2256 Crain Highway in Waldorf, Maryland.

36. Singleton worked for Domino's at this location for several weeks. However, after returning to work following the Independence Day holiday on July 4, 2009, Singleton discovered that he had not been scheduled for additional hours.

37. When Singleton inquired why his name did not appear on the work schedule, he was directed to contact his General Manager, and did so.

38. The General Manager indicated that there was a potential issue with Singleton's employment application, but did not indicate the specific nature of this issue. Accordingly, Singleton filled out a second application for employment with Domino's, in an effort to resolve any potential issue with his earlier application.

39. Singleton did not receive any additional work upon completing this second application. Instead, Singleton received a letter from Domino's dated July 9, 2009, which stated:

This is to advise you that our offer of employment is being withdrawn and your application for employment is being denied. In evaluating your application, the consumer reporting agency listed below [HireRight, Inc.] provided us with information which, in whole or in part, influenced our employment decision.

Exhibit 8.

40. The letter falsely stated that Singleton previously “should have received” a copy of his consumer report. However, Domino’s never furnished Singleton a copy, and suggested in the same letter that Singleton should “contact[] the consumer reporting agency directly” in order to obtain a copy of his report.

41. Because Domino’s did not provide Singleton with a copy of the consumer report that it relied upon and did not provide Singleton with an explanation for its termination decision, Singleton did not know why he was terminated (until Domino’s responded to his original Complaint in this action). As a result, Singleton was deprived of any opportunity to review the information in the report and discuss it with his employer before he was terminated.

42. It was unlawful for Domino’s to terminate Singleton’s employment and deny his employment applications on the basis of information contained a consumer report that was never shared with him.

43. It also was unlawful for Domino’s to procure a consumer report on Singleton without making the disclosures required by the FCRA.

ALLEGATIONS RELATING TO PLAINTIFF D’HEILLY

Employment with Domino’s

44. Plaintiff D’Heilly worked at the Domino’s store on Grand Avenue in St. Paul, Minnesota on two separate occasions.

45. D’Heilly initially worked for Domino’s from November of 2004 until March of 2008. During this time period, D’Heilly was promoted from a delivery driver to an assistant manager at the Grand Avenue store. As an assistant manager, D’Heilly had access to employment screening information from Domino’s screening system, but

does not recall any person ever being provided with a copy of their consumer report by Domino's if they were deemed ineligible for employment.

46. After briefly accepting employment with a different company, D'Heilly re-applied to work at Domino's in December of 2008. As part of the application process, D'Heilly was required to complete Domino's' standard job application, and upon being hired, he was required to go through the job orientation process a second time.

47. D'Heilly worked for Domino's through August of 2009. However, he was not scheduled for any hours in September of 2009, and was eventually terminated in October of 2009.

48. D'Heilly was advised by his General Manager that he could not continue to work as a delivery driver because something had come up on a background check relating to his motor vehicle history. However, his General Manager was unable to provide him with any further information, and Domino's did not provide D'Heilly with a copy of his consumer report.

49. Feeling left in the dark, D'Heilly contacted the St. Paul Police Department to inquire whether his license had been revoked without his knowledge. He was advised that his license remained valid, and his driving record was clean with the exception of approximately two speeding tickets. However, it was impossible for D'Heilly to determine what driving information was contained in his consumer report (or discuss that information with Domino's) because Domino's never shared that information with him.

50. It was unlawful for Domino's to terminate D'Heilly's employment on the basis of information contained a consumer report that was never shared with him by either Domino's or HireRight.

51. It also was unlawful for Domino's to procure a consumer report on D'Heilly without making the disclosures required by the FCRA.

CLASS ACTION ALLEGATIONS

52. Plaintiffs assert their claim in Count 1 on behalf of a Putative Adverse Action Class defined as follows:

Proposed Adverse Action Class: All employees or prospective employees of Domino's in the United States who received notice on or after July 1, 2009 that Domino's was taking adverse employment action against them based, in whole or in part, on information contained in a consumer report, and who were not provided a copy of such report in advance.

53. Plaintiffs assert their claims in Counts 2 and 3 on behalf of a Putative Background Check Class defined as follows:

Proposed Background Check Class: All employees or prospective employees of Domino's in the United States who were the subject of a consumer report that was procured by Domino's (or that Domino's caused to be procured) on or after July 1, 2009.

54. Numerosity: The Putative Classes are so numerous that joinder of all Class members is impracticable. Domino's regularly obtains and uses information in consumer reports to conduct background checks on prospective employees and existing employees, and frequently relies on such information, in whole or in part, as a basis for adverse employment action. Plaintiffs are informed and believe that during the relevant time period, thousands of Domino's employees and prospective employees satisfy the definition of the Putative Classes.

55. Typicality: Plaintiffs' claims are typical of the members of the Putative Classes. Domino's typically uses consumer reports to conduct background checks on employees and prospective employees. Domino's typically requires job applicants to sign a BIIC that is part of a multi-page job application and includes a liability release. Domino's typically does not provide copies of consumer reports to employees or

prospective employees before taking adverse action based on information contained in such reports. The FCRA violations suffered by Plaintiffs are typical of those suffered by other Putative Class members, and Domino's treated Plaintiffs consistent with other Putative Class members in accordance with its standard policies and practices.

