

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JAMES L. ORRINGTON, D.D.S., P.C. et al.,)	
)	
Plaintiffs,)	12 CV 8796
v.)	Judge Darrah
HIOSSSEN, INC., et. al.,)	
)	
Defendants.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: (a) all persons and entities (b) to whom, during 2012, (c) Hiossen, Inc., or a third party acting on Hiossen, Inc.'s behalf, transmitted or attempted to transmit unsolicited facsimile advertisements.

**PLEASE READ THIS NOTICE CAREFULLY.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.
IF YOU WISH TO RECEIVE A PORTION OF THE CLASS SETTLEMENT PROCEEDS
DESCRIBED BELOW, YOU MUST COMPLETE AND RETURN THE SUMMARY
NOTICE/CLAIM FORM BY JULY 29, 2014.**

1. WHY DID YOU GET THIS NOTICE?

You received the Summary Notice/Claim Form because you met all the criteria contained in the class definition set forth in paragraph 3 below and are a member of the Settlement Class. The purpose of this Notice is to advise you of a proposed settlement in the Action, and of a hearing to consider that settlement to be held on **AUGUST 26, 2014 at 10:00 a.m.** before Judge Darrah, Room 1203 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing").

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff, James L. Orrington, DDS, P.C. filed this action on behalf of a putative class. Plaintiff alleged, among other things, that Hiossen, Inc. (the "Defendant") violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA") and state law by sending unsolicited facsimile advertisements. Plaintiff James L. Orrington II, DDS, P.C. later amended its Complaint to include G. Neil Garrett, DDS, Jerry Spyrtatos, DDS and Gary M. Dong, DDS as named Plaintiffs. The Parties have agreed to settle to avoid the costs of litigation. Counsel for Plaintiffs has conducted an investigation into the relevant facts and law underlying Plaintiffs' claims, and has concluded that a settlement is in the best interests of Plaintiffs and the Settlement Class. This Notice should not be understood as an expression of any opinion by the Court as to merits of any of the claims asserted by Plaintiffs or any of the defenses asserted by Defendant.

3. WHO IS IN THE SETTLEMENT?

On April 22, 2014, the Court preliminarily approved the settlement and provisionally certified a Settlement Class ("Settlement Class") in the Action for purposes of settlement only. The Settlement Class is defined to include:
(a) all persons and entities (b) to whom, during 2012, (c) Hiossen, Inc., or a third party acting on Hiossen, Inc.'s behalf, transmitted or attempted to transmit unsolicited facsimile advertisements.

4. THE SETTLEMENT BENEFITS - WHAT YOU GET

The Settlement Agreement calls for the creation of a \$250,000.00 Settlement Fund which will be reduced by attorneys' fees awarded by the Court, not to exceed 1/3 of the settlement fund, incentive awards to the three named plaintiffs for having acted as class representatives, not to exceed a total of \$8,000.00, and costs related to notice and administration of the settlement. The amount remaining in the fund will be divided on a pro rata basis not to exceed \$1,000.00 per valid claim among those submitting timely claim forms. The Parties believe that faxes were sent to approximately 1,750 unique fax numbers belonging to members of the Settlement Class. Members of the Settlement Class who timely submit a valid

and completed claim form shall be entitled to a single claim, regardless of the number of facsimile advertisements he/she/it received to his/her/its facsimile number.

5. CLASS COUNSEL'S OPINION OF THE SETTLEMENT

In an individual lawsuit or class action under TCPA, a prevailing plaintiff may be able to recover \$500.00 per fax in statutory damages for a non-willful violation of the statute (\$1,500.00, if a willful violation is shown) or any actual damages, plus the costs of suit and injunctive relief. Of course, if an individual does not prevail, he will receive no payment. Here, in this Lawsuit, the Court has not ruled in Plaintiffs' favor. The Court has also not certified a class, except pursuant to the Settlement Agreement. Class Counsel has considered the benefits that the Settlement Class will receive under the Settlement Agreement, the potential defenses of Defendant, and the attendant risks, uncertainties, and delays of litigation. Consequently, Class Counsel believes the terms of the settlement are fair and reasonable, and the members of the Settlement Class should accept this settlement.

6. NO ADMISSION OF LIABILITY

By entering into this agreement Defendant does not admit liability to Plaintiffs and the Settlement Class. Defendant enters into this Agreement solely to avoid the expense, burden, and uncertainty of further litigation, and to put to rest all claims, known or unknown, that have been or might have been asserted by the Plaintiffs or the Settlement Class against Defendant and its parent(s) and affiliated entities, concerning the matters alleged in the Class Action Complaint.

7. WHAT AM I GIVING UP AS PART OF THE SETTLEMENT?

If you remain in the Settlement Class and the settlement becomes final, you will be releasing Defendant and its parent and related entities, and their officers, directors, shareholders, members, and employees from liability for any claims arising from or relating to the completed or attempted transmission of unsolicited facsimile advertisements by Hiossen, Inc., or a third party acting on Hiossen, Inc.'s behalf, during 2012. This release is more fully explained in the Settlement Agreement. The Settlement Agreement is available at the Clerk's Office, U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, 20th Fl., Chicago, IL 60604 during regular business hours. The Settlement Agreement specifically describes the released claims in necessary legal terminology. You may speak with Class Counsel or your own lawyer (at your expense) if you have questions about the release.

