

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

MARK SHERMAN ENTERPRISES, INC.,	)	
d/b/a GTM AUTOMOTIVE AND MUFFLER,	)	
on behalf of plaintiff and the class members defined herein,	)	14-cv-1685
Plaintiff,	)	Judge Durkin
	)	
v.	)	
	)	
JUST WHEELS & TIRES CO.,	)	
Defendants.	)	

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

(a) all persons and entities (b) who, between March 11, 2009 and December 31, 2013 (c) were sent faxes promoting the availability of Just Wheels & Tires Co.'s goods for sale.

**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 MARCH 2, 2015.**

**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 April 2, 2015 at 9:00 a.m. before Judge Durkin, Room 1441 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, Mark Sherman Enterprises, d/b/a GTM Automotive and Muffler filed this action on behalf of a putative class. Plaintiff alleged that Just Wheels and Tires Co. (the "Defendant") violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA") and state law by sending unsolicited facsimile advertisements promoting its goods and services for sale. Defendant denies that it violated the TCPA or any other state law. The Parties have agreed to settle to avoid the costs of litigation. Counsel for Plaintiff has conducted an investigation into the relevant facts and law underlying Plaintiff's claims, and has concluded that a settlement is in the best interests of Plaintiff 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 plaintiff or any of the defenses asserted by Defendant.

**3. WHO IS IN THE SETTLEMENT?**

On November 25, 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) who, between March 11, 2009 and December 31, 2013 (c) were sent unsolicited advertisements via facsimile by or on behalf of Just Wheels and Tires Co. promoting Just Wheels and Tires Co.'s goods or services for sale.

**4. THE SETTLEMENT BENEFITS - WHAT YOU GET**

The Settlement Agreement calls for the creation of a \$125,000 Settlement Fund to be paid by Defendant which will be reduced by attorney fees awarded by the Court, not to exceed 1/3 of the settlement fund, an incentive award to the named plaintiff for having acted as class representative, which likewise shall be determined by the Court upon Final Approval

and shall not exceed a total of \$5,000, and costs related to notice and administration of the settlement. The amount remaining in the fund will be divided on a pro rata basis among those submitting timely and valid claim forms. Any funds remaining in the Settlement Fund after payment of all valid claims will be donated by Defendant to a charitable organization approved by the Court.

#### **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 per fax in statutory damages for a non-willful violation of the statute (\$1,500, 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 Plaintiff's 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 that liability to Plaintiff 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 Plaintiff 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 via facsimile of documents containing advertisements related to Just Wheels and Tires Co.'s goods or services where the actual or attempted transmission of the fax occurred during the class period. 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, 20<sup>th</sup> Fl., Chicago, IL 60604 during regular business hours. The Settlement Agreement specifically describes the released claims in necessarily 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: Julie Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 20 S. Clark Street, Suite 1500, Chicago, IL 60603. The deadline for Claim Forms is **March 2, 2015**; Claim forms **MUST BE** faxed or postmarked by **March 2, 2015**. 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 must 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 **866-920-1051** by **March 2, 2015** or mailed to the following address postmarked no later than **March 2, 2015**:

Edelman, Combs, Lattuner & Goodwin, LLC c/o Julie Clark  
20 S. Clark Street, Suite 1500, Chicago, IL 60603  
(312) 917-4504 (PHONE); 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 Plaintiff or Class Counsel, then you must mail or fax a copy of the notice to Class Counsel: Julie Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 20 S. Clark Street, Suite 1500, Chicago, IL 60603, (fax) 866-920-1051; and to Defendant's Counsel: Edward D. Shapiro, Much Shelist, P.C., 191 N. Wacker Dr. #1800, Chicago, IL 60606, (fax) 312-521-2100. 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 Durkin, Room 1441 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 PLAINTIFF 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  
20 S. Clark Street, Suite 1500  
Chicago, IL 60603  
(312) 917-4504 (PHONE); 866-920-1051 (FAX), [www.edcombs.com](http://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 in before Judge Durkin, Room 1441 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing") on April 2, 2015 at 9:00 a.m. to determine, among other things, (i) whether it 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 plaintiff for his services as class representative. **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, 20<sup>th</sup> 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 8 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: **November 25, 2014**

BY ORDER OF THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

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**CLAIM FORM**

***GTM AUTOMOTIVE AND MUFFLER. v. JUST WHEELS & TIRES CO, et. al, No. 14 CV 1685***

**SUBMIT BY MARCH 2, 2015 VIA FACSIMILE OR MAIL TO CLASS COUNSEL:**

Edelman, Combs, Lattuner & Goodwin, LLC (29609)  
20 S. Clark Street, Suite 1500  
Chicago, IL 60603  
Fax: 866-920-1051

\_\_\_\_\_  
Fax number at which fax received

\_\_\_\_\_  
Name of Person / Company that Subscribed to Fax Line

\_\_\_\_\_  
Street/P.O. Box                      City                      State                      Zip Code  
(Current Mailing Address of Subscriber of Fax Line)

*By signing this form, I am declaring that the foregoing (referring to the name, fax and address information provided) is true and correct and that I subscribed to the fax number identified during the relevant period.*

\_\_\_\_\_  
Signature