

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN
LLC, a limited liability corporation,

Defendants.

Case No. 2:23-cv-001848

NOTICE OF REMOVAL

To: The United States District Court for the Western District of Washington

And to: Plaintiff Joel Hodgell and His Counsel of Record

Please take notice that, under 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Andersen Corporation (“Andersen”) and Renewal by Andersen LLC (“RBA”) (collectively, “Defendants”), by and through their counsel, hereby file this Notice of Removal seeking to remove this action from the Superior Court of the State of Washington, County of King (“King County Superior Court”), where it is now pending as Case No. 23-05382-6, to the United States District Court for the Western District of Washington. Removal is based upon diversity jurisdiction under 28 U.S.C. § 1332. As

1 grounds for removal of this action under 28 U.S.C. 1446(a), Defendants state as follows:

2 **Statement of Jurisdiction**

3 This Court has jurisdiction over this action under 28 U.S.C. §§ 1332(a) and 1441(b)
4 and all other applicable bases for removal because (1) there is complete diversity of
5 citizenship between Plaintiff, on the one hand, and Defendants, on the other hand; and
6 (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

7 **State Court Action and Relevant Procedural History**

8 On March 24, 2023, Plaintiff filed a complaint for violations of the Washington
9 Consumer Protection Act (“WCPA”), RCW 19.86 *et seq.*, in King County Superior Court
10 against Defendants entitled: *Joel Hodgell v. Andersen Corp. and Renewal by Andersen, LLC*,
11 Case No. 23-05382-6 (“State Court Action”). A true and correct copy of the Complaint
12 filed in the State Court Action is attached hereto as Exhibit 1.

13 In the Complaint, Plaintiff seeks recovery for (1) statutory liquidated damages under
14 RCW 19.190.040; (2) treble damages under RCW 19.86.090; (3) civil penalties under
15 RCW 19.86.140; (4) injunctive relief; (5) attorney fees and other costs; (6) prejudgment
16 and post-judgment interests; and (7) other relief the Court deems just and proper.
17 (Compl. ¶¶ 25–33.) Defendants deny all of Plaintiff’s alleged claims, deny any
18 wrongdoing, and deny that Plaintiff is entitled to any relief. Defendants deny that they are
19 subject to personal jurisdiction in this Court and further reserve their right to move to
20 dismiss the Complaint on that ground, among others.

21 Defendants previously removed this action to this Court on May 3, 2023. (*See*
22 Notice of Removal, Case No. 2:23-cv-00649-LK, Dkt. No. 1.) The Court remanded the
23 action to state court after concluding that, based on Plaintiff’s allegations and other
24 contentions as they existed at the time of removal, there was not a sufficient basis on
25 which to conclude that Plaintiff’s claims placed at least \$75,000.00 into controversy. (*See*
26 Aug. 9, 2023, Order Remanding Case, Case No. 2:23-cv-00649-LK, Dkt. No. 22.)

27 Following remand, Defendants moved to dismiss for lack of personal jurisdiction in
28 the State Court Action. On November 27, 2023, Plaintiff filed an opposition to

1 Defendants' motion to dismiss, with an accompanying declaration signed by Plaintiff.
2 Plaintiff's Opposition Brief and supporting Declaration are attached hereto as Exhibits 2
3 and 3, respectively.

4 In his Opposition Brief and supporting Declaration, Plaintiff has made new
5 allegations that did not exist when Defendants filed their initial Notice of Removal. In
6 particular, and as explained further below, Plaintiff now alleges that (a) he has continued
7 to receive unsolicited and misleading spam emails from Defendants, even after filing this
8 lawsuit, and (b) the total amount of allegedly misleading and unsolicited emails at issue in
9 this action exceeds 200. Based on Plaintiff's claim for statutory damages of \$500 per
10 email under RCW 19.190.40(1), Plaintiff seeks to recover well in excess of \$75,000.00.
11 Thus, the amount in controversy exceeds the jurisdictional minimum and removal is
12 proper.

13 **Timeliness of Removal**

14 On November 27, 2023, Defendants were served with Plaintiff's Opposition Brief
15 and supporting Declaration. (*See* Exs. 2, 3.) Those documents contain new contentions
16 about the number of alleged spam emails Plaintiff claims to have received from
17 Defendants. Such allegations were not included in Plaintiff's initial Complaint, nor did
18 Plaintiff otherwise make such contentions prior to the filing of Defendants' initial Notice
19 of Removal.

20 This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) as Defendants filed
21 this Notice of Removal within thirty days of Plaintiff's filing of his Opposition Brief and
22 supporting Declaration. *See* 28 U.S.C. § 1446(b)(3) (providing, in relevant part, that "if
23 the case stated by the initial pleading is not removable, a notice of removal may be filed
24 within thirty days after receipt by the defendant, through service or otherwise, of a copy
25 of an amended pleading, motion, order or other paper from which it may first be
26 ascertained that the case is one which is or has become removable.")

27 **Procedural Prerequisites**

28 Attached hereto as Exhibit 4 are true and complete copies of all other records and

1 proceedings in the State Court Action. As required by 28 U.S.C. § 1446(d), a removal
2 notice, together with a copy of this Notice of Removal, will be filed with the Clerk of the
3 King County Superior Court and will be served on Plaintiff.

4 In compliance with LCR 101(b), Defendants have filed contemporaneously with this
5 Notice of Removal:

6 (1) A copy of the operative complaint, attached as a separate “attachment” in the
7 electronic filing system and labeled as the “complaint”. LCR 101(b)(1).

8 (2) A certificate of service which lists all counsel who have appeared in the action
9 with their contact information, including email address. LCR 101(b)(2).

10 (3) In response to LCR 101(b)(3), at the time of filing of this Notice of Removal,
11 no party had filed a jury request. Defendants has not waived any jury rights it
12 may have with respect to this action and does not intend for this filing to waive
13 any either.

14 (4) A completed Civil Cover Sheet (AO44). LCR 101(b)(4).

15 Additionally, as required by Rule 7.1 of the Federal Rules of Civil Procedure,
16 Defendants are filing corporate disclosure statement with this Notice of Removal.

17 Removal to this Court is proper under 28 U.S.C. §§ 1441 and 1446 because the State
18 Court Action is currently pending in King County, which is located in this district and
19 division.

20 **Grounds for Removal**

21 The Court has original jurisdiction in this case under 28 U.S.C. § 1332(a), and thus
22 removal is appropriate under 28 U.S.C. §§ 1441 and 1446. 28 U.S.C. § 1332(a) provides, in
23 relevant part: “The district courts shall have original jurisdiction of all civil actions where
24 the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and
25 costs, and is between— (1) citizens of different States” As set forth below, Plaintiff’s
26 allegations, along with the evidence attached hereto, establish that the State Court Action
27 meets both the diversity-of-citizenship and amount-in-controversy requirements.
28

A. There is complete diversity of citizenship between the parties.

First, diversity of citizenship exists in this case. To prove complete diversity, “Defendants must . . . show that none of them is a citizen of the same state as [Plaintiff].” *Sherron Assocs. Loan Fund IV, LLC v. Saucier*, No. C06-226JLR, 2006 WL 1009269, at *2 (W.D. Wash. Apr. 12, 2006).

For diversity purposes, an individual is a citizen of the state in which he or she is domiciled, not the individual’s state of residence. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). But “[a] party’s residence is prima facie proof of domicile.” *Christian v. Regence Bluecross Blueshield of Oregon*, No. C20-5455-RJB-MAT, 2020 WL 5045157, at *3 (W.D. Wash. Aug. 3, 2020) (citation omitted). In determining an individual’s domicile, courts may also consider several factors including his “current residence, voting registration and voting practices, location of personal and real property, location of brokerage and bank accounts, location of spouse and family, membership in unions and other organizations, place of employment or other business, driver’s license and automobile registration, and payment of taxes.” *Sherron*, 2006 WL 1009269, at *3.

“Under 28 U.S.C. § 1332(c)(1), a corporation is deemed a citizen both of its state of incorporation and its principal place of business.” *Rosenblatt v. Ernst & Young Int’l, Ltd.*, 28 F. App’x 731, 732 (9th Cir. 2002). A limited liability company, on the other hand, “is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). This is determined at the time of filing the complaint or, if the case has been removed, at the time of removal. *Strotek Corp. v. Air Transp. Ass’n of Am.*, 300 F.3d 1129, 1131 (9th Cir. 2002) (citations omitted).

“[J]urisdictional allegations in the complaint can be taken as a sufficient basis, on their own, to resolve questions of jurisdiction where no party challenges the allegations.” *Mondragon v. Cap. One Auto Fin.*, 736 F.3d 880, 886 (9th Cir. 2013) (citation omitted). Otherwise, the Court may rely on evidence Defendants put forward. *See Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997).

Plaintiff's Citizenship. Upon information and belief, and based on the allegations in the Complaint and the statute he sued under, Plaintiff is a natural person and citizen of Washington. (Compl. ¶ 3 (“At all relevant times, Mr. Hodgell was a resident of King County and a citizen of the United States.”)); RCW 19.190.030 (prohibiting the transmission of certain emails to an email address “that the sender knows, or has reason to know, is *held by a Washington resident*”) (emphasis added). Additionally, it appears Plaintiff has resided in Washington since at least 2003 when he filed the Certificate of Formation for his limited liability company, We All Won, LLC.¹ (Declaration of Abigail Howd (“Howd Decl.”) ¶ 3, Ex. A (Certified of Formation from 2003 and 2022 Express Annual Report, both listing a Seattle, Washington address for Plaintiff)).

Andersen's Citizenship. Andersen is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (Declaration of Will Barron (“Barron Decl.”) ¶ 4.) Andersen is thus a citizen of Minnesota. *See Rosenblatt*, 28 F. App'x at 732.

RBA's Citizenship. RBA is a limited liability company with a single member, SLBP Holdings Corporation. (Barron Decl. ¶ 5.) SLBP Holdings Corporation is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (*Id.*) Thus RBA, like Andersen, is also a citizen of Minnesota. *Johnson*, 437 F.3d at 899.

As Plaintiff is a citizen of a state (Washington) different from both Defendants, complete diversity exists. *See Sherron Assocs.*, 2006 WL 1009269, at *2.

B. The amount in controversy exceeds \$75,000.²

This case also satisfies the amount-in-controversy requirement under 28 U.S.C. § 1332(a). Defendants in no way concede that Plaintiff is entitled to any relief whatsoever

¹ The Court may take judicial notice of these documents because they are public records filed with the Secretary of State for Washington and thus are “not subject to reasonable dispute because [they] . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Cave Man Kitchens Inc. v. Caveman Foods, LLC*, No. 2:18-cv-01274, 2019 WL 3891327, at *2 (W.D. Wash. Aug. 19, 2019) (taking notice of public records filed with the Secretaries of State for California and Washington).

² In making these arguments, Defendants in no way concede that Plaintiff is entitled to any relief whatsoever from Defendants. Defendants expressly reserve the right to contest all such claims and damages.

1 from Defendants. Defendants expressly reserve the right to contest all such claims and
2 damages.

3 In his Complaint, Plaintiff vaguely alleged that the “Defendants initiated or assisted
4 in the transmission of over one-hundred misleading and unsolicited bulk commercial
5 email solicitations,” without further specification. (Compl. ¶ 2.) Plaintiff seeks “statutory
6 liquidated damages as provided by RCW 19.190.040.” (*Id.* ¶ 27.) RCW 19.190.040
7 provides for damages of \$500 per violative email or actual damages, whichever is greater.

8 In his recently filed Opposition Brief and supporting Declaration, Plaintiff has
9 supplemented and added further specificity to his prior allegations about the number of
10 supposed spam emails he received from the Defendants. In particular, Plaintiff contends
11 that he has continued to receive “spam” emails from Defendants, even after filing suit,
12 and that the number of spam emails he has received now exceeds 200. (*See* Ex. 3,
13 Declaration of Joel Hodgell, ¶ 6 (claiming “200+ spams” were sent to Plaintiff by or on
14 behalf of the Defendants) ¶ 8 (refencing the “200+ spams I received thus far . . .”).)
15 Moreover, in his recently filed Opposition Brief, Plaintiff stated that he “has been
16 **bombarded by hundreds** of commercial electronic mail messages trying to sell him
17 Andersen windows and Renewal by Andersen’s window replacement services.” (Ex. 2,
18 Brief in Opposition to Motion to Dismiss, p. 1 (emphasis added)); *see also id.* (stating that
19 “someone with the assistance of Defendants Andersen Corporation and Renewal by
20 Andersen continues to fill Mr. Hodgell’s email inbox with deceptive window replacement
21 advertising and solicitations.”)

22 Plaintiff has expressly sought to recover statutory damages for each alleged spam
23 email under RCW 19.190.040, which provides for the recovery of \$500 per offending
24 email or actual damages, whichever is higher. Thus, based on Plaintiff’s contention that
25 he received (and continues to receive) more than 200 spam emails from the Defendants,
26 his claim for statutory damages alone places at least \$100,000 into controversy under
27 RCW 19.190.040. Plaintiff also seeks “treble damages as permitted by RCW 19.86.090.”
28 (Compl. ¶ 28.) RCW 19.86.090 also provides for actual damages and a discretionary

1 “award of damages up to an amount three times the actual damages sustained,” but caps
2 such treble damages at \$25,000.

3 Although Defendants deny Plaintiff’s claims of wrongdoing and that Plaintiff is
4 entitled to any damages, his requested relief far exceeds \$75,000 and thus satisfies the
5 amount-in-controversy requirement.

6 Nothing in this Notice of Removal shall be interpreted as a waiver of Defendants’
7 right to assert any defense, including, without limitation, defenses based on lack of
8 personal jurisdiction. Defendants reserve all rights.

9
10 Dated December 1, 2023

Respectfully submitted,

11 **NEWMAN LLP**

12 s/ Derek Linke

13 s/ Derek A. Newman

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21 WATSTEIN TEREPKA LLP

1055 Howell Mill Rd., 8th Floor

22 Atlanta, Georgia 30318

23 Tel: (404) 418-8307

24 Attorneys for Defendants

Andersen Corporation and

25 Renewal by Andersen LLC

Certificate of Service

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the county of King, State of Washington, and not a party to the above-entitled cause; my business address is Newman LLP, 1201 Second Avenue, Suite 900, Seattle, Washington 98101.

On December 1, 2023, I served a true copy of the foregoing by personally delivering it to the person(s) indicated below in the manner as provided in Fed. R. Civ. P. 5(b) by depositing it for delivery by USPS in a sealed envelope with the postage thereon fully prepaid to the following, with a courtesy copy by email:

Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiff Joel Hodgell

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 1, 2023 at Little Rock, Arkansas.

s/ Devonnie Wharton
Devonnie Wharton, Paralegal

Exhibit 1

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

COMES NOW the Plaintiff, Joel Hodgell, by and through his attorneys of record,
Gregory W. Albert and Tallman H. Trask of Albert Law PLLC, and hereby alleges the following
against Andersen Corporation and Renewal by Andersen, LLC.

I. INTRODUCTION

1. This action is a consumer protection action brought to recover damages for
Defendants' persistent per se violations of the Consumer Protection Act ("CPA"), RCW 19.86
et seq. Defendants' violations of the Consumer Protection Act are a result of Defendants'

1 violations of the Commercial Electronic Mail Act (“CEMA”), RCW 19.190 et seq.

2 2. Defendants initiated or assisted in the transmission of over one-hundred misleading
3 and unsolicited bulk commercial email solicitations. These misleading and unpermitted email
4 messages were sent to email addresses held by Plaintiff Joel Hodgell, a Washington resident.

5 6 **II. PARTIES**

7 3. Joel Hodgell is the Plaintiff in this case. At all relevant times, Mr. Hodgell was a
8 resident of King County and a citizen of the United States.

9 4. Andersen Corporation (“Andersen”) is a Defendant in this case. Andersen is a
10 foreign corporation with its headquarters in Bayport, Minnesota. Andersen manufactures
11 windows and doors. Andersen markets its products nationwide, including in Washington.
12 Andersen conducts business in Washington by, in part, by initiating the transmission, conspiring
13 to initiate the transmission, or assisting in the transmission of bulk commercial emails to
14 Washington residents.

15 5. Renewal by Andersen, LLC (“Renewal”) is a defendant in this case. Renewal is a
16 foreign corporation authorized to do business in Washington. Renewal is headquartered in
17 Bayport, Minnesota. On information and belief, Renewal is a subsidiary of Andersen. Renewal
18 is Andersen’s window replacement subsidiary and replaces existing windows with Andersen
19 windows through a network of dealers and installers. Renewal conducts business in Washington
20 by, in part, by initiating the transmission, conspiring to initiate the transmission, or assisting in
21 the transmission of bulk commercial emails to Washington residents.

22 23 **III. JURISDICTION AND VENUE**

24 6. The Legislature has conferred jurisdiction over this action and similar actions to
25 this Court. Jurisdiction is proper under RCW 19.86.090, RCW 19.86.160, and RCW
26 19.190.090.

8. From June 8, 2019 through the present Defendants have initiated transmission, conspired to initiate transmission, or assisted in the transmission of unsolicited, unpermitted, or misleading commercial electronic mail messages, otherwise known as “spam.”

9. The spam email messages Defendants caused to be sent misrepresented or obscured information about the point of origin and transmission path of the spam email. The messages used false or dishonest “from:” lines or obscured information in “from:” lines. The “from:” lines identify the address, person, or organization from which the email originated. Email recipients use the “from:” line to determine the sender of the email. The spam emails received by Mr. Hodgell often used falsified “from:” lines. These falsified “from:” lines indicated the email originated from a nonexistent email address or domain name or otherwise obscured information about the sender. By obscuring the information in the “from:” lines, Defendants made it unreasonably difficult or impossible to discover the actual sender of the spam email. One of the spam messages received by Mr. Hodgell, for example, used the “from:” line “Discount Windows.” The message was, in fact, a commercial solicitation for Renewal’s services.

10. The spam email messages Defendants caused to be sent used false or misleading information in the subject line. The subject line provides recipients with information about the content or subject of an email message. Email recipients use the subject line to determine the nature of the message they have received. One of the spam messages Mr. Hodgell received, for example, used the subject line “🔔 ALERT: 💰 CHECK OUT Your Account [email address] 💵 ✅ PAYOUT VERIFICATION ✅ 💰.” The email message further purported to be a \$150,000 payment to Mr. Hodgell’s retirement account. The email was, in fact, a commercial

1 solicitation for Renewal's services.

2 11. Defendants used third-party domain names without the permission of the third
3 party. Defendants did so in both the header content of spam messages and within the content of
4 spam messages.

5 12. The spam email messages Defendants caused to be sent were not messages "to
6 which an interactive computer service provider has attached an advertisement in exchange for
7 free use of an electronic mail account, when the sender has agreed to such an arrangement."
8 Rather, they were spam messages sent because Defendants caused them to be sent.

9 13. Defendants' actions caused spam emails to be sent to email addresses belonging to
10 Mr. Hodgell, a Washington resident.

11 14. Defendants knew or had reason to know that Mr. Hodgell is a Washington resident.
12 Mr. Hodgell uses email addresses which describe his residency. Mr. Hodgell directly responded
13 to spam messages informing Defendants of his residency. Defendants continued to cause spam
14 email messages to be sent to Mr. Hodgell even after he directly contacted them and informed
15 them of his residency.

16
17 **V. LEGAL ALLEGATIONS**

18 **COUNT ONE**

19 **VIOLATION OF CONSUMER PROTECTION ACT, RCW 19.86 et seq.**

20 15. Plaintiff realleges and incorporates by reference the allegations set forth in
21 paragraphs 8 through 14.

22 16. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
23 initiating the transmission, conspiring to initiate the transmission, or assisting in the
24 transmission of commercial electronic mail messages which misrepresented or obscured
25 information identifying the point of origin those messages.

26 17. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by

1 using third-party domain names within the header information of spam emails and within the
2 content of spam emails.

3 18. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
4 initiating the transmission, conspiring to initiate the transmission, or assisting in the
5 transmission of commercial electronic mail messages with false or misleading information in
6 the subject line.

7 19. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are
8 violations of the Consumer Protection Act, RCW 19.86 et seq.

9 20. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
10 unfair and deceptive acts for purposes of Consumer Protection Act claims.

11 21. Defendants' commercial solicitations occurred in trade or commerce.

12 22. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
13 matters vitally affecting the public interest for purposes of Consumer Protection Act claims.

14 23. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
15 the injury element of a Consumer Protection Act claim as a matter of law.

16 24. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
17 the causation element of a Consumer Protection Act claim as a matter of law.

18
19 **VI. DAMAGES AND PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

21 25. For judgment against the Defendants on all counts;

22 26. That the Court adjudge that each individual commercial electronic message
23 Defendants caused to be sent was a separate and distinct violation of the Commercial Electronic
24 Mail Act, RCW 19.190 et seq.;

25 27. For statutory liquidated damages as provided by RCW 19.190.040;
26

1 28. For treble damages as permitted by RCW 19.86.090;

2 29. For civil penalties under RCW 19.86.140;


3 30. For a permanent injunction, under RCW 19.86.090, prohibiting future and
4 continuing violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., by
5 Defendants;

6 31. For an award of attorney fees and other costs incurred during this action and/or to
7 the fullest extent allowed by law or equity;

8 32. For prejudgment and post-judgment interests to the maximum allowable rate; and

9 33. For such other relief as this Court deems just and equitable.
10
11
12
13
14

15 DATED March 24, 2023

16
17 By: 

18 ALBERT LAW PLLC
19 Gregory W. Albert, WSBA #42673
20 Tallman H. Trask, WSBA #60280
21 3131 Western Ave, Suite 410
22 Seattle, WA 98121
23 Telephone: (206) 576-8044
24 E-mail: greg@albertlawpllc.com
25 tallman@albertlawpllc.com
26 *Attorneys for Plaintiffs*

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [60 DAYS]

[CR 4(B)(2)]

TO: Andersen Corporation

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

(20) days after the service of this Summons, excluding the day of service or a default judgment may be entered against you without notice. If you are served with this summons outside the State of Washington, in order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing and serving a copy on the undersigned person within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to what he asks for because you have not responded. If you serve a Notice of Appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within fourteen (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service on you of this Summons and Complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED March 24, 2023

By: 

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Tallman H. Trask, WSBA 60280
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Attorneys for Plaintiffs

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [20 DAYS]

[CR 4(B)(2)]

TO: Renewal by Andersen, LLC

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

1 (20) days after the service of this Summons, excluding the day of service or a default judgment
2 may be entered against you without notice. If you are served with this summons outside the
3 State of Washington, in order to defendant against this lawsuit, you must respond to the
4 Complaint by stating your defense in writing and serving a copy on the undersigned person
5 within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to
6 what he asks for because you have not responded. If you serve a Notice of Appearance on the
7 undersigned person, you are entitled to notice before a default judgment may be entered.

8 You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand
9 must be in writing and must be served upon the person signing this Summons. Within fourteen
10 (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service
11 on you of this Summons and Complaint will be void.

12 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
13 that your written response, if any, may be served on time.

14 This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of
15 Washington.

16
17 DATED March 24, 2023

18
19 By:  _____

20
21 Gregory W. Albert, WSBA 42673
22 Tallman H. Trask, WSBA 60280
23 ALBERT LAW PLLC
24 3131 Western Ave, Suite 410
25 Seattle, WA 98121
26 (206) 576-8044
27 greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

Exhibit 2

Honorable Matthew J. Segal
Hearing Date: December 5, 2023 at 8:30 AM
With Oral Argument

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO DISMISS
FOR LACK OF PERSONAL
JURISDICTION**

I. INTRODUCTION

For years, Joel Hodgell has been bombarded by hundreds of commercial electronic mail messages trying to sell him Andersen windows and Renewal by Andersen's window replacement services. Mr. Hodgell does not want the emails. He never signed up to receive the emails. He has never done business with Andersen or Renewal by Andersen. He is not in the market for windows or window replacement services.

Nonetheless, the emails just keep coming. Someone, with the assistance of Defendants Andersen Corporation and Renewal by Andersen, continues to fill Mr. Hodgell's email inbox with deceptive window replacement advertising and solicitations for Renewal by Andersen's services. In some cases, the emails have been especially deceptive, suggesting that Mr.

1 Hodgell would receive a large payout simply by following a hyperlink in the email. But the
2 emails have always been advertising for Andersen windows and Renewal by Andersen
3 window replacement.

4 Defendants seek to dismiss Mr. Hodgell's complaint for a lack of personal jurisdiction.
5 Contrary to Defendants' claims, Mr. Hodgell can establish a link between the emails he
6 continues to receive and the Defendants. Not only do the emails contain Defendants'
7 branding, names, and logos, but they also include hyperlinks to websites containing
8 Defendants' branding, names, and logos and associated with Exact Customer, an email
9 marketing vendor used by Renewal by Andersen. Mr. Hodgell's complaint, supported by the
10 facts described in this response, states sufficient facts to allow this Court to exercise specific
11 personal jurisdiction over Defendants. Defendants' Motion to Dismiss should be denied.
12 Should the Court conclude that ruling on Defendants' Motion to dismiss requires an analysis
13 of an agency relationship, Mr. Hodgell requests the Court permit discovery relevant to
14 jurisdictional issues followed by an evidentiary hearing prior to ruling on the Motion to
15 Dismiss.

16 17 **II. STATEMENT OF FACTS**

18 Joel Hodgell has received hundreds of unsolicited commercial electronic mail
19 messages advertising Andersen's windows and Renewal by Andersen's window replacement
20 services. Hodgell Decl., ¶ 6. Mr. Hodgell, a Washington resident, promptly responded to the
21 emails informing the sender of his Washington residency. Hodgell Decl., ¶¶ 6-7. Mr. Hodgell
22 informed the sender of his residency on at least 25 separate occasions, starting as early as
23 September, 2021. *Id.* Mr. Hodgell's email addresses include references to his Washington
24 residency. *Id.* Mr. Hodgell also actively informed Andersen and Renewal by Andersen of his
25 Washington residency in direct communications with their counsel prior to filing this suit.

1 Hodgell Decl., ¶¶ 7-9. Mr. Hodgell informed Andersen and Renewal by Andersen as earlier
2 as 2021. Hodgell Decl., ¶ 6.

3 In the last four years, Mr. Hodgell has received more than 200 of these unsolicited
4 emails. Hodgell Decl., ¶ 6. He has continued to receive emails even after filing this lawsuit.
5 *Id.* The emails always include branding and other content owned by Andersen or Renewal
6 by Andersen. *See* Hodgell Decl., ¶¶ 12-13. The emails often, though not always, state they
7 were sent by an “affiliate” of Andersen or Renewal by Andersen. *See id.* The emails often
8 provide post office box or private post office box sender addresses, like the P.O. Box 408,
9 Merrick, New York address. Hodgell Decl., ¶¶ 13, 16.

