

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

PODIATRY IN MOTION, INC.,)	
on behalf of plaintiff and)	
the class members defined herein,)	
)	
Plaintiff,)	16 C 7938
)	
v.)	Judge Dow
)	Magistrate Judge Kim
AMERICAN SCREENING, L.L.C., formerly)	
known as AMERICAN SCREENING)	
CORPORATION, and JOHN DOES 1-10,)	
)	
Defendants.)	

SETTLEMENT AGREEMENT

RECITALS AND DEFINITIONS

1. Parties. Defendant American Screening, LLC, f/k/a American Screening Corporation (“Defendant” or “American Screening”), including its present, former or future agents, owners, insurers, representatives, employees, directors, officers, shareholders, attorneys, heirs, agents, predecessors, successors, assigns, parents, subsidiaries, related companies, controlled companies, other associated business entities and affiliates (each solely in their respective capacity as such), and Plaintiff Podiatry In Motion, Inc. (“Plaintiff”) individually and as representative of the settlement class of persons defined below in paragraph 5 (the “Settlement Class”), enter into this Settlement Agreement (“Settlement Agreement”). Plaintiff and Defendant are collectively referred to as the Parties.

2. Nature of Litigation. In this lawsuit, captioned *Podiatry In Motion, Inc. v. American Screening, LLC, f/k/a American Screening Corporation*, United States District Court, Northern District of Illinois, Eastern Division, Docket Number 16 C 7938, (the “Litigation”),

Plaintiff alleges that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (“TCPA”), the Illinois Consumer Fraud Act, 815 ILCS 505/2 (“ICFA”) and the common law by sending unsolicited advertisements via facsimile to plaintiff and a nationwide class of individuals and entities.

3. Denial of Liability. Defendant denies violating the TCPA, ICFA and state law and further denies any liability to Plaintiff and the Settlement Class for the claims alleged. This Settlement may not be construed in whole or in part as an admission of fault by Defendant. Defendant desires to settle the claims solely to avoid the expense, burden, and uncertainty of further litigation, and to put to rest all claims, known or unknown, asserted or unasserted, actual or contingent, that have been or might have been asserted by the Plaintiff or the Settlement Class against it concerning the matters alleged in the complaint in the Litigation.

4. “Settlement Class Counsel” means Edelman, Combs, Lattuner & Goodwin, LLC.

5. “Settlement Class” means: All persons and entities in the United States who were sent the advertisement at issue in this case which stated ‘American Screening Complete Drug Testing Solutions ****We Will Save You Money****’ for the time period starting four years prior to the date Plaintiff filed its Complaint to the date this settlement agreement is fully executed.

6. “Plaintiff” means Podiatry In Motion, Inc. and its heirs, successors, or assigns, or any other person acting on its behalf or for its benefit, or any person claiming through them.

7. “Released Parties” means, Defendant and its parents, subsidiaries, affiliates and sister or sibling companies as of the time of the actions that gave rise to the claims asserted in this Litigation, specifically including American Screening Corporation (also referred to as “American Screening, LLC”), any of its predecessors and successors in interest, any of its insurers and any of its past, current and future owners, officers, directors, shareholders, partners, members, employees,

affiliates and agents, or any other person providing services for or on behalf of Defendant in connection with the acts or omissions made the basis of the claims raised in this lawsuit (each solely in their respective capacity as such). The Parties expressly agree that all of these persons and entities that are not signatories to this Settlement Agreement are intended third-party beneficiaries of this Settlement Agreement.

8. “Settlement Class Administrator” means the firm retained by Plaintiff with the consent of Defendants and approved by the Court to issue notice to the Settlement Class Members and to administer the settlement.

9. “Settlement Class Member(s)” means Plaintiff and any member of the Settlement Class who does not opt out and is not otherwise excluded from the Settlement Class by the Court.

10. “Released Claims” means any and all causes of action, suits, claims, or demands, in law or in equity, known or unknown, actual or contingent, asserted or unasserted, at this time or at the time the claims asserted in the Litigation arose, which Plaintiff or any other Settlement Class Members now have, did have, or may have in the future against the Released Parties, arising under any legal theory, including but not limited to the TCPA, ICFA, or state law, whether or not alleged, and any similar legal theory related to or arising from the receipt of advertisements by facsimile. This includes, but is not limited to, all claims that were asserted or could have been asserted against the Released Parties in the Litigation, including TCPA claims.

