

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS
NOTICE OF PROPOSED CLASS ACTION SETTLEMENT:

**WEST LOOP CHIROPRACTIC & SPORTS INJURY CENTER, LTD., et al. v. NORTH
AMERICAN BANCARD, LLC, No. 16 C 5856**

MARTIN M. MATUS, O.D. v. NORTH AMERICAN BANCARD, LLC, No. 19 C 1797

THIS IS NOT A SOLICITATION.
THE SENDING OF THIS NOTICE BY FACSIMILE HAS BEEN APPROVED BY THE COURT.

- I. **THE LAWSUITS:** West Loop Chiropractic & Sports Injury Center, Ltd. and West Loop Health & Sports Performance Center, LLC (collectively, “West Loop”) sued North American Bancard, LLC (“NAB” or “Defendant”) alleging that they were sent unsolicited fax advertisements promoting NAB’s goods or services (“West Loop Litigation”). West Loop alleged that these faxes violated the Telephone Consumer Protection Act (“TCPA”). NAB denies these allegations, but agreed to settle to avoid the costs and uncertainties of litigation. As part of the proposed settlement, NAB does not admit to any wrongdoing and continues to deny the claims and allegations asserted against it by West Loop.

Martin M. Matus, O.D. (“Matus”) sued NAB alleging that he received unsolicited fax advertisements promoting NAB’s goods or services (“Matus Litigation”). Matus alleged that these faxes violated the TCPA and the Illinois Consumer Fraud Act, 815 ILCS 505/2. NAB denies these allegations, but agreed to settle to avoid the costs and uncertainties of litigation. As part of the proposed settlement, NAB does not admit to any wrongdoing and continues to deny the claims and allegations asserted against it by Matus.

The West Loop Litigation and the Matus Litigation have been reassigned as related cases and are now pending before Judge Guzman in the United States District Court for the Northern District of Illinois for purposes of settlement.

- II. **WHO IS INCLUDED:** The records produced in discovery and available to NAB show that you may have been sent one or more faxes by or on behalf of NAB promoting its goods or services. The faxes were sent on one or more of the following days in the Class Period: April 6, 8, 12, 18, 20, 25, 26, and 27; May 4, 9, 12, 20, 25 and 26; June 8, 22, and 23; July 28; and August 4, 8, 9, 10, 12, 18 and 23, 2016. Specifically, the Court certified a “Settlement Class” of: All persons with fax numbers who, during the Class Period, were sent faxes by or on behalf of North American Bancard, LLC, promoting its goods or services for sale.
- III. **THE PROPOSED SETTLEMENT:** NAB has agreed to fund a \$2,200,000 Settlement Fund to resolve both the West Loop Litigation and the Matus Litigation. Before making payments to Settlement Class Members, the Settlement Fund will be used to pay notice and administrative expenses (in an amount not to exceed \$100,000), a \$25,000 incentive award to West Loop, a \$10,000 incentive award to Matus and Settlement Class Counsel’s fees and costs (estimated at \$700,000, which is 1/3 of the Net Settlement Fund). Each Settlement Class Member who timely submits a valid claim will receive a *pro rata* share of the Settlement Class Recovery per unique fax transmission. Your share of the Settlement Class Recovery depends on how many Settlement Class Members submit Claim Forms. This notice is being sent to approximately 44,986 persons and/or entities which comprise the Settlement Class. The Settlement Class was sent 62,496 faxes. Some Settlement Class Members were sent more than one fax.
- IV. **WHO REPRESENTS YOU:** The Court appointed Daniel A. Edelman, Cathleen M. Combs, and Heather Kolbus from Edelman, Combs, Lattuner, & Goodwin, LLC to represent the Settlement Class as Settlement Class Counsel. They will be compensated out of the Settlement Fund. You may review Class Counsel’s fee petition, which will be filed with the Court and will be posted to the settlement website maintained by the Settlement Class Administrator, and which requests compensation from the Settlement Fund as set forth in Section III, above.
- V. **YOUR LEGAL RIGHTS AND OPTIONS:**

- (1) **Submit a Claim Form.** You may complete and mail the attached Claim Form postmarked no later than **JULY 24, 2021** to qualify for a payment. The Claim Form must be mailed to: West Loop & Matus v. N.A. Bancard, c/o Class-Settlement.com, PO Box 9009, Hicksville, NY 11802-9009. You may also submit a Claim Form online by going to the Settlement Website at www.NABFaxSettlement.com and following the directions.

