

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

### **IF YOU RECEIVED UNSOLICITED ADVERTISING FAXES FROM ENGINEERING SERVICES AND PRODUCTS COMPANY ("ESPC"), PLEASE READ THIS NOTICE CAREFULLY. IF YOU WISH TO BE PAID BENEFITS UNDER THIS SETTLEMENT, SUBMIT A CLAIM FORM BY OCTOBER 5, 2012.**

#### **To All Members of the Following Class:**

All persons and entities with fax numbers, who in December, 2011, were sent faxes by Engineering Services and Products Company, promoting its goods or services for sale, and who were not provided with an "opt out" notice as described in 47 U.S.C. § 227.

#### **I. WHY IS THIS NOTICE BEING SENT?**

This notice is being sent to let people know that they may be eligible to receive their pro rata share of a Settlement Fund described below under a proposed settlement of a class action lawsuit if they submit a claim form by **OCTOBER 5, 2012**. The lawsuit is pending in federal court in Chicago, Illinois. The hearing to approve the settlement will be held on **NOVEMBER 9, 2012 at 1:30 p.m.** before Judge Bucklo, Courtroom 1441 of the U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604.

#### **II. WHAT IS THE LAWSUIT ABOUT?**

Plaintiff Richard Wade Architects, P.C. ("Plaintiff") sued ESPC, alleging that it received an unsolicited facsimile advertisement from ESPC and that the sending of this fax violated federal law, called the federal Telephone Consumer Protection Act. Plaintiff sought to represent a class of persons to whom ESPC sent unsolicited advertising facsimiles. ESPC denies these allegations but has agreed to settle to avoid the costs and uncertainties of litigation. ESPC will vigorously defend the lawsuit if the proposed settlement is not approved.

#### **III. WHAT IS THE PROPOSED SETTLEMENT?**

The parties to the lawsuit have agreed to settle after extensive negotiations. Under the proposed settlement, ESPC has agreed to pay a Settlement Fund in the amount of \$215,000. The Settlement Fund will cover an award to the plaintiff (\$3,000, in addition to its recovery as a class member), attorney's fees (in the amount of \$64,500 or 30% of the Settlement Fund), plus reimbursement of reasonable costs of notice and administration incurred. After these amounts are deducted, each Class Member who submits a valid claim by **OCTOBER 5, 2012** will receive an equal share of the remaining funds. Your share of the settlement fund depends on how many Class Members submit claim forms. This notice is being sent to approximately 50,000 persons or entities. Therefore, if 10% of the Class Members submit a valid claim, you may expect to recover approximately \$26.00. If 15% of the Class Members submit a valid claim, you may expect to recover approximately \$17.00. If 20% of the Class Members submit a valid claim, you may expect to recover approximately \$13.00. The recovery to the Class Members is estimated and is subject to change based on the costs of notice and administration.

Defendant has sent its advertisements to some Class Members with whom it has had an established business relationship or from whom it had obtained prior permission to receive fax communications. These persons are estimated to comprise at least 85% and as many as 95% of the Class.

#### **IV. HOW DO I GET A PAYMENT?**

If you are part of the class described above, complete and submit the claim form to **EDELMAN, COMBS, LATTURNER & GOODWIN, LLC (26407), 120 S. LaSalle St., 18<sup>th</sup> Floor, Chicago, IL 60603, class-settlement@edcombs.com or 866-834-3504 (FAX)**. Claim forms must be faxed, emailed or postmarked by **OCTOBER 5, 2012.**

#### **V. WHAT AM I GIVING UP?**

If the settlement becomes final, you will be releasing ESPC of any claims relating in any way to their sending of unsolicited advertising facsimiles in December, 2011. This release is more fully explained in paragraph 11 of the Settlement Agreement. You will need to reference case number 11 C 9251. The Settlement Agreement is available at [www.edcombs.com](http://www.edcombs.com) or at the Clerk's Office, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604 or from Settlement Class Counsel during regular business hours.

#### **VI. EXCLUDING YOURSELF FROM THE SETTLEMENT**

You will be a member of the Settlement Class unless you exclude yourself from the Settlement Class. You need not take any action to remain in the Settlement Class but you need to submit a Claim Form by **OCTOBER 5, 2012** to be eligible to receive a payment.

If you want to keep the right to sue ESPC over the legal issues in this case, then you must take steps to get out of the settlement. This is called asking to be excluded from – or sometimes called "opting out" of – the class. To exclude yourself from the settlement, you must send a letter saying that you want to be excluded from *Richard Wade Architects, P.C. v. Engineering Services and Products Company*, 11 C 9251, class action settlement. Be sure to include your name, address and the number for the facsimile machine on which you were sent a fax advertisement and your signature by **OCTOBER 5, 2012**. Send the letter to **Class Counsel at the address provided in paragraph VIII**. If you opt out, you will not receive any payment from the Settlement Fund, you cannot object to the Settlement and you will not be bound by anything that happens in this lawsuit.

#### **VII. OBJECTING TO THE SETTLEMENT.**

Either on your own or through an attorney you hire, you can tell the Court that you don't agree with the settlement or some part of it. You must explain why you think the Court should not approve the settlement. To object, you must send a letter saying that you object to the settlement in *Richard Wade Architects, P.C. v. Engineering Services and Products Company*, 11 C 9251. Be sure to include your name, address and the telephone number for the facsimile machine on which you were sent the fax advertisements, a statement of your objection, an explanation of the reasons you object to the settlement and documentation, if any, to support your objection by **OCTOBER 5, 2012**. The Court will consider your views if you properly submit an objection on time.

Objecting is simply telling the Court that you don't like something about the Settlement. You can object **ONLY** if you stay in the class. If you exclude yourself, you can't object. Any objections or appearances must be filed with the Court and reference 11 C 9251 and sent to **Class Counsel at the address provided in paragraph VIII and Defendant's Counsel at the following address:** Norman K. Beck, **WINSTON & STRAWN LLP**, 35 W. Wacker Drive, Chicago, IL 60601 (312) 558-5700 (FAX), [www.winston.com](http://www.winston.com).

#### **VIII. WHO REPRESENTS THE CLASS?**

The Court has appointed the following law firm to represent you and other members of the Settlement Class in this lawsuit:

**EDELMAN, COMBS, LATTURNER & GOODWIN, LLC (26407)**  
120 S. LaSalle St., 18<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 917-4504 866-834-3504 (FAX) [www.edcombs.com](http://www.edcombs.com)  
[class-settlement@edcombs.com](mailto:class-settlement@edcombs.com)

This firm represents your interests in this lawsuit. You may contact them with any questions that you have about the lawsuit or the Settlement. You do not have to pay the fees of Class Counsel. You may also hire your own attorney at your own cost to appear on your behalf.

**IX. CAN I GET MORE INFORMATION?**

This notice is intended only as a summary of the lawsuit and proposed settlement. It is not a complete statement of the lawsuit or the proposed settlement. You may inspect the pleadings and other papers

(including the proposed Settlement Agreement) that have been filed in 11 C 9251, at the office of the Clerk of the Court, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604. If you have questions about this notice or the proposed settlement, you may contact Settlement Class Counsel at the address and phone number listed above. **DO NOT CONTACT THE COURT OR DEFENDANT FOR INFORMATION.**

BY ORDER OF THE U.S. DISTRICT COURT, N.D. ILL.