

THIS IS A NOTICE OF A LAWSUIT SETTLEMENT.
You may benefit from this. Please read it carefully. You are not being sued.

**IN THE CIRCUIT COURT OF THE 19TH JUDICIAL DISTRICT
LAKE COUNTY, ILLINOIS**

DR. STEVEN ARKIN, individually and as the representative of a)	
class of similarly-situated persons,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 18CH000984
)	
SMITH MEDICAL PARTNERS, LLC and H. D. SMITH, LLC,)	
)	
Defendants.)	

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons who were sent, by or on behalf of H. D. Smith, LLC or Smith Medical Partners, LLC, one or more advertisements by facsimile from September 26, 2013 through January 25, 2019.

A. WHY HAVE YOU RECEIVED THIS NOTICE? The Court ordered us to send you this Notice because you may be a member of the Class defined above. This Notice explains the nature of the lawsuit and the settlement terms and informs you of your legal rights and obligations. You must submit a Proof of Claim Form to receive a monetary payment.

B. WHAT IS THIS LAWSUIT ABOUT? This lawsuit is about fax advertisements sent on behalf of H. D. Smith, LLC and Smith Medical Partners, LLC (“Defendants”) allegedly from September 26, 2013 through January 25, 2019. Plaintiff filed this lawsuit in the Circuit Court of Lake County, Illinois. On behalf of himself and a class of similarly-situated persons, Plaintiff alleged that Defendants violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, by faxing advertisements to the Class without their prior express invitation or permission to do so or without displaying a proper opt-out notice. Defendants denied Plaintiff’s allegations and raised defenses. To avoid the costs and expenses of litigation, the parties have agreed to settle all claims relating to the faxes described above.

C. WHAT IS THE PROPOSED SETTLEMENT? Without admitting any fault or liability, and in exchange for a release of all claims against Released Parties Defendants have agreed to send a monetary payment to each person who submits a timely and valid Proof of Claim Form. The monetary payment to each claimant will correspond to the claimant’s *pro rata* share of a \$21,000,000.00 Settlement Fund after payment of Class Counsel fees and expenses, an incentive award to the Class Representative, and notice and class administration costs, up to \$493.32 per fax number included in the class list produced in the litigation. The Court has preliminarily approved this settlement, subject to a Final Approval Hearing that will occur on **April 26, 2019, at 9:15 a.m.**, in Room C-204 of the Circuit Court of Lake County, Illinois, 18 N. County Street, Waukegan, IL 60085.

D. WHAT ARE YOUR FOUR OPTIONS?

1. Return a completed Proof of Claim Form. To receive a share of the Settlement Fund, you must return a completed and signed Proof of Claim Form postmarked on or before **March 26, 2019**. The Proof of Claim Form is attached to this Notice. You may return it by fax to 1-866-458-3789, or U.S. mail to *Arkin v. Smith Medical Partners* Settlement Administrator, P.O. Box 404000, Louisville, KY 40233-4000, or submit it through the following website: www.ArkinvSmithTCPASettlement.com. If the Proof of Claim Form is timely and valid, you will receive a check for your share of the Settlement Fund at the address listed on the Proof of Claim Form if the Settlement is approved by the court. You will be bound by the judgment and you will ultimately release your claims against the Defendants and the “Released Parties” as defined in the Settlement Agreement.

2. Do nothing and receive nothing. If you do nothing, you will remain a member of the class but you will not receive a share of the Settlement Fund. You will be bound by the judgment and you will release your claims against the Defendants Released Parties.

3. Exclude yourself from the Class and the Settlement. You are not required to participate in the Settlement. You have the right to exclude yourself from both the class action and the Settlement by sending a written request for exclusion. Your request for exclusion must be postmarked on or before **March 25, 2019**. If your request is not postmarked by that date, your right to opt out will be deemed waived and you will be bound by all orders and judgments entered in connection with the Settlement. Your request must list your name, street address, fax number(s), the name and number of this case, and it must indicate your request for exclusion (for example, “Exclude me from the Arkin v. Smith Medical Settlement”). You must send your request for exclusion to the Settlement Administrator at: *Arkin v. Smith Medical Partners* Settlement Administrator, P.O. Box 404000, Louisville, KY 40233-4000. The Settlement Administrator will inform the Court of your request.