10 The emails include deceptive content information about the sender. *See* Hodgell Decl.,
11 ¶¶ 12-13. Other emails included false or misleading information in the subject line. The
12 subject line of one email, for example, claimed to be a “payout verification.” Hodgell Decl.,
13 ¶ 13. The body content of that email described a \$150,000 payout to Mr. Hodgell’s retirement
14 account. *Id.* However, when Mr. Hodgell clicked the hyperlink in the email, he was sent to a
15 website selling Renewal by Andersen’s window replacement services. *Id.*

16 Mr. Hodgell followed links in other emails he received and was sent to various websites
17 selling Andersen windows or Renewal by Andersen’s services. Hodgell Decl., ¶ 4. On those
18 websites, Mr. Hodgell found a phone number, (516) 253-6644. Hodgell Decl., ¶ 14. Mr.
19 Hodgell called the number. Hodgell Decl., ¶ 16. Mr. Hodgell was presented with a recorded
20 message stating “thank you for calling the compliance group on behalf of Renewal by
21 Andersen. If you wish to be removed from future email correspondence, please clearly state
22 all emails you’d like to have unsubscribed and our compliance team will have this taken care
23 of.” *Id.*; *see* Hodgell Decl., Ex. 5. The message also gave Mr. Hodgell the option to speak
24 with a representative. *Id.* Mr. Hodgell spoke with a representative, who stated they worked
25 for Renewal by Andersen. *Id.*

1 During the course of this lawsuit, Mr. Hodgell has learned that he is not the only party
 2 concerned about spam emails sent by or on behalf of Andersen and Renewal by Andersen.
 3 Hodgell Decl., ¶ 2, 8. Mr. Hodgell has discovered, in public court filings, that other parties
 4 were raising similar issues in suits against the companies as early as 2021. *Id.*

5 **a. Hyperlinks in Emails to Mr. Hodgell Link to Webpages Apparently**
 6 **Controlled by Defendants and their Vendors**

7 Mr. Hodgell recorded screen capture videos of clicking the links included in the emails
 8 he received. Hodgell Decl., ¶ 13; *see* Hodgell Decl., Ex. 5. The link in one email directed
 9 Mr. Hodgell to the website <https://replacemywindows4less.com>, a landing page website
 10 designed to collect customer information. *Id.*; *see* Trask Decl., ¶ 1. The
 11 replacemywindows4less.com website includes Renewal by Andersen branding. *See* Trask
 12 Decl., Ex. 1. The website includes business and contractor license numbers and information
 13 for Renewal by Andersen, including Renewal by Andersen’s Washington contractor license
 14 number. *Id.*; *see* Trask Decl., Ex. 5; Trask Decl., Ex. 6. The web address of the “unsubscribe”
 15 page linked on the website replacemywindows4less.com is
 16 [http://pub.s7.exacttarget.com/hxafk4bhe5c?email=&storeId=&optoutsource=ExactCustomer](http://pub.s7.exacttarget.com/hxafk4bhe5c?email=&storeId=&optoutsource=ExactCustomer&ctkwd=&ecadid=)
 17 [er&ctkwd=&ecadid=](http://pub.s7.exacttarget.com/hxafk4bhe5c?email=&storeId=&optoutsource=ExactCustomer&ctkwd=&ecadid=). Trask Decl., ¶ 8. Exact Target, the redirect link domain holder for the
 18 proceeding unsubscribe link, is a provider of email marketing software. Trask Decl., ¶ 9. The
 19 “optoutsource” portion of the web address indicates that the source of the email received by
 20 Mr. Hodgell was Exact Customer. Trask Decl., ¶ 11. As admitted in the declaration of
 21 Renewal by Andersen’s Director of Marketing, Exact Customer provides email marketing
 22 services to Renewal by Andersen. Dkt. #13, ¶ 6. The “Contact Us” page linked on the
 23 replacemywindows4less.com website states that it is the “Renewal by Andersen Email
 24 Compliance Manager” and has the web address <http://emailcomplaincemanager.com/rba>.
 25 Trask Decl., ¶12; Trask Decl., Ex. 8.

1 The replacemywindows4less.com, low-e-replacementwindows.com, rbawindowoffers
 2 .com, and qualitywindowsdirect.com websites each include a “contact us” link. *See* Trask
 3 Decl., Ex. 1; Trask Decl., Ex. 2; Trask Decl., Ex. 3; Trask Decl., Ex. 4. On each website,
 4 clicking the “contact us” link directs the user to
 5 <https://emailcompliancemanager.com/rba/?1=1>. Trask Decl., ¶ 12. The
 6 emailcompliancemanager.com/rba website includes Renewal by Andersen branding and
 7 states that it is “the Renewal by Andersen Email Compliance Manager.” Trask Decl., Ex. 8.

8 The same website design used on replacemywindows4less.com,
 9 rbawindowoffers.com, and low-e-replacementwindows.com can also be found on Renewal
 10 by Andersen’s website at <http://ec.renewalbyandersen.com>. *See* Trask Decl., Ex. 9; Trask
 11 Decl., ¶¶ 16-18. The “unsubscribe” page linked on the ec.renewalbyandersen.com website is
 12 nearly identical to the “unsubscribe” page on the other websites. Trask Decl., ¶ 18; *see* Trask
 13 Decl., Ex. 10. The ec.renewalbyandersen.com website includes a link to the same contact us
 14 page as the other websites. Trask Decl., ¶ 17.

15 **b. Renewal By Andersen and Andersen Corporation Conduct Business in**
 16 **Washington, Both Online and In Person**

17 Renewal by Andersen is registered to do business in Washington. Trask Decl., ¶ 19;
 18 Trask Decl., Ex. 11. Renewal by Andersen conducts business from locations in Washington,
 19 including a location at 700 S. Renton Village Place, Suite 600, Renton, Washington 98057.
 20 Trask Decl., ¶ 20. Renewal by Andersen’s Renton location is in King County. *Id.* Renewal
 21 by Andersen operates a second location in Spokane County, Washington. *Id.*

22 Renewal by Andersen’s website is interactive. The website allows visitors to schedule
 23 appointments, share personal information, and view Andersen products. Trask Decl., ¶ 21.
 24 The website also offers visitors an “augmented reality” service, through which visitors can
 25 share images and video of their home and see a representation of Andersen products in their
 home. *Id.* The website also includes a “sweepstakes” through which visitors can share

1 personal information with Renewal by Andersen in the hopes of winning a prize. *Id.* The
2 website also offers a chat function, allowing visitors to interact with Renewal by Andersen.
3 *Id.* Renewal by Andersen’s website specifically solicits business from Washington and King
4 County residents. *Id.*

5 Andersen Corporation also has an interactive website. The Andersen website allows
6 visitors to supply personal information and get a quote for Andersen’s products and services.
7 Trask Decl., ¶ 22. Visitors can also purchase window parts and supplies directly from the
8 Andersen website. *Id.* The website also allows professionals to submit information and
9 become an Andersen Certified Contractor. *Id.* Andersen certifies contractors in Washington,
10 including in King County. *Id.*

11 12 **III. STATEMENT OF ISSUES**

13 Should this Court dismiss Mr. Hodgell’s complaint where Defendants are subject to
14 specific personal jurisdiction because they intentionally sent, assisted in the sending of, or
15 conspired to send unlawful commercial electronic mail to an individual they knew was a
16 Washington resident?

17 18 **IV. EVIDENCE RELIED UPON**

19 This response relies on the Declaration of Joel Hodgell and documents attached thereto,
20 the Declaration of Tallman Trask and documents attached thereto, and documents, filings,
21 and pleadings already in the record.

22 23 **V. ARGUMENT**

24 **a. Relevant Legal Standards**

25 “When a motion to dismiss for lack of personal jurisdiction is resolved without an
evidentiary hearing, the plaintiff’s burden is only that of a prima facie showing of

jurisdiction.” *State v. LG Electronics, Inc.*, 186 Wn.2d 169, 176 (2016). When determining if there is jurisdiction, the Court treats the allegations in the complaint as established. *Lewis v. Bours*, 119 Wn.2d 667, 670 (1992). When addressing a motion to dismiss for lack of personal jurisdiction, the court must “accept the nonmoving party’s factual allegations as true and review the facts and all reasonable inferences drawn from the facts in the light most favorable to the nonmoving party.” *State v. LG Electronics*, 185 Wn. App. 394, 405 (Div. 1, 2015).

Washington’s long-arm statute allows the courts to exercise jurisdiction over “[a]ny person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated . . . as to any cause of action arising from the doing of any of said acts.” RCW 4.28.185(1). The enumerated acts include the commission of a tortious act within this state and the transaction of business in Washington. RCW 4.28.185(1)(a); RCW 4.28.185(1)(b).

“Washington’s long-arm statute allows the courts to exercise jurisdiction over nonresident defendants to the extent permitted by the due process clause of the United States Constitution.” *MBM Fisheries, Inc. v. Bollinger Mach. Shop & Shipyard, Inc.*, 60 Wn. App. 414, 423 (Div. 1, 1991). To establish personal jurisdiction consistent with the due process clause, three elements must be present: “(1) purposeful ‘minimum contacts’ must exist between the defendant and the forum state, (2) the plaintiff’s injuries must ‘arise out of or relate to’ those minimum contacts, and (3) the exercise of jurisdiction must be reasonable, that is consistent with notions of fair play and substantial justice.” *State v. LG Electronics, Inc.*, 186 Wn.2d 169, 177 (2016) (internal quotation marks omitted); *see Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 503 (9th Cir. 2023) (“the due process clause requires . . . that the defendant ‘take some act by which it purposefully avails itself of the privilege of conducting activities within the forum State,’ and that the plaintiff’s claims ‘arise out of or relate to the defendant’s contacts with the forum.’”) (quoting *Ford Motor Company v. Montana Eighth*

1 *Judicial District Court*, 592 U.S. ____, 141 S. Ct. 1017, 1024-1025, 209 L. Ed. 2d 225
 2 (2021)). Following *Ford*, claims relate to contacts with a forum state either where “similar
 3 injuries will tend to be caused by those contacts” or “if the defendant should have foreseen
 4 the risk that its contacts might cause injuries like that of the plaintiff.” *Yamashita*, 62 F.4th
 5 at 505-506. At the same time, those “contacts must be the defendant's own choice and not
 6 ‘random, isolated, or fortuitous.’” *Ford*, 141 S. Ct. at 1025 (quoting *Keeton v. Hustler*
 7 *Magazine, Inc.*, 465 U.S. 770, 774, 104 S. Ct. 1473, 79 L.Ed.2d 790 (1984)).

8 **b. The Relevant Tort and Injuries Occurred in Washington**

9 An injury occurs in Washington where the last event necessary to make the defendant
 10 liable of the alleged tort occurred in Washington. *SeaHAVN, Ltd. v. Glitnir Bank*, 154 Wn.
 11 App. 550, 569 (Div. 1, 2010). Relevant to Mr. Hodgell’s claim, damages under the
 12 Commercial Electronic Mail Act are only available to a recipient of violative commercial
 13 electronic mail. *See* RCW 19.190.040. Therefore, actual receipt of violative commercial
 14 electronic mail is a necessary event to make the defendant liable under RCW 19.190.040.
 15 Because the other elements of a violations, including sending a commercial electronic mail
 16 messages with false or misleading subject lines and initiating or assisting in the initiation of
 17 the transmission of an otherwise violative commercial electronic mail message, must
 18 necessarily occur before violative email can be delivered or received, delivery or receipt is
 19 also the *last* event necessary for liability. Mr. Hodgell received the relevant emails in
 20 Washington. Resultingly, the last event necessary for liability occurred when the violative
 21 emails were delivered to Mr. Hodgell in Washington and the injuries Defendants are liable
 22 for occurred in Washington.

23 **c. Defendants Purposefully Avail Themselves of the Privilege of**
 24 **Conducting Activities in Washington by Advertising and Selling**
 25 **Products and Services Online and Conducting Business in Washington**

1 To have “purposefully availed themselves of the laws of [a forum state, parties] must
 2 have ‘deliberately reached out beyond [their] home[s]—by, for example, exploiting a market
 3 in the forum State or entering a contractual relationship centered there.’ *Yamashita*, 62 F.4th
 4 at 503 (quoting *Ford*, 141 S. Ct. at 1205) (second and third alterations in original). These
 5 contacts need not directly relate to the plaintiff’s claims. *See Ford*, 141 S. Ct. at 1028
 6 (company purposefully availed itself where it advertised and encouraged residents to
 7 purchase products in case involving products actually sold in another state); *see also*
 8 *Yamashita*, 62 F.4th at 504 (sale of large residential solar batteries “clearly qualify as
 9 purposeful availment” in case involving small consumer batteries). “It is well settled that a
 10 non-resident’s maintenance of an interactive website through which consumers may
 11 purchase goods or services is sufficient to meet [the purposeful availment] element.” *State*
 12 *v. www.dirtcheapcig.com*, 260 F.Supp.2d 1048, 1052 (W.D. Wash., 2003).

13 Mr. Hodgell alleges, and Defendants do not deny, that Andersen and Renewal by
 14 Andersen conduct business in part through online and email marketing targeting Washington
 15 residents like Mr. Hodgell. Dkt. #1, ¶¶ 4-5. In that, Andersen and Renewal by Andersen
 16 intentionally target their conduct at Washington and intentionally engage in business of the
 17 type that injured Mr. Hodgell in Washington. The commercial electronic messages Mr.
 18 Hodgell received are themselves analogous to an interactive website. The emails are an
 19 interactive pathway to collect personal information and allow visitors to purchase Andersen
 20 and Renewal by Andersen products and services.

21 Further, each of the emails received by Mr. Hodgell includes hyperlinks to interactive
 22 websites, like replacemywindows4less.com, which solicit Andersen or Renewal by
 23 Andersen’s services. Each website permits visitors to interact with the website and supply
 24 personal information in order to purchase Andersen or Renewal by Andersen’s products and
 25 services in Washington. The websites contain information linking them to Exact Customer,

1 Renewal by Andersen’s vendor. Both Andersen and Renewal by Andersen operate additional
2 interactive websites through which Washington residents can purchase products or services.

3 Beyond that, however, Mr. Hodgell alleges, and Defendants have not denied, that
4 Andersen and Renewal by Andersen knew Mr. Hodgell was a Washington resident at the
5 time the emails were sent. Mr. Hodgell’s email addresses informed senders of his residence,
6 tracking tools in the emails and websites allowed Defendants to record Mr. Hodgell’s
7 geographically-linked IP address, and Mr. Hodgell actively responded to the commercial
8 electronic mail messages and otherwise communicated with Andersen and Renewal by
9 Andersen to inform them of his Washington residency.

10 On the whole, Mr. Hodgell has satisfied the purposeful avilment element because,
11 based on the facts alleged in his complaint and supported in this response, Andersen and
12 Renewal by Andersen engage in email marketing programs which purposefully target
13 Washington. Either within those email marketing programs or otherwise, they sent or
14 assisted in sending commercial electronic mail to Mr. Hodgell. Mr. Hodgell alleges, and
15 Andersen and Renewal by Andersen do not deny, that Defendants knew Mr. Hodgell was a
16 Washington resident. Mr. Hodgell received the violative emails in Washington.

17 **d. Mr. Hodgell’s Injuries Relate to Defendants Purposeful Contacts with**
18 **Washington**

19 Defendants argue that they “did not engage in any activities that give rise to Plaintiff’s
20 claim.” Dkt #12, 6:18. Defendants’ argument runs counter to the declarations of their own
21 marketing directors, which describe the email marketing efforts and contracts which led to
22 the injuries suffered by Mr. Hodgell. Dkt. #13, ¶ 6; Dkt. #14, ¶ 5. Defendants admit, as Mr.
23 Hodgell alleged in his complaint, they engage in email marketing. *See id.*; *see also* Dkt. #1,
24 ¶¶ 4-5, 13. Renewal by Andersen admits it has contracted with Exact Customer, an email
25 marketing vendor, to provide some email marketing. *See* Dkt. #13, ¶¶ 6-7. Renewal by
Andersen further admits that it has no idea what Exact Customer does to fulfill that contract

1 on a day-to-day basis, but presumably continues to pay Exact Customer for those services.
 2 See Dkt. #13, ¶ 7. The emails Mr. Hodgell received which advertise and sell Defendants
 3 products and services are associated with Exact Customer and link to websites and associated
 4 with Exact Customer and containing Defendants information and branding.

5 In the face of those facts, Defendants argue that they cannot be subject to jurisdiction
 6 because they did not personally send the *specific* emails received by Mr. Hodgell. See Dkt.
 7 #12, 6:17-7:4. Defendant's argument here is not jurisdictional; it is about the facts and merits
 8 of Mr. Hodgell's claims. It is also inaccurate; Mr. Hodgell's claims, and the statutes
 9 supporting them, in no way require that Defendants themselves initiated or sent the emails.
 10 Mr. Hodgell's claims are premised on either initiation, assistance, or conspiracy.

11 Mr. Hodgell's injuries relate to or arise from Defendants purposeful conduct because
 12 Mr. Hodgell's injuries were caused by the commercial electronic messages Defendants sent,
 13 assisted in sending, or conspired to send. Defendants purposeful contacts include email
 14 marketing targeting Washington, including the email marketing provided by Exact
 15 Customer. As Mr. Hodgell's injuries are primarily statutory in nature and, because violations
 16 of the Commercial Electronic Mail Act are per se violations of the Consumer Protection Act
 17 where each element is established by the violation of the Commercial Electronic Mail Act,
 18 Mr. Hodgell's injuries necessarily relate to Defendants' violative conduct.

19 **e. Exercising Jurisdiction Here Would Be Reasonable and Consistent**
 20 **with Fair Play and Substantial Justice**

21 The burden of showing an exercise of jurisdiction would be unreasonable or
 22 inconsistent with fair play and substantial justice is on the defendant. See *State v. LG*
 23 *Electronics*, 186 Wn.2d 169, 184 (2016) ("With the State having sufficiently asserted
 24 purposeful minimum contacts at this state, the burden shifts to the Companies to present a
 25 compelling case that the exercise of jurisdiction is unreasonable and inconsistent with
 notions of fair play and substantial justice."). When evaluating fair play and substantial

1 justice concerns, the relevant factors are “(1) the quality, nature, and extent of [the
2 defendant’s] activity in Washington, (2) the convenience of the parties, (3) the benefits and
3 protection of Washington law, and (4) the basic equities of the situation.” *FutureSelect*
4 *Portfolio Management, Inc. v. Tremont Group Holdings, Inc.*, 180 Wn.2d 954, 965 (2014).

5 Evaluating those factors suggests an exercise of jurisdiction would be reasonable and
6 consistent with fair play and substantial justice in this case. First, Defendants’ email
7 marketing operation in Washington is substantial. Mr. Hodgell alleges that he alone has
8 received hundreds of commercial electronic mail messages soliciting customers for
9 Defendants’ products and services. Defendants also sell their windows and window
10 replacement services in Washington, certify contractors in Washington, have facilities in
11 Washington, and operate interactive websites soliciting business in Washington. Second,
12 there is nothing in the record which suggests an exercise of jurisdiction would pose an undue
13 burden on Defendants. Renewal by Andersen is registered to do business in Washington,
14 both Defendants conduct regular and substantial business in Washington, and both
15 Defendants are represented by local counsel. Third and fourth, the benefits and protections
16 offered to Washington residents like Mr. Hodgell under Washington’s Commercial
17 Electronic Mail Act are important public policy interest. The Legislature has determined they
18 are matters vitally effecting the public interest. *See* RCW 19.190.100. Washington courts can
19 and should exercise jurisdiction over foreign corporations operating in Washington when
20 those corporations violate Washington’s consumer protection laws through their interactions
21 with Washingtonians.

22 **f. Defendants May Have Ratified the Actions of Exact Customer or**
23 **Another Initiator**

24 While Mr. Hodgell did not raise an agency argument to support jurisdiction in his
25 complaint, Defendants spend much of their briefing addressing agency. *See* Dkt. #12, 7:5-
10:9. Despite Defendants’ argument to the contrary, there is a reasonable understanding of

1 the facts under which Defendants ratified the acts of initiator of the emails. Mr. Hodgell has
 2 alleged receipt of emails promoting Andersen's windows and Renewal by Andersen's
 3 services. Those emails are associated with Exact Customer and directed Mr. Hodgell to
 4 websites associated both with Defendants and Exact Customer. Andersen and Renewal by
 5 Andersen have faced or are facing other lawsuits based on similar emails, and Mr. Hodgell
 6 specifically and directly informed Defendants of the emails. In declarations supporting their
 7 motion to dismiss, Defendants admit to a contractual relationship with Exact Customer.
 8 While Mr. Hodgell cannot know for certain, it seems reasonable to believe that Defendants
 9 pay Exact Customer as a part of that contractual relationship. To the extent that Defendants
 10 pay Exact Customer for leads generated through spam emails or otherwise pay Exact
 11 Customer for services related to spam emails, Defendants have ratified Exact Customer's
 12 conduct.

13 While an agency relationship is not necessary for jurisdiction here, should the Court
 14 find that agency the *only* path to establishing jurisdiction here, Mr. Hodgell requests the
 15 Court permit discovery relevant to that relationship followed by an evidentiary hearing on
 16 the issue. Most or all documentation relevant to any potential agency relationship and
 17 ratification is necessarily in the possession of Defendants and not Mr. Hodgell. While Mr.
 18 Hodgell requested documents which may help show an agency relationship, Defendants
 19 objected to those requests and did not produce documents responsive to them pending a
 20 ruling on this motion.

21 **g. Liability Under the Assist and Conspire Prongs of RCW 19.190.020 Is**
 22 **Not Contingent on Approval or Authorization of the Specific Conduct**

23 While the merits of Mr. Hodgell's are not fully before the Court at this stage of
 24 proceedings, Defendants arguments necessarily implicate the merits. *See* Dkt. #12. Contrary
 25 to Defendants' claim that Mr. Hodgell's case is "based entirely on the allegation that
 Defendants sent the 'spam' emails identified in his complaint," Mr. Hodgell's case is

1 explicitly premised on initiation, assistance, conspiracy, or some combination of the three.
2 *See* Dkt. #1, ¶8.

3 The Commercial Electronic Mail Act provides for liability where a party “initiate[s]
4 the transmission, conspire[s] with another to initiate the transmission, or assist[s] the
5 transmission” of a commercial electronic mail message which violated the Commercial
6 Electronic Mail Act. RCW 19.190.020. “Assist the transmission” means:

7 actions taken by a person to provide substantial assistance or support which
8 enables any person to formulate, compose, send, originate, initiate, or
9 transmit a commercial electronic mail message or a commercial electronic
10 text message when the person providing the assistance knows or consciously
avoids knowing that the initiator . . . is engaged, or intends to engage, in any
practice that violates the consumer protection act.

11 RCW 19.190.010. Notably, the “assist” prong imposes liability where the actual initiator is
12 engaged in *any* practice that violates the Consumer Protection Act, not just those practices
13 which themselves violate the Commercial Electronic Mail Act. *See id.* Similarly, the “assist”
14 prong does not limit liability to circumstances where the initiator is engaged in practices
15 violating the Consumer Protection Act *within* the commercial electronic mail messages. *Id.*
16 Rather, it extends liability to cover any circumstance where the initiator engages in practices
17 in violation of the Consumer Protection Act, no matter the relationship between those
18 violations and the relevant commercial electronic mail messages. *Id.*

19 Defendants argue that they cannot be held responsible for the commercial electronic
20 mail sent to Mr. Hodgell because “Defendants did not send those emails.” Dkt. #12, 6:25-
21 26. Similarly, Defendants suggest they cannot be held liable because they did not “authorize
22 anyone else to send the emails to [Mr. Hodgell].” Dkt. #12, 3:1-15. Defendants describe Mr.
23 Hodgell’s claim that the emails he received were affiliated with them as a “doubtful and
24 unproven assumption.” Dkt. #12, 7:24-25.

25 However, Defendants still face potential liability under the Commercial Electronic
Mail Act regardless of whether or not they clicked the “send” button for the violative emails.

1 Even if Defendants did not initiate the emails, they still may be liable under either the assist
2 or conspire prongs of the Commercial Electronic Mail Act. Similarly, neither the “assist” nor
3 the “conspire” prong of the Commercial Electronic Mail Act includes any authorization
4 requirement. While some relationship is obviously required for assistance or conspiracy,
5 there is no need for authorization. For example, providing a sender with intellectual property
6 or paying a sender for leads generated by an email, even without an authorization to send a
7 specific email, would fit within “actions taken . . . to provide substantial support” required
8 for liability under the “assist” prong of the Commercial Electronic Mail Act.


9 Further, while Defendants describe the relationship between themselves and the emails
10 received by Mr. Hodgell as “doubtful and unproven,” the email contain intellectual property
11 belonging to defendants and include hyperlinks to websites apparently controlled by Exact
12 Customer, a vendor used by Renewal by Andersen to send commercial electronic mail like
13 that received by Mr. Hodgell. Based on the content of the emails and linked websites, it is
14 reasonable to conclude that there is some connection between Renewal by Andersen and the
15 emails received by Mr. Hodgell.

16 Finally, Defendants may be liable under the “initiate” prong of the Commercial
17 Electronic Mail Act. The initiate prong provides for liability where a person “initiates the
18 transmission . . . of a commercial electronic mail message . . . to an electronic mail address
19 that the sender knows, or has reason to know, is held by a Washington resident that . . .
20 [c]ontains false or misleading information in the subject line.” RCW 19.190.020(1). The
21 statute does not limit liability to the party who actually hit the “send” button and other
22 statutory schemes permit liability for multiple initiators. *See, e.g.*, 15 U.S.C. § 7702(9). Here,
23 Defendants allegedly engaged in at least some conduct which initiated the sending of
24 commercial electronic mail messages through Exact Customer, like those received by Mr.
25 Hodgell, including negotiating and entering into a contract or contracts with Exact Customer
and providing intellectual property and information like opt-out lists to Exact Customer.

Joel Hodgell has been subjected to hundreds of spam emails for a service he is not interested in, provided by a company he has no relationship with, which makes products he does not want. Those emails contain deceptive subject lines or other deceptive information in violation of Washington law. Applying the relevant statutory and constitutional tests, the Court can and should exercise specific jurisdiction related to Mr. Hodgell's claims against Andersen Corporation and Renewal by Andersen. Defendants' Motion to Dismiss should be denied.

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DATED November 27, 2023

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CERTIFICATE OF SERVICE

I declare under penalty of perjury of the laws of the State of Washington that on the date below a copy of the foregoing document was forwarded for service upon counsel of record as follows:

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Signed at Seattle, Washington this 27th day of November, 2023.



Tallman H. Trask

Exhibit 3

Honorable Matthew J. Segal
Hearing Date: December 5, 2023 at 8:30 AM
With Oral Argument

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**DECLARATION OF JOEL HODGELL IN
SUPPORT OF PLAINTIFF'S RESPONSE
TO DEFENDANTS' MOTION TO
DISMISS FOR LACK OF PERSONAL
JURISDICTION**

I, Joel Hodgell, hereby declare under penalty of perjury and pursuant to the laws of the State of Washington that I am over the age of eighteen, am competent to testify to the contents herein, and that the following is true and correct to the best of my own personal knowledge::

1. I have filed well over fifty "spam" (unsolicited bulk commercial emails) lawsuits related to RCW 19.190 (CEMA) and RCW 19.86 (CPA) in the past 20+ years in state and federal courts in Washington state. I have never "subscribed" in any manner to receive spam from any past or present spammers/Defendants. I never heard of, nor knew of the existence of Andersen Corp. and/or Renewal by Andersen LLC (ARBA) before they started to spam me in 2021. I also never heard, nor knew

about their hired spammer Exact Customer LLC before May 2023. I also never heard of Troika Media Group (TMG), who ARBA failed to mention their ongoing business relationship with TMG who also spams for other companies. Mr. Thomas Marianacci is a top executive of both EC and TMG. It appears EC and TMG have been spamming for ARBA for years. I attached three TMG SEC.gov filings in ¶ 20 as Exhibit 10. I received an unusual "spam tsunami" from TMG's spammers in May 2023 (after this lawsuit began), up to the present, and well over 100 of these 1,000+ spams from TMG spammers promoted ARBA products and services. EC and TMG hire "affiliates" to spam for their clients. All of my prior Defendants claimed all of their spams even those sent out by "affiliates" were totally legal, complying with all state and federal laws, but the discovery process always proved otherwise..

