

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

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**YOU MAY BE A "CLASS MEMBER" AND ENTITLED TO A CASH PAYMENT UNDER THE PROPOSED SETTLEMENT.**

**If you were sent a facsimile on or after April 1, 2004 by or on behalf of OccuSport Physical Therapy, Occu-Sport Physical Therapy of Darien, LLC, Occu-Sport Physical Therapy Services of Palos Heights, P.C. and/or Accelerated Rehabilitation Centers, Ltd. promoting their goods, services, or programs, you may be a "Class Member" and may be entitled to a cash payment.**

*This case is titled R. Rudnick & Co. v. Accelerated Rehabilitation Centers, Ltd., successor by merger to Occu-Sport Physical Therapy of Darien, LLC, and Occu-Sport Physical Therapy Services of Palos Heights, P.C., Case No. 08 C 2879*

***PLEASE READ THIS NOTICE CAREFULLY.  
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.  
YOU MAY BENEFIT FROM READING THIS NOTICE.***

***IN ORDER TO RECEIVE A CASH PAYMENT YOU MUST RETURN THE PROOF OF CLAIM FORM AT THE END OF THIS NOTICE. THE CLAIM FORM MUST BE POSTMARKED BY JANUARY 29, 2009.***

**DESCRIPTION OF THE CASE**

Plaintiff filed a class action lawsuit against Defendant that is currently pending in the United States District Court for the Northern District of Illinois. The lawsuit alleged that Plaintiff received an unsolicited advertising facsimile sent by Occu-Sport Physical Therapy of Darien, LLC and/or by Occu-Sport Physical Therapy Services of Palos Heights, P.C. Plaintiff alleged that the transmission of the fax violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA"), and state law and sought damages individually and on behalf of a Class.

The parties have reached a proposed settlement of the lawsuit. The Court has authorized the sending of this Notice to advise potential Class members of the Settlement and their right to remain a Class member and receive benefits thereunder.

**SUMMARY OF THE BENEFITS UNDER THE SETTLEMENT:** Defendant has agreed to pay \$114,075 to resolve the claims of Plaintiff and the Class members. After payment of Plaintiff's recovery, attorney's fees and costs, and the costs of administration of the settlement, the balance of the Settlement Fund will be divided in equal shares to those Class Members (excluding Plaintiff) who complete and return a claim form postmarked by January 29, 2009. There are approximately 1,518 Class Members.

## **RECOVERY TO PLAINTIFF**

Plaintiff R. Rudnick & Co. will receive payment from the Settlement Fund, subject to Court approval, of \$1,000 to for statutory damages, and for serving as Class representative..

## **ATTORNEY'S FEES**

Counsel for Plaintiff and the Class ("Class Counsel") will request approval of attorney's fees and costs in an amount not to exceed 25% of the Settlement Fund.

**FAIRNESS HEARING:** On March 3, 2009, at 9:30 a.m., Judge Darrah will hold a hearing at the United States District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604, to determine among other things (1) whether the proposed Settlement of the case should be approved as fair, reasonable and adequate; (2) whether Class Members should be bound by the release set forth in the proposed Settlement Agreement; and (3) whether Plaintiff's attorneys' application for an award of attorney's fees and expenses should be approved. It is NOT necessary for you to appear at the hearing to consider whether the proposed settlement should be approved, although you have the right to do so.

**WHAT TO DO IF YOU WISH TO GET MONEY:** If you wish to obtain the benefits of the Settlement, you must submit a claim form postmarked by January 29, 2009. The Claim Form is the final page of this notice. Send the Claim Form to: **Edelman, Combs, Lattuner & Goodwin, LLC, ACCELERATED REHAB SETTLEMENT (Case 21016), 120 S. LaSalle St., Suite 1800, Chicago, IL 60603. (312) 419-0379 (FAX)**

As a Class Member, your interests will be represented by Class Counsel, Edelman, Combs, Lattuner & Goodwin, LLC without any charge to you. If you wish to retain your own counsel you may do so at your own expense. If you obtain your own counsel to represent you in this case, he or she must file an appearance with the Court no later than January 29, 2009.

## **RELEASE**

Regardless of whether you submit a Claim Form, if you remain in the Class you will release the Defendant for all claims you have relating to the sending of unsolicited facsimiles.

## **IS THIS A FAIR SETTLEMENT?**

Class Counsel believes that this settlement is fair. The claim asserted on behalf of the Class against Defendant is under the Telephone Consumer Protection Act.

In this case, Plaintiff sought statutory damages on behalf of the Class. In an individual action for the claim asserted, the person bringing the suit may recover \$500 per facsimile sent in violation of the TCPA, or \$1,500 per facsimile if the violation was willful.

Defendant has denied liability and has raised numerous defenses. In light of these factors, Class Counsel believes the settlement is fair and the Class members should accept the settlement. Based on experience, Class Counsel anticipates that approximately 10-25% of the 1,518 Class members will return a claim form. If these returns are received, those claimants will receive between approximately \$215 to \$540. Accordingly, Class Counsel believes the settlement is fair and the Class members should accept the settlement.

**WHAT TO DO IF YOU WISH TO BE EXCLUDED FROM THE CLASS ACTION LAWSUIT:** If you do not wish to participate in the class action lawsuit and receive the benefits of the Settlement, you have the right to exclude yourself. If you exclude yourself, you cannot submit a claim form. If you exclude yourself from the Class, you have the right to bring your own claim against Defendants, at your own expense, or to do nothing at all. You need not state your reason for asking to be excluded from the class action lawsuit. If you wish to exclude yourself from the Class, you must mail a letter: (i) providing your full name and address; (ii) containing your (or your attorney's) signature; (iii) stating your intent to be excluded from the Settlement; and (iv) setting forth the name and number of the case: **R. Rudnick & Co. v. Accelerated Rehabilitation Centers, Ltd. No. 08 C 2879**. The request for exclusion should be sent to the Clerk of the Court for the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn St., Chicago, IL 60604. You must also mail a copy to Class Counsel at the following address: Edelman, Combs, Lattuner & Goodwin, LLC, Accelerated Rehab Settlement (Case 21016), 120 S. LaSalle St., Suite 1800, Chicago, IL 60603. Any request for exclusion must be postmarked by January 29, 2009.

**WHAT TO DO IF YOU WISH TO OBJECT TO THE SETTLEMENT:** If you object to the terms of the settlement, instead of simply excluding yourself, you must mail a letter or postcard objecting which: (i) sets forth your full name and current address; (ii) contains your (or your attorney's) signature; (iii) states that you object to the Settlement, in whole or in part; (iv) sets forth a statement of the legal and factual basis for your objection; and (v) provide copies of any documents that you wish to submit in support of your position. You may appear at the Fairness Hearing, but are not required to do so. You must send your objection to the Clerk of the Court for the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn St., Chicago, IL 60604. You must also mail a copy to Class Counsel at the following address: Edelman, Combs, Lattuner & Goodwin, LLC, Accelerated Rehab Settlement (Case 21016), 120 S. LaSalle St., Suite 1800, Chicago, IL 60603. Any objection must be postmarked by January 29, 2009.

**ADDITIONAL INFORMATION:** This Notice is only a summary of the terms of the settlement and your rights. You can obtain additional information by contacting Plaintiff's counsel at (312) 739-4200 or by email at [info@edcombs.com](mailto:info@edcombs.com). The pleadings and other records in this litigation may be examined and copied during regular office hours at the office of the Clerk's Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn St., Chicago, IL 60604. Please do NOT call the Court or the Defendants.

By Order of the United States District Court for the Northern District of Illinois.