

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 ARE 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 JUNE 8, 2015.

I. WHY YOU RECEIVED THIS NOTICE

You received this notice because the records of Defendant Premier Healthcare Exchange West, Inc. (“PHX West”) and the data it received from a third-party fax broadcaster show that you were sent one or more facsimiles which promoted the goods or services of PHX West and or PHX Inc. during the period January 23, 2010 to March 27, 2014. If this is true then you are a member of the Settlement Class in a class action lawsuit filed against PHX West.

II. WHAT IS THE LAWSUIT ABOUT?

Plaintiffs, Dr. William P. Gress and AL and PO Corporation (collectively, “Plaintiffs”), sued PHX West alleging that they received unsolicited facsimile advertisements sent by PHX West promoting its goods or services for sale. Plaintiffs further complain that the faxes in question did not contain an opt-out notice as required by the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. Plaintiffs alleged that the sending of these faxes violated the TCPA, the Illinois Consumer Fraud Act and Illinois common law (conversion, private nuisance, and trespass to chattels). Plaintiffs sought to represent a class of persons to whom PHX West sent the alleged unsolicited advertising facsimiles. PHX West denies these allegations but has agreed to settle to avoid the costs and uncertainties of litigation. PHX West will vigorously defend the lawsuit if the proposed settlement is not approved. Plaintiffs have brought this action on behalf of themselves 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 were subscribers to fax numbers who were sent faxes by or on behalf of PHX West and/or Premier Healthcare Exchange Inc. (“PHX Inc.”) between January 23, 2010 to March 27, 2014 (“Class Period”), promoting the commercial availability or quality of its property, goods or services and which do not contain an opt out notice as described in 47 U.S.C. § 227.

The Settlement Class excludes the 20,004 persons and entities (as identified by Tax Identification Number (“TIN”)) that were members of the healthcare provider networks to which PHX West had access during the Class Period.

III. WHO REPRESENTS YOU

The Court has appointed Edelman, Combs, Latturner, & Goodwin, LLC and Sipur PC to represent the Settlement Class as Class Counsel. Class Counsel may be contacted at: Edelman, Combs, Latturner, & Goodwin, LLC (29350), 20 S. Clark St., Suite 1500, Chicago, IL 60603; (312) 917-4504, (312) 419-0379 (FAX), www.edcombs.com, or Sipur PC, 17 N. State Street, Suite 1600, Chicago, IL 60602; (312) 236-0000, (312) 948-9212 (FAX), www.phxfaxsettlement.sipur.com.

IV. WHAT IS THE PROPOSED SETTLEMENT?

The parties to the lawsuit have agreed to settle after extensive negotiations. Under the proposed settlement, PHX West and PHX Inc. have agreed to pay a Settlement Fund in the amount of \$756,075 (the “Settlement Fund”). Notice and administrative expenses will be paid from the Settlement Fund (up to a maximum of \$50,000.00). If this settlement is approved by the Court the Net Settlement Fund will also cover a \$8,000 incentive award to Plaintiff Dr. William P. Gress and a \$4,000 incentive award to Plaintiff AL and PO Corporation for their services as class representatives (a total of \$12,000), and attorney’s fees to Class Counsel (not less than \$235,358.33). After these amounts are deducted, each Class Member who submits a valid claim by **JUNE 8, 2015** will receive an equal share of the remaining funds based on the number of facsimile transmission each Class Member was sent. Your share of the Settlement Fund depends on how many Settlement Class members submit Claim Forms and how many fax transmissions each Settlement Class member was sent. This notice is being sent to approximately 33,870 persons or entities who were sent 51,790 faxes. The recovery to each Settlement Class member who submits a valid claim will be determined based on the number of Settlement Class members who submit claims, and the number of faxes each Settlement Class member was sent, 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 fully complete and submit the Claim Form at the end of this notice in the manner indicated (see instructions on Claim Form) by **JUNE 8, 2015**. If you do not submit a fully completed Claim Form by the date indicated you will not receive a cash payment and you will still remain a member of the Settlement Class and be bound by the terms of the Settlement Agreement. The value of each individual settlement payment cannot be determined until the Claims Deadline has passed and all claims have been verified.
- (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 US Mail) a letter of notice of your intent to be excluded from the Settlement to Class Counsel at Edelman, Combs, Lattuner & Goodwin, LLC (29350), 20 S. Clark St., Suite 1500, Chicago, IL 60603, or Siprut PC, 17 N. State Street, Suite 1600, Chicago, IL 60602, or the Class Administrator, *Gress v. PHX West* Class Administrator, P.O. Box 43350, Providence, RI 02940-3350. 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 PHX West and/or PHX Inc., 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 **JUNE 8, 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 payment under the Settlement and you will not be releasing any claims you may have against PHX West and PHX Inc.
- (3) Object to the Settlement.** You have the right to tell the Court that you object to the Settlement or any 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 may 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 at the top the case name and number – *Gress & AL and PO Corporation v. Premier Healthcare Exchange West, Inc.*, 14 C 501; your name, address and the fax number for the facsimile machine on which you were sent the fax by PHX West and/or PHX Inc.; 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 may be filed with the Clerk of the Court on or before **JUNE 8, 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 Class Counsel at the address provided in paragraph III and to Defendant's Counsel at the following address: David S. Almeida, SHEPPARD MULLIN RICHTER & HAMPTON LLP, 70 W. Madison Street, 48th Floor, Chicago, IL 60602.
- (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 PHX West or PHX, Inc. for sending you unsolicited fax advertisements.

VI. WHAT AM I GIVING UP UNDER THE SETTLEMENT?

If the settlement becomes final, you will be releasing PHX West and PHX Inc. for any claims you may have relating to or arising from the transmission of any unsolicited advertising facsimiles sent to you from January 23, 2010 to March 27, 2014. 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, www.phxfaxsettlement.siprut.com, and www.phxfaxsettlement.com.

VII. FINAL APPROVAL HEARING

The Court has scheduled a final approval hearing before Magistrate Judge Gilbert on **JULY 29, 2015 at 9:30 a.m.** in Courtroom 1386 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, 14 C 501, 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, www.phxfaxsettlement.siprut.com, and www.phxfaxsettlement.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.