2. I will cover the different ways the Defendants are trying to mislead this Court in their Defendants' Motion to Dismiss (M2D) in ¶¶3-10 with Exhibits 1-3. In ¶11 I show three lawsuits against ARBA I learned about in the past month, as found in Exhibit 4. In ¶¶12-17 I explain the shadow network of copy websites or "spamsites" that were promoted using EC/TMG spammers to generate leads for ARBA and found in Exhibits 5-7. In ¶¶18-20 more information about EC and TMG is given and as found in Exhibits 8-10.

3. The Defendants are trying "to have it both ways" by knowing or consciously avoiding knowing (RCW 19.190.010(1)(7), RCW 19.190.030(2)) what their spammers EC/TMG are doing even if it violates laws or their own meaningless "rules", etc. The Defendants are trying to mislead this Court with their useless empty claims about "rules", "policies", "authorizations", etc. their spammer agent EC "must" follow. EC has an unusual relationship with ARBA as found in a 2022 contract between TMG and Thomas Marianacci (see ¶18 and Exhibit 8). On the internal page 24 of the attached Exhibit 8, it says "EC [Exact Customer, LLC] is a

1 performance based marketing company that drives leads specifically for an entity
2 known as "Renewal by Andersen," using digital vendors, mostly in the direct email
3 channel." The first two sentences in Rokusek Decl. ¶7 say "Exact Customer is an
4 independent contractor. Renewal does not control the manner and methods of Exact
5 Customer's work." With such a revealing admission, there simply is no credible
6 way ARBA can claim any real enforcement work is done to make sure EC and
7 anyone else it hires (e.g. TMG and its spammer network) complies with any of
8 ARBA's "rules", "policies", contracts, state/federal laws, etc. The Rokusek Decl. ¶7
9 admission totally guts ARBA's excuses and defenses. ARBA has tried to totally
10 distance themselves from the actions of their hired agents EC/TMG (p. 9, lines 13-
11 14 of Defendants' Motion to Dismiss or M2D) while ARBA rakes in their profits
12 from it. ARBA has tried to dump or "outsource" their liabilities, while they try to
13 reap all the profits they can from spamming done by EC/TMG. "Authorizations",
14 "policies", "rules", "contracts" relating to spamming done by agents EC/TMG for
15 ARBA mean nothing when they are not enforced. Anyone can have elaborate
16 "compliance rules" and "policies" to hide behind, but ARBA admitted they do not
17 control EC (and who ever they hire to spam for them, like TMG and well hidden
18 "affiliate" spammer networks). I long suspected the ARBA's "compliance" claims
19 were subterfuge "window dressing", but the Rokusek Decl. ¶7 shows ARBA knows
20 or consciously avoids knowing what their spammer agent EC is doing, thus
21 confirming my two year old suspicion. ARBA has said nothing about how EC
22 works because ARBA does not know, nor does it want to know how EC works.
23 ARBA seems to think it having "rules", "policies", "contracts", etc., in place,
24 without producing any evidence to support these self-serving claims, some how
25 shields them from legal liabilities for their hired spammer agents' actions. CEMA
and CPA do not mention "good intentions" or "good policies" as exemptions from

liabilities. The gutted defense found in ARBA's M2D (relating to "rogue spammers", "agents", "rules", "do not spam" lists, "authorizations", etc.,) only uselessly covers less than 1% of the 200+ spams they sent to me.

4. The Defendants have shown brazen dishonesty in their current M2D as they are trying to mislead this Court by omitting their "black box", charade subterfuge, "deniability by design", etc. shadow spamming operation (run by EC and probably TMG) to promote their network of copy shadow websites ("spamsites"), such as REPLACEMYWINDOWS4LESS.COM (& LOW-E-REPLACEMENTWINDOWS.COM, RBAWINDOWOFFERS.COM, EXPERTWINDOWS.COM, QUALITYWINDOWSDIRECT.COM, WINDOWRATEADVISOR.COM, etc.) the same spamsite promoted in the spam found in the Rokusek Decl. (Attachments 1-2). I recorded a web capture video of me clicking on the links found in this same spam (¶¶13-17 below, Exhibit 5) and I was redirected to this same spamsite. ARBA employees staff the call center tied to the phone number (516) 253-6644 which I found at <https://replacemywindows4less.com/Ca-Privacy-Replace4less.html>. I will expand more on this same spam email and this spamsite below in ¶¶12-17.
5. The Defendants have expanded on their dishonesty by trying to hide behind their "rogue spammer" excuse (p. 9, line 12 of M2D). I warned the Defendants' counsel at least four times about this absurd bogus non-credible excuse. One week before the Defendants filed this M2D I warned them yet again via my counsel about their "rogue spammer" nonsense, by writing on 31 Oct. 2023: "Mr. Hodgell has learned it appears the ARBA spammer network uses a "prevention of retention" of discoverable evidence strategy, to keep themselves as much "in the dark" as possible. This strategy creates many problems for the defenses you may wish to deploy for ARBA. The "rogue spammers" excuse/defense has far too many

1 problems with it, so many it has never been used in any court filings by any past
2 defendants in Mr. Hodgell's prior spam lawsuits." Out of 33,000,000+ businesses
3 in the United States, only a few dozen are foolish enough to spam to promote their
4 products/services. With the abundance of legally allowed paid advertising options
5 available to businesses today, spamming is a very legally risky and potentially
6 enormously expensive option to use. In the past 20+ years I have learned spammers
7 NEVER spam for free, while creating all kinds of legal exposure for themselves.
8 There simply are no "superfan" spammers spamming for anyone for free. If any
9 scammer tried to steal away potential ARBA customers via spam and any of them
10 lost money to these non-existent scammers, ARBA would have certainly heard
11 from these defrauded customers. ARBA has abundant resources to investigate any
12 potential scammers spamming to defraud potential/actual ARBA customers. But
13 scammers are not attracted to the profit margins of ARBA products/services, and it
14 would be far too complicated to try to manufacture fake windows/doors, compared
15 to the much higher profits and ease of promoting other products (e.g. counterfeit
16 pills and "designer" goods, casinos, identity theft crimes, etc.).

- 17 6. The Defendants continued their dishonesty by omitting my direct notices to the
18 Defendants' counsel and to the Defendants and their spammers. I attached to this
19 Declaration as Exhibit 1 a true and correct copy of a court ruling from my prior
20 USDC case in 2002 where the Memolink defendants made similar arguments as
21 the current Defendants have made. In that case and in this current case, I gave
22 abundant direct notices to the Defendants they were spamming email addresses
23 held by me, a Washington state resident, by me replying directly back to the
24 "From:" email addresses found in their 200+ spams they sent to me or were sent to
25 me on their behalf, from 2021 up to now. I expanded on my 2002 approach by
giving Defendants' counsel direct notices about what to look for, to check the

1 inboxes of their "affiliate" spammers, etc., so they had all the information they
2 needed to avoid me, Joel Hodgell in Seattle, WA, USA. Defendants' counsel could
3 have easily forwarded my whole second Demand Letter to EC/TMG, so they could
4 send it to their "affiliate" spammer networks. And if they took a little time to check
5 their spammers' inboxes or even their spamlists, they had all the information they
6 needed from me to avoid illegally spamming me. My first Demand Letter was sent
7 to the Defendants on 01 Sept. 2021 after I received 16 spams from them. The
8 Defendants sent 80+ spams to me around the time I sent my second Demand Letter
9 to them on 14 Dec. 2022. The Defendants have now spammed me well over 200+
10 times since then, and about half of this total after I filed this current lawsuit.

- 11 7. In my 25 direct notices to the Defendants, and in over 200+ direct notices I sent to
12 the network of spammers hired by EC and TMG, I gave my full name Joel Hodgell
13 and residency/location status of Seattle, WA, USA. My full name is very unique. I
14 appear to be the only Joel Hodgell that appears in a Google search of my full name,
15 and the results clearly show I reside in Seattle, WA, USA. Other than my unique
16 name I put geolocation shorthand indicators in my email addresses as well. My
17 email user profiles show I live in Seattle, WA. The Defendants' spammers also use
18 web beacons and other tracking tools in their spams. ARBA and EC/TMG know,
19 or have all the information they need to know where, when and who opens their
20 spams (e.g. from IP numbers which can be geographically traced). If they avoided
21 using any of this information I gave directly to them or from their own tracking
22 tools, then this shows yet again ARBA has consciously avoided knowing about
23 what jurisdictions and corresponding liabilities they were exposing themselves to.
24 My 25 direct notices to the Defendants also made clear they were spamming email
25 addresses held by a Washington state resident (me). I also wrote: "By continuing
to spam me, you . . . agree all courts in Washington state have personal and subject

jurisdiction over you."

8. I attached to this Declaration as Exhibit 2 a true and correct copy of one direct notice I sent to the Defendants on 25 Nov. 2021 from my email address iamawashingtonstateresident@gmail.com. ARBA's spammers spammed me again on 03 Nov. 2022, in spite their claim my email address was on their "Do Not Spam" list since 2017. Clearly their list did not prevent either of the two spams I got at iamawashingtonstateresident@gmail.com on 03 Nov. 2021/2022. Their "Do Not Spam" list appears to be very questionable since my issuespammersinwastateusa@gmail.com was created on 01 Sept. 2021, the same day I sent my first Demand Letter to the Defendants. It was impossible for this email address to be on their list from at least 2017 when it first existed in 2021. I never gave ARBA or their spammers my donotspamwastate@gmail.com address. I never claimed to get any spams at this one nor my issuespammersinwastateusa@gmail.com address. The Defendants' counsel must have put these three email addresses of mine on ARBA's so-called totally useless "do not spam" lists. ARBA's "Do Not Spam" list has a dubious provenance and it is totally irrelevant since it only uselessly relates to less than 1% (2 spams) out of the 200+ spams I received so far from ARBA. I was spammed four times by the Defendants on 08 Nov. 2023, one day after they filed this M2D. Clearly ARBA does not control, and does nothing to control their well hidden hired spammers. I never complained about any true affirmative consent emailing ARBA does to any of their current window/door customers using the andersencorp.com in the email address. But I learned in ¶16 below that the andersencorp.com domain name is used in the "unsubscribe" line found at least five of their shadow spam sites. I also learned in the past month ARBA has been sued twice by Mr. Joshua Lapin in South Dakota. His first lawsuit was in 2021 and ARBA settled with him. But ARBA kept

1 spamming his same email address and he recently sued ARBA again last month.
2 ARBA will also be sued soon by Mr. Nathan Brinton in Clark County Superior
3 Court in Washington state, for the many illegal spams ARBA sent to him in
4 violation of CEMA and CPA. ARBA has an illegal spamming problem they want
5 this Court to ignore, just as they do.

6 9. I sent to the Defendants' counsel on 14 Dec. 2022 my second Demand Letter. Some
7 of the contents of my second Demand Letter was similar to my ¶¶6-8 above, but I
8 also covered how CEMA and CAN-SPAM does not prevent whole domain names
9 from banning spam from their whole domain networks. The Defendants' counsel
10 have had over two years to "investigate" their false claims about non-existent
11 "rogue spammers" and it is clear by their lack of producing any evidence to support
12 their baseless claims, there is and never was any "rogue spammer" for the
13 Defendants to hide behind.

14 10. I attached to this Declaration as Exhibit 3 true and correct copies of the anti-spam
15 polices of AOL.com, Gmail.com, Hotmail.com, Yahoo.com, etc. These websites
16 offer free email services to billions of people and are supported by paid advertising.
17 Spamming is unpaid unsolicited parasitic trespassing that companies like EC and
18 TMG wrongly call "advertising", but it is an unfair method of competition and
19 unfair or deceptive act or practice in the conduct of any trade or commerce and has
20 been declared unlawful in this state (RCW 19.190.030(3) and RCW 19.86.020).

21 11. I attached to this Declaration as Exhibit 4 true and correct copies of the Complaints
22 for lawsuits filed by Mr. Joshua Lapin (2021 and 2023) and Mr. Nathan Brinton
23 (2023, not filed yet, in process of being served). Lapin's 2021 case in Hughes
24 County, SD was case #32SMC21-275 and in 2023 he filed in Minnehaha County,
25 SD with case #49CIV23-2926.

12. All of the 200+ ARBA spams I received so far redirected me to ARBA "shadow"

1 copy websites ("spamsites") that belonged to ARBA and/or EC/TMG. Spamming
2 was used to promote these spamsites so EC/TMG could gather "leads" for ARBA.
3 ARBA's own people confirmed replacemywindows4less.com was their website as
4 explained in ¶16 below. This pattern was used for all of the 200+ ARBA spams.

5 13. I attached to this Declaration as Exhibit 5 a true and correct copy of the web capture
6 video I recorded of me clicking on links found within the 03 Nov. 2022 spam (the
7 spam found in the Rokusek Decl. (Attachments 1-2) that redirected me to
8 replacemywindows4less.com. I uploaded this video to Google Drive with an open
9 access link found on the Exhibit 5 cover page. The 03 Nov. 2022 ARBA spam and
10 my web video show I got redirected to the shadow copy spamsite promoted in
11 ARBA/EC/TMG spams. This same spam found in the Rokusek Decl. (Attachments
12 1-2) says: "This message has been sent to you through an affiliate of Renewal by
13 Andersen." And has an "unsubscribe" postal addresses of 2040 Merrick Road Unit
14 408, Merrick NY 11566, all on page 4. ReplaceMyWindows4Less.com was the
15 same spamsite promoted in the \$150,000.00 prize spam I received from ARBA in
16 2022. The audio file in Exhibit 5 is a recording of the greeting callers hear when
17 dialing 516-253-6644 (¶16), a phone number found at
18 ReplaceMyWindows4Less.com. This shows connections between ARBA spams,
19 EC and back to ARBA again. The video is available at:
20 [https://drive.google.com/file/d/1L5dLbMJKzoWPk38oe-](https://drive.google.com/file/d/1L5dLbMJKzoWPk38oe-32G83_OkCIG2GX/view?usp=sharing)
21 [32G83_OkCIG2GX/view?usp=sharing](https://drive.google.com/file/d/1L5dLbMJKzoWPk38oe-32G83_OkCIG2GX/view?usp=sharing). The audio is available at:
22 <https://drive.google.com/file/d/1n7eFR0xt2sgnfQ3q-umcFe2dplMkfMEp/vi>
23 [ew?usp=sharing](https://drive.google.com/file/d/1n7eFR0xt2sgnfQ3q-umcFe2dplMkfMEp/vi).

24 14. At replacemywindows4less.com I noticed and clicked on the "Privacy Notice for
25 CA Residents" link and I found the phone number (516) 253-6644, please see
<https://web.archive.org/web/20220924193952/https://replacemywindows4>

1 less.com/Ca-Privacy-Replace4less.html.

2 15. I attached to this Declaration as Exhibit 6 true and correct copies of the link found
3 in ¶14 herein, where I found (516) 253-6644.

4 16. I called (516) 253-6644 numerous times in 2023 and talked with the Renewal by
5 Andersen (RBA) representatives. When I called that number I first heard this
6 opening recorded message: "Hello and thank you for calling the Compliance Group
7 on behalf of Renewal By Andersen. If you wish to be removed from future email
8 correspondence please clearly state all emails you'd like to have unsubscribed and
9 our compliance team will have this taken care of. If you are inquiring about a free
10 in-home consultation or service request, please press 1 now to be connected to the
11 next available representative. Thank you and have a nice day." After this message
12 I pressed "1" and was connected to RBA staff. The RBA representatives confirmed
13 they worked for RBA itself, the (516) 253-6644 number was RBA's, and so was
14 the PO Box 408 in Merrick, NY 11566, that I found in the majority of the
15 Defendants spams to me. The email found attached to the Rokusek Decl. clearly
16 says "This message has been sent to you through an affiliate of Renewal by
17 Andersen" on page 4, along with the "unsubscribe" postal address of 2040 Merrick
18 Road Unit 408 Merrick, NY 11566 (the address for the US Post Office in Merrick,
19 NY). I also found the andersencorp.com domain name was used in the
20 "unsubscribe" links found at these ARBA shadow spamsites, which show
21 andersencorp.com is involved with the ARBA spamsites (contrary to Audette
22 Decl.): EXPERTWINDOWS.COM, QUALITYWINDOWSDIRECT.COM,
23 WINDOWRATEADVISOR.COM, RBAWINDOWOFFERS.COM,
24 REPLACEMYWINDOWS4LESS.COM. The "unsubscribe" link was
25 [https://cloud.e.andersencorp.com/rbaunsubscribe?email=&storeId=&optoutsource
=&ctkwd=&ecadid=](https://cloud.e.andersencorp.com/rbaunsubscribe?email=&storeId=&optoutsource=&ctkwd=&ecadid=).

17. I attached to this Declaration as Exhibit 7 true and correct copy of my Google search of 516-253-6644 and of the following links below. These links show the connections between ARBA, EC, 516-253-6644, Merrick New York and the shadow spamsite ReplacemyWindows4Less.com. RBA is part of Andersen, so the Defendants' counsel's attempt to separate RBA from Andersen is a distinction without any meaningful difference: <https://webcache.googleusercontent.com/search?q=cache:CaodO6OGkQwJ:https://ec.renewalbyandersen.com/rbadyn.aspx%3FECa%3D1%26ectestId%3D3%26eccmp%3D6282%26eckwd%3Dsearch&hl=en&gl=us>, <https://www.windowrateadvisor.com/Ca-Privacy.html>, <https://ec.renewalbyandersen.com/Ca-Privacy.html>, <https://ec.renewalbyandersen.com/Privacy-Policy.html>, <https://ec.renewalbyandersen.com/Terms%20of%20Use.html>, <https://web.archive.org/web/20231011205255/https://www.andersenwindows.com/about/difference-between-andersen-windows-renewal-by-andersen>.

18. These archived links for ExactCustomer.com show EC uses "Affiliate" and "Email" as seen near top of page. I also attached a true and exact copy as Exhibit 8 of an EXHIBIT 10.14 for a 01 Jan. 2022 contract between Troika Media Group, Inc. and Thomas Marianacci. On the internal page 24 of this document, it says "EC (Exact Customer, LLC) is a performance based marketing company that drives leads specifically for an entity known as "Renewal by Andersen," using digital vendors, mostly in the direct email channel." [Troika-Media-Group-Inc.--and--Thomas-Marianacci--2022-01-01-contract--EXHIBIT-10.14--2023-05-08.](https://web.archive.org/web/20230207042957/https://exactcustomer.com) <https://web.archive.org/web/20230207042529/https://exactcustomer.com/meet-theteam.html>, <https://web.archive.org/web/20150124102914/http://exactcustomer.com/meet-the-team.html>, <https://web.archive.org/web/20230207042610/https://exactcustomer.com/overview.html>, <https://web.archive.org/web/20150125224244/http://exactcusto>

mer.com/overview.html.

19. I attached to this Declaration as Exhibit 9 true and correct copies of the TMG's clients as found at convergemarketing.com/clients (first two links below): <https://web.archive.org/web/20221206175052/https://convergemarketing.com/clients>, <https://web.archive.org/web/20230323210306/https://convergemarketing.com/clients>, <https://web.archive.org/web/20221206182922/convergemarketing.com/performance-marketing>, <https://web.archive.org/web/20230323195235/https://convergemarketing.com/article/5-benefits-of-email-marketing-for-lead-generation>, <https://webcache.googleusercontent.com/search?q=cache:GYoLENdngYJ:https://convergemarketing.com/article/5-benefits-of-email-marketing-for-leadgeneration/&cd=4&hl=en&ct=clnk&gl=us>, <https://webcache.googleusercontent.com/search?q=cache:0pAPPkikijAJ:https://www.leafhome.com/&hl=en&gl=us>, and <https://webcache.googleusercontent.com/search?q=cache:sNs6bHIE6pYJ:https://www.geterieroofting.com/&hl=en&gl=us>.

20. I attached to this Declaration as Exhibit 10 true and correct excerpts of TMG's SEC.gov filings from 2022. TMG SEC.gov filings make clear TMG uses spam as a big part of their business and Renewal by Andersen is a TMG client. Search inside each document for: CAN-SPAM, unsolicited, Andersen.

DATED November 27, 2023

By: *Joel Hodgell*
Joel Hodgell (Nov 27, 2023 15:16 PST)

Joel Hodgell, Plaintiff

CERTIFICATE OF SERVICE

I declare under penalty of perjury of the laws of the State of Washington that on the date below a copy of the foregoing document was forwarded for service upon counsel of record as follows:

Counsel for Defendants

Ryan Watstein
Abigail Howd
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- ☐ U.S. Mail
- ☐ Facsimile
- ☐ ABC Legal Messenger
- ☐ E-mail
- ☒ E-service via the Court

Derek A. Newman
Derek Linke
Newman LLP
1201 Second Ave., Suite 900
Seattle, WA 98101
dn@newmanlaw.com
linke@newmanlaw.com
docketing@newmanlaw.com

Signed at Seattle, Washington this 27th day of November, 2023.



Tallman H. Trask

2023-11-27 Hodgell Decl ISO P's Resp to MtD

Final Audit Report

2023-11-27

Created:	2023-11-27
By:	Tallman Trask (tallman@albertlawpllc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA9SGGhRAeP_mZ-chB_mWGrj3IDmyFIaKO

"2023-11-27 Hodgell Decl ISO P's Resp to MtD" History



Document created by Tallman Trask (tallman@albertlawpllc.com)

2023-11-27 - 10:47:38 PM GMT



Document emailed to joelhodgell@gmail.com for signature

2023-11-27 - 10:48:32 PM GMT



Email viewed by joelhodgell@gmail.com

2023-11-27 - 10:49:48 PM GMT



Signer joelhodgell@gmail.com entered name at signing as Joel Hodgell

2023-11-27 - 11:16:34 PM GMT



Document e-signed by Joel Hodgell (joelhodgell@gmail.com)

Signature Date: 2023-11-27 - 11:16:36 PM GMT - Time Source: server



Agreement completed.

2023-11-27 - 11:16:36 PM GMT



Adobe Acrobat Sign

Exhibit 4

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

COMES NOW the Plaintiff, Joel Hodgell, by and through his attorneys of record,
Gregory W. Albert and Tallman H. Trask of Albert Law PLLC, and hereby alleges the following
against Andersen Corporation and Renewal by Andersen, LLC.

I. INTRODUCTION

1. This action is a consumer protection action brought to recover damages for
Defendants' persistent per se violations of the Consumer Protection Act ("CPA"), RCW 19.86
et seq. Defendants' violations of the Consumer Protection Act are a result of Defendants'

1 violations of the Commercial Electronic Mail Act (“CEMA”), RCW 19.190 et seq.

2 2. Defendants initiated or assisted in the transmission of over one-hundred misleading
3 and unsolicited bulk commercial email solicitations. These misleading and unpermitted email
4 messages were sent to email addresses held by Plaintiff Joel Hodgell, a Washington resident.

5 6 **II. PARTIES**

7 3. Joel Hodgell is the Plaintiff in this case. At all relevant times, Mr. Hodgell was a
8 resident of King County and a citizen of the United States.

9 4. Andersen Corporation (“Andersen”) is a Defendant in this case. Andersen is a
10 foreign corporation with its headquarters in Bayport, Minnesota. Andersen manufactures
11 windows and doors. Andersen markets its products nationwide, including in Washington.
12 Andersen conducts business in Washington by, in part, by initiating the transmission, conspiring
13 to initiate the transmission, or assisting in the transmission of bulk commercial emails to
14 Washington residents.

15 5. Renewal by Andersen, LLC (“Renewal”) is a defendant in this case. Renewal is a
16 foreign corporation authorized to do business in Washington. Renewal is headquartered in
17 Bayport, Minnesota. On information and belief, Renewal is a subsidiary of Andersen. Renewal
18 is Andersen’s window replacement subsidiary and replaces existing windows with Andersen
19 windows through a network of dealers and installers. Renewal conducts business in Washington
20 by, in part, by initiating the transmission, conspiring to initiate the transmission, or assisting in
21 the transmission of bulk commercial emails to Washington residents.

22 23 **III. JURISDICTION AND VENUE**

24 6. The Legislature has conferred jurisdiction over this action and similar actions to
25 this Court. Jurisdiction is proper under RCW 19.86.090, RCW 19.86.160, and RCW
26 19.190.090.

7. The violations alleged in this complaint have occurred in whole or in part in King County and venue is proper in this Court.

IV. FACTS

8. From June 8, 2019 through the present Defendants have initiated transmission, conspired to initiate transmission, or assisted in the transmission of unsolicited, unpermitted, or misleading commercial electronic mail messages, otherwise known as “spam.”

9. The spam email messages Defendants caused to be sent misrepresented or obscured information about the point of origin and transmission path of the spam email. The messages used false or dishonest “from:” lines or obscured information in “from:” lines. The “from:” lines identify the address, person, or organization from which the email originated. Email recipients use the “from:” line to determine the sender of the email. The spam emails received by Mr. Hodgell often used falsified “from:” lines. These falsified “from:” lines indicated the email originated from a nonexistent email address or domain name or otherwise obscured information about the sender. By obscuring the information in the “from:” lines, Defendants made it unreasonably difficult or impossible to discover the actual sender of the spam email. One of the spam messages received by Mr. Hodgell, for example, used the “from:” line “Discount Windows.” The message was, in fact, a commercial solicitation for Renewal’s services.

10. The spam email messages Defendants caused to be sent used false or misleading information in the subject line. The subject line provides recipients with information about the content or subject of an email message. Email recipients use the subject line to determine the nature of the message they have received. One of the spam messages Mr. Hodgell received, for example, used the subject line “🔔 ALERT: 💰 CHECK OUT Your Account [email address] 💰 ✅ PAYOUT VERIFICATION ✅ 💰.” The email message further purported to be a \$150,000 payment to Mr. Hodgell’s retirement account. The email was, in fact, a commercial

1 solicitation for Renewal's services.

2 11. Defendants used third-party domain names without the permission of the third
3 party. Defendants did so in both the header content of spam messages and within the content of
4 spam messages.

5 12. The spam email messages Defendants caused to be sent were not messages "to
6 which an interactive computer service provider has attached an advertisement in exchange for
7 free use of an electronic mail account, when the sender has agreed to such an arrangement."
8 Rather, they were spam messages sent because Defendants caused them to be sent.

9 13. Defendants' actions caused spam emails to be sent to email addresses belonging to
10 Mr. Hodgell, a Washington resident.

11 14. Defendants knew or had reason to know that Mr. Hodgell is a Washington resident.
12 Mr. Hodgell uses email addresses which describe his residency. Mr. Hodgell directly responded
13 to spam messages informing Defendants of his residency. Defendants continued to cause spam
14 email messages to be sent to Mr. Hodgell even after he directly contacted them and informed
15 them of his residency.

16
17 **V. LEGAL ALLEGATIONS**

18 **COUNT ONE**

19 **VIOLATION OF CONSUMER PROTECTION ACT, RCW 19.86 et seq.**

20 15. Plaintiff realleges and incorporates by reference the allegations set forth in
21 paragraphs 8 through 14.

22 16. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
23 initiating the transmission, conspiring to initiate the transmission, or assisting in the
24 transmission of commercial electronic mail messages which misrepresented or obscured
25 information identifying the point of origin those messages.

26 17. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by

1 using third-party domain names within the header information of spam emails and within the
2 content of spam emails.

3 18. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
4 initiating the transmission, conspiring to initiate the transmission, or assisting in the
5 transmission of commercial electronic mail messages with false or misleading information in
6 the subject line.

7 19. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are
8 violations of the Consumer Protection Act, RCW 19.86 et seq.