11. Plaintiff’s Desire to Settle. Plaintiff, individually and on behalf of the Settlement Class (as defined below), desires to settle its claims against Defendant, having taken into account through Plaintiff’s counsel the risks, delay, and difficulties involved in establishing a right to recovery in excess of that offered by this settlement and the likelihood that further litigation will be protracted and expensive. Plaintiff represents and warrants that it owned or leased the facsimile

machine which received the faxes at issue in the Litigation at the time the faxes were received. The warranties and representations made in this Settlement Agreement survive the execution of this Settlement Agreement.

12. Investigation. Plaintiff's counsel states that they have investigated the facts and the applicable law. Based on the foregoing, and upon an analysis of the benefits afforded by this Settlement Agreement, Plaintiff's counsel considers it to be in the best interest of the Settlement Class to enter into this Settlement Agreement.

13. Agreement. In consideration of the foregoing and other valuable consideration, Plaintiff, Plaintiff's counsel and Defendant agree to settle the claims of the Plaintiff and the Settlement Class, the Released Claims, subject to the Court's approval, on the following terms and conditions.

TERMS

1. Incorporation of Recitals and Definitions. The recitals and definitions set forth above are incorporated into this Settlement Agreement.

2. Effective Date. The Settlement Agreement shall become effective (hereinafter the "Effective Date") upon the occurrence of all of the following: (a) the Court's entry of a Final Approval Order substantially in the form of Exhibit 3, and (b) the expiration of five business (5) days after the date the Final Approval Order becomes final and non-appealable.

3. Certification of Settlement Class. Solely for the purposes of settlement, the parties stipulate to the certification of the Settlement Class. The Parties agree to propose that Plaintiff shall be appointed class representative and that Daniel A. Edelman and Julie Clark of Edelman, Combs, Lattuner & Goodwin, LLC shall be appointed Settlement Class Counsel. The motions for approval will seek certification of the Settlement Class pursuant to Rule 23(b)(3) of the Federal

Rules of Civil Procedure. Defendant does not consent to certification of the Settlement Class for any purpose other than to effectuate this settlement of the Litigation. If this Settlement Agreement is not approved by the Court, is terminated pursuant to its terms or for any other reason, or is disapproved in a final order by any court of competent jurisdiction, then all of the following will occur: (a) any order certifying the Settlement Class and all preliminary and/or final findings or stipulations regarding certification of the Settlement Class shall be automatically vacated upon notice to the Court of this Settlement Agreement's termination or disapproval; (b) this Litigation will proceed as though the Settlement Class had never been certified and any related findings or stipulations had never been made and neither this Settlement Agreement, nor any of its Exhibits, nor any other associated settlement document may be used in seeking class certification; and, (c) the Defendant will have all procedural and substantive rights as of the date of execution of this Settlement Agreement.

4. Identification of Settlement Class Members. Defendant represents that, based on a review of its records, and after conducting a reasonable investigation of available information and records, approximately 7,160 facsimiles were sent by or on behalf of Defendant, which Plaintiff asserts are unsolicited facsimile advertisements as defined in the TCPA. Defendant shall provide to Settlement Class Counsel and/or the Settlement Class Administrator the list of the approximately 7,160 potential recipients including their facsimile numbers associated with each unique fax number based upon its records (the "Fax List").

5. Relief to Plaintiff and the Settlement Class. The following relief shall be provided to Plaintiff and the Settlement Class, subject to the Court's approval:

- a. Defendant shall create a \$90,000.00 Settlement Fund ("Settlement Fund") which shall be distributed as set forth below. The entire Settlement Fund will be paid out in some fashion without any amounts being kept or returned to Defendant. Defendant need not segregate funds or otherwise create

special accounts to hold the Settlement Fund and will not relinquish control of any money until payments are due;