4. **Object to the settlement in writing.** If you object to the Settlement, and wish to submit an objection rather than excluding yourself from the class action, you must submit your objection in writing to the Clerk of the Circuit Court of Lake County, Illinois, 18 N. County Street, Waukegan, IL 60085. Your objection must be postmarked by **March 25, 2019.** You must also serve copies of your objection and any supporting memoranda or materials on Class Counsel and counsel for Defendants, postmarked by the same date and addressed as follows:

Class Counsel:
Brian J. Wanca
Anderson + Wanca
3701 Algonquin Road, Suite 500
Rolling Meadows, IL 60008

For the Defendants:
Martin W. Jaszczuk
Jaszczuk P.C.
311 S. Wacker Drive, Suite 3200
Chicago, IL 60606

Any objection must include: (i) your full name, fax number, address, telephone number and e-mail address (if any); (ii) information identifying you as a Settlement Class Member; (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection you believe is applicable; (iv) the identity of all lawyers (if any) representing you; (v) the identity of all your lawyers (if any) who will appear at the Final Approval Hearing; (vi) a list of all persons who will be called to testify at the Final Approval Hearing in support of your objection; (vii) a statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and (viii) your signature or the signature of your duly authorized lawyer or other duly authorized representative. If you file an objection and wish it to be considered, **you must also appear** at the Final Approval Hearing before Judge Luis Berrones in Room C-204 of the Circuit Court of Lake County, Illinois, 18 N. County Street, Waukegan, IL 60085, on **April 26, 2019, at 9:15 a.m.**

YOU ARE NOT REQUIRED TO ATTEND THIS HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT.

E. **WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?** The Court will hold a Final Approval Hearing on the fairness of the proposed Settlement. At the Final Approval Hearing, the Court will hear any objections and arguments concerning the fairness of the proposed settlement, including the amount of the award of attorneys' fees and litigation expenses to Class Counsel. The Final Approval Hearing will take place on **April 26, 2019, at 9:15 a.m.**, in Room C-204 in the Circuit Court of Lake County, Illinois, 18 N. County Street, Waukegan, IL 60085. **Unless you have objected to the Settlement, you do not need to attend this hearing.** The Final Approval Hearing may be continued to a future date without further notice. If the Court does not approve the Settlement, the case will proceed as if no Settlement had been attempted. If the Settlement is not approved, there is no assurance that the Class will recover more than is provided in the Settlement or recover anything at all.

F. **WHO REPRESENTS THE CLASS?** The Court appointed Plaintiff Dr. Steven Arkin to be the "Class Representative" and appointed the following attorney to be "Class Counsel":

Brian J. Wanca
Anderson + Wanca
3701 Algonquin Road, Suite 500
Rolling Meadows, IL 60008
1-855-827-2329

You may, if desired, enter an appearance through counsel, but you are not required to do so. At the Final Approval Hearing, Class Counsel will request that the Court order from the Settlement Fund payment of an incentive award of \$15,000.00 to the Class Representative for his services on behalf of the Class in this litigation. Additionally, Class Counsel will request an award of attorneys' fees and expenses equal to one-third of the Settlement Fund, plus out-of-pocket litigation expenses to be paid to them from the Settlement Fund for their services on behalf of the Class.

G. **HOW DO I OBTAIN MORE INFORMATION ABOUT THE LAWSUIT OR THE SETTLEMENT?**

This description of the case is general and does not cover all of the issues and proceedings. To get more information, including a copy of the Settlement Agreement, you may visit the website established by the Settlement Administrator at **www.ArkinvSmithTCPASettlement.com** or, to see the complete file, you may visit the office of the Clerk of the Circuit Court of Lake County, Illinois, 18 N. County Street, Waukegan, IL 60085. The Clerk will make the files relating to the lawsuit available to you for inspection and copying at your own expense.

If you have specific questions, you can write to Class Counsel at the address listed above. Include the case number, your name, your fax number, and your current street address on any correspondence. You may also call Class Counsel at the telephone number listed above.

Please do not contact the Clerk of the Court or the Defendants' attorneys, because they cannot answer your questions or give you advice about this settlement.

BY ORDER OF THE COURT - HONORABLE LUIS BERRONES

QUESTIONS? CALL 1-866-458-3788 TOLL-FREE, OR VISIT WWW.ARKINVSMTHTCPASETTLEMENT.COM