9 20. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
10 unfair and deceptive acts for purposes of Consumer Protection Act claims.

11 21. Defendants' commercial solicitations occurred in trade or commerce.

12 22. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
13 matters vitally affecting the public interest for purposes of Consumer Protection Act claims.

14 23. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
15 the injury element of a Consumer Protection Act claim as a matter of law.

16 24. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
17 the causation element of a Consumer Protection Act claim as a matter of law.

18
19 **VI. DAMAGES AND PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

21 25. For judgment against the Defendants on all counts;

22 26. That the Court adjudge that each individual commercial electronic message
23 Defendants caused to be sent was a separate and distinct violation of the Commercial Electronic
24 Mail Act, RCW 19.190 et seq.;

25 27. For statutory liquidated damages as provided by RCW 19.190.040;
26

28. For treble damages as permitted by RCW 19.86.090;

29. For civil penalties under RCW 19.86.140;


30. For a permanent injunction, under RCW 19.86.090, prohibiting future and continuing violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., by Defendants;

31. For an award of attorney fees and other costs incurred during this action and/or to the fullest extent allowed by law or equity;

32. For prejudgment and post-judgment interests to the maximum allowable rate; and

33. For such other relief as this Court deems just and equitable.

DATED March 24, 2023

By: 

ALBERT LAW PLLC
Gregory W. Albert, WSBA #42673
Tallman H. Trask, WSBA #60280
3131 Western Ave, Suite 410
Seattle, WA 98121
Telephone: (206) 576-8044
E-mail: greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [60 DAYS]

[CR 4(B)(2)]

TO: Andersen Corporation

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

1 (20) days after the service of this Summons, excluding the day of service or a default judgment
2 may be entered against you without notice. If you are served with this summons outside the
3 State of Washington, in order to defendant against this lawsuit, you must respond to the
4 Complaint by stating your defense in writing and serving a copy on the undersigned person
5 within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to
6 what he asks for because you have not responded. If you serve a Notice of Appearance on the
7 undersigned person, you are entitled to notice before a default judgment may be entered.

8 You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand
9 must be in writing and must be served upon the person signing this Summons. Within fourteen
10 (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service
11 on you of this Summons and Complaint will be void.

12 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
13 that your written response, if any, may be served on time.

14 This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of
15 Washington.

16
17 DATED March 24, 2023

18
19 By: 

20
21 Gregory W. Albert, WSBA 42673
22 Tallman H. Trask, WSBA 60280
23 ALBERT LAW PLLC
24 3131 Western Ave, Suite 410
25 Seattle, WA 98121
26 (206) 576-8044
27 greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [20 DAYS]

[CR 4(B)(2)]

TO: Renewal by Andersen, LLC

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

1 (20) days after the service of this Summons, excluding the day of service or a default judgment
2 may be entered against you without notice. If you are served with this summons outside the
3 State of Washington, in order to defendant against this lawsuit, you must respond to the
4 Complaint by stating your defense in writing and serving a copy on the undersigned person
5 within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to
6 what he asks for because you have not responded. If you serve a Notice of Appearance on the
7 undersigned person, you are entitled to notice before a default judgment may be entered.

8 You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand
9 must be in writing and must be served upon the person signing this Summons. Within fourteen
10 (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service
11 on you of this Summons and Complaint will be void.

12 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
13 that your written response, if any, may be served on time.

14 This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of
15 Washington.

16
17 DATED March 24, 2023

18
19 By:  _____

20
21 Gregory W. Albert, WSBA 42673
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23 ALBERT LAW PLLC
24 3131 Western Ave, Suite 410
25 Seattle, WA 98121
26 (206) 576-8044
27 greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

Joel Hodgell

VS

Andersen Corporation and Renewal by
Andersen LLC

No. 23-2-05382-6 SEA

**CASE INFORMATION COVER SHEET AND
AREA DESIGNATION**

(CICS)

CAUSE OF ACTION

TTO - Tort /Other

AREA OF DESIGNATION

SEA

Defined as all King County north of Interstate 90 and including all of Interstate 90 right of way, all of the cities of Seattle, Mercer Island, Issaquah, and North Bend, and all of Vashon and Maury Islands.

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

JOEL HODGELL

Plaintiff(s)

vs

Andersen Corporation and Renewal by Andersen
LLC

Defendant(s)

No. 23-2-05382-6 SEA

ORDER SETTING CIVIL CASE SCHEDULE

ASSIGNED JUDGE: Matthew Segal, Dept. 03

FILED DATE: 03/24/2023

TRIAL DATE: 03/25/2024

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF:

The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLCR] -- especially those referred to in this **Schedule**. In order to comply with the **Schedule**, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

You are required to give a copy of these documents to all parties in this case.

I. NOTICES (continued)

CROSSCLAIMS, COUNTERCLAIMS AND THIRD-PARTY COMPLAINTS:

A filing fee of **\$240** must be paid when any answer that includes additional claims is filed in an existing case.

KCLCR 4.2(a)(2)

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule **if the case is subject to mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and crossclaims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$250 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$400 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

II. CASE SCHEDULE

*	CASE EVENT	EVENT DATE
	Case Filed and Schedule Issued.	03/24/2023»
*	Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See <i>KCLMAR 2.1(a) and Notices on Page 2</i>]. \$250 arbitration fee must be paid	09/01/2023
*	DEADLINE to file Confirmation of Joinder if not subject to Arbitration [See <i>KCLCR 4.2(a) and Notices on Page 2</i>].	09/01/2023
	DEADLINE for Hearing Motions to Change Case Assignment Area [KCLCR 82(e)].	09/15/2023
	DEADLINE for Disclosure of Possible Primary Witnesses [See <i>KCLCR 26(k)</i>].	10/23/2023
	DEADLINE for Disclosure of Possible Additional Witnesses [See <i>KCLCR 26(k)</i>].	12/04/2023
	DEADLINE for Jury Demand [See <i>KCLCR 38(b)(2)</i>].	12/18/2023
	DEADLINE for a Change in Trial Date [See <i>KCLCR 40(e)(2)</i>].	12/18/2023
	DEADLINE for Discovery Cutoff [See <i>KCLCR 37(g)</i>].	02/05/2024
	DEADLINE for Engaging in Alternative Dispute Resolution [See <i>KCLCR 16(b)</i>].	02/26/2024
	DEADLINE: Exchange Witness & Exhibit Lists & Documentary Exhibits [KCLCR 4(j)].	03/04/2024
*	DEADLINE to file Joint Confirmation of Trial Readiness [See <i>KCLCR 16(a)(1)</i>]	03/04/2024
	DEADLINE for Hearing Dispositive Pretrial Motions [See <i>KCLCR 56; CR 56</i>].	03/11/2024
*	Joint Statement of Evidence [See <i>KCLCR 4 (k)</i>]	03/18/2024
	DEADLINE for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file proposed Findings of Fact and Conclusions of Law with the Clerk)	03/18/2024
	Trial Date [See <i>KCLCR 40</i>].	03/25/2024

The * indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.

III. ORDER

Pursuant to King County Local Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 03/24/2023



PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

CASE SCHEDULE AND REQUIREMENTS: Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at www.kingcounty.gov/courts/scforms. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

C. Trial

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website www.kingcounty.gov/courts/superiorcourt to confirm the trial judge assignment.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Non-dispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule

7 governs these motions, which include discovery motions. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

Emergency Motions: Under the court's local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

B. Original Documents/Working Copies/ Filing of Documents: All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at www.kingcounty.gov/courts/clerk regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk's office E-Filing application at www.kingcounty.gov/courts/clerk/documents/eWC.

Service of documents: Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk's eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk's office website at www.kingcounty.gov/courts/clerk/documents/efiling regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge's website for information: www.kingcounty.gov/courts/SuperiorCourt/judges.

Presentation of Orders for Signature: All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department. Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count

includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3): the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PEITITONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.

A handwritten signature in black ink, appearing to read "M. Lai", is positioned above a horizontal line.

PRESIDING JUDGE

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

JOEL HODGELL

Plaintiff(s)

vs

Andersen Corporation and Renewal by Andersen
LLC

Defendant(s)

No. 23-2-05382-6 SEA

ORDER SETTING CIVIL CASE SCHEDULE**ASSIGNED JUDGE: Matthew Segal, Dept. 03**

FILED DATE: 03/24/2023

TRIAL DATE: 03/25/2024

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF:

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NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLCR] -- especially those referred to in this **Schedule**. In order to comply with the **Schedule**, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

You are required to give a copy of these documents to all parties in this case.

I. NOTICES (continued)

CROSSCLAIMS, COUNTERCLAIMS AND THIRD-PARTY COMPLAINTS:

A filing fee of **\$240** must be paid when any answer that includes additional claims is filed in an existing case.

KCLCR 4.2(a)(2)

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

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Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule **if the case is subject to mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and crossclaims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$250 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$400 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

II. CASE SCHEDULE

*	CASE EVENT	EVENT DATE
	Case Filed and Schedule Issued.	03/24/2023»
*	Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See <i>KCLMAR 2.1(a) and Notices on Page 2</i>]. \$250 arbitration fee must be paid	09/01/2023
*	DEADLINE to file Confirmation of Joinder if not subject to Arbitration [See <i>KCLCR 4.2(a) and Notices on Page 2</i>].	09/01/2023
	DEADLINE for Hearing Motions to Change Case Assignment Area [See <i>KCLCR 82(e)</i>].	09/15/2023
	DEADLINE for Disclosure of Possible Primary Witnesses [See <i>KCLCR 26(k)</i>].	10/23/2023
	DEADLINE for Disclosure of Possible Additional Witnesses [See <i>KCLCR 26(k)</i>].	12/04/2023
	DEADLINE for Jury Demand [See <i>KCLCR 38(b)(2)</i>].	12/18/2023
	DEADLINE for a Change in Trial Date [See <i>KCLCR 40(e)(2)</i>].	12/18/2023
	DEADLINE for Discovery Cutoff [See <i>KCLCR 37(g)</i>].	02/05/2024
	DEADLINE for Engaging in Alternative Dispute Resolution [See <i>KCLCR 16(b)</i>].	02/26/2024
	DEADLINE : Exchange Witness & Exhibit Lists & Documentary Exhibits [See <i>KCLCR 4(j)</i>].	03/04/2024
*	DEADLINE to file Joint Confirmation of Trial Readiness [See <i>KCLCR 16(a)(1)</i>].	03/04/2024
	DEADLINE for Hearing Dispositive Pretrial Motions [See <i>KCLCR 56; CR 56</i>].	03/11/2024
*	Joint Statement of Evidence [See <i>KCLCR 4 (k)</i>]	03/18/2024
	DEADLINE for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file proposed Findings of Fact and Conclusions of Law with the Clerk)	03/18/2024
	Trial Date [See <i>KCLCR 40</i>].	03/25/2024

The * indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.

III. ORDER

Pursuant to King County Local Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 03/24/2023



PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

CASE SCHEDULE AND REQUIREMENTS: Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at www.kingcounty.gov/courts/scforms. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

C. Trial

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website www.kingcounty.gov/courts/superiorcourt to confirm the trial judge assignment.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Non-dispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule

7 governs these motions, which include discovery motions. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

Emergency Motions: Under the court's local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

B. Original Documents/Working Copies/ Filing of Documents: All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at www.kingcounty.gov/courts/clerk regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk's office E-Filing application at www.kingcounty.gov/courts/clerk/documents/eWC.

Service of documents: Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk's eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk's office website at www.kingcounty.gov/courts/clerk/documents/efiling regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge's website for information: www.kingcounty.gov/courts/SuperiorCourt/judges.

Presentation of Orders for Signature: All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department. Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count

includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3): the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PEITITONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.

A handwritten signature in cursive script, appearing to read "M. Lai", is positioned above a horizontal line.

PRESIDING JUDGE

Exhibit A

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN
LLC, a limited liability corporation,

Defendants.

Case No. 2:23-cv-00649

NOTICE OF REMOVAL

To: United States District Court for the Western District of Washington

And to: Plaintiff Joel Hodgell

PLEASE TAKE NOTICE THAT, under 28 U.S.C. § 1332, 1441, and 1446, Defendants Andersen Corporation (“Andersen”) and Renewal by Andersen LLC (“RBA”), hereby remove the above-captioned action filed in King County Superior Court as *Hodgell v. Andersen Corp. et al.*, No. 23-05382-6 SEA (“State Court Action”). Removal is based on diversity jurisdiction under 28 U.S.C. § 1332. As grounds for removal of this action under 28 U.S.C. 1446(a), Defendants state as follows:

Statement of Jurisdiction

This Court has jurisdiction over this action under 28 U.S.C. § 1332(a) and 1441(b) and all other applicable bases for removal because (1) there is complete diversity of citizenship between Plaintiff, on the one hand, and Defendants, on the other hand; and (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

State Court Action

On March 24, 2023, Plaintiff commenced the State Court Action by filing a complaint for violations of the Washington Consumer Protection Act, RCW Ch. 19.86 *et seq.*, in King County Superior Court. A true and correct copy of the Complaint filed in the State Court Action is attached hereto as Exhibit 1.

In the Complaint, Plaintiff seeks recovery for (1) statutory liquidated damages under RCW 19.190.040; (2) treble damages under RCW 19.86.090; (3) civil penalties under RCW 19.86.140; (4) injunctive relief; (5) attorney fees and other costs; (6) prejudgment and post-judgment interest; and (7) other relief the Court deems just and proper. (Compl. ¶¶ 25–33.) Defendants deny all of Plaintiff’s alleged claims, deny any wrongdoing, and deny that Plaintiff is entitled to any relief. Defendants deny that they are subject to personal jurisdiction in this Court and further reserve their right to move to dismiss the Complaint on that ground, among others.

Timeliness of Removal

On April 3, 2023, Plaintiff served Defendants with summons and copies of the Complaint. Removal is timely under 28 U.S.C. § 1446(b) as Defendants filed this Notice of Removal within thirty days of the April 3, 2023 service of process.

Procedural Prerequisites

Attached hereto as Exhibit 2 are true and complete copies of all other records and proceedings in the State Court Action. As required by 28 U.S.C. § 1446(d), a removal notice, together with a copy of this Notice of Removal, will be filed with the Clerk of the King County Superior Court and will be served on Plaintiff.

In compliance with LCR 101(b), Defendants have filed contemporaneously with this Notice of Removal:

- (1) A copy of the operative complaint, attached as a separate “attachment” in the electronic filing system and labeled as the “complaint”. LCR 101(b)(1).
- (2) A certificate of service which lists all counsel who have appeared in the action with their contact information, including email address. LCR 101(b)(2).
- (3) In response to LCR 101(b)(3), at the time of filing of this Notice of Removal, no party had filed a jury request. Defendants has not waived any jury rights it may have with respect to this action and does not intend for this filing to waive any either.
- (4) A completed Civil Cover Sheet (AO44). LCR 101(b)(4).

Additionally, as required by Rule 7.1 of the Federal Rules of Civil Procedure, Defendants are filing corporate disclosure statement with this Notice of Removal.

Removal to this Court is proper under 28 U.S.C. §§ 1441 and 1446 because the State Court Action is currently pending in King County, which is located in this district and division.

Grounds for Removal

A. The District Court has jurisdiction under 28 U.S.C. § 1332.

The Court has original jurisdiction in this case under 28 U.S.C. § 1332(a), and thus removal is appropriate under 28 U.S.C. §§ 1441 and 1446. 28 U.S.C. § 1332(a) provides, in relevant part: “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between— (1) citizens of different States” As set forth below, Plaintiff’s allegations, along with the evidence attached hereto, establish that the State Court Action meets both the diversity-of-citizenship and amount-in-controversy requirements.

B. There is complete diversity of citizenship between the parties.

First, diversity of citizenship exists in this case. To prove complete diversity, “Defendants must . . . show that none of them is a citizen of the same state as [Plaintiff].” *Sherron Assocs. Loan Fund IV, LLC v. Saucier*, No. C06-226JLR, 2006 WL 1009269, at *2 (W.D. Wash. Apr. 12, 2006).

For diversity purposes, an individual is a citizen of the state in which he or she is domiciled, not the individual’s state of residence. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). But a “party’s residence is prima facie proof of domicile.” *Christian v. Regence Bluecross Blueshield of Oregon*, No. C20-5445-RJB-MAT, 2020 WL 5045157, at *3 (W.D. Wash. Aug. 3, 2020) (citation omitted). In determining an individual’s domicile, courts may also consider several factors including the individual’s “current residence, voting registration and voting practices, location of personal and real property, location of brokerage and bank accounts, location of spouse and family, membership in unions and other organizations, place of employment or other business, driver’s license and automobile registration, and payment of taxes.” *Sherron*, 2006 WL 1009269, at *3.

“Under 28 U.S.C. § 1332(c)(1), a corporation is deemed a citizen both of its state of incorporation and its principal place of business.” *Rosenblatt v. Ernst & Young Int’l, Ltd.*, 28 F. App’x 731, 732 (9th Cir. 2002). A limited liability company, on the other hand, “is a

citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). This is determined at the time of filing the complaint or, if the case has been removed, at the time of removal. *Strotek Corp. v. Air Transp. Ass’n of Am.*, 300 F.3d 1129, 1131 (9th Cir. 2002) (citations omitted).

“[J]urisdictional allegations in the complaint can be taken as a sufficient basis, on their own, to resolve questions of jurisdiction where no party challenges the allegations.” *Mondragon v. Cap. One Auto Fin.*, 736 F.3d 880, 886 (9th Cir. 2013) (citation omitted). Otherwise, the Court may rely on evidence Defendants put forward. *See Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997).

Plaintiff’s Citizenship. Upon information and belief, and based on the allegations in the Complaint and the statute he sued under, Plaintiff is a natural person and citizen of Washington. (Compl. ¶ 3 (“At all relevant times, Mr. Hodgell was a resident of King County and a citizen of the United States.”)); RCW 19.190.030 (prohibiting the transmission of certain emails to an email address “that the sender knows, or has reason to know, is *held by a Washington resident*”) (emphasis added). Additionally, it appears Plaintiff has resided in Washington since at least 2003 when he filed the Certificate of Formation for his limited liability company, We All Won, LLC.¹ (Declaration of Abigail Howd in Support of Defendants’ Notice of Removal (“Howd Decl.”) ¶ 3, Ex. A (Certificate of Formation from 2003 and 2022 Express Annual Report, both listing a Seattle, Washington address for Plaintiff)).

Andersen’s Citizenship. Andersen is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (Declaration of William N. Barron in Support of Defendants’ Notice of Removal (“Barron Decl.”) ¶ 4.) Andersen is thus a citizen of Minnesota. *See Rosenblatt*, 28 F. App’x at 732.

¹ The Court may take judicial notice of these documents because they are public records filed with the Secretary of State for Washington and thus are “not subject to reasonable dispute because [they] . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Cave Man Kitchens Inc. v. Caveman Foods, LLC*, No. 2:18-cv-01274, 2019 WL 3891327, at *2 (W.D. Wash. Aug. 19, 2019) (taking notice of public records filed with the Secretaries of State for California and Washington).

1 **RBA's Citizenship.** RBA is a limited liability company with a single member, SLBP
 2 Holdings Corporation. (Barron Decl. ¶ 5.) SLBP Holdings Corporation is a Minnesota
 3 corporation with its principal place of business in Bayport, Minnesota. (*Id.*) Thus RBA,
 4 like Andersen, is also a citizen of Minnesota. *See Johnson*, 437 F.3d at 899.

5 As Plaintiff is a citizen of a state (Washington) different from both Defendants,
 6 complete diversity exists. *See Sherron Assocs.*, 2006 WL 1009269, at *2.

7 **C. The amount in controversy exceeds \$75,000.**

8 This case also satisfies the amount in controversy requirement under 28 U.S.C.
 9 § 1332(a). Defendants in no way concede that Plaintiff is entitled to any relief whatsoever
 10 from Defendants. Defendants expressly reserve the right to contest all such claims and
 11 damages.

12 Plaintiff alleges that “[f]rom June 8, 2019 through the present” Defendants have
 13 sent him “misleading electronic mail messages.” (Compl. ¶ 8.) Though Plaintiff omitted
 14 the specific number of emails from his Complaint, in a pre-suit demand letter to
 15 Defendants sent in December 2022, he claimed to have received “80+” emails from
 16 Defendants. (Howd Decl. ¶ 4, Ex. B). A settlement letter “is relevant evidence of the
 17 amount in controversy if it appears to reflect a reasonable estimate of the plaintiff’s
 18 claim.” *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (collecting cases). In the
 19 Complaint, Plaintiff requests “statutory liquidated damages as provided by RCW
 20 19.190.040.” (Compl. ¶ 27.) And RCW 19.190.040 provides for damages of \$500 per
 21 violative email or actual damages, whichever is greater. Though the exact number of
 22 emails in dispute is unknown, Plaintiff’s requested statutory damages for even 80 emails
 23 would total \$40,000. However, as detailed in his pre-suit demand, Plaintiff further seeks
 24 actual damages under the same statute based on a \$150,000 payment allegedly promised
 25 in the subject line of an email he received. (Howd Decl. ¶ 4, Ex. B (emailed demand
 26 seeking actual damages of \$150,000 based on receipt of same email alleged in the
 27 Complaint); *see also* Compl. ¶ 10 (alleging receipt of email offering a \$150,000
 28

1 payment to Plaintiff's retirement account).) Accordingly, Plaintiff's claimed actual
2 damages alone exceed the amount-in-controversy requirement.

3 Plaintiff also seeks "treble damages as permitted by RCW 19.86.090." (Compl.
4 ¶ 28.) In relevant part, RCW 19.86.090 also provides for actual damages and a
5 discretionary "award of damages up to an amount three times the actual damages
6 sustained," but caps such treble damages at \$25,000. In other words, if Plaintiff were
7 entitled to relief (which Defendants deny), he purports to be entitled to at least \$175,000
8 under RCW 19.86.090 (\$150,000 in claimed actual damages plus \$25,000 in treble
9 damages). This also far exceeds the \$75,000 jurisdictional requirement.

10 Additionally, Plaintiff seeks to recover civil penalties from Defendants under RCW
11 19.86.140. (Compl. ¶ 29.) RCW 19.86.140 provides that "[e]very person who violates
12 RCW 19.86.020 shall forfeit and pay a civil penalty of not more than \$7,500 for each
13 violation" Based on Plaintiff's alleged receipt of at least 80 emails, these penalties
14 alone would total \$600,000.

15 Although Defendants deny Plaintiff's claims of wrongdoing and that Plaintiff is
16 entitled to any damages, his requested relief far exceeds \$75,000 and thus satisfies the
17 amount-in-controversy requirement.

18 Nothing in this Notice of Removal shall be interpreted as a waiver of Defendants'
19 right to assert any defense, including, without limitation, defenses based on lack of
20 personal jurisdiction. Defendants reserve all rights.

21
22 Dated May 3, 2023

Respectfully submitted,

NEWMAN DU WORS LLP

s/ Derek Linke

s/ Derek A. Newman

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Tel: (404) 418-8307

Attorneys for Defendants
Andersen Corporation and
Renewal by Andersen LLC

Certificate of Service

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the county of King, State of Washington, and not a party to the above-entitled cause; my business address is Newman Du Wors LLP, 1201 Second Avenue, Suite 900, Seattle, Washington 98101.

On May 3, 2023, I served a true copy of foregoing by personally delivering it to the person(s) indicated below in the manner as provided in Fed. R. Civ. P. 5(b) by depositing it for delivery by USPS in a sealed envelope with the postage thereon fully prepaid to the following:

Gregory W. Albert, WSBA No. 42673
 Tallman H. Trask, WSBA No. 60280
 ALBERT LAW PLLC
 3131 Western Ave, Suite 410
 Seattle, WA 98121
 greg@albertlawpllc.com
 tallman@albertlawpllc.com
 Attorneys for Plaintiff Joel Hodgell

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 3, 2023 at Little Rock, Arkansas.

s/ Devonnie Wharton
 Devonnie Wharton, Paralegal

Exhibit 1

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

COMES NOW the Plaintiff, Joel Hodgell, by and through his attorneys of record,
Gregory W. Albert and Tallman H. Trask of Albert Law PLLC, and hereby alleges the following
against Andersen Corporation and Renewal by Andersen, LLC.

I. INTRODUCTION

1. This action is a consumer protection action brought to recover damages for
Defendants' persistent per se violations of the Consumer Protection Act ("CPA"), RCW 19.86
et seq. Defendants' violations of the Consumer Protection Act are a result of Defendants'

violations of the Commercial Electronic Mail Act (“CEMA”), RCW 19.190 et seq.

2. Defendants initiated or assisted in the transmission of over one-hundred misleading and unsolicited bulk commercial email solicitations. These misleading and unpermitted email messages were sent to email addresses held by Plaintiff Joel Hodgell, a Washington resident.

II. PARTIES

3. Joel Hodgell is the Plaintiff in this case. At all relevant times, Mr. Hodgell was a resident of King County and a citizen of the United States.

4. Andersen Corporation (“Andersen”) is a Defendant in this case. Andersen is a foreign corporation with its headquarters in Bayport, Minnesota. Andersen manufactures windows and doors. Andersen markets its products nationwide, including in Washington. Andersen conducts business in Washington by, in part, by initiating the transmission, conspiring to initiate the transmission, or assisting in the transmission of bulk commercial emails to Washington residents.

5. Renewal by Andersen, LLC (“Renewal”) is a defendant in this case. Renewal is a foreign corporation authorized to do business in Washington. Renewal is headquartered in Bayport, Minnesota. On information and belief, Renewal is a subsidiary of Andersen. Renewal is Andersen’s window replacement subsidiary and replaces existing windows with Andersen windows through a network of dealers and installers. Renewal conducts business in Washington by, in part, by initiating the transmission, conspiring to initiate the transmission, or assisting in the transmission of bulk commercial emails to Washington residents.

III. JURISDICTION AND VENUE

6. The Legislature has conferred jurisdiction over this action and similar actions to this Court. Jurisdiction is proper under RCW 19.86.090, RCW 19.86.160, and RCW 19.190.090.

7. The violations alleged in this complaint have occurred in whole or in part in King County and venue is proper in this Court.

IV. FACTS

8. From June 8, 2019 through the present Defendants have initiated transmission, conspired to initiate transmission, or assisted in the transmission of unsolicited, unpermitted, or misleading commercial electronic mail messages, otherwise known as “spam.”

9. The spam email messages Defendants caused to be sent misrepresented or obscured information about the point of origin and transmission path of the spam email. The messages used false or dishonest “from:” lines or obscured information in “from:” lines. The “from:” lines identify the address, person, or organization from which the email originated. Email recipients use the “from:” line to determine the sender of the email. The spam emails received by Mr. Hodgell often used falsified “from:” lines. These falsified “from:” lines indicated the email originated from a nonexistent email address or domain name or otherwise obscured information about the sender. By obscuring the information in the “from:” lines, Defendants made it unreasonably difficult or impossible to discover the actual sender of the spam email. One of the spam messages received by Mr. Hodgell, for example, used the “from:” line “Discount Windows.” The message was, in fact, a commercial solicitation for Renewal’s services.

10. The spam email messages Defendants caused to be sent used false or misleading information in the subject line. The subject line provides recipients with information about the content or subject of an email message. Email recipients use the subject line to determine the nature of the message they have received. One of the spam messages Mr. Hodgell received, for example, used the subject line “🔔 ALERT: 💰 CHECK OUT Your Account [email address] 💰 ✅ PAYOUT VERIFICATION ✅ 💰.” The email message further purported to be a \$150,000 payment to Mr. Hodgell’s retirement account. The email was, in fact, a commercial

1 solicitation for Renewal's services.