- b. Notice and administration expenses will be paid from the Settlement Fund. The Settlement Fund less notice and administrative expenses is the Net Settlement Fund; and
- c. After the notice and administration expenses are deducted from the Settlement Fund, the Net Settlement Fund shall be apportioned as follows:
 - i. \$7,500.00 shall be paid from the Settlement Fund to Plaintiff as an incentive award in recognition of its services as class representative, in addition to his recovery as a class member;
 - ii. Settlement Class Counsel shall request no more than 1/3 of the Net Settlement Fund for attorney's fees;
 - iii. Each member of the Settlement Class who submits a valid claim form will receive a check for a pro rata distribution of the Settlement Fund per unique fax number, after the amounts set forth in subsections (b), (c)(i) and (c)(ii) are distributed. The claim form submitted by each member of the Settlement Class must be signed under oath and affirm that the fax number identified as having allegedly received a fax advertisement in the Class Period, as defined, was the class member's same fax number at the time specified.
 - iv. If after the payments outlined in sections (b), (c)(i), (c)(ii), and (c)(iii) are completed, and any money remains in the Net Settlement Fund, such money remaining in the Net Settlement fund shall be distributed to a *cy pres* charity, consistent with paragraph 10 below.

6. Any award of attorneys' fees and costs and an incentive award to Plaintiff which are approved by the Court may be distributed to them within fourteen (14) days following the Effective Date. Within thirty (30) days following the Effective Date, Settlement Class Counsel or the Settlement Class Administrator shall distribute the Net Settlement Fund to the Settlement Class Members who have submitted timely and valid claim forms in accordance with this Settlement Agreement. In the event that (i) the Settlement Agreement is terminated pursuant to its terms; (ii) Defendants withdraw from the Settlement Agreement; (iii) the Settlement Agreement does not become effective; or (iv) the Final Approval Order is reversed, vacated, or modified in any material

respect which is not mutually acceptable to the Parties, then Settlement Class Counsel or the Settlement Class Administrator shall return within three (3) business days following the event all funds paid or otherwise received from the Settlement Fund, less any reasonable costs (which shall not exceed \$10,000.00) to Defendant's Counsel SmithAmundsen LLC, that were incurred by Settlement Class Counsel to issue notice to the Settlement Class Members

7. Settlement Class Members shall have sixty (60) days to submit a claim form, to opt out, or object to the proposed settlement, after notice is initially sent by U.S. Mail.

8. Costs associated with notice, claims administration and distribution of settlement checks shall be paid from the Settlement Fund and shall not exceed \$10,000.00.

9. The settlement checks issued to the members of the Settlement Class for payment of claims under this Settlement Agreement (both Initial Settlement Payment and Second Distribution, if any) will be void after 60 days from the date of issuance. Any Settlement Class Member who does not deposit or negotiate the claim payment check issued to such Settlement Class Member within 60 days of the date of issuance of the settlement claim payment check, agrees that such Settlement Class Member rescinds and withdraws his, her or its claim for monetary compensation under this Settlement Agreement but remains a member of the Settlement Class and is bound by the terms of this Settlement Agreement.

10. Undistributed Settlement Funds. Within thirty (30) days after the last void date of all settlement checks (both Initial Settlement Payment and the Second Distribution, if any) issued to Settlement Class Members, the Settlement Class Administrator will report to the Parties if there are any uncashed checks or unclaimed or undistributed amounts remaining in the Net Settlement Fund. Any such unclaimed or undistributed amounts remaining in the Settlement Fund after all payments required under this Settlement Agreement have been made shall be distributed to one or

more *cy pres* charities selected by the parties, subject to court approval. The parties shall identify and submit a memorandum in support of their respective *cy pres* recipient at the time of the final approval of the settlement. Any distribution to the court approved *cy pres* recipient(s) shall occur no earlier than forty-five (45) days after expiration of the void dates on all settlement checks (both Initial Settlement Payment and the Second Distribution, if any) issued to Settlement Class Members.

11. Release. On the Effective Date, Plaintiff and the Settlement Class Members who have not opted out or been otherwise excluded from the Settlement Class shall be deemed to have fully and finally released and discharged the Released Parties from any and all liability for the Released Claims.

