

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION**

GLEN ELLYN PHARMACY, INC.,)	
)	
Plaintiff,)	
)	
v.)	10 CH 03628
)	Honorable Mary K. Rochford
VICTORY PHARMA, INC.,)	
and JOHN DOES 1-10,)	
)	
Defendants.)	
)	

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED
SETTLEMENT**

TO: (a) All persons and entities (b) who, on or after January 27, 2006, (c) were sent faxes advertising one or more of Victory Pharma, Inc.’s products, and (d) 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 July 30, 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 August 31, 2010 before Judge Mary Rochford in Courtroom 2308 at the Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois 60602 (“Fairness Hearing”).

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff, Glen Ellyn Pharmacy, Inc., filed this action in the Circuit Court of Cook County, Illinois, on behalf of a putative class, alleging 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 \$235,000 will be established. After deducting plaintiff's attorney's fees and costs (Plaintiffs counsel will apply for Court approval of \$70,500, which is 30% of the fund), a payment to the Plaintiff class representative of \$5,000 (also subject to Court approval), and administrative costs associated with providing class notice and paying class member claims, 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 52,000 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 a maximum of \$500 per Class Member.

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

If the settlement becomes final, you will be releasing Defendant Victory Pharma, Inc. from any claims relating in any way to their allegedly sending unsolicited advertisements by fax during the class period (January 27, 2006 to the present). This release is more fully explained in paragraph 7 of the Settlement Agreement. The Settlement Agreement is available at the Clerk's Office in the Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois 60602, during regular business hours. The Settlement Agreement specifically describes the released claims in 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 July 30, 2010; Claim forms **MUST BE** faxed or postmarked by July 30, 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 July 30,

2010; Claim forms **MUST BE** faxed or postmarked July 30, 2010. The Court is scheduled to consider final approval at a hearing on August 31, 2010 at 10:30 a.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 Victory Pharma, Inc. 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 Victory Pharma, Inc.

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 July 30, 2010 or mailed to the following address postmarked no later than July 30, 2010:

Edelman, Combs, Lattumer & Goodwin, LLC
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 and Julie Clark
Edelman, Combs, Lattumer & 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

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 \$70,500 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 July 30, 2010, and contemporaneously file the objection with the Clerk's Office, Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois 60602:

Class Counsel

Daniel A. Edelman
Julie Clark
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 South LaSalle Street, Suite 1800
Chicago, Illinois 60603

Defendant's Counsel

Henry Pietrkowski
REED SMITH LLP
10 South Wacker Drive, 40th Floor
Chicago, IL 60606

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. Any such written objections shall be filed with the Court and mailed to Class Counsel and Defendant's counsel at the addresses specified above on or before July 30, 2010. 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 at the hearing before Judge Rochford on August 31, 2010 at 10:30. **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 Courtroom 2308 of the Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois 60602, on August 31, 2010 at 10:30 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 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, Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois 60602, during regular business hours. 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 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.**