

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

GLEN ELLYN PHARMACY, INC.,)	
)	
Plaintiff,)	11 CV 968
v.)	Judge Hart
LA ROCHE-POSAY, LLC,)	
)	
Defendant.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

To: All persons and entities throughout the United States who during November 2010 were sent facsimile advertisements similar to Exhibit A to the Complaint, by or on behalf of La Roche-Posay, LLC or its parent(s) or related entities, promoting Anthelios sunscreen products. (the "Settlement Class").

**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 August 29, 2011.**

1. WHY DID YOU GET THIS NOTICE?

You received the Summary Notice/Claim Form because you met all the criteria contained in the class definition set forth in paragraph 3 below and are a member of the Settlement Class. The purpose of this Notice is to advise you of a proposed settlement in the Action, and of a hearing to consider that settlement to be held on October 13, **2011 at 11:30 a.m.** before Judge Hart, on the 10th Floor of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing").

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff, Glen Ellyn Pharmacy, Inc., filed this action on behalf of a putative class. Plaintiff alleged that La Roche-Posay, LLC (the "Defendant") violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA") and state law by sending unsolicited facsimile advertisements. The Parties have agreed to settle to avoid the costs of litigation. Counsel for plaintiff has conducted an extensive investigation into the relevant facts and law underlying plaintiff's claims, and has concluded that a settlement is in the best interests of plaintiff and the Settlement Class. 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. WHO IS IN THE SETTLEMENT?

On June 2, 2011, the Court preliminarily approved the settlement and provisionally certified a Settlement Class ("Settlement Class") in the Action for purposes of settlement only. The Settlement Class is defined to include: All persons and entities throughout the United States who during November 2010 were sent facsimile advertisements similar to Exhibit A to the Complaint, by or on behalf of La Roche-Posay, LLC or its parent(s) or related entities, promoting Anthelios sunscreen products. Excluded from the Settlement

Class are Officers and employees of Roche-Posay, LLC or its parents or related entities, as well as the related entities themselves.

4. THE SETTLEMENT BENEFITS - WHAT YOU GET

The Settlement Agreement calls for the creation of a \$1,000,000 Settlement Fund to be paid by Defendant which will be reduced by attorney fees awarded by the Court and costs related to notice and administration of the settlement to be determined by the Court upon Final Approval which, collectively, shall in no event exceed 30% of the Settlement Fund, and an incentive award to the named plaintiff for having acted as class representative, which likewise shall be determined by the Court upon Final Approval not to exceed \$5,000. The amount remaining in the fund will be divided on a pro rata basis up to a maximum of \$500 among those submitting timely and valid claim forms. There are approximately 7,150 members in the Settlement Class. Any funds remaining in the Settlement Fund after payment of all valid claims will be donated by Defendant to a charitable organization approved by the Court.

5. CLASS COUNSEL'S OPINION OF THE SETTLEMENT

In an individual lawsuit or class action under TCPA, a prevailing plaintiff may be able to recover \$500 per fax in statutory damages for a non-willful violation of the statute (\$1,500, if a willful violation is shown) or any actual damages, plus the costs of suit and injunctive relief. Of course, if an individual does not prevail, he will receive no payment. Here, in this Lawsuit, the Court has not ruled in Plaintiff's favor. The Court has also not certified a class, except pursuant to the Settlement Agreement.

Class Counsel has considered the benefits that the Settlement Class will receive under the Settlement Agreement, the potential defenses of Defendant, and the attendant risks, uncertainties and delays of litigation. Consequently, Class Counsel believes the terms of the settlement are fair and reasonable, and the members of the Settlement Class should accept this settlement.

7. NO ADMISSION OF LIABILITY

By entering into this agreement Defendant does not admit that it is liable to Plaintiff and the Settlement Class. Defendant enters into this Agreement solely to avoid the expense, burden, and uncertainty of further litigation, and to put to rest all claims, known or unknown, that have been or might have been asserted by the Plaintiff or the Settlement Class against Defendant and its parent(s) and affiliated entities, concerning the matters alleged in the Class Action Complaint.

