

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 EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN A. CONNER, DPM, P.C.,

Plaintiff,

v.

OPTUM360, LLC,

Defendant.

Civil Action No. 5:17-cv-01642

NOTICE OF CLASS ACTION SETTLEMENT WITH ATTACHED CLAIM FORM

TO: All persons or entities in the United States who received a telephone facsimile message on a telephone facsimile machine from or on behalf of Optum360 regarding the Optum360 Essentials Coding, Billing and Compliance Conference on April 15, 2015, May 21, 2015, June 17, 2015, July 23, 2015, August 13, 2015, September 16, 2015, or October 9, 2015.

These persons are the "Class" discussed in this notice.'

A. WHY HAVE YOU RECEIVED THIS NOTICE? The Court ordered that you must be notified because you or your company may have been sent a facsimile message by Defendant and a proposed settlement will resolve all claims about those facsimile messages. Your fax number was found on a list of fax numbers to which Defendant sent advertisements by fax between April 15, 2015, and October 9, 2015, and, therefore, you might be a member of the Class defined above. The purpose of this notice is: (a) to advise you of a proposed class action settlement of this civil action (the "Action") with Optum360 in the U.S. District Court for the Eastern District of Pennsylvania (the "Court"); (b) to summarize your rights under the settlement; (c) to inform you of a court hearing to consider the final approval of the settlement (the "Fairness Hearing" or "Final Approval Hearing"); (d) to advise you how to make a claim for a portion of the settlement; and (e) to inform you how to obtain additional information.

B. WHAT IS THIS LAWSUIT ABOUT? You probably don't know anything about this class action lawsuit. Plaintiff, Steven A. Conner DPM, P.C. ("Plaintiff") filed the Action alleging that the defendant, Optum360, LLC ("Defendant"), sent unsolicited advertisements by facsimile between April 15 and October 9, 2015 (the "Faxes"). Plaintiff's Class Action Complaint alleges Defendant violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227 (the "TCPA"), and committed common law conversion by sending advertisements by telephone facsimile machine without prior express invitation or permission. Defendant has denied Plaintiff's allegations and contended that it would ultimately prevail on the merits at trial because, among other reasons, the communications at issue contain a valid opt-out notice. Nevertheless, in order to avoid the costs, uncertainties, and expense of this Action,

Defendant has agreed to a settlement on the terms and conditions summarized herein.

C. WHAT IS THE PROPOSED SETTLEMENT? Without admitting any fault or liability, and in exchange for a release of all claims against Defendant regarding the faxes at issue, Defendant has agreed to make up to \$6,000,000.00 available (the "Settlement Fund") to pay the following: (i) valid claims for cash benefits submitted by Class Members; (ii) the fees and expenses the Court awards, up to \$2,000,000 (33.33% of the total settlement) for attorneys' fees and up to \$105,000 for litigation costs and expenses; and (iii) an incentive award for the named Plaintiff, up to \$10,000. Each class member who submits an approved claim in this settlement will be mailed a check for their pro rata share of the Settlement Fund, up to \$500.00 for each unique fax numbers that appears on the list produced in the litigation. While Defendant knows who the faxes were sent to, Defendant does not have information identifying precisely who successfully received the faxes at issue. You will identify your fax number(s) on the attached Claim Form, and the Settlement Administrator will cross check your fax number(s) against the numbers on the list involved in the case. The Court has preliminarily approved this settlement, subject to a fairness hearing that will occur on November 20, 2019, at 1:30 p.m., in Courtroom 3G of the U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106.

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

1. Return a completed Claim Form. To receive a share of the settlement funds, you must complete and return a signed Claim Form, postmarked, faxed, or uploaded to the settlement website on or before October 13, 2019. The Claim Form is attached as the last page of this Notice. If your claim is approved, you will be mailed a check for your share of the settlement funds. The Settlement Administrator will determine whether you are eligible for compensation under the settlement by confirming that each fax number you identify on your Claim Form is on the Class List of fax numbers involved in this lawsuit. You need not possess facsimiles you or your company received, or even remember receiving any, but you must submit a Claim Form identifying your fax number(s).

