

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

LARRY A. WHITNEY,)	
)	
Plaintiff,)	
)	06 CH 2080
v.)	
)	
ARC DISPOSAL & RECYCLING)	
COMPANY, INC., and JOHN DOES 1-10,)	
)	
Defendants.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons or entities with Illinois and Indiana fax numbers who on or after January 31, 2001, were sent advertising faxes by or on behalf of ARC Disposal & Recycling Company, Inc. in the form identical or similar to that which is represented by Exhibit A to plaintiff's Amended Complaint and with respect to whom defendant cannot provide evidence of express consent or an established business relationship.

***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 6, 2007.***

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 in the above-captioned civil action ("Action") now pending in the Circuit Court of Cook County, Illinois, Chancery Division against ARC Disposal & Recycling Company, Inc. ("ARC"). 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 **September 10, 2007 at 11:00 a.m.** before Judge Berman, Room 2308 of the Circuit Court of Cook County, Illinois, Daley Center, 50 W. Washington, Chicago, Illinois, 60602 ("Fairness Hearing").

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff, Larry A. Whitney, filed this action in the Circuit Court of Cook County, Illinois. On behalf of a putative class, plaintiff has asserted causes of action based on alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA"), alleged violations of the Illinois Consumer Fraud Act, 815 ILCS 505/2 ("ICFA") and for conversion arising out of the

alleged transmission of unsolicited facsimile advertisements. Defendant denies these allegations. The parties, however, have agreed to settle this action in order to avoid the uncertainties and 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 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. WHO IS IN THE SETTLEMENT?

To see if your rights will be affected by this settlement or if you will get money from this settlement, you first have to determine if you are a class member.

On May 7, 2007, 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 or entities with Illinois and Indiana fax numbers who on or after January 31, 2001, were sent advertising faxes by or on behalf of ARC Disposal & Recycling Company, Inc. in the form identical or similar to that which is represented by Exhibit A to plaintiff's Amended Complaint and with respect to whom defendant cannot provide evidence of express consent or an established business relationship.

4. THE SETTLEMENT BENEFITS - WHAT YOU GET

A settlement fund of \$1,600,000 (one million six hundred thousand dollars) will be established. After deducting attorney's fees and costs (between 25% - 33% of the settlement fund), a payment to the plaintiff and class representative of \$2,500, and a payment of \$2,000 each to five prospective plaintiffs, the net fund remaining will be distributed by check to class members who submit valid claim forms.

There were approximately 22,000 facsimiles or more sent to approximately 10,000 or more recipients in the Settlement Class. Your share of the settlement fund depends on the number of facsimiles you received and your timely return of a valid claim form. The value of each claim is worth up to \$500 per facsimile.

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

If the settlement becomes final, you will be releasing ARC of any claims relating in any way to their sending of unsolicited advertisements by fax. This release is more fully explained in

paragraph 8 of the Settlement Agreement. The Settlement Agreement is available at the Clerk's Office, Circuit Court of Cook County, Illinois, Daley Center, 50 W. Washington, Chicago, Illinois, 60602 during regular business hours. The Settlement Agreement specifically describes the release claims in necessarily legal terminology. You may speak with Class Counsel or your own lawyer if you have questions about the release.

6. 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) 419-0015 or by U.S. Mail to the address for Class Counsel listed below in paragraph 9. The deadline for Claim Forms is **August 6, 2007**; Claim forms **MUST BE** faxed or postmarked by **August 6, 2007**.

7. 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 **August 6, 2007**; Claim forms **MUST BE** faxed or postmarked by **August 6, 2007**. The Court is scheduled to consider final approval at a hearing on **September 10, 2007 at 11:00 a.m.**

8. EXCLUDING YOURSELF FROM THE SETTLEMENT

If you fall within the Settlement Class definition set forth in paragraph 3 above, 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 ARC, 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 ARC.

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 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 (312) 419-0015 by **August 6, 2007** or mailed to the following address postmarked no later than **August 6, 2007**:

Daniel A. Edelman (16135)
Heather Kolbus

Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 739-4200
(312) 419-0015 (FAX)
www.edcombs.com

9. 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:

Daniel A. Edelman (16135)
Heather Kolbus
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 739-4200
(312) 419-0015 (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 advise you in this matter.

Class Counsel will ask the court for attorney's fees and costs of an amount between 25% - 33% of the Settlement Fund, depending on the number of claims submitted. Class Counsel will also ask for an additional payment of \$2,500 for Larry A. Whitney, the Class Representative, who helped the lawyers on behalf of the whole class. Plaintiff's Counsel will also seek payment of \$2,000 to be awarded to each of the five prospective plaintiffs.

10. 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 **August 6, 2007**, and contemporaneously file the objection with the Clerk's Office, Circuit Court

of Cook County, Illinois, Daley Center, 50 W. Washington, Chicago, Illinois, 60602:

Class Counsel

Daniel A. Edelman
Heather Kolbus
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 419-0015 (FAX)

Defendant's Counsel

James D. Roberts
Andrew P. Bleiman
DLA Piper US, LLP
203 N. LaSalle Street, Suite 1900
Chicago, Illinois 60601
(312) 236-7516 (FAX)

Each objection should (a) set forth the objector's full legal name or business name, if the objector is 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 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 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 appear at the hearing before Judge Berman on **September 10, 2007 at 11:00 a.m.** YOU ARE NOT REQUIRED TO ATTEND THIS HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT. Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

11. THE COURT'S FAIRNESS HEARING

The Court will hold a hearing on the settlement in the Circuit Court of Cook County, Illinois, Daley Center, 50 W. Washington, Chicago, Illinois, 60602, Courtroom 2308 on **September 10, 2007 at 11:00 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 UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT. 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 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, Circuit Court of Cook County, Illinois, Daley Center, 50 W. Washington, 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 9 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, THE JUDGE OR ARC.

Dated: May 7, 2007

Honorable Andrew Berman

CLAIM FORM

Fax number: _____

Name or Identity of Subscriber to Fax Line: _____
(Individual or Entity)

Current Mailing Address of Subscriber of Fax Line:

Street/P.O. Box	City	State	Zip Code
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I submit this Claim Form under penalty of perjury and state that I am (or the business or entity I represent is) the only person or entity entitled to receive the settlement benefit being sought and that I (and/or the business or entity that I represent) had ownership, authority or control over the fax number listed above on or after January 31, 2001. I swear or affirm that I received the above-described facsimile advertisement on or after January 31, 2001 and I do not have an established business relationship with ARC Disposal & Recycling Company, Inc. I also did not consent to the sending of the facsimile advertisement to me.

Signature