8. WHAT ARE MY OPTIONS?

OPTION 1: Remain in Settlement Class and Submit a Claim Form to Receive a Pro-Rata Share of the Settlement Fund. To receive a pro-rata share of the Settlement Fund you must fully complete and submit the claim form at the end of this notice. You must submit the Claim Form to Class Counsel: Dulijaza Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 120 S. LaSalle St., 18th Fl, Chicago, IL 60603; (fax) **1-866-920-1051**. The deadline for Claim Forms is **JULY 29, 2014**; Claim forms **MUST BE** faxed or postmarked by **JULY 29, 2014**. Payments will be mailed to class members after the Court grants "final approval" of the settlement and any appeals are resolved.

OPTION 2: Exclude Yourself From the Settlement Class. If you fall within the Settlement Class definition you will be a member of the Settlement Class regardless of whether you file a claim, unless you exclude yourself from the Settlement Class. If you want to exclude yourself from the Settlement Class then you complete and mail or fax a letter or notice of intention to opt-out ("Opt-Out"), which contains the following: (a) your full legal name or business name if the facsimile number was one owned or controlled by a business, address, and telephone number; (b) the telephone number for the facsimile machine on which you were sent the Fax; (c) your signature or that of the class member's representative (such as a business officer or manager); and (d) a statement indicating that you do not want to participate in the Settlement. In addition, for your Opt-Out to be valid, it must be faxed to **1-866-920-1051** by **JULY 29, 2014** or mailed to the following address postmarked no later than **JULY 29, 2014**:

Edelman, Combs, Lattuner & Goodwin, LLC c/o Julie Clark
120 S. LaSalle Street, 18th Floor, Chicago, IL 60603
(312) 917-4504; **1-866-920-1051** (FAX)

If you wish to bring your own individual action (at your expense) against Defendant and the others released, you must exclude yourself from this case. If you exclude yourself from this case you will not receive any money from the Settlement Fund.

OPTION 3: Object to the Settlement. You can tell the Court that you don't agree with the settlement or some part of it. You must state the reasons why you think the Court should not approve the settlement in a Notice of Objection to Settlement. 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 wish to object to the settlement or to any awards to Plaintiffs or Class Counsel, then you must send a copy of the notice to Class Counsel: Dulijaza Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 120 S. LaSalle St., 18th Fl, Chicago, IL 60603; and to Defendant's Counsel: Andrew W. Bonekemper, Rothschild LLP, 10 Sentry Parkway, Suite 200, P.O. Box 3001, Blue Bell, PA 19422. Each Notice of Objection must (a) set forth the objector's full legal name or business name, if the objector is an entity, address and telephone number; (b) set forth the telephone number for the facsimile machine on which the class member was sent the fax; (c) state the Objection to the Settlement; (d) set forth a statement of the legal and factual basis for the Objection; and (e) provide copies of any documents in support of the Objection. If you do not submit a timely Objection in accordance with the requirements set forth above, you will not be treated as having filed a valid Objection to the settlement. If you do file an objection and wish it to be considered, you may also appear at the hearing before Judge Darrah, Room 1203 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing"). **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.** Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

OPTION 4: Do Nothing. You are not required to do anything in response to this Notice. If you do nothing you will remain a member of the Settlement Class and you will release your claims against Defendant and others, but you will not receive any portion of the Settlement Fund.

9. WHO ARE COUNSEL FOR PLAINTIFFS AND CLASS COUNSEL?

The Court has appointed the following attorneys to represent you and other members of the settlement class in this lawsuit:

Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 917-4504; **1-866-920-1051** (FAX), www.edcombs.com

These attorneys represent your interests in this lawsuit. You may contact them with any questions that you have about the lawsuit or the settlement. You may also hire your own attorney at your own cost to enter an appearance on your behalf in this matter.

10. THE COURT'S FAIRNESS HEARING

The Court will hold a hearing on the settlement before Judge Darrah in Room 1203 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing") on **AUGUST 26, 2014 at 10:00 a.m.** to determine, among other things, (i) whether the Settlement Agreement will be approved as fair, adequate, and reasonable; (ii) what amount, if any, to award class counsel for attorney's fees and costs in the Action; and (iii) what amount, if any, to award plaintiffs for their services as class representatives. **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.** The hearing may be continued by the Court without further notice to class members. If the Court does not approve the settlement, the class action will proceed, and you may or may not get the money that this case may provide in the future.

11. WHERE CAN I OBTAIN ADDITIONAL INFORMATION?

The description of the lawsuit and settlement that is contained in this Notice is only general in nature. All papers filed in this case, including the full settlement agreement, are available for you to inspect and copy (at your expense) at the Clerk's Office of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, 20th Fl., Chicago, IL 60604. You must bring the name of the case and case number with you, since the Clerk will need to know this information in order to obtain the court file for you to inspect. If you or your attorney require additional information, you should write or call class counsel at the addresses and telephone numbers listed above in paragraph 9 during regular business hours. Please include the case name and number, your name and your current return address on any letters, not just the envelopes. Please do not contact the defendant's attorneys; they are not in a position to give you any advice about this settlement.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION.

Dated: **April 22, 2014** BY ORDER OF THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION