

Honorable David G. Estudillo

**UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

NATHEN BARTON,

Plaintiff,

vs.

JOE DELFGAUW, XANADU
MARKETING INC., STARTER HOME
INVESTING INC., & JOHN DOE 1-10
Defendants.

)Case No. 3:21-cv-05610-DGE

)DECLARATION OF DAWN R. VAN DUSEN
)IN SUPPORT OF DEFENDANTS JOE
)DELFGAUW REPLY TO PLAINTIFF'S
)MOTION FOR CONTEMPT DKT 493

I, Dawn R. Van Dusen declare as follows:

1. I am the attorney of record for the Defendants in the above-entitled caption and numbered action, and have personal knowledge of the matters set forth in this declaration.

2. Attached hereto as Exhibit A is a true and correct copy of the transcript of the April 1, 2025, deposition of Plaintiff Nathen Barton in this action.

3. Attached hereto as Exhibit B is a true and correct copy of Defendant's Answer to Plaintiff's Seventh Set of Interrogatories to Defendant Joe Delfgauw.

DECLARATION OF DAWN R. VAN DUSEN
IN SUPPORT OF DEFENDANTS REPLY TO
DKT 493
3:21-cv-05610-DGE -

LAW OFFICE OF DAWN R. VAN DUSEN
2715 AIRPORT ROAD
ADRIAN, MI 49221

1 4. Attached hereto as Exhibit C is a true and correct copy of Plaintiff's NB 0004, and
2 NB 214-217 that Defendants received in the State of Washington TCPA case.

3
4 Executed this 18th day of July, 2025 at Adrian, Michigan

5
6 DAWN VANDUSEN

7 Dawn R. Van Dusen MSBA #P6947
8 2715 Airport Road
9 Adrian, MI 49221
10 517-270-2193

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27 DECLARATION OF DAWN R. VAN DUSEN
28 IN SUPPORT OF DEFENDANTS REPLY TO
DKT 493 2
3:21-cv-05610-DGE -

LAW OFFICE OF DAWN R. VAN DUSEN 2715 AIRPORT ROAD ADRIAN, MI 49221
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DEFENDANTS ANSWER TO PLAINTIFF'S
MOTION FOR CONTEMPT
EXHIBIT B

Honorable David G. Estudillo

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff
v.

JOE DELFGAUW, XANADU
MARKETING INC., EXPERIAN
INFORMATION SOLUTIONS INC.,
STARTER HOME INVESTING INC,
JOHN DOE 1-10

Defendants.

Case No.: 3:21-cv-05610-RJB

DEFENDANT'S ANSWER TO
PLAINTIFF'S SEVENTH SET OF
INTERROGATORIES TO
DEFENDANT JOE DELFGAUW

DEFENDANT'S ANSWER TO PLAINTIFF'S SIXTH SET OF INTERROGATORIES

Defendant respectfully submits the following Answer to Plaintiff's Interrogatories to Defendant Joe Delfgauw ("Delfgauw") in accordance with FRCP 33.

In Dkt. 444 ¶7 you said: "I found validation that the text message was sent and clicked on, and prior to that the person with the same IP address that responded to the text message opted-in to receive these messages."

INTERROGATORY NO. 26:

For each **text message** that was sent to the 1019 phone number by a defendant in this lawsuit or on behalf of a defendant in this lawsuit between 3/25/2021 and 12/31/2021, give the full content of the text message and then explain what methodology was used to ascertain it was not clicked on, or ascertain it was clicked on and the corresponding IP address. Number your response for each text message sent starting at number one and counting up by one (1, 2, 3, 4, . . .) because later interrogatories will refer to this list of text messages.

ANSWER:

As showed in Docket 444 Exhibit C:

first	last	phone	email	ip	datetime
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com	71.238.123.34	4/1/2021 14:04
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com	71.238.123.34	4/9/2021 18:29
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com	8.8.8.8	4/13/2021 17:58
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com		4/13/2021 17:58
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com	8.8.8.8	4/30/2021 15:50
Ivette	Jimenez	3609101019	ivettealfredomartinez@gmail.com		4/30/2021 15:50

DKT 444 Exhibit C was obtained from the server company, software company and SMS provider, which is not owned or operated by Mr. Delfgauw or his entities. I found validation that the text message was sent and clicked on, and prior to that the person with the same IP address that responded to the text message opted-in to receive these messages.

1. I believe on April 1, 2021 at 14:04 EST, Nathan Barton filled out the form in DKT 444-4 (Rent to Own), which prompted Mr. Barton to receive a text message from Rent to Own at 14:04 EST. I believe Mr. Barton used the name Ivette Jimenez when he filled out the forms to opt in to receive text messages and phone calls. DKT 444 Exhibit C shows that a person from the same IP address 71.238.123.234 filled out a form from Defendants webpage on the date and time

1 listed. Additionally, Mr. Barton admits he received a text message on April 1, 2021 at the same
2 time and he continued to click on the text message link that finally opened up the webpage that
3 used the domain name Xanadutracking.com. (DKT 83 at 4:11-24 – 5:1-8).