2 11. Defendants used third-party domain names without the permission of the third
3 party. Defendants did so in both the header content of spam messages and within the content of
4 spam messages.

5 12. The spam email messages Defendants caused to be sent were not messages "to
6 which an interactive computer service provider has attached an advertisement in exchange for
7 free use of an electronic mail account, when the sender has agreed to such an arrangement."
8 Rather, they were spam messages sent because Defendants caused them to be sent.

9 13. Defendants' actions caused spam emails to be sent to email addresses belonging to
10 Mr. Hodgell, a Washington resident.

11 14. Defendants knew or had reason to know that Mr. Hodgell is a Washington resident.
12 Mr. Hodgell uses email addresses which describe his residency. Mr. Hodgell directly responded
13 to spam messages informing Defendants of his residency. Defendants continued to cause spam
14 email messages to be sent to Mr. Hodgell even after he directly contacted them and informed
15 them of his residency.

16 17 **V. LEGAL ALLEGATIONS**

18 **COUNT ONE**

19 **VIOLATION OF CONSUMER PROTECTION ACT, RCW 19.86 et seq.**

20 15. Plaintiff realleges and incorporates by reference the allegations set forth in
21 paragraphs 8 through 14.

22 16. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
23 initiating the transmission, conspiring to initiate the transmission, or assisting in the
24 transmission of commercial electronic mail messages which misrepresented or obscured
25 information identifying the point of origin those messages.

26 17. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by

1 using third-party domain names within the header information of spam emails and within the
2 content of spam emails.

3 18. Defendants violated the Commercial Electronic Mail Act, RCW 19.190 et seq., by
4 initiating the transmission, conspiring to initiate the transmission, or assisting in the
5 transmission of commercial electronic mail messages with false or misleading information in
6 the subject line.

7 19. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are
8 violations of the Consumer Protection Act, RCW 19.86 et seq.

9 20. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
10 unfair and deceptive acts for purposes of Consumer Protection Act claims.

11 21. Defendants' commercial solicitations occurred in trade or commerce.

12 22. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., are per se
13 matters vitally affecting the public interest for purposes of Consumer Protection Act claims.

14 23. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
15 the injury element of a Consumer Protection Act claim as a matter of law.

16 24. Violations of the Commercial Electronic Mail Act, RCW 19.190 et seq, establish
17 the causation element of a Consumer Protection Act claim as a matter of law.

18 19 **VI. DAMAGES AND PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

21 25. For judgment against the Defendants on all counts;

22 26. That the Court adjudge that each individual commercial electronic message
23 Defendants caused to be sent was a separate and distinct violation of the Commercial Electronic
24 Mail Act, RCW 19.190 et seq.;

25 27. For statutory liquidated damages as provided by RCW 19.190.040;

28. For treble damages as permitted by RCW 19.86.090;

29. For civil penalties under RCW 19.86.140;


30. For a permanent injunction, under RCW 19.86.090, prohibiting future and continuing violations of the Commercial Electronic Mail Act, RCW 19.190 et seq., by Defendants;

31. For an award of attorney fees and other costs incurred during this action and/or to the fullest extent allowed by law or equity;

32. For prejudgment and post-judgment interests to the maximum allowable rate; and

33. For such other relief as this Court deems just and equitable.

DATED March 24, 2023

By: 

ALBERT LAW PLLC
Gregory W. Albert, WSBA #42673
Tallman H. Trask, WSBA #60280
3131 Western Ave, Suite 410
Seattle, WA 98121
Telephone: (206) 576-8044
E-mail: greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [60 DAYS]

[CR 4(B)(2)]

TO: Andersen Corporation

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

(20) days after the service of this Summons, excluding the day of service or a default judgment may be entered against you without notice. If you are served with this summons outside the State of Washington, in order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing and serving a copy on the undersigned person within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to what he asks for because you have not responded. If you serve a Notice of Appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within fourteen (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service on you of this Summons and Complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED March 24, 2023

By: 

Gregory W. Albert, WSBA 42673
Tallman H. Trask, WSBA 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
(206) 576-8044
greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

No.

SUMMONS [20 DAYS]

[CR 4(B)(2)]

TO: Renewal by Andersen, LLC

A lawsuit has been started against you in the above-titled Court by Plaintiff Joel Hodgell. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty

(20) days after the service of this Summons, excluding the day of service or a default judgment may be entered against you without notice. If you are served with this summons outside the State of Washington, in order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing and serving a copy on the undersigned person within sixty days (60) after service. A default judgment is one in which Plaintiff is entitled to what he asks for because you have not responded. If you serve a Notice of Appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within fourteen (14) days after you serve the demand, Plaintiff must file this lawsuit with the court, or the service on you of this Summons and Complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This Summons is pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED March 24, 2023

By: 

Gregory W. Albert, WSBA 42673
Tallman H. Trask, WSBA 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
(206) 576-8044
greg@albertlawpllc.com
tallman@albertlawpllc.com
Attorneys for Plaintiffs

Exhibit 2

FILED
2023 MAR 24 04:10 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 23-2-05382-6 SEA

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

Joel Hodgell

VS

Andersen Corporation and Renewal by
Andersen LLC

No. 23-2-05382-6 SEA

**CASE INFORMATION COVER SHEET AND
AREA DESIGNATION**

(CICS)

CAUSE OF ACTION

TTO - Tort /Other

AREA OF DESIGNATION

SEA

Defined as all King County north of Interstate 90 and including all of Interstate 90 right of way, all of the cities of Seattle, Mercer Island, Issaquah, and North Bend, and all of Vashon and Maury Islands.

FILED
 2023 MAR 24 04:10 PM
 KING COUNTY
 SUPERIOR COURT CLERK
 E-FILED
 CASE #: 23-2-05382-6 SEA

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

JOEL HODGELL

Plaintiff(s)

vs

Andersen Corporation and Renewal by Andersen
 LLC

Defendant(s)

No. 23-2-05382-6 SEA

ORDER SETTING CIVIL CASE SCHEDULE

ASSIGNED JUDGE: Matthew Segal, Dept. 03

FILED DATE: 03/24/2023

TRIAL DATE: 03/25/2024

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF:

The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLCR] -- especially those referred to in this **Schedule**. In order to comply with the **Schedule**, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

You are required to give a copy of these documents to all parties in this case.

I. NOTICES (continued)

CROSSCLAIMS, COUNTERCLAIMS AND THIRD-PARTY COMPLAINTS:

A filing fee of **\$240** must be paid when any answer that includes additional claims is filed in an existing case.

KCLCR 4.2(a)(2)

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule **if the case is subject to mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and crossclaims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$250 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$400 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

II. CASE SCHEDULE

* CASE EVENT	EVENT DATE
Case Filed and Schedule Issued.	03/24/2023»
* Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. \$250 arbitration fee must be paid	09/01/2023
* DEADLINE to file Confirmation of Joinder if not subject to Arbitration [See KCLCR 4.2(a) and Notices on Page 2].	09/01/2023
DEADLINE for Hearing Motions to Change Case Assignment Area [KCLCR 82(e)].	09/15/2023
DEADLINE for Disclosure of Possible Primary Witnesses [See KCLCR 26(k)].	10/23/2023
DEADLINE for Disclosure of Possible Additional Witnesses [See KCLCR 26(k)].	12/04/2023
DEADLINE for Jury Demand [See KCLCR 38(b)(2)].	12/18/2023
DEADLINE for a Change in Trial Date [See KCLCR 40(e)(2)].	12/18/2023
DEADLINE for Discovery Cutoff [See KCLCR 37(g)].	02/05/2024
DEADLINE for Engaging in Alternative Dispute Resolution [See KCLCR 16(b)].	02/26/2024
DEADLINE: Exchange Witness & Exhibit Lists & Documentary Exhibits [KCLCR 4(j)].	03/04/2024
* DEADLINE to file Joint Confirmation of Trial Readiness [See KCLCR 16(a)(1)]	03/04/2024
DEADLINE for Hearing Dispositive Pretrial Motions [See KCLCR 56; CR 56].	03/11/2024
* Joint Statement of Evidence [See KCLCR 4 (k)]	03/18/2024
DEADLINE for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file proposed Findings of Fact and Conclusions of Law with the Clerk)	03/18/2024
Trial Date [See KCLCR 40].	03/25/2024

The * indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.

III. ORDER

Pursuant to King County Local Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 03/24/2023



PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

CASE SCHEDULE AND REQUIREMENTS: Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at www.kingcounty.gov/courts/scforms. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

C. Trial

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website www.kingcounty.gov/courts/superiorcourt to confirm the trial judge assignment.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Non-dispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule

7 governs these motions, which include discovery motions. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

Emergency Motions: Under the court's local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

B. Original Documents/Working Copies/ Filing of Documents: All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at www.kingcounty.gov/courts/clerk regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk's office E-Filing application at www.kingcounty.gov/courts/clerk/documents/eWC.

Service of documents: Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk's eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk's office website at www.kingcounty.gov/courts/clerk/documents/efiling regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge's website for information: www.kingcounty.gov/courts/SuperiorCourt/judges.

Presentation of Orders for Signature: All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department. Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count

includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3): the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PEITITONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.



PRESIDING JUDGE

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY
ANDERSEN, LLC, a limited liability
corporation,

Defendants.

No.

DECLARATION OF WILLIAM N. BARRON
IN SUPPORT OF DEFENDANTS' NOTICE
OF REMOVAL

I, William N. Barron, declare and state under penalty of perjury as follows:

1. My name is William N. Barron. I am over the age of 18 and am competent to make this declaration.

2. This declaration is based on my personal knowledge and review of documents that Andersen Corporation and Renewal by Andersen LLC (collectively, "Andersen") maintain in the ordinary course of business and were made at or about the time of the events described herein. If called and sworn as a witness, I could and would competently testify to the matters discussed in this declaration.

3. I am Assistant General Counsel of Litigation and Intellectual Property for Andersen

1 Corporation, and in that capacity, I have regular access to, and am familiar with, Andersen
2 Corporation's and Renewal by Andersen LLC's records maintained in the ordinary course of
3 business relating to their business structures and ownership. I have personal knowledge from my
4 own experience and review of these records.

5 4. Andersen Corporation is a Minnesota corporation with its principal place of
6 business in Bayport, Minnesota.

7 5. Renewal by Andersen LLC is a Minnesota limited liability company with a single
8 member, SLBP Holdings Corporation. SLBP Holdings Corporation is a Minnesota corporation
9 with its principal place of business in Bayport, Minnesota.

10 I declare under penalty of perjury under the laws of the State of Minnesota and the
11 United States of America that the foregoing is true and correct.

12 Executed this 3rd day of May, 2023, at Minneapolis, Minnesota.

13
14 
15 WILLIAM N. BARRON

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY
ANDERSEN, LLC, a limited liability
corporation,

Defendants.

No.

DECLARATION OF ABIGAIL HOWD IN
SUPPORT OF DEFENDANTS' NOTICE OF
REMOVAL

1. I am an attorney at Watstein Terepka, LLP, and counsel for Defendants Andersen Corporation and Renewal by Andersen LLC (collectively, "Defendants") in the above-captioned action. I have personal knowledge of the matters contained herein.

2. I submit this declaration in support of Defendants' Notice of Removal.

3. Attached as Exhibit A are true and correct copies of the Certificate of Formation and Express Annual Report with Changes that Plaintiff filed for his business We All Won, LLC with the Secretary of State for the State of Washington on October 14, 2003 and October 21, 2022, respectively. These documents are publicly available on the Secretary of State's website at <https://ccfs.sos.wa.gov/#/BusinessSearch/BusinessFilings>. Both documents list a Seattle,

1 Washington, address for Plaintiff. *See generally* Ex. A.

2 4. Attached as Exhibit B is a true and correct copy of an email chain between me and
3 Plaintiff from December 15, 2022 to December 30, 2022. In the December 15, 2022 email,
4 Plaintiff claims he had received “80+ RBA spams.” Ex. B at 3. In the December 30, 2022 email,
5 Plaintiff claims he is entitled to \$183,000 (including actual damages of \$150,000 under RCW
6 19.86.090; treble damages capped at \$25,000 under RCW 19.86.090; and civil penalties of \$7,500
7 under RCW 19.86.140). *Id.* at 1.

8 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
9 and correct.

10 Executed this 3rd day of May, 2023, at Suwanee, Georgia.

11
12 
13 _____
14 ABIGAIL HOWD
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EXHIBIT A



STATE OF WASHINGTON
SECRETARY OF STATE

FILED
SECRETARY OF STATE

- Please PRINT or TYPE in black ink
- Sign, date and return original AND ONE COPY to:

CORPORATIONS DIVISION
801 CAPITOL WAY SOUTH • PO BOX 40234
OLYMPIA, WA 98504-0234

OCT 14 2003
STATE OF WASHINGTON

- BE SURE TO INCLUDE FILING FEE. Checks should be made payable to "Secretary of State"

289-1127.0
2003

APPLICATION TO FORM A LIMITED LIABILITY COMPANY

(Per Chapter 25.15 RCW)

FEE: \$175

EXPEDITED (24-HOUR) SERVICE AVAILABLE - \$25 PER ENTITY
INCLUDE FEE AND WRITE "EXPEDITE" IN BOLD LETTERS
ON OUTSIDE OF ENVELOPE

FOR OFFICE USE ONLY

FILED: 1 1	UBI: 002 334 334
CORPORATION NUMBER:	

Important! Person to contact about this filing

Joel Hodgell

Daytime Phone Number (with area code)

(206) 362-2166

CERTIFICATE OF FORMATION

NAME OF LIMITED LIABILITY COMPANY (LLC) (Must contain the word "Limited Liability Company" "Limited Liability Co." "LLC." or "LLC")

WE ALL WON LLC

ADDRESS OF LLC'S PRINCIPAL PLACE OF BUSINESS

Street Address (Required) 12712 Lake City Way NE 3 City Seattle State WA ZIP 98125

PO Box (Optional - Must be in same city as street address)

ZIP (If different than street ZIP)

EFFECTIVE DATE OF LLC (Specified effective date may be up to 90 days AFTER receipt of the document by the Secretary of State)

☒ Specific Date: 15 October 2003 ☐ Upon filing by the Secretary of State

DATE OF DISSOLUTION (if applicable)

MANAGEMENT OF LLC IS VESTED IN ONE OR MORE MANAGERS

☐ Yes ☒ No

>>> PLEASE ATTACH ANY OTHER PROVISIONS THE LLC ELECTS TO INCLUDE <<<

NAME AND ADDRESS OF WASHINGTON STATE REGISTERED AGENT

Name Joel Hodgell

Street Address (Required) 12712 Lake City Way NE 3 City Seattle State WA ZIP 98125

PO Box (Optional - Must be in same city as street address)

ZIP (If different than street ZIP)

I consent to serve as Registered Agent in the State of Washington for the above named LLC. I understand it will be my responsibility to accept Service of Process on behalf of the LLC; to forward mail to the LLC; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

Signature of Agent Joel Hodgell

Printed Name Joel Hodgell

Date 13 October 2003

NAMES ADDRESSES OF EACH PERSON EXECUTING THIS CERTIFICATE (If necessary, attach additional names and addresses)

Printed Name Joel Hodgell Signature Joel Hodgell

Address 12712 Lake City Way NE 3 City Seattle State WA ZIP 98125

Printed Name _____ Signature _____

Address _____ City _____ State _____ ZIP _____

Printed Name _____ Signature _____

Address _____ City _____ State _____ ZIP _____

INFORMATION AND ASSISTANCE - 360/753-7115 (TDD - 360/753-1485)

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY

Validation
Val: 10/14/2003 - 45720
\$195.00 on 10/14/2003
Check - 10/13/2003 - 1732

025-001 (02/03)



WASHINGTON
Secretary of State
 Corporations & Charities Division

Filed
 Secretary of State
 State of Washington
 Date Filed: 10/21/2022
 Effective Date: 10/21/2022
 UBI #: 602 334 334

EXPRESS ANNUAL REPORT WITH CHANGES

BUSINESS INFORMATION

Business Name:

WE ALL WON LLC

UBI Number:

602 334 334

Business Type:

WA LIMITED LIABILITY COMPANY

Business Status:

ACTIVE

Principal Office Street Address:

12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125, UNITED STATES

Principal Office Mailing Address:

12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125, UNITED STATES

Expiration Date:

10/31/2023

Jurisdiction:

UNITED STATES, WASHINGTON

Formation/Registration Date:

10/15/2003

Period of Duration:

PERPETUAL

Inactive Date:

Nature of Business:

OTHER SERVICES

REGISTERED AGENT [RCW 23.95.410](#)

Registered Agent Name	Street Address	Mailing Address
JOEL HODGELL	12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125-0000, UNITED STATES	12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125-0000, UNITED STATES

PRINCIPAL OFFICE

Phone:

2063028200

Email:

DONOTSPAMWASTATE@GMAIL.COM

Street Address:

12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125, USA

Mailing Address:

12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125, USA

GOVERNORS

Title	Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL		JOEL	HODGELL

NATURE OF BUSINESS

OTHER SERVICES

EFFECTIVE DATE

Effective Date:

10/21/2022

CONTROLLING INTEREST

1. Does this entity own (hold title) real property in Washington, such as land or buildings, including leasehold improvements?

NO

2. In the **past 12 months**, has there been a transfer of at least 16-2/3 percent of the ownership, stock, or other financial interest in the entity?

NO

a. If "Yes", in the **past 36 months**, has there been a transfer of controlling interest (50 percent or greater) of the ownership, stock, or other financial interest in the entity?

NO

3. If you answered "Yes" to question 2a, has a controlling interest transfer return been filed with the Department of Revenue?

NO

You **must** submit a Controlling Interest Transfer Return form if you answered "yes" to questions 1 **and** 2a.

Failure to report a Controlling Interest Transfer is subject to penalty provisions of [RCW 82.45.220](#).

For more information on **Controlling Interest**, visit www.dor.wa.gov/REET.

RETURN ADDRESS FOR THIS FILING

Attention:

JOEL HODGELL

Email:

DONOTSPAMWASTATE@GMAIL.COM

Address:

12712 LAKE CITY WAY NE 3, SEATTLE, WA, 98125, USA

AUTHORIZED PERSON

Person Type:

INDIVIDUAL

First Name:

JOEL

Last Name:

HODGELL

Title:

PRESIDENT

☒ This document is hereby executed under penalty of law and is to the best of my knowledge, true and correct.

EXHIBIT B

Subject: Re: [External] RBA - LEGAL DEMAND LETTER: SETTLEMENT OFFER TO AVOID LAWSUIT SOON
Date: Friday, December 30, 2022 at 4:28:44 PM Eastern Standard Time
From: Joel Hodgell
To: Abigail Howd
CC: Ryan D. Watstein, issuespammersinwastateusa@gmail.com

FOR SETTLEMENT PURPOSES.

Hi Abby (and Ryan),

Thanks for the reply. The 14 Dec. 2022 settlement offer EXPIRED.

BUT, out of an ABUNDANCE OF GOODWILL ON MY PART, I will EXTEND the deadline to accept my settlement terms (with the following clarifications, etc. below) to by/before 5:00PM-PST Friday 06 Jan. 2023. AFTER this extended deadline expires, my offer goes away forever, it FULLY EXPIRES.

MY VIDEO CAPTURE VIDEOS OF RBA'S USD\$150K PAYOUT SPAM TO ME:

I forgot to tell Ryan on 14 Dec. 2022 that I made many video capture videos of that one USD\$150,000.00 RBA spam from 2022, wherein RBA promised me USD\$150k if I confirmed my information. When I tried to confirm my information, the spam opened up to one of RBA's own websites, and NO USD\$150,000.00 was paid to me. I mis-wrote before; I can and will sue RBA for this USD\$150,000.00 plus another USD\$25,000.00 (RCW 19.86.090), plus another USD\$7,500.00 (RCW 19.86.140), so this one spam alone will cost RBA at least USD\$183,000.00, plus costs/fees, etc. RBA won't be able to claim this spam is fake, or unauthorized, etc. It clearly is RBA's spam, sent to benefit RBA. RBA has continued to spam me AFTER I sent my 14 Dec. 2022 letter to RBA (another case of "I can't believe RBA's spammers are this dumb" kind of spams).

Ryan, here's your chance to tell RBA they "screwed themselves over", they need to "cut bait" and settle now. RBA made the stupid choice to spam; this will only cost them a lot more very soon.

EXTENSION OF 14 DEC. 2022 SETTLEMENT OFFER, CLARIFICATIONS, ETC.:

The "acceptance time window" for my 14 Dec. 2022 settlement offer EXPIRES on Friday 06 Jan. 2023 at 5:00PM-PST, which means these are the BEST settlement terms RBA will get from me, they go away forever after my deadline. It's in the best interests of RBA's spammers to settle with me with my current terms (e.g. they will pay me an additional USD\$10,000.00, they won't be covered by the USD\$10,000.00 RBA's pays me), since I'll be able to sue RBA's spammers for the FULL amount owed to me (minus USD\$10,000.00).

Again, RBA only needs: to "agree in principle" to settle; turn over all info to me to fully identify (e.g. all contact information) for all of RBA's spammers it hired to spam for it in the past two years; RBA will agree to FULLY/TIMELY cooperate with any subpoena or other legal process I send to it if its spammers do not agree to settle by 06 Jan. 2023; and then I give copies of RBA's spams to Ryan. Then the settlement-release agreement will get finalized before 5:00PM-PST Friday 13 Jan. 2023, with full payment of RBA's USD\$10,000.00 to be paid to me by/before 5:00PM-PST Friday 20 Jan. 2023. These same terms apply to RBA's spammers (they will pay me an additional USD\$10,000.00 to settle with me), in case they want to settle with me too. In other words, the same terms from my 14 Dec. 2022 still apply (with the cooperation clarification above), BUT with the new deadlines that I wrote above.

In my 14 Dec. 2022 letter, I said the next settlement payment offer would be double, but since I'm giving RBA a huge gift by extending the 21 Dec. 2022 deadline, I won't short change myself. The next minimum payment I will accept (if RBA rejects my offer herein) will be double again, so USD\$40,000.00, for RBA and its spammers (both will pay me USD\$40k, that's USD\$80k total).

RBA'S GAMBLE, PAY UP NOW OR AT LEAST 20X MORE LATER:

Let's skip the bluster and drama (from RBA). If RBA wants to fight me in court, it will end up spending at least 20 times more money (on its' lawyers, mine, costs, penalties, fees, media attention, reputation damage, etc.). RBA will pay FAR MORE if it tries to drag out its legal problems.

Thank you.

Joel

On 12/30/22, Abigail Howd <ahowd@kcozlaw.com> wrote:

Hi Joel,

Just wanted to let you know that we're still digesting your email and attachments and will be back in touch soon. It's taken additional time due to people's schedules with the holidays.

Best,
Abby

Abigail L. Howd | KABAT CHAPMAN & OZMER LLP
ahowd@kcozlaw.com | (404) 400-7311 (direct)

-----Original Message-----

From: Joel Hodgell <issuespammersinwastateusa@gmail.com>

Sent: Thursday, December 15, 2022 4:34 PM

To: Ryan D. Watstein <rwatstein@kcozlaw.com>
Cc: Abigail Howd <ahowd@kcozlaw.com>; issuespammersinwastateusa@gmail.com
Subject: Re: [External] RBA - LEGAL DEMAND LETTER: SETTLEMENT OFFER TO AVOID
LAWSUIT SOON

Cool, thank you.

Yes, it's long, but I found out new stuff since we last emailed, and it's my good faith effort so RBA can avoid court.

Those 2 samples spams were such "You gotta be kidding me" types, it's like they went out of their way to look bad, but the spam headers are typical of the other 80+ RBA spams I got.

If you look at regular emails (like the ones between us, your workmates, ones you get from legal industry vendors, etc.) to these spams, there's a very big difference between the two groups.

The Honorable Matthew Segal

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

JOEL HODGEL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY
ANDERSEN, LLC, a limited liability
corporation,

Defendant.

Case No. 23-2-05382-6 SEA

**NOTICE TO ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT**

TO PLAINTIFF AND HIS COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on May 3, 2023, Defendants Andersen Corporation and Renewal by Andersen LLC filed a Notice of Removal of this action to the United States District Court for the Western District of Washington. A true and correct copy of said Notice of Removal is attached hereto as **Exhibit A**.

Pursuant to 28 U.S.C. § 1446, the filing of the Notice of Removal in the District Court, together with the filing of this Notice with this Court, effects the removal of this action, and this Court “shall proceed no further unless and until the case is remanded.” 28 U.S.C. § 1446(d).

1 Dated May 3, 2023

Respectfully submitted,

2 **NEWMAN DU WORS LLP**

3 s/ Derek Linke

4 Derek Linke, WSBA No. 38314

linke@newmanlaw.com

5 1201 Second Avenue, Suite 900

6 Seattle, WA 98101

Telephone: (206) 274-2800

7 Attorneys for Defendants

8 Andersen Corporation and

9 Renewal by Andersen LLC

Certificate of Service

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the county of King, State of Washington, and not a party to the above-entitled cause; my business address is Newman Du Wors LLP, 1201 Second Avenue, Suite 900, Seattle, Washington 98101.

On May 3, 2023, I served a true copy of foregoing by personally delivering it to the person(s) indicated below by depositing it for delivery by USPS in a sealed envelope with the postage thereon fully prepaid to the following:

Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com

Attorneys for Plaintiff Joel Hodgell

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 3, 2023 at Little Rock, Arkansas.

s/ Devonnie Wharton
Devonnie Wharton, Paralegal

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION et al.,

Defendants.

CASE NO. 2:23-cv-00649-LK

ORDER REMANDING CASE

This matter comes before the Court following Defendants' Response to the Court's July 17, 2023 Order to Show Cause. Dkt. No. 20; *see* Dkt. No. 19. For the reasons discussed below, the Court REMANDS this case to King County Superior Court for lack of subject matter jurisdiction. *See* 28 U.S.C. § 1447(c); *Cal. ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004).

I. BACKGROUND

Plaintiff Joel Hodgell initiated this action in King County Superior Court in March 2023 to recover damages and other relief under Washington's Consumer Protection Act ("CPA"), Wash. Rev. Code § 19.86 *et seq.*, based on Defendants' alleged violations of the Commercial Electronic Mail Act ("CEMA"), Wash. Rev. Code § 19.190 *et seq.* *See generally* Dkt. No. 1-1. Hodgell asserts

1 that Defendants Andersen Corporation and Renewal by Andersen LLC “initiated or assisted in the
2 transmission of over one-hundred misleading and unsolicited bulk commercial email
3 solicitations.” *Id.* at 3. Defendants timely removed the action to federal district court on the basis
4 of diversity jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. Dkt. No. 1 at 2–3. As
5 discussed in the Court’s prior order, Dkt. No. 19 at 2, Defendants contend that the amount-in-
6 controversy requirement is met for purposes of diversity jurisdiction due to Hodgell’s \$150,000
7 settlement demand. Dkt. No. 1 at 6–7; *see* Dkt. No. 3 at 9–11 (settlement demand email). However,
8 given the Court’s questions regarding whether such a demand reflects a reasonable estimate of the
9 value of Hodgell’s claims, it ordered Defendants to show cause why this case should not be
10 remanded to King County Superior Court for lack of subject matter jurisdiction. Dkt. No. 19 at 3–
11 5; *see Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (*per curiam*).

