

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

West Washington Building, LLC v. Body Wise International, Inc., et al. Case No. 03 CH 18809
In the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Judge McGann presiding

TO: All persons with Illinois telephone fax numbers who, on or after a date four years prior to the filing of this action (November 7, 2003), were sent advertising faxes by the Defendants (Body Wise International, Inc. and Diane Paulson) and with respect to whom Defendants cannot provide evidence of prior express permission or consent for the sending of such faxes.

IF THE COURT APPROVES THE SETTLEMENT IN THIS LAWSUIT, YOUR RIGHTS MAY BE AFFECTED.

Plaintiff in this case filed a complaint, on behalf of itself and all others similarly situated, against Defendants Body Wise International, Inc. and Diane Paulson, alleging that Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”) by sending unsolicited facsimile advertisements. On April 9, 2007, the Court certified the above-mentioned class.

Defendants deny that certification was appropriate and deny any liability to Plaintiff or the class, but Defendant Body Wise and its insurer have agreed to settle this case to avoid the expense of continued legal proceedings.

For the benefit of the class, Body Wise has agreed to establish a Settlement Fund of \$1,000,000.00. After deducting: (1) attorney’s fees and costs (in the amount of 25% of the Settlement Fund); (2) payment to the Plaintiff in the amount of \$2,500.00; and (3) the cost of Class Notice and administering the settlement, the net funds remaining in the Settlement Fund will be distributed by check to all members of the above stated class, in an amount up to \$500.00, who submit valid claim forms. The amount that each class member receives will depend on the number of class members who timely return claim forms. To the extent that there are monies remaining in the Settlement Fund after each class member has been paid, 50% of the remaining money will be distributed to The John Marshall Law School Veterans Legal Support Center as a cy pres award, and 50% will be returned to Body Wise and its insurer. In light of Body Wise’s defenses to the case, as well as its limitations on insurance coverage, this settlement represents a fair and reasonable result.

On **November 5, 2007 at 11:00 a.m.**, a hearing will be held on the fairness of the proposed settlement. The hearing will take place before Judge Patrick McGann at the Daley Center, Room 1703, 50 West Washington, Chicago, Illinois 60602. **YOU CAN, BUT DO NOT NEED TO ATTEND THIS HEARING.**

(1) **In order to receive your pro rata share of the above Settlement Fund, up to a maximum of \$500.00 per class member,** you must submit a completed Claim Form, which is available at www.caclawyers.com/faxsettlement or by contacting Lance A. Raphael at (312) 782-5808. Your completed Claim Form must be mailed to First Class, Inc., 5410 West Roosevelt Road, Unit 222, Chicago, Illinois 60644-1478 and **must be received by October 15, 2007.** **Failure to submit a timely Claim Form will mean you receive no money from the Settlement Fund but are still governed by the Release.**

(2) **If you do not want to participate in the settlement,** do not want to receive a monetary portion of the Settlement Fund, and do not want to release any rights you may have to sue Body Wise and Diane Paulson for the TCPA claims being settled in this class action, you must submit a written statement stating: “I WANT TO BE **EXCLUDED** FROM THE SETTLEMENT IN WEST WASHINGTON V. BODY WISE.” This written statement must also include your full name, address, and fax number, and must refer to the name and number of this case. Your written statement must be mailed to First Class, Inc., 5410 West Roosevelt Road, Unit 222, Chicago, Illinois 60644-1478 and **must be received by October 15, 2007.**

(3) **If you think the settlement or any of its terms are unfair,** but do not simply want to exclude yourself, you may object to the proposed settlement by filing a signed written statement of reasons (in no more than 15 pages) stating why you believe that the proposed settlement is not in the best interests of the class and should not be approved. This objection must be filed with the Clerk of the Court, Daley Center, Room 801, 50 West Washington, Chicago, Illinois 60602 on or before **October 15, 2007.** You must also send a copy of your written objection to: 1) Counsel for Plaintiff, Lance A. Raphael, The Consumer Advocacy Center, P.C., 180 West Washington, Suite 700, Chicago, IL 60602; and 2) Counsel for Body Wise International, Inc., Wendy Enerson, Sonnenschein Nath & Rosenthal, 7800 Sears Tower, Suite 4100, Chicago, Illinois 60606.

(4) **If you do nothing** in response to this Notice, you will not receive any money from the Settlement Fund and you will not be able to sue Defendants on your own for any claims that were brought in this lawsuit.

For more information about these settlements, please visit www.caclawyers.com/faxsettlement.