Claim Forms submitted online must be received by **JULY 24, 2021** to qualify for a payment. The value of each individual settlement payment cannot be determined until the after the deadline to submit a claim has passed and all claims have been verified. Under federal tax laws, if you receive a payment in excess of \$599.99, the person making the payment is required to obtain a form W-9 from you. It is a 1-page form that asks for basic identification information. If you are entitled to recover a payment in excess of \$599.99, then you must also submit a complete W-9 form, which will be sent to you after the Final Approval Hearing. If you are entitled to recover payment in excess of \$599.99 and you do not submit a completed W-9 form, then your recovery will be reduced to \$599.99.

(2) Exclude Yourself. If you do not wish to participate in the Settlement you may exclude yourself from it by **JULY 24, 2021** by sending (via US Mail) a letter to the Class Administrator, *West Loop v. North American Bancard LLC and Matus v North American Bancard, LLC* Class Administrator, PO Box 9009, Hicksville, NY 11802-9009. The Notice of Exclusion must state your full name or your company's name, address, the fax number to which you were sent the fax(es), and a statement that you wish to be excluded from the Settlement Class in the West Loop Litigation and/or Matus Litigation. The Notice of Exclusion must be postmarked no later than **JULY 24, 2021**. If you exclude yourself from the Settlement you will not receive a payment and you will not release any claims against NAB or the Released Parties.

(3) Object. If you do not exclude yourself, you can file an objection, either on your own or through an attorney, explaining why you think the Court should not approve the settlement. The objection must contain your full name (or business name if the objector is an entity) and address; the fax number to which you were sent the fax(es); a statement of your objection to the Settlement Agreement; an explanation of the legal and factual basis for the objection; documentation, if any, to support your objection; the identity of all witnesses, if any, and a summary of such witnesses' proposed testimony who you may call to testify in support of your objection; and a statement whether you or your counsel intends to appear at the final approval hearing. The objection must be filed by **JULY 24, 2021** with (1) the Clerk of the United States District Court, Northern District of Illinois, 219 S. Dearborn, Chicago, IL 60604; and sent to (2) the Settlement Class Administrator, (3) Edelman, Combs, Lattuner, & Goodwin, LLC (32720 / 33878), 20 S. Clark St., Suite 1500, Chicago, IL 60603; and (4) Lawren A. Zann, Greenspoon Marder LLP, 200 E. Broward Blvd., Suite 1800, Fort Lauderdale, FL 33309.

(4) Do Nothing. If you do nothing you will not receive a monetary recovery, but you will be bound by all the terms of the Settlement Agreement. That means you cannot sue, continue to sue, or be part of any other lawsuit against NAB regarding the TCPA claims that are subject to the class settlement.

VI. WHAT AM I GIVING UP UNDER THE SETTLEMENT? If the settlement becomes final, you will be releasing NAB and the Released Parties for the Released Claims, which includes, but is not limited to, claims you may have relating to your receipt of unsolicited advertising faxes during the Class Period and claims that were asserted or could have been asserted in the West Loop Litigation or Matus Litigation. The Released Claims are fully explained in the Settlement Agreement, available on the Settlement Website at www.NABFaxSettlement.com or Settlement Class Counsel's website at www.edcombs.com.

VII. FINAL APPROVAL HEARING: The Court has scheduled a Final Approval Hearing before Judge Guzman on **SEPTEMBER 9, 2021 AT 10:00 A.M.** via telephone conference. The call-in number is (888) 684-8852 and the access code is 1246152. You or your attorney may attend this hearing if you desire and request to address the Court regarding any matters relating to this Settlement. The purpose of the hearing is for the Court to determine whether the class settlement is fair, reasonable, adequate, and in the best interests of the class.

VIII. MORE INFORMATION: More information is available at www.edcombs.com and www.NABFaxSettlement.com. You may also inspect the pleadings and other papers that have been filed in the West Loop Litigation or the Matus Litigation at the office of the Clerk of the Court, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., 20th Floor, Chicago, IL 60604. If you have questions about this notice or the proposed settlement, you may contact Settlement Class Counsel. **THE COURT AND THE DEFENDANT CANNOT PROVIDE INFORMATION.**

BY ORDER OF THE U.S. DISTRICT COURT, N.D. III.