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

If you remain in the Settlement Class and the settlement becomes final, you will be releasing La Roche-Posay, LLC and its parent and related entities, and their officers, directors, shareholders, members, and employees from liability for any claims arising from or relating to any unsolicited fax ad sent to you by or on behalf of La Roche-Posay in November 2010 promoting sunscreen products. This release is more fully explained in paragraph 19 of the Settlement Agreement. The Settlement Agreement is available at the Clerk's Office, U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, 20th Fl., Chicago, IL 60604 during regular business hours. It can also be found at www.edcombs.com. The Settlement Agreement specifically describes the released claims in necessarily legal terminology. You may speak with Class Counsel or your own lawyer (at your expense) if you have questions about the release.

9. WHAT ARE MY OPTIONS?

OPTION 1: Remain in Settlement Class and Submit a Claim Form to Receive a Pro-Rata Share of the Settlement Fund. To receive a pro-rata share of the Settlement Fund you must fully complete and submit the

claim form at the end of this notice. You must submit the Claim Form to Class Counsel: Julie Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 120 S. LaSalle St., 18th Fl, Chicago, IL 60603; (fax)866-834-3504. The deadline for Claim Forms is **August 29, 2011**; Claim forms **MUST BE** faxed or postmarked by **August 29, 2011**. Payments will be mailed to class members after the Court grants “final approval” of the settlement and any appeals are resolved.

OPTION 2: Exclude Yourself From the Settlement Class. If you fall within the Settlement Class definition you will be a member of the Settlement Class unless you exclude yourself from the Settlement Class. If you want to exclude yourself from the Settlement Class then you complete and mail or fax a notice of intention to opt-out (“Opt-Out”), which contains the following: (a) your full legal name or business name if the facsimile number was one owned or controlled by a business, address, and telephone number; (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 866-834-3504 by **August 29, 2011** or mailed to the following address postmarked no later than **August 29, 2011**:

Edelman, Combs, Lattuner & Goodwin, LLC c/o Julie Clark
120 S. LaSalle Street, 18th Floor, Chicago, IL 60603
(312) 739-4200; 866-834-3504 (FAX)

If you wish to bring your own individual action (at your expense) against Defendant and the others released, you must exclude yourself from this case. If you exclude yourself from this case, you will not receive any money from the Settlement Fund.

OPTION 3: Object to or Comment on the Settlement. You can tell the Court that you do or do not agree with the settlement or some part of it. You should give reasons why you think the Court should or should not approve the settlement. The Court will consider your views if you submit an objection or comment on time. Objecting is simply telling the Court that you don’t like something about the settlement. You can object or comment **ONLY** if you stay in the class. If you wish to object to or comment on the settlement or any awards to Plaintiff or Class Counsel in writing, then you must mail or fax your comment or objection to Class Counsel: Julie Clark, Esq., Edelman Combs Lattuner & Goodwin, LLC, 120 S. LaSalle St., 18th Fl, Chicago, IL 60603; (fax) 866-834-3504.. Each objection or comment should (a) set forth the class member’s full legal name or business name, if an entity, address and telephone number; (b) set forth the telephone number for the facsimile machine on which the class member was sent the fax; (c) state the basis for the Objection or Comment; and (d) provide copies of any documents in support thereof. You may also appear at the hearing before Judge Hart, 10th Floor of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 on October 13, 2011 at 11:30 a.m. (“Fairness Hearing”). **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.** Please note that it is not sufficient to simply state that you object. You should state reasons why the settlement should or should not be approved.

OPTION 4: Do Nothing. You are not required to do anything in response to this Notice. If you do nothing you will remain a member of the Settlement Class and you will release your claims against Defendant and others, but you will not receive any portion of the Settlement Fund.

10. WHO ARE COUNSEL FOR PLAINTIFF AND CLASS COUNSEL?

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

Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 739-4200; (866) 834-3504 (FAX), www.edcombs.com

These attorneys represent your interests in this lawsuit. You may contact them with any questions that you have about the lawsuit or the settlement. You may also hire your own attorney at your own cost to enter an appearance on your behalf in this matter.

11. THE COURT'S FAIRNESS HEARING

The Court will hold a hearing on the settlement before Judge Hart, 10th Floor of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, IL 60604 ("Fairness Hearing") on **October 13, 2011 at 11:30 a.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 his 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.

12. WHERE CAN I OBTAIN ADDITIONAL INFORMATION?

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 of the U.S. District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, 20th Fl., Chicago, IL 60604. You must bring the name of the case and case number 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 require additional information, you should write or call class counsel at the addresses and telephone numbers listed above in paragraph 10 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: **June 2, 2011** BY ORDER OF THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