12 Defendants responded to the Court’s Order by asserting that Hodgell’s attorneys have since
13 “confirmed in writing that [he] continues to seek \$150,000 in actual damages.” Dkt. No. 20 at 3
14 (emphasis omitted); *see also* Dkt. No. 21 at 4 (July 26, 2023 email from Hodgell’s counsel stating:
15 “We are happy to remand to state court but the demand is still \$150,000.”). Defendants further
16 aver that Hodgell’s efforts to recover attorney fees and prejudgment interest “should be added to
17 [his] \$150,000 claim for actual damages, thus adding even more cushion to the amount in
18 controversy calculation.” Dkt. No. 20 at 4.

19 II. DISCUSSION

20 A. Legal Standard

21 Removal of a civil action to federal district court is proper when the federal court would
22 have original jurisdiction over the state court action. 28 U.S.C. § 1441(a). Federal jurisdiction
23 exists over all civil actions where the matter in controversy exceeds \$75,000 and the action is
24 between citizens of different states. 28 U.S.C. § 1332(a)(1). Defendants bear the burden of

1 establishing that removal is proper, *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1241, 1244
2 (9th Cir. 2009), and the removal statutes are strictly construed against removal jurisdiction, *Hansen*
3 *v. Grp. Health Coop.*, 902 F.3d 1051, 1056–57 (9th Cir. 2018). Furthermore, where, as here, “the
4 complaint does not specify the amount of damages sought, the removing defendant must prove by
5 a preponderance of the evidence that the amount in controversy requirement has been met.” *Abrego*
6 *Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 683 (9th Cir. 2006).

7 A district court considers the complaint, the allegations in the removal petition, and
8 “summary-judgment-type evidence relevant to the amount in controversy at the time of removal.”
9 *Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 793 (9th Cir. 2018) (cleaned up). The
10 notice of removal, however, need not “prove” subject matter jurisdiction: “the fact that the party
11 removing a case to a federal district court has the burden of proving that the district court has
12 jurisdiction does not mean that the notice of removal must in and of itself meet this burden.” *Acad.*
13 *of Country Music v. Cont’l Cas. Co.*, 991 F.3d 1059, 1068–69 (9th Cir. 2021). Only when the
14 plaintiff contests—or, as happened here, the district court questions—a defendant’s allegations,
15 must the defendant produce evidence establishing the amount in controversy. *Dart Cherokee Basin*
16 *Operating Co.*, 574 U.S. 81, 89 (2017); *see* 28 U.S.C. § 1446(c)(2)(B). If at any time a district
17 court determines that “less than a preponderance of the evidence supports the right of removal,” it
18 must remand the action to state court. *Hansen*, 902 F.3d at 1057; *see also Matheson v. Progressive*
19 *Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003) (explaining that doubts as to removability
20 are resolved in favor of remand).

21 **B. Defendants Fail to Establish That the Amount in Controversy Exceeds \$75,000**

22 The amount in controversy is an “estimate of the entire potential amount at stake in the
23 litigation[.]” *Jauregui v. Roadrunner Transp. Servs., Inc.*, 28 F.4th 989, 994 (9th Cir. 2022)
24 (emphasis omitted); *see also Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 772 (9th Cir. 2020)

1 (“‘Amount at stake’ does not mean likely or probable liability; rather, it refers to possible
2 liability.”). As the Court previously noted, “[a] plaintiff’s damage estimate will not establish the
3 amount in controversy if it appears to be only a bold, optimistic prediction.” *Mata v. Home Depot*
4 *U.S.A., Inc.*, No. CV-22-1758-FMO (AFMx), 2022 WL 3586206, at *2 (C.D. Cal. Aug. 22, 2022)
5 (cleaned up); *see also Aguilar v. Walmart Inc.*, No. SACV-23-00685-CJC (DFMx), 2023 WL
6 4118785, at *2 (C.D. Cal. June 21, 2023) (“[E]ven when a plaintiff presents a statement of damages
7 seeking more than \$75,000, the statement is not sufficient to carry the defendant’s burden on the
8 amount in controversy requirement if there is not support for the estimate in the complaint or notice
9 of removal.”). And while a settlement letter can be “relevant evidence of the amount in
10 controversy,” it must “appear[] to reflect a reasonable estimate of the plaintiff’s claim.” *Cohn*, 281
11 F.3d at 840; *see also Briggs v. Serv. Corp. Int’l*, No. C22-1646-JLR, 2023 WL 576813, at *2 (W.D.
12 Wash. Jan. 27, 2023). A removing defendant’s conclusory allegations will not suffice to overcome
13 the traditional presumption against removal jurisdiction. *Singer v. State Farm Mut. Auto. Ins. Co.*,
14 116 F.3d 373, 375 (9th Cir. 1997).

15 Here, Defendants assert that “[b]ecause [Hodgell]’s attorneys have confirmed that they
16 seek to recover twice the jurisdictional threshold, Defendants’ Notice of Removal was proper, and
17 this case should not be remanded to state court.” Dkt. No. 20 at 4. They argue that “[Hodgell]’s
18 continuing demand for \$150,000 in actual damages—made both before and after the filing [of] his
19 complaint, and now expressly re-affirmed by his legal counsel—is a ‘particularly powerful form
20 of evidence’ that the amount in controversy exceeds \$75,000.” *Id.* at 3 (quoting *Flores v. Safeway,*
21 *Inc.*, No. C19-0825-JCC, 2019 WL 4849488, at *3 (W.D. Wash. Oct. 1, 2019)). But the court in
22 *Flores* concluded that “Plaintiff’s statement [was] strong evidence of the amount in controversy
23 *because* it provided a reasonable estimate [of] her damages.” 2019 WL 4849488, at *4 (emphasis
24

added); *see also Briggs*, 2023 WL 576813, at *3 (“[Plaintiff’s] statement puts his case valuation in line with *Cohn*’s requirement that a settlement demand be reasonable.”).

In this case, by contrast, Defendants fail to explain *why* Hodgell’s \$150,000 settlement demand is a reasonable estimate of his claims. Indeed, that “estimate covers matters beyond those asserted in the Complaint,” and “[t]he Court therefore does not find [the] estimate persuasive or reliable[.]” *Licea v. Rugs.com, LLC*, No. 2:21-CV-05308-AB-GJS, 2021 WL 4190635, at *4 (C.D. Cal. Sept. 14, 2021). Thus, for the reasons explained here and in its Order to Show Cause, Dkt. No. 19 at 3–5, the Court finds that Hodgell’s \$150,000 settlement demand, “without more evidence, does not reflect a reasonable estimate of [his] claim and does not serve to demonstrate that the amount in controversy has been met.” *Keodalah v. Allstate Ins. Co.*, No. C15-01412-RAJ, 2016 WL 4543200, at *3 (W.D. Wash. Mar. 25, 2016); *see also Brown v. Amica Mut. Ins. Co.*, No. 2:23-CV-00118-JHC, 2023 WL 2043537, at *1 (W.D. Wash. Feb. 16, 2023) (remanding case where defendants failed to show that plaintiff’s demand constituted a “reasonable estimate of the value of the claim.” (quotation marks omitted)); *Leon v. Gordon Trucking, Inc.*, 76 F. Supp. 3d 1055, 1070 (C.D. Cal. 2014) (“It was incumbent on [Defendant] to offer *something* to substantiate the damages estimate provided by [Plaintiff]’s lawyer, or otherwise to demonstrate that the amount in controversy exceeds [the statutory minimum].” (emphasis original)).

Furthermore, though Defendants are correct in observing that statutory attorneys’ fees are considered “at stake” in the litigation and must be included in the amount in controversy, here again, the removing defendant bears the burden of proving the fee amount by a preponderance of the evidence. *Fritsch*, 899 F.3d at 788, 794; *see also, e.g., id.* at 795 (district courts are “well equipped” to determine “when a fee estimate is too speculative because of the likelihood of a prompt settlement,” and “may reject [a] defendant’s attempts to include future attorneys’ fees in the amount in controversy” if the defendant fails to carry its burden of proof). In their response to

the Court's Order to Show Cause, Defendants make no effort to explain with any specificity how "the approximate value of" Hodgell's claim for attorneys' fees will contribute to the amount in controversy. Dkt. No. 20 at 4.

Accordingly, because Defendants have failed to establish by a preponderance of evidence that the amount in controversy exceeds \$75,000, the Court remands this case for lack of subject matter jurisdiction. *See* 28 U.S.C. §§ 1446(c)(2)(B), 1447(c).

III. CONCLUSION

For the reasons stated herein, the Court ORDERS that:

1. Pursuant to 28 U.S.C. § 1447(c), all further proceedings in this case are REMANDED to the Superior Court for King County in the State of Washington;
2. The Clerk of the Court shall mail a certified copy of this Order to the Clerk of the Court for the Superior Court for King County Washington;
3. The Clerk of the Court shall also transmit the record herein to the Clerk of the Court for the Superior Court for King County, Washington; and
4. The Clerk of the Court shall CLOSE this case.

Dated this 9th day of August, 2023.



Lauren King
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
OFFICE OF THE CLERK
AT SEATTLE

RAVI SUBRAMANIAN
CLERK OF COURT
700 STEWART ST.
SEATTLE, WA 98101

August 24, 2023

King County Superior Court
516 Third Avenue, Room E-609
Seattle, WA 98104

RE: Hodgell v. Andersen Corporation et al
Case #2:23-cv-00649-LK

Dear Clerk:

Please find enclosed the certified copy of Judge Lauren King's *Order Remanding Case to State Court* in the above-referenced case. A certified copy of the docket sheet is also included.

Please return the copy of this cover letter with the following information:

Superior Court Case Number(s): 23-00002-05382-6 SEA

Assigned to Judge: _____

Completed by Deputy Clerk: _____

Thank you in advance for your cooperation and assistance.

Sincerely,

s/Martin J Valencia,
Deputy Clerk

Enclosures

J QP QTC DNG MATTHEW J. SEGAL
Dept. 3

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

JOEL HODGELL, individually,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a foreign limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with CR 26(c), CR 29, and LCR 26. It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include the following documents and tangible things
3 produced or otherwise exchanged:

- 4 • Documents containing Plaintiff’s personal and business information, including but
5 not limited to phone number(s), mailing address(es), email address(es);
- 6 • Defendants’ internal policies and procedures, which include trade secret and other
7 sensitive commercial information;
- 8 • Contracts between Defendants and third parties, which include confidentiality
9 provisions and financial, trade secret, and other sensitive commercial information;
- 10 • Documents containing Defendants’ customer data; and
- 11 • Documents containing Defendants’ and third parties’ lead information, which may
12 include customer data and other sensitive information.

13 3. SCOPE

14 The protections conferred by this agreement cover not only confidential material (as
15 defined above), but also (1) any information copied or extracted from confidential material; (2) all
16 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
17 conversations, or presentations by parties or their counsel that might reveal confidential material.
18 However, the protections conferred by this agreement do not cover information that is in the public
19 domain or becomes part of the public domain through trial or otherwise.

20 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

21 4.1 Basic Principles. A receiving party may use confidential material that is disclosed or
22 produced by another party or by a non-party in connection with this case only for prosecuting,
23 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
24 categories of persons and under the conditions described in this agreement. Confidential material
25 must be stored and maintained by a receiving party at a location and in a secure manner that ensures
26 that access is limited to the persons authorized under this agreement.

27 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by

1 the court or permitted in writing by the designating party, a receiving party may disclose any
2 confidential material only to:

3 (a) the receiving party's counsel of record in this action, as well as employees
4 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

5 (b) the officers, directors, and employees (including in house counsel) of the
6 receiving party to whom disclosure is reasonably necessary for this litigation, unless the
7 parties agree that a particular document or material produced is for Attorney's Eyes Only
8 and is so designated;

9 (c) experts and consultants to whom disclosure is reasonably necessary for this
10 litigation and who have signed the "Acknowledgment and Agreement to Be Bound"
11 (Exhibit A);

12 (d) the court, court personnel, and court reporters and their staff;

13 (e) copy or imaging services retained by counsel to assist in the duplication of
14 confidential material, provided that counsel for the party retaining the copy or imaging
15 service instructs the service not to disclose any confidential material to third parties and to
16 immediately return all originals and copies of any confidential material;

17 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
18 necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
19 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages
20 of transcribed deposition testimony or exhibits to depositions that reveal confidential
21 material must be separately bound by the court reporter and may not be disclosed to anyone
22 except as permitted under this agreement;

23 (g) the author or recipient of a document containing the information or a custodian or other
24 person who otherwise possessed or knew the information.

25 4.3 Filing Confidential Material. Before filing confidential material or discussing or
26 referencing such material in court filings, the filing party shall confer with the designating party
27 to determine whether the designating party will remove the confidential designation, whether the

document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. During the meet and confer process, the designating party must identify the basis for sealing the specific confidential information at issue, and the filing party shall include this basis in its motion to seal, along with any objection to sealing the information at issue.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for protection under this agreement must be clearly so designated before or when the material is disclosed or produced.

(a) Information in documentary form: (e.g., paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the

1 producing party also must clearly identify the protected portion(s) (e.g., by making appropriate
2 markings in the margins).

3 (b) Testimony given in deposition or in other pretrial proceedings: the parties and any
4 participating non-parties must identify on the record, during the deposition or other pretrial
5 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
6 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
7 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
8 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information
9 at trial, the issue should be addressed during the pre-trial conference.

10 (c) Other tangible items: the producing party must affix in a prominent place on the exterior
11 of the container or containers in which the information or item is stored the word
12 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
13 the producing party, to the extent practicable, shall identify the protected portion(s).

14 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
15 designate qualified information or items does not, standing alone, waive the designating party’s
16 right to secure protection under this agreement for such material. Upon timely correction of a
17 designation, the receiving party must make reasonable efforts to ensure that the material is treated
18 in accordance with the provisions of this agreement.

19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
21 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
22 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
23 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
24 challenge a confidentiality designation by electing not to mount a challenge promptly after the
25 original designation is disclosed.

26 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute regarding
27 confidential designations without court involvement. Any motion regarding confidential

designations or for a protective order must include a certification, in the motion or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer conference with other affected parties in an effort to resolve the dispute without court action. The certification must list the date, manner, and participants to the conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention, the designating party may file and serve a motion to retain confidentiality. The burden of persuasion in any such motion shall be on the designating party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the challenging party to sanctions. All parties shall continue to maintain the material in question as confidential until the court rules on the challenge.

7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party must:

- (a) promptly notify the designating party in writing and include a copy of the subpoena or court order;
- (b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and
- (c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures,

(b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in CR 26(b)(6). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under ER 502(d) as set forth herein.

10. NON TERMINATION AND RETURN OF DOCUMENTS

Within 60 days after the termination of this action, including all appeals, each receiving party must return all confidential material to the producing party, including all copies, extracts and summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain confidential material.


The confidentiality obligations imposed by this agreement shall remain in effect until a designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

Dated: September 11, 2023

Respectfully Submitted,

ALBERT LAW, PLLC


Tallman H. Trask IV, WSBA #60280
3131 Western Ave., Suite 410
Seattle, WA 98121
(206) 576-8044
tallman@albertlawpllc.com

Attorney for Plaintiff
Joel Hodgell

WATSTEIN TEREPKA LLP


Abigail L. Howd (*pro hac vice* to be filed)
ahowd@wtlaw.com
1055 Howell Mill Rd., 8th Floor
Atlanta, GA 30318
(404) 418-8307

NEWMAN LLP


Derek A. Newman, WSBA # 26967
dn@newmanlaw.com
Derek Linke, WSBA # 38314
linke@newmanlaw.com
1201 Second Ave, Suite 900
Seattle, WA 98101
(206) 274-2800

Attorneys for Defendants Andersen Corp. and
Renewal by Andersen, LLC

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to ER 502(d), the production of any documents, electronically stored information (ESI) or information, whether inadvertent or otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or

1 protection recognized by law. This Order shall be interpreted to provide the maximum protection
2 allowed by ER 502(d). The provisions of ER 502(b) do not apply. Nothing contained herein is
3 intended to or shall serve to limit a party's right to conduct a review of documents, ESI or
4 information (including metadata) for relevance, responsiveness and/or segregation of privileged
5 and/or protected information before production. Information produced in discovery that is
6 protected as privileged or work product shall be immediately returned to the producing party.

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9 Dated: _____

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13 _____
14 Hon. Matthew J. Segal
15 King County Superior Court Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of
perjury that I have read in its entirety and understand the Stipulated Protective Order that was
issued by the Superior Court of the State of Washington for King County on [date] in the case of
Hodgell v. Andersen Corp., Case No. 23-2-05382-6 SEA. I agree to comply with and to be
bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the Superior Court of the State of
Washington for King County for the purpose of enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____, _____

Printed name: _____

Signature: _____

Honorable Matthew J. Segal
Hearing Date: October 31, 2023
Hearing Time: 1:30 p.m.

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**MOTION FOR LIMITED ADMISSION
UNDER APR 8(b) (PRO HAC VICE) RE:
ABIGAIL L. HOWD**

I. RELIEF REQUESTED

The Moving Party named below moves the court for the limited admission of the Applicant for Limited Admission named below for the purpose of appearing as a lawyer in this proceeding.

Identity of Moving Party (Washington State Bar Association Member):

Name: Derek Linke WSBA: 38314

Address: 1201 Second Ave., Suite 900
Seattle, WA 98101

Telephone: (206) 274-2800

Email: linke@newmanlaw.com

Identity of Applicant for Limited Admission:

Name: Abigail L. Howd Bar No.: 693428

Jurisdiction of Primary Practice: Georgia

Address: 1055 Howell Mill Road, 8th Floor

Atlanta, Georgia 30318

Telephone: (404) 418-8307

Email: ahowd@wtlaw.com

II. STATEMENT OF THE FACTS

Applicant Abigail L. Howd is counsel for Defendants Andersen Corporation and Renewal by Andersen, LLC (“Andersen”) in association with their law firm Watstein Terepka. Applicant Abigail L. Howd has been retained to provide legal representation in connection with the above-entitled action on behalf of Defendants Andersen.

III. STATEMENT OF THE ISSUE

The following issue is presented for resolution by the court:

Should the Applicant for Limited Admission named above be granted limited admission to the practice of law under APR 8(b) for the purpose of appearing as a lawyer in this proceeding?

IV. EVIDENCE RELIED UPON

This motion is based on the accompanying certifications of the Moving Party and the Applicant for Limited Admission.

V. LEGAL AUTHORITY

This motion is made pursuant to Rule 8(b) of the Admission to Practice Rules (APR).

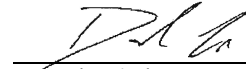
VI. PROPOSED ORDER

A proposed order granting the relief requested accompanies this motion.

1 Dated: October 20, 2023.

Respectfully submitted,

2 NEWMAN LLP

3 

4 Derek Linke, WSBA No. 38314
linke@newmanlaw.com

5 Counsel for Defendants Andersen
6 Corporation and Renewal by Andersen LLC

CERTIFICATION OF APPLICANT FOR LIMITED ADMISSION

I hereby certify under penalty of perjury under the laws of the State of Washington that:


1. I am a member in good standing of the bar of the state or territory of the United States or of the District of Columbia listed above as my jurisdiction of primary practice.

2. I have read the Rules of Professional Conduct adopted by the Supreme Court of the State of Washington and agree to abide by them.

3. I have complied with all of the requirements of APR 8(b).

4. I have read the foregoing motion and certification and the statements contained in it are full, true, and correct.

Signed on October 11, 2023 at Suwanee, Georgia.


Abigail L. Howd

CERTIFICATION OF MOVING PARTY/WSBA MEMBER

I hereby certify under penalty of perjury under the laws of the State of Washington that:

1. I am an active member in good standing of the Washington State Bar Association.

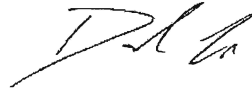
2. I will be the lawyer of record in this proceeding, responsible for the conduct of the applicant, and present at proceedings in this matter unless excused by the court.

3. I have submitted a copy of this motion together with the required fee of \$478 to the Washington State Bar Association, 1325 4th Ave., Ste. 600, Seattle, WA 98101-2539.

4. I have complied with all of the requirements of APR 8(b).

5. I have read the foregoing motion and certification and the statements contained in it are full, true, and correct.

Signed on October 20, 2023, at Seattle, Washington.



Derek Linke, WSBA No. 38314
linke@newmanlaw.com

CERTIFICATION OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on October 20, 2023, I caused true and correct copies of the foregoing document to be served upon counsel of record via method indicated below:

Attorneys for Plaintiff

Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com
carmen@albertlawpllc.com
Via Email & KCSC e-Service

I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2023, at Little Rock, Arkansas.



Devonnie Wharton

Honorable Matthew J. Segal
Hearing Date: October 31, 2023
Hearing Time: 1:30 p.m.

FILED
KING COUNTY, WASHINGTON

NOV 06 2023

SUPERIOR COURT CLERK
BY Karla Gabrielson
DEPUTY

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**ORDER GRANTING MOTION FOR
LIMITED ADMISSION UNDER APR 8(b)
(PRO HAC VICE) RE: ABIGAIL L.
HOWD**

Before the Court is a Motion for Limited Admission Under APR 8(b) (Pro Hac Vice). Having reviewed the Motion and the attached Certification of Application for Limited Admission and Certificate of Moving Party/WSBA Member, and for good cause appearing, the Court hereby GRANTS the Motion and ORDERS that Abigail L. Howd is admitted to practice as a lawyer in this proceeding. Derek Linke, an active member in good standing of the Washington State Bar Association, will be the attorney of record in this proceeding, will be responsible for the conduct of Abigail L. Howd, and will be present at proceedings in this matter unless excused by the Court.

1 IT IS SO ORDERED.

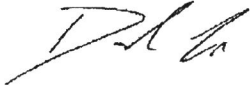
2 DATED this ___3rd___ day of November, 2023

3 

4 Honorable Matthew J. Segal
5 King County Superior Court Judge

6 Presented by:

7 Newman LLP

8 

9 _____
10 Derek Linke, WSBA No. 38314
11 linke@newmanlaw.com

12 Counsel for Defendants
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Honorable Matthew J. Segal
Hearing Date: December 5, 2023 at 8:30 a.m.
With Oral Argument

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**DEFENDANTS' MOTION TO DISMISS
FOR LACK OF PERSONAL
JURISDICTION**

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I. Introduction & Relief Requested

This is a spam email case in which serial litigant Plaintiff Joel Hodgell alleges that Defendants Andersen Corporation (“Andersen”) and Renewal by Andersen LLC (“Renewal”) sent him false and misleading emails in violation of the Washington Commercial Electronic Mail Act (“CEMA”), RCW 19.190 et seq., and the Washington Consumer Protection Act (“WCPA”), RCW 19.86 et seq. Defendants now move to dismiss the Complaint in its entirety for lack of personal jurisdiction under CR 12(b)(2) because they did not send the emails on which Plaintiff’s claims are based and have no other alleged contacts with Washington sufficient to make them subject to personal jurisdiction in this state.

Both Andersen and Renewal are Minnesota companies who maintain their principal places of business in that state. Yet Plaintiff has sued both companies here, many hundreds of miles from their home state, based solely on the allegation that they sent the allegedly offending emails to Plaintiff. That allegation is false. Evidence submitted with this Motion shows that Defendants never emailed Plaintiff. Nor did they authorize anyone to do so on their behalves. Andersen does not engage any third-party email-marketing vendors at all. And although Renewal sometimes conducts email marketing through a third-party vendor called Exact Marketing (“EC”), all of Plaintiff’s known email addresses have been on Renewal’s and EC’s do-not-email lists since at least 2017. Hence, Renewal never authorized anyone to email Plaintiff. For those reasons, and as explained further below, there is no basis on which to exercise specific or general personal jurisdiction over either Defendant. The Complaint should therefore be dismissed.

II. Statement of Facts

A. Plaintiff Alleges He Received More than One Hundred Spam Emails.

Plaintiff alleges that from June 8, 2019, through the present, Defendants initiated, conspired to initiate, or assisted in the transmission of more than one hundred “spam” email messages to him that advertised Renewal’s services. (Compl. ¶¶ 2, 8–10.) Plaintiff contends that these email messages violated CEMA and WCPA by using falsified “from” lines and “false or misleading” information in the subject line. (*Id.* ¶¶ 8–10.) Although Plaintiff alleges a

“conspiracy” to send the “spam” emails, he does not identify any third parties who were allegedly involved in the conspiracy, much less attempt to show they had any contacts with Washington.

B. Defendants Are Not at Home in Washington.

Andersen is a Minnesota corporation that designs and manufactures premium windows and doors. (Declaration of Tom Audette (“Audette Decl.”) ¶¶ 3-4.) Its principal place of business is in Bayport, Minnesota. (*Id.* ¶ 4.) Renewal is a Minnesota limited liability company that provides window or door replacement services to homeowners. (Declaration of Chelsea Rokusek (“Rokusek Decl.”) ¶¶ 3-4.) Renewal is a wholly owned subsidiary of Andersen, and its single member, SLBP Holdings Corporation, is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (*Id.*)

C. Defendants Neither Emailed Nor Authorized Any Emails to Plaintiff.

Defendants do not engage in unsolicited email marketing. (Audette Decl. ¶ 5; Rokusek Decl. ¶ 5.) Instead, Defendants only send marketing emails to consumers who have either affirmatively opted into receiving such emails (and provided their email addresses to Defendants for that purpose) or have otherwise expressed an interest in Defendants’ services. (Audette Decl. ¶ 5; Rokusek Decl. ¶ 5.) All marketing emails from either Defendant use the “andersencorp.com” domain in the email address. (Audette Decl. ¶ 5; Rokusek Decl. ¶ 5.)

Using Plaintiff’s name and his known email addresses (donotspamwastate@gmail.com, iamawashingtonstateresident@gmail.com, and issuespammersinwastateusa@gmail.com), Defendants reviewed their business records and confirmed that they did not send any emails to those addresses. (Audette Decl. ¶ 6; Rokusek Decl. ¶ 11.) In fact, all three email addresses have been on Defendants’ active suppression lists, or their “do not email” lists, since at least 2017. (Audette Decl. ¶ 7; Rokusek Decl. ¶ 12.) When an email address is on Defendants’ active suppression lists, Defendants’ software automatically blocks any outbound emails to that email address, so no marketing emails could have been sent from either Defendant to those email addresses in at least the last five years. (Audette Decl. ¶ 7; Rokusek Decl. ¶ 12.)

1 Defendants never authorized anyone else to send the emails to Plaintiff, either. Anderson
2 does not engage any third-party vendors to conduct email marketing to consumers on its behalf.
3 (Audette Decl. ¶ 8.) Renewal engages EC, an independent contractor, to conduct email
4 marketing campaigns to consumers. (Rokusek Decl. ¶¶ 6–7.) But Renewal does not control the
5 manner or methods of EC’s work. (*Id.* ¶ 7.) EC creates the content of all Renewal email
6 marketing campaigns (subject only to Renewal’s final approval). (*Id.*) Before EC may send any
7 emails for Renewal, EC must first submit all email templates and proposed subject lines to
8 Renewal for review and approval to ensure compliance with Renewal’s strict brand rules. (*Id.*) If
9 a template or subject line is not approved, EC must revise and resubmit for Renewal’s review and
10 approval until those items are approved, and in no event is EC permitted to send
11 communications that are not approved. (*Id.*) EC follows robust compliance practices, subject to
12 significant restrictions, and the contract between Renewal and EC explicitly requires compliance
13 with all applicable laws, state and federal. (*Id.* ¶ 8.) Further, Renewal has strict policies against
14 emailing anyone on its active suppression list, and mandates that EC abide by this policy. (*Id.*
15 ¶ 13.)