12. This Settlement Agreement may be pleaded as a full and complete defense by the Released Parties to any action, suit or other proceeding that may be instituted or prosecuted with respect to the Released Claims. Without admitting that California law or the laws of any other state apply to this Settlement Agreement or that the release provided by Plaintiff and the Settlement Class is a general release, the Parties agree that upon the Effective Date, the Settlement Class shall be deemed to have waived and shall have expressly waived the provisions and benefits of California Civil Code §1542, which provides that a general release does not extend to claims which the creditor does not know or suspect to exist in his, her or its favor at the time of executing the release, which if known by him, her or it, must have materially affected his, her or its settlement with the debtor. Further, Plaintiff and the Settlement Class, expressly waive any and all provisions and rights or benefits which may be conferred upon them by any law, statute, ordinance or regulation which is similar, comparable or equivalent to California Civil Code §1542.

13. Settlement is expressly contingent on (i) final approval by the Court, which is no longer subject to appeal, and (ii) the final, non-appealable dismissal of the lawsuit with prejudice. If this Settlement Agreement is not approved by the Court or for any reason does not become effective, it shall be deemed null and void and shall be without prejudice to the rights of the parties hereto and shall not be used in any subsequent proceedings in this or any other litigation, or in any manner whatsoever.

14. Attorneys' Fees, Notice Costs and Related Matters. The Settlement Class Administrator will administer the Net Settlement Fund for the benefit of the Settlement Class. Defendant will advance from the Settlement Fund to the Settlement Class Administrator or Settlement Class Counsel, the reasonable costs of notice and settlement administration five (5) days after entry of the Preliminary Approval Order. Settlement Class Counsel must seek approval from the Court to withdraw from the Settlement Fund any amount greater than \$10,000.00 to cover costs related to issuing notice to the class and administration of the settlement. Settlement Class Counsel will request approval from the Court for attorneys' fees in an amount not to exceed 1/3 of the Net Settlement Fund as set forth in Section 5.c of this Settlement Agreement. Settlement Class Counsel will not request additional fees or costs from Defendant or the Settlement Class other than the above-referenced sums. Settlement Class Counsel shall file a fee petition thirty (30) days prior to the deadline set by the Court in the Preliminary Approval Order to submit claims, opt out or object to the Settlement Agreement.

15. Notice. Within 5 days of entry of the Preliminary Approval Order, Defendant shall provide the Settlement Class Administrator with the Fax List in MS Word or Excel format. Within 35 days of entry of the Preliminary Approval Order, the Settlement Class Administrator shall cause the Notice and Claim Form in the form of Exhibit 1 to be sent to the facsimile numbers identified

on the Fax List. The Settlement Class Administrator shall make at least two additional attempts to transmit the notice by facsimile to those numbers where the initial transmission failed. After a total of three unsuccessful attempts to transmit the notice to a Settlement Class Member, the Claims Administrator shall mail the Notice and Claim Form to the Settlement Class Member via first class mail to an address it is able to ascertain based on the information contained on the Fax List. The Claims Administrator shall take reasonable steps to attempt to forward any notices it mails to Settlement Class members which are returned with a forwarding address.

Settlement Class Counsel will also post the notice in the form of Exhibit 1 (excluding the claim form), and this Settlement Agreement (excluding exhibits) on their firm's website. Settlement Class Counsel or the Settlement Class Administrator shall provide any Settlement Class Member who contacts either of them and requests a copy of the Notices and/or the Claim Form (Exhibit 1) with the claim form.

16. The Settlement Class Administrator may create a website that allows for electronic submission of claim forms. Any website created by the Settlement Class Administrator may also post the notice, claim form, the Preliminary Approval Order, and this Settlement Agreement (excluding exhibits). The Settlement Class Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement.

Settlement Class Counsel and/or the Settlement Class Administrator shall retain all documents and records generated during the administration of the settlement including records of notice given to Settlement Class Members, returned mail, records of undelivered mail, claim forms, and payment to Settlement Class Members for a period of one year following the issuance of the Final Approval Order, and the expiration of all deadlines for appeal therefrom. Defendant may inspect such documents, upon reasonable request by their counsel. The Class List and all other

documents and records generated during the administration of the settlement shall be used solely for purposes consistent with notice and administration of this settlement and for no other purpose.

Defendant and its Counsel will be responsible for serving the required CAFA Notice within ten (10) days after the filing of the Preliminary Approval Motion.

17. Claim Validation. The Settlement Class Administrator shall match the fax number provided by the Settlement Class Member on a returned claim form to a fax number on the Fax List. The Settlement Claims Administrator shall also determine whether the claim is a duplicate, whether the claim form is signed and examine the claim form for completeness and validity. If the fax number does not match, then Settlement Class Counsel or the Settlement Class Administrator shall follow-up with the Settlement Class Member and inquire if such Settlement Class Member employed other fax numbers during the Class Period (to ascertain if any different fax number is a number on the Fax List), in an effort to determine whether the claim is a valid claim.

If the fax number or fax numbers provided on a claim form do not match a fax number on the Fax List, and the follow-up with the Settlement Class Member has not resolved the issue, Settlement Class Counsel or the Settlement Class Administrator shall disallow the claim. If a claim is deemed disallowed by the Settlement Class Administrator, the Settlement Class Administrator must communicate that disallowance of the claim to the Settlement Class Member and Settlement Class Counsel and allow Settlement Class Counsel an opportunity to investigate the basis for disallowing the claim.

The Claims Administrator will provide copies of all valid and/or accepted claim forms to counsel for the parties. The parties will have the opportunity to review the claim forms and a timeframe in which objections to the claim forms can be made. Should the parties not be able to

resolve objections to claims submitted, the court shall have final say on whether a claim is valid and that decision shall be final and binding on the parties.

18. a. Settlement Payment. Settlement Class Members submitting valid claim forms shall be paid a pro rata share of the Net Settlement Fund in accordance with this Settlement Agreement for each unique facsimile number (“Initial Settlement Payment”).

b. W-9 Collection. There is a possibility Settlement Class Members will recover more than \$599.99, and such Settlement Class Members will be required to submit a W-9 form. The W-9 forms will be issued to Settlement Class Members by the Settlement Class Administrator as required within twenty-one (21) days after entry of the Final Approval Order and before any settlement checks are issued. Settlement Class Members will have thirty (30) days to respond to a request to complete a W-9 form. If a Settlement Class Member does not submit a W-9 form, the Settlement Class Administrator will deduct tax withholding from the settlement payment. If W-9 forms need to be collected, certain dates set forth in paragraphs 6, 9, and 10 are reset and calculated as follows: within thirty (30) days following the expiration of time for Settlement Class Members to complete a W-9 form, Settlement Class Counsel or the Settlement Class Administrator shall distribute the Settlement Fund to the Settlement Class Members who have submitted valid claims in accordance with paragraph 16; settlement checks to the Settlement Class Members will be void sixty (60) days from date of issuance; and within thirty (30) days following the void date on the Settlement Class Members’ checks, any uncashed checks or unclaimed or undistributed funds, the disposition of which will be determined by the Court, will be disbursed.

19. Right to Object. Any Settlement Class Member may object to the Settlement Agreement and appear in person or through counsel, at his, her or its own expense. The deadline

to object shall be set by the Court in the Preliminary Approval Order and the Parties shall propose that it be at least sixty (60) days after notice is sent. Any Settlement Class Member may object to the Settlement Agreement by filing with the Court and mailing a copy of the objection to Settlement Class Counsel and Defendants' Counsel. Any objection must include: (a) the name (or business name, if the objector is an entity), address, and facsimile number to which the fax(es) were sent; (b) a statement of the objection to the Settlement Agreement; (c) an explanation of the legal and factual basis for the objection; and (d) documentation, if any, to support the objection.

20. Right of Exclusion. All Settlement Class members who properly file a timely written request for exclusion from the Settlement Class shall be excluded from the Settlement Class and shall have no rights as Settlement Class members pursuant to this Settlement Agreement. A request for exclusion must be in writing and state the name, (or company name), address, and facsimile number (to which the fax(es) were made) of the person(s) or entity seeking exclusion. Each request must also contain a signed statement providing that: "I/we hereby request that I/we be excluded from the proposed Settlement Class in the Litigation." The request must be mailed to Settlement Class Counsel or the Settlement Class Administrator at the address provided in the notice and postmarked or received by Settlement Class Counsel or the Settlement Class Administrator on such date as set by the Court. A request for exclusion that does not include all of the foregoing information, or that is sent to an address other than the one designated in the notice, or that is not postmarked or received by Settlement Class Counsel or the Settlement Class Administrator within the time specified, shall be invalid and the person(s) serving such a request shall remain a Settlement Class member and shall be bound by the terms of the Settlement Agreement, if approved. Settlement Class members shall have at least sixty (60) days from the date notice is sent to opt out of the Settlement.

