

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

THIS IS NOT A SOLICITATION.

THE SENDING OF THIS NOTICE BY FACSIMILE HAS BEEN APPROVED BY THE COURT.

YOU RECEIVED THIS NOTICE BECAUSE THE RECORDS OF DEFENDANT INDICATE YOU MAY BE A MEMBER OF THE PROPOSED SETTLEMENT CLASS IN THIS CASE. PLEASE READ THIS NOTICE CAREFULLY. IF YOU WISH TO BE PAID BENEFITS UNDER THIS SETTLEMENT, YOU MUST SUBMIT A CLAIM FORM BY SEPTEMBER 23, 2015.

I. WHY YOU RECEIVED THIS NOTICE

You received this notice because the records of New Albertson's, Inc. d/b/a Jewel-Osco show that you were sent a facsimile promoting Jewel-Osco's goods or services for sale in or about the period November 3, 2013 through November 5, 2013. If this is true then you are a member of the Settlement Class in a class action lawsuit filed against New Albertson's, Inc. d/b/a Jewel-Osco.

II. WHAT IS THE LAWSUIT ABOUT?

Plaintiff, G. Neil Garrett, DDS, PC ("Plaintiff"), sued New Albertson's, Inc. d/b/a Jewel-Osco ("New Albertson's" or "Defendant"), alleging that it received an unsolicited facsimile advertisement sent by New Albertson's d/b/a Jewel-Osco, promoting Jewel-Osco's goods or services, and that did not contain an opt out notice as described in the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. Plaintiff alleged that the sending of these faxes violated the TCPA, the Illinois Consumer Fraud Act and Illinois common law (conversion, trespass to chattels, and private nuisance). Plaintiff sought to represent a class of persons to whom New Albertson's sent the allegedly unlawful advertising facsimiles. New Albertson's denies these allegations but has agreed to settle to avoid the costs and uncertainties of litigation. New Albertson's will vigorously defend the lawsuit if the proposed settlement is not approved. Plaintiff has brought this action on behalf of itself and the Settlement Class set forth below. The Court has preliminarily certified the Settlement Class which has been defined as:

All persons and entities who, during the period November 3, 2013 through November 5, 2013, were sent faxes by or on behalf of defendant New Albertson's, Inc., doing business as Jewel-Osco, promoting Jewel-Osco's goods or services (the "Settlement Class").

The records of Defendant indicate that you are a member of the Settlement Class.

III. WHO REPRESENTS YOU

The Court has appointed Edelman, Combs, Latturmer, & Goodwin, LLC to represent the Settlement Class as Settlement Class Counsel. Settlement Class Counsel may be contacted at: **Edelman, Combs, Latturmer, & Goodwin, LLC (29179), 20 S. Clark St., Suite 1500, Chicago, IL 60603; 312-739-4200, www.edcombs.com.**

IV. WHAT IS THE PROPOSED SETTLEMENT?

The parties to the lawsuit have agreed to settle after extensive negotiations. Under the proposed settlement, New Albertson's, Inc. has agreed to pay a Settlement Fund in the total amount of \$400,000 (the "Settlement Fund"). If this settlement is approved by the Court, the Settlement Fund will cover an incentive award to the

plaintiff G. Neil Garrett, D.D.S., P.C for its service as class representative (\$5,000), attorneys' fees to Settlement Class Counsel (in the amount of 1/3 of the Net Settlement Fund or \$133,333.33), plus reimbursement of reasonable costs of notice and administration incurred. After these amounts are deducted, each Settlement Class Member who submits a valid claim by **September 23, 2015** will receive an equal share of the remaining funds in the Settlement Fund based on its unique fax number, up to a maximum of \$500 per unique fax number. Your share of the Settlement Fund depends on how many Settlement Class members submit Claim Forms. This notice is being sent to approximately 11,200 persons or entities who comprise the Settlement Class. The recovery for each Settlement Class member will not exceed \$500 per unique fax number and is subject to court approval.

V. SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS

(1) Remain a member of the Settlement Class and submit a claim to receive a portion of the Settlement Fund. In order to receive a cash payment under this settlement, you must submit your claim to www.class-settlement.com using your unique username and password OR fully complete and submit the Claim Form at the end of this notice via fax or mail in the manner indicated (see instructions on Claim Form) by **September 23, 2015**. If you do not submit a fully completed Claim Form by the date indicated, you will not receive a cash recovery and you will still remain a member of the Settlement Class and be bound by the terms of the Settlement Agreement entered into with respect to this lawsuit. Under federal tax laws, if you receive a payment in excess of \$599.99, the person making the payment is required to obtain a form W-9 from you. If you identify more than one unique fax number on the Fax List, then you must also submit a completed W-9 form which will be sent to you after the Final Approval Hearing. If you are entitled to recover payment in excess of \$599.99 and you do not submit a completed W-9 form in addition to your Claim Form, the Settlement Class Administrator will deduct tax withholdings from the settlement payment.

(2) Exclude Yourself from the Settlement. If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement by sending (via fax or US Mail) a letter of notice of your intent to be excluded from the Settlement to Settlement Class Counsel at Edelman, Combs, Latturmer & Goodwin, LLC (29179), 20 S. Clark St., Suite 1500, Chicago, IL 60603, FAX: (312) 419-0379 or the Settlement Class Administrator at Garrett v. New

Albertson's, Inc., c/o Class-Settlement.com, P.O. Box 9009, Hicksville, NY 11802-9009, FAX: (888) 317-1870. The notice of exclusion must state your name (or the name of your company), address, and the fax number at which you were sent a fax from New Albertson's, LLC, and the case name and number at the top of this notice, and state that you wish to be excluded from the Settlement Class. The Notice of Exclusion must be sent or postmarked on or before **September 23, 2015** or you will remain a Settlement Class member. If you exclude yourself from the Settlement, you will not be eligible to receive a cash recovery under the Settlement and you will not be releasing any claims you may have against New Albertson's.

(3) Object to the Settlement. You have the right to tell the Court that you object to the Settlement or some part of it by filing a written objection with the Clerk of the Court advising the Court of your objection. If you wish to object to the Settlement, you must remain a member of the Settlement Class and you cannot exclude yourself from the Settlement Class. Either on your own or through an attorney you can file an objection explaining why you think the Court should not approve the settlement. You must file the objection with the Clerk of the United States District Court, Northern District of Illinois, 219 S. Dearborn, Chicago, IL 60604. The objection must contain the case name and number--*G. Neil Garrett, D.D.S., P.C. v. New Albertson's, Inc., doing business as Jewel-Osco* 13 C 7965--at the top; your name, address and the fax number for the facsimile machine on which you were sent the fax by New Albertson's; a statement of your objection to the Settlement Agreement, an explanation of the legal and factual basis for the objection; and documentation, if any, to support your objection. The objection must be filed with the Clerk of the Court on or before **September 23, 2015**. The Court will consider your objection if you properly submit an objection on time. You must also mail a copy of your objection to Settlement Class Counsel at the address provided in paragraph III and to Defendant's Counsel at the following address: Bart T. Murphy, ICE MILLER LLP, 2300 Cabot Drive, Suite 455, Lisle, IL 60532.

(4) Do Nothing. You are not required to take any action and may simply do nothing. If you do nothing you will

remain a member of the Settlement Class but you will not receive a cash recovery and will be bound by all the terms of the Settlement Agreement including, but not limited to a release of any claims you may have against New Albertson's for sending you unsolicited fax advertisements.

VI. WHAT AM I GIVING UP UNDER THE SETTLEMENT?

If the settlement becomes final, you will be releasing New Albertson's, Inc. for any claims you may have relating in any way to any unsolicited advertising facsimiles which were sent during the period November 3, 2013 through November 5, 2013 promoting Jewel-Osco's goods or services for sale. This release is more fully explained in the Settlement Agreement which is available at the Clerk's Office during regular business hours, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604, and is also posted on www.edcombs.com and on www.class-settlement.com.

VII. FINAL APPROVAL HEARING

The Court has scheduled a final approval hearing for **October 14, 2015 at 9:45 a.m.** in Courtroom 1725 of the United States District Courthouse for the Northern District of Illinois at 219 S. Dearborn St., Chicago, IL 60604. You do not have to appear at this hearing. You or your attorney may attend this hearing if you desire and request to address the Court regarding any matters relating to this Settlement.

VIII. WHERE 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 this case number, 13 C 7965, at the office of the Clerk of the Court, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., 20th FL., Chicago, IL 60604. The Settlement Agreement (excluding exhibits) is also available on www.edcombs.com, and on www.class-settlement.com. 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. III.