16 The two emails Plaintiff produced to Defendants, which violate Renewal’s rules, were not
17 approved or authorized by Renewal. (*Id.* at ¶ 18.) Indeed, both emails bear multiple hallmarks of
18 scam emails that were sent by an unknown third party that has no connection whatsoever to
19 Defendants. For example, both emails used Renewal’s name in the sender line, but Renewal
20 prohibits EC from using Renewal’s name or any iterations thereof in the sender line or domain
21 name. (*Id.* ¶ 18.) The two emails also violate other rules explicitly communicated to EC,
22 including: not using the required brand colors, typography, or logo art; not using authorized
23 templates; including multiple typographical errors; including promotional details in the subject
24 line, and including promotions for other companies’ services and products. (*Id.* ¶¶ 14–18.)

25 Finally, Defendants have never and would never promise consumers a \$150,000 payment
26 to their retirement accounts in any of their marketing emails. (*Id.* ¶ 19; Audette Decl. ¶ 11.)
27 Defendants do not know what person or entity sent the purported emails to Plaintiff, but they
28

1 know that neither Andersen, Renewal, nor anyone acting on behalf of the Defendants sent those
2 emails or did so with the Defendants' approval. (Audette Decl. ¶ 11; Rokusek Decl. ¶ 19.)

3 **III. Statement of Issues**

4 Should the Court dismiss Plaintiff's Complaint for lack of personal jurisdiction over
5 Defendants because no general jurisdiction exists as they are not "at home" in Washington and
6 because no specific jurisdiction exists as Plaintiff's claims do not arise from any conduct that
7 Defendants expressly aimed at Washington?

8 **IV. Evidence Relied Upon**

9 This motion is based on the accompanying declarations of Tom Audette and Chelsea
10 Rokusek. To the extent Plaintiff disputes this evidence, Defendants request an evidentiary
11 hearing under CR 12(d).

12 **V. Legal Standard**

13 "Washington's long-arm statute authorizes courts to exercise jurisdiction over nonresident
14 defendants to the extent permitted by the due process clause of the United States Constitution."
15 *MBM Fisheries, Inc. v. Bollinger Mach. Shop & Shipyard, Inc.*, 60 Wn. App. 414, 423 (1991). The
16 Court's exercise of jurisdiction must thus satisfy both the long-arm statute's requirements and
17 due process. *State v. LG Elecs., Inc.*, 185 Wn. App. 394, 410 (2015), *aff'd*, 186 Wn.2d 169 (2016).
18 Under constitutional standards, personal jurisdiction may be either "general" or "specific."
19 *Daimler AG v. Bauman*, 571 U.S. 117, 121 (2014); *Goodyear Dunlop Tires Ops., S.A. v. Brown*, 564
20 U.S. 915, 919 (2011).

21 In reviewing a motion to dismiss for lack of personal jurisdiction, courts "accept the
22 nonmoving party's factual allegations as true and review the facts and all reasonable inferences
23 drawn from the facts in the light most favorable to the nonmoving party." *LG Elecs.*, 185 Wn.
24 App. at 405. Until an evidentiary hearing under CR 12(d) takes place, plaintiff need only establish
25 a prima facie case that jurisdiction exists. *Id.*

VI. Argument

A. Defendants Are Not Subject to General Jurisdiction Because They Are Not “at Home” in Washington.

Defendants are not subject to general jurisdiction in Washington. A corporation is subject to a court’s general jurisdiction in the forum “in which the corporation is fairly regarded as at home.” *Goodyear*, 564 U.S. at 924. A corporation, for example, is considered at home in its principal place of business and state of incorporation. *Daimler*, 571 U.S. at 137. For general jurisdiction to exist elsewhere, the corporation’s activities in a state must be “so ‘continuous and systematic’ as to render [it] essentially at home.” *Id.* at 127 (quoting *Goodyear*, 564 U.S. at 919).

Plaintiff has not alleged that either Defendant is subject to general jurisdiction in Washington. Nor could he have made such an allegation. Andersen is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (Audette Decl. ¶ 4.) Renewal is a Minnesota limited liability company with a single member, SLBP Holdings Corporation (“SLBP”). (Rokusek Decl. ¶ 4.) Like Andersen, SLBP is a Minnesota corporation with its principal place of business in Bayport, Minnesota. (*Id.*) These facts, standing alone, dictate there is no general jurisdiction here. *See, e.g., Goodyear*, 564 U.S. at 924.

B. Defendants Are Not Subject to Specific Jurisdiction Because They Have No Washington Contacts Specific to Plaintiff’s Claims.

Plaintiff alleges that this Court has specific jurisdiction over Defendants because they sent the emails on which Plaintiff’s claims are based. But that is not true. Hence, for the reasons described below, there is no basis for the exercise of specific personal jurisdiction either.

Washington’s long-arm statute confers specific personal jurisdiction over actions where defendants, or their agents, transact “any business within this state” or commit “a tortious act within this state.” RCW § 4.28.185(1)(a)–(b). However, “specific jurisdiction extends only to causes of action that arise out of those limited contacts.” *FutureSelect Portfolio Mgmt., Inc. v. Tremont Grp. Holds., Inc.*, 175 Wn. App. 840, 886 (2013). And to justify the exercise of personal jurisdiction consistent with the Due Process clause, a plaintiff must plead and prove: (1) the

defendant “must purposefully do some act or consummate some transaction in the forum state”; (2) the plaintiff’s claims “must arise from, or be connected with, such act or transaction”; and (3) the exercise of jurisdiction “must not offend traditional notions of fair play and substantial justice” (*i.e.*, it is reasonable). *SeaHAVN, Ltd. v. Glitnir Bank*, 154 Wn. App. 550, 564 (2010) (quoting *Shute v. Carnival Cruise Lines*, 113 Wn.2d 763, 767 (1989)). The defendant’s contacts with the forum state must be what “give rise to the liabilities sued on” and those contacts must be “continuous and systematic.” *Daimler*, 571 U.S. at 138.

Due process also requires that a defendant be sued in a forum state “based on *his own affiliation with the State*, not based on the random, fortuitous, or attenuated contacts he makes by interacting with other persons affiliated with the State.” *Walden v. Fiore*, 571 U.S. 277, 286 (2014) (emphasis added). Thus, the contacts relevant to specific jurisdiction are those contacts with the forum state that are both *related to the lawsuit* and *created by Defendants*. *See id.* at 283–84. Here, Plaintiff cannot establish specific personal jurisdiction under any of these governing legal standards.

1. Specific Personal Jurisdiction Through Direct Liability Does Not Exist Because Defendants Did Not Send the Emails.

First, Defendants are not subject to specific personal jurisdiction on a theory of direct liability because they did not engage in any activities that gave rise to Plaintiff’s claim. This alone is sufficient to preclude the exercise of personal jurisdiction over the Defendants. *See SeaHAVN*, 154 Wn. App. at 571 (explaining that “jurisdiction is only proper if the events giving rise to the claim would have occurred ‘but for’” “defendant’s activities in the form state”). Defendants have absolutely no connection to, or affiliation with, the alleged emails to Plaintiff. (*See Audette Decl.* ¶¶ 8–11; *Rokusek Decl.* ¶¶ 11–19.)

Here again, Plaintiff’s claim is based entirely on the allegation that Defendants sent the “spam” emails identified in his complaint. But, as explained above, Defendants did not send those emails. Nor does Andersen engage any third-party vendors to conduct email marketing to consumers on its behalf, whether in Washington or elsewhere. (*Audette Decl.* ¶ 8.) Moreover,

both Defendants' records confirm that they never initiated nor assisted in the transmission of any emails to Plaintiff. (*Id.* ¶¶ 5–7; Rokusek Decl. ¶¶ 9–13.) As such, there is no basis on which to exercise specific personal jurisdiction over Defendants with regard to the claims Plaintiff has asserted here.

2. Specific Personal Jurisdiction Through Vicarious Liability Does Not Exist Because No Agency Theory Applies.

Plaintiff has not alleged that specific jurisdiction exists by virtue of any agency between Defendants and any third party that sent the emails. Indeed, Plaintiff does not even identify a third party involved in sending the emails, much less plead any facts raising a plausible inference that any unnamed third party had an agency relationship with the Defendants. If anything, the emails themselves—which violate numerous policies of the Defendants and bear multiple hallmarks of being sent by a rogue (and potentially fraudulent) third party—contradict any notion that they were sent on the Defendants' behalves. This alone means the Court cannot impute the actual sender's actions to Defendants for jurisdictional (or, for that matter, *any*) purposes.

Even if Plaintiff could identify who sent the emails, the emails still could not be imputed to Defendants for jurisdictional purposes on any vicarious-liability theory because Defendants have offered affirmative evidence that they never authorized anyone to send those emails on their behalves. Andersen does not hire any third-party email marketing vendors at all, and Renewal's only email marketing vendor is an independent contractor that controls its own day-to-day operations and whose conduct thus cannot be imputed to Renewal. (Rokusek Decl. ¶ 7.) *Wilson v. Grant*, 162 Wn. App. 731, 743 (2011), *as corrected* (Aug. 18, 2011) (explaining a principal will only be liable "if the [principal] retains control over the independent contractor's work"). Moreover, as noted above, Renewal maintained Plaintiff's name on its suppression list, thereby prohibiting any third-party vendor from sending emails to Plaintiff. So, even on the doubtful and unproven assumption that a third party affiliated with Renewal did send the emails, that third party would have done so without Renewal's approval and in violation of clear Renewal policies, as explained further below. This evidence also requires dismissal of the Complaint in its entirety for lack of

personal jurisdiction. But if that were not the case, no agency relationship exists between Defendants and the sender, as detailed below.

a. No Actual Authority Exists.

First, the evidence shows that the sender had no actual authority to email on Defendants' behalves. "Actual authority can be express or implied." *King v. Riveland*, 125 Wn.2d 500, 507 (1994). Express authority is authority that a principal directly conveys to an agent in express terms, while implied authority is proven through circumstantial evidence that indicates the principal actually intended the agent to have such authority. *See id.* Both types "depend upon objective manifestations made by the principal." *Id.* (citing *Smith v. Hansen, Hansen & Johnson, Inc.*, 63 Wn. App. 355, 363 (1991)).

Here, the evidence demonstrates that neither actual nor implied authority exists between Defendants and the sender. As for Andersen, it does not engage any third-party vendor to conduct email marketing on its behalf. (Audette Decl. ¶ 8.) Consequently, there was no objective manifestation by Andersen to any company about its authority to send emails to Andersen's behalf. As for Renewal, it expressly prohibited its vendor from sending any emails to Plaintiff. (Rokusek Decl. ¶ 12.) Indeed, EC had no authority to initiate any emails to Plaintiff on Renewal's behalf because all of Plaintiff's known email addresses have been on Renewal's and EC's suppression lists since at least 2017. (*Id.*) Renewal has strict policies against emailing anyone on its active suppression list, and mandates that EC abide by this policy. (*Id.* ¶ 13.) Thus, no emails could possibly have been sent to any of Plaintiff's email addresses on behalf of Renewal, let alone more than one hundred.

Moreover, the contract between Renewal and EC explicitly requires compliance with all applicable laws, including CEMA and WCPA. (*Id.* ¶ 8.) Therefore, to the extent that EC sent any emails to Plaintiff that violated any law, it acted outside the scope of its agreement with Renewal. (*Id.*) Renewal thus granted no actual authority to initiate the emails. *See, e.g., Jones v. Royal Admin. Servs., Inc.*, 887 F.3d 443, 450 (9th Cir. 2018) (no actual authority where purported agent expressly prohibited conduct at issue).

b. No Apparent Authority Exists.

The evidence also confirms that Defendants are not subject to personal jurisdiction via a theory of apparent authority. To establish apparent authority, the plaintiff must show two elements: “(1) conduct by the [defendants] that would cause a reasonable person to believe that [the email sender] was an agent of the [defendants] and (2) reliance on that apparent agency relationship by the [plaintiff].” *See Wilson*, 162 Wn. App. at 744 (citation omitted). Thus, the apparent power of an agent is to be determined by the act of the principal and not by the acts of the agent. *Smith*, 63 Wn. App. at 367 (explaining “the evidence [wa]s insufficient” to demonstrate apparent authority because “[n]one of the representations and manifestations about [the employee’s] authority were by [his employer]. All were by [the employee himself].”). And where there has been no representation of authority *by the principal*, no apparent authority arises. (*Id.*)

Here, Defendants never made statements to Plaintiff suggesting that anyone had authority to initiate the emails at issue on Defendants’ behalves. (Audette Decl. ¶ 9; Rokusek Decl. ¶ 10.) Indeed, Plaintiff fails to point to any action or statement by Defendants that led him to reasonably believe that the email sender, whoever it was, was acting subject to either Defendants’ direction. *See, e.g., Smith*, 63 Wn. App. at 367 (holding trial court could not find employer objectively manifested that its employee had authority to sell materials and designs on its behalf, even where it “furnished him with an office, telephone number, and business cards that said he was a ‘manager of manufacturing services’”).

In sum, because the evidence shows that Defendants did not hold out any third party as authorized to do anything on Defendants’ behalves, let alone violate CEMA and WCPA, Defendants are not subject to personal jurisdiction on an apparent authority theory.

c. No Ratification Occurred.

Finally, Plaintiff cannot establish personal jurisdiction by ratification. Ratification requires that the principal accept the benefits of the agent’s conduct, knowing the agent engaged in wrongdoing. *Thola v. Henschell*, 140 Wn. App. 70, 86 (2007) (citing *Consumers Ins. Co. v.*

1 *Cimoch*, 69 Wn. App. 313, 323 (1993)).

2 The evidence shows Plaintiff cannot establish either of those elements here. Defendants
3 did not accept any benefit from the emails, and especially not “*with full knowledge of the material*
4 *facts*,” which is a prerequisite to ratification. *Consumers Ins.*, 69 Wn. App. at 323 (collecting
5 cases). Defendants do not know who initiated the emails; they only know that neither Andersen,
6 Renewal, nor anyone on their behalves or with their authority sent the emails. (Audette Decl.
7 ¶ 11; Rokusek Decl. ¶ 19.) Accordingly, Plaintiff cannot set forth any facts in support of a
8 ratification theory and thus cannot ask to impute the sender’s conduct to Defendants on that
9 basis.

10 VII. Conclusion

11 The evidence shows that Defendants did not email Plaintiff and thus his claims do not arise
12 out of any business Defendants conducted or tort they purportedly committed within this state.
13 Moreover, Plaintiff does not even identify a third-party sender, much less allege a plausible
14 agency relationship with Defendants. And the evidence confirms Plaintiff could not show an
15 agency relationship anyway, so the emails are not imputable to Defendants. Thus, whether by
16 direct or vicarious liability, Plaintiff cannot carry his burden to establish specific personal
17 jurisdiction over Defendants. And because Defendants are not otherwise at home in Washington,
18 the Court cannot exercise general personal jurisdiction either. The Court should thus dismiss the
19 Complaint in its entirety for lack of personal jurisdiction.

1 Dated: November 7, 2023.

Respectfully submitted,

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3 s/ Derek Linke

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10 WATSTEIN TEREPAK LLP

1055 Howell Mill Rd., 8th Floor

11 Atlanta, GA 30318

Tel: (404) 418-8307

12 Counsel for Defendants

13 Andersen Corporation and

Renewal by Andersen LLC

14 *I certify that this memorandum contains 3,401*
15 *words, in compliance with the Local Civil Rules.*

Honorable Matthew J. Segal
Hearing Date: December 5, 2023 at 8:30 a.m.
With Oral Argument

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

DECLARATION OF CHELSEA L.
ROKUSEK

1. I, Chelsea L. Rokusek, declare as follows:

2. I am Director of Marketing for Renewal by Andersen, LLC (“Renewal”). I have personal knowledge of the facts set forth herein.

3. Renewal is a window renovation company that provides window and door replacements to consumers, and it is a wholly owned subsidiary of Andersen Corporation.

4. Renewal is a Minnesota limited liability company with a single member, SLBP Holdings Corporation. SLBP Holdings Corporation is a Minnesota corporation with its principal place of business in Bayport, Minnesota.

5. Renewal only sends limited marketing emails to consumers who have either affirmatively opted into receiving such emails from Renewal (and provided their email address to Renewal for that purpose) or have otherwise expressed an interest in Renewal’s services. All

1 marketing emails sent by Renewal use the “andersencorp.com” domain in the email address.

2 6. Renewal has engaged Exact Customer, an independent third-party company, to
3 conduct all other email marketing campaigns to consumers.

4 7. Exact Customer is an independent contractor. Renewal does not control the manner
5 and methods of Exact Customer’s work. Exact Customer creates the content of all Renewal email
6 marketing campaigns (subject only to Renewal’s final approval). Before Exact Customer may send
7 any emails for Renewal, Exact Customer must first submit all email templates and proposed subject
8 lines to Renewal for review and approval to ensure compliance with Renewal’s strict brand rules.
9 If a template or subject line is not approved, Exact Customer must revise and resubmit for
10 Renewal’s review and approval until those items are approved, and in no event is Exact Customer
11 permitted to send communications that are not approved.

12 8. Exact Customer follows robust compliance practices, subject to significant
13 restrictions, and the contract between Renewal and Exact Customer explicitly requires compliance
14 with all applicable laws, state and federal.

15 9. Renewal never authorized or assisted any third-party vendor to transmit
16 commercial emails on its behalf that either (a) use a third party’s internet domain name without the
17 third party’s permission; (b) misrepresent or obscure any information in identifying the emails’
18 point of origin or transmission path; or (c) contain false or misleading information in the subject
19 line.

20 10. Nor did Renewal ever make any statement to Plaintiff contending or implying that
21 any third-party vendor had authority to send such commercial emails on its behalf.

22 11. Using Plaintiff’s name and his known email addresses
23 (iamawashingtonstateresident@gmail.com, issuespammersinwastateusa@gmail.com, and
24 donotspamwastate@gmail.com), Renewal reviewed its business records and confirmed that it did
25 not send any emails to those addresses.

26 12. All three email addresses have been on Renewal’s active suppression list since at
27 least 2017. When an email address is on Renewal’s active suppression list, Renewal’s software
28 automatically blocks any outbound emails to that email address, so no marketing emails could have

1 been sent from Renewal to those email addresses in at least the last five years. Any emails added
2 to Renewal's active suppression list are also automatically added to Exact Customer's.

3 13. Renewal has strict policies against emailing anyone on its active suppression list,
4 and mandates that Exact Customer abide by this policy. Thus, no emails could possibly have been
5 sent to any of these email addresses on behalf of Renewal, let alone more than one hundred.

6 14. Prior to filing this lawsuit, Plaintiff provided copies of two emails that he contends
7 Renewal sent to him, attached hereto as Exhibit A (the November 3, 2021 email) and Exhibit B (the
8 November 3, 2022 email). Both emails violate required rules explicitly communicated to Exact
9 Customer.

10 15. For example, both emails used Renewal's name in the sender line, which violates
11 Renewal's rules. Renewal prohibits Exact Customer from using Renewal's name or any iterations
12 thereof in the sender line or domain name.

13 16. Likewise, the November 3, 2021 email also violates multiple additional rules. In
14 this email, the subject line ("Buy One, Get One 40% off + Extra \$100 off with minimum purchase*
15 ✓ 88") contains information about the deals offered, which Renewal only permits in the email
16 body. It also contains a checkmark character and what appears to be a typographical error (i.e.,
17 "88"), which are not permitted by Renewal's rules. The body of the email does not use a template
18 that is even remotely similar to any templates Renewal has authorized Exact Customer to use, nor
19 does it use the required brand colors, typography, or logo art. It also contains multiple typographical
20 errors, such as "1minimum," and "A lternatively." Further, similar to the attachment to the
21 November 3, 2021 email, the body of this email includes what appears to be email templates for
22 Enterprise and Event Temple. Again, Renewal would not and does not authorize any emails to be
23 sent on its behalf that provide information about other businesses.

24 17. Likewise, the November 3, 2022 email violates multiple additional rules.
25 Specifically, the subject line ("iamawashingtonstateresident_Windows_replacement_opportunity
26 _for_your! Sq") contains part of the recipient's email address, several underscore characters, and
27 what appears to be a typographical error (i.e., "Sq"). The attachment to the email includes what
28 appears to be email templates for other businesses, including the Children's Museum of Phoenix,

1 the Institut Supérieur des Beaux Arts de Sousse, Rosta USA Corp., Portland Center Stage at The
2 Armory, and Parchment, to name a few. The attachment is also in multiple languages, including
3 English, French, and German. Needless to say, Renewal does not permit Exact Customer to send
4 emails on behalf of Renewal that market other companies' services or products.

5 18. These two emails, which violate Renewal's rules, were not approved or authorized
6 by Renewal. To the extent Exact Customer sent such emails, it did so without Renewal's
7 knowledge or authorization, acting outside the scope of Exact Customer's agreement with Renewal.

8 19. I understand that Plaintiff alleges in his Complaint that Renewal initiated or assisted
9 in the transmission of over one-hundred misleading and unsolicited bulk commercial email
10 solicitations, including one with the subject line "🔔 ALERT: 💰 CHECK OUT Your Account
11 [email address] 💰 ☒ PAYOUT VERIFICATION ☒ 💰" that purportedly promised a \$150,000
12 payment to Plaintiff's retirement account. Renewal has never and would never promise consumers
13 a \$150,000 payment to their retirement accounts in any of its marketing emails. Renewal does not
14 know what person or entity sent the purported emails to Plaintiff, but it knows that neither Renewal
15 nor anyone on its behalf sent those emails.

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

18 Executed 10/25/2023, at Cottage Grove, Minnesota.

19
20 DocuSigned by:
21 *Chelsea Rokusek*
22 D21DECAFA6344BD...
23 CHELSEA L. ROKUSEK
24
25
26
27
28

EXHIBIT A

Subject: 😊 Buy One, Get One 40% off + Extra \$100 off with minimum purchase* ✓ 88

Date: Wednesday, November 3, 2021 at 7:57:09 PM Eastern Daylight Time

From: ☆ Renewal-by-Andersen ☆ <a0vGUug5bO@s1Ze2kkELQp.org.uk>

To: iamawashingtonstateresident@gmail.com <iamawashingtonstateresident@gmail.com>

Get Your FREE Consultation today!
No Money Down, No Payments, No Interest*

Buy One Window, Get One

40% OFF

**Plus take an extra \$100 Off Your Project 1minimum purchase
required. Plus Special Financing***

Where is your window project?

Zip Code

START FREE QUOTE

This advertisement was sent to you by a third party.

If you are not interested in receiving future advertisement, please Click Here.

A lternatively, you can opt out by sending a letter to: 1931 Cordova Road # 1038, Fort Lauderdale, FL 33316

Customer Support

click [here](#) to remove yourself from our emails list

Dear zcFkrUhIc zcFkrUhIc, Welcome to the Enterprise Plus® membership experience. Your Enterprise Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. Thank you for choosing Enterprise. We look forward to making your next rental experience more rewarding. Dear qYQkNMeZ qYQkNMeZ, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. == You need a budget, and your email needs confirmation. == Hello! Quick note to let you know that your email needs to be confirmed before all sorts of great things happen. Like your being able to use YNAB all along your road to budgeting glory. Please confirm by clicking the link below: Confirm your email Thank you! And we're serious about budgeting glory. It's a real thing, and you will bask in it. Regards, The YNAB Team Dear qYQkNMeZ qYQkNMeZ, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. Dear qYQkNMeZ qYQkNMeZ, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. > *Dylan Basile* *Book a demo with me here:* Hi dfdh, Thanks for signing up, and congratulations on your new ZiEZXi0IpEzxRQdPvh account! You'll find everything you need to get started below, and if you need additional help there's a link to our support forum at the bottom. === Account Information === Username: ctMRg Site ID: fwh === Your Account Console === Thanks again! Team ZiEZXi0IpEzxRQdPvh Powered ZiEZXi0IpEzxRQdPvh *Book a demo with me here:* Hi dfdh, Thanks for signing up, and congratulations on your new ZiEZXi0IpEzxRQdPvh account! You'll find everything you need to get started below, and if you need additional help there's a link to our support forum at the bottom. === Account Information === Username: ctMRg Site ID: fwh === Your Account Console === Hi dhg, My name's Dylan Basile and I work at Event Temple. Nice to meet you and thanks for requesting a demo. Joining me for a quick demo will be the fastest and most efficient way for you to see what the software is capable of. Did any of the times on our website work for you and if so, were you able to schedule a demo okay? If not, just let me know and we'll find something else. Dear qYQkNMeZ qYQkNMeZ, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. Dear qYQkNMeZ qYQkNMeZ, Welcome to the Enterprise Plus® membership experience. Your Enterprise Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. Thank you for choosing Enterprise. We look forward to making your next rental experience more rewarding. Dear qYQkNMeZ zcFkrUhIc, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next

rental, simply go to <http://> and log in with your member number. Thank you for choosing CXQEBSdhjyyqsRIJUK. We look forward to making your next rental experience more rewarding. == You need a budget, and your email needs confirmation. == Hello! Quick note to let you know that your email needs to be confirmed before all sorts of great things happen. Like your being able to use YNAB all along your road to budgeting glory. Please confirm by clicking the link below: Confirm your email Thank you! And we're serious about budgeting glory. It's a real thing, and you will bask in it. Regards, The YNAB Team

Dear qYQkNMeZ qYQkNMeZ, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. Dear GmJBsMIWnmetCr CXQEBSdhjyyqsRIJUK, Welcome to the EICDAknCdkD PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing EICDAknCdkD. We look forward to making your next rental experience more rewarding. > *Dylan Basile* *Book a demo with me here:* Hi dfdh, Thanks for signing up, and congratulations on your new ZiEXXi0IpEzxRQdPvh account! You'll find everything you need to get started below, and if you need additional help there's a link to our support forum at the bottom. === Account Information === Username: qYQkNMeZ Site ID: fwh === Your Account Console === Thanks again! Team

ZiEXXi0IpEzxRQdPvh Powered ZiEXXi0IpEzxRQdPvh *Book a demo with me here:* Hi dfdh, Thanks for signing up, and congratulations on your new ZiEXXi0IpEzxRQdPvh account! You'll find everything you need to get started below, and if you need additional help there's a link to our support forum at the bottom. === Account Information === Username: qYQkNMeZ Site ID: fwh === Your Account Console === Hi dhg, My name's Dylan Basile and I work at Event Temple. Nice to meet you and thanks for requesting a demo. Joining me for a quick demo will be the fastest and most efficient way for you to see what the software is capable of. Did any of the times on our website work for you and if so, were you able to schedule a demo okay? If not, just let me know and we'll find something else. Dear zcFkrUhlc zcFkrUhlc, Welcome to the CXQEBSdhjyyqsRIJUK PlusÄfÄ,Ä,Ä® membership experience. Your EICDAknCdkD Plus member number and user name is HYFYF4W. Your membership delivers faster reservations and rentals, a special members-only line at major airport locations and exclusive discounts. In addition, you'll be able to start earning points you can redeem for Free Rental Days after you activate your rewards. Please allow 24 hours for system updates before activating. To get the most from your next rental, simply go to <http://> and log in with your member number. Thank you for choosing CXQEBSdhjyyqsRIJUK. We look forward to making your next rental experience more rewarding.

EXHIBIT B

Subject: iamawashingtonstateresident_Windows_replacement_opportunity_for_you! Sqi
Date: Thursday, November 3, 2022 at 7:50:35AM Eastern Daylight Time
From: RenewaI by Andersen Windows <XpgbWPZ@theroughdrafts.com>
To: iamawashingtonstateresident@gmail.com
<iamawashingtonstateresident@gmail.com>
CC: iamawashingtonstateresident@gmail.com
<iamawashingtonstateresident@gmail.com>
Attachments: ATT0002



GO GREEN SAVE GREEN

Renewal by Andersen® window replacement can save you money on your energy bills.

