

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

BUDD ENGINEERING CORPORATION,)	
)	
Plaintiff,)	
)	No. 09 C 757
v.)	
)	Judge Bucklo
MICHAEL COUCH & ASSOCIATES,)	Magistrate Judge Schenkier
and JOHN DOES 1-10,)	
)	
Defendants.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons and entities with fax numbers who, on or after December 4, 2008, were sent faxes by or on behalf of defendant Michael Couch & Associates, promoting its goods or services for sale (i) who did not consent to the sending of such a facsimile(s) and did not have an existing business relationship with Michael Couch & Associates and (ii) who were not provided an “opt out” notice as described in 47 U.S.C. §227.

***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 8, 2010.***

1. WHY DID YOU GET THIS NOTICE?

You received the Summary Notice/Claim Form because you have been determined to be a member of the Settlement Class. The purpose of this Notice is to advise you of a proposed settlement, and of a hearing to consider that settlement to be held on **MARCH 26, 2010 at 1:30 p.m.** before Judge Bucklo, Room 1441 of the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604 (“Fairness Hearing”).

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff, Budd Engineering Corporation, filed this action in the Circuit Court of Cook County, Illinois. Defendant removed this case to the United States District Court for the Northern District of Illinois, Eastern Division, where it is pending. On behalf of a putative class, plaintiff alleged that the defendant violated the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”), the Illinois Consumer Fraud Act, 815 ILCS 505/2 (“ICFA”) and conversion by sending unsolicited facsimile advertisements. Defendant denies these allegations but has agreed to settle to avoid the costs and uncertainties of litigation. Counsel for plaintiff has conducted an extensive investigation into the relevant facts and law underlying plaintiff’s claims, and has concluded that the outcome of the lawsuit is uncertain and that a settlement is in the best interests of plaintiff and the Settlement Class.

Defendant denies that it acted unlawfully, denies liability to plaintiff and the Settlement Class, and denies that class certification is required or appropriate if there was not a settlement.

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. THE SETTLEMENT BENEFITS - WHAT YOU GET

A settlement fund of \$30,000 will be established. After deducting attorney’s fees and costs (Plaintiff’s counsel will apply for Court approval of \$9,000), a payment to the Plaintiff and class representative of \$3,000 (also subject to Court approval), and costs associated with providing class notice, the net fund remaining will be distributed by check to class members who submit valid claim forms. The Parties have determined that the Settlement Class may consist of approximately 165 persons and entities. Your share of the settlement depends on the number of Class Members who submit a timely and valid claim form and the number of class members who opt out. The value of each claim is worth up to \$400 per class member. Any unclaimed settlement funds will be paid to charities.

4. WHAT AM I GIVING UP AS PART OF THE SETTLEMENT?

If the settlement becomes final, you will be releasing Michael Couch & Associates from any claims relating in any way to their sending of unsolicited advertisements by fax. This release is more fully explained in paragraph 7 of the Settlement Agreement. The Settlement Agreement is available at the Clerk’s Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604 during regular business hours. The Settlement Agreement specifically describes the release of claims in necessarily legal terminology. You may speak with Class Counsel or your own lawyer if you have questions about the release.

5. HOW DO I GET A PAYMENT?

To receive a payment from the settlement fund, you must complete and return the attached Claim Form by facsimile to 312-419-0379 or by U.S. Mail to the address for Class Counsel listed below in paragraph 7. The deadline for Claim Forms is **MARCH 8, 2010**; Claim forms **MUST BE** faxed or postmarked by **MARCH 8, 2010**.

6. WHEN WOULD I GET MY PAYMENT?

Payments will be mailed to class members after the Court grants “final approval” of the settlement and any appeals are resolved. The deadline for Claim Forms is **MARCH 8, 2010**; Claim forms **MUST BE** faxed or postmarked by **MARCH 8, 2010**. The Court is scheduled to consider final approval at a hearing on **MARCH 26, 2010 at 1:30 p.m.**

7. EXCLUDING YOURSELF FROM THE SETTLEMENT

You will be a member of the Settlement Class unless you exclude yourself from the Settlement Class. You need not take any action to remain in the Settlement Class, but you need to complete the Summary Notice/Claim Form to receive a payment from the settlement fund.

If you want to keep the right to sue Michael Couch & Associates, over the legal issues in this case, then you must take steps to get out of the settlement. This is called asking to be excluded from - or sometimes called “opting out” of - the class. If you opt out of the settlement, you will not receive any payment from the Settlement Fund, you cannot object to the settlement and you will not be bound by anything that happens in this lawsuit. You must exclude yourself from *this* class to start or continue your own lawsuit against Michael Couch & Associates.

To opt out, you must complete and mail or fax a notice of intention to opt-out (“Opt-Out”), which contains the following: (a) your name or business name, if the facsimile number was one owned or controlled by a business, and address; (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 that expressly states an intent of the class member not to participate in the Settlement and to waive all rights to the benefits of the Settlement. In addition, for your Opt-Out to be valid, it must be faxed to (312) 419-0379 by **MARCH 8, 2010** or mailed to the following address postmarked no later than **MARCH 8, 2010**:

Edelman, Combs, Lattuner & Goodwin, LLC (22271)
120 S. LaSalle St., 18th Floor
Chicago, IL 60603

8. WHO ARE COUNSEL FOR PLAINTIFF AND CLASS COUNSEL?

The Court has appointed the following attorneys to represent you and other members of the Class in this lawsuit:

Daniel A. Edelman
Heather Kolbus (22271)
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 739-4200
www.edcombs.com

Questions can be directed to Class Counsel at the above address and facsimile number or by telephone at (312) 739-4200 or by email to info@edcombs.com. Be sure to reference case number 09 C 757.

These attorneys represent your interests in this lawsuit. You may also hire your own attorney at your own cost to advise you in this matter.

Class Counsel will ask the court for attorney's fees and costs of \$9,000 to be paid from the Settlement Fund, as well as reimbursement of costs incurred for providing notice and administering the settlement fund to the Class.

9. OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the settlement or some part of it. You must give reasons why you think the Court should not approve the settlement. The Court will consider your views if you properly submitted 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. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

If you wish to object to the settlement or to any awards to plaintiff or class counsel, then you must mail or fax a written objection to the settlement ("Objection") to class counsel and counsel for defendant at the addresses set forth below sent by fax or postmarked no later than **MARCH 8, 2010**, and contemporaneously file the objection with the Clerk's Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604:

Class Counsel

Daniel A. Edelman
Heather Kolbus (22271)
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 South LaSalle Street, Suite 1800
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

Defendant's Counsel

Charles F. Morrissey
KARBAL, COHEN, ECONOMOU, SILK
& DUNNE LLC
200 S. Michigan Ave.
20th Floor
Chicago, Illinois 60604
(312) 431-3634
(312) 431-3670 (FAX)

Each objection must (a) set forth the objector's name or business name, if the objector is an entity, and address; (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 any. 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 by yourself or through your attorney, at the hearing before Judge Bucklo on **MARCH 26, 2010 at 1:30 p.m.** 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.

10. THE COURT'S FAIRNESS HEARING

The Court will hold a hearing on the settlement in the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604, Courtroom 1441 on **MARCH 26, 2010 at 1:30 p.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 its 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 ABOUT THE LAWSUIT AND/OR THE SETTLEMENT?

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, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604, during regular business hours. You must bring the name of the case, *Budd Engineering Corporation v. Michael Couch & Associates*, and case number, 09 C 757, 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 need 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: September 18, 2009

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