

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

RECORD-A-HIT, INC.,)	
Plaintiff,)	
v.)	06 CH 16112
TRI-STATE HOSE & FITTING, INC.,)	
and JOHN DOES 1-10,)	
Defendants.)	

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons/ entities to whom Tri-State Hose & Fitting, Inc. faxed unsolicited advertisements on or after August 9, 2001.

PLEASE READ THIS NOTICE CAREFULLY. THIS IS NOT A LAWSUIT AGAINST YOU.

IF YOU WISH TO RECEIVE A PORTION OF THE CLASS SETTLEMENT PROCEEDS DESCRIBED BELOW, YOU MUST COMPLETE AND RETURN THE CLAIM FORM BY AUGUST 31, 2007.

1. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed this action in the Circuit Court of Cook County, Illinois. On behalf of a putative class, plaintiff alleged that the defendant violated the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”) and state law by sending it unsolicited facsimile advertisements. Defendant denies these allegations but has agreed to settle to avoid the costs of litigation.

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.

2. WHAT ARE THE PRINCIPAL TERMS OF THE SETTLEMENT?

The parties have entered into a settlement which has been preliminarily approved by the Court, and which will be considered for final approval at the Fairness Hearing. The principal terms of the proposed settlement, which will become effective if the settlement is finally approved by the Court, are as follows:

- (a) Defendant agrees to allow a judgment to be entered against it in the amount of \$2,000,000 which shall be enforceable only against the proceeds of defendant’s insurance policy.
- (b) Defendant assigns to plaintiff and the class its rights under the applicable insurance policies from which plaintiff and their counsel will attempt to recover. In doing so, plaintiff and their counsel may settle the claims against the insurance companies for less than the judgment, subject to Court approval.
- (c) Each class member, including Plaintiff, who does not exclude his or herself will receive a pro rata share (not to exceed \$500) of the class recovery by check, void after 90 days of issuance. This amount is subject to further litigation and compromise and a deduction of attorney fees and costs (limited to 25%), costs of administration, and compensation to the class representative.
- (d) Unless you exclude yourself from the settlement, you will be part of the Class. By staying in the Class, all of the Court’s orders will apply to you and you give Defendant a “release”. A release means that you cannot sue or be part of any other lawsuit against Defendant about the claims or issues in this lawsuit ever again.

The foregoing description of the proposed settlement is only a summary. The complete Settlement Agreement is available for inspection in the Daley Center, 50 W. Washington, Chicago, Illinois, 60602.

3. WHAT DO YOU NEED TO DO TO RECEIVE A PORTION OF THE SETTLEMENT FUND?

If you wish to receive a portion of the settlement fund described above, you **MUST** complete and return the attached Claim Form. Return the Claim Form by facsimile to 312-419-0379 or by U.S. Mail to the address for Class Counsel listed below. The deadline for Claim Forms is August 31, 2007; Claim forms **MUST BE** faxed or postmarked by August 31, 2007.

4. CLASS COUNSEL'S OPINION AS TO THE VALUE OF THE SETTLEMENT

The defendant is assigning its rights under the insurance policies which the plaintiff's counsel and defendant's counsel contend provide coverage for the claims asserted. The defendant's assets are limited, and there is no way in which the defendant could pay \$500 for each of the more than 30,000 faxes it is believed were sent to 10,000 parties. Accordingly, the insurance policy is the only meaningful source of recovery in this case.

The claims asserted in the Action against defendant are brought under the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA"), which entitles plaintiff and members of the Settlement Class to statutory damages. In an individual action, a prevailing plaintiff may be able to recover \$500 in statutory damages (\$1,500, if a willful violation is shown). Of course, if an individual does not prevail, he will receive no payment. There have been questions raised as to the constitutionality of the TCPA in other TCPA cases. There is also a chance a class action would not be certified if that issue was litigated, in which case any monetary award in the case would not be paid to you. For these reasons, Class Counsel believes that the settlement is fair and reasonable and that the class members should accept this settlement.

5. WHAT ARE YOUR OPTIONS?

If you fall within the Settlement Class definition set forth above, you will be a member of the Settlement Class unless you exclude yourself from the Settlement Class. If you wish to receive a portion of the settlement proceeds, if recovered against the insurance company, you need not take any action to remain in the Settlement Class, but you **MUST** complete the Summary Notice/Claim Form to receive the benefits of the settlement.

If you do not wish to be a member of the Settlement Class, you may exclude yourself from the Settlement Class by completing and mailing or faxing 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 312-419-0379 by August 31, 2007 or mailed to the following address postmarked no later than August 31, 2007:

CLASS COUNSEL
Daniel A. Edelman
Julie Clark
Edelman, Combs, Lattuner & Goodwin, LLC
120 S. LaSalle Street, 18th Floor
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)

If you choose to exclude yourself from the Settlement Class, you will not be entitled to any of the