4 Mr. Barton admits that when he received a text message, he would click on it to investigate who
5 it was coming from. Because Mr. Barton continued to fill out forms, then click on the text
6 message instead of opting out he continued to receive text messages and phone calls.

7 2. On April 9, 2021 at 18:29 EST DKT 444 Exhibit C shows that Mr. Barton filled out a form
8 from the IP address 71.238.123.34, using his number 360-910-1019, and Ivette Jimenez name.

9 Mr. Barton admits to receiving a text message on this date and did not opt out after receiving it.
10 (DKT 83 at 8:15-18)

11 3. On April 13, 2021 at 17:58 EST, DKT 444 Exhibit C shows that Mr. Barton filled out a form
12 from Defendant owned webpage. The form was filled out from IP address 71.238.123.234
13 (8.8.8.8 indicates a duplicate of 71.238.123.234). DKT 444 Exhibit C provides that IP address
14 opted in twice, it is believed that Mr. Barton double clicked due to a slow web connection.

15 Plaintiff stated he received a phone call on this date from Rent to Own (DKT 83 at 9:15-18).

16 Defendant has evidence of the phone call from April 13, 2021, that provides Mr. Barton's voice
17 allowing the call to last 7 minutes and states his name is Mr. Ivette. Again, Mr. Barton does not
18 use his real name or request the agent to stop calling him.

19 4. On April 30, 2021 at 15:50 EST DKT 444 Exhibit C shows that Mr. Barton clicked and filled
20 out a form from Defendants webpage. The form was filled out from IP address 71.238.123.234
21 (8.8.8.8 indicates a duplicate of 71.238.123.234). Even though DKT 444 Exhibit C provides
22 that the IP address opted in twice, it is believed that Mr. Barton double clicked due to a slow web
23 connection. Mr. Barton does not admit that he received a text on this date but does admit to

1 receiving a phone call on this date from Rent to Own (DKT 83 at 9:15-18). Defendant has
2 evidence of the phone call on April 30, 2021, that provides Mr, Barton's voice furthering the call
3 for 3 minutes and states his name is James Martinez.

4 **INTERROGATORY NO. 27:**

5 For each text message in INTERROGATORY NO. 26 you claim was clicked on, identify the
6 entity on whose behalf the text message was initiated. Use the numerical designators from
7 INTERROGATORY NO. 26, meaning that if there were 10 text messages sent, and if you claim
8 text messages #2, #6, and #9 in your answer to INTERROGATORY NO. 26 were clicked on,
9 your response should be of the form:

10 #2 – ABC Inc, 123 main street, Seattle WA 98001

11 #6 - DEF Inc, 456 main street, Seattle WA 98002

12 #9 – HIG Inc, 789 main street, Seattle WA 98003

13 **ANSWER:**

14 Unknown as DKT 444 Exhibit C does not provide this information. Defendant speculates the
15 following:

- 16 1. Rent to Own- Plaintiff admits to receiving this text and continuing to investigate that
17 Defendant owned the text message.
- 18 2. Unknown as Plaintiff does not state who the text message was from.
- 19 3. Rent to Own- Voice recording of Plaintiff talking to a Rent to Own agent.
- 20 4. Rent to Own- Voice recording of Plaintiff talking to Rent to Own agent

1 The Court ordered in Dkt. 486, 13:5-8: to immediately produce any report or record showing a
2 relationship between text-message opt-ins and phone calls to Plaintiff's number as it relates to
3 the Ivette Jimenez/Martinez calls currently in dispute.

4 **INTERROGATORY NO. 28:**

5 What is the relationship between each text message click and any subsequent phone calls to the
6 1019 number?

7 For each explanation, identify the clicked text message from the numbered list in
8 INTERROGATORY NO. 27 and include the date and pacific standard time each phone call
9 caused by the click was initiated to the 1019 phone number. Using the example answer in
10 INTERROGATORY NO. 27, it should be of the form:

11 #2 –

12 This click initiated a call on 10/12/2021 at 2:45pm
13 This click initiated a call on 10/15/2021 at 4:12pm
14 This click initiated a call on 11/2/2021 at 11:30am

15 #6 –

16 This click initiated a call on 11/21/2021 at 10:37am

17 #9 –

18 This click initiated a call on 12/21/2021 at 9:31am

19 **ANSWER:**

20 I believe Mr. Barton filled out forms from Defendants' webpage, which was the click that
21 initiated the text messages and phone calls. When Mr. Barton received text messages he admits
22 "in every case, the links in the text messages redirected to intermediate links before finally
23 opening a last webpage. . . ." DKT 83 at 5:6-8. Mr. Barton never typed "stop" or opted out.
24 He encouraged the continued text messages to initiate a lawsuit.

1 When Mr. Barton receives phone calls from opting in, he states his name is Ivette Jimenez or
2 James Martinez. Mr. Barton admits that he encourages every call he receives for investigative
3 purposes. Again, this is another example of Mr. Barton not opting out and allowing these phone
4 calls to “annoy him”.

5
6 **INTERROGATORY NO. 29:**

7 For each click and related subsequent phone call you identify in **INTERROGATORY NO. 28**,
8 on whose behalf was each subsequent phone call initiated? Give each entity’s full legal name
9 and their address such that they could be served with a subpoena.

