

NOTICE OF CLASS ACTION SETTLEMENT

**Please give this to a person who makes legal decisions for your home or business.
You may benefit from this. Please read it carefully. You are not being sued.
You must submit a Claim Form (attached) to receive a settlement check.**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PRESSMAN, INC., individually and as the representative of a class of)
similarly-situated persons, Plaintiff,)
) Case# 8:19-CV-1723
v.)
) Judge Charlene Honeywell
SMITH MEDICAL PARTNERS, LLC and H. D. SMITH, LLC, Defendants.)

NOTICE OF CLASS ACTION SETTLEMENT WITH ATTACHED CLAIM FORM

To: All persons who were sent, by or on behalf of H. D. Smith, LLC or Smith Medical Partners, LLC, one or more advertisements by facsimile from September 26, 2013 through January 25, 2019.

A. WHAT IS THIS LAWSUIT ABOUT? Pressman, Inc. (“Plaintiff”) filed a Class Action Complaint alleging that Smith Medical Partners, LLC and H. D. Smith, LLC (collectively “Smith”) sent unsolicited advertisements by facsimile during the time period between September 26, 2013, and January 25, 2019 (the “Smith Faxes”). Plaintiff alleges that the Smith Faxes were sent without prior express invitation or permission or the required opt-out notice, allegedly in violation of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227. Smith denies Plaintiff’s allegations, raised defenses, and argues, among other things, that many of the Smith Faxes were not advertisements, that Smith had prior express invitation or permission from the fax recipients, and that facsimiles received electronically are not actionable. Notwithstanding their disagreements, the parties have proposed a settlement that, if approved by the Court, will resolve all of the Settlement Class’s claims about the Smith Faxes. Pursuant to Rule 23(c)(2)(B)(iv), you may enter an appearance in the case through your own attorney, if you so desire, but you are not required to do so.

B. WHY HAVE YOU RECEIVED THIS NOTICE? The Court ordered us to send you this notice, because your name or fax number was identified on the Smith fax lists.

C. WHAT IS THE PROPOSED SETTLEMENT? Without admitting any fault or liability, Smith has agreed to pay \$4,500,000 (the “Settlement Fund”) in exchange for a release of all claims about any and all Smith Faxes sent to the Settlement Class (see Section V of the Settlement Agreement for a more detailed description of the Released Claims and Released Parties) . The Settlement Fund will be distributed to pay the class members who submit claims, to pay an incentive award to Plaintiff for serving as the class representative, to pay attorneys’ fees and expenses to Plaintiff’s attorneys, and to pay the cost of settlement administration. Each claiming class member will receive a pro rata share of the available funds; one share for each of its fax numbers in the Smith fax lists. (You will identify your fax numbers on the attached Claim Form, and the settlement administrator will cross check them against the fax numbers on the lists.) The amount you will receive depends upon how many class members submit claims, but it is expected that no less than \$3,000,000 will be distributed to class members who submit Claim Forms.

The Court has preliminarily approved this settlement, subject to a fairness hearing that will occur on December 10, 2020, at 11:00 a.m., in Tampa Courtroom 13 A before Judge Charlene Edwards Honeywell in the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602.

D. WHAT CAN YOU DO NOW? YOU HAVE FOUR OPTIONS.

1. Submit a Claim Form. To receive a share of the Settlement Fund, you must complete and return a Claim Form postmarked, faxed, or uploaded to the Settlement Administrator no later than November 16, 2020. The Claim Form is attached to this notice and you will find submission instructions at the bottom of the form. You do not need to remember receiving any fax from Smith and you do not need to have any copies of Smith Faxes to submit your claim. If your claim is approved, you will be mailed a check for your share of the settlement.

***NOTE: If you submitted a claim in the canceled settlement in Steven Arkin v. Smith Medical Partners, LLC, et al., Case No. 18 CH 984 (Lake County, IL), your claim will be honored in this settlement and you do not need to submit another claim form. To check on the status of your Arkin claim, you can call the Settlement Administrator at 1-844-491-5743.*

2. Do nothing. If you do nothing, you will be bound by any judgment entered by the Court, and you will release your claims

about Smith Faxes, as set forth in the Settlement Agreement, but you will receive no payment unless you submit a Claim Form.