BUY ONE, GET ONE 40% OFF¹
+ \$200 OFF YOUR PROJECT¹

Minimum Purchase Required. Click for details.

GET FREE QUOTE

Special Financing Available¹

Minimum Purchase Required.

INSTALLATION IS ALWAYS INCLUDED



THE NATION'S BEST WARRANTY¹ COVERAGE

	Renewal by Andersen	Infinity [®] by Marvin	Milgard [®]	Sierra Pacific Clad	Window World [®]	Pella [®] Imperia	Weather Shield [®]	Pella Clad	Jeld-Wen [®]	Pella Vinyl	Sierra Pacific Vinyl
No Maintenance Required	✓				✓		✓				
Automatic Transferability	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Installation Coverage	✓					✓		✓		✓	
No Geographic Restrictions	✓		✓		✓	✓				✓	
Service Labor Included	✓		✓	✓	✓	✓		✓	✓	✓	✓
Clarity of Warranty	✓		✓		✓		✓				
Added Benefits Exterior Color, Insect Screens, Hardware	✓		✓	✓		✓		✓		✓	✓

¹It is the only warranty among top selling window companies that meets all of the following requirements: easy to understand terms, unrestricted transferability, installation coverage, labor coverage, geographically unrestricted, color for exterior color, insect screens and hardware, and no maintenance requirement. Visit renewalbyandersen.com/nationsbest for details.

Renewal by Andersen uses
only glass that meets our
high standards for durability

GLASS PERFORMANCE OPTIONS: Each Glass option offers four unique benefits for heating, cooling, visible light transfer and ultra violet (UV) protection.

High-Performance Low-E4 SmartSun™ glass **blocks 95% of harmful UV rays** from entering your home and cuts down on noise pollution by reducing sound penetration.

High-Performance Low-E4 SmartSun™ glass is the most **energy-efficient** glass option we have ever offered.

Installing our ENERGY STAR® certified windows and doors can **shrink energy bills**—and carbon footprints—by an average of 12% nationwide compared to non-certified products.¹

¹https://www.energystar.gov/products/building_products/residential_windows_doors_and_skylights. Savings may vary based on other home insulating attributes.



† It is the only warranty among top selling window companies that meets all of the following requirements: easy to understand terms, unrestricted transferability, installation coverage, labor coverage, geographically unrestricted, color for exterior color, insect screens and hardware, and no maintenance requirement. Visit renewalbyandersen.com/nationsbest for details.

SEE HOW YOU CAN SAVE



This is an advertisement. This message has been sent to you through an affiliate of Renewal by Andersen.

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If you have questions or concerns, contact our customer support team, [here.](#)

2040 Merrick Road Unit 408 Merrick, NY 11566

----ct;coci;llj

Bonjour fuvjvt arcoci,

iGracias por suscribirte! | Thanks for subscribing! | Merci pour votre subscription!

Oui, inscris moi sur cette liste.

Merci de l'intérêt que vous portez à notre contenu ! Cliquez sur le bouton pour confirmer votre inscription à la newsletter Easygslvwp.

Nous vous remercions de votre confiance.

activation de compte sur Inscription-Facile

Votre compte a été créé, mais il doit encore être activé.

<p>Thanks for asking. There's a "forgot password" link on the login screen in the app. (see image beside when login).</p>

<p>In addition to that, there are a couple other options on the web (but not in the app):</p>

<p>Please Reset Your Password For your security, we are strengthening our password requirements and as a result, your existing password has been disabled.</p>

<p>.</p>

<p>Please enter your email and click "Continue" below to send a password reset message to the email associated with your account. This email will contain a link to reset your password that will expire within 24 hours.</p>

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<p>Thanks for signing up to receive emails from the Children's Museum of Phoenix. Now you won't miss out on our special events, programs, discounts and so much more!</p>

<p>INSCRIPTIONS 2018-2019 Publié le 2 septembre 2018 par joel Bonjour,

Le processus d'inscription se modernise, car nous avons mis en place cette année un site WEB vous permettant de réaliser cette opération depuis chez vous à partir du lien situé en bas de ce message. Cependant, si vous rencontrez des difficultés, des permanences sont mises en places au gymnase Henri Barbusse, tous les soirs de 17h00 à 19h00 pour vous aider en cas de besoin, pour faire votre inscription en ligne.</p>

<p>Madame, Monsieur,</p>

<p>Please remember to drop your regalia back to the regalia room at Claudelands.</p>

<p>Xfinity Forum Archive...</p>

<p>Also, make sure to bookmark (Your Seller ID) as a favorite seller.</p>

<p>Thank you again, it has been a pleasure doing business with you. If you have any questions, please contact me directly at (your email address).</p>

<p>This is an archived section of the community.</p>

<p>City: City</p>

<p>Your personal data Note: Your personal data listed below will only be used as shipping address and will not be stored in any database.</p>

<p>Your personal data Note: Your personal data listed below will only be used as shipping address and will not be stored in any database.</p>

<p>(Your Seller ID) </p>

<p> Ordered Publications in printed form publications</p>

<p>Bonjour Hugo nous n'envoyons plus de courriels car nous tenons à ce que les chauffeurs se connectent sur le site, regardent les noms des passagers et déclarent le départ complet. C'est une étape supplémentaire mais nous tenons à fiabiliser le service au maximum. Merci pour votre commentaire Myriam Agente AmigoExpress</p>

<p>Dear CUSTOMER NAME,</p>

<p>This is an archived section of the community.</p>

<p>Mardi 2 et Mercredi 3 février auront lieu les élections des représentants étudiants à l'université de Bourgogne. ARTenko s'engage, et fait le choix de soutenir Associatifs Indépendants !</p>

<p>Company: Company</p>

<p>Les étudiants d'A&I sont issus d'associations étudiantes ce qui permet de cibler au mieux les problématiques de chaque filière. Ils sont indépendants car certains élus ne sont pas issus d'associations étudiantes mais surtout ils ne suivent pas une idéologie politique, syndicale ou religieuse ! Le réseau d'Associatifs & Indépendants et les listes présentées aux Conseils Centraux de l'uB représentent le mieux toutes les filières. L'histoire de l'art et archéologie aussi !</p>

<p>Street: Street</p>

<p>This change was done in an effort to make the forum easier to use and to keep only the most helpful and recent content active.</p>

<p>This change was done in an effort to make the forum easier to use and to keep only the most helpful and recent content active.</p>

<p>Last name: Last name</p>

<p>Chers étudiants, chères étudiantes,</p>

<p> </p>

<p>Thank you for your order! Your order has been successfully transmitted. </p>

<p>Regards,</p>

<p>Nous avons reçu votre demande d'inscription la newsletter.</p>

<p>First name: First name</p>

<p>La page n'existe pas La page que vous recherchez n'existe pas ou a été supprimée. Veuillez utiliser le menu ci-dessous pour naviguer dans le site du RSIFE0.</p>

<p>Pour annuler votre participation à un des stages, envoyer simplement un e-mail mentionnant le stage auquel vous vous désistez. Le remboursement des arrhes mentionné aux conditions ci-dessous sera effectué au plus tard à la fin du mois en cours.</p>

<p>Company: Company</p>

<p>Bonjour Hugo nous n'envoyons plus de courriels car nous tenons à ce que les chauffeurs se connectent sur le site, regardent les noms des passagers et déclarent le départ complet. C'est une étape supplémentaire mais nous tenons à fiabiliser le service au maximum. Merci pour votre commentaire Myriam Agente AmigoExpress</p>

<p>Xfinity Forum Archive...</p>

<p>Chers Etudiants On vous souhaite une chaleureuse bienvenue sur le site internet de l'Institut Supérieur des Beaux Arts de Sousse Cet espace a pour but de vous donner un aperçu général des divers informations concernant les emplois des temps, les calendriers des examens, les cours, les inscriptions, l'orientation...</p>

<p>Thank you very much for your order. I hope you enjoy this yellow sundress. I see you're in southern California so you'll have many chances to use it. We're here if you need anything.</p>

<p> </p>

<p>Post your questions in the Xfinity Community</p>

<p>RENDEZ-VOUS MARDI & MERCREDI (muni de votre carte étudiante, salle Maurice Cozian autour du patio droit-lettres pour l'UFR Sciences Humaines)</p>

<p>Last name: Last name</p>

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<p> Computers: We provide computers for student use in the student lounge, and students will not require a laptop for their classwork. If you do wish to bring a laptop, however, wifi is available in local cafés. Finally, please remember that YOU will be responsible for carrying your own luggage at all times, so try to be as realistic as possible about what you will need. Electricity in France Please keep in mind that electricity in France is different than in the U.S. Thus, please do not bring irons, hair dryers, or other electrical equipment. Even with a transformer, they will often short out. If necessary, cheap appliances can be bought in France and used just for the month. Checklist 1. TO DO IMMEDIATELY (____) Check that your passport is valid and will not expire while you are in France. (____) If you are not a US, Canadian or European Union citizen, contact your local French Embassy to determine whether you need to apply for an entry visa to France. 2. ADVANCE PLANNING (____) Order your debit/credit card. Make a copy of it in case it gets lost. (____) Make 3 photocopies of your passport & birth certificate: one to leave with your family and two to carry with you while you travel. () Confirm your plane reservation with the airline, as well as the time, flight number and departure terminal. NOTE: DO THIS 72 HOURS BEFORE YOU LEAVE! 3. PACKING TIME () Make sure that any breakables in your suitcase are well-wrapped or protected, or placed in your hand luggage. (____) Think through how much clothing you will need this summer. (Each year most students bring far too much, so try to adhere to the packing list.) 4. BEFORE YOU LEAVE THE HOUSE (You MUST include all these items in your carry-on bag) (____) Your passport (and visa paperwork, if applicable) (____) A copy of your passport in another place from the original, with a second copy left at home with your parents () Your plane tickets (____) Your spending money (packed securely). () The Académie de France program office telephone numbers and addresses (____) Name & address labels, plus "OXBRIDGE" luggage tags, on your luggage (sent by mail) 5. AT THE AIRPORT (____) Keep the bar-coded luggage stubs, given to you by the airline at check-in, in a safe place in your carry-on luggage. Happy travels from wherever you may be in the world, and we will see you in France in early July! Map of Montpellier Internat d'Excellence Montpellier 4, rue du 81ème régiment d'infanterie 34090 Montpellier France</p>

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Confirm Your Email

Hey Smiles Davis,

We received a request to set your HireClub email to hello@https://08lpsin95wnnoxd.net. If this is correct, please confirm by clicking the button below.

Confirm Email

<https://08lpsin95wnnoxd.net/NKo7BdPyoNMEiH7>

Confirm your account

Click the button below to confirm your Dauntless account.

Click here to confirm your account

– or –

You can manually confirm your account by pasting the following code into the empty field at
<https://08lpsin95wnnoxd.net>

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Sehr geehrte Frau uvjvt

Herzlichen Dank für Ihr Interesse am Denner Newsletter!

Bestätigen Sie Ihre Anmeldung bitte durch Anklicken dieses Links.

Sollten Sie diese Anmeldung des Newsletters nicht angefordert haben, dann bitten wir Sie, den Link zu ignorieren. Sie werden dann in Zukunft keine weiteren E-Mails von uns erhalten.

Freundliche Grüße

Denner

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-----MQaRPAXh;ULJWGm-----MQaRPAXh;ULJWGm

Dear SY uvjvt,

Please confirm this E-Mail and you will receive our news messages.
To do this click on following link:

Best regards

ROSTA USA CORP.
8396 Kalamazoo Street
US – South Haven, Michigan 00595
Phone: +1 (0)269 841-8396
Fax: +1 (0)269 924-8396
E-Mail: info@https://08lpsin95wnnoxd.net

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----MQaRPAXh;ULJWGm----MQaRPAXh;ULJWGm

Thank you for your interest in Portland Center Stage at The Armory!

To complete your subscription, click below.

If you've changed your mind or received this in error, please disregard. You will not be added to our list unless you click the link.

Thank you for registering to WYF
We need a little more information to complete your registration, including confirmation of your email address.
Click below to confirm your email address

Verify

Button not working? Copy and paste this link to your address bar

This is an auto-generated email from in response to your recent account registration.

Thank you for registering. Click here to activate your account.

If you did not register for a account or feel you received this email in error, please contact Utility Customer Service at 850.891.4YOU (4968) Monday – Sunday from 7 a.m. – 11 p.m. or email us.

Please click the green button to verify that this is your email address or enter your verification code into the page you were just on:

click here to verify your email address
verification code:

OR enter your

Welcome to Parchment! We are really happy to have you here.

Thank you,
The Parchment Team

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height: 17px; font-size: 0;" class="shadow-pixel-td"></td>
              </tr>
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llj--uvjvt--coci-----llj--uvjvt--
coci
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coci

llj--uvjvt--coci-----llj--uvjvt--
coci

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----MQaRPAXh;ULJWGm----MQaRPAXh;ULJWGm
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[illegible]

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<p>Reset your password</p>
<p>????cmakfxe????</p>

Honorable Matthew J. Segal
Hearing Date: December 5, 2023 at 8:30 a.m.
With Oral Argument

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

DECLARATION OF TOM AUDETTE

1. I, Tom Audette, declare as follows:

2. I am the Senior IT Director: Enterprise Digital Marketing for Andersen Corporation (“Andersen”). I have personal knowledge of the facts set forth herein.

3. Andersen designs and manufactures premium windows and doors.

4. Andersen is a Minnesota corporation with its principal place of business in Bayport, Minnesota.

5. Andersen does not engage in unsolicited email marketing to consumers. Instead, it only sends marketing emails to consumers who have affirmatively opted into receiving such emails from Andersen and provided their email address to Andersen for that purpose. All marketing emails sent by Andersen use the “andersencorp.com” domain in the email address.

6. Using Plaintiff's name and his known email addresses (iamawashingtonstateresident@gmail.com, issuespammersinwastateusa@gmail.com, and donotspamwastate@gmail.com), Andersen reviewed its business records and confirmed that it did not send any emails to those addresses.

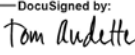
7. All three email addresses have been on Andersen's active suppression list since at least 2017. When an email address is on Andersen's active suppression list, Andersen's software automatically blocks any outbound emails to that email address, so no marketing emails could have been sent from Andersen to those email addresses in at least the last five years.

8. Moreover, Andersen did not engage any other third-party vendor to conduct email marketing to consumers on its behalf.

9. Andersen never authorized or assisted any third-party vendor to transmit commercial emails on its behalf that either (a) use a third party's internet domain name without the third party's permission; (b) misrepresent or obscure any information in identifying the emails' point of origin or transmission path; or (c) contain false or misleading information in the subject line. Nor did Andersen ever make any statement to Plaintiff contending or implying that any third-party vendor had authority to send such commercial emails on its behalf.

10. I understand that Plaintiff alleges in his Complaint that Andersen initiated or assisted in the transmission of over one-hundred misleading and unsolicited bulk commercial email solicitations, including one with the subject line "🔔 ALERT: 💰 CHECK OUT Your Account [email address] 💰 ☒ PAYOUT VERIFICATION ☒ 💰" that purportedly promised a \$150,000 payment to Plaintiff's retirement account.

11. Andersen has never and would never promise consumers a \$150,000 payment to their retirement accounts in any of its marketing emails. Andersen does not know what person or entity sent the purported emails to Plaintiff, but it knows that neither Andersen nor anyone on its behalf sent those emails.

DocuSigned by:

233670889084403...

[Signature on Following Page]

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

3 Executed this 10/11/2023
4 day of October, 2023, at St. Paul, Minnesota.

5 DocuSigned by:
6 *Tom Audette*
7 233670889084403
8 TOM AUDETTE

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

JOEL HODGELL,
Plaintiff,

v.

**ANDERSEN CORPORATION, a foreign corporation;
and RENEWAL BY ANDERSEN, LLC, a limited
liability corporation,**
Defendants.

CASE NO. 23-2-05382-6 SEA

**NOTICE OF COURT DATE (Judges)
(NOTICE FOR HEARING)
SEATTLE DESIGNATED CASES ONLY
(Clerk's Action Required) (NTHG)**

TO: THE CLERK OF THE COURT and to all other parties per list on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: December 5, 2023 **Day of Week:** Tuesday

Nature of Motion: Motion to Dismiss

CASES ASSIGNED TO INDIVIDUAL JUDGES – SEATTLE DESIGNATED CASES

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. **Working Papers:** The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. **Deliver Judge's copies to Judges' Mailroom at C-203 (Seattle) or 2D (MRJC)**

☐ Without oral argument (Mon – Fri) ☒ With oral argument

Hearing Date/Time: December 5, 2023 at 8:30 a.m.

Judge's Name: Matthew J. Segal Trial Date: March 25, 2024

Building Location and Courtroom No. of Judicial Officer: 4D

Virtual Connection Information (if applicable): _____

CHIEF CRIMINAL DEPARTMENT – SEATTLE (E-955)

☐ Bond Forfeiture 3:15 pm, 2nd Thursday of each month

☐ Extraordinary Writs from criminal or infraction (Show Cause Hearing) LCR 98.40(d) 3:00 p.m. Mon-Thurs.

☐ Certificates of Rehabilitation- Weapon Possession (**Convictions from Limited Jurisdiction Courts**) 3:30 First Tues of each month

CHIEF CIVIL DEPARTMENT – SEATTLE (W-941) *Telephonic Chief Civil Calendar instructions at:

<https://kingcounty.gov/courts/superior-court/civil/Chief%20Civil%20Calendar.aspx>

☐ Supplemental Proceedings (LCR 69) (**Thurs** 1:30 pm)

☐ Structured Settlements (LCR 40(b)(14)) (**Thurs** 1:30 pm)

☐ Extraordinary Writs (Show Cause Hearing) (LCR 98.40) (**Thurs** 1:30 pm)

☐ Motions to Consolidate with multiple judges assigned (LCR 42) (without oral argument Mon – Fri)

☐ Other Chief Civil Motions per LCR: _____ (without oral argument Mon-Fri)

For cases without an assigned judge:

☐ Dispositive Motions (**Fridays**. Contact bailiff for hearing time)

☐ Non-Dispositive Motions (without oral argument Mon – Fri)

☐ Motions for Revisions (LCR 7(b)(8)) (**Non-UFC cases only. Motion will be reassigned per LCR 7(b)(8)(B)(ii)**)

You may list an address that is not your residential address where you agree to accept legal documents.

Sign: [Signature] Print/Type Name: Derek Linke

WSBA # 38314 (if attorney) Attorney for: Defendants

Address: 1201 Second Ave, Suite 900 City, State, Zip Seattle, WA 98101

Telephone: (206) 274-2800 Email Address: linke@newmanlaw.com Date: November 7, 2023

www.kingcounty.gov/courts/scforms

Rev. 4/2023

DO NOT USE THIS FORM FOR FAMILY LAW OR EX PARTE MOTIONS.

Notice of Court Date- Seattle Designated Cases Only

Page 1

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

Attorneys for Plaintiff
Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com
carmen@albertlawpllc.com
Via Email & KCSC e-Service

IMPORTANT NOTICE REGARDING CASES

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. The Party requesting the hearing must serve a copy of this notice, with motion documents, on all parties and file a proof of service outlining all the documents served on the other party or parties.

The original must be filed at the Clerk's Office not less than **nine** court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

Written responses and replies must be filed and served according to the deadlines in Local Civil Rule 7. See, Civil Rule 59 for response deadlines for Summary Judgment Motions and LCR 12 for Motions to Dismiss.

THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.

The SEATTLE COURTHOUSE is in Seattle, Washington at 516 Third Avenue. The Clerk's Office is on the sixth floor, room E609. The Judges' Mailroom is Room C-203. The Maleng Regional Justice Center is in Kent, Washington at 401 Fourth Avenue North. The Clerk's Office is on the second floor, room 2C. The Judges' Mailroom is Room 2D.

Honorable Matthew J. Segal
Hearing Date: December 1, 2023
Hearing Time: 1:30 p.m.

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

JOEL HODGELL,

Plaintiff,

v.

ANDERSEN CORPORATION, a foreign
corporation; and RENEWAL BY ANDERSEN,
LLC, a limited liability corporation,

Defendants.

Case No. 23-2-05382-6 SEA

**MOTION FOR LIMITED ADMISSION
UNDER APR 8(b) (PRO HAC VICE) RE:
DAVID E. MEADOWS**

I. RELIEF REQUESTED

The Moving Party named below moves the court for the limited admission of the Applicant for Limited Admission named below for the purpose of appearing as a lawyer in this proceeding.

Identity of Moving Party (Washington State Bar Association Member):

Name: Derek Linke WSBA: 38314

Address: 1201 Second Ave., Suite 900
Seattle, WA 98101

Telephone: (206) 274-2800

Email: linke@newmanlaw.com

Identity of Applicant for Limited Admission:

Name: David E. Meadows Bar No.: 500352

Jurisdiction of Primary Practice: Georgia

Address: 1055 Howell Mill Road, 8th Floor

Atlanta, Georgia 30318

Telephone: (404) 602-4371

Email: dmeadows@wtlaw.com

II. STATEMENT OF THE FACTS

Applicant David E. Meadows is counsel for Defendants Andersen Corporation and Renewal by Andersen, LLC (“Andersen”) in association with their law firm Watstein Terepka. Applicant David E. Meadows has been retained to provide legal representation in connection with the above-entitled action on behalf of Defendants Andersen.

III. STATEMENT OF THE ISSUE

The following issue is presented for resolution by the court:

Should the Applicant for Limited Admission named above be granted limited admission to the practice of law under APR 8(b) for the purpose of appearing as a lawyer in this proceeding?

IV. EVIDENCE RELIED UPON

This motion is based on the accompanying certifications of the Moving Party and the Applicant for Limited Admission.

V. LEGAL AUTHORITY

This motion is made pursuant to Rule 8(b) of the Admission to Practice Rules (APR).

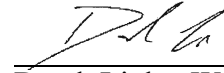
VI. PROPOSED ORDER

A proposed order granting the relief requested accompanies this motion.

1 Dated: November 16, 2023

Respectfully submitted,

2 NEWMAN LLP

3 

4 Derek Linke, WSBA No. 38314
linke@newmanlaw.com

5 Counsel for Defendants Andersen
6 Corporation and Renewal by Andersen LLC

CERTIFICATION OF APPLICANT FOR LIMITED ADMISSION

I hereby certify under penalty of perjury under the laws of the State of Washington that:

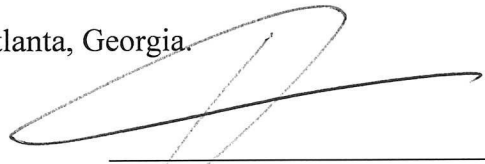
1. I am a member in good standing of the bar of the state or territory of the United States or of the District of Columbia listed above as my jurisdiction of primary practice.

2. I have read the Rules of Professional Conduct adopted by the Supreme Court of the State of Washington and agree to abide by them.

3. I have complied with all of the requirements of APR 8(b).

4. I have read the foregoing motion and certification and the statements contained in it are full, true, and correct.

Signed on November 14, 2023, at Atlanta, Georgia.



David E. Meadows

CERTIFICATION OF MOVING PARTY/WSBA MEMBER

I hereby certify under penalty of perjury under the laws of the State of Washington that:

1. I am an active member in good standing of the Washington State Bar Association.

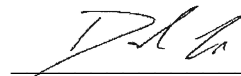
2. I will be the lawyer of record in this proceeding, responsible for the conduct of the applicant, and present at proceedings in this matter unless excused by the court.

3. I have submitted a copy of this motion together with the required fee of \$478 to the Washington State Bar Association, 1325 4th Ave., Ste. 600, Seattle, WA 98101-2539.

4. I have complied with all of the requirements of APR 8(b).

5. I have read the foregoing motion and certification and the statements contained in it are full, true, and correct.

Signed on November 16, 2023, at Seattle, Washington.



Derek Linke, WSBA No. 38314
linke@newmanlaw.com

CERTIFICATION OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on November 16, 2023, I caused true and correct copies of the foregoing document to be served upon counsel of record via method indicated below:

Attorneys for Plaintiff

Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com
carmen@albertlawpllc.com

Via Email & KCSC e-Service

I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed on November 16, 2023, at Little Rock, Arkansas.



Devonnice Wharton

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

JOEL HODGELL,
Plaintiff,

v.

**ANDERSEN CORPORATION, a foreign corporation;
and RENEWAL BY ANDERSEN, LLC, a limited
liability corporation,**
Defendants.

CASE NO. 23-2-05382-6 SEA

**NOTICE OF COURT DATE (Judges)
(NOTICE FOR HEARING)
SEATTLE DESIGNATED CASES ONLY
(Clerk's Action Required) (NTHG)**

TO: THE CLERK OF THE COURT and to all other parties per list on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: December 1, 2023 **Day of Week:** Friday

Nature of Motion: MOTION FOR LIMITED ADMISSION UNDER APR 8(b) (PRO HAC VICE)

CASES ASSIGNED TO INDIVIDUAL JUDGES – SEATTLE DESIGNATED CASES

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. **Working Papers:** The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. **Deliver Judge's copies to Judges' Mailroom at C-203 (Seattle) or 2D (MRJC)**

☒ Without oral argument (Mon – Fri) ☐ With oral argument Hearing

Date/Time: December 1, 2023 at 1:30 p.m.

Judge's Name: Matthew J. Segal Trial Date: March 25, 2024

Building Location and Courtroom No. of Judicial Officer: 4D

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You may list an address that is not your residential address where you agree to accept legal documents.

Sign: [Signature] Print/Type Name: Derek Linke

WSBA # 38314 (if attorney) Attorney for: Defendants

Address: 1201 Second Ave, Suite 900 City, State, Zip Seattle, WA 98101

Telephone: (206) 274-2800 Email Address: linke@newmanlaw.com Date: November 16, 2023

www.kingcounty.gov/courts/scforms

Rev. 4/2023

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

Attorneys for Plaintiff
Gregory W. Albert, WSBA No. 42673
Tallman H. Trask, WSBA No. 60280
ALBERT LAW PLLC
3131 Western Ave, Suite 410
Seattle, WA 98121
greg@albertlawpllc.com
tallman@albertlawpllc.com
carmen@albertlawpllc.com
Via Email & KCSC e-Service

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ORDER ON TRANSFER OF INDIVIDUAL JUDGE ASSIGNMENT

Chia

SUPERIOR COURT PRESIDING JUDGE

Gregory W. Albert
3131 Western Ave Ste 410
Seattle, WA 98121

ANDERSEN CORPORATION
No Address Available

Tallman Harlow Trask, IV
3131 Western Ave Ste 410
Seattle, WA 98121

RENEWAL BY ANDERSEN
No Address Available

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Joel Hodgell

(b) County of Residence of First Listed Plaintiff King County, WA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Gregory W. Albert and Tallman H. Trask, Albert Law
PLLC, 3131 Western Ave., Suite 410, Seattle, WA 98121,
(206) 576-8044

DEFENDANTS

Andersen Corporation and Renewal by Andersen, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Derek A. Newman and Derek Linke, Newman LLP, 1201
2nd Ave., Suite 900, Seattle, WA 98101, (206) 274-2800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332, 1441, and 1446

Brief description of cause:

Violations of Washington's Consumer Protection Act, RCW 19.86 et seq.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
Not alleged

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Hon. Lauren King

DOCKET NUMBER 2:23-cv-00649

DATE

Dec 1, 2023

SIGNATURE OF ATTORNEY OF RECORD

/s/ Derek Linke

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.