10 In your answer, build on your answer to **INTERROGATORY NO. 28**. For example:

11 #2 –

12 The call on 10/12/2021 at 2:45pm was initiated on behalf of Entity 1 Inc, 135 Main Street
13 Seattle WA 98600

14 The call on 10/15/2021 at 4:12pm was initiated on behalf of Entity 1 Inc, 135 Main Street
15 Seattle WA 98600

16 The call on 11/2/2021 at 11:30am was initiated on behalf of Entity 2 Inc, 246 Main Street
17 Seattle WA 98600

18 #6 –

19 The call on 11/21/2021 at 10:37am was initiated on behalf of Entity 2 Inc, 246 Main
20 Street Seattle WA 98600

21 #9 –

22 The call on 12/21/2021 at 9:31am was initiated on behalf of Entity 3 Inc, 579 Main Street
23 Seattle WA 98600

24 **ANSWER:**

1 The recorded calls are attached. I believe you have received this information numerous times.
2 You can listen to each one so you can refresh your memory of who you were talking to. Just
3 copy and paste the addresses below into the web browser.

- 4 1. 4/2/2021 <https://cloud.dial-fusion.com/s/gMYWgomRg5HWJr>
- 5 2. 4/13/2021 <https://cloud.dial-fusion.com/s/YqE2BbxQjweZRws>
- 6 3. 4/20/2021 <https://cloud.dial-fusion.com/s/LT2GM4CtWbbJ9d3>
- 7 4. 4/26/2021 <https://cloud.dial-fusion.com/s/rYa4aywXWm9sfc7>
- 8 5. 4/29/2021 <https://cloud.dial-fusion.com/s/QmTPXMXQqzK4iXj>
- 9 6. 4/30/2021 <https://cloud.dial-fusion.com/s/Sve87cSbgkbBazZ>

7 7. 11/17/2021

8 https://archive.dial-fusion.com/archive/2021-11-17/20211117-123417_103_INGROUP_3609101019_10209-all.mp3

9 8. 12/8/2021

10 https://archive.dial-fusion.com/archive/2021-12-08/20211208-145551_101_INGROUP_3609101019_10583-all.mp3

11 9. 12/8/2021

12 https://archive.dial-fusion.com/archive/2021-12-08/20211208-150516_101_3609101019_10583-all.mp3

13 10. 12/8/2021

14 https://archive.dial-fusion.com/archive/2021-12-08/20211208-150520_101_INGROUP_3609101019_10577-all.mp3

15 11. 12/8/2021

16 https://archive.dial-fusion.com/archive/2021-12-08/20211208-151024_101_INGROUP_3609101019_10239-all.mp3

17 12. 12/8/2021

18 https://archive.dial-fusion.com/archive/2021-12-08/20211208-151352_105_105Coaching_3609101019_6005-all.mp3

19 13. 12/10/2021

20 https://archive.dial-fusion.com/archive/2021-12-10/20211210-111826_101_INGROUP_3609101019_10583-all.mp3

21 14. 12/10/2021

22 https://archive.dial-fusion.com/archive/2021-12-10/20211210-112213_105_105Trans_3609101019_11683-all.mp3

23 15. 12/10/2021

24 https://archive.dial-fusion.com/archive/2021-12-10/20211210-112952_101_3609101019_10583-all.mp3

16 16. 12/10/2021

17 https://archive.dial-fusion.com/archive/2021-12-10/20211210-113116_105_105Trans_3609101019_4055-all.mp3

18 17. 01/06/2022

19 https://archive.dial-fusion.com/archive/2022-01-06/20220106-154731_101_INGROUP_3609101019_12106-all.mp3

INTERROGATORY NO. 30:

For each text message you list in your answer to INTERROGATORY NO. 27, what facts show that the person who responded to the text message is the person who opted-in to receive that text message on behalf of the entity you identified in INTERROGATORY NO. 27.

ANSWER:

It's the same IP address, phone number and name, Yvette Jimenez. The only way to click and opt in is to fill out the form as shown in DKT 444-4. Mr. Barton claims that he did not fill out the form, but shows no evidence of requesting to opt-out when a text message or phone call came in. The deposition of Ms. Jimenez has been taken, and she testified that she does not have any information to support that she was the person that opted in under her information. In fact, Ms. Jimenez feels harassed by Mr. Barton as this is the second lawsuit that she had to deal with Mr. Barton's false accusations. Defendants' have a protocol that if Mr. Barton would have texted stop or verbally told the agent to stop the calls, they would put his name on their "DNT" (do not call list). This would have immediately stopped any communication to Mr. Barton.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 27, 2025.

Joseph Delfgauw

Joseph Delfgauw

CERTIFICATE OF SERVICE

I DECLARE that on July 20, 2025, I placed for delivery via Email, a true copy of the foregoing Answer to Plaintiff's Seventh Set of interrogatories to: Nathan Baton at farmersbranch2014@gmail.com. I declare under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.

DAWN VANDUSEN

Dawn R. Van Dusen
2715 Airport Road
Adrian, MI 49221