3. Exclude yourself from the Settlement Class and the settlement. You can exclude yourself from the settlement and the case by filing a written request with the Clerk of Court at the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602. Your request must be postmarked on or before October 19, 2020, and it must list your name, company name (if applicable), fax number(s), street address, and the case name and number above. You must also mail copies of your exclusion request, postmarked by the same date, to:

For the Settlement Class:

Phillip A. Bock
Bock, Hatch, Lewis & Oppenheim, LLC
134 N. La Salle St., Suite 1000
Chicago, IL 60602

For Defendant:

Martin Jaszczuk
Jaszczuk P.C.
311 S. Wacker Dr., Suite 3200
Chicago, IL 60606

4. Object to the settlement in writing. If you object to the settlement, and wish to file an objection rather than excluding yourself, you must submit your objection in writing to the Clerk of Court at the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602. Your objection must be postmarked by October 19, 2020. You must also serve copies of your objection and any supporting memoranda or materials on each of the attorneys for the Settlement Class and for Smith listed above, postmarked by the same date. Any objection must include your name, fax number, telephone number, street address, all attorneys who assisted you in the preparation and filing of your objection, a list of all other class action cases in which you or your counsel have filed objections to settlements, a statement of the reasons why you believe the Court should find that the proposed settlement is not in the best interests of the Settlement Class, and an original signature or the signature of your counsel. It is not enough to say that you object; you must state the reasons why you believe the Court should not approve the settlement. If you file an objection and wish to present it to the Court, then you must appear at the final approval hearing before Judge Charlene Edwards Honeywell in Tampa Courtroom 13 A of the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602 on December 10, 2020, at 11:00 a.m. At your own cost, you may retain an attorney to appear at this hearing. You are not required to attend this hearing unless you object to the settlement.

E. WHO REPRESENTS THE CLASS? The Court appointed Pressman, Inc. (“Plaintiff”) to be the “Class Representative” and appointed Bock, Hatch, Lewis & Oppenheim LLC as “Class Counsel.” At the fairness hearing, Class Counsel will request that the Court approve an incentive award of \$15,000 from the Settlement Fund to Plaintiff for serving as the class representative. Additionally, Class Counsel will request that the Court award them attorneys’ fees of \$1,125,000 (25% of the total Settlement Fund), plus their out-of-pocket litigation expenses, all to be paid from the Settlement Fund.

F. WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? The Court will hold a hearing to decide whether the proposed settlement is fair and reasonable and should be approved. The Court will hear any objections and arguments about the proposed settlement, including arguments about the attorneys’ fees and expenses sought by Class Counsel and the incentive award sought for the Class Representative. The hearing will take place on December 10, 2020, at 11:00 a.m., in Tampa Courtroom 13 A of the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602. At your own cost, you may retain an attorney to appear at this hearing. **You do not need to attend this hearing unless you object.** The hearing may be continued to a future date without further notice. If the Court does not approve the settlement, the case will proceed as if no settlement had been attempted. If the settlement is not approved, there is no assurance that the Settlement Class will recover more than is provided in the proposed settlement, or anything at all.

G. HOW DO YOU OBTAIN MORE INFORMATION ABOUT THE LAWSUIT OR THE SETTLEMENT? The description of the case in this notice is general and does not cover all of the issues and proceedings. To see the complete court file, including a copy of the settlement agreement, you may visit the office of the Clerk at the Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602 or through PACER (www.pacer.gov). The Clerk or the PACER system will make the files relating to the lawsuit available to you for inspection and copying at your own expense.

You may contact, the Settlement Administrator, by telephone at 1-844-491-5743, or you can visit the settlement website - www.smithtcpafaxsettlement.com - to view particular documents or to file a claim.

You may contact Phillip A. Bock, one of Plaintiff’s attorneys and Class Counsel, at 312-658-5501.

Please do not contact the Clerk of the Court, the Judge, or the Judge’s staff, because they cannot answer your questions or give you advice about this settlement.

**BY ORDER OF THE COURT
HONORABLE CHARLENE EDWARDS HONEYWELL**