2. Do nothing. If you do nothing, you will stay in the Class, be bound by any judgment entered by the Court, and you will release any claims you may have against Defendant about the faxes at issue sent between April 15 and October 9, 2015, but you will receive no payment. Because you will be a member of the Class, you will be precluded from being part of any other lawsuit against Defendant or any other Released Party relating to the Released Claims in this case. This also means that all of the Court's orders will apply to you and legally bind you.

3. Exclude yourself from the Class and the settlement. You can exclude yourself from this Action and the settlement by filing a written request with the Clerk of the United States District Court for the Eastern District of Pennsylvania, U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106. That request must be postmarked on or before September 13, 2019, and it must list your name, fax number(s), street address, and the name and number of this case. You must also mail copies of your request for exclusion, postmarked by the same date, to:

For the Class:

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

For Defendant:

Adam K. Levin
Hogan Lovells US LLP
555 Thirteenth St., NW
Washington, DC 20004

4. Object to the settlement in writing. If you object to the settlement, and you wish to file an objection rather than excluding yourself, you must submit your objection in writing to the Clerk of the United States District Court for the Eastern District of Pennsylvania, U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106. Your objection must be postmarked by September 13, 2019. You must also serve copies of your objection and any supporting memoranda or materials on each of the attorneys for the Class and for Defendant listed above, postmarked by the same date. Any objection must include your name, fax 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, and a statement of the reasons why you believe the Court should find that the proposed settlement is not in the best interests of the Class. 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 Timothy Rice in Courtroom 3G of the U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106 on November 20, 2019, at 1:30 p.m. You are not required to attend this hearing unless you have objected to the settlement.

E. WHAT IS THE DIFFERENCE BETWEEN “OBJECTING” AND “EXCLUDING YOURSELF?” Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this settlement resolves.

F. WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? The Court will hold a fairness hearing to decide whether the proposed settlement is fair, reasonable, and adequate, and should be approved. At the fairness hearing, the Court will hear any objections and arguments about the proposed settlement, including the amount of the award of attorney’s fees and expenses to Class Counsel (identified below). The fairness hearing will take place on November 20, 2019, at 1:30 p.m., in Courtroom 3G of the U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106. **You do not need to attend this hearing unless you have objected to the settlement.** The fairness 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 has been attempted. If the settlement is not approved, there is no assurance that the Class will recover more than the settlement provides, or anything at all.

G. WHO REPRESENTS THE CLASS? The Court appointed Plaintiff, Steven A. Conner DPM, P.C. (“Plaintiff”), to be the “Class Representative” and appointed Phillip A. Bock of Bock, Hatch, Lewis & Oppenheim LLC and Richard Shenkan of Shenkan Injury Lawyers LLC as “Class Counsel.” At the fairness hearing, Class Counsel will request that the Court approve an incentive award of \$10,000 from the Settlement Fund to be paid to Plaintiff for serving as the class representative. Additionally, Class Counsel will request that the Court award them attorneys’ fees of \$2,000,000 (one third of the total Settlement Fund), plus their out-of-pocket litigation expenses and the Settlement Administrator’s charges (those expenses and charges capped at a total of \$105,000), all to be paid from the Settlement Fund. The Court has to approve any request for attorneys’ fees and costs in this Lawsuit before they may be awarded, as well as any incentive award. If you want to be personally represented by your own lawyer, you may hire one at your own expense.

H. HOW DO I OBTAIN MORE INFORMATION ABOUT THE LAWSUIT OR THE SETTLEMENT? This description of the case is general and does not cover all of the issues and proceedings in the case. To see the complete file, including a copy of the settlement agreement, you may visit the office of the

Clerk of the United States District Court for the Eastern District of Pennsylvania, U.S. District Courthouse, 601 Market Street, Philadelphia, PA 19106. The Clerk will make the files relating to the lawsuit available to you for inspection and copying at your own expense. All filed documents in the case, including the settlement documents, are available for viewing online for a fee through the Court's PACER document review system at <https://ecf.casd.uscourts.gov>.

Many of the court papers, including the class action complaint and the Settlement Agreement, are also posted on the settlement website www.360faxsettlement.com. In addition, the claims administrator has established a toll-free number 1-800-556-4071, to answer questions. Or, you can call attorney Phillip A. Bock 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 TIMOTHY RICE**