21. Preliminary Approval. As soon as practicable after execution of this Settlement Agreement, Settlement Class Counsel shall file a Motion for Preliminary Approval of this Settlement Agreement and shall present such motion to the Court requesting the entry of a Preliminary Approval Order substantially in the form of Exhibit 2 or in such other form which is mutually acceptable to the Parties.

Any Party shall have the right, but not the obligation, to void or rescind the settlement if the Court does not preliminarily approve the settlement without material modifications to the Parties' settlement agreement. The right to void or rescind under this paragraph must be exercised, if at all, no later than fourteen (14) days after the Court fails to preliminarily approve the settlement, or else the Parties agree that any attempted rescission shall be without effect. Rescission or setting aside is effective only if and when notice of same is filed with the Court and served on counsel of record. In the event that a Party chooses to exercise its right to rescind, the settlement shall be deemed void *ab initio* and the Parties shall be deemed to be in the same position as existed prior to the execution of the settlement agreement, except that the exercising party shall bear the costs for notice and settlement administration incurred.

If more than 3% of the Settlement Class objects to or opts-out of the settlement, either party shall have the right, but not the obligation, to terminate the settlement after reasonable notice to the other party, and this Agreement shall be null and void and no stipulation, representation, assertion of fact or information provided made in this Agreement or for purposes of negotiation may be used by any party.

22. Final Approval. Settlement Class Counsel shall file a memorandum in support of final approval of the settlement, which shall include Settlement Class Counsel's request for an award of attorneys' fees and costs, at least seven (7) days prior to the date the Court sets for the

final approval hearing. The Parties shall request the Court to enter a Final Approval Order substantially in the form of Exhibit 3, or in another form which is mutually acceptable to the Parties. Pursuant to the Class Action Fairness Act, the Final Approval Order shall not be entered until the expiration of at least ninety (90) days from the date the Preliminary Approval Order was entered. Entry of a Final Approval Order substantially in the form of Exhibit 3 or in another form which is mutually acceptable to the Parties is a condition precedent to this Settlement Agreement becoming fully effective. In the event a Final Approval Order substantially in the form of Exhibit 3 or in another form which is mutually acceptable to the Parties is not entered then this Settlement Agreement shall be null and void and is rescinded and the Preliminary Approval Order and any other orders entered by the Court in connection with the settlement of this Litigation shall be vacated and the Parties shall be returned to the position they were in prior to the execution of this Settlement Agreement and this Litigation shall proceed as though this Settlement Agreement was never executed.

23. The fact that the Court may require non-material changes to documents attached as Exhibits 1 through 3 does not invalidate this Settlement Agreement.

24. Release of Attorneys' Lien. In consideration of this Settlement Agreement, Settlement Class Counsel hereby waives, discharges and releases the "Released Parties," as defined in paragraph 7 of the Recitals and Definitions above, of and from any and all claims for attorneys' fees, by lien or otherwise, for legal services rendered by Settlement Class Counsel in connection with this Litigation, other than the amount awarded by the Court as specified above.

25. Delivery of Settlement Fund. Defendant or persons acting on its behalf shall, no less later than three (3) business days after the date the Court grants final approval, issue a check or wire the amount of the Settlement Fund less any amounts advanced for notice and administration

costs to the Client Trust Account of Settlement Class Counsel. Settlement Class Counsel agrees to hold such funds in trust for the benefit of the Settlement Class and shall not disburse any funds from the Settlement Fund prior to the Effective Date unless in accordance with this Settlement Agreement or as ordered by the Court. Once the payment is made in accordance with this paragraph, Defendant shall have no further payment obligation to Plaintiff or the Settlement Class, and Defendant shall have no obligation or duty to monitor, supervise or control disbursements from the Settlement Fund.