56. Adequacy: Plaintiffs will fairly and adequately protect the interests of the Putative Classes, and have retained counsel experienced in complex class action litigation.

57. Commonality: Common questions of law and fact exist as to all members of the Putative Classes and predominate over any questions solely affecting individual members of the Putative Classes, including but not limited to:

- a. Whether Domino's uses consumer report information to conduct background checks on employees and prospective employees;
- b. Whether Domino's requires its employees to sign a BIIC;
- c. Whether Domino's' BIIC complies with the FCRA;
- d. Whether it was proper under the FCRA for Domino's to include the BIIC in a multi-page job application;
- e. Whether it was proper under the FCRA for Domino's to include a liability release and acknowledgement in the BIIC;
- f. Whether Domino's violated the FCRA by procuring consumer report information without making proper disclosures in the format required by the statute;
- g. Whether Domino's violated the FCRA by procuring consumer report information based on invalid authorizations;
- h. Whether Domino's violated the FCRA by taking adverse action against Plaintiffs and other members of the Adverse Action Class on the basis of information in a consumer report, without first furnishing a copy of the report to the affected persons;
- i. Whether Domino's' violations of the FCRA were willful;

- j. The proper measure of statutory damages; and
- k. The proper form of injunctive and declaratory relief.

58. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(1) because prosecution of actions by or against individual members of the Putative Classes would result in inconsistent or varying adjudications and create the risk of incompatible standards of conduct for Defendant. Further, adjudication of each individual Class member's claim as separate action would potentially be dispositive of the interest of other individuals not a party to such action, impeding their ability to protect their interests.

59. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(2) because Domino's has acted or refused to act on grounds that apply generally to the Putative Classes, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Classes as a whole.

60. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the Putative Classes predominate over any questions affecting only individual members of the Putative Classes, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendant's conduct described in this Complaint stems from common and uniform policies and practices, resulting in common violations of the FCRA. Members of the Putative Classes do not have an interest in pursuing separate actions against Defendant, as the amount of each Class member's individual claims is small compared to the expense and burden of individual prosecution, and Plaintiffs are unaware of any similar claims brought against Defendant by any members of the Putative Classes on an individual basis. Class certification also will obviate the need for unduly duplicative

litigation that might result in inconsistent judgments concerning Defendant's practices. Moreover, management of this action as a class action will not present any likely difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all Putative Class members' claims in a single forum.

61. Plaintiffs intend to send notice to all members of the Putative Classes to the extent required by Rule 23. The names and addresses of the Putative Class members are available from Defendant's records.

FIRST CLAIM FOR RELIEF

Failure to Provide Copy of Consumer Report in Violation of FCRA

15 U.S.C. § 1681b(b)(3)(A)

62. Plaintiffs allege and incorporate by reference the allegations in the preceding paragraphs.

63. Domino's used a "consumer report," as defined by the FCRA, to take adverse employment action against Plaintiffs and other members of the Adverse Action Class.

64. Domino's violated the FCRA by failing to provide Plaintiffs and other Adverse Action Class members with a copy of the consumer report that was used to take adverse employment action against them. *See* 15 U.S.C. § 1681b(b)(3)(A).

65. The foregoing violations were willful. Domino's acted in deliberate or reckless disregard of its obligations and the rights of Plaintiffs and other Adverse Action Class members under 15 U.S.C. § 1681b(b)(3)(A). Domino's' willful conduct is reflected by, among other things, the following facts:

- a. Domino's is a large corporation with access to legal advice through its own general counsel's office and outside employment counsel, and there is no contemporaneous evidence that it determined that its conduct was lawful;

- b. Domino's knew or had reason to know that its conduct was inconsistent with published FTC guidance interpreting the FCRA and the plain language of the statute;
- c. Domino's voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless;
- d. The consumer reporting agency that provided Plaintiffs' consumer report information to Domino's (HireRight) has published a FCRA Primer for U.S. Employers, which states: "When an employer intends to take an adverse action based in whole or in part on information contained in the applicant's background report, the employer first must provide the applicant with a 'pre-adverse action' notice that includes a copy of the background report." *Exhibit 9 at 4-5*;
- e. Domino's' BIIC does not state that a consumer report automatically will be provided to employees or prospective employees if Domino's intends to take adverse action against them based on information in a consumer report. Rather, Domino's places the burden on the affected individual to request a copy of his or her report;
- f. The Domino's "Case Study" published online by Taleo does not give any indication that consumer reports are provided to employees or prospective employees who are coded "red" and flagged as ineligible for employment. *Exhibit 1*;
- g. D'Heilly does not recall anyone who was deemed ineligible for employment at his store ever being provided with a copy of their consumer report;
- h. Domino's' repeatedly violated the statute and its failure to provide Plaintiffs and other Adverse Action Class Members with copies of their consumer reports was not accidental.³

