

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

HEIDBREDER BUILDING GROUP, LLC. v. ASSOCIATION OF THE WALL AND CEILING INDUSTRY, No. 14 C 6913

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

YOU RECEIVED THIS NOTICE BECAUSE 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 MAY 16, 2016.

I. WHY YOU RECEIVED THIS NOTICE

You received this you are a member of the Settlement Class in a class action lawsuit filed against Association of the Wall and Ceiling Industry.

II. WHAT IS THE LAWSUIT ABOUT?

Plaintiff Heidbreder Building Group, LLC ("Plaintiff"), sued Association of the Wall and Ceiling Industry ("AWCI" or "Defendant"), alleging that they received unsolicited facsimile advertisements sent by AWCI promoting its goods or services for sale, 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 AWCI sent the allegedly unlawful advertising facsimiles. AWCI denies these allegations but has agreed to settle to avoid the costs and uncertainties of litigation. AWCI will vigorously defend the lawsuit if the proposed settlement is not approved. Plaintiff 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 with fax numbers who on or after September 8, 2009 through and including September 8, 2014, were sent faxes by or on behalf of Association of the Wall and Ceiling Industry and Computer Fulfillment, Inc. promoting the goods or services of Association of the Wall and Ceiling Industry (the "Settlement Class").

Members of the Association of the Wall and Ceiling Industry and subscribers including regular recipients of Construction Dimensions magazine during the period from September 8, 2009 through and including September 8, 2014 are excluded from the Settlement Class. The records of Computer Fulfillment, Inc. indicate that you may be a member of the Settlement Class.

III. WHO REPRESENTS YOU

The Court has appointed Edelman, Combs, Lattuner, & Goodwin, LLC to represent the Settlement Class as

Settlement Class Counsel. Settlement Class Counsel may be contacted at: **Edelman, Combs, Lattuner, & Goodwin, LLC (30273), 20 S. Clark St., Suite 1500, Chicago, IL 60603; 312-739-4200, 312-419-0379 (FAX), www.edcombs.com.**

IV. WHAT IS THE PROPOSED SETTLEMENT?

The parties have agreed to settle this lawsuit. Under the proposed settlement, AWCI agreed to pay a Settlement Fund in the total amount of \$150,000 (the "Settlement Fund"). If this settlement is approved by the Court, the Settlement Fund will cover an incentive award to the plaintiff, Heidbreder Building Group, LLC for its services as a class representative (\$4,000), attorneys' fees to Settlement Class Counsel (in an amount not to exceed \$50,000), and reasonable costs of notice and administration incurred (up to a maximum of \$8,000). Settlement Class Counsel will file a Petition for Attorney's Fees by April 15, 2016. After these amounts are deducted, each Class Member who submits a valid claim by MAY 16, 2016 will receive an equal share of the remaining funds based on the number of transmissions to each 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 1,840 persons or entities. The recovery for each Settlement Class Member will vary 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 fully complete and submit the Claim Form at the end of this notice in the manner indicated (see instructions on Claim Form) by MAY 16, 2016. 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 W-9 form from you. If you identify more than one unique fax number on the Fax List and/or if you were sent more than one fax transmission, then you may also need to 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, then 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, Lattuner & Goodwin, LLC (30273), 20 S. Clark St., Suite 1500, Chicago, IL 60603, FAX: (312) 419-0379 or the Settlement Class Administrator, **AWCI FAX SETTLEMENT, ATTN: EXCLUSIONS, PO BOX 23650, JACKSONVILLE, FL 32241-3650**. 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 by or on behalf of AWCI and Computer Fulfillment, 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 **MAY 16, 2016**, 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 AWCI and Computer Fulfillment, Inc.

(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 – *Heidbreder Building Group, LLC v. Association of the Wall and Ceiling Industry*, 14 C 6913 – at the top; your name, address and the fax number for the facsimile machine on which you were sent the fax by AWCI and Computer Fulfillment, 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 must be filed with the Clerk of the Court on or before **MAY 16, 2016**. 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: **Darrell J.**

Graham, Roeser Bucheit & Graham LLC, 2 N. Riverside Plaza, Suite 1420, Chicago, IL 60606.

(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 AWCI and Computer Fulfillment, 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 AWCI and Computer Fulfillment, Inc. for any claims you may have relating in any way to or arising from the transmission of facsimiles sent September 8, 2009, through and including September 8, 2014, promoting AWCI'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.AWCifaxsettlement.com.

VII. FINAL APPROVAL HEARING

The Court has scheduled a final approval hearing for **JUNE 28, 2016, 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, 14 C 6913, 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.AWCifaxsettlement.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. Ill.