26. Dismissal Order. The Final Approval Order shall provide that the Litigation against Defendant is dismissed with prejudice and further order that the Parties take the actions required to fulfill their obligations under the Settlement Agreement. In the event that Defendant fails or refuses to make the payment, Defendant agrees, that at the option of Settlement Class Counsel, the Final Approval Order may be vacated pursuant to Fed. R. of Civ. Procedure 60(b), this Agreement shall be rescinded and this action shall be reinstated as if this Agreement never existed.

27. Applicable Law. The United States District Court for the Northern District of Illinois of Illinois shall have jurisdiction over enforcement of this settlement agreement, and the Federal Rules of Civil Procedure and Local Rules of the Northern District of Illinois will apply.

28. Miscellaneous Provisions. The Parties and their attorneys agree to cooperate fully with one another in seeking approval of this Settlement Agreement, and to use their best efforts to effect the consummation of this Settlement Agreement and the settlement provided for herein. Whether or not this Settlement Agreement and the settlement contemplated hereunder are consummated, this Settlement Agreement and the proceedings had in connection herewith shall in no event be construed as, or be deemed to be, evidence of an admission or concession on the part of Defendants of any liability or wrongdoing whatsoever.

29. Benefit of this Settlement Agreement. This Settlement Agreement shall be binding upon and inure to the benefit of the Plaintiff, the Released Parties and Settlement Class Members, and each of their respective successors and personal representatives, predecessors, affiliates, heirs, executors and assigns. It is expressly understood by the Parties that the individuals or entities of the Released Parties that are not signatories to this Settlement Agreement are intended third-party beneficiaries of this Settlement Agreement.

30. Authority. The Parties hereby represent to one another that they have full power and authority to enter into this Settlement Agreement and carry out their obligations hereunder.

31. Entire Agreement. Any and all prior understandings and agreements between the Parties with respect to the subject matter of this Settlement Agreement are merged into and with this Settlement Agreement, which fully and completely expresses the entire agreement and understanding of the Parties with respect to the subject matter hereof. This Settlement Agreement may be amended, modified or changed only by a written instrument or instruments executed by duly authorized officers or other representatives of the Parties expressly amending, modifying or changing this Settlement Agreement and may not be amended, modified or changed orally.

32. Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. Signatures provided by facsimile or e-mail shall be deemed legal and binding for all purposes.

33. Headings. The headings in this Settlement Agreement are for convenience of reference only and are not to be taken to be a part of the provisions of this Settlement Agreement, nor to control or affect meanings, constructions or the effect of the same.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed and delivered by their duly authorized representatives on the date last written below.

SIGNATURE PAGE TO FOLLOW

PLAINTIFF

Podiatry In Motion, Inc.

By: _____

Its: owner

Dated: 12/27/2017

DEFENDANTS

*American Screening, LLC f/k/a
American Screening Corporation*

By: _____

Its: _____

Dated: _____

SETTLEMENT CLASS COUNSEL



Daniel A. Edelman

Julie Clark

EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC

20 S. Clark Street, Suite 1500

Chicago, IL 60603

(312) 739-4200

(312) 419-0379 (FAX)

Counsel for Plaintiff and the Settlement Class

Dated: 12/27/17

DEFENDANT'S COUNSEL

Molly A. Arranz

SmithAmundsen LLC

150 N. Michigan Ave., Suite 3300

Chicago, IL 60601

312-894-3200

Dated: _____

SIGNATURE PAGE TO FOLLOW

PLAINTIFF

Podiatry In Motion, Inc.

By: _____

Its: _____

Dated: _____

DEFENDANTS

*American Screening, LLC f/k/a
American Screening Corporation*

By: *[Signature]*

Its: *Member Manager*

Dated: *1/8/18*

SETTLEMENT CLASS COUNSEL

Daniel A. Edelman
Julie Clark
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
20 S. Clark Street, Suite 1500
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)
Counsel for Plaintiff and the Settlement Class

Dated: _____

DEFENDANT'S COUNSEL

[Signature]
Molly A. Arranz
SmithAmundsen LLC
150 N. Michigan Ave., Suite 3300
Chicago, IL 60601
312-894-3200

Dated: *1/8/18*