³ A recent study reported that many large employers are "routinely" failing to provide background checks to their employees. *See Exhibit 10 at 12*. Although the study does not identify these employers by name, it indicates that Defendant's consumer reporting partner, HireRight, has been the subject of multiple lawsuits regarding failure to comply with FCRA requirements. *Id.* HireRight was the consumer reporting agency for First Transit, Inc. and First Student, Inc., two companies that have entered into a \$5.9 million settlement to resolve claims that they failed to provide copies of consumer reports to employees who had adverse action taken against them. *See* <http://www.workplaceclassaction.com/First%20transit%20settlement%20agreement.pdf>

66. Plaintiffs and the Adverse Action Class are entitled to statutory damages of not less than \$100 and not more than \$1,000 for each and every one of these violations, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

67. Plaintiffs and the Adverse Action Class are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

SECOND CLAIM FOR RELIEF

Failure to Make Proper Disclosure in Violation of FCRA

15 U.S.C. § 1681b(b)(2)(A)(i)

68. Plaintiffs allege and incorporate by reference the allegations in the preceding paragraphs.

69. The BIIC that Plaintiffs and other members of the Background Check Class were required to complete as a condition of their employment with Domino's does not satisfy the disclosure requirements of 15 U.S.C. § 1681b(b)(2)(A)(i) because (1) the BIIC is not a stand-alone document; (2) the BIIC is buried in a multi-page job application; and (3) the BIIC includes an extraneous release and acknowledgement.⁴

70. Domino's violated the FCRA by procuring consumer reports relating to Plaintiffs and other Background Check Class members without first making proper disclosures in the format required by 15 U.S.C. § 1681b(b)(2)(A)(i).

71. The foregoing violations were willful. Domino's knew that the BIIC must be a stand-alone form (separate from the employment application), and should not include items not strictly required by the FCRA. Dominos acted in deliberate or reckless disregard of its obligations and the rights of Plaintiffs and other Background Check Class

⁴ The BIIC also falsely states that the information in the BIIC is "required for identification purposes only."

members under 15 U.S.C. § 1681b(b)(2)(A)(i). Domino's' willful conduct is reflected by, among other things, the following facts:

- a. Domino's is a large corporation with access to legal advice through its own general counsel's office and outside employment counsel, and there is no contemporaneous evidence that it determined that its conduct was lawful;
- b. Domino's knew or had reason to know that its conduct was inconsistent with published FTC guidance and case law interpreting the FCRA and the plain language of the statute;
- c. Domino's voluntarily ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless;
- d. HireRight's Primer for U.S. Employers acknowledges that the disclosure and authorization form required by the FCRA "must be a stand-alone document[.]" *Exhibit 4 at 3*.
- e. Domino's BIIC also references this stand-alone document requirement, and improperly asks the person filling out the form to "acknowledge that this is a stand-alone consumer notification[.]"
- f. Domino's has not changed its business practices in response to the filing of this action. Domino's continues to insert the BIIC in its multi-page employment application, and continues to include extraneous release and acknowledgement language in the BIIC as of the filing of this First Amended Complaint.

72. Plaintiffs and the Background Check Class are entitled to statutory damages of not less than \$100 and not more than \$1,000 for each and every one of these violations, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

73. Plaintiffs and the Background Check Class are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

THIRD CLAIM FOR RELIEF

Failure to Obtain Proper Authorization in Violation of FCRA

15 U.S.C. § 1681b(b)(2)(A)(ii)

74. Plaintiffs allege and incorporate by reference the allegations in the preceding paragraphs.

75. Domino's violated the FCRA by procuring consumer reports relating to Plaintiffs and other Background Check Class members without proper authorization. *See* 15 U.S.C. § 1681b(b)(2)(A)(ii).

76. The foregoing violations were willful. Domino's acted in deliberate or reckless disregard of its obligations and the rights of Plaintiffs and other Background Check Class members under 15 U.S.C. § 1681b(b)(2)(A)(ii). Domino's' willful conduct is reflected by, among other things, the facts set forth in Count Two above.

77. Plaintiffs and Background Check Class are entitled to statutory damages of not less than \$100 and not more than \$1,000 for each and every one of these violations, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

78. Plaintiffs and the Background Check Class are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

PRAYER FOR RELIEF

79. WHEREFORE, Plaintiffs, on behalf of themselves and the Putative Classes, prays for relief as follows:

- A. Determining that this action may proceed as a class action under Rule 23(b)(1), (2) and (3) of the Federal Rules of Civil Procedure;
- B. Designating Plaintiffs as class representatives and designating Plaintiffs' counsel as counsel for the Putative Classes;

- C. Issuing proper notice to the Putative Classes at Domino's expense;
- D. Declaring that Domino's committed multiple, separate violations of the FCRA;
- E. Declaring that Domino's acted willfully in deliberate or reckless disregard of Plaintiffs' rights and its obligations under the FCRA;
- F. Awarding statutory damages as provided by the FCRA;
- G. Awarding reasonable attorneys' fees and costs as provided by the FCRA;
- H. Granting other and further relief, in law or equity, as this Court may deem appropriate and just.

DEMAND FOR JURY TRIAL

80. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and the Putative Class demand a trial by jury.

Respectfully submitted,

Dated: September 2, 2011